



General Assembly

February Session, 2000

Raised Bill No. 525

LCO No. 1689

Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

***An Act Making Changes To Various Sales And Use Tax Statutes
And The Admissions And Dues Tax Statutes.***

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

1 Section 1. Subdivision (2) of section 12-407 of the general statutes, as
2 amended by section 10 of public act 99-173 and section 10 of public act
3 99-285, is repealed and the following is substituted in lieu thereof:

4 (2) "Sale" and "selling" mean and include: (a) Any transfer of title,
5 exchange or barter, conditional or otherwise, in any manner or by any
6 means whatsoever, of tangible personal property for a consideration;
7 (b) any withdrawal, except a withdrawal pursuant to a transaction in
8 foreign or interstate commerce, of tangible personal property from the
9 place where it is located for delivery to a point in this state for the
10 purpose of the transfer of title, exchange or barter, conditional or
11 otherwise, in any manner or by any means whatsoever, of the property
12 for a consideration; (c) the producing, fabricating, processing, printing
13 or imprinting of tangible personal property for a consideration for
14 consumers who furnish either directly or indirectly the materials used
15 in the producing, fabricating, processing, printing or imprinting,
16 including but not limited to, sign construction, photofinishing,

17 duplicating and photocopying; (d) the furnishing and distributing of
18 tangible personal property for a consideration by social clubs and
19 fraternal organizations to their members or others; (e) the furnishing,
20 preparing, or serving for a consideration of food, meals or drinks; (f) a
21 transaction whereby the possession of property is transferred but the
22 seller retains the title as security for the payment of the price; (g) a
23 transfer for a consideration of the title of tangible personal property
24 which has been produced, fabricated or printed to the special order of
25 the customer, or of any publication, including but not limited to, sign
26 construction, photofinishing, duplicating and photocopying; (h) a
27 transfer for a consideration of the occupancy of any room or rooms in a
28 hotel or lodging house for a period of thirty consecutive calendar days
29 or less; (i) the rendering of certain services for a consideration,
30 exclusive of such services rendered by an employee for [his] the
31 employer, as follows: (A) Computer and data processing services,
32 including but not limited to, time, and exclusive of services rendered
33 in connection with the creation, development hosting or maintenance
34 of all or part of a web site which is part of the graphical, hypertext
35 portion of the Internet, commonly referred to as the World-Wide Web,
36 (B) credit information and reporting services, (C) services by
37 employment agencies and agencies providing personnel services, (D)
38 private investigation, protection, patrol work, watchman and armored
39 car services, exclusive of services of off-duty police officers and
40 off-duty fire fighters, (E) painting and lettering services, (F)
41 photographic studio services, (G) telephone answering services, (H)
42 stenographic services, (I) services to industrial, commercial or
43 income-producing real property, including but not limited to, such
44 services as management, electrical, plumbing, painting and carpentry
45 and excluding any such services rendered in the voluntary evaluation,
46 prevention, treatment, containment or removal of hazardous waste, as
47 defined in section 22a-115, as amended, or other contaminants of air,
48 water or soil, provided income-producing property shall not include
49 property used exclusively for residential purposes in which the owner
50 resides and which contains no more than three dwelling units, or a

51 housing facility for low and moderate income families and persons
52 owned or operated by a nonprofit housing organization, as defined in
53 subsection (29) of section 12-412, as amended, (J) business analysis,
54 management, management consulting and public relations services,
55 excluding (i) any environmental consulting services, and (ii) any
56 training services provided by an institution of higher education
57 licensed or accredited by the Board of Governors of Higher Education
58 pursuant to section 10a-34, (K) services providing "piped-in" music to
59 business or professional establishments, (L) flight instruction and
60 chartering services by a certificated air carrier on an aircraft, the use of
61 which for such purposes, but for the provisions of subsection (4) of
62 section 12-410 and subsection (12) of section 12-411, would be deemed
63 a retail sale and a taxable storage or use, respectively, of such aircraft
64 by such carrier, (M) motor vehicle repair services, including any type
65 of repair, painting or replacement related to the body or any of the
66 operating parts of a motor vehicle, (N) motor vehicle parking,
67 including the provision of space, other than metered space, in a lot
68 having thirty or more spaces, excluding (i) space in a seasonal parking
69 lot provided by a person who is exempt from taxation under this
70 chapter pursuant to subsection (1), (5) or (8) of section 12-412, as
71 amended, (ii) space in a parking lot owned or leased under the terms
72 of a lease of not less than ten years' duration and operated by an
73 employer for the exclusive use of its employees, (iii) valet parking
74 provided at any airport, and (iv) space in municipally-operated
75 railroad parking facilities in municipalities located within an area of
76 the state designated as a severe nonattainment area for ozone under
77 the federal Clean Air Act, (O) radio or television repair services, (P)
78 furniture reupholstering and repair services, (Q) repair services to any
79 electrical or electronic device, including but not limited to, such
80 equipment used for purposes of refrigeration or air-conditioning, (R)
81 lobbying or consulting services for purposes of representing the
82 interests of a client in relation to the functions of any governmental
83 entity or instrumentality, (S) services of the agent of any person in
84 relation to the sale of any item of tangible personal property for such

