



General Assembly

January Session, 2001

**Raised Bill No. 1024**

LCO No. 3064

Referred to Committee on Public Health

Introduced by:  
(PH)

**AN ACT CONCERNING CERTIFICATES OF NEED ISSUED BY THE OFFICE OF HEALTH CARE ACCESS.**

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

1 Section 1. Subsection (a) of section 19a-637 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (a) In any of its deliberations involving a proposal [ ] or request [or  
4 submission] regarding [rates or] the acquisition of major medical  
5 equipment, a capital construction project or services by a health care  
6 facility or institution, the office shall take into consideration and make  
7 written findings concerning each of the following: [principles and  
8 guidelines:] (1) The relationship of the proposal [ ] or request [or  
9 submission] to the state health plan; (2) the relationship of the proposal  
10 [ ] or request [or submission] to the applicant's long-range plan; (3) the  
11 financial feasibility of the proposal [ ] or request [or submission] and  
12 its impact on the applicant's [rates and] financial condition; (4) the  
13 impact of such proposal [ ] or request [or submission] on the interests  
14 of consumers [of health care services and the payers for such] and  
15 payers of health care services; [the contribution of such proposal,  
16 request or submission to the quality, accessibility and cost-

17 effectiveness of health care delivery in the region;] (5) whether there is  
18 a clear public need for [any] the proposal or request [;] as  
19 demonstrated by the contribution of such proposal to the quality,  
20 accessibility and cost-effectiveness of health care delivery in the state  
21 considering the applicant's current and projected utilization statistics;  
22 and (6) whether the health care facility or institution is competent to  
23 provide efficient and adequate service to the public in that such health  
24 care facility or institution is technically, financially and managerially  
25 expert and efficient. [; that rates be sufficient to allow the health care  
26 facility or institution to cover its reasonable capital and operating costs;  
27 the relationship of any proposed change to the applicant's current  
28 utilization statistics; the teaching and research responsibilities of the  
29 applicant; the special characteristics of the patient-physician mix of the  
30 applicant; the voluntary efforts of the applicant in improving  
31 productivity and containing costs; and any other factors which the  
32 office deems relevant, including, in the case of a facility or institution  
33 as defined in subsection (c) of section 19a-490, such factors as, but not  
34 limited to, the business interests of all owners, partners, associates,  
35 incorporators, directors, sponsors, stockholders and operators and the  
36 personal backgrounds of such persons. Whenever the granting,  
37 modification or denial of a request is inconsistent with the state health  
38 plan, a written explanation of the reasons for the inconsistency shall be  
39 included in the decision.] In any further deliberations involving such  
40 proposal or request, the office may consider any other factors that the  
41 office deems relevant, including, but not limited to, the teaching and  
42 research responsibilities of the applicant, the special characteristics of  
43 the patient-physician mix of the applicant and the voluntary efforts of  
44 the applicant in improving productivity and containing costs. In the  
45 case of a facility or institution set forth in subsection (c) of section 19a-  
46 490, the office may consider, but shall not be limited to consideration  
47 of, such factors as the business interests of all owners, partners,  
48 associates, incorporators, directors, sponsors, stockholders and  
49 operators of such facility or institution and the personal backgrounds  
50 of such persons.

51 Sec. 2. Section 19a-638 of the general statutes is repealed and the  
52 following is substituted in lieu thereof:

53 (a) Except as provided in sections 19a-639a to 19a-639d, inclusive:

54 (1) Each health care facility or institution, that intends to (A) transfer  
55 all or part of its ownership or control, (B) change the governing powers  
56 of the board of a parent company or an affiliate, whatever its  
57 designation, or (C) change or transfer the powers or control of a  
58 governing or controlling body of an affiliate, shall submit to the office,  
59 prior to the proposed date of such transfer or change, a request for  
60 permission to undertake such transfer or change.

61 (2) (A) Each health care facility or institution or state health care  
62 facility or institution, including any inpatient rehabilitation facility,  
63 which intends to introduce any additional function or service into its  
64 program of health care shall submit to the office, prior to the proposed  
65 date of the institution of such function or service, a request for  
66 permission to undertake such function or service.

67 (B) Each health care facility or institution, state health care facility or  
68 institution, provider or other person that intends to commence any  
69 magnetic resonance imaging service shall submit to the office, prior to  
70 the proposed date of the commencement of such service, a request for  
71 permission to undertake such service in accordance with section 8 of  
72 this act.

73 (3) Each health care facility or institution or state health care facility  
74 or institution which intends to terminate a health service offered by  
75 such facility or institution or decrease substantially its total bed  
76 capacity [ ] or a health service shall submit to the office, prior to the  
77 proposed date of such termination or decrease, a request to undertake  
78 such termination or decrease.

