Connecticut General Assembly

Office of Fiscal Analysis
Office of Legislative Research

TO: Members of the Finance, Revenue, and Bonding Committee

FROM: OFA & OLR Staff

RE: Items for April 7, 2011 Agenda

FINANCE COMMITTEE BILLS FOR JF CONSIDERATION

1. S.B. No. 1155 (RAISED) AN ACT CONCERNING THE DISCLOSURE OF INFORMATION IN A TOBACCO ARBITRATION PROCEEDING.

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Office of the Attorney General	Tobacco Settlement Fund; General Fund	See Below	See Below	See Below

The bill could assist the Office of the Attorney General in its efforts to resolve a dispute involving the Tobacco Settlement Fund. Each year, approximately $100 million is transferred from the Tobacco Settlement Fund to the General Fund.

Summary:

Although the DRS commissioner is generally prohibited from disclosing tax information, this bill allows the commissioner to disclose such information to the attorney general if (1) it is relevant to an arbitration or other dispute resolution proceeding under the tobacco master settlement agreement and (2) the state is a party to the proceeding. The bill also allows the attorney general to disclose the information to others in the course of the proceeding. The authorized disclosures apply to tax information the DRS commissioner receives in the course of implementing the state's master settlement agreement with tobacco companies, cigarette tax, or tobacco products tax.

The DRS commissioner may already disclose to the attorney general any information the commissioner asks for and receives to determine compliance with, and to enforce, the law implementing the master settlement agreement.

EFFECTIVE DATE: Upon passage

2. H.B. No. 6559 (RAISED) AN ACT CONCERNING A MUNICIPAL OPTION TO SEND MUNICIPAL TAX BILLS VIA ELECTRONIC MAIL.

Fiscal Impact:

Municipalities	Effect	FY 12 $	FY 13 $
Various	Potential Savings	Less than 10,000	Less than 10,000

Any municipality choosing to adopt the newly authorized email process to send rate bills to taxpayers that assent to receive them electronically will experience savings, estimated at no more than $10,000, associated with averted printing, postage and document storage costs.

Summary:

By law, a municipal tax collector must mail or hand to each person from whom property taxes are due (1) a bill for current taxes and (2) a statement of the year and amount of any back taxes due. This bill allows them to send the bill and statement by e-mail, as long as the taxpayer consents to receiving tax bills electronically.

EFFECTIVE DATE: October 1, 2011

3. H.B. No. 6561 (RAISED) AN ACT CONCERNING SALES TAXES PAID BY BUSINESSES.

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Revenue Services	General Fund	Revenue Loss	Potential Minimal	Potential Minimal

To the extent that the DRS Commissioner allows taxpayers to file on paper rather than electronically, there is a potential minimal loss of interest income to the state due to a delay in the receipt and deposit of funds.

Summary:

The law allows the DRS commissioner to require taxpayers and employers to pay electronically if they have (1) $4,000 or more in annual tax liability or (2) more than $2,000 in annual withholding tax payments. This bill requires the commissioner to grant an exemption from electronic payment requirements to any taxpayer who shows, to the commissioner's satisfaction, that paying sales

taxes electronically would be a hardship. Under the bill, a "hardship" can include (1) limited access to, or knowledge of, the technology necessary for electronic payments or (2) valid concerns about online banking and possible security issues.

EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after than date.

4. H.B. No. 6586 (RAISED) AN ACT CONCERNING THE USE OF CERTAIN REVENUES TO PROVIDE FUNDS FOR THE BUDGET RESERVE FUND, CAPITAL DEBT PAYMENTS AND PENSION PAYMENTS. (JFS)

Fiscal Impact:

Agency	Fund	Impact	FY 12	FY 13
Office of Policy and Management; Office of the State Treasurer	General Fund; Budget Reserve Fund	See Below	See Below	See Below

The bill increases, from ten to fifteen per cent of the net General Fund appropriation for the fiscal year in progress, the maximum amount of surplus funds to be deposited into the Budget Reserve Fund. For illustrative purposes, the net General Fund appropriation for FY 11 is $17.6 Billion; the bill would increase the maximum allowable deposits into the Budget Reserve Fund during FY 11 from $1.76 Billion to $2.64 Billion, which is a difference of $880 Million.

The bill accelerates claims on General Fund surplus funds. Specifically, the bill obligates the transfer of a portion of surplus funds identified during the fiscal year instead of waiting until the fiscal year has ended.[1] The bill does not alter the current law ordering of claims against surplus funds. (See the OLR Summary below for a description of how these claims are ordered.) However, the bill grants the Secretary of the Office of Policy and Management the discretion to use any such surplus to reduce either debt obligations related to Economic Recovery Notes[2] or Economic Recovery Revenue Bonds.[3]

Summary:

Current law requires the state treasurer to transfer to the budget reserve fund any unappropriated surplus that exceeds required transfers at the end of each fiscal year. The bill requires the treasurer to also transfer to the fund:

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[1] Under current law, the surplus funds are not committed to transfer until the state comptroller has certified the surplus amount in September for the fiscal year ending June 30th.

[2] In order to finance the FY 09 deficit, $947.6 million in state debt (Economic Recovery Notes) was issued with a term of seven years.

[3] In order to balance the FY 11 budget, $646.6 million was borrowed against future revenue from charges on the electric bills of CL&P and UI customers.

1. half of the surplus projected in the comptroller's January cumulative monthly financial statement,
2. any amounts received from the sale of surplus state property, and
3. any amounts exceeding the estimated revenues in the revised April consensus revenue estimates.

Under current law, when these reserve funds reach 10% of the net General Fund appropriations for the fiscal year in progress, remaining funds, up to a specified limit, become part of the State Employees Retirement Fund. The bill raises this threshold to 15%. As under current law, any funds remaining after transfers to the budget reserve fund and the State Employees' Retirement Fund must be used to reduce debt.

