Senate

General Assembly

File No. 584

January Session, 2001

Substitute Senate Bill No. 1182

Senate, May 3, 2001

The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY of the 11th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING VARIOUS TAX LAWS ADMINISTERED BY THE DEPARTMENT OF REVENUE SERVICES.

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

Section 1. Subsection (d) of section 12-15 of the general statutes is repealed and the following is substituted in lieu thereof:

(d) (1) The commissioner may, upon request, verify whether or not any license, permit or certificate required under the provisions of this title to be conspicuously displayed has been issued by [him] the commissioner to any particular person.

(2) The commissioner may make public names and mailing addresses for purposes of notifying persons entitled to tax refunds when the commissioner, after reasonable effort and lapse of time, has been unable to locate such persons.

Sec. 2. Subparagraph (K) of subdivision (6) of subsection (a) of

section 12-218b of the general statutes is repealed and the following is substituted in lieu thereof:

(K) (i) Any person described in subparagraph (J) of this subdivision may submit a petition in writing to the commissioner for permission to apportion its income without regard to the provisions of this section [upon such person proving] not later than sixty days prior to the due date of the return to which the petition applies, determined with regard to any extension of time for filing such return, and said commissioner shall grant or deny such permission before said due date. The commissioner shall grant such permission only in the event that the petitioner has proved, by clear and convincing evidence, that the income-producing activity of [such person] the petitioner is not in substantial competition with a financial service company without regard to subparagraph (I) of this subdivision.

(ii) Any person may submit a petition in writing to the commissioner for permission to apportion its income in accordance with the provisions of this section [upon such person proving] not later than sixty days prior to the due date of the return to which the petition applies, determined with regard to any extension of time for filing such return, and said commissioner shall grant or deny such permission before said due date. The commissioner shall grant such permission only in the event that the petitioner has proved, by clear and convincing evidence, that the income-producing activity is substantially similar to the income-producing activities of a financial service company without regard to subparagraph (I) of this subdivision.

Sec. 3. Subsections (b) to (e), inclusive, of section 12-222 of the general statutes are repealed and the following is substituted in lieu thereof:

(b) Such return shall be due on or before the first day of the [fourth] month next succeeding the [end of the income year] due date of the

43 company's corresponding federal income tax return for the income
44 year, determined without regard to any extension of time for filing, or,
45 in the case of [an S corporation] any company that is not required to
46 file a federal income tax return for the income year, on or before the
47 [fifteenth] first day of the fourth month next succeeding the end of the
48 income year.

49 (c) The commissioner may grant a reasonable extension of time for
50 filing a [completed] return, if the company files a tentative return and
51 application for extension of time in which to file a [completed] return,
52 on forms furnished or prescribed by the commissioner, and pays the
53 tax reported to be due on such tentative return on or before the [first
54 day of the fourth month next succeeding the end of the income year,
55 or, in the case of an S corporation, on or before the fifteenth day of the
56 fourth month next succeeding the end of the income year] original due
57 date of the return, as provided in subsection (b) of this section. Any
58 additional tax which may be found to be due on the filing of the return
59 as allowed by such extension shall bear interest at the rate of one per
60 cent per month or fraction thereof from the original due date of [such
61 tax] the return to the date of actual payment. Notwithstanding the
62 provisions of section 12-229, if the commissioner grants a reasonable
63 extension of time for filing a [completed] return, no penalty shall be
64 imposed on account of any failure to pay the amount of tax reported to
65 be due on a return within the time specified under the provisions of
66 this chapter if the excess of the amount of tax shown on the return over
67 the amount of tax paid on or before the original due date of such
68 return is no greater than ten per cent of the amount of tax shown on
69 such return, and any balance due shown on such return is remitted
70 with such return on or before the extended due date of such return.

71 (d) In any case in which the commissioner believes that it would be
72 advantageous [to him in] for the computation of the tax as imposed by
73 this part, such state return shall be accompanied by a true copy of the
74 last income tax return, if any, made to the Internal Revenue Service.

75 (e) The amount of tax reported to be due on such return or tentative
76 return shall be due and payable on or before the [first day of the fourth
77 month next succeeding the end of the income year, or, in the case of an
78 S corporation, on or before the fifteenth day of the fourth month next
79 succeeding the end of the income year] original due date of the return,
80 as defined in subsection (b) of this section.

81 Sec. 4. Subdivision (2) of subsection (c) of section 12-223a of the
82 general statutes is repealed and the following is substituted in lieu
83 thereof:

84 (2) If the method of determining the combined measure of such tax
85 in accordance with this subsection for two or more affiliated
86 companies validly electing to file a combined return under the
87 provisions of subsection (a) of this section is deemed by such
88 companies to unfairly attribute an undue proportion of their total
89 income or minimum tax base to this state, said companies may submit
90 a petition in writing to the Commissioner of Revenue Services for
91 approval of an alternate method of determining the combined measure
92 of their tax not later than sixty days prior to the due date of the
93 combined return to which the petition applies, determined with regard
94 to any extension of time for filing such return, and said commissioner
95 shall grant or deny such approval before said due date. In deciding
96 whether or not the companies included in such combined return
97 should be granted approval to employ the alternate method proposed
98 in such petition, the Commissioner of Revenue Services shall consider
99 approval only in the event that the petitioners have clearly established
100 to the satisfaction of said commissioner that all the companies
101 included in such combined return are, in substance, parts of a unitary
102 business engaged in a single business enterprise and further that there
103 are substantial intercorporate business transactions among such
104 included companies.

105 Sec. 5. Section 12-285 of the general statutes is repealed and the

following is substituted in lieu thereof:

(a) When used in this chapter, unless the context otherwise requires: [,]

(1) ["person"] "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability company, trust or association, however formed;

(2) ["distributor"] "Distributor" means [(1)] (A) any person in this state engaged in the business of manufacturing cigarettes; [(2)] (B) any person, other than a buying pool, as defined herein, who purchases cigarettes at wholesale from manufacturers or other distributors for sale to licensed dealers, and who maintains an established place of business, including a location used exclusively for such business, which has facilities in which a substantial stock of cigarettes and related merchandise for resale can be kept at all times, and who sells at least seventy-five per cent of such cigarettes to retailers who, at no time, shall own any interest in the business of the distributor as a partner, stockholder or trustee; [(3)] (C) any person operating five or more retail stores in this state for the sale of cigarettes who purchases cigarettes at wholesale for sale to dealers but sells such cigarettes exclusively to retail stores such person is operating; [(4)] (D) any person operating and servicing twenty-five or more cigarette vending machines in this state who buys such cigarettes at wholesale and sells them exclusively in such vending machines. If a person qualified as a distributor in accordance with this [subdivision] subparagraph, in addition sells cigarettes other than in vending machines, such person shall be required to be qualified as a distributor in accordance with [subdivision (2) of this section] subparagraph (B) of this subdivision and have an additional distributor's license for purposes of such other sales; [(5)] (E) any person who imports into this state unstamped cigarettes, at least seventy-five per cent of which are to be sold to others for resale; and [(6)] (F) any person operating storage facilities for

137 unstamped cigarettes in this state;

138 (3) [("cigarette]) "Cigarette vending machine" means a machine used
139 for the purpose of automatically merchandising packaged cigarettes
140 through the insertion of the proper amount of coins therein by the
141 purchaser, but does not mean a restricted cigarette vending machine;

142 (4) [("restricted]) "Restricted cigarette vending machine" means a
143 machine used for the dispensing of packaged cigarettes which
144 automatically deactivates after each individual sale, cannot be left
145 operable after a sale and requires, prior to each individual sale, a face-
146 to-face interaction or display of identification between an employee of
147 the area, facility or business where such machine is located and the
148 purchaser;

149 (5) [("dealer")] "Dealer" means any person other than a distributor
150 who is engaged in this state in the business of selling cigarettes,
151 including any person operating and servicing fewer than twenty-five
152 cigarette vending machines; [who shall be classified herein as a
153 vending machine dealer;]

154 (6) [("licensed]) "Licensed dealer" means a dealer licensed under the
155 provisions of this chapter;

156 (7) [("stamp")] "Stamp" means any stamp authorized to be used under
157 this chapter by the Commissioner of Revenue Services and includes
158 [impressions made by metering machines authorized to be used under
159 the provisions of section 12-299] heat-applied decals;

160 (8) [("sale")] "Sale" or "sell" includes or applies to gifts, exchanges and
161 barter; and

162 (9) [("buying]) "Buying pool" means and includes any combination,
163 corporation, association, affiliation or group of retail dealers operating
164 jointly in the purchase, sale, exchange or barter of cigarettes, the profits
165 from which accrue directly or indirectly to such retail dealers,

166 provided any person holding a distributor's license issued prior to
167 June 29, 1951, shall be deemed to be a distributor within the terms of
168 this section.

