



General Assembly

**Substitute Bill No. 5889**

*February Session, 2000*

***An Act Implementing The Legislative Commissioners' Recommendations For Technical Revisions To The Tax Statutes.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 12-53 of the general statutes, as  
2 amended by section 5 of public act 99-189, is repealed and the  
3 following is substituted in lieu thereof:

4 (f) Upon receipt of notice from the assessor or board of assessors of  
5 the addition of property to the declaration of any owner, or an increase  
6 in the assessment of any property included in such owner's  
7 declaration, the tax collector of the town shall, if such notice is received  
8 after the normal billing date, not later than thirty days thereafter mail  
9 or hand a bill to such owner based upon the addition of property to  
10 said owner's declaration or the increase in the assessment of any  
11 property that had been included in such owner's declaration added by  
12 the assessor or board of assessors. Such tax shall be due and payable  
13 and collectible as other municipal taxes and subject to the same liens  
14 and processes of collection, except that (1) such tax for the current  
15 fiscal year shall be due and payable in an initial or single instalment  
16 due and payable not sooner than thirty days after the date such bill is  
17 mailed or handed to such owner and in any remaining, regular  
18 instalments as the same are due and payable, and the several  
19 instalments of the tax so due and payable, shall be equal, and (2) such

20 tax for any prior fiscal year [,] shall be payable not sooner than thirty  
21 days after the date such bill is mailed or delivered to such owner [,]  
22 and shall include interest from the date or dates such tax for the  
23 corresponding grand list would have been due.

24 Sec. 2. Subdivision (10) of subsection (b) of section 12-63 of the  
25 general statutes, as amended by section 1 of public act 99-290, is  
26 repealed and the following is substituted in lieu thereof:

27 (10) If the assessor determines that the value of any item of personal  
28 property produced by the application of the schedules set forth in this  
29 subsection [do] does not accurately reflect the present true and actual  
30 value of such item, the assessor shall adjust such value to reflect the  
31 present true and actual value of such item.

32 Sec. 3. Subsection (b) of section 12-71 of the general statutes, as  
33 amended by section 12 of public act 99-189, and by section 3 of public  
34 act 99-272, are repealed and the following is substituted in lieu thereof:

35 (b) All property subject to this section shall be valued at the same  
36 percentage of its then actual valuation as the assessors have  
37 determined with respect to the listing of real estate for the same year,  
38 except that any motor vehicle for which number plates have been  
39 issued under section 14-20 and any aircraft manufactured prior to  
40 January 1, 1946, shall be assessed at a value of not more than five  
41 hundred dollars except when otherwise provided by law. The  
42 provisions of this section shall not include money or property actually  
43 invested in merchandise or manufacturing carried on out of this state  
44 or machinery or equipment which would be eligible for exemption  
45 under subdivision (72) of section 12-81 once installed and which  
46 cannot begin or which has not begun manufacturing, processing or  
47 fabricating; or which is being used for research and development,  
48 including experimental or laboratory research and development,  
49 design or engineering directly related to manufacturing [;] or being  
50 used for the significant servicing, overhauling or rebuilding of  
51 machinery and equipment for industrial use or the significant

52 overhauling or rebuilding of other products on a factory basis [;] or  
53 being used for measuring or testing or metal finishing [;] or [being  
54 used] in the production of motion pictures, video and sound  
55 recordings.

56 Sec. 4. Section 12-305 of the general statutes, as amended by section  
57 4 of public act 99-109, is repealed and the following is substituted in  
58 lieu thereof:

59 All (1) unstamped cigarettes upon which taxes are imposed by this  
60 chapter, or which are in the course of transport within this state and  
61 are not properly supported by invoice or delivery tickets as required  
62 by section 12-306a, and (2) cigarettes, the stamping of which is  
63 prohibited by subsection (b) of section 12-302 or subsection (b) of  
64 section 12-303, which are in the possession, custody or control of any  
65 person for the purpose of being consumed, sold or transported in this  
66 state, for the purpose of evading or violating the provisions of this  
67 chapter, or with intent to avoid payment of the tax imposed hereunder,  
68 and any automobile, truck, conveyance or other vehicle used in the  
69 transportation of such cigarettes, and all paraphernalia, equipment or  
70 other tangible personal property, incident to the use of such purposes,  
71 found in the place, building, vehicle or vehicles where such cigarettes  
72 are found, are declared to be contraband goods; and any house,  
73 building or other premises and any vehicle or other conveyance  
74 suspected of containing such contraband goods may be searched  
75 under due process of law; and any such contraband goods may be  
76 seized by the commissioner, agents or employees of the commissioner,  
77 or by any peace officer of this state when directed by the commissioner  
78 to do so, without a warrant, provided nothing in this section shall be  
79 construed to require the commissioner to confiscate unstamped  
80 cigarettes or property when the commissioner has reason to believe  
81 that the owner thereof is not wilfully or intentionally evading the tax  
82 imposed by this chapter. Any property seized under the provisions of  
83 this chapter may, at the commissioner's discretion and except as  
84 otherwise provided by this section, be offered by the commissioner for  
85 sale at public auction to the highest bidder after advertisement, as