Under current law, any surplus at the end of any fiscal year from FY 10 through FY 17 must be first used to redeem any outstanding economic recovery notes before they mature. The remainder must be devoted to reducing the state's economic recovery revenue ("securitization") bonds. The bill instead requires the OPM secretary, in consultation with the state treasurer, to use any surplus to reduce either of these debt obligations.

The bill also gives the OPM secretary the discretion to deposit any payment the state receives as result of a court settlement into the (1) post-employment benefit fund, (2) State Employees Retirement Fund, or (3) Teacher's Retirement Fund.

EFFECTIVE DATE: Upon passage

5. S.B. No. 1213 (RAISED) AN ACT CONCERNING THE BURDEN OF PROOF IN TAX APPEALS.

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Revenue Services	General Fund	Potential Revenue Loss	Greater than $1 Million	Greater than $1 Million
Department of Revenue Services	General Fund	Cost	Potential	Potential

Establishing a lower standard of proof in tax appeals is expected to result in a General Fund revenue loss, which may be significant to the degree that it increases the number of assessments that are overturned by the court. It may also result in greater administrative costs to the Department of Revenue Services if it increases the number of cases that are appealed.[4]

[4] There are typically between 50 and 75 tax cases that are on appeal.

There are approximately $12.0 million in tax cases in litigation and $244.0 million in tax cases on appeal currently.

Summary:

The bill establishes that a taxpayer's burden to prove facts in any tax appeal is by a preponderance of the evidence, unless the law in question specifically establishes a different burden. A "preponderance of the evidence" means that it is more likely than not that the facts asserted are true.

The bill's standard applies to court appeals of (1) the Department of Revenue Services (DRS) commissioner's orders, decisions, determinations, and disallowances; (2) probate court determinations for succession and estate tax purposes; (3) the OPM secretary's decisions concerning the state's taking of the rights of holders of certain state and municipal bonds to exclude certain interest on those bonds from corporation tax; and (4) Penalty Review Committee decisions on waiving tax penalties exceeding $500.

The Connecticut Supreme Court has ruled that, in appealing a DRS sales and use tax deficiency assessment, (1) the burden of proving an error in the assessment is on the taxpayer and (2) the taxpayer "must present clear and convincing evidence that the assessment is incorrect or that the method of audit or amount of tax assessed was erroneous or unreasonable" (*Leonard v. Commissioner of Revenue Services*, 264 Conn. 286, June 10, 2003, p. 302).

EFFECTIVE DATE: July 1, 2011 and applicable to any tax appeal filed on or after that date.

6. S.B. No. 1214 (RAISED) AN ACT CONCERNING REVISIONS TO THE NONRESIDENT CONTRACTOR BOND STATUTE. (JFS)

Fiscal Impact: None

The bill, which streamlines the treatment of nonresident contractors with regard to DRS in certain circumstances, does not result in any fiscal impact to the state or municipalities.

Summary:

To secure payment of Connecticut taxes in connection with a nonresident contractor's in-state activities, current law requires a person doing business with a nonresident contractor to either (1) withhold and deposit with DRS 5% of the contract price or (2) obtain proof from the contractor that it has posted a bond for the equivalent amount with DRS.

This bill revamps these tax security requirements to, among other things:

1. require DRS, upon request, to verify whether nonresident contractors and subcontractors are registered with DRS for tax purposes, have filed all required tax returns, and, if required, have posted a bond with DRS;

2. impose the bond requirement only on nonresident general or prime contractors, and the hold-back requirement only on nonresident subcontractors, who are not so verified by DRS;

3. require general contractors, rather than customers, to hold back funds from their unverified subcontractors; and

4. require customers contracting with unverified general or prime contractors to obtain proof that the contractor has posted the required bond.

Current law makes anyone who does business with a nonresident contractor without complying with the security requirements personally liable for the contractor's taxes stemming from the project. The bill applies this liability to anyone who does business with an unverified prime or general contractor without obtaining proof that the contractor has posted the required bond. It also caps the customer's liability at 5% of the contract price. The bill specifies that the personal liability applies to sales, use, or withholding taxes the contractor owes that arise from its activities under the contract. As under current law, a customer must also pay any use taxes due on purchases of services from the unverified contractor in connection with the project.

The bill exempts contracts whose total contract price is less than $250,000. In addition, as under current law, the tax security requirements do not apply to a homeowner's or tenant's contract involving his or her own residence with three or fewer units.

As under current law, the "contract price" covers all contract charges, including deposits, retainage, change orders, or charges for add-ons.

EFFECTIVE DATE: October 1, 2011

7. S.B. No. 1215 (RAISED) AN ACT CONCERNING CERTAIN CIGARETTE TAX VIOLATIONS AND OTHER CHANGES. (JFS)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Revenue Services;	General Fund	Revenue Gain	Minimal	Minimal

Judicial Department				

Since there are relatively few violations under the statutes changed by the bill, any revenue impact is anticipated to be minimal.

Summary:

§ 1 - Sale of Cigarettes or Taxed Tobacco Products Without a License

It is illegal to sell cigarettes or taxed tobacco products without a license. Under current law, the penalty for each knowing violation is a fine of up to $500, up to three months in jail, or both, with each day of unauthorized operation counted as a separate offense. The bill reduces the penalty to an infraction, with a $90 fine, for a dealer who operates for no more than 90 days after his or her license expires.

Taxed tobacco products include snuff, cigars, cheroots, pipe tobacco, and similar products.