85 person, exclusive of the services of a consignee selling works of art, as
86 defined in subsection (b) of section 12-376c, or articles of clothing or
87 footwear intended to be worn on or about the human body other than
88 (i) any special clothing or footwear primarily designed for athletic
89 activity or protective use and which is not normally worn except when
90 used for the athletic activity or protective use for which it was
91 designed and (ii) jewelry, handbags, luggage, umbrellas, wallets,
92 watches and similar items carried on or about the human body but not
93 worn on the body in the manner characteristic of clothing intended for
94 exemption under subdivision (47) of section 12-412, under
95 consignment, exclusive of services provided by an auctioneer, (T)
96 locksmith services, (U) advertising or public relations services,
97 including layout, art direction, graphic design, mechanical preparation
98 or production supervision, not related to the development of media
99 advertising or cooperative direct mail advertising, (V) landscaping and
100 horticulture services, (W) window cleaning services, (X) maintenance
101 services, (Y) janitorial services, (Z) exterminating services, (AA)
102 swimming pool cleaning and maintenance services, (BB) renovation
103 and repair services as set forth in this subparagraph, to other than
104 industrial, commercial or income-producing real property: Paving of
105 any sort, painting or staining, wallpapering, roofing, siding and
106 exterior sheet metal work, (CC) miscellaneous personal services
107 included in industry group 729 in the Standard Industrial
108 Classification Manual, United States Office of Management and
109 Budget, 1987 edition, or U.S. industry 532220, 812191, 812199 or 812990
110 in the North American Industrial Classification System, United States
111 manual, United States Office of Management and Budget, 1997 edition,
112 exclusive of (i) services rendered by massage therapists licensed
113 pursuant to chapter 384a, and (ii) services rendered by a
114 hypertrichologist licensed pursuant to chapter 388, (DD) any repair or
115 maintenance service to any item of tangible personal property
116 including any contract of warranty or service related to any such item,
117 (EE) business analysis, management or managing consulting services
118 rendered by a general partner, or an affiliate thereof, to a limited

119 partnership, provided (i) that the general partner, or an affiliate
120 thereof, is compensated for the rendition of such services other than
121 through a distributive share of partnership profits or an annual
122 percentage of partnership capital or assets established in the limited
123 partnership's offering statement, and (ii) the general partner, or an
124 affiliate thereof, offers such services to others, including any other
125 partnership. As used in subparagraph (EE)(i) "an affiliate of a general
126 partner" means an entity which is directly or indirectly owned fifty per
127 cent or more in common with a general partner; and (FF)
128 notwithstanding the provisions of section 12-412, as amended, except
129 subsection (87) thereof, patient care services, as defined in subsection
130 [(30)] (29) of this section by a hospital; (j) the leasing or rental of
131 tangible personal property of any kind whatsoever, including but not
132 limited to, motor vehicles, linen or towels, machinery or apparatus,
133 office equipment and data processing equipment, provided for
134 purposes of this subdivision and the application of sales and use tax to
135 contracts of lease or rental of tangible personal property, the leasing or
136 rental of any motion picture film by the owner or operator of a motion
137 picture theater for purposes of display at such theater shall not
138 constitute a sale within the meaning of this subsection; (k) the
139 rendering of telecommunications service, as defined in subsection (26)
140 of this section, for a consideration on or after January 1, 1990, exclusive
141 of any such service rendered by an employee for his employer, subject
142 to the provisions related to telecommunications service in accordance
143 with section 12-407a; (l) the rendering of community antenna television
144 service, as defined in subsection (27) of this section, for a consideration
145 on or after January 1, 1990, exclusive of any such service rendered by
146 an employee for his employer; (m) the transfer for consideration of
147 space or the right to use any space for the purpose of storage or
148 mooring of any noncommercial vessel, exclusive of dry or wet storage
149 or mooring of such vessel during the period commencing on the first
150 day of November in any year to and including the thirtieth day of
151 April of the next succeeding year; (n) the sale for consideration of
152 naming rights to any place of amusement, entertainment or recreation

153 within the meaning of subdivision (3) of section 12-540, as amended.
154 Wherever in this chapter reference is made to the sale of tangible
155 personal property or services, it shall be construed to include sales
156 described in this subsection, except as may be specifically provided to
157 the contrary.

158 Sec. 2. Subsection (13) of section 12-407 of the general statutes is
159 repealed and the following is substituted in lieu thereof:

160 (13) "Tangible personal property" means personal property which
161 may be seen, weighed, measured, felt or touched or which is in any
162 other manner perceptible to the senses. [Tangible] Notwithstanding
163 any other provision of law, tangible personal property, for purposes of
164 this chapter, includes prepaid telephone calling cards, as defined in
165 section 12-407, as amended by this act, and the distribution, generation
166 or transmission of electricity.

167 Sec. 3. Subsection (26) of section 12-407 of the general statutes is
168 repealed and the following is substituted in lieu thereof:

169 (26) (a) "Telecommunications service" means the transmission of any
170 interactive electromagnetic communications including but not limited
171 to voice, image, data and any other information, by means of but not
172 limited to wire, cable, including fiber optical cable, microwave, radio
173 wave or any combinations of such media, and the leasing of any such
174 service. "Telecommunications service" includes but is not limited to
175 basic telephone service, including any facility or service provided in
176 connection with such basic telephone service, toll telephone service
177 and teletypewriter or computer exchange service, including but not
178 limited to residential and business service, directory assistance, two-
179 way cable television service, cellular mobile telephone or
180 telecommunication service, specialized mobile radio and pagers and
181 paging service, including any form of mobile two-way communication.
182 "Telecommunications service" does not include (1) nonvoice services in
183 which computer processing applications are used to act on the
184 information to be transmitted, (2) any one-way radio or television

185 broadcasting transmission, (3) any telecommunications service (A)
186 rendered by a company in control of such service when rendered for
187 private use within its organization (B) used, allocated or distributed by
188 a company within its organization, including in such organization
189 affiliates, as defined in section 33-840, for the purpose of conducting
190 business transactions of the organization if such service is purchased
191 or leased from a company rendering telecommunications service and
192 such purchase or lease is subject to tax under this chapter, and (4)
193 access or interconnection service purchased by a provider of
194 telecommunications service from another provider of such service for
195 purposes of rendering such service, provided the purchaser submits to
196 the seller a certificate attesting to the applicability of this exclusion,
197 upon receipt of which the seller is relieved of any tax liability for such
198 sale so long as the certificate is taken in good faith by the seller.

199 (b) For purposes of the tax imposed under this chapter (1) gross
200 receipts from the rendering of telecommunications service shall
201 include any subscriber line charge or charges as required by the
202 Federal Communications Commission and any charges for access
203 service collected by any person rendering such service unless
204 otherwise excluded from such gross receipts under this chapter; [and]
205 (2) gross receipts from the rendering of telecommunications service
206 shall not include any local charge for calls from public or semipublic
207 telephones; and (3) gross receipts from the rendering of
208 telecommunications service shall not include any charge for calls
209 purchased with prepaid telephone calling cards, as defined in section
210 12-407, as amended by this act.