169 (b) For the purposes of part I and part II only of this chapter: [,]

170 (1) ["cigarette"] "Cigarette" means and includes (A) any roll for
171 smoking made wholly or in part of tobacco, irrespective of size or
172 shape and irrespective of whether the tobacco is flavored, adulterated
173 or mixed with any other ingredient, where such roll has a wrapper or
174 cover made of paper or any other material, except where such wrapper
175 is wholly or in the greater part made of tobacco and such roll weighs
176 over three pounds per thousand, provided, if any roll for smoking has
177 a wrapper made of homogenized tobacco or natural leaf tobacco, and
178 the roll is a cigarette size so that it weighs three pounds or less per
179 thousand, such roll is a cigarette and subject to the tax imposed by part
180 I and part II of this chapter; and (B) each nine one-hundredths of an
181 ounce of roll-your-own tobacco;

182 (2) ["unstamped] "Unstamped cigarette" means any package of
183 cigarettes to which the proper amount of Connecticut cigarette tax
184 stamps [or impressions] have not been affixed; and

185 (3) "Roll-your-own tobacco" means any tobacco which, because of its
186 appearance, type, packaging or labeling, is suitable for use and likely
187 to be offered to, or purchased by, consumers as tobacco for making
188 cigarettes.

189 Sec. 6. Subsection (d) of section 12-295a of the general statutes is
190 repealed and the following is substituted in lieu thereof:

191 (d) If said commissioner finds, after a hearing, that any owner of an
192 establishment in which a cigarette vending machine or restricted
193 cigarette vending machine is located has sold, given or delivered
194 cigarettes or tobacco products from any such machine to a minor other

195 than a minor who is delivering or accepting delivery in [his] such
196 minor's capacity as an employee, or has allowed cigarettes or tobacco
197 products to be sold, given or delivered to such minor from any such
198 machine, said commissioner shall assess such [dealer or distributor]
199 owner a civil penalty of two hundred fifty dollars for the first violation
200 and five hundred dollars for a second violation within eighteen
201 months. For a third violation within eighteen months, such [dealer or
202 distributor] owner shall be assessed a civil penalty of five hundred
203 dollars and any such machine shall be immediately removed from
204 such establishment and no such machine may be placed in such
205 establishment for a period of one year following such removal.

206 Sec. 7. Section 12-330a of the general statutes is repealed and the
207 following is substituted in lieu thereof:

208 As used in this chapter: (1) "Commissioner" means the
209 Commissioner of Revenue Services; (2) "tobacco products" means
210 cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut,
211 ready rubbed and other smoking tobacco, snuff tobacco products,
212 cavendish, plug and twist tobacco, fine cut and other chewing
213 tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of
214 tobacco and all other kinds and forms of tobacco, prepared in such
215 manner as to be suitable for chewing or smoking in a pipe or otherwise
216 or for both chewing and smoking, but shall not include any cigarette,
217 as defined in section 12-285, as amended by this act, or any roll-your-
218 own tobacco, as defined in section 12-285, as amended by this act; (3)
219 "distributor" means [(1)] (A) any person in this state engaged in the
220 business of manufacturing tobacco products, [(2)] (B) any person who
221 purchases tobacco products at wholesale from manufacturers or other
222 distributors for sale, or [(3)] (C) any person who imports into this state
223 tobacco products, at least seventy-five per cent of which are to be sold;
224 (4) "unclassified importer" means any person, other than a distributor,
225 who imports, receives or acquires tobacco products from outside this
226 state for use or consumption in this state; (5) "sale" or "sell" includes or

227 applies to gifts, exchanges and barter; (6) "wholesale sales price"
228 means, in the case of a manufacturer of tobacco products, the price set
229 for such products or, if no price has been set, the wholesale value of
230 such products, and, in the case of a distributor who is not a
231 manufacturer of tobacco products, the price at which the distributor
232 purchased such products, and, in the case of an unclassified importer
233 of tobacco products, the price at which the unclassified importer
234 purchased such products; and (7) "snuff tobacco products" means only
235 those snuff tobacco products that have imprinted on the packages the
236 designation "snuff" or "snuff flour", or the federal tax designation "Tax
237 Class M", or both.

238 Sec. 8. Section 12-330c of the general statutes is repealed and the
239 following is substituted in lieu thereof:

240 (a) (1) A tax is imposed on all tobacco products held in this state by
241 any person. [, said tax to be] Except as otherwise provided in
242 subdivision (2) of this subsection with respect to the rate of tax on
243 snuff tobacco products, the tax shall be imposed at the rate of twenty
244 per cent of the wholesale sales price of such products.

245 [(2) A tax is imposed on all snuff tobacco products held in this state
246 by any person, said tax to be imposed as follows:]

247 (2) The tax shall be imposed on snuff tobacco products, on the net
248 weight as listed by the manufacturer, as follows: Forty cents per ounce
249 of snuff and a proportionate tax at the like rate on all fractional parts of
250 an ounce of snuff. [For purposes of this subsection, the tax on snuff
251 tobacco products shall be computed on the net weight as listed by the
252 manufacturer.]

253 (b) Said tax shall be imposed on the distributor or the unclassified
254 importer at the time the tobacco product [or snuff tobacco product] is
255 manufactured, purchased, imported, received or acquired in this state.

256 (c) Said tax shall not be imposed on any tobacco products [or snuff
257 tobacco products] which (1) are exported from the state, or (2) are not
258 subject to taxation by this state pursuant to any laws of the United
259 States.

260 Sec. 9. Section 12-407a of the general statutes is repealed and the
261 following is substituted in lieu thereof:

262 (a) [The] Except as otherwise provided in subsection (b) of this
263 section, the rendering of telecommunications service shall be subject to
264 tax under this chapter as a sale, for purposes of subdivision (k) of
265 subsection (2) of section 12-407 when such service is (1) (A) originated
266 in this state and terminated in this state, (B) originated in this state and
267 terminated outside this state and with respect to which such service is
268 charged to a telephone number, customer or account located in this
269 state or to the account of any transmission instrument in this state or
270 (C) originated outside this state and terminated in this state and with
271 respect to which such service is charged to a telephone number,
272 customer or account located in this state or to the account of any
273 transmission instrument in this state, or (2) rendered by providing a
274 private interstate telecommunications line on which the customer for
275 such line has two or more locations connected to such line and the
276 charges for which are related to (A) the number of customer locations
277 connected to such line in this state, (B) the distance between customer
278 locations connected to such line in this state, and (C) a portion of such
279 line determined by a ratio, the numerator of which is the number of air
280 miles between the state border and the denominator of which is the
281 number of air miles between said closest connection to the state border
282 in this state and the customer location connected to such line which is
283 closest to the state border outside this state.

284 [(b) For purposes of determining the application of tax under this
285 chapter to cellular mobile telecommunications service in accordance
286 with subdivision (1) of subsection (a) of this section, (A) a call

287 originated from a cellular mobile telephone shall be deemed to have
288 originated in this state if the first site in a cellular telephone system, at
289 which messages to or from cellular mobile telephones are transmitted
290 or received, to establish a completed call is located in this state, (B) a
291 call terminated at a cellular mobile telephone shall be deemed to have
292 terminated in this state if the first such site to transmit the call to such
293 telephone is located in this state, (C) a call originated in this state as
294 described in subparagraph (A) of this subsection shall be deemed to
295 have originated and terminated in this state if the call terminates in
296 this state and (D) a call terminated in this state as described in
297 subparagraph (B) of this subsection shall be deemed to have originated
298 and terminated in this state if the call originates in this state.]

299 (b) (1) For purposes of this subsection:

300 (A) "Mobile telecommunications service" means mobile
301 telecommunications service, as defined in 4 USC 124;

302 (B) "Charges for mobile telecommunications services" means
303 charges for mobile telecommunications services, as defined in 4 USC
304 124;

305 (C) "Home service provider" means home service provider, as
306 defined in 4 USC 124;

307 (D) "Customer" means customer, as defined in 4 USC 124;

308 (E) "Place of primary use" means place of primary use, as defined in
309 4 USC 124; and

310 (F) "Taxing jurisdiction" means taxing jurisdiction, as defined in 4
311 USC 124.

312 (2) (A) For purposes of determining the application of tax under this
313 chapter to mobile telecommunications service, mobile
314 telecommunications services provided in any taxing jurisdiction to a

315 customer, the charges for which are billed by or for the customer's
316 home service provider, shall be deemed to be provided by the
317 customer's home service provider.

318 (B) Subject to the specific exceptions described in 4 USC 116(c), all
319 charges for mobile telecommunications services that are deemed to be
320 provided by the customer's home service provider are subject to tax
321 under this chapter if the customer's place of primary use is in this state
322 regardless of where the mobile telecommunications services originate,
323 terminate or pass through.

324 (3) (A) A home service provider shall be responsible for obtaining
325 and maintaining a record of the customer's place of primary use.
326 Except as provided in subdivision (4) of this subsection, if the home
327 service provider's reliance on the information provided by its customer
328 is in good faith: (i) The home service provider may rely on the
329 applicable residential or business street address supplied by the home
330 service provider's customer; and (ii) the home service provider shall
331 not be held liable for any additional taxes under this chapter based on
332 a different determination of the place of primary use.

333 (B) Except as provided in subdivision (4) of this subsection, a home
334 service provider may treat the address used by the home service
335 provider for purposes of this chapter, for any customer under a service
336 contract or agreement in effect on July 28, 2002, as that customer's
337 place of primary use for the remaining term of such service contract or
338 agreement, excluding any extension or renewal of such service contract
339 or agreement.