EFFECTIVE DATE: July 1, 2011

§ 2 - Sale or Possession of Unstamped Cigarettes

It is illegal to sell, offer to sell, display for sale, or possess unstamped cigarettes, except that a licensed cigarette dealer may legally possess unstamped cigarettes at a licensed location for no more than 24 hours. Under current law, the penalty for a knowing violation is a fine of up to $1,000, up to one year in jail, or both. The bill reduces the penalty to an infraction, with a $90 fine, if it is the dealer's first violation and he or she knowingly possesses no more than 600 unstamped cigarettes.

EFFECTIVE DATE: July 1, 2011

§ 3 – Illegal Use of Dyed Diesel Fuel

Federal law exempts diesel fuel used for certain non-highway purposes from federal fuel taxes. Exempt diesel fuel must be dyed red so it can be identified.

This bill imposes a fine of up to $1,000 on anyone who uses dyed diesel fuel in a motor vehicle, other than a passenger or combined passenger-commercial vehicle, on a public highway, unless they are doing so under federal law or regulation. It imposes the same penalty on anyone who refuses to allow an authorized DRS or other state official to inspect his or her vehicle's fuel tank upon request.

The bill allows violators to pay the fines by mail or plead not guilty through the Centralized Infractions Bureau.

EFFECTIVE DATE: July 1, 2011

§ 4 – Penalties for Failure to Pay Taxes Electronically

The bill limits penalties for a first and second failure to comply with DRS requirements to make tax payments by electronic funds transfer. Under current law the penalty is 10% of the required electronic payment. This bill keeps the 10% penalty but, starting with tax periods beginning on or after January 1, 2012, limits the maximum penalty to $5,000 for the first time, and $10,000 for the second time, a taxpayer is penalized.

EFFECTIVE DATE: Upon passage and applicable to tax periods starting on or after July 1, 2011.

8. S.B. No. 1217 (RAISED) AN ACT CONCERNING NONADMITTED INSURERS. (JFS)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Resources of the General Fund	General Fund	Precludes Revenue Loss	$17.5 million	$17.5 million

The bill allows the Department of Insurance (DOI) and DRS to take actions necessary to carry out provisions of the federal Nonadmitted and Reinsurance Reform Act of 2010. Conformance with this federal statute will allow the state to continue to collect the current surplus lines premium and unauthorized insurers premium tax of 4%. This tax produces General Fund revenue of $17.5 million annually. Of these funds, $11.3 million is collected by DOI from surplus lines brokers and $6.2 million is collected by DRS from those who procure insurance from an unauthorized insurer.

Summary:

This bill allows the DRS and insurance commissioners to enter into an agreement with other states regarding the premium taxes on nonadmitted (i.e. unauthorized) insurance to carry out the provisions of the 2010 Nonadmitted and Reinsurance Reform Act (NRRA). Under the NRRA, states must adopt, by July 1, 2011, uniform requirements and procedures for allocating and collecting premium taxes on nonadmitted insurance in order to continue collecting the tax. Nonadmitted insurers are not licensed to transact business in the state but may still offer a line of insurance or a particular type of coverage if such coverage is not available from licensed insurers.

Under existing law, the state imposes a 4% tax on gross premiums charged by nonadmitted insurers, which applies to insurance policies procured directly or

through licensed surplus lines brokers. The bill makes various changes to the tax to conform it the NRRA.

The agreement may include, but is not limited to, the National Association of Insurance Commissioners' (NAIC) Nonadmitted Insurance Multistate Agreement (NIMA). The agreement may provide a standardized premium allocation method between the states and other requirements to facilitate the collection, allocation, and disbursement of premium taxes. Under the bill, if the agreement's provisions differ from those in the bill, the agreement prevails.

EFFECTIVE DATE: Upon passage and applicable to nonadmitted insurance coverage procured, continued, or renewed on or after July 1, 2011.

9. S.B. No. 1218 (RAISED) AN ACT CONCERNING VARIOUS CHANGES TO TITLE 12. (JFS)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Revenue Services	General Fund	See Below	See Below	See Below

Section 1 establishes a process by which license applicants must verify they owe no state taxes. This results in a potential revenue gain to the state, to the extent that applicants do owe state taxes.

Section 2 does not impact the approximately $3.0 million annually that the state receives under reciprocal tax refund agreements with other states.

Sections 3-5 consist of technical and clarifying changes that do not result in any fiscal impact.

Section 6 addresses withholding liability with respect to the certain aspects of business succession, which does not result in any fiscal impact.

Section 7 extends timelines for DRS to make certain deficiency assessments against employers in certain circumstances. To the extent that this allows DRS to levy deficiency assessments that would not otherwise occur, this results in a potential revenue gain.

Sections 8-9 results in a minimal revenue loss due to the exemption of certain handicapped equipment from the Sales Tax.

Summary:

§ 1 — State Tax Payment as a Condition of Issuing State Licenses

The bill requires the DRS commissioner and the head of any agency that issues licenses granting permission to engage in any profession, occupation, or business, to enter into a memorandum of understanding or other agreement establishing a method for the licensing agency to verify that license applicants owe no state taxes. It bars the DRS commissioner from making more than three such agreements in any fiscal year.

The agreements must ensure that no license is issued until the applicant pays what he or she owes, including taxes, penalties, and interest due to the state and for which all administrative or judicial remedies for disputing amounts owed have expired or been exhausted. Taxes owed do not include payments due under a payment agreement between DRS and a taxpayer that is not in default. The agreement must also require the license to be issued, regardless of whether the applicant owes state taxes, if the applicant establishes to the DRS commissioner's satisfaction and after consultation with the licensing agency head, that (1) failure to issue the license will cause the license applicant undue hardship or (2) issuing the license is otherwise in the state's best interest.

If a license applicant owes state taxes, the agreement must require the DRS commissioner to give notice and provide an opportunity for a hearing, the subject of which must be limited to verifying that the applicant owes state taxes.