79 (4) Each applicant, prior to submitting a certificate of need  
80 application under this section, section 19a-639, as amended by this act,

81 or under both sections, shall submit a [request, in writing, for  
82 application forms and instructions to the office. The request shall be  
83 known as a letter of intent. A] written letter of intent that shall include:  
84 (A) The name of the applicant or applicants; (B) a statement indicating  
85 whether the application is for a new, replacement or additional facility,  
86 service or function, the expansion or relocation of an existing facility,  
87 service or function, a change in ownership or control, a termination of  
88 a service or a reduction in licensed bed capacity and the bed type, any  
89 new or additional beds and their type, a capital expenditure over [one]  
90 three million dollars, the acquisition of major medical equipment,  
91 imaging equipment or a linear accelerator costing over [four hundred  
92 thousand] one million dollars, the acquisition of magnetic resonance  
93 imaging equipment regardless of its value or cost, or any combination  
94 thereof; (C) the estimated capital cost, value or expenditure; (D) the  
95 town where the project is or will be located; [and] (E) a brief  
96 description of the proposed project; and (F) any other information that  
97 the office may require. No certificate of need application will be  
98 considered submitted to the office unless a current letter of intent,  
99 specific to the proposal and in compliance with this subsection, has  
100 been on file with the office for at least [sixty] thirty days. A current  
101 letter of intent is a letter of intent which has been on file at the office up  
102 to and including one hundred twenty days, except that an applicant  
103 may request a one-time extension of a letter of intent of up to an  
104 additional thirty days for a maximum total of up to one hundred fifty  
105 days if, prior to the expiration of the current letter of intent, the office  
106 receives a written request to so extend the letter of intent's current  
107 status. The extension request shall fully explain why an extension is  
108 requested. The office shall accept or reject the extension request within  
109 five business days and shall so notify the applicant.

110 (b) The office shall make such review of a request made pursuant to  
111 subdivision (1), (2) or (3) of subsection (a) of this section as it deems  
112 necessary. In the case of a proposed transfer of ownership or control,  
113 the review shall include, but not be limited to, the financial  
114 responsibility and business interests of the transferee and the ability of

115 the institution to continue to provide needed services or, in the case of  
116 the introduction of a new or additional function or service expansion  
117 or the termination of a service or function, ascertaining the availability  
118 of such service or function at other inpatient rehabilitation facilities,  
119 health care facilities or institutions or state health care facilities or  
120 institutions or other providers within the area to be served, the need  
121 for such service or function within such area and any other factors  
122 which the office deems relevant to a determination of whether the  
123 facility or institution is justified in introducing or terminating such  
124 functions or services into or from its program. The office shall grant,  
125 modify or deny such request within ninety days of the receipt of a  
126 complete application, except as provided for in this section. Upon the  
127 request of the applicant, the review period may be extended for an  
128 additional fifteen days if the office has requested additional  
129 information subsequent to the commencement of the review period.  
130 The commissioner may extend the review period for a maximum of  
131 thirty days if the applicant has not filed in a timely manner  
132 information deemed necessary by the office. Failure of the office to act  
133 on such request within such review period shall be deemed approval  
134 thereof. [The ninety-day review period, pursuant to this subsection, for  
135 an application filed by a hospital, as defined in section 19a-490, and  
136 licensed as a short-term acute-care general hospital or children's  
137 hospital by the Department of Public Health or an affiliate of such a  
138 hospital or any combination thereof, shall not apply if, in the certificate  
139 of need application or request, the hospital or applicant projects either  
140 (1) that, for the first three years of operation taken together, the total  
141 impact of the proposal on the operating budget of the hospital or an  
142 affiliate of such a hospital or any combination thereof will exceed one  
143 per cent of the actual operating expenses of the hospital for the most  
144 recently completed fiscal year as filed with or determined by the office,  
145 or (2) that the total capital expenditure for the project will exceed  
146 fifteen million dollars. If the office determines that an application is not  
147 subject to the ninety-day review period pursuant to this subsection, it  
148 shall remain so excluded for the entire review period of that

149 application, even if the application or circumstances change and the  
150 application no longer meets the stated terms of the exclusion.] Upon a  
151 showing by such facility or institution that the need for such function,  
152 service or termination or change of ownership or control is of an  
153 emergency nature, in that the function, service or termination or  
154 change of ownership or control is necessary to comply with  
155 requirements of any federal, state or local health, fire, building or life  
156 safety code, the commissioner may waive the letter of intent  
157 requirement, provided such request shall be submitted at least ten  
158 business days before the proposed date of institution of the function,  
159 service or termination or change of ownership or control.

160 (c) (1) In cases where the commissioner determines that a proposal  
161 subject to subdivision (1) or (2) of subsection (a) of this section has or  
162 will have a minimal impact on the quality, access, cost or availability of  
163 health care in the state, the office may waive the application and  
164 hearing process and issue a certificate of need thirty days after receipt  
165 of a properly executed and filed letter of intent for such proposal,  
166 provided (A) the office has published a notice in accordance with  
167 section 9 of this act, and (B) the office has not received a request for a  
168 public hearing on the proposal within fourteen days of the date of  
169 publication of such notice. A certificate of need issued under this  
170 subsection shall include the finding that the proposal will have a  
171 minimal impact on the quality, access, cost or availability of health care  
172 in the state.

173 (2) In conducting its activities under this section, section 19a-639, as  
174 amended by this act, or under both sections, the office may hold  
175 hearings on applications of a similar nature at the same time.