340 (4) (A) If the commissioner determines that the address used by a
341 home service provider as a customer's place of primary use is not, in
342 fact, the customer's place of primary use, the commissioner shall notify
343 such customer of such determination and provide such customer an
344 opportunity to demonstrate that the address used by a home service
345 provider as a customer's place of primary use is, in fact, the customer's

346 place of primary use.

347 (B) If the customer fails to demonstrate, to the satisfaction of the
348 commissioner, that the address is, in fact, the customer's place of
349 primary use, the commissioner shall provide the home service
350 provider with notice of the proper address to be used as such
351 customer's place of primary use, and the home service provider shall
352 begin using the address provided by the commissioner as such
353 customer's place of primary use on a prospective basis from the date
354 the commissioner provides notice of such address.

355 (5) (A) Notwithstanding any other provision of law, the
356 commissioner may provide an electronic database, as described in 4
357 USC 119, and any revisions to such database, to a home service
358 provider.

359 (B) If the commissioner does not provide an electronic database, as
360 described in subparagraph (A) of this subdivision, to a home service
361 provider, the home service provider shall be held harmless from tax
362 under this chapter that otherwise would be due solely as a result of an
363 assignment of a street address to an incorrect taxing jurisdiction if,
364 subject to subdivision (4) of this subsection, the home service provider
365 employs an enhanced zip code to assign each street address to a
366 specific taxing jurisdiction for each level of taxing jurisdiction and
367 exercises due diligence at each level of taxing jurisdiction to ensure
368 that each such street address is assigned to the correct taxing
369 jurisdiction.

370 (6) (A) If a customer believes that an amount of tax or an assignment
371 of place of primary use or taxing jurisdiction included on a billing is
372 erroneous, the customer shall notify the home service provider in
373 writing. The customer shall include in such written notification the
374 street address for the customer's place of primary use, the account
375 name and number for which the customer requests a correction, a
376 description of the error asserted by the customer and any other

377 information that the home service provider reasonably requires to
378 process the request. No later than sixty days after the date of receiving
379 a notice under this subdivision, the home service provider shall review
380 its records. If such review establishes that the amount of tax, or the
381 assignment of place of primary use or taxing jurisdiction is erroneous,
382 then the home service provider shall correct the error and refund or
383 credit the amount of tax erroneously collected from the customer for a
384 period of up to two years from the date of the customer's written
385 notification. If such review establishes that the amount of tax, or the
386 assignment of place of primary use or taxing jurisdiction is correct,
387 then the home service provider shall provide a written explanation to
388 the customer.

389 (B) If the customer is not satisfied with the explanation of the home
390 service provider under subparagraph (A) of this subdivision, the
391 customer may claim a refund from the taxing jurisdiction affected,
392 provided the customer has first exhausted the remedy available to
393 customers under subparagraph (A) of this subdivision, and, if the
394 customer has done so and if the taxing jurisdiction affected is this state,
395 the claim is made within the time prescribed in section 12-425.

396 (7) If nontaxable charges are aggregated with and not separately
397 stated from taxable charges for mobile telecommunications services,
398 then the nontaxable charges may be subject to tax unless the home
399 service provider can reasonably identify charges not subject to tax
400 under this chapter from its books and records that are kept in the
401 regular course of business. A customer may not rely upon the
402 nontaxability of charges for services unless the customer's home
403 service provider separately states the charges for nontaxable services
404 from taxable charges for mobile telecommunications services or the
405 home service provider elects, after receiving a written request from the
406 customer in the form required by the home service provider, to
407 provide verifiable data based upon the home service provider's books
408 and records that are kept in the regular course of business that

409 reasonably identifies the nontaxable charges.

410 Sec. 10. Subdivision (62) of section 12-412 of the general statutes is
411 repealed and the following is substituted in lieu thereof:

412 (62) (A) Sales of any of the services enumerated in subdivisions (2)
413 (i), (2) (k) or (2) (l) of section 12-407 that are rendered for a business
414 entity affiliated with the business entity rendering such service in such
415 manner that (i) either business entity in such transaction owns a
416 controlling interest in the other business entity, or (ii) a controlling
417 interest in each business entity in such transaction is owned by the
418 same person or persons or business entity or business entities.

419 (B) For purposes of this subdivision, (i) "business entity" means a
420 corporation, trust, estate, partnership, limited partnership, limited
421 liability partnership, limited liability company, single member limited
422 liability company, sole proprietorship, [and] nonstock corporation or a
423 federally-recognized Indian tribe; (ii) "controlling interest" means, in
424 the case of a business entity that is a corporation, ownership of stock
425 possessing one hundred per cent of the total combined voting power
426 of all classes of stock entitled to vote or one hundred per cent of the
427 total value of shares of all classes of stock of such corporation; in the
428 case of a business entity that is a trust or estate, ownership of a
429 beneficial interest of one hundred per cent in such trust or estate; in the
430 case of a business entity that is a partnership, limited partnership or
431 limited liability partnership, ownership of one hundred per cent of the
432 profits interest or capital interest in such partnership, limited
433 partnership or limited liability partnership; in the case of a limited
434 liability company with more than one member, ownership of one
435 hundred per cent of the profits interest, capital interest or membership
436 interests in such limited liability company; in the case of a business
437 entity that is a sole proprietorship or single member limited liability
438 company, ownership of such sole proprietorship or single member
439 limited liability company; in the case of a business entity that is a

440 nonstock corporation with voting members, control of one hundred
441 per cent of all voting membership interests in such corporation; and in
442 the case of a business entity that is a nonstock corporation with no
443 voting members, control of one hundred per cent of the board of
444 directors of such corporation; (iii) whether a controlling interest in a
445 business entity is owned shall be determined in accordance with
446 Section 267 of the Internal Revenue Code of 1986, or any subsequent
447 corresponding internal revenue code of the United States, as from time
448 to time amended, provided where a controlling interest is owned in a
449 business entity other than a stock corporation, the term "stock" as used
450 in said Section 267 of the Internal Revenue Code means, in the case of a
451 partnership, limited partnership, limited liability partnership or
452 limited liability company treated as a partnership for federal income
453 tax purposes, the profits interest or capital interest in such partnership,
454 in the case of a business entity that is a trust or estate, the beneficial
455 interests in such trust or estate, and in the case of a business entity that
456 is a nonstock corporation, the voting membership interests in such
457 corporation, or if it has no voting members, the control of the board of
458 directors; (iv) a business entity has "control of" the board of directors of
459 a nonstock corporation if one hundred per cent of the voting members
460 of the board of directors are either representatives of, including ex-
461 officio directors, or persons appointed by such business entity, or
462 "control of" one hundred per cent of the voting membership interests
463 in a nonstock corporation if one hundred per cent of the voting
464 membership interests are held by the business entity or by
465 representatives of, including ex-officio members, or persons appointed
466 by such business entity.

467 Sec. 11. Subdivision (1) of subsection (c) of section 12-587 of the
468 general statutes is repealed and the following is substituted in lieu
469 thereof:

470 (c) (1) Any company which imports or causes to be imported into
471 this state petroleum products for sale, use or consumption in this state,

472 other than a company subject to and having paid the tax on such
473 company's gross earnings from first sales of petroleum products
474 within this state, which earnings include gross earnings attributable to
475 such imported or caused to be imported petroleum products, in
476 accordance with subsection (b) of this section, shall pay a quarterly tax
477 on the consideration given or contracted to be given for such
478 petroleum product if the consideration given or contracted to be given
479 for all such deliveries during the quarterly period for which such tax is
480 to be paid exceeds [one hundred] three thousand dollars. Except as
481 otherwise provided in subdivision (3) of this subsection, the rate of tax
482 shall be five per cent. Fuel in the fuel supply tanks of a motor vehicle,
483 which fuel tanks are directly connected to the engine, shall not be
484 considered a delivery for the purposes of this subsection.

485 Sec. 12. Subsection (a) of section 12-632 of the general statutes is
486 repealed and the following is substituted in lieu thereof:

487 (a) (1) [On or before September 1, 1995, and] Except as otherwise
488 provided in subdivision (2) of this subsection, on or before July first of
489 each [succeeding] year, any municipality desiring to obtain benefits
490 under the provisions of this chapter shall, after approval by the
491 legislative body of such municipality, submit to the Commissioner of
492 Revenue Services a list on a form prescribed and made available by the
493 commissioner of programs eligible for investment by business firms
494 under the provisions of this chapter. Such activities shall consist of
495 providing neighborhood assistance; job training or education;
496 community services; crime prevention; energy conservation or
497 construction or rehabilitation of dwelling units for families of low and
498 moderate income in the state; donation of money to an open space
499 acquisition fund of any political subdivision of the state or any
500 nonprofit land conservation organization which fund qualifies under
501 subsection (h) of section 12-631 and is used for the purchase of land,
502 interest in land or permanent conservation restriction on land, which is
503 to be permanently preserved as protected open space; or any of the

504 activities described in section 12-634, 12-635 or 12-635a. Such list shall
505 indicate, for each program specified: The concept of the program, the
506 neighborhood area to be served, why the program is needed, the
507 estimated amount required to be invested in the program, the
508 suggested plan for implementing the program, the agency designated
509 by the municipality to oversee implementation of the program and
510 such other information as the commissioner may prescribe. Each
511 municipality shall hold at least one public hearing on the subject of
512 which programs shall be included on such list prior to the submission
513 of such list to the commissioner.