211 Sec. 4. Section 12-407 of the general statutes, as amended by sections
212 10, 11 and 12 of public act 99-173, section 10 of public act 99-285, and
213 sections 2 and 3 of this act, is amended by adding subsection (31) as
214 follows:

215 (NEW) (31) "Prepaid telephone calling card" means any card or
216 other similar arrangement, including prepaid authorization numbers,

217 which permits the holder to obtain telecommunications service and to
218 pay for such service in advance

219 Sec. 5. Subsection (1) of section 12-408 of the general statutes, as
220 amended by section 13 of public act 99-173, is repealed and the
221 following is substituted in lieu thereof:

222 (1) For the privilege of making any sales as defined in subdivision
223 (2) of section 12-407, as amended, at retail, in this state for a
224 consideration, a tax is hereby imposed on all retailers at the rate of six
225 per cent of the gross receipts of any retailer from the sale of all tangible
226 personal property sold at retail or from the rendering of any services
227 constituting a sale in accordance with subdivision (2) of section 12-407,
228 as amended, except, in lieu of said rate of six per cent, (A) at a rate of
229 twelve per cent with respect to each transfer of occupancy, from the
230 total amount of rent received for such occupancy of any room or
231 rooms in a hotel or lodging house for the first period not exceeding
232 thirty consecutive calendar days, (B) with respect to the sale of a motor
233 vehicle to any individual who is a member of the armed forces of the
234 United States and is on full-time active duty in Connecticut and who is
235 considered, under 50 App USC 574, a resident of another state, or to
236 any such individual and the spouse thereof, at a rate of four and
237 one-half per cent of the gross receipts of any retailer from such sales,
238 provided such retailer requires and maintains [an affidavit] a
239 declaration by such individual, prescribed as to form by the
240 commissioner and bearing notice to the effect that false statements
241 made in such declaration are punishable, or other evidence,
242 satisfactory to the commissioner, concerning the purchaser's state of
243 residence under 50 App USC 574, (C) with respect to the sales of
244 computer and data processing services occurring on or after July 1,
245 1997, and prior to July 1, 1998, at the rate of five per cent, on or after
246 July 1, 1998, and prior to July 1, 1999, at the rate of four per cent, on or
247 after July 1, 1999, and prior to July 1, 2000, at the rate of three per cent,
248 on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per
249 cent, on or after July 1, 2001, and prior to July 1, 2002, at the rate of one

250 per cent and on and after July 1, 2002, such services shall be exempt
251 from such tax, (D) with respect to the sales of labor [] that is otherwise
252 taxable under subdivision (c) or (g) of subsection (2) of section 12-407,
253 as amended, on existing vessels and repair or maintenance services on
254 vessels [, as defined in section 15-127,] occurring on and after July 1,
255 1999, such services shall be exempt from such tax, (E) with respect to
256 sales of the renovation and repair services of paving of any sort,
257 painting or staining, wallpapering, roofing, siding and exterior sheet
258 metal work, to other than industrial, commercial or income-producing
259 real property, occurring on or after July 1, 1999, and prior to July 1,
260 2000, at the rate of four per cent, with respect to such sales occurring
261 on or after July 1, 2000, but prior to July 1, 2001, at the rate of two per
262 cent, and on and after July 1, 2001, sales of such renovation and repair
263 services shall be exempt from such tax, and (F) with respect to patient
264 care services occurring on or after July 1, 1999, at the rate of five and
265 three-fourths per cent. The rate of tax imposed by this chapter shall be
266 applicable to all retail sales upon the effective date of such rate, except
267 that a new rate which represents an increase in the rate applicable to
268 the sale shall not apply to any sales transaction wherein a binding sales
269 contract without an escalator clause has been entered into prior to the
270 effective date of the new rate and delivery is made within ninety days
271 after the effective date of the new rate. For the purposes of payment of
272 the tax imposed under this section, any retailer of services taxable
273 under subdivision (2)(i) of section 12-407, as amended, who computes
274 taxable income, for purposes of taxation under the Internal Revenue
275 Code of 1986, or any subsequent corresponding internal revenue code
276 of the United States, as from time to time amended, on an accounting
277 basis which recognizes only cash or other valuable consideration
278 actually received as income and who is liable for such tax only due to
279 the rendering of such services may make payments related to such tax
280 for the period during which such income is received, without penalty
281 or interest, without regard to when such service is rendered.
282 [Information about the state sales tax rate of other states shall, upon
283 request, be furnished by the commissioner.]

284 Sec. 6. Subsections (1) to (3), inclusive, of section 12-410 of the
285 general statutes are repealed and the following is substituted in lieu
286 thereof:

287 (1) For the purpose of the proper administration of this chapter and
288 to prevent evasion of the sales tax it shall be presumed that all receipts
289 are gross receipts that are subject to the tax until the contrary is
290 established. The burden of proving that a sale of tangible personal
291 property or service constituting a sale in accordance with subsection
292 (2) of section 12-407, as amended by this act, is not a sale at retail is
293 upon the person who makes the sale unless he takes in good faith from
294 the purchaser a certificate to the effect that the property or service is
295 purchased for resale.

296 (2) The certificate relieves the seller from the burden of proof only if
297 taken in good faith from a person who is engaged in the business of
298 selling tangible personal property or services constituting a sale in
299 accordance with subsection (2) of section 12-407, as amended by this
300 act, and who holds the permit provided for in section 12-409 and who,
301 at the time of purchasing the tangible personal property or service: (A)
302 Intends to sell it in the regular course of business; (B) intends to utilize
303 such personal property in the delivery of landscaping or horticulture
304 services, provided the total sale price of all such landscaping and
305 horticulture services are taxable under this chapter or (C) is unable to
306 ascertain at the time of purchase whether the property or service will
307 be sold or will be used for some other purpose. The burden of
308 establishing that a certificate is taken in good faith is on the seller. A
309 certificate to the effect that property or service is purchased for resale
310 taken from the purchaser by the seller shall be deemed to be taken in
311 good faith if the tangible personal property or service purchased is
312 similar to or of the same general character as property or service which
313 the seller could reasonably assume would be sold by the purchaser in
314 the regular course of business.