86 provided in section 12-307, or the commissioner may dispose of such  
87 property in a manner [in] which the commissioner deems to be in the  
88 best interest of the state. The commissioner shall deliver to the State  
89 Treasurer the proceeds of any sale made under the provisions of this  
90 section. Before delivering any cigarettes so sold to the purchaser, the  
91 commissioner shall require such purchaser to affix to the packages the  
92 amount of stamps required by this chapter. The seizure and sale of any  
93 cigarettes or other property under the provisions of this section shall  
94 not relieve any person from a fine or other penalty for violation of this  
95 chapter. Any sale of cigarettes by the commissioner, the stamping of  
96 which is prohibited by subsection (b) of section 12-302 or subsection  
97 (b) of section 12-303, may only be made to the manufacturer and solely  
98 for purpose of export.

99       Sec. 5. Subparagraph (C) of subdivision (2) of section 12-408 of the  
100 general statutes, as amended by section 8 of public act 99-48, and  
101 section 14 of public act 99-173, are repealed and the following is  
102 substituted in lieu thereof:

103       (C) (i) Any person required to collect tax in accordance with this  
104 subsection who demonstrates to the satisfaction of the Commissioner  
105 of Revenue Services by July first of any year that, in any two quarterly  
106 periods as described in section 12-414, within the most recent four  
107 consecutive quarterly periods, such person was a materialman as such  
108 term is used in chapter 847, who has at least fifty per cent of such  
109 person's sales of building materials to contractors, subcontractors or  
110 repairmen for the improvement of real property, and is authorized by  
111 said chapter to file a mechanic's lien upon such real property and  
112 improvement shall, with respect to such sales made through the  
113 quarterly period ending the succeeding June thirtieth, collect tax due  
114 on such sales, and on sales to such contractors, subcontractors or  
115 repairmen of services described in subdivision (2) of section 12-407  
116 with respect to such building materials, for such purpose and made  
117 during such July first through June thirtieth period, at the time and to  
118 the extent that such person receives the receipts from, or consideration  
119 for, such sales from such contractors, subcontractors or repairmen,

120 provided if such person receives a portion of such receipts or  
121 consideration, such person shall collect the tax due on such portion at  
122 the time the portion is received. The taxes imposed by this chapter on  
123 such receipts and consideration shall be deemed imposed, solely for  
124 purposes of determining when such person is required to collect and  
125 pay over such taxes to the commissioner under section 12-414, when  
126 such person has received payment of such receipts or consideration in  
127 money, or money's worth, from such contractor, subcontractor or  
128 repairman. A contractor, subcontractor or repairman who purchases  
129 building materials or services from such person pursuant to this  
130 subparagraph shall, at the time such contractor, subcontractor or  
131 repairman pays any portion of the purchase price, pay to the person  
132 the tax due on the portion of the purchase price so paid. (ii) In the  
133 event that a materialman described in this subparagraph factors any  
134 portion of such materialman's receivables, such materialman shall be  
135 deemed to have received payment of such receipts or consideration in  
136 money or money's worth, from the contractor, subcontractor or  
137 repairman and shall be required to pay over tax on such sale with the  
138 next return due, with a credit against such tax for any tax already paid  
139 over with respect to such sale. Any such amount of tax paid over shall  
140 be on account of the tax required to be collected on the sale to which it  
141 relates and such materialman may take a credit against any tax paid by  
142 such contractor, subcontractor or repairman in the future on such sale,  
143 to ensure that tax paid over with respect to such sale does not exceed  
144 the amount of tax imposed on such sale as if the entire purchase price  
145 had been paid at the time of sale. (iii) A materialman described in this  
146 subparagraph who has not collected the tax due on the full purchase  
147 price for a sale described in this subparagraph from a contractor,  
148 subcontractor or repairman within one year from the date of such sale,  
149 shall pay over to the commissioner the tax due on any balance of such  
150 full purchase price with such materialman's return for the period  
151 which includes the date which is one year after the date of such sale.  
152 (iv) The commissioner may assess additional tax due with respect to a  
153 sale described in this subparagraph not later than three years from the  
154 date the tax is required to be paid over to the commissioner pursuant