EFFECTIVE DATE: July 1, 2011

§ 2 — Reciprocal Tax Refund Agreements with Other States

The law allows the DRS commissioner to withhold all or a portion of a taxpayer's refund if requested by another state, as long as the other state's law provides reciprocal authority for its tax authorities to withhold taxes owed to Connecticut. By law, the other state's tax officer must certify to the commissioner that the taxpayer owes taxes to it by providing a certification that includes:

1. the taxpayer's full name, address, and Social Security or federal employer identification number;
2. the amount to be collected, including a detailed statement showing tax, interest, and penalty; and
3. that applicable administrative and judicial remedies have been exhausted or have expired and the tax amount is legally enforceable.

The bill eliminates the requirement that the officer provide a detailed statement of the taxpayer's liability.

The law requires the commissioner to notify the taxpayer whenever he receives such a certification and inform the taxpayer that he or she has the right to protest the withholding and that failure to do so constitutes a waiver of his or her right to the tax refund. The bill requires him to do so only if the taxpayer is otherwise entitled to a tax refund from the state. The bill also eliminates the requirement that the commissioner include a copy of the certification received from the other state with the notice.

EFFECTIVE DATE: Upon passage and applicable to income years starting on or after January 1, 2011.

§ 3 — Economic Nexus for Corporation Tax

Under current law, and to the extent allowed by the U.S. Constitution, a company is subject to the corporation tax if, instead of a physical presence, it has either a "substantial economic presence" here or derives income from sources in the state. The bill requires a company to meet both of these conditions instead of only one in order to be subject to the tax.

By law, a company has "substantial economic presence" in Connecticut if it purposefully directs business towards the state. Its purpose can be determined by such measures as the frequency, quantity, and systematic nature of its economic contact with the state.

The bill also specifies that foreign corporations with no income "effectively connected" with a U.S. trade or business are not subject to the Connecticut corporation tax. If a foreign corporation has such income, under the bill, that income is considered to be its gross income for corporation tax purposes. In addition, when apportioning such a corporation's net income for Connecticut corporation tax purposes, the bill requires that only its U.S.-connected property, payroll, and receipts may be used.

EFFECTIVE DATE: Upon passage, and applicable to income years starting on or after January 1, 2011.

§ 4 — Overpayment of Estimated Corporation Tax

The bill allows a company that has overpaid its estimated corporation tax in one income year to apply the excess to its estimated taxes due in the following year. The excess must applied to the first installment due in the next income year and any subsequent installments in the order they are due. And it eliminates the commissioner's authority to adopt regulations concerning the crediting of these excess payments.

EFFECTIVE DATE: October 1, 2011, and applicable to estimated corporation tax payments for income years starting on or after January 1, 2012

§ 5 — Electronic Funds Transfers for Nonpayroll Amounts

By law, the DRS commissioner can require employers with more than $2,000 in annual withholding tax liability to pay the taxes electronically. The bill allows the commissioner to also require electronic payments from any payers with more than $2,000 in withholding tax liability from nonpayroll amounts.

By law, nonpayroll amounts include:

1. gambling winnings paid to Connecticut residents that are subject to federal income tax withholding (i.e., payments over $5,000);
2. Connecticut lottery winnings that must be reported to the IRS, regardless of whether they are subject to federal withholding (i.e., payments of $600 or over);
3. pension and annuity distributions and military retirement paid to Connecticut residents requesting state income tax withholding;
4. unemployment compensation paid to those requesting state income tax withholding; and
5. nonwage payments to athletes or entertainers from which the DRS commissioner requires withholding (generally, fees over $1,000 unless DRS grants a waiver).

EFFECTIVE DATE: July 1, 2011, and applicable to tax periods ending on or after that date.

§ 6 – Successor Liability for Withholding Taxes

Under this bill, when an employer who is required to withhold and pay state income taxes to DRS sells or quits its business or sells out its entire stock, the employer's successors or assigns must withhold enough money from the purchase price to cover any unpaid withholding taxes, penalties, or interest due when the employer sells or quits. The buyer must withhold the money until the employer provides either a DRS receipt showing that the employer has paid all taxes, penalties, and interest or a DRS certificate stating that no taxes are due. If the buyer fails to withhold the money, he or she becomes personally liable for the amount that should have been withheld, up to the monetary value of the purchase price of the business or stock.

The bill requires the commissioner to either issue the certificate or mail the buyer a tax deficiency assessment notice according the regular procedure for such notices. The commissioner must take this action within 60 days after whichever of the following dates occurs last: (1) the date the commissioner receives the buyer's written request for a certificate that no taxes are due, (2) the date the employer sold or quit the business, or (3) the date the employer's records become available for audit. If the commissioner fails to mail the notice by the deadline, the buyer need not withhold money from the purchase price.

Under the bill, the statutory three-year time limit for enforcing the successor's liability starts when (1) the employer sells or quits the business or (2) the assessment against the employer becomes final, whichever is later.

EFFECTIVE DATE: July 1, 2011 and applicable to sales of businesses and stock occurring on or after that date.

§ 7 – Withholding Tax Deficiency Assessment Deadline

By law, DRS has six years to send an income tax deficiency assessment notice to a taxpayer who omits more than 25% of his includable Connecticut adjusted gross income (AGI) from his income tax return and fails to adequately explain the omission in the return or an attached statement.

The bill increases, from three to six years, the time limit for DRS to send a tax deficiency assessment notice to (1) an employer that omits more than 25% of Connecticut wages from its withholding tax return or (2) a pass-through entity that omits more than 25% of includable Connecticut-sourced AGI from the withholding taxes for its nonresident members. In either case, there must be no adequate explanation for the omission in the return or an attached statement.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2011.

§§ 8 & 9 – Sale of Used Motor Vehicles Containing Tax-Exempt Special Equipment

Special equipment installed in a motor vehicle for the exclusive use of a person with physical disabilities is exempt from the sales and use tax.