315 (3) The certificate shall be signed by and bear the name and address

316 of the purchaser, shall indicate the number of the permit issued to the
317 purchaser and shall indicate the general character of the tangible
318 personal property or service sold by the purchaser in the regular
319 course of business. The certificate shall be substantially in such form as
320 the commissioner prescribes.

321 Sec. 7. Subsection (1) of section 12-411 of the general statutes, as
322 amended by section 15 of public act 99-173, is repealed and the
323 following is substituted in lieu thereof:

324 (1) An excise tax is hereby imposed on the storage, acceptance,
325 consumption or any other use in this state of tangible personal
326 property purchased from any retailer for storage, acceptance,
327 consumption or any other use in this state, the acceptance or receipt of
328 any services constituting a sale in accordance with subdivision (2) of
329 section 12-407, as amended by this act, purchased from any retailer for
330 consumption or use in this state, or the storage, acceptance,
331 consumption or any other use in this state of tangible personal
332 property which has been manufactured, fabricated, assembled or
333 processed from materials by a person, either within or without this
334 state, for storage, acceptance, consumption or any other use by such
335 person in this state, to be measured by the sales price of materials, at
336 the rate of six per cent of the sales price of such property or services,
337 except, in lieu of said rate of six per cent, (A) at a rate of twelve per
338 cent of the rent paid for occupancy of any room or rooms in a hotel or
339 lodging house for the first period of not exceeding thirty consecutive
340 calendar days, (B) with respect to the storage, acceptance, consumption
341 or use in this state of a motor vehicle purchased from any retailer for
342 storage, acceptance, consumption or use in this state by any individual
343 who is a member of the armed forces of the United States and is on
344 full-time active duty in Connecticut and who is considered, under 50
345 App USC 574, a resident of another state, or to any such individual
346 and the spouse of such individual at a rate of four and one-half per
347 cent of the sales price of such vehicle, provided such retailer requires
348 and maintains [an affidavit] a declaration by such individual,

349 prescribed as to form by the commissioner and bearing notice to the
350 effect that false statements made in such declaration are punishable, or
351 other evidence, satisfactory to the commissioner, concerning the
352 purchaser's state of residence under 50 App USC 574, (C) [with respect
353 to the storage, acceptance, consumption or use in this state of a vessel
354 purchased from any retailer for storage, acceptance, consumption or
355 any other use in this state by any individual who does not maintain a
356 permanent place of abode in this state and who is a resident of another
357 state and who does not present such vessel for registration with the
358 Department of Motor Vehicles in this state, at a rate which is the lesser
359 of: (i) Six per cent of the sales price of such vessel; or (ii) the percentage
360 of such sales price that is payable as a state use tax by purchasers
361 making purchases in the purchaser's state of residence, provided the
362 retailer requires and maintains an affidavit or other evidence,
363 satisfactory to the commissioner, concerning the purchaser's state of
364 residence, (D)] with respect to the [sales of] acceptance or receipt in
365 this state of labor that is otherwise taxable under subdivision (c) or (g)
366 of subsection (2) of section 12-407, as amended by this act, on existing
367 vessels and repair or maintenance services on vessels [as defined in
368 section 15-127,] occurring [on or after July 1, 1997, and prior to July 1,
369 1998, at the rate of four per cent, on or after July 1, 1998, and prior to
370 July 1, 1999, at the rate of two per cent and] on and after July 1, 1999,
371 such services shall be exempt from such tax, [(E)] (D) with respect to
372 the acceptance or receipt in this state of computer and data processing
373 services purchased from any retailer for consumption or use in this
374 state occurring on or after July 1, 1997, and prior to July 1, 1998, at the
375 rate of five per cent of such services, on or after July 1, 1998, and prior
376 to July 1, 1999, at the rate of four per cent of such services, on or after
377 July 1, 1999, and prior to July 1, 2000, at the rate of three per cent of
378 such services, on or after July 1, 2000, and prior to July 1, 2001, at the
379 rate of two per cent of such services, on and after July 1, 2001, and
380 prior to July 1, 2002, at the rate of one per cent of such services and on
381 and after July 1, 2002, such services shall be exempt from such tax, [(F)]
382 (E) with respect to the acceptance or receipt in this state of patient care

383 services purchased from any retailer for consumption or use in this
384 state occurring on or after July 1, 1999, at the rate of five and three-
385 fourths per cent, and [(G)] (F) with respect to acceptance of the
386 renovation and repair services of paving of any sort, painting or
387 staining, wallpapering, roofing, siding and exterior sheet metal work,
388 to other than industrial, commercial or income-producing real
389 property, occurring on or after July 1, 1999, and prior to July 1, 2000, at
390 the rate of four per cent, with respect to such sales occurring on or after
391 July 1, 2000, and prior to July 1, 2001, at the rate of two per cent, and on
392 and after July 1, 2001, sales of such renovation and repair services shall
393 be exempt from such tax. [Information about the state use tax rate of
394 other states shall, upon request, be furnished by the commissioner.]

395 Sec. 8. Subsection (9) of section 12-411 of the general statutes is
396 repealed and the following is substituted in lieu thereof:

397 (9) For the purpose of the proper administration of this chapter and
398 to prevent evasion of the use tax and the duty to collect the use tax, it
399 shall be presumed that services or tangible personal property sold by
400 any person for delivery in this state is sold for storage, acceptance,
401 consumption or other use in this state until the contrary is established.
402 The burden of proving the contrary is upon the person who makes the
403 sale unless he takes from the purchaser a certificate to the effect that
404 the services or property is purchased for resale.