155 to this subparagraph, and in the case of a wilfully false or fraudulent  
156 return with intent to evade the tax, or where no return has been filed  
157 such taxpayer shall be subject to the provisions of section 12-428.

158 Sec. 6. Subdivision (3) of section 12-426 of the general statutes, as  
159 amended by section 28 of public act 99-173, is repealed and the  
160 following is substituted in lieu thereof:

161 (3) (A) Every seller, every retailer as defined in [subdivision (b)]  
162 subparagraph (B) of [subsection] subdivision (12) of section 12-407 and  
163 every person storing, accepting, consuming or otherwise using in this  
164 state services or tangible personal property purchased from a retailer  
165 shall keep such records, receipts, invoices and other pertinent papers  
166 in such form as the commissioner requires.

167 (B) In addition any records required pursuant to subparagraph (A)  
168 of this subdivision, each materialman collecting tax as allowed under  
169 the provisions of subparagraph (C) of subdivision (2) of section 12-408  
170 shall keep the following records with respect to each sale of building  
171 materials or services described in said subparagraph (C): (i) The date  
172 of such sale; (ii) proof that the sale meets the qualifications described in  
173 said subparagraph (C); (iii) the amount of credit, if any, extended by  
174 such materialman to such contractor, subcontractor or repairman for  
175 each such sale; (iv) the terms for payment of the purchase price or  
176 repayment of any such credit; and (v) the date or dates on which such  
177 purchase price is paid or such credit is repaid, in whole or in part, and  
178 the amount of each such payment or repayment. Such records shall be  
179 kept for a period of three years from the date the tax on each such sale  
180 is paid over to the commissioner in full, provided the commissioner  
181 may consent to their destruction within that period or may require that  
182 they be kept longer.

183 Sec. 7. Subdivision (2) of subsection (a) of section 12-436 of the  
184 general statutes, as amended by section 15 of public act 99-121, is  
185 repealed and the following is substituted in lieu thereof:

186 (2) The commissioner may, in the commissioner's discretion, refuse

187 to issue a license if the commissioner has reasonable ground to believe  
188 that the distributor has wilfully made any false statement of substance  
189 with respect to such application for a license, that the distributor has  
190 neglected to pay any taxes due to this state or that the distributor has  
191 been convicted of violating any of the alcoholic beverages tax laws of  
192 this or any other state or the alcoholic beverages tax laws of the United  
193 States or has such a criminal record that the commissioner reasonably  
194 believes that such distributor is not a suitable person to be issued a  
195 license, provided no refusal shall be rendered under this subdivision  
196 except in accordance with the provisions of sections 46a-80 and 46a-81.

197 Sec. 8. Section 12-540 of the general statutes, as amended by section  
198 49 of public act 99-173, is repealed and the following is substituted in  
199 lieu thereof:

200 Whenever used in this chapter:

201 (1) "Person" means and includes any individual, firm,  
202 copartnership, joint venture, association of persons however formed,  
203 social club, fraternal organization, corporation, limited liability  
204 company, estate, trust, fiduciary, receiver, trustee, syndicate, the  
205 United States, this state or any political subdivision thereof or any  
206 group or combination acting as a unit, and any other individual or  
207 officer acting under the authority of any court in this state;

208 (2) "Taxpayer" means any person as defined in [subsection]  
209 subdivision (1) of this section who is subject to any tax imposed by this  
210 chapter;

211 (3) "Admission charge" means the amount paid, whether in the form  
212 of a ticket price, license fee, skybox, luxury suite or club seat rental  
213 charge or purchase price, or otherwise, for the right or privilege to  
214 have access to a place or location where amusement, entertainment or  
215 recreation is provided, exclusive of any charges for instruction, and  
216 including any preferred seat license fee or any other payment required  
217 in order to have the right to purchase seats or secure admission to any  
218 such place or location. Places of amusement, entertainment or