176 (d) For the purposes of this section, section 19a-639, as amended by  
177 this act, or both sections, construction shall be deemed to have begun if  
178 the following have occurred and the office has been so notified in  
179 writing within the thirty days prior to the date by which construction  
180 is to begin: (1) All necessary town, state and federal approvals required

181 to begin construction have been obtained, including all zoning and  
182 wetlands approvals; (2) all necessary town and state permits required  
183 to begin construction or site work have been obtained; (3) financing  
184 approval, as defined in subsection (e) of this section, has been  
185 obtained; and (4) construction of a structure approved in the certificate  
186 of need has begun. For the purposes of this subsection, commencement  
187 of construction of a structure shall include, at a minimum, completion  
188 of a foundation. Notwithstanding the provisions of this subsection,  
189 upon receipt of an application filed at least thirty days prior to the date  
190 by which construction is to begin, the office may deem construction to  
191 have begun if (A) an owner of a certificate of need has fully complied  
192 with the provisions of subdivisions (1), (2) and (3) of this subsection;  
193 (B) such owner submits clear and convincing evidence that he has  
194 complied with the provisions of this subsection sufficiently to  
195 demonstrate a high probability that construction shall be completed in  
196 time to obtain licensure by the Department of Public Health on or  
197 before the date required in the certificate of need as the office may  
198 amend it from time to time; (C) construction of a structure cannot  
199 begin due to unforeseeable circumstances beyond the control of the  
200 owner; and (D) at least ten per cent of the approved total capital  
201 expenditure or two hundred fifty thousand dollars, whichever is  
202 greater, has been expended.

203 (e) Financing shall be deemed to have been obtained for the  
204 purposes of this section if the owner of the certificate of need has (1)  
205 received a final commitment for financing in writing from a lender, or  
206 (2) provided evidence to the office that the owner has sufficient funds  
207 available to construct the project without financing.

208 [(f) The General Assembly finds evidence of insufficient need for all  
209 the nursing home beds approved by the Office of Health Care Access  
210 but not yet constructed and finds allowing unnecessary beds and  
211 facilities to be built will result in severely damaging economic  
212 consequences to the state and to consumers. All certificates of need for  
213 nursing home beds granted pursuant to this section shall expire on

214 June 9, 1993, except (1) beds for which an application for financing was  
215 received and deemed complete by the Connecticut Health and  
216 Educational Facilities Authority prior to March 1, 1993; (2) beds  
217 restricted to use by patients with acquired immune deficiency  
218 syndrome or traumatic brain injury; (3) beds associated with a  
219 continuing care facility which guarantees life care for its residents as  
220 defined in subsection (b) of section 17b-354; (4) beds authorized under  
221 a certificate of need for an addition of five beds in a facility which has  
222 undertaken the addition of ten beds pursuant to section 17b-351; and  
223 (5) beds for which twenty-five per cent of project costs have been  
224 expended prior to June 9, 1993, as submitted to the Office of Health  
225 Care Access in the form of a report prepared by a certified public  
226 accountant having no affiliation with the owner of the certificate of  
227 need or the developer of the project. A certificate of need which has  
228 expired pursuant to this subsection may be reauthorized by the Office  
229 of Health Care Access, provided need for nursing home beds exists  
230 and twenty per cent or more of the project costs have been expended  
231 by June 9, 1993. A request for reauthorization shall be submitted to the  
232 Office of Health Care Access no later than July 15, 1993. The office shall  
233 issue a decision on such request within forty-five days of receipt of  
234 documentation necessary to determine expended project costs. Project  
235 expenditures shall cease from June 9, 1993, until reauthorization by the  
236 office. Evidence of project costs expended shall be submitted in the  
237 form of a report prepared by a certified public accountant having no  
238 affiliation with the owner of the certificate of need or the developer of  
239 the project. For the purposes of this section, "need for nursing home  
240 beds" means there is a demonstrated bed need in the towns within  
241 twenty miles of the town in which the facility is proposed to be  
242 located, including the town of the proposed location, as listed in the  
243 March 1, 1974, official mileage table of the Public Utilities Commission.  
244 Bed need shall be projected no more than five years into the future at  
245 ninety-seven and one-half per cent occupancy using the latest official  
246 population projections by town and age as published by the Office of  
247 Policy and Management and the latest available nursing home