405 Sec. 9. Subdivision (5) of section 12-412 of the general statutes is
406 repealed and the following is substituted in lieu thereof:

407 (5) Sales of tangible personal property or services to and by
408 nonprofit charitable hospitals in this state, nonprofit nursing homes,
409 nonprofit rest homes and nonprofit residential care homes licensed by
410 the state pursuant to chapter 368v for the exclusive purposes of such
411 institutions except any such service transaction as described in
412 subparagraph [(GG)] (FF) of subdivision (i) of subsection (2) of section
413 12-407, as amended by this act.

414 Sec. 10. Subsection (9) of section 12-412 of the general statutes is
415 repealed and the following is substituted in lieu thereof:

416 (9) Sales of food products, [and] meals, candy, confectionery and
417 beverages, except alcoholic beverages, in a student cafeteria, dining-
418 hall, dormitory, fraternity or sorority maintained in a private, public or
419 parochial school, college or university, to members of such institutions
420 or organizations and sales of food products, [and] meals, candy,
421 confectionery and beverages to patients, residents or care recipients in
422 hospitals, residential care homes, assisted living facilities, senior
423 centers, day care centers, convalescent homes, nursing homes and rest
424 homes.

425 Sec. 11. Subsection (15) of section 12-412 of the general statutes is
426 repealed and the following is substituted in lieu thereof:

427 [(15) There are exempted from the taxes imposed by this chapter the
428 gross receipts from the distribution of and the storage, use or other
429 consumption in this state of motor vehicle fuel the distribution of
430 which in this state is subject to the tax imposed by the laws of this
431 state.]

432 (15) Sales of and the storage, use or other consumption in this state
433 of motor vehicle fuel (A) for use in any motor vehicle licensed or
434 required to be licensed to operate upon the public highways of this
435 state, whether or not the tax imposed under chapter 221 has been paid
436 on such fuel, or (B) for any other use, if the tax imposed under chapter
437 221 has been paid on such fuel and has not been refunded under the
438 provisions of said chapter 221.

439 Sec. 12. Subsection (48) of section 12-412 of the general statutes, as
440 amended by section 18 of public act 99-173, is repealed and the
441 following is substituted in lieu thereof:

442 (48) Sales of the following drugs or medicines available for purchase
443 without prescription for use in or on the [human] body: Vitamin or

444 mineral concentrates; dietary supplements; natural or herbal drugs or
445 medicines; products intended to be taken for coughs, colds, asthma or
446 allergies; antihistamines; laxatives; antidiarrheal medicines;
447 analgesics; antibiotic, antibacterial, antiviral and antifungal medicines;
448 antiseptics; astringents; anesthetics; steroidal medicines; anthelmintics;
449 emetics and antiemetics; antacids; and any medication prepared to be
450 used in [a person's] the eyes, ears or nose, excluding cosmetics,
451 dentifrices, mouthwash, shaving and hair care products, soaps and
452 deodorants.

453 Sec. 13. Subdivision (63) of section 12-412 of the general statutes is
454 repealed and the following is substituted in lieu thereof:

455 (63) (A) Sales of and the storage, use or other consumption of
456 tangible personal property exclusively for use in agricultural
457 production, as defined in this subsection, by a farmer engaged in
458 agricultural production as a trade or business and to whom the
459 Department of Revenue Services has issued a farmer tax exemption
460 permit, provided [in the farmer's immediately preceding taxable year
461 for federal income tax purposes,] such farmer's gross income from
462 such agricultural production, as reported for federal income tax
463 purposes, shall have been (i) not less than two thousand five hundred
464 dollars [, as reported for federal income tax purposes on Schedule C or
465 Schedule F attached to Internal Revenue Service Form 1040, 1041 or
466 1065 where the business is conducted by an individual, estate, trust or
467 partnership or would be reportable on Schedule C or Schedule F but
468 for the fact that the business is conducted by a corporation] for the
469 immediately preceding taxable year, or (ii) on average, not less than
470 two thousand five hundred dollars for the two immediately preceding
471 taxable years.

472 (B) The Commissioner of Revenue Services shall adopt regulations
473 in accordance with chapter 54 requiring periodic registration for
474 purposes of the issuance of farmer tax exemption permits, including
475 [(1)] (i) a procedure related to the application for such permit, [(2)]

476 such application to include a declaration, prescribed as to form by the
477 Commissioner of Revenue Services and bearing notice to the effect that
478 false statements made in such declaration are punishable, to be signed
479 by the applicant, and (ii) a form of notice concerning the penalty for
480 misuse of such permit. [and (3) required notarization of the application
481 of such permit.]

482 (C) As used in this subsection, (i) "agricultural production" means
483 engaging, as a trade or business, in [(A)] (a) the raising and harvesting
484 of any agricultural or horticultural commodity, [(B)] (b) dairy farming,
485 [(C)] (c) forestry, [(D)] (d) raising, feeding, caring for, shearing, training
486 or management of livestock, including horses, bees, poultry, fur-
487 bearing animals or wildlife or [(E)] (e) the raising and harvesting of
488 fish, oysters, clams, mussels or other molluscan shellfish; and (ii)
489 "farmer" means any person engaged in agricultural production as a
490 trade or business.

491 (D) The Department of Revenue Services may issue a farmer tax
492 exemption permit to a farmer, notwithstanding the fact that, in the
493 farmer's immediately preceding taxable year, such farmer's gross
494 income from agricultural production engaged in as a trade or business
495 may have been less than two thousand five hundred dollars, provided
496 (i) such farmer purchased, during such farmer's current or
497 immediately preceding taxable year, an agricultural trade or business
498 from a seller who was issued a farmer tax exemption permit by such
499 department at the time of such purchase and (ii) such agricultural
500 production [trade or business] shall be carried on as a trade or business
501 by such purchaser during the period commencing upon the purchase
502 and ending [five] two years after the date of purchase. Such purchaser
503 shall be liable for the tax otherwise imposed, during the period
504 commencing upon such purchase and ending [five] two years after the
505 date of purchase, if such agricultural production [trade or business] is
506 not carried on as a trade or business by such purchaser during the
507 period commencing upon such purchase and ending [five] two years
508 after the date of purchase.