This bill specifies that, when a vehicle with special equipment already installed is sold, either privately or by a dealer, to a person with physical disabilities, the part of the sale price attributable to the special equipment is not

subject to sales tax. It requires the dealer to collect sales tax, or the private buyer to pay use tax, on the price of the vehicle alone.

EFFECTIVE DATE: Upon passage and applicable to all open tax periods.

10. H.B. No. 6623 (RAISED) AN ACT CONCERNING THE REPORTING OF TOWN-LEVEL INCOME DATA BY THE DEPARTMENT OF REVENUE SERVICES.(JFS)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Revenue Services	General Fund	Cost	Less than 25,000	None

The Department of Revenue Services would incur a one-time cost of less than $25,000 to implement the income tax form change required under the bill.

Since the data altered under the bill are not used in any state grant formulas, there would be no change to the funding provided under those formulas (e.g., ECS) per the bill.

Summary:

The bill requires the DRS commissioner to:

1. require taxpayers to specify on their personal income tax returns the town, city, or borough where they legally reside and

2. include AGI by town, city, or borough to in the personal income tax data the commissioner must report annually by December 31 to the Office of Fiscal Analysis.

EFFECTIVE DATE: July 1, 2011 and applicable to the reports due for fiscal years ending on or after June 30, 2012.

11. H.B. No. 6624 (RAISED) AN ACT CONCERNING THE COLLECTION AND REMITTANCE OF THE SALES TAX BY REMOTE SELLERS.

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Revenue Services	General Fund	Potential Revenue Gain	Up to 9.4 million	Up to 9.4 million

The bill requires certain remote sellers who have no physical presence in Connecticut to collect sales tax on applicable Connecticut sales. This is estimated to result in a potential General Fund revenue gain of up to $9.4 million annually beginning in FY 12, which is associated with additional sales and use tax collections.

The estimate is based on data from a comparable 2008 New York state law, and has been adjusted for differences in population and sales tax rate. It should be noted that retailers with affiliate programs in other states that have enacted similar laws have terminated such affiliate agreements, thus eliminating the legal basis for establishing nexus. The revenue gain described above assumes that the bill does not result in the termination of affiliate agreements.

To the extent that remote sellers end their business relationship with local affiliates, as a result of the bill, there could potentially be no revenue gain.

Sources:
1. NYS Department of Taxation and Finance
2. NYS Department of Taxation and Finance, "A New Way Forward for Remote Vendor Sales Tax Collection," January 18, 2010

Summary:

This bill requires certain remote sellers who have no physical presence in Connecticut to collect Connecticut sales tax on their taxable sales here.
State law requires "retailers" to collect Connecticut sales tax if they are "engaged in the business" of making retail sales in the state. If a retailer is engaged in business in Connecticut, it is said to have "nexus" here.

The bill presumes a company is a retailer with sales tax nexus in the state if it annually sells more than $2,000 worth of taxable items or services in Connecticut through certain agreements with Connecticut residents. The agreements must provide that, in return for the resident referring potential customers to the company, he or she will receive a commission or other compensation from that company. Under the bill, the referrals can be direct or indirect and can be made by any means, including a link on an Internet website. By extending Connecticut sales tax nexus to companies that have such agreements, the bill requires them to collect Connecticut sales tax on all their taxable sales in Connecticut, not just on items sold through the referrals.

The bill applies to any company that annually earned more than $2,000 in gross revenue from sales in the state under such referral agreements in the preceding four quarters ending on the last days of March, June, September, and December. It establishes a presumption that such a company is soliciting

business in Connecticut through the independent contractors or representatives. The company can rebut the presumption by proving that the resident with whom it has an agreement did not solicit business in Connecticut in a manner that would satisfy the federal constitutional nexus requirement.

By law, if a retailer does not collect and remit to DRS the sales tax due on a taxable item or service, the person who buys it for use in Connecticut must pay the equivalent use tax on that purchase directly to DRS.

EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after that date.

CHANGE OF REFERENCE BILLS FOR JF CONSIDERATION

12. S.B. No. 127 (COMM) AN ACT CONCERNING UPDATES TO THE NEIGHBORHOOD ASSISTANCE ACT. (CE,CE)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Revenue Services	General Fund	Revenue Loss	Up to $2.7 million	Up to $3.6 million

The bill increases the annual amount a business may receive under the Neighborhood Assistance Act tax credit program. This results in an estimated revenue loss of up to $2.4 million in FY 12 and up to $3.2 million annually thereafter, assuming business contributions increase commensurate with the amounts currently donated under the program.

The bill also extends the tax credits to S corporations, limited liability companies, limited liability partnerships and other entities subject to the business entity tax. This is estimated to result in a revenue loss of up to $300,000 in FY 12 and up to $400,000 in FY 13 and annually thereafter.

Summary:

This bill:

1. extends eligibility for Neighborhood Assistance Act (NAA) tax credits to S corporations, limited liability companies, limited liability partnerships and other entities subject to the business entity tax;

2. raises the annual cap on the credit a business can receive from $75,000 to $250,000; and

3. drops the requirement that a contribution equal or exceed prior-year contributions for activities eligible for NAA credits.

EFFECTIVE DATE: October 1, 2011

13. Substitute for S.B. No. 246 (COMM) AN ACT ESTABLISHING A DATE FOR THE SUBMISSION OF PERSONAL PROPERTY DECLARATIONS AND PROPERTY TAX EXEMPTIONS BY FARMERS. (ENV)

Fiscal Impact: None

No municipal fiscal impact will result in response to enacting the bill's provision regarding the date by which farmers must submit applications for property tax exemptions.

Summary:

This bill changes the date by which farmers must submit personal property tax declarations and claims for exemption from 30 days after the assessment date to November 1.