514 (2) If any municipality desiring to obtain benefits under the
515 provisions of this chapter submits to the Commissioner of Revenue
516 Services a list on a form prescribed and made available by the
517 commissioner of programs eligible for investment by business firms
518 under the provisions of this chapter after the July first due date, the
519 commissioner shall include the list of programs on the list compiled by
520 the commissioner under subsection (b) of this section if the
521 municipality submits such list no later than fifteen days following such
522 July first due date, provides an explanation for its failure to submit
523 such list on or before such July first due date and submits proof that
524 both the public hearing required by subdivision (1) of this subsection
525 to be held on the programs to be included on such list and the
526 approval of such list by the legislative body of such municipality
527 required by subdivision (1) of this subsection occurred on or before
528 such July first due date.

529 Sec. 13. Subsection (b) of section 12-688 of the general statutes is
530 repealed and the following is substituted in lieu thereof:

531 (b) (1) If the department grants permission to any person to pay tax
532 by electronic funds transfer, such person shall, except as provided in
533 subdivision (2) of this subsection, be regarded, for the period for which
534 such permission is granted, as a person who is required under section

535 12-686 to pay a tax by electronic funds transfer. If such person gives
536 notice, by certified mail, to the department, at least sixty days before
537 the expiration of such period, that such person no longer chooses to
538 pay tax by electronic funds transfer beyond such period, such person
539 shall cease to be regarded as a person who is required under section
540 12-686 to pay a tax by electronic funds transfer after the expiration of
541 such period. If such person does not give such notice, such person
542 shall cease to be regarded as a person who is required under section
543 12-686 to pay tax by electronic funds transfer sixty days after notice is
544 given, by certified mail, to the department that the person no longer
545 chooses to pay tax by electronic funds transfer.

546 (2) If the department grants permission to any person to pay a tax
547 by electronic funds transfer, any tax payment made by electronic funds
548 transfer by such person shall be treated as a tax payment made in a
549 timely manner as long as such transfer is initiated on or before the date
550 such tax is due, notwithstanding the fact that the bank account
551 designated by the department may not be credited by electronic funds
552 transfer for the amount of such payment on or before said due date.

553 Sec. 14. Subsection (a) of section 12-690 of the general statutes is
554 repealed and the following is substituted in lieu thereof:

555 (a) (1) The Commissioner of Revenue Services may permit the filing,
556 by computer transmission or by employing new technology as it is
557 developed, of any return, statement or other document that is required
558 by law or regulation to be filed with said commissioner.

559 (2) The Commissioner of Revenue Services may permit the filing, by
560 computer transmission or by employing new technology as it is
561 developed, by any person of any document that is permitted by law or
562 regulation to be filed with said commissioner, as long as such person
563 and said commissioner have agreed that said commissioner may send
564 any document or notice to such person by computer transmission or
565 by employing new technology as it is developed.

566 Sec. 15. Subdivision (19) of subsection (a) of section 12-701 of the
567 general statutes is repealed and the following is substituted in lieu
568 thereof:

569 (19) "Adjusted gross income" means the adjusted gross income of a
570 natural person with respect to any taxable year, as determined for
571 federal income tax purposes and as properly reported on such person's
572 federal income tax return.

573 Sec. 16. Subdivisions (1) and (2) of subsection (b) of section 12-711 of
574 the general statutes are repealed and the following is substituted in
575 lieu thereof:

576 (b) (1) Items of income, gain, loss and deduction derived from or
577 connected with sources within this state shall be those items
578 attributable to: (A) The ownership or disposition of any interest in real
579 or tangible personal property in this state; **[**or**]** (B) a business, trade,
580 profession or occupation carried on in this state; **[**or**]** (C) in the case of a
581 shareholder of an S corporation, the ownership of shares issued by
582 such corporation, to the extent determined under section 12-712; or (D)
583 winnings from a wager placed in a lottery conducted by the
584 Connecticut Lottery Corporation, if the proceeds from such wager
585 exceed five thousand dollars.

586 (2) Income from intangible personal property, including annuities,
587 dividends, interest and gains from the disposition of intangible
588 personal property, shall constitute income derived from sources within
589 this state only to the extent that such income is from property
590 employed in a business, trade, profession or occupation carried on in
591 this state or winnings from a wager placed in a lottery conducted by
592 the Connecticut Lottery Corporation, if the proceeds from such wager
593 exceed five thousand dollars.

594 Sec. 17. Subsection (b) of section 22a-132a of the general statutes is
595 repealed and the following is substituted in lieu thereof:

596 (b) Before December thirty-first of each year, the council shall
597 review the anticipated amount of such expenses for the next fiscal
598 year, excluding expenses under subsection (c) of this section, at a
599 public meeting at which interested persons shall be heard. After an
600 opportunity for public comment at such public meeting, the council
601 shall determine the anticipated amount of such expenses and submit
602 its determination to the joint standing committee of the General
603 Assembly having cognizance of appropriations and the budgets of
604 state agencies for its review. The amount of such expenses shall not
605 exceed sixty thousand dollars. The [Commissioner of Revenue
606 Services] council shall apportion and assess the anticipated amount of
607 expenses among [those persons or entities, as defined in subsection (a)
608 of section 22a-132, in the proportion which the waste generated by
609 each such person bears to the aggregate waste generated by all such
610 persons. On June 1, 1992, each person subject to assessment pursuant
611 to this subsection shall submit a return to the Commissioner of
612 Revenue Services, on a form prescribed by the commissioner, together
613 with such assessment for the six-month period ending June 30, 1992.
614 Thereafter, beginning on July 1, 1992, such returns and assessments
615 shall be submitted quarterly] generators of hazardous waste in such
616 manner as the council shall deem appropriate. The [commissioner]
617 council shall deposit all payments received under this subsection with
618 the State Treasurer who shall credit such payments to the Siting
619 Council Fund established under section 16-50v. Such payments shall
620 be accounted for as expenses recovered from generators of hazardous
621 waste.

622 Sec. 18. Subsection (j) of section 38a-88a of the general statutes is
623 repealed and the following is substituted in lieu thereof:

624 (j) The tax credit allowed by this section shall only be available for
625 investments in funds that are not open to additional investments or
626 investors beyond the amount subscribed at the formation of the fund.
627 No credits shall be allowed under this section for investments in any

628 fund created on or after July 1, 2000. With respect to any fund created
629 before July 1, 2000, no credit shall be allowed under this section for
630 investments made in an insurance business through such fund after
631 December 31, 2010.

632 Sec. 19. Subparagraph (A) of subdivision (3) of section 38a-841 of the
633 general statutes is repealed and the following is substituted in lieu
634 thereof:

635 (3) (A) Each insurer paying an assessment under sections 38a-836 to
636 38a-853, inclusive, may offset one hundred per cent of the amount of
637 such assessment against its premium tax liability to this state under
638 chapter 207. Such offset shall be taken over a period of the five
639 successive tax years following the year of payment of the assessment,
640 at the rate of twenty per cent per year of the assessment paid to the
641 association. **[**Each insurer which has offset assessments paid to the
642 association from its premium tax liability to the state shall pay to the
643 state one hundred per cent of any sums which are acquired by refund
644 from the association pursuant to subdivision (2) of this section.**]** Each
645 insurer to which has been refunded by the association, pursuant to
646 subdivision (2) of this section, all or a portion of an assessment
647 previously paid to the association by the insurer shall be required to
648 pay to the Department of Revenue Services an amount equal to the
649 total amount that has been claimed as an offset against the premiums
650 tax liability on the premiums tax return or returns, as the case may be,
651 filed by such insurer and that is attributable to such refunded
652 assessment, provided the amount required to be paid to said
653 department shall not exceed the amount of the refunded assessment. If
654 the amount of the refunded assessment exceeds the total amount that
655 has been claimed as an offset against the premiums tax liability on the
656 premiums tax return or returns filed by such insurer and that is
657 attributable to such refunded assessment, such excess may not be
658 claimed as an offset against the premiums tax liability on a premiums
659 tax return or returns filed by such insurer or, if the offset has been

660 transferred to another person pursuant to subparagraph (B) of this
661 subdivision, by such other person. For purposes of this subparagraph,
662 if the offset has been transferred to another person pursuant to
663 subparagraph (B) of this subdivision, the total amount that has been
664 claimed as an offset against the premiums tax liability on the
665 premiums tax return or returns filed by such insurer includes the total
666 amount that has been claimed as an offset against the premiums tax
667 liability on the premiums tax return or returns filed by such other
668 person. The association shall promptly notify the [commissioner that
669 such refunds have been made] Commissioner of Revenue Services of
670 the name and address of the insurers to which such refunds have been
671 made, the amount of such refunds and the date on which such refunds
672 were mailed to such insurer. If the amount that an insurer is required
673 to pay to the Department of Revenue Services has not been so paid on
674 or before the forty-fifth day after the date of mailing of such refunds,
675 the insurer shall be liable for interest on such amount at the rate of one
676 per cent per month or fraction thereof from such forty-fifth day to the
677 date of payment.