248 utilization statistics by age cohort from the Department of Public  
249 Health. For the purposes of this subsection, "project costs" means the  
250 capital costs approved by the Office of Health Care Access in the  
251 certificate of need, exclusive of the cost of land acquisition. Owners of  
252 certificates of need for nursing home beds which have expired may  
253 apply to the Commissioner of Social Services for compensation on or  
254 after June 29, 1993, but no later than September 1, 1993. Such  
255 compensation shall be limited to actual verifiable losses which directly  
256 result from the expiration of the certificate of need pursuant to this  
257 subsection and which cannot be otherwise recouped through the  
258 mitigating efforts of the owner, excluding consequential and incidental  
259 losses such as lost profits. Such compensation shall not exceed an  
260 amount approved by the office within the certificate of need unless the  
261 commissioner determines it is reasonable or cost-effective to  
262 compensate the excess amount. Notwithstanding any provision of this  
263 subsection, no compensation shall be provided to an owner of a  
264 certificate of need whose ability to implement the certificate of need is  
265 contingent on the outcome of a legal action taken against the owner  
266 until the owner obtains a final decision in his favor. An owner  
267 aggrieved by the amount of compensation determined by the  
268 commissioner may request a hearing in accordance with the provisions  
269 of sections 17b-61 and 17b-104. The commissioner may so compensate  
270 an owner of a certificate of need for nursing home beds who  
271 volunteers to relinquish such a certificate, provided the request for  
272 compensation is received by the commissioner prior to July 15, 1993.  
273 The commissioner shall notify such an owner as to whether he will be  
274 compensated within forty-five days from receipt of notice of voluntary  
275 relinquishment or forty-five days of June 29, 1993, whichever is later.]

276 Sec. 3. Section 19a-639 of the general statutes is repealed and the  
277 following is substituted in lieu thereof:

278 (a) Except as provided in sections 19a-639a to 19a-639d, inclusive,  
279 each health care facility or institution, including, but not limited to,  
280 any inpatient rehabilitation facility, any health care facility or

281 institution or any state health care facility or institution proposing a  
282 capital expenditure exceeding [one] three million dollars, or the  
283 acquisition of major medical equipment requiring a capital  
284 expenditure, as defined in regulations adopted pursuant to section  
285 19a-643, in excess of [four hundred thousand] one million dollars,  
286 including the leasing or donation of equipment or a facility, shall  
287 submit a request for approval of such expenditure to the office, with  
288 such data, information and plans as the office requires in advance of  
289 the proposed initiation date of such project. Each health care facility or  
290 institution, state health care facility or institution, provider or other  
291 person proposing to acquire, operate or replace any magnetic  
292 resonance imaging equipment shall submit a request for approval of  
293 such acquisition, operation or replacement to the office in accordance  
294 with section 8 of this act, with such data, information and plans as the  
295 office requires in advance of the proposed acquisition, operation or  
296 replacement.

297 [(b) The office shall hold a public hearing with respect to any  
298 complete certificate of need request under this section, at least two  
299 weeks' notice of which shall be given to the facility, institution or  
300 provider by certified mail and to the public by publication in a  
301 newspaper having a substantial circulation in the area served by the  
302 facility, institution or provider.]

303 (b) The commissioner shall notify the Commissioner of Social  
304 Services of any application that may have an impact on expenditures  
305 under the state medical assistance program. [Such hearing shall be  
306 held at the discretion of the office in Hartford or in the area so served  
307 or to be served.] The office shall consider [such request] any complete  
308 certificate of need request under this section in relation to the  
309 community or regional need for such capital program or purchase of  
310 land, the possible effect on the operating costs of the health care facility  
311 or institution and such other relevant factors as the office deems  
312 necessary. In approving or modifying such request, the commissioner  
313 may not prescribe any condition, [such as] including, but not limited

314 to, any condition or limitation on the indebtedness of the facility or  
315 institution in connection with a bond issue, the principal amount of  
316 any bond issue or any other details or particulars related to the  
317 financing of such capital expenditure, not directly related to the scope  
318 of such capital program and within control of the facility or institution.  
319 An applicant, prior to submitting a certificate of need application, shall  
320 submit a [request, in writing, for application forms and instructions to  
321 the office. The request shall be known as a letter of intent. A] written  
322 letter of intent that shall conform to the letter of intent requirements of  
323 subdivision (4) of subsection (a) of section 19a-638, as amended by this  
324 act. No certificate of need application will be considered submitted to  
325 the office unless a current letter of intent, specific to the proposal and  
326 in compliance with this subsection, is on file with the office for at least  
327 [sixty] thirty days. A current letter of intent is a letter of intent which  
328 has been on file at the office no more than one hundred twenty days,  
329 except that an applicant may request a one-time extension of a letter of  
330 intent of up to an additional thirty days for a maximum total of up to  
331 one hundred fifty days if, prior to the expiration of the current letter of  
332 intent, the office receives a written request to so extend the letter of  
333 intent's current status. The extension request shall fully explain why an  
334 extension is requested. The office shall accept or reject the extension  
335 request within five business days and shall so notify the applicant.  
336 Upon a showing by such facility or institution that the need for such  
337 capital program is of an emergency nature, in that the capital  
338 expenditure is necessary to comply with any federal, state or local  
339 health, fire, building or life safety code, the commissioner may waive  
340 the letter of intent requirement and that a public hearing be held,  
341 provided such request shall be submitted at least ten business days  
342 before the proposed initiation date of the project. The commissioner  
343 shall grant, modify or deny such request within ninety days or within  
344 ten business days, as the case may be, of receipt thereof, except as  
345 provided for in this section. Upon the request of the applicant, the  
346 review period may be extended for an additional fifteen days if the  
347 office has requested additional information subsequent to the