219 recreation include, but are not limited to, theaters, motion picture  
220 shows, auditoriums where lectures and concerts are given, amusement  
221 parks, fairgrounds, race tracks, dance halls, ball parks, stadiums,  
222 amphitheaters, convention centers, golf courses, miniature golf  
223 courses, tennis courts, skating rinks, swimming pools, bathing beaches,  
224 gymnasiums, auto shows, boat shows, camping shows, home shows,  
225 dog shows and antique shows;

226 (4) "Dues" shall include assessment charges to members irrespective  
227 of the purpose for which made and any charges for social, athletic or  
228 sporting privileges or facilities for any period of more than six days  
229 but not including charges made for instruction or charges for special  
230 assessments made (A) for the construction or reconstruction of any  
231 social, athletic or sporting facility or any increase in charges made after  
232 June 29, 1999, which increase is to be used for the acquisition of land  
233 provided such land is "farm land", "open space land" or "forest land",  
234 as defined in section 12-107b, and further provided that an application  
235 or applications pursuant to section 12-107c, 12-107d or 12-107e are  
236 made for the assessment list next following the acquisition of such  
237 land, or (B) for the construction or reconstruction of any capital  
238 addition to any such facility, or (C) furnishings or fixtures, including  
239 installation charges, for any such facility, to the extent that such  
240 furnishings or fixtures are required, by reason of the construction or  
241 reconstruction described in [subdivision] subparagraph (A) or (B) of  
242 this [subsection] subdivision, for the use of such facility upon  
243 completion of such construction or reconstruction; except that, in the  
244 case of any such amount which is not expended for such construction,  
245 reconstruction, furnishings or fixtures, including installation charges,  
246 within three years after the date of payment of such amount, the  
247 exemption provided by this [subsection] subdivision shall cease to  
248 apply upon the expiration of such three-year period, and the club shall  
249 be liable for any tax imposed by section 12-543 in respect of such  
250 payment, as if such payment had been made on the first day following  
251 the expiration of such three-year period;

252 (5) "Initiation fees" shall include any payment, contribution or loan

253 required as a condition precedent to membership whether or not any  
254 such payment, contribution or loan is evidenced by a certificate of  
255 interest or indebtedness or share of stock;

256 (6) "Operating under a lodge system" means carrying on activities  
257 under a form of organization that comprises local branches, chartered  
258 by a parent organization and largely self-governing, called "lodges",  
259 "chapters" or any similar title;

260 (7) "Club" means any organization which is either owned or  
261 operated by its members, or both.

262 Sec. 9. Section 10 of public act 99-2, of the June special session is  
263 repealed and the following is substituted in lieu thereof:

264 From the effective date of [this act] section 10 of public act 99-2 of  
265 the June special session, until June 30, 2001, the chief executive officer  
266 of a municipality [,] may certify in writing to the president of the  
267 Connecticut Lottery Corporation that a "Powerball Emergency" has  
268 occurred. The president shall independently verify the existence of  
269 such emergency and upon making such determination may order a  
270 suspension of sales of Powerball tickets in that municipality for a  
271 twenty-four-hour period. Such period shall commence on the next  
272 succeeding day of Powerball sales. For the purposes of this section, a  
273 "Powerball Emergency" shall exist only if it is found that the sales of  
274 Powerball tickets are so great as to impede traffic, limit the movement  
275 of emergency vehicles and equipment and create a risk of imminent  
276 breach of the peace and the threat to public health and safety.

277 Sec. 10. Subsection (a) of section 12-702 of the general statutes, as  
278 amended by section 5 of public act 99-173, is repealed and the  
279 following is substituted in lieu thereof:

280 (a) (1) (A) Any person, other than a trust or estate, subject to the tax  
281 under this chapter for any taxable year who files under the federal  
282 income tax for such taxable year as a married individual filing  
283 separately or, for taxable years commencing prior to January 1, 2000,

284 who files income tax for such taxable year as an unmarried individual  
285 shall be entitled to a personal exemption of twelve thousand dollars in  
286 determining Connecticut taxable income for purposes of this chapter.

287 (B) In the case of any such taxpayer whose Connecticut adjusted  
288 gross income for the taxable year exceeds twenty-four thousand  
289 dollars, the exemption amount shall be reduced by one thousand  
290 dollars for each one thousand dollars, or fraction thereof, by which the  
291 taxpayer's Connecticut adjusted gross income for the taxable year  
292 exceeds [the] said amount. In no event shall the reduction exceed one  
293 hundred per cent of the exemption.