EFFECTIVE DATE: Upon passage

14. S.B. No. 377 (COMM) AN ACT CONCERNING INTEREST OWED ON PROPERTY TAXES BY MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY. (VA,VA)(JFS)

Fiscal Impact:

Municipalities	Effect	FY 12 $	FY 13 $
All Municipalities	Revenue Loss	Potential	Potential

Municipalities will experience a loss in revenue equal to the amount of interest that would have accrued for one year on delinquent tax payments of (a) certain members of the military, or the national guard or a reserve unit, serving in Iraq, and (b) those serving in Afghanistan, who are outside the country on the final day that payment is due.

A further revenue loss would be experienced by any municipality opting to use the authority granted under the bill to extend a similar waiver of interest payment to any member of the military who is on active duty outside the state on the final day a tax payment is due.

As of December 2006, 16,497 Connecticut residents were members of the national guard, a reserve unit or in the active military. An unknown number were serving out-of-state or out-of-country.

Summary:

This bill allows municipalities to waive interest due on any property tax or tax installment for up to one year for any resident who is a member of the U.S. armed forces and is on active duty outside the state on the final day that the tax is due.

Current law requires a municipality to waive interest for one year for any state resident who is a member of the U. S. armed forces or any state National Guard or reserve unit who has been called to active service for military operations authorized by the president that entail military action against Iraq and who is serving in the Middle East on the final day the tax payment is due. The bill expands this requirement to also include (1) any military action in Afghanistan and (2) service anywhere outside the U.S.

EFFECTIVE DATE: Upon passage

15. S.B. No. 1001 AN ACT CREATING THE FIRST FIVE PROGRAM. (CE)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Economic and Community Development	General Fund	Cost	See Below	See Below
Department of Revenue Services	General Fund	Revenue Loss	$500,000	$1.8 million

The bill results in a significant cost to the Department of Economic and Community Development and the Department of Revenue Services by creating the First Five Program. The actual costs will be at the discretion of the Governor and would be incurred in FY 12 and FY 13 only.

This bill results in a significant cost to the Manufacturing Assistance Act Bond Funds under the DECD. The bill exempts the five development projects chosen for this program from the funding limits imposed by the Manufacturing Assistance Act for FY 12 and FY 13. The cost will depend upon the particular projects chosen and the scope of the funding approved by the DECD Commissioner and the Governor.

Section 2 increases the total authorization for Urban and Industrial Sites Reinvestment tax credits, which results a potential revenue loss of up to $25.0 million per year in FY 15-FY 18 and up to $50.0 million per year in FY 19-FY 21.

Section 3 increases the total authorization for job creation tax credits, which results in an estimated revenue loss of $500,000 in FY 12 and $1.8 million in FY 13.

Summary:

This bill authorizes substantial economic development assistance under existing programs for projects meeting job creation and investment goals within specified deadlines. The economic and community development commissioner may provide this assistance with the governor's consent to no more than five businesses per year in FY 12 and 13, respectively.

The bill provides for this assistance by:

1. exempting projects from the Manufacturing Assistance Act's funding limits (currently 90% funding for projects in the 17 targeted investment communities and 50% for projects in the other municipalities),

2. increasing the total authorization for Urban and Industrial Sites Reinvestment tax credits from $500 million to $750 million, and

3. increasing the total authorization for job creation tax credits from $11 million to $20 million.

A business qualifies for substantial assistance if it can:

1. create at least 200 jobs within 24 months after the commissioner approves the assistance or

2. invest at least $25 million and create 200 jobs within five years of the commissioner's approval.

A redevelopment project (which the bill does not define) qualifies for a preference if it can create 200 jobs sooner than 24 months or five years (for projects investing at least $25 million).

EFFECTIVE DATE: July 1, 2011

16. H.B. No. 6157 (RAISED) AN ACT CONCERNING STATE FORESTRY PROGRAMS. (ENV)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Environmental Protection (DEP)	General Fund, Environmental Conservation Account	Revenue Loss	100,000	100,000
Department of Environmental Protection (DEP)	General Fund, Timber Harvesting Revolving Account	Revenue Gain	100,000	100,000

Approximately, $500,000-$600,000 in revenue is deposited into the General Fund each year from the harvest of timber. The bill redirects $100,000 of those proceeds to a timber harvest revolving account, a separate nonlapsing account within the General Fund.

Summary:

By law, the Department of Environmental Protection (DEP) commissioner may harvest timber and sell it for at least $10 per cord when sold as fuel.

This bill establishes a "timber harvest revolving account." Under the bill, proceeds from the harvest of timber must be deposited into the new account. The commissioner may use the account funds for (1) developing forest management plans and (2) reasonable expenses for administering and operating the plans. The bill authorizes the commissioner to accept, on behalf of DEP, any gifts, donations, or bequests for the account. The account balance cannot exceed $100,000. Any proceeds over that amount must be deposited in the General Fund.

EFFECTIVE DATE: Upon passage

17. H.B. No. 6270 (RAISED) AN ACT CONCERNING THE COLLECTION OF DELINQUENT TAXES AND LOTTERY WINNINGS. (PS)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Resources of the General Fund	General Fund	Revenue Gain	Potential	Potential

There is a potential revenue gain to the state to the extent that a delinquent taxpayer wins a lottery prize of $5,000 or more. There is currently approximately $400.0 million in delinquencies eligible for collection.

Summary:

This bill requires the Connecticut Lottery Corporation (CLC) to deduct and withhold delinquent taxes from any lottery claim of $5,000 or more a delinquent taxpayer submits at CLC's central office on or after January 1, 2012.

The bill requires the DRS commissioner to submit a list of delinquent taxpayers to CLC. It allows the commissioner to disclose to CLC (1) the name and any information necessary to identify a delinquent taxpayer and (2) the amount of taxes, penalty, and interest owed. Before paying any prize claim of $5,000 or more, CLC must check the list. If the claimant is delinquent, CLC must withhold from the winnings and promptly notify and forward to the commissioner the amount of taxes owed, plus penalties and interest, after deducting and withholding any amount owed for child support.

