



General Assembly

January Session, 2005

Raised Bill No. 6948

LCO No. 4602

04602_____ED_

Referred to Committee on Education

Introduced by:
(ED)

AN ACT CONCERNING MINOR REVISIONS TO THE EDUCATION STATUTES.

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

1 Section 1. Subsection (c) of section 10-262i of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2005*):

4 (c) All aid distributed to a town pursuant to the provisions of this
5 section shall be expended for educational purposes only and shall be
6 expended upon the authorization of the local or regional board of
7 education. For the fiscal year ending June 30, 1999, and each fiscal year
8 thereafter, if a town receives an increase in funds pursuant to this
9 section over the amount it received for the prior fiscal year such
10 increase shall not be used to supplant local funding for educational
11 purposes and the town shall not transfer education funds to the
12 general fund of the town.

13 Sec. 2. Subsection (a) of section 10-76d of the general statutes is
14 repealed and the following is substituted in lieu thereof (*Effective July*
15 *1, 2005*):

16 (a) (1) In accordance with the regulations and procedures
17 established by the Commissioner of Education and approved by the
18 State Board of Education, each local or regional board of education
19 shall provide the professional services requisite to identification of
20 children requiring special education, identify each such child within its
21 jurisdiction, determine the eligibility of such children for special
22 education pursuant to sections 10-76a to 10-76h, inclusive, prescribe
23 suitable educational programs for eligible children, maintain a record
24 thereof and make such reports as the commissioner may require.

25 (2) Any local or regional board of education, through the planning
26 and placement team established in accordance with regulations
27 adopted by the State Board of Education under this section, may
28 determine a child's Medicaid enrollment status. In determining
29 Medicaid enrollment status, the planning and placement team shall:
30 (A) Inquire of the parents or guardians of each such child whether the
31 child is enrolled in or may be eligible for Medicaid; and (B) if the child
32 may be eligible for Medicaid, request that the parent or guardian of the
33 child apply for Medicaid. For the purpose of determining Medicaid
34 rates for Medicaid eligible special education and related services based
35 on a representative cost sampling method, the board of education shall
36 make available documentation of the provision and costs of Medicaid
37 eligible special education and related services for any students
38 receiving such services, regardless of an individual student's Medicaid
39 enrollment status, to the Commissioner of Social Services or to the
40 commissioner's authorized agent at such time and in such manner as
41 prescribed. For the purpose of determining Medicaid rates for
42 Medicaid eligible special education and related services based on an
43 actual cost method, the local or regional board of education shall
44 submit documentation of the costs and utilization of Medicaid eligible
45 special education and related services for all students receiving such
46 services to the Commissioner of Social Services or to the
47 commissioner's authorized agent at such time and in such manner as
48 prescribed. The commissioner or such agent may use information
49 received from local or regional boards of education for the purposes of

50 (i) ascertaining students' Medicaid eligibility status, (ii) submitting
51 Medicaid claims, (iii) complying with state and federal audit
52 requirements, and (iv) determining Medicaid rates for Medicaid
53 eligible special education and related services. Nothing in this
54 subdivision shall be construed to prohibit a local or regional board of
55 education from submitting Medicaid claims for eligible special
56 education and related services to the claims processing agent under
57 contract with the Department of Social Services. Such claims may be
58 submitted electronically and the related service documentation may be
59 signed and maintained electronically by the provider of service, in
60 accordance with the provisions of sections 1-266 to 1-286, inclusive. No
61 child shall be denied special education and related services in the
62 event the parent or guardian refuses to apply for Medicaid.

63 (3) [Beginning with the fiscal year ending June 30, 2004, the] The
64 Commissioner of Social Services shall make grant payments to local or
65 regional boards of education in amounts representing fifty per cent of
66 the federal portion of Medicaid claims processed for Medicaid eligible
67 special education and related services provided to Medicaid eligible
68 students in the school district. Such grant payments shall be made on
69 at least a [~~quarterly~~] monthly basis and may represent estimates of
70 amounts due to local or regional boards of education. Any grant
71 payments made on an estimated basis [, including payments made by
72 the Department of Education for the fiscal years prior to the fiscal year
73 ending June 30, 2000,] shall be subsequently reconciled to grant
74 amounts due based upon filed and accepted Medicaid claims and
75 Medicaid rates. If, upon review, it is determined that a grant payment
76 or portion of a grant payment was made for ineligible or disallowed
77 Medicaid claims, the local or regional board of education shall
78 reimburse the Department of Social Services for any grant payment
79 amount received based upon ineligible or disallowed Medicaid claims.