348 commencement of the review period. The commissioner may extend  
349 the review period for a maximum of thirty days if the applicant has not  
350 filed, in a timely manner, information deemed necessary by the office.  
351 Failure of the office to act thereon within such review period shall be  
352 deemed approval of such request. [The ninety-day review period,  
353 pursuant to this section, for an application filed by a hospital, as  
354 defined in section 19a-490, and licensed as a short-term acute-care  
355 general hospital or a children's hospital by the Department of Public  
356 Health or an affiliate of such a hospital or any combination thereof,  
357 shall not apply if, in the certificate of need application or request, the  
358 hospital or applicant projects either (1) that, for the first three years of  
359 operation taken together, the total impact of the proposal on the  
360 operating budget of the hospital or an affiliate or any combination  
361 thereof will exceed one per cent of the actual operating expenses of the  
362 hospital for the most recently completed fiscal year as filed with the  
363 office, or (2) that the total capital expenditure for the project will  
364 exceed fifteen million dollars. If the office determines that an  
365 application is not subject to the ninety-day review period pursuant to  
366 this subsection, it shall remain so excluded for the entire period of that  
367 application, even if the application or circumstances change and the  
368 application no longer meets the stated terms of the exclusion. The  
369 office shall adopt regulations to establish an expedited hearing process  
370 to be used to review requests by any facility or institution for approval  
371 of a capital expenditure to establish an energy conservation program  
372 or to comply with requirements of any federal, state or local health,  
373 fire, building or life safety code or final court order. The office shall  
374 adopt regulations in accordance with the provisions of chapter 54 to  
375 provide for the waiver of a hearing, for any part of a request by a  
376 facility or institution for a capital expenditure, provided such facility  
377 or institution and the office agree upon such waiver.]

378 [(c) Notwithstanding section 19a-639a or 19a-639b, each person or  
379 facility, other than a health care or state health care facility or  
380 institution subject to subsection (a) of this section, proposing to acquire  
381 or replace imaging equipment or a linear accelerator, requiring a

382 capital expenditure, as defined in regulations adopted pursuant to  
383 section 19a-643, in excess of four hundred thousand dollars, including  
384 the leasing or donation of such equipment and facility and including  
385 all capital expenditures, as defined in regulations adopted pursuant to  
386 said section, associated with the provision of the imaging service or  
387 operation of a linear accelerator, shall submit a request for approval of  
388 any such imaging equipment or linear accelerator acquisition pursuant  
389 to the provisions of subsection (a) of this section.]

390 (c) In determining the capital cost or expenditure for an application  
391 under this section or section 19a-638, as amended by this act, the office  
392 shall use the greater of (1) the fair market value of the equipment as if  
393 it were to be used for full-time operation, whether or not the  
394 equipment is to be used, shared or rented on a part-time basis, or (2)  
395 the total value or estimated value determined by the office of any  
396 capitalized lease computed for a three-year period. Each method shall  
397 include the costs of any service or financing agreements plus any other  
398 cost components or items the office specifies in regulations, adopted in  
399 accordance with chapter 54, or deems appropriate.

400 (d) Notwithstanding the provisions of section 19a-638, as amended  
401 by this act, or subsection (a) of this section, no community health  
402 center, as defined in section 19a-490a, shall be subject to the provisions  
403 of [said] section 19a-638, as amended by this act, or subsection (a) of  
404 this section if the community health center is: (1) Proposing a capital  
405 expenditure not exceeding one million dollars; (2) exclusively  
406 providing primary care or dental services; and (3) either (A) one-third  
407 or more of the cost of the proposed project is financed by the state of  
408 Connecticut, (B) the proposed project is receiving funds from the  
409 Department of Public Health, or (C) the proposed project is located in  
410 an area designated by the federal Health Resources and Services  
411 Administration as a health professional shortage area, a medically  
412 underserved area or an area with a medically underserved population.  
413 Each community health center seeking an exemption under this  
414 subsection shall provide the office with documentation verifying to the

415 satisfaction of the office, qualification for this exemption. Each  
416 community health center proposing to provide any service other than  
417 a primary care or dental service at any location, including a designated  
418 community health center location, shall first obtain a certificate of need  
419 for such additional service in accordance with this section and section  
420 19a-638, as amended by this act. Each satellite, subsidiary or affiliate of  
421 a federally qualified health center, in order to qualify under this  
422 exemption, shall: (i) Be part of a federally qualified health center, that  
423 meets the requirements of this subsection; (ii) exclusively provide  
424 primary care or dental services; and (iii) be located in a health  
425 professional shortage area or a medically underserved area. If the  
426 subsidiary, satellite or affiliate does not so qualify, it shall obtain a  
427 certificate of need.

428 (e) Notwithstanding the provisions of section 19a-638, as amended  
429 by this act, subsection (a) of section 19a-639a, as amended by this act,  
430 or subsection (a) of this section, no school-based health care center  
431 shall be subject to the provisions of section 19a-638, as amended by this  
432 act, or subsection (a) of this section if the center: (1) Is or will be  
433 licensed by the Department of Public Health as an outpatient clinic; (2)  
434 has been approved by the Department of Public Health as meeting its  
435 standard model for comprehensive school-based health centers; (3)  
436 proposes capital expenditures not exceeding one million dollars and  
437 does not exceed such amount; (4) once operational, continues to  
438 operate and provide services in accordance with the department's  
439 standard model for comprehensive school-based health centers; and  
440 (5) is or will be located entirely on the property of a functioning school.