678 Sec. 20. Subparagraph (B) of subdivision (3) of section 38a-841 of the
679 general statutes is repealed and the following is substituted in lieu
680 thereof:

681 (B) An insurer, in this subparagraph called "the transferor", may
682 transfer any offset provided under subparagraph (A) of this
683 subdivision to an affiliate, as defined in section 38a-1, of [that insurer]
684 the transferor. Any such transfer of the offset by the transferor and any
685 subsequent transfer or transfers of the same offset shall not affect the
686 obligation of the transferor to pay to the Department of Revenue
687 Services any sums which are acquired by refund from the association
688 pursuant to subdivision (2) of this section and which are required to be
689 paid to the Department of Revenue Services pursuant to subparagraph
690 (A) of this subdivision. Such offset may be taken by any transferee
691 only against the transferee's premium tax liability to this state under

692 chapter 207. The Commissioner of Revenue Services shall not allow
693 such offset to a transferee against its premium tax liability unless the
694 transferor, the affiliate to which the offset was originally transferred,
695 each subsequent transferor and each subsequent transferee have filed
696 such information as may be required on forms provided by said
697 commissioner with respect to any such transfer or transfers on or
698 before the due date of the premium tax return on which such offset
699 would have been taken by the transferor if no transfer had been made
700 by the transferor.

701 Sec. 21. Subdivision (1) of subsection (h) of section 38a-866 of the
702 general statutes is repealed and the following is substituted in lieu
703 thereof:

704 (h) (1) Each insurer paying an assessment under sections 38a-858 to
705 38a-875, inclusive, may offset one hundred per cent of the amount of
706 such assessment against its premium tax liability to this state under
707 chapter 207. Such offset shall be taken over a period of the five
708 successive tax years following the year of payment of the assessment,
709 at the rate of twenty per cent per year of the assessment paid to the
710 association. **[**Each insurer which has offset assessments paid to the
711 association against its premium tax liability to the state shall pay to the
712 Department of Revenue Services one hundred per cent of any sums
713 which are acquired by refund from the association pursuant to
714 subsection (f) of this section.**]** Each insurer to which has been refunded
715 by the association, pursuant to subsection (f) of this section, all or a
716 portion of an assessment previously paid to the association by the
717 insurer shall be required to pay to the Department of Revenue Services
718 an amount equal to the total amount that has been claimed as an offset
719 against the premiums tax liability on the premiums tax return or
720 returns, as the case may be, filed by such insurer and that is
721 attributable to such refunded assessment, provided the amount
722 required to be paid to said department shall not exceed the amount of
723 the refunded assessment. If the amount of the refunded assessment

724 exceeds the total amount that has been claimed as an offset against the
725 premiums tax liability on the premiums tax return or returns filed by
726 such insurer and that is attributable to such refunded assessment, such
727 excess may not be claimed as an offset against the premiums tax
728 liability on a premiums tax return or returns filed by such insurer or, if
729 the offset has been transferred to another person pursuant to
730 subdivision (2) of this subsection, by such other person. For purposes
731 of the subdivision, if the offset has been transferred to another person
732 pursuant to subdivision (2) of this subsection, the total amount that has
733 been claimed as an offset against the premiums tax liability on the
734 premiums tax return or returns filed by such insurer includes the total
735 amount that has been claimed as an offset against the premiums tax
736 liability on the premiums tax return or returns filed by such other
737 person. The association shall promptly notify the [commissioner]
738 Commissioner of Revenue Services of the name and address of the
739 insurers to which such refunds have been made, the amount of such
740 refunds, and the date on which such refunds were mailed to such
741 insurer. If the amount that an insurer is required to pay to the
742 Department of Revenue Services has not been so paid on or before the
743 [thirtieth] forty-fifth day after the date of mailing of such refunds, the
744 insurer shall be liable for interest on such amount at the rate of one per
745 cent per month or fraction thereof from such [thirtieth] forty-fifth day
746 to the date of payment.

747 Sec. 22. Subdivision (2) of subsection (h) of section 38a-866 of the
748 general statutes is repealed and the following is substituted in lieu
749 thereof:

750 (2) An insurer, in this subdivision called "the transferor", may
751 transfer any offset provided under subdivision (1) of this subsection to
752 an affiliate, as defined in section 38a-1, of [that insurer] the transferor.
753 Any such transfer of the offset by the transferor, and any subsequent
754 transfer or transfers of the same offset, shall not affect the obligation of
755 the transferor to pay to the Department of Revenue Services any sums

756 which are acquired by refund from the association pursuant to
757 subsection (f) of this section and which are required to be paid to the
758 Department of Revenue Services pursuant to subdivision (1) of this
759 subsection. Such offset may be taken by any transferee only against the
760 transferee's premium tax liability to this state under chapter 207. The
761 Commissioner of Revenue Services shall not allow such offset to a
762 transferee against its premium tax liability unless the transferor, the
763 affiliate to which the offset was originally transferred, each subsequent
764 transferor and each subsequent transferee have filed such information
765 as may be required on forms provided by said commissioner with
766 respect to any such transfer or transfers on or before the due date of
767 the premium tax return on which such offset would have been taken
768 by the transferor, if no transfer had been made by the transferor.

769 Sec. 23. If a court of competent jurisdiction enters a final judgment
770 on the merits that is based on federal law, is no longer subject to
771 appeal, and substantially limits or impairs the essential elements of
772 Sections 116 to 126, inclusive, of Title 4 of the United States Code, then
773 the amendment made by section 9 of this act to subsection (b) of
774 section 12-407a of the general statutes shall be invalid and have no
775 legal effect as of the date of entry of such judgment.

776 Sec. 24. The intent of the amendment made by section 15 of this act
777 to subdivision (19) of subsection (a) of section 12-701 of the general
778 statutes is to clarify that a natural person's adjusted gross income is not
779 further modified in determining such person's Connecticut adjusted
780 gross income for purposes of chapter 229 of the general statutes, except
781 as expressly provided in subdivision (20) of subsection (a) of said
782 section 12-701.

783 Sec. 25. Subsection (a) of section 12-314 of the general statutes is
784 repealed and the following is substituted in lieu thereof:

785 (a) (1) The sale of cigarettes other than in an unopened package
786 containing twenty or more cigarettes originating with the

787 manufacturer which bears the health warning required by law is
788 prohibited.

789 (2) If the Commissioner of Revenue Services finds, after a hearing,
790 that any dealer or distributor has violated the provisions of this
791 subsection, said commissioner may assess such person a civil penalty
792 of fifty dollars for a first offense, two hundred fifty dollars for a second
793 offense and five hundred dollars for a third or subsequent offense.
794 Such penalty may be in addition to any other penalty provided by law,
795 including, but not limited to, the suspension or revocation of the
796 license of such dealer or distributor pursuant to section 12-295. Any
797 person aggrieved by any action of said commissioner pursuant to this
798 subsection may take an appeal of such action as provided in sections
799 12-311 and 12-312.

800 Sec. 26. Subsection (7) of section 12-430 of the general statutes is
801 repealed and the following is substituted in lieu thereof:

802 (7) (a) (i) When a nonresident contractor enters into a contract with a
803 person other than a direct payment permit holder, as the term is used
804 in section 12-409a, pursuant to which, or in the carrying out of which,
805 tangible personal property will be consumed or used in this state, such
806 nonresident contractor shall deposit with the Commissioner of
807 Revenue Services at the commencement of such contract a sum
808 equivalent to five per cent of the total amount to be paid under the
809 contract or shall furnish the Commissioner of Revenue Services with a
810 guarantee bond satisfactory to said commissioner in a sum equivalent
811 to five per cent of such total amount, to secure payment of the taxes
812 payable with respect to tangible personal property consumed or used
813 pursuant to or in the carrying out of such contract or any other state
814 taxes, and shall obtain a certificate from the Commissioner of Revenue
815 Services that the requirements of this subsection have been met.

816 (ii) When a nonresident contractor enters into a contract with a
817 direct payment permit holder pursuant to which, or in the carrying out

818 of which, tangible personal property will be consumed or used in this
819 state, such nonresident contractor shall deposit with the Commissioner
820 of Revenue Services at the commencement of such contract a sum
821 equivalent to two per cent of the total amount to be paid under the
822 contract or shall furnish the Commissioner of Revenue Services with a
823 guarantee bond satisfactory to said commissioner in a sum equivalent
824 to two per cent of such total amount, to secure payment of the taxes
825 payable with respect to tangible personal property consumed or used
826 pursuant to or in the carrying out of such contract or any other state
827 taxes, and shall obtain a certificate from the Commissioner of Revenue
828 Services that the requirements of this subsection have been met.

829 (b) (i) Any person other than a direct payment permit holder
830 dealing with a nonresident contractor without first obtaining a copy of
831 such certificate from said commissioner shall no later than **[**thirty**]**
832 ninety days after the commencement of such contract or, if the contract
833 is to be completed in less than ninety days, no later than forty-five
834 days after the commencement of such contract deduct five per cent of
835 all amounts payable to such nonresident contractor and pay it over to
836 said commissioner on behalf of or as agent for such nonresident
837 contractor or shall furnish said commissioner with a guarantee bond
838 satisfactory to said commissioner in a sum equivalent to five per cent
839 of such total amount, to secure payment of the taxes payable with
840 respect to such tangible personal property consumed or used pursuant
841 to or in the carrying out of such contract or any other state taxes.