509 (E) (i) The Department of Revenue Services, under such regulations
510 as the Commissioner of Revenue Services may, in accordance with the
511 provisions of chapter 54, prescribe, issue a farmer tax exemption
512 permit to an applicant, notwithstanding the fact that the applicant was
513 not engaged in agricultural production as a trade or business in the
514 immediately preceding taxable year or, if the applicant was engaged in
515 agricultural production as a trade or business in the immediately
516 preceding taxable year, notwithstanding the fact that the applicant's
517 gross income from such agricultural production, as reported for
518 federal income tax purposes, was less than two thousand five hundred
519 dollars for the immediately preceding taxable year or, on average, less
520 than two thousand five hundred dollars for the two immediately
521 preceding taxable years, provided such applicant has satisfied the
522 commissioner that the applicant intends to carry on agricultural
523 production as a trade or business for at least two years.

524 (ii) Such applicant shall be liable for the tax otherwise imposed,
525 during the period commencing upon the issuance of the permit and
526 ending two years after the date of issuance of the permit, if agricultural
527 production is not carried on as a trade or business by such applicant
528 during such entire period.

529 (iii) Such applicant shall also be liable for the tax otherwise
530 imposed, during the period commencing upon the issuance of the
531 permit and ending two years after the date of issuance of the permit, if
532 (I) such applicant's gross income from such agricultural production, as
533 reported for federal income tax purposes, is less than two thousand
534 five hundred dollars for the immediately preceding taxable year or, on
535 average, less than two thousand five hundred dollars for the two
536 immediately preceding taxable years and (II) such applicant's expenses
537 from such agricultural production, as reported for federal income tax
538 purposes, are less than two thousand five hundred dollars for the
539 immediately preceding taxable year or, on average, less than two
540 thousand five hundred dollars for the two immediately preceding
541 taxable years.

542 (iv) Any applicant liable for tax under this subparagraph (ii) or (iii)
543 of this paragraph shall not be eligible to be issued another permit
544 under subparagraph (i) of this subdivision.

545 Sec. 14. Section 12-413 of the general statutes, is amended by adding
546 subsection (4) as follows:

547 (NEW) (4) The use tax shall not apply to the purchase of any articles
548 of tangible personal property by a retailer for resale, if those articles
549 are subsequently withdrawn from inventory and donated by the
550 retailer to (A) the United States, the state of Connecticut or any of the
551 political subdivisions thereof, or its or their respective agencies, or (B)
552 any organization that is exempt from federal income tax under Section
553 501(a) of the Internal Revenue Code of 1986, or any subsequent
554 corresponding internal revenue code of the United States, as from time
555 to time amended, and that the United States Treasury Department has
556 expressly determined, by letter, to be an organization that is described
557 in Section 501(c)(3) of said internal revenue code.

558 Sec. 15. Section 12-416a of the general statutes is repealed and the
559 following is substituted in lieu thereof:

560 The Commissioner of Revenue Services is authorized to pay to a
561 municipal agency an amount not to exceed fifty per cent of the tax
562 actually collected as the result of an assessment made under section 12-
563 415 or 12-416, as amended, against the purchaser of a vessel, as
564 defined in subdivision (24) of section 12-407, if said commissioner, in
565 his sole discretion, determines that information provided by such
566 agency was instrumental in the making of such assessment.
567 Notwithstanding the provisions of section 12-15, as amended, the
568 commissioner may disclose to a municipal agency that receives a
569 payment under this section the name and address of the person
570 against whom the assessment is made, the amount of the tax actually
571 assessed and the amount of the tax actually collected with respect to
572 which such a payment may be made.

573 Sec. 16. Section 12-418 of the general statutes, as amended by section
574 14 of public act 99-121, is repealed and the following is substituted in
575 lieu thereof:

576 (1) (A) Any person against whom an assessment is made under
577 section 12-414a, 12-415, as amended, [or] 12-416, as amended, or 12-
578 424, as amended by this act, or any person directly interested may
579 petition for a reassessment not later than sixty days after service upon
580 such person of notice thereof. If a petition for reassessment is not filed
581 within the sixty-day period, the assessment becomes final at the
582 expiration of the period.

583 (B) Any person against whom an assessment is made under section
584 12-417, as amended, or any person directly interested may petition for
585 a reassessment not later than ten days after service of notice upon such
586 person. If a petition for reassessment is not filed within such ten-day
587 period, the assessment becomes final at the expiration of the period.

588 (2) If a petition for reassessment is filed within the sixty-day period,
589 in the case of an assessment made under section 12-414a, 12-415, as
590 amended, [or] 12-416, as amended, or 12-424, as amended by this act,
591 or within the ten-day period, in the case of an assessment made under
592 section 12-417, as amended, the commissioner shall reconsider the
593 assessment and, if the person has so requested in the petition, shall, in
594 the commissioner's discretion, grant the person an oral hearing and
595 shall give such person ten days' notice of the time and place of the
596 hearing. The commissioner may continue the hearing from time to
597 time, as may be necessary, and may assign the conduct of such hearing
598 to a representative of the commissioner.

599 (3) The commissioner may decrease or increase the amount of the
600 assessment before it becomes final, but the amount may be increased
601 only if a claim for the increase is asserted by the commissioner at or
602 before the hearing.

603 (4) The order or decision of the commissioner upon a petition for

604 reassessment becomes final one month after service upon the
605 petitioner of notice thereof unless within such period the petitioner
606 seeks judicial review of the commissioner's order or decision pursuant
607 to section 12-422.

608 (5) All assessments made by the commissioner under [sections]
609 section 12-414a, 12-415, as amended, [and] 12-416, as amended, or 12-
610 424, as amended by this act, are due and payable at the time they
611 become final.

612 (6) Any notice required by this section shall be served personally or
613 by mail in the manner prescribed for service of notice of a deficiency
614 assessment.

615 Sec. 17. Section 12-424 of the general statutes is repealed and the
616 following is substituted in lieu thereof:

617 (1) If any [retailer] person liable for any amount under this chapter
618 sells out his business or stock of goods or quits the business, his
619 successors or assigns shall withhold sufficient of the purchase price to
620 cover such amount until the former owner produces a receipt from the
621 commissioner showing that it has been paid or a certificate stating that
622 no amount is due.