441 (f) In conducting its activities under this section, section 19a-638, as  
442 amended by this act, or under both sections, the office may hold  
443 hearings on applications of a similar nature at the same time.

444 Sec. 4. Section 19a-639a of the general statutes is repealed and the  
445 following is substituted in lieu thereof:

446 (a) Except as required in subsection (b) of this section, the provisions

447 of section 19a-638, as amended by this act, and subsection (a) of section  
448 19a-639, as amended by this act, shall not apply to: (1) An outpatient  
449 clinic or program operated exclusively by, or contracted to be operated  
450 exclusively for, a municipality or municipal agency, a health district, as  
451 defined in section 19a-240, or a board of education; (2) a residential  
452 facility for the mentally retarded licensed pursuant to section 17a-227  
453 and certified to participate in the Title XIX Medicaid program as an  
454 intermediate care facility for the mentally retarded; (3) an outpatient  
455 rehabilitation service agency that was in operation on January 1, 1998,  
456 that is operated exclusively on an outpatient basis and that is eligible  
457 to receive reimbursement under section 17b-243; (4) a clinical  
458 laboratory; (5) an assisted living services agency; (6) an outpatient  
459 service offering chronic dialysis; (7) a program of ambulatory services  
460 established and conducted by a health maintenance organization; (8) a  
461 home health agency; (9) a clinic operated by the Americares  
462 Foundation; (10) a nursing home; (11) a residential care home; or (12) a  
463 rest home. However, the exemptions provided in this section shall not  
464 apply when a nursing home, residential care home or rest home is, or  
465 will be created, acquired, operated or in any other way related to or  
466 affiliated with, or under the complete or partial ownership or control  
467 of a facility or institution or affiliate subject to the provisions of section  
468 19a-638, as amended by this act, or subsection (a) of section 19a-639, as  
469 amended by this act.

470 (b) Each health care facility or institution exempted under this  
471 section shall register with the office by filing the information required  
472 by subdivision (4) of subsection (a) of section 19a-638, as amended by  
473 this act, for a letter of intent at least ten business days but not more  
474 than sixty calendar days prior to commencing operations and prior to  
475 changing, expanding, terminating or relocating any facility or service  
476 otherwise covered by section 19a-638, as amended by this act, or  
477 subsection (a) of section 19a-639, as amended by this act, or covered by  
478 both [sections or subsections] of said section and subsection, except  
479 that, if the facility or institution is in operation on June 5, 1998, [said]  
480 such information shall be filed not more than sixty days after said date.

481 Not later than ten business days after the office receives a completed  
482 filing required under this subsection, the office shall provide the health  
483 care facility or institution with written acknowledgment of receipt.  
484 Such acknowledgment shall constitute permission to operate or  
485 change, expand, terminate or relocate such a facility or institution or to  
486 make an expenditure consistent with an authorization received under  
487 subsection (a) of section 19a-639, as amended by this act, until the next  
488 September thirtieth. Each entity exempted under this section shall  
489 renew its exemption annually by filing current information each  
490 September.

491 (c) In order to oversee and coordinate health system planning for  
492 the state and collect data in accordance with section 19a-613, each  
493 health care facility, institution or provider of the type listed in this  
494 subsection shall register with the office by filing the information  
495 required by subdivision (4) of subsection (a) of section 19a-638, as  
496 amended by this act, between September first and September thirtieth  
497 annually. A new health care facility, institution or provider of the type  
498 listed in this subsection or an entity which significantly changes one or  
499 more of the items of information previously registered shall register or  
500 reregister with the office in accordance with this subsection not later  
501 than ten business days after the entity opens for business or  
502 implements the new or changed circumstances and annually each  
503 September after that. Upon receipt of a complete initial or changed  
504 filing under this subsection, the office shall provide the entity with a  
505 written acknowledgement of receipt of the filing. A written  
506 acknowledgement from the office is not necessary for the annual  
507 September filing unless the filing contains a specific reference to new  
508 or changed circumstances. The following entities shall register with the  
509 office in accordance with this subsection: (1) Outpatient clinics; (2)  
510 imaging centers; (3) ambulatory surgery centers; (4) community health  
511 centers; (5) hospice facilities or programs; and (6) behavioral health  
512 service providers. The registration requirements of this subsection  
513 shall apply to any such entity regardless of whether such entity is  
514 licensed or certified by any state or federal agency. Each entity

515 required to register in accordance with this subsection shall be subject  
516 to a civil penalty in accordance with section 19a-653, as amended by  
517 this act, if the entity fails to file complete and accurate information in a  
518 timely manner.