842 (ii) Any direct payment permit holder dealing with a nonresident
843 contractor without first obtaining a copy of such certificate from said
844 commissioner shall no later than **[**thirty**]** ninety days after the
845 commencement of such contract or, if the contract is to be completed in
846 less than ninety days, no later than forty-five days after the
847 commencement of such contract deduct two per cent of all amounts
848 payable to such nonresident contractor and pay it over to said
849 commissioner on behalf of or as agent for such nonresident contractor

850 or shall furnish said commissioner with a guarantee bond satisfactory
851 to said commissioner in a sum equivalent to two per cent of such total
852 amount, to secure payment of the taxes payable with respect to such
853 tangible personal property consumed or used pursuant to or in the
854 carrying out of such contract or any other state taxes.

855 (c) If any person dealing with such nonresident contractor fails to
856 comply with subdivision (b) of this subsection, such person shall be
857 personally liable for payment of the taxes imposed by this chapter with
858 respect to such tangible personal property consumed or used pursuant
859 to or in carrying out such contract or any other state taxes.

860 (d) When a nonresident contractor enters into a contract with the
861 state, said contractor shall provide the Labor Department with
862 evidence demonstrating compliance with the provisions of chapters
863 567 and 568, the prevailing wage requirements of chapter 557 and any
864 other provisions of the general statutes related to conditions of
865 employment.

866 Sec. 27. Subdivision (20) of subsection (a) of section 12-701 of the
867 general statutes is repealed and the following is substituted in lieu
868 thereof:

869 (20) "Connecticut adjusted gross income" means adjusted gross
870 income, with the following modifications:

871 (A) There shall be added thereto (i) to the extent not properly
872 includable in gross income for federal income tax purposes, any
873 interest income from obligations issued by or on behalf of any state,
874 political subdivision thereof, or public instrumentality, state or local
875 authority, district or similar public entity, exclusive of such income
876 from obligations issued by or on behalf of the state of Connecticut, any
877 political subdivision thereof, or public instrumentality, state or local
878 authority, district or similar public entity created under the laws of the
879 state of Connecticut and exclusive of any such income with respect to

880 which taxation by any state is prohibited by federal law, (ii) any
881 exempt-interest dividends, as defined in Section 852(b)(5) of the
882 Internal Revenue Code, exclusive of such exempt-interest dividends
883 derived from obligations issued by or on behalf of the state of
884 Connecticut, any political subdivision thereof, or public
885 instrumentality, state or local authority, district or similar public entity
886 created under the laws of the state of Connecticut and exclusive of
887 such exempt-interest dividends derived from obligations, the income
888 with respect to which taxation by any state is prohibited by federal
889 law, (iii) any interest or dividend income on obligations or securities of
890 any authority, commission or instrumentality of the United States
891 which federal law exempts from federal income tax but does not
892 exempt from state income taxes, (iv) to the extent included in gross
893 income for federal income tax purposes for the taxable year, the total
894 taxable amount of a lump sum distribution for the taxable year
895 deductible from such gross income in calculating federal adjusted
896 gross income, (v) to the extent properly includable in determining the
897 net gain or loss from the sale or other disposition of capital assets for
898 federal income tax purposes, any loss from the sale or exchange of
899 obligations issued by or on behalf of the state of Connecticut, any
900 political subdivision thereof, or public instrumentality, state or local
901 authority, district or similar public entity created under the laws of the
902 state of Connecticut, in the income year such loss was recognized, (vi)
903 to the extent deductible in determining federal adjusted gross income,
904 any income taxes imposed by this state, (vii) to the extent deductible in
905 determining federal adjusted gross income, any interest on
906 indebtedness incurred or continued to purchase or carry obligations or
907 securities the interest on which is exempt from tax under this chapter
908 and (viii) expenses paid or incurred during the taxable year for the
909 production or collection of income which is exempt from taxation
910 under this chapter or the management, conservation or maintenance of
911 property held for the production of such income, and the amortizable
912 bond premium for the taxable year on any bond the interest on which

913 is exempt from tax under this chapter to the extent that such expenses
914 and premiums are deductible in determining federal adjusted gross
915 income.

916 (B) There shall be subtracted therefrom (i) to the extent properly
917 includable in gross income for federal income tax purposes, any
918 income with respect to which taxation by any state is prohibited by
919 federal law, (ii) to the extent allowable under section 12-718, exempt
920 dividends paid by a regulated investment company, (iii) the amount of
921 any refund or credit for overpayment of income taxes imposed by this
922 state, or any other state of the United States or a political subdivision
923 thereof, or the District of Columbia, to the extent properly includable
924 in gross income for federal income tax purposes, (iv) to the extent
925 properly includable in gross income for federal income tax purposes,
926 any tier 1 railroad retirement benefits, (v) with respect to any natural
927 person who is a shareholder of an S corporation which is carrying on,
928 or which has the right to carry on, business in this state, as said term is
929 used in section 12-214, the amount of such shareholder's pro rata share
930 of such corporation's nonseparately computed items, as defined in
931 Section 1366 of the Internal Revenue Code, that is subject to tax under
932 chapter 208, in accordance with subsection (c) of section 12-217,
933 multiplied by such corporation's apportionment fraction, if any, as
934 determined in accordance with section 12-218, (vi) to the extent
935 properly includable in gross income for federal income tax purposes,
936 any interest income from obligations issued by or on behalf of the state
937 of Connecticut, any political subdivision thereof, or public
938 instrumentality, state or local authority, district or similar public entity
939 created under the laws of the state of Connecticut, (vii) to the extent
940 properly includable in determining the net gain or loss from the sale or
941 other disposition of capital assets for federal income tax purposes, any
942 gain from the sale or exchange of obligations issued by or on behalf of
943 the state of Connecticut, any political subdivision thereof, or public
944 instrumentality, state or local authority, district or similar public entity
945 created under the laws of the state of Connecticut, in the income year

946 such gain was recognized, (viii) any interest on indebtedness incurred
947 or continued to purchase or carry obligations or securities the interest
948 on which is subject to tax under this chapter but exempt from federal
949 income tax, to the extent that such interest on indebtedness is not
950 deductible in determining federal adjusted gross income and is
951 attributable to a trade or business carried on by such individual, (ix)
952 ordinary and necessary expenses paid or incurred during the taxable
953 year for the production or collection of income which is subject to
954 taxation under this chapter but exempt from federal income tax, or the
955 management, conservation or maintenance of property held for the
956 production of such income, and the amortizable bond premium for the
957 taxable year on any bond the interest on which is subject to tax under
958 this chapter but exempt from federal income tax, to the extent that
959 such expenses and premiums are not deductible in determining federal
960 adjusted gross income and are attributable to a trade or business
961 carried on by such individual, (x) (I) for a person who files a return
962 under the federal income tax as an unmarried individual whose
963 federal adjusted gross income for such taxable year is less than fifty
964 thousand dollars, or as a married individual filing separately whose
965 federal adjusted gross income for such taxable year is less than fifty
966 thousand dollars, or for a husband and wife who file a return under
967 the federal income tax as married individuals filing jointly whose
968 federal adjusted gross income for such taxable year is less than sixty
969 thousand dollars or a person who files a return under the federal
970 income tax as a head of household whose federal adjusted gross
971 income for such taxable year is less than sixty thousand dollars, an
972 amount equal to the Social Security benefits includable for federal
973 income tax purposes; and (II) for a person who files a return under the
974 federal income tax as an unmarried individual whose federal adjusted
975 gross income for such taxable year is fifty thousand dollars or more, or
976 as a married individual filing separately whose federal adjusted gross
977 income for such taxable year is fifty thousand dollars or more, or for a
978 husband and wife who file a return under the federal income tax as

979 married individuals filing jointly whose federal adjusted gross income
980 from such taxable year is sixty thousand dollars or more or for a
981 person who files a return under the federal income tax as a head of
982 household whose federal adjusted gross income for such taxable year
983 is sixty thousand dollars or more, an amount equal to the difference
984 between the amount of Social Security benefits includable for federal
985 income tax purposes and the lesser of twenty-five per cent of the Social
986 Security benefits received during the taxable year, or twenty-five per
987 cent of the excess described in Section 86(b)(1) of the Internal Revenue
988 Code, (xi) to the extent properly includable in gross income for federal
989 income tax purposes, any amount rebated to a taxpayer pursuant to
990 section 12-746, (xii) to the extent properly includable in the gross
991 income for federal income tax purposes of a designated beneficiary,
992 any distribution to such beneficiary from any qualified state tuition
993 program, as defined in Section 529(b) of the Internal Revenue Code,
994 established and maintained by this state or any official, agency or
995 instrumentality of the state, (xiii) to the extent properly includable in
996 gross income for federal income tax purposes, the amount of any
997 Holocaust victims' settlement payment received in the taxable year by
998 a Holocaust victim, **[**and**]** (xiv) to the extent properly includable in
999 gross income for federal income tax purposes of an account holder, as
1000 defined in section 31-51ww, interest earned on funds deposited in the
1001 individual development account, as defined in section 31-51ww, of
1002 such account holder, and (xv) to the extent properly includable in
1003 gross income for federal income tax purposes, the amount of any
1004 reimbursement received from insurance or other sources by a taxpayer
1005 for expenses that were paid by the taxpayer during a preceding taxable
1006 year for medical care and that were allowed as a deduction for such
1007 year under Section 213 of the Internal Revenue Code.