294 (2) For taxable years commencing on or after January 1, 2000, any  
295 person, other than a trust or estate, subject to the tax under this chapter  
296 for any taxable year who files under the federal income tax for such  
297 taxable year as an unmarried individual shall be entitled to a personal  
298 exemption in determining Connecticut taxable income for purposes of  
299 this chapter as follows:

300 (A) For taxable years commencing on or after January 1, 2000, but  
301 prior to January 1, 2001, twelve thousand two hundred fifty dollars. In  
302 the case of any such taxpayer whose Connecticut adjusted gross  
303 income for the taxable year exceeds twenty-five thousand dollars, the  
304 exemption amount shall be reduced by one thousand dollars for each  
305 one thousand dollars, or fraction thereof, by which the taxpayer's  
306 Connecticut adjusted gross income for the taxable year exceeds [the]  
307 said amount. In no event shall the reduction exceed one hundred per  
308 cent of the exemption;

309 (B) For taxable years commencing on or after January 1, 2001, but  
310 prior to January 1, 2002, twelve thousand five hundred dollars. In the  
311 case of any such taxpayer whose Connecticut adjusted gross income  
312 for the taxable year exceeds twenty-six thousand dollars, the  
313 exemption amount shall be reduced by one thousand dollars for each  
314 one thousand dollars, or fraction thereof, by which the taxpayer's  
315 Connecticut adjusted gross income for the taxable year exceeds [the]

316 said amount. In no event shall the reduction exceed one hundred per  
317 cent of the exemption;

318 (C) For taxable years commencing on or after January 1, 2002, but  
319 prior to January 1, 2003, twelve thousand seven hundred fifty dollars.  
320 In the case of any such taxpayer whose Connecticut adjusted gross  
321 income for the taxable year exceeds twenty-seven thousand dollars, the  
322 exemption amount shall be reduced by one thousand dollars for each  
323 one thousand dollars, or fraction thereof, by which the taxpayer's  
324 Connecticut adjusted gross income for the taxable year exceeds [the]  
325 said amount. In no event shall the reduction exceed one hundred per  
326 cent of the exemption;

327 (D) For taxable years commencing on or after January 1, 2003, but  
328 prior to January 1, 2004, thirteen thousand dollars. In the case of any  
329 such taxpayer whose Connecticut adjusted gross income for the  
330 taxable year exceeds twenty-eight thousand dollars, the exemption  
331 amount shall be reduced by one thousand dollars for each one  
332 thousand dollars, or fraction thereof, by which the taxpayer's  
333 Connecticut adjusted gross income for the taxable year exceeds [the]  
334 said amount. In no event shall the reduction exceed one hundred per  
335 cent of the exemption;

336 (E) For taxable years commencing on or after January 1, 2004, but  
337 prior to January 1, 2005, thirteen thousand five hundred dollars. In the  
338 case of any such taxpayer whose Connecticut adjusted gross income  
339 for the taxable year exceeds twenty-nine thousand dollars, the  
340 exemption amount shall be reduced by one thousand dollars for each  
341 one thousand dollars, or fraction thereof, by which the taxpayer's  
342 Connecticut adjusted gross income for the taxable year exceeds [the]  
343 said amount. In no event shall the reduction exceed one hundred per  
344 cent of the exemption;

345 (F) For taxable years commencing on or after January 1, 2005, but  
346 prior to January 1, 2006, fourteen thousand dollars. In the case of any  
347 such taxpayer whose Connecticut adjusted gross income for the

348 taxable year exceeds thirty thousand dollars, the exemption amount  
349 shall be reduced by one thousand dollars for each one thousand  
350 dollars, or fraction thereof, by which the taxpayer's Connecticut  
351 adjusted gross income for the taxable year exceeds [the] said amount.  
352 In no event shall the reduction exceed one hundred per cent of the  
353 exemption;

354 (G) For taxable years commencing on or after January 1, 2006, but  
355 prior to January 1, 2007, fourteen thousand five hundred dollars. In the  
356 case of any such taxpayer whose Connecticut adjusted gross income  
357 for the taxable year exceeds twenty-nine thousand dollars, the  
358 exemption amount shall be reduced by one thousand dollars for each  
359 one thousand dollars, or fraction thereof, by which the taxpayer's  
360 Connecticut adjusted gross income for the taxable year exceeds [the]  
361 said amount. In no event shall the reduction exceed one hundred per  
362 cent of the exemption;

363 (H) For taxable years commencing on or after January 1, 2007,  
364 fifteen thousand dollars. In the case of any such taxpayer whose  
365 Connecticut adjusted gross income for the taxable year exceeds thirty  
366 thousand dollars, the exemption amount shall be reduced by one  
367 thousand dollars for each one thousand dollars, or fraction thereof, by  
368 which the taxpayer's Connecticut adjusted gross income for the taxable  
369 year exceeds [the] said amount. In no event shall the reduction exceed  
370 one hundred per cent of the exemption.