The bill applies to taxes, including penalties and interest, more than 30 days overdue that are not the subject of a timely filed (1) administrative appeal to the commissioner or (2) appeal pending before a court.

EFFECTIVE DATE: October 1, 2011

18. H.B. No. 6290 (RAISED) (File No. 69) AN ACT CONCERNING ECONOMIC DEVELOPMENT PROGRAMS FOR CERTAIN AEROSPACE AND DEFENSE PLANTS. (CE)

See File 69.

19. H.B. No. 6307 (RAISED) (File No. 86) AN ACT REGULATING THIRD-PARTY ADMINISTRATORS. (INS)

See File 86.

20. Substitute for H.B. No. 6316 (RAISED) AN ACT CONCERNING THE ESTABLISHMENT OF AN ELECTRONIC BUSINESS PORTAL AT THE OFFICE OF THE SECRETARY OF THE STATE. (CE)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Secretary of the State	General Fund	Cost	Approximately $1.5 million	Approximately $1.5 million

The bill requires the Secretary of the State (SOTS), through the Commercial Recording Division, to establish an electronic business portal, which would include explanatory information and electronic links to various state agency websites. This project could not be implemented without an upgrade to the SOTS's business filing system (CONCORD). The approximate cost to upgrade

CONCORD and implement the business portal is estimated to be $3 million in total. The Governor's FY 12-13 bond authorization provides $5.5 million for various SOTS upgrades, including the upgrade of their business filing system.

Summary:

This bill requires the secretary of the state's Commercial Record Division to establish an electronic business portal as a single entry point for businesses seeking information about permits and licenses, tax requirements and benefits, and state financial incentives and programs. The portal must provide explanatory information and links to many state agencies, the federal Small Business Administration, and the nonprofit Connecticut Economic Resource Center.

EFFECTIVE DATE: January 1, 2012

21. Substitute for H.B. No. 6327 (RAISED) AN ACT CONCERNING THE ENHANCED EMERGENCY 9-1-1 PROGRAM. (PS)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Department of Public Safety	Enhanced 9-1-1 Fund	Revenue Loss	550,000	550,000

The bill results in an estimated $550,000 revenue loss to the Enhanced 9-1-1 Fund by reducing the monthly subscriber fee on prepaid wireless phones to one-half the rate levied on other telephone service subscriptions.

Currently prepaid wireless phone subscriptions are charged the full rate of 50 cents per month. It is anticipated that the rate for prepaid wireless phone subscriptions would be 25 cents, as the 50 rate on the other telephone services subscriptions is the statutory maximum.

The bill requires sellers to remit the collected fees to the Department of Revenue Services (DRS). Additionally, the bill allows DRS to retain 2% of the total remittance. This revenue offsets the cost incurred by DRS to collect, process, and deposit the fees into the Enhanced 9-1-1 Fund.

Summary:

This bill eliminates the monthly subscriber fee (currently 50 cents) that subscribers of prepaid wireless telephone service are assessed for the Enhanced 9-1-1 (E 9-1-1) system. It, instead, requires that retailers selling prepaid wireless telecommunications services collect a fee from buyers, anytime they purchase

such services. The fee is equal to one-half the rate levied on other telephone service subscribers. Based on the current 50-cent rate, the prepaid wireless fee would be 25 cents.

Retailers may retain 3% of the fees collected. They must remit the balance to the DRS, which must transfer it to the state treasurer for deposit in the E 9-1-1 Telecommunications Fund. DRS may use up to 2% for its direct costs of collecting and administering the remittances.

EFFECTIVE DATE: January 1, 2012

Background

The E 9-1-1 system provides dispatch services to people who call 9-1-1. The public safety commissioner must annually determine the amount of funds needed to develop and administer the system. Funding for the system is generated by a monthly surcharge levied on all phone lines (CGS § 28-30a). The Department of Public Utility Control sets the surcharge based on cost and usage data provided by the Office of State-Wide Emergency Telecommunications (OSET).

Current rates are at the statutory cap of 50 cents per month for subscribers with a single telephone line (CGS § 16-256g). Subscribers with multiple lines are assessed on a sliding scale, starting at 50 cents for the first line. Subscribers pay the surcharge to their telephone service provider which, in turn, remits it to OSET monthly for deposit in the E 9-1-1 Telecommunications Fund.

22. H.B. No. 6393 AN ACT INCREASING THE FEE FOR A CREMATION CERTIFICATE. (PH)

Fiscal Impact:

Agency Affected	Fund	Effect	FY 12 $	FY 13 $
Office of the Chief Medical Examiner	General Fund	Revenue Gain	600,000	600,000

Increasing the cremation certificate fee from $1005 to $150, results in a General Fund revenue gain of approximately $600,000 annually. In FY 10,

[5] Though the cremation certificate fee is established in CGS Sec. 19a-323 at $40, the Commission on Medicolegal Investigations (which oversees the Office of the Chief Medical Examiner) allowed this fee to increase from $40 to $100 to more accurately reflect the cost of external examinations. Before a body is cremated, CME must determine through external examination that the cause of death does not require further examination or judicial inquiry.

$1,260,200 was collected in cremation certificate fees and deposited into the General Fund as unrestricted revenue.

Summary:

This bill increases the fee for a cremation certificate to a flat $150 from the greater of $40 or an amount equivalent to the amount the state pays to authorized assistant medical examiners. In practice, the current fee is $100.