1008 (C) With respect to a person who is the beneficiary of a trust or
1009 estate, there shall be added or subtracted, as the case may be, from
1010 adjusted gross income such person's share, as determined under
1011 section 12-714, in the Connecticut fiduciary adjustment.

1012 Sec. 28. This act shall take effect from its passage, except that
1013 sections 2 and 4 shall apply to income years commencing on or after
1014 January 1, 2001, with respect to the petitions filed on or after October 1,
1015 2001; section 3 shall apply to income years commencing on or after
1016 January 1, 2001; sections 6, 12, 14, 17, 19 and 21 shall take effect July 1,
1017 2001; section 11 shall apply to quarterly periods commencing on or
1018 after October 1, 2001; section 13 shall take effect July 1, 2001, and shall
1019 apply to payments required to be made on or after said date; section 9
1020 shall apply only to customer bills issued after the first day of the first
1021 month beginning more than two years after the date of enactment of
1022 Public Law No. 106-252; section 10 shall take effect October 1, 2001,
1023 and shall apply to sales or purchases made on or after said date;
1024 section 15 shall apply to all open tax periods; section 16 shall apply to
1025 taxable years commencing on or after January 1, 2001; sections 20 and
1026 22 shall apply to calendar years commencing on or after January 1,
1027 2001; and sections 5, 7 and 8 shall take effect January 1, 2002.

FIN *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Department of Revenue Services

Municipal Impact: None

Explanation

State Impact:

The bill results in an annual net General Fund revenue gain of approximately $355,000 beginning in FY 02.

The table below presents the various sections of the bill that have a fiscal impact. Sections 2, 8, 10, 12, 13, 14, 17, and 26 are either technical or make changes that conform the law to current DRS policies and therefore have no fiscal impact.

Section	Fiscal Impact
1	DRS will incur some minimal costs (less than $10,000) to publish a list of names and addresses of people entitled to refunds.
3 & 4	Giving corporations additional time to file is anticipated to have a minimal negative cash flow impact to the state.

Section	Fiscal Impact
5 & 7	The change contained in these sections is expected to have a minimal (less than $5,000/yr) revenue gain to the Cigarette Tax.
6	There is a potential revenue gain from penalties imposed on a business that is found in violation of locating a cigarette machine where a minor can obtain access.
9 & 23	These sections preclude a revenue loss because if the state does not comply with federal regulations it jeopardizes the state's ability to administer and collect taxes on cellular mobile phone calls.
11	Lowering the threshold before a refiner or distributor must pay the petroleum gross earnings tax is anticipated to result in a minimal revenue gain (less than $100,000/yr).
15 & 24	These sections preclude a revenue loss because they prevent adjustments to gross income that are not expressly allowed by law.
16	This section is anticipated to result in a net revenue gain of $350,000 per year. The estimated gain from taxing out-of-state residents that win the CT lottery is $500,00 per year, which is offset by a loss of $150,000 per year from CT residents claiming credit for taxes paid to other jurisdictions on out-of-state lottery winnings.
18	Since the section eliminates tax credits for investments made after December 2010, it may preclude future revenue losses after 2020 (current law requires that all credits must be claimed no later than 10 years after the

Section	Fiscal Impact
	investment is made).
19-22	Giving companies additional time to make repayments is anticipated to have a minimal negative cash flow impact to the state.
25	There is a potential revenue gain from penalties imposed if a dealer or distributor sells cigarettes in less than 20 per package.
27	Allowing an adjustment to a taxpayer's gross income for any insurance or reimbursement for certain medical expenses results in a minimal revenue loss (less than $100,000/yr).

OLR BILL ANALYSIS
sSB 1182

AN ACT CONCERNING VARIOUS TAX LAWS ADMINISTERED BY THE DEPARTMENT OF REVENUE SERVICES.

SUMMARY:
This bill changes the way many state tax laws are administered and applied. Among other things, it:

1. subjects people from out-of state to Connecticut income tax on Connecticut lottery winnings, if they win more than $5,000, and gives Connecticut residents who win another state's lottery a corresponding credit against Connecticut income tax for any income tax they pay the other state;

2. allows the Department of Revenue Services (DRS) commissioner, after a hearing, to fine a cigarette dealer or distributor who sells loose cigarettes;

3. eliminates tax credits for investments made after December 31, 2010 in Connecticut-based insurance companies through state-registered investment funds;

4. changes the criteria for applying the sales tax to cellular mobile phone service to conform to federal law;

5. reduces the threshold above which a company that is not a petroleum refiner or distributor must pay the petroleum products tax; and

6. allows the DRS commissioner to publish the names and addresses of taxpayers entitled to refunds when he cannot locate them any other way.

EFFECTIVE DATE: Upon passage unless noted in the applicable sections below.

INCOME TAX

Lottery Winnings (§ 16)

The bill imposes the Connecticut income tax on a nonresident's Connecticut lottery winnings if he wins over $5,000 in a lottery run by the Connecticut Lottery Corporation. By making this change, the bill has the simultaneous effect of giving a Connecticut resident who wins more than $5,000 in another state's lottery a credit against his Connecticut income tax for any income taxes he must pay in the other state on his winnings.

This provision applies to taxable years beginning on or after January 1, 2001.

Adjustment for Medical Expense Reimbursements (§ 27)

The bill allows a taxpayer to subtract from his adjusted gross income for Connecticut income tax purposes any insurance or other reimbursement he receives for medical expenses deducted from federal taxes in a prior year and reported as income on his federal return for the current year. Under current law, a taxpayer must report such a reimbursement as additional income in the current year for state tax purposes. Since the reimbursement is already reflected in his federal adjusted gross income, the current law results in its being counted twice in his Connecticut adjusted gross income.

Definition of Adjusted Gross Income (§§ 15 & 24)

The bill specifies that the starting point for determining a taxpayer's Connecticut adjusted gross income is the federal adjusted gross income he reported on his federal return. The Connecticut Supreme Court has held that a taxpayer may adjust his adjusted gross income to account for federal deductions in a prior year that produced no corresponding Connecticut tax benefit to him in that year (*Berkley v. Gavin*, 253 Conn. 761 (July 2000)). This bill makes it clear that the only permissible adjustments to Connecticut adjusted gross income are those specified

in state law.

This provision (§ 15) applies to all open tax periods.

The bill states that the change in the definition of a taxpayer's adjusted gross income for state income tax purposes is intended to clarify existing law.

CIGARETTE AND TOBACCO PRODUCTS TAXES

Penalty for Selling Loose Cigarettes (§ 25)

The bill allows the DRS commissioner to impose a civil penalty on cigarette dealers and distributors who sell cigarettes in any form other than in sealed packages of 20 or more. The penalty is $50 for a first offense, $250 for a second, and $500 for a third or subsequent offense. The fine is in addition to existing penalties, including suspension or revocation of the dealer's or distributor's license to sell cigarettes.

The bill allows a dealer or distributor to appeal the commissioner's decision to impose the fine to Superior Court according to the same procedures for appealing other cigarette licensing and tax decisions.

Penalty for Selling Cigarettes to Minors (§ 6)

The bill penalizes owners of establishments with cigarette vending machines rather than cigarette dealers or distributors when minors have access to cigarettes from the machines. The penalty is a civil fine of $250 for a first violation, $500 for a second within 18 months, and $500 and removal of all machines for one year for a third. Another law imposes a penalty on cigarette dealers and distributors who sell to minors.

This provision takes effect July 1, 2001.

"Roll Your Own" Tobacco (§§ 5 & 7)

The bill applies the cigarette tax instead of the tobacco products tax to "roll your own" tobacco, with each .09 ounces of such tobacco counting as one cigarette. The cigarette tax is 25 mills per cigarette or

$.50 for each pack of 20. The tobacco products tax is 20% of the wholesale price. "Roll your own" tobacco is tobacco that, by its appearance, type, label, or package, is suitable and likely to be bought and sold for making cigarettes.

This provision takes effect January 1, 2002.

Tax Stamps (§5)

The bill updates language concerning the types of stamps DRS can sell to cigarette dealers and distributors to put on cigarette packages to show they have paid the tax. It eliminates references to impressions by metering machines and substitutes heat-applied decals. DRS has been allowed to use decals since 1993.

This provision takes effect January 1, 2002.

Snuff Tobacco (§§ 7 & 8)

The bill requires that, in order to be taxed by weight rather than wholesale price, snuff tobacco must have the words "snuff" or "snuff flour," the federal tax designation "Tax Class M," or both printed on the package.

These provisions take effect January 1, 2002.

SALES TAX

Cell Phone Calls (§§ 9 & 23)

Basis for Applying Tax. The bill changes the criteria for determining when the Connecticut sales tax applies to cellular mobile phone and related services. Instead of taxing a completed cell phone call based on whether the first cell site used to transmit it is in Connecticut, the bill taxes all charges for cell phone service billed by or for a customer's home service provider, if the street address where the customer's cell phone usage primarily occurs ("place of primary use") is in Connecticut. The home service provider is the company that contracts with the customer to provide the cell phone service.

The change makes state law conform to the federal Mobile Telecommunications Sourcing Act, which as of July 28, 2002, bars a state or local government from taxing cell phone service if the customer's place of primary use is not within its taxing jurisdiction (PL 106-274, 4 USC 116-126).