519 Sec. 5. Section 19a-639c of the general statutes is repealed and the  
520 following is substituted in lieu thereof:

521 (a) Notwithstanding the provisions of section 19a-638, as amended  
522 by this act, or section 19a-639, as amended by this act, the office may  
523 waive the requirements of [those] said sections and grant a certificate  
524 of need to any health care facility, institution or provider or any state  
525 health care facility, institution or provider proposing to replace major  
526 medical equipment, imaging equipment or a linear accelerator if:

527 (1) The facility, institution or provider has previously obtained a  
528 certificate of need for the equipment or accelerator being replaced;

529 (2) The replacement value or expenditure for the replacement  
530 equipment or accelerator is not more than the original cost plus an  
531 increase of ten per cent for each twelve-month period that has elapsed  
532 since the date of the original certificate of need; and

533 (3) The replacement value or expenditure is less than two million  
534 dollars.

535 (b) The provisions of this section shall not apply to any proposed  
536 replacement of magnetic resonance imaging equipment, regardless of  
537 the replacement value of or the expenditure for such equipment.

538 Sec. 6. Section 19a-641 of the general statutes is repealed and the  
539 following is substituted in lieu thereof:

540 Any health care facility or institution, [and any] state health care  
541 facility or institution, provider or other person aggrieved by any final  
542 decision of [said] the office under the provisions of sections 19a-630 to  
543 19a-640, inclusive, section 8 of this act or section 19a-648 or 19a-650,

544 may appeal therefrom in accordance with the provisions of section 4-  
545 183, except venue shall be in the judicial district in which it is located.  
546 Such appeal shall have precedence in respect to order of trial over all  
547 other cases except writs of habeas corpus, actions brought by or on  
548 behalf of the state, including informations on the relation of private  
549 individuals, and appeals from awards or decisions of workers'  
550 compensation commissioners.

551 Sec. 7. Subsection (a) of section 19a-653 of the general statutes is  
552 repealed and the following is substituted in lieu thereof:

553 (a) (1) Any health care provider which owns, operates or is seeking  
554 to acquire a computer axial tomography (CT) scanner, medical  
555 imaging equipment, or a linear accelerator or any health care facility,  
556 institution, person or provider that is required to file data or  
557 information under any public or special act or under this chapter or  
558 any regulation adopted or order issued [thereunder] under this  
559 chapter, which fails to so file within prescribed time periods, shall be  
560 subject to a civil penalty of up to one thousand dollars a day for each  
561 day such information is missing, incomplete or inaccurate. Any civil  
562 penalty authorized by this section shall be imposed by the [Office of  
563 Health Care Access] office in accordance with subsections (b) to (e),  
564 inclusive, of this section.

565 (2) If an applicant or provider is unsure whether a certificate of need  
566 is required under section 19a-638, as amended by this act, or section  
567 19a-639, as amended by this act, or under both sections, [it] or under  
568 section 8 of this act, the applicant or provider shall send a letter to the  
569 office describing the project and requesting that the office make such a  
570 determination. A person making a request for a determination as to  
571 whether a certificate of need, waiver or exemption is required shall  
572 provide the office with any information the office requests as part of its  
573 determination process.

574 Sec. 8. (NEW) (a) Any provider, as defined in section 19a-611 of the  
575 general statutes, or any health care facility or institution, state health

576 care facility or institution or other person proposing to acquire, operate  
577 or replace any magnetic resonance imaging equipment, regardless of  
578 the value of or the expenditure for such equipment, or to commence  
579 any magnetic resonance imaging service, shall submit to the Office of  
580 Health Care Access, prior to the proposed date of such acquisition,  
581 operation, replacement or commencement, an application for a  
582 certificate of need for such equipment or service in accordance with the  
583 provisions of section 19a-638 of the general statutes, as amended by  
584 this act, in the case of such service, or section 19a-639 of the general  
585 statutes, as amended by this act, in the case of such equipment, or both  
586 sections, except as otherwise provided in this section. Any such  
587 application shall include, but not be limited to: (1) Certification by the  
588 applicant that the applicant intends to seek, in a timely manner,  
589 magnetic resonance imaging accreditation by the American College of  
590 Radiology, or its successor organization, for all equipment, services  
591 and personnel involved with the applicant's magnetic resonance  
592 imaging activities; and (2) evidence satisfactory to the office that such  
593 accreditation is likely to be obtained.

594 (b) In reviewing an application for a certificate of need under this  
595 section, the office shall consider and make written findings concerning  
596 (1) the principles and guidelines set forth in section 19a-637 of the  
597 general statutes, as amended by this act, and (2) the applicant's ability  
598 to demonstrate that all requirements for magnetic resonance imaging  
599 accreditation by the American College of Radiology, or its successor  
600 organization, will be met by the applicant in a timely manner.

601 (c) (1) An initial certificate of need issued under this section shall be  
602 effective for a period not to exceed two years, except as provided in  
603 subdivision (2) of this subsection. Not later than two years from the  
604 date of issuance of such initial certificate of need, the certificate holder  
605 shall provide the office with evidence satisfactory to the office that  
606 magnetic resonance imaging accreditation by the American College of  
607 Radiology, or its successor organization, for all equipment, services  
608 and personnel involved with the holder's magnetic resonance imaging

609 activities, has been obtained and is effective for a period of not less  
610 than three years.