EFFECTIVE DATE: July 1, 2011

23. S.B. No. 921 (RAISED) AN ACT ESTABLISHING A STATE HEALTH INSURANCE EXCHANGE. (INS,GAE)

Fiscal Impact: See below

This bill creates the Connecticut Health Insurance Exchange. The Exchange is a quasi-public agency tasked with implementing the insurance exchange requirements of the federal Patient Protection and Affordable Care Act (PPACA).

The Exchange will have ongoing operational costs that will depend upon the administrative structures that are developed by the board. For purposes of comparison, the Commonwealth of Massachusetts (with roughly twice the population of Connecticut), established a health insurance exchange in 2007. Initial operating costs were $19.5 million in the first year and $29.9 million in the second year. However, the Massachusetts Exchange is tasked with administering a publically subsidized health insurance program, which is outside the scope of this bill. Therefore, the cost of the Connecticut exchange is likely to be proportionately less.

The bill specifies that the Exchange can charge assessments or user fees to health carriers to generate necessary funding to support operations. Connecticut has received an exchange planning grant from the federal government $996,848. Under PPACA, additional federal funds are available to assist states in the implementation of the health insurance exchanges. A consortium of the six New England states has already been granted $35.6 million to develop an on-line gateway to health insurance options.

Summary:

This bill establishes the Connecticut Health Insurance Exchange as a quasi-public agency to satisfy requirements of the federal 2010 Patient Protection and Affordable Care Act (PPACA). Under the bill, a 14-member board manages the exchange, including operating an online marketplace where individuals and small employers (i.e., an employer with up to 50 employees) will be able to compare and purchase health insurance plans beginning in 2014. The bill outlines the board's powers and duties.

By law, quasi-public agencies have bonding authority. The bill also specifically permits the exchange to issue, fund, or refund bonds, bond anticipation notes, and other obligations of the exchange for any of its corporate purposes; provide for the holders' rights; and secure those rights by pledging revenue, notes, and mortgages of others.

EFFECTIVE DATE: Upon passage

24. Substitute for H.B. No. 6323 (RAISED) AN ACT MAKING CONFORMING CHANGES TO THE INSURANCE STATUTES PURSUANT TO THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AND ESTABLISHING A STATE HEALTH PARTNERSHIP PROGRAM. (INS,GAE)

Fiscal Impact: See below

This bill creates the Connecticut Health Partnership Exchange. The Exchange is a quasi-public agency tasked with implementing the insurance exchange requirements of the federal Patient Protection and Affordable Care Act (PPACA).

The Exchange will have ongoing operational costs that will depend upon the administrative structures that are developed by the board. For purposes of comparison, the Commonwealth of Massachusetts (with roughly twice the population of Connecticut), established a health insurance exchange in 2007. Initial operating costs were $19.5 million in the first year and $29.9 million in the second year. However, the Massachusetts Exchange is tasked with administering a publically subsidized health insurance program, which is outside the scope of this bill. Therefore, the cost of the Connecticut exchange is likely to be proportionately less.

The bill specifies that the Exchange can charge assessments or user fees to insurers to generate necessary funding to support operations. Connecticut has received an exchange planning grant from the federal government $996,848. Under PPACA, additional federal funds are available to assist states in the implementation of the health insurance exchanges. A consortium of the six New England states has already been granted $35.6 million to develop an on-line gateway to health insurance options.

This bill also makes numerous changes that conform statute to federal requirements and current practices.

Summary:

This bill establishes the Connecticut Health Partnership Exchange as a quasi-public agency to satisfy requirements of the PPACA. Under the bill, an 11-

member board of directors manages the exchange, including an online marketplace where individuals and small employers will be able to compare and purchase health insurance plans beginning in 2014. The bill outlines the board's powers and duties and prohibits insurers or health care providers from serving on the board. The bill subjects the exchange to the Freedom of Information Act, with limited exceptions. (By law, quasi-public agencies have bonding authority.)

The bill also makes changes in various health insurance statutes to bring them into conformance with the PPACA. The changes relate to covering dependent children under health care policies to age 26, barring coverage denial for children under age 19 due to a preexisting condition, eliminating lifetime maximums, prohibiting rescissions except in cases of fraud and intentional material misrepresentation, and changing the definition of medical loss ratio.

EFFECTIVE DATE: Upon passage, except for the provision redefining "medical loss ratio," which is effective January 1, 2012.

25. Substitute for H.B. No. 6292 (RAISED) AN ACT CONCERNING THE PAYMENT OF PERSONAL PROPERTY TAXES BY CERTAIN TELECOMMUNICATIONS COMPANIES. (PD)

Fiscal Impact:

Municipalities	Effect	FY 12 $	FY 13 $
Various	Revenue Impact	2.5 million (approx.) Gain	2.5 million (approx.) Loss

Enactment of the bill will result in a revenue gain to municipalities in FY 11 equal to one-half (1/2) of payments-in-lieu of taxes related to mobile telecommunications services attributable to the 2010 grand list, and an equivalent revenue loss in FY 12. In aggregate, these payments total approximately $5.0 million.

Summary:

PA 10-171 eliminated the option for telecommunications companies to have their personal property taxed at a statewide mill rate, thus requiring this property to be subject to assessment by the municipality and the locally set rate. These changes applied to assessment years beginning on or after October 1, 2010.

This bill allows municipal tax collectors to bill telecommunications companies for half of the taxes due in 2011 before they would otherwise be due. It allows them to send the bill in two installments, the first one before the July 1, 2011 due date and the second on or after that date.

The first installment equals half of the company's 2010 assessment multiplied by the municipality's mill rate for FY 10, while the second installment equals half of the 2010 assessment multiplied by the FY 11 mill rate. The installments are due, payable, collectible, and subject to the same liens and collection processes as other municipal taxes.

The bill makes telecommunications companies subject to generally applicable property tax collection laws for assessment years starting on or after October 1, 2011.

EFFECTIVE DATE: Upon passage