Home Service Provider and Place of Primary Use. Under federal law and the bill, the home service provider is responsible for obtaining and maintaining a record of each customer's place of primary use. The provider may rely in good faith on the address the customer gives it and may continue to use any address it has for the customer in any service contract in effect on July 28, 2002, unless the DRS commissioner notifies it of a different address. Before notifying the provider, DRS must give the customer a chance to prove the address he gave the provider is his place of primary use.

Electronic Database. Federal law and this bill allow DRS to provide home service providers with an electronic database that meets certain technological standards and that shows the street addresses that fall within the state so the providers may determine the correct taxing jurisdictions for their customers. If DRS does not provide a database, the home service provider is not responsible for tax mistakes as long as it uses nine-digit zip codes to assign addresses to taxing jurisdictions and tries diligently to assign addresses to the correct jurisdictions.

Customer Appeals. A customer who believes his tax rate or his assigned tax jurisdiction is wrong must notify his provider in writing. He must include his correct primary use address, the name and account number for which he is requesting the correction, and any other information the provider reasonably requires. The provider must review its records within 60 days. If it finds a mistake, it must correct it and refund any tax overpayment. If it finds no mistake, it must give the customer a written explanation.

The provider's liability for erroneous tax payment refunds applies for two years from the date of the customer's written notice of overpayment. A customer who is not satisfied and who exhausts the provider's appeal procedures may file for a refund with DRS within three years of the last overpayment.

Taxable and Nontaxable Services. The bill states that nontaxable cell phone service may be taxed unless the provider can reasonably separate the nontaxable services using its regular books and records. A customer cannot rely on certain services not being taxed unless (1) the charges for nontaxable services are stated separately or (2) the provider decides, after receiving a written request from a customer in whatever form it requires, to provide verifiable data from its regular records that identifies nontaxable charges.

Effective Date. These tax changes (§ 9) apply to customer bills issued after August 1, 2002 (the first day of the first month beginning more than two years after the July 28, 2000 enactment date of the federal law).

Savings Clause (§ 23). The bill states that its changes in how cell phone service is taxed are invalid if a court renders a final judgment on the merits of the federal Mobile Telecommunications Sourcing Act that substantially limits or invalidates its essential elements and the judgment cannot be appealed. In that case, the bill's changes are invalid as of the date of the final judgment.

Exemption for Indian Tribes (§ 10)

The bill extends a sales tax exemption that already applies to certain services rendered between affiliated business entities to include the same services rendered between federally recognized Indian tribes and their affiliated business entities. The exemption covers transactions (1) between a tribe and a business entity it controls or (2) between two or more business entities the tribe controls. The exemption applies to such taxable services as computer and data processing, management consulting, business analysis, and telecommunications and cable television service.

This provision takes effect October 1, 2001 and applies to sales and purchases made on or after that date.

Security Requirements for Out-of-State Contractors (§ 26)

The bill extends the deadline for a person who hires an out-of-state contractor to post security with DRS to guarantee payment of sales tax

on property to be consumed in fulfilling the contract. By law, the person hiring the contractor must post the security if the contractor does not. For contracts lasting longer than 90 days, the bill extends the deadline from 30 to 90 days after the contract starts. For shorter contracts, the bill extends the deadline from 30 to 45 days after the contract starts.

PETROLEUM PRODUCTS TAX (§ 11)

The bill reduces the threshold above which a company that is not a petroleum refiner or distributor must pay the petroleum products tax from more than $100,000 worth of petroleum products imports per quarter to more than $3,000. The tax is payable on the consideration the company gives for the petroleum products it imports that exceed the threshold.

This provision applies to quarters beginning on or after October 1, 2001.

BUSINESS TAX CREDITS

Insurance Reinvestment Funds (§ 18)

The bill eliminates premium, corporation, and personal income tax credits for investments in Connecticut-based insurance companies made after December 31, 2010 through state-registered investment funds. Under current law, no credits are allowed for investments made through funds formed on or after July 1, 2000.

Insurance Guaranty Fund Assessment Refunds (§§ 19 & 21)

The bill revises the refund provisions of PA 00-170 that allow insurance companies to take credits against premium tax for assessments paid to the Connecticut Insurance Guaranty Association (CIGA) and the Connecticut Life and Health Insurance Guaranty Association (CLIGA). PA 00-170 requires insurers to take credits over five years at 20% of the assessment per year and to repay credits if either guaranty association refunds the assessment.

The bill makes several changes. Instead of requiring an insurer to pay

the state 100% of any refund, it requires repayment only for the credits attributable to the refund the insurer has already taken. It prohibits an insurer from taking a credit for any part of an assessment that has already been refunded. And it applies the 1% per month interest penalty if insurers fail to repay credits after a CLIGA refund within 45, rather than 30, days after the association mails the refund.

The bill requires CIGA to notify the DRS commissioner not just that it has made a refund, but also of the names and addresses of the insurers that received them, the refund amounts, and the date they were made. It subjects insurers who fail to repay credits within 45 days after a CIGA refund is mailed to the 1% per month interest penalty. These enhanced notice requirements and interest penalties match those that PA 00-170 applied to CLIGA refunds.

These provisions take effect July 1, 2001.

Insurance Guaranty Association Credit Transfers (§§ 20 & 22)

PA 00-170 allows insurers to transfer guaranty association credits to affiliates. The bill states that the transfer does not affect the insurer's obligation to repay credits when it receives a refund. It also specifies that a transferee can only use the transferred credits to offset its own premium tax liability.

Finally, the bill prohibits transferees from taking advantage of the credits unless the insurer, the affiliate, and any subsequent transferors and transferees file information concerning the transfer with DRS by the due date of the premium tax return on which the transferor would have taken the credit. It requires DRS to provide forms for the filings.

These provisions apply to calendar years beginning on or after January 1, 2001.

CORPORATION TAX

Single-Factor Apportionment for Financial Services Companies (§ 2)

The bill imposes a deadline by which a multi-state company that

engages in certain financial services activities must submit a written petition to the DRS commissioner to be included or excluded from the requirement to use receipts as the single factor in apportioning its net income for the state corporation tax. The deadline is 60 days before the due date, including extensions, of the return to which the petition applies. The commissioner must grant or deny the petition before the due date.

This provision applies to income years beginning on and after January 1, 2001 with respect to petitions filed on or after October 1, 2001.

Tax Returns (§ 3)

The bill changes the due date for corporation tax returns from the first day of the fourth month after the end of the company's income year to the first day of the month after its federal return for the same year is due, excluding extensions. For companies not required to file a federal return, the bill establishes the first day of the month after the end of its income year as the filing deadline.

By law, when the DRS commissioner grants an extension for filing a final corporation tax return, the company must pay the tax shown on its tentative return. If the difference between that amount and the amount shown on its final return is 10% or less and the company pays the final amount when it files its final return, there is no penalty. This bill specifies that, in order to avoid a penalty, a taxpayer must submit its final return and payment by the extended due date.

The bill also removes obsolete references to corporation tax filing deadlines for S corporations. S corporations are no longer subject to the corporation tax.

This provision applies to income years starting on or after January 1, 2001.

Tax Returns for Affiliated Companies (§ 4)

The bill requires the deadline for affiliated companies to petition DRS to use an alternate method of determining their combined tax to be counted back from any extension of the due date for their combined

return. As under current law, the deadline is 60 days prior to the return's due date.

This provision applies to income years beginning on and after January 1, 2001 with respect to petitions filed on or after October 1, 2001.

DRS PROCEDURES

Taxpayer Names and Addresses (§ 1)

The bill allows the DRS commissioner to publish the names and addresses of taxpayers in order to notify them that they are entitled to refunds if he has not been able to locate them after reasonable time and effort. Taxpayer information is currently confidential in most cases.

Neighborhood Assistance Act Program Lists (§ 12)

The bill gives a municipality an extra 15 days, from July 1 to July 16, to submit to the DRS commissioner its annual list of programs to which businesses may make donations eligible for business tax credits under the Neighborhood Assistance Act. If the municipality submits its list after July 1, it must (1) explain why it failed to send the list in by July 1 and (2) prove that it held the required public hearing on the list and that its local legislative body approved it by July 1.

This provision takes effect July 1, 2001.

Electronic Tax Payments and Document Filings (§§ 13 & 14)

Under the bill, a tax payment made via electronic funds transfer is considered timely if the transfer is initiated on or before the due date, even if the funds are not credited to the DRS-designated bank account until later. This provision takes effect July 1, 2001 and applies to payments required to be made on and after that date.

The bill also allows a person to file documents with DRS by computer or by any new technology that may be developed as long as the person and the DRS commissioner agree that DRS may send documents and notices to the person by the same means. This provision takes effect July 1, 2001.

Connecticut Siting Council Expenses (§ 17)

The bill transfers responsibility for apportioning and assessing hazardous waste generators for the Connecticut Siting Council's annual expenses from the DRS commissioner to the council. It requires the council rather than the commissioner to deposit the payments with the state treasurer. The bill also eliminates the requirement that the expenses be apportioned according to each generator's share of total hazardous waste generated and that generators submit quarterly returns. Instead, it leaves the apportionment method and the payment schedule to the council's discretion.

This provision takes effect July 1, 2001.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 45 Nay 0