611 (2) If an application for a certificate of need under this section is part  
612 of a construction project subject to the provisions of section 19a-639 of  
613 the general statutes, as amended by this act, the Commissioner of  
614 Health Care Access may, in the commissioner's discretion, issue an  
615 initial certificate of need under this section to be effective for a period  
616 exceeding two years in order to permit the completion of such  
617 construction project prior to the installation and operation of the  
618 magnetic resonance imaging equipment covered by the application,  
619 provided, such initial certificate of need shall not be effective for more  
620 than two years from the date when any magnetic resonance imaging  
621 service covered by the application commences. Not later than two  
622 years from the date of commencement of such service or from a date  
623 specified in the initial certificate of need, the certificate holder shall  
624 provide the office with evidence satisfactory to the office that magnetic  
625 resonance imaging accreditation by the American College of  
626 Radiology, or its successor organization, for all equipment, services  
627 and personnel involved with the holder's magnetic resonance imaging  
628 activities, has been obtained and is effective for a period of not less  
629 than three years.

630 (3) An initial certificate of need issued under this section may be  
631 subject to such conditions or requirements as the commissioner deems  
632 appropriate.

633 (d) Not later than two years from the date of issuance of an initial  
634 certificate of need under subdivision (1) of subsection (c) of this  
635 section, or not later than two years from the commencement date of  
636 any magnetic resonance imaging service authorized by an initial  
637 certificate of need under subdivision (2) of subsection (c) of this  
638 section, the office shall issue a permanent certificate of need under this  
639 section if the office determines that all conditions of the initial  
640 certificate of need have been satisfied and the accreditation required by

641 subsection (c) of this section has been obtained. A permanent  
642 certificate of need may be conditioned upon the continuation of any  
643 requirement imposed by the commissioner in the initial certificate of  
644 need. If the office is unable to make such determination due to lack of  
645 satisfactory evidence, or finds that all such conditions have not been  
646 satisfied or such accreditation has not been obtained, such initial  
647 certificate of need shall terminate upon the expiration of its effective  
648 period as provided in subsection (c) of this section and the certificate  
649 holder shall submit a new application under this section before  
650 continuing to provide magnetic resonance imaging service or to  
651 operate magnetic resonance imaging equipment or, if applicable,  
652 before acquiring or replacing magnetic resonance imaging equipment.

653 (e) Any holder of an initial or permanent certificate of need under  
654 this section shall file with the office such information or reports  
655 relating to magnetic resonance imaging equipment or service as the  
656 commissioner may require.

657 (f) The commissioner may take any enforcement action authorized  
658 under chapter 368z of the general statutes or any regulation adopted  
659 under said chapter against any provider, health care facility or  
660 institution, state health care facility or institution or other person that  
661 fails to comply with the requirements of this section, or with the  
662 requirements of any regulation that the office may adopt under this  
663 section in accordance with chapter 54 of the general statutes, or with  
664 any condition or requirement imposed by the commissioner in an  
665 initial or a permanent certificate of need pursuant to this section or any  
666 such regulation.

667 Sec. 9. (NEW) (a) Within ten calendar days of receipt by the Office of  
668 Health Care Access of a letter of intent submitted pursuant to section  
669 19a-638 of the general statutes, as amended by this act, or section 19a-  
670 639 of the general statutes, as amended by this act, or both, or an  
671 application for a certificate of need submitted pursuant to section 8 of  
672 this act, the office shall give notice to the public of the submittal of

673 such letter of intent or application by publication in a newspaper  
674 having a substantial circulation in the area served or to be served by  
675 the applicant filing the letter of intent or application. The notice shall  
676 include the name of the applicant, a description of the proposed  
677 project, service or both, the proposed location or locations and any  
678 other information descriptive of the proposed project that the office  
679 may require.

680 (b) If, within fourteen calendar days of the date of publication of the  
681 notice provided in accordance with subsection (a) of this section, the  
682 office receives a written request for a hearing on the proposal set forth  
683 in the letter of intent or application, the office shall determine, based  
684 on the information contained in the request for hearing and any other  
685 information that the office deems relevant, whether a hearing shall be  
686 held. If the office determines to hold a hearing for such proposal, such  
687 hearing shall be held after the receipt by the office of the complete  
688 application for such proposal.

689 (c) Not less than two weeks' notice of a hearing on a proposal held  
690 pursuant to subsection (b) of this section shall be provided to all  
691 persons or entities that filed a request for such hearing and to the  
692 applicant, by certified mail, return receipt requested, and to the public  
693 by publication in a newspaper having a substantial circulation in the  
694 area to be served by the applicant.

695 Sec. 10. This act shall take effect from its passage.

***Statement of Purpose:***

To continue streamlining, simplifying and shortening the certificate of need process, to create a public notice by newspaper publication process for all letters of intent as well as for public hearings, to raise the thresholds for review of major medical equipment from four hundred thousand to one million dollars and of capital expenditures from one million to three million dollars, to require a certificate of need to substantially decrease a health service or to acquire magnetic resonance imaging equipment or offer such service, to require annual data submissions from more types of facilities and programs, to have a

single certificate of need waiver process for all state entities, and to make technical and conforming changes in related statutes.

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