371 Sec. 11. Subdivision (1) of subsection (c) of section 12-702 of the  
372 general statutes, as amended by section 3 of public act 99-48, is  
373 repealed and the following is substituted in lieu thereof:

374 (c) (1) Any husband and wife subject to tax under this chapter for  
375 any taxable year who file a return under the federal income tax for  
376 such taxable year as married individuals filing a joint [returns] return  
377 or any person who files a return for such taxable year as a surviving  
378 spouse, as defined in Section 2(a) of the Internal Revenue Code, shall  
379 be entitled to a single personal exemption of twenty-four thousand

380 dollars in determining Connecticut taxable income for purposes of this  
381 chapter. Any husband and wife who elect to file a joint return under  
382 the federal income tax for any taxable year shall be required to file  
383 jointly with respect to such taxable year for purposes of this chapter, in  
384 which event their tax liability under this chapter shall be joint and  
385 several, except as otherwise provided in section 12-702a, and any  
386 husband and wife who elect to file separately under the federal income  
387 tax for any taxable year shall be required to file separately with respect  
388 to such taxable year for purposes of this chapter, provided (A) if either  
389 the husband or wife is a resident and the other is a nonresident,  
390 separate taxes shall be determined on their separate Connecticut  
391 taxable incomes on separate forms as married individuals filing  
392 separately unless such husband and wife determine their federal  
393 taxable income jointly and both elect to determine their joint  
394 Connecticut taxable income as if both were residents, or (B) if any  
395 husband and wife, both of whom are nonresidents, elect to file a joint  
396 return under the federal income tax for any taxable year and only one  
397 of them has income derived from or connected with sources within  
398 this state during such taxable year, only the spouse with income  
399 derived from or connected with sources within this state shall be  
400 required to file a return in this state and, if only the spouse with  
401 income derived from or connected with this state files such a return in  
402 this state, a separate tax shall be determined on such spouse's separate  
403 Connecticut taxable income as a married individual filing separately  
404 unless such husband and wife both elect to determine their joint  
405 Connecticut taxable income as if both had income derived from or  
406 connected with sources within this state.

407       Sec. 12. Subsection (a) of section 4 of public act 99-48, is repealed  
408 and the following is substituted in lieu thereof:

409       (a) Any individual who has made a joint return under chapter 229 of  
410 the general statutes may elect to seek relief under the provisions of  
411 subsection (b) of this section and if such individual is eligible to elect  
412 the application of subsection (c) of this section, such individual [,] may,  
413 in addition to any election under subsection (b) of this section, elect to

414 limit such individual's liability for any deficiency with respect to such  
415 joint return in the manner prescribed under subsection (c) of this  
416 section.

417 Sec. 13. Subsection (e) of section 32-613 of the general statutes, as  
418 amended by section 23 of public act 99-241, is repealed and the  
419 following is substituted in lieu thereof:

420 (e) (1) Any hearing regarding all or any part of any project,  
421 provided for by this section, shall be conducted by the particular  
422 commissioner having jurisdiction over the applicable license, permit,  
423 approval or other administrative action. Legal notice of such hearing  
424 shall be published in a newspaper having general circulation in an area  
425 which includes the municipality in which the particular part of such  
426 project is proposed to be built or is being built not more than ten nor  
427 less than five days in advance of such hearing.

428 (2) In rendering any decision in connection with any project,  
429 provided for by this section, the commissioner shall weigh all  
430 competent material and substantial evidence presented by the  
431 applicant and the public in accordance with the applicable statute. The  
432 commissioner shall issue written findings and determinations upon  
433 which [its] the commissioner's decision is based. Such findings and  
434 determinations shall consist of evidence presented including such  
435 matters as the commissioner deems appropriate, provided such  
436 matters, to the extent applicable to the particular permit, shall include  
437 the nature of any major adverse health and environmental impact of  
438 any project. The commissioner may reverse or modify any order or  
439 action at any time on the commissioner's own motion. The procedure  
440 for such reversal or modification shall be the same as the procedure for  
441 the original proceeding.