623 (2) If the purchaser of a business or stock of goods fails to withhold
624 the purchase price as required, he becomes personally liable for the
625 payment of the amount required to be withheld by him to the extent of
626 the purchase price, valued in money. Within sixty days after receiving
627 a written request from the purchaser for a certificate, the commissioner
628 shall either issue the certificate or mail notice to the purchaser at his
629 address as it appears on the records of the commissioner of the amount
630 that must be paid as a condition of issuing the certificate. Failure of the
631 commissioner to mail the notice shall release the purchaser from any
632 further obligation to withhold the purchase price as above provided.
633 The time within which the obligation of the successor may be enforced
634 shall start to run at the time the [retailer] person sells out his business

635 or stock of goods or quits the business or at the time that the
636 assessment against [the retailer] such person becomes final, whichever
637 event occurs later.

638 Sec. 18. Subsection (7) of section 12-430 of the general statutes is
639 repealed and the following is substituted in lieu thereof:

640 (7) (a) (i) When a nonresident contractor enters into a contract with a
641 person other than a direct payment permit holder, as the term is used
642 in section 12-409a, as amended, pursuant to which, or in the carrying
643 out of which, tangible personal property will be consumed or used in
644 this state, such nonresident contractor shall deposit with the
645 Commissioner of Revenue Services at the commencement of such
646 contract a sum equivalent to five per cent of the total amount to be
647 paid under the contract or shall furnish the Commissioner of Revenue
648 Services with a guarantee bond satisfactory to said commissioner in a
649 sum equivalent to five per cent of such total amount, to secure
650 payment of the taxes payable with respect to tangible personal
651 property consumed or used pursuant to or in the carrying out of such
652 contract or any other state taxes, and shall obtain a certificate from the
653 Commissioner of Revenue Services that the requirements of this
654 subsection have been met. [;]

655 (ii) When a nonresident contractor enters into a contract with a
656 direct payment permit holder pursuant to which, or in the carrying out
657 of which, tangible personal property will be consumed or used in this
658 state, such nonresident contractor shall deposit with the Commissioner
659 of Revenue Services at the commencement of such contract a sum
660 equivalent to two per cent of the total amount to be paid under the
661 contract or shall furnish the Commissioner of Revenue Services with a
662 guarantee bond satisfactory to said commissioner in a sum equivalent
663 to two per cent of such total amount, to secure payment of the taxes
664 payable with respect to tangible personal property consumed or used
665 pursuant to or in the carrying out of such contract or any other state
666 taxes, and shall obtain a certificate from the Commissioner of Revenue

667 Services that the requirements of this subsection have been met.

668 (b) [any] (i) Any person other than a direct payment permit holder
669 dealing with a nonresident contractor without first obtaining a copy of
670 such certificate from said commissioner shall no later than thirty days
671 after the commencement of such contract deduct five per cent of all
672 amounts payable to such nonresident contractor and pay it over to said
673 commissioner on behalf of or as agent for such nonresident contractor
674 or shall furnish said commissioner with a guarantee bond satisfactory
675 to said commissioner in a sum equivalent to five per cent of such total
676 amount, to secure payment of the taxes payable with respect to such
677 tangible personal property consumed or used pursuant to or in the
678 carrying out of such contract or any other state taxes . [;]

679 (ii) Any direct payment permit holder dealing with a nonresident
680 contractor without first obtaining a copy of such certificate from said
681 commissioner shall no later than thirty days after the commencement
682 of such contract deduct two per cent of all amounts payable to such
683 nonresident contractor and pay it over to said commissioner on behalf
684 of or as agent for such nonresident contractor or shall furnish said
685 commissioner with a guarantee bond satisfactory to said commissioner
686 in a sum equivalent to two per cent of such total amount, to secure
687 payment of the taxes payable with respect to such tangible personal
688 property consumed or used pursuant to or in the carrying out of such
689 contract or any other state taxes.

690 (c) [if] If any person dealing with such nonresident contractor fails
691 to comply with subdivision (b) of this subsection, such person shall be
692 personally liable for payment of the taxes imposed by this chapter with
693 respect to such tangible personal property consumed or used pursuant
694 to or in carrying out such contract or any other state taxes. [;]

695 (d) [when] When a nonresident contractor enters into a contract
696 with the state, said contractor shall provide the Labor Department
697 with evidence demonstrating compliance with the provisions of
698 chapters 567 and 568, the prevailing wage requirements of chapter 557

699 and any other provisions of the general statutes related to conditions
700 of employment.

701 Sec. 19. Subsection (a) of section 12-431 of the general statutes, as
702 amended by section 29 of public act 99-173, is repealed and the
703 following is substituted in lieu thereof:

704 (a) ~~[In] (1) Except as otherwise provided in subdivision (2) of this~~
705 ~~subsection, in~~ case of the purchase of any motor vehicle, snowmobile,
706 vessel or aircraft other than from a licensed motor vehicle dealer or
707 licensed motor vehicle lessor, a snowmobile dealer, a licensed marine
708 dealer or a retailer of aircraft, respectively, the receipts therefrom shall
709 not be included in the measure of the sales tax, but the purchaser
710 thereof shall pay a use tax on the total purchase price thereof to the
711 Commissioner of Revenue Services, as provided in section 12-411, ~~as~~
712 ~~amended,~~ in the case of tangible personal property purchased from a
713 retailer, and, in the case of motor vehicles, vessels and snowmobiles,
714 before obtaining an original or transferal registration, in accordance
715 with regulations prescribed by the Commissioner of Revenue Services
716 and on forms approved by the Commissioner of Revenue Services and
717 the Commissioner of Motor Vehicles, and, in the case of aircraft, before
718 obtaining an original or transferal registration, in accordance with
719 regulations prescribed by the Commissioner of Revenue Services and
720 on forms approved by the Commissioner of Revenue Services and the
721 Commissioner of Transportation. ~~;~~ provided no]