442 (3) Any administrative action taken by any commissioner in  
443 connection with any project, provided for by this section, may be  
444 appealed by an aggrieved party to the superior court for the judicial  
445 district of Hartford in accordance with the provisions of section 4-183.

446 Such appeal shall be brought within ten days of the date of mailing to  
447 the parties to the proceeding of a notice of such order, decision or  
448 action by certified mail, return receipt requested, and the appellant  
449 shall serve a copy of the appeal on each party listed in the final  
450 decision at the address shown in such decision. Failure to make such  
451 service within such ten days on parties other than the commissioner  
452 who rendered the final decision may not, in the discretion of the court,  
453 deprive the court of jurisdiction over such appeal. Within ten days  
454 after the service of such appeal, or within such further time as may be  
455 allowed by the court, the commissioner [which] who rendered such  
456 decision shall cause any portion of the record that had not been  
457 transcribed to be transcribed and shall cause either the original or a  
458 certified copy of the entire record of the proceeding appealed from to  
459 be transmitted to the reviewing court. Such record shall include the  
460 commissioner's findings of fact and conclusions of law, separately  
461 stated. If more than one commissioner has jurisdiction over the matter,  
462 such commissioners shall issue joint findings of fact and conclusions of  
463 law. Such appeal shall state the reasons upon which it is predicated  
464 and, notwithstanding any provisions of the general statutes, shall not  
465 stay the development of any project. The commissioner who rendered  
466 such decision shall appear as the respondent. Such appeals to the  
467 superior court shall each be a privileged [matters] matter and shall be  
468 heard as soon after the return date as practicable. A court shall render  
469 its decision not later than twenty-one days after the date that the entire  
470 record, with the transcript, is filed with the court by the commissioner  
471 who rendered the decision.

472 (4) The court shall not substitute its judgment for that of the  
473 commissioner as to the weight of the evidence presented on a question  
474 of fact. The court shall affirm the decision of the commissioner unless  
475 the court finds that substantial rights of the party appealing such  
476 decision have been materially prejudiced because the findings,  
477 inferences, conclusions or decisions of the commissioner are in  
478 violation of constitutional or statutory provisions, in excess of the  
479 statutory authority of the commissioner, made upon unlawful

480 procedure, affected by an error of law, clearly erroneous in view of the  
481 reliable, probative and substantial evidence on the whole record, or  
482 arbitrary, capricious or characterized by abuse of discretion or clearly  
483 unwarranted exercise of discretion.

484 (5) If the court finds material prejudice, it may sustain the appeal.  
485 Upon sustaining an appeal, the court may render a judgment which  
486 modifies the decision of the commissioner, orders particular action [of]  
487 by the commissioner or orders the commissioner to take such action as  
488 may be necessary to effect a particular action and the commissioner  
489 may issue a permit consistent with such judgment.

490 (6) An applicant may file an amended application and the  
491 commissioner may consider an amended application for an order,  
492 permit or other administrative action following court action.

493 Sec. 14. Section 25 of public act 99-241, is repealed and the following  
494 is substituted in lieu thereof:

495 The state shall protect, save harmless and indemnify the Capital  
496 City Economic Development Authority and its directors, officers and  
497 employees from financial loss and expense, including legal fees and  
498 costs, if any, arising out of any claim, demand, suit or judgment based  
499 upon any alleged act or omission of the authority or any such director,  
500 officer or employee in connection with, or any other legal challenge to,  
501 the overall project, as defined in section 27 of [this act] public act 99-  
502 241, facility operations, as defined in section 27 of [this act] public act  
503 99-241, public act 98-1 of the December special session or [this act]  
504 public act 99-241, including without limitation the preparation by the  
505 authority of the environmental impact evaluation contemplated by  
506 subsection (j) of section 41 of [this act] public act 99-241, provided [, in  
507 the case of] any such director, officer or employee is found to have  
508 been acting in the discharge of such director, officer or employee's  
509 duties or within the scope of such director, officer or employee's  
510 employment and any such act or omission is found not to have been  
511 wanton, reckless, wilful or malicious.

**FIN Committee Vote:** Yea 47 Nay 0 JFS