722 (2) ~~No~~ use tax shall be payable in cases of purchase ~~[(1)] (A)~~ when
723 the purchaser is the spouse, mother, father, brother, sister or child of
724 the seller, ~~[(2)] (B)~~ when a motor vehicle or vessel is sold in connection
725 with the organization, reorganization or liquidation of an incorporated
726 business, provided ~~[(A)]~~ the last taxable sale or use of the motor
727 vehicle or vessel was subjected to a tax imposed by this chapter ~~[(B)]~~
728 ~~and~~ the purchaser is the incorporated business or a stockholder
729 thereof, ~~[and (C) any gain or loss to the seller is not recognized for~~
730 federal income tax purposes under the provisions of the Internal

731 Revenue Code and Treasury regulations and rulings issued
732 thereunder, (3)] (C) when a motor vehicle is sold in connection with
733 the organization or termination of a partnership or limited liability
734 company, provided [(A)] the last taxable sale or use of the motor
735 vehicle was subjected to a tax imposed by this chapter [, (B)] and the
736 purchaser is the partnership or limited liability company, as the case
737 may be, or a partner or member, thereof, as the case may be, [and (C)
738 any gain or loss to the seller is not recognized for federal income tax
739 purposes under the provisions of the Internal Revenue Code and
740 Treasury regulations and rulings issued thereunder, or (4)] or (D)
741 when a motor vehicle which has been declared a total loss pursuant to
742 the provisions of section 14-16c, as amended, is rebuilt for sale or use,
743 provided the purchaser was subjected to the tax imposed by this
744 chapter for the last taxable sale of said vehicle.

745 Sec. 20. Subdivision (4) of section 12-540 of the general statutes, as
746 amended by section 49 of public act 99-173 and section 3 of public act
747 99-235, is repealed and the following is substituted in lieu thereof:

748 (4) "Dues" shall include assessment charges to members irrespective
749 of the purpose for which made and any charges for social, athletic or
750 sporting privileges or facilities for any period of more than six days
751 but not including charges made for instruction, charges for locker
752 rental or charges for special assessments made (A) for the construction
753 or reconstruction of any social, athletic or sporting facility or any
754 increase in charges made after June 29, 1999, which increase is to be
755 used for the acquisition of land provided such land is "farm land",
756 "open space land" or "forest land", as defined in section 12-107b, and
757 further provided that an application or applications pursuant to
758 section 12-107c, 12-107d or 12-107e are made for the assessment list
759 next following the acquisition of such land, or (B) for the construction
760 or reconstruction of any capital addition to any such facility, or (C)
761 furnishings or fixtures, including installation charges, for any such
762 facility, to the extent that such furnishings or fixtures are required, by
763 reason of the construction or reconstruction described in subdivision

764 (A) or (B) of this subsection, for the use of such facility upon
765 completion of such construction or reconstruction; except that, in the
766 case of any such amount which is not expended for such construction,
767 reconstruction, furnishings or fixtures, including installation charges,
768 within three years after the date of payment of such amount, the
769 exemption provided by this subsection shall cease to apply upon the
770 expiration of such three-year period, and the club shall be liable for
771 any tax imposed by section 12-543, as amended, in respect of such
772 payment, as if such payment had been made on the first day following
773 the expiration of such three-year period.

774 Sec. 21. Subsection (a) of section 12-556g of the general statutes is
775 repealed and the following is substituted in lieu thereof:

776 (a) A facilities surcharge shall be imposed on the admission charge,
777 as defined in subsection (3) of section [12-450] 12-540, as amended, to
778 the events at facilities owned or managed by the Tennis Foundation of
779 Connecticut or any successor organization. The surcharge shall be
780 imposed at a rate of ten per cent of such admission charge and shall be
781 in addition to any tax otherwise applicable to such transaction. The
782 surcharge shall be imposed on sponsors and promoters of events held
783 at facilities owned or managed by the Tennis Foundation of
784 Connecticut or any successor organization and reimbursement for the
785 surcharge shall be collected by the sponsor or promoter from the
786 purchaser. Such reimbursement shall be paid by the purchaser to the
787 sponsor or promoter. The surcharge, when added to the admission
788 charge, shall be a debt from the purchaser to the sponsor or promoter
789 and shall be recoverable at law.

790 Sec. 22. This act shall take effect October 1, 2000, for sales made on
791 or after said date, except that sections 15 and 16 shall take effect July 1,
792 2000, and shall be applicable to assessments made on or after said date;
793 section 17 shall take effect October 1, 2000, and shall be applicable to
794 sales of a business or stock of goods occurring on or after said date;
795 section 18 shall take effect October 1, 2000, and shall be applicable to

796 contracts entered into on or after said date; and sections 20 and 21 shall
797 take effect October 1, 2000, and shall be applicable to charges made on
798 or after said date.

Statement of Purpose:

To incorporate references to North American Industrial Classification System codes where Standard Industrial Classification codes are indicated for purposes of the sales and use tax; to provide for taxation at point-of-sale for prepaid phone cards; to remove an affidavit requirement and clarify the sales and use tax exemption for labor to existing vessels; to clarify provisions regarding resale certificates; to make a technical correction in a sales tax statute; to clarify the sales tax treatment for certain items and food products; to clarify the sales tax treatment of motor vehicle fuels; to remove a requirement that nonprescription drugs exempt from the sales tax be used in or on the human body; to reorganize the sales tax statute regarding farmers' exemption permits, providing a way for start-up farmers to avail themselves of exemption; to provide an exemption from use tax for an item taken out of inventory when given to a charity or to the government; to enable the Commissioner of Revenue Services to provide certain taxpayer specific information to a participating municipality relating to use assessments; to codify current Department of Revenue Services practices regarding successor liability or officer liability assessments; to allow for a lower bond rate for direct pay permit holders and put a time limit on when certain bonds must be posted; to eliminate requirement that any gain or loss to the casual sellers is not recognized for federal income tax purposes; and to exempt charges for locker rentals from the dues tax.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]