80 (4) (A) Pursuant to federal law, the Commissioner of Social Services,
81 as the state's Medicaid agent, shall determine rates for Medicaid
82 eligible special education and related services pursuant to subdivision

83 (2) of this subsection. The Commissioner of Social Services may request
84 and the Commissioner of Education and towns and regional school
85 districts shall provide information as may be necessary to set such
86 rates.

87 (B) The Commissioner of Social Services shall allow claims pursuant
88 to this subsection to be submitted electronically and for related service
89 documentation to be signed and maintained electronically in
90 accordance with the provisions of sections 1-266 to 1-286, inclusive.

91 (5) Based on school district special education and related services
92 expenditures, the state's Medicaid agent shall report and certify to the
93 federal Medicaid authority the state match required by federal law to
94 obtain Medicaid reimbursement of eligible special education and
95 related services costs.

96 (6) Payments received pursuant to this section shall be paid to the
97 local or regional board of education which has incurred such costs in
98 addition to the funds appropriated by the town to such board for the
99 current fiscal year.

100 (7) The planning and placement team shall, in accordance with the
101 provisions of the Individuals With Disabilities Education Act, 20 USC
102 1400, et seq., as amended from time to time, develop and update
103 annually a statement of transition service needs for each child
104 requiring special education.

105 (8) Each local and regional board of education shall notify the
106 parent or guardian of a child who requires or who may require special
107 education, a pupil if such pupil is an emancipated minor or eighteen
108 years of age or older who requires or who may require special
109 education or a surrogate parent appointed pursuant to section 10-94g,
110 in writing, at least five school days before such board proposes to, or
111 refuses to, initiate or change the child's or pupil's identification,
112 evaluation or educational placement or the provision of a free
113 appropriate public education to the child or pupil. Such parent,

114 guardian, pupil or surrogate parent shall be given at least five school
115 days' prior notice of any planning and placement team meeting
116 conducted for such child or pupil and shall have the right to be present
117 at and participate in and to have advisors of such person's own
118 choosing and at such person's own expense to be present at and to
119 participate in all portions of such meeting at which an educational
120 program for such child or pupil is developed, reviewed or revised.
121 Immediately upon the formal identification of any child as a child
122 requiring special education and at each planning and placement team
123 meeting for such child, the responsible local or regional board of
124 education shall inform the parent or guardian of such child or
125 surrogate parent or, in the case of a pupil who is an emancipated
126 minor or eighteen years of age or older, the pupil of the laws relating
127 to special education and the rights of such parent, guardian, surrogate
128 parent or pupil under such laws and the regulations adopted by the
129 State Board of Education relating to special education. If such parent,
130 guardian, surrogate parent or pupil does not attend a planning and
131 placement team meeting, the responsible local or regional board of
132 education shall mail such information to such person. Each board shall
133 have in effect at the beginning of each school year an educational
134 program for each child who has been identified as eligible for special
135 education.

136 (9) The Commissioner of Social Services shall implement the policies
137 and procedures necessary for the purposes of this subsection while in
138 the process of adopting such policies and procedures, including, but
139 not limited to, policies and procedures concerning electronic
140 submission of Medicaid claims and the maintenance of electronic
141 signatures and records documenting services, in regulation form,
142 provided notice of intent to adopt the regulations is published in the
143 Connecticut Law Journal within twenty days of implementing the
144 policies and procedures. Such policies and procedures shall be valid
145 until the time final regulations are effective.

146 Sec. 3. (*Effective from passage*) The Department of Social Services or

147 the claims processing agent under contract with the department to
148 process Medicaid claims for eligible special education and related
149 services in accordance with subsection (a) of section 10-76d of the
150 general statutes, as amended by this act, shall not reject a claim for
151 Medicaid payment for medical services provided to children under the
152 Individuals With Disabilities Education Act, 20 USC 1400 et seq., as
153 amended from time to time, based upon a child's individualized
154 education plan or program solely because a state agency form lacks a
155 physician's signature.

156 Sec. 4. Subsection (a) of section 10-285f of the general statutes is
157 repealed and the following is substituted in lieu thereof (*Effective July*
158 *1, 2005*):

159 (a) Notwithstanding any provision of this chapter or any regulation
160 adopted by the State Board of Education pursuant to this chapter, the
161 State Board of Education may establish a [pilot] program [for a period
162 of three years] that authorizes up to two school construction projects
163 per year using a design-build contract and with the approval of the
164 State Board of Education a town or regional school district may enter
165 into a design-build contract for new school construction and shall be
166 eligible to be considered for a grant commitment and progress
167 payments from the state provided each design phase shall be reviewed
168 and approved for compliance with all applicable codes by local
169 authorities having jurisdiction over such codes. The provisions of
170 section 10-287 relative to bidding all orders and contracts for school
171 building construction shall not apply to any such project.

172 Sec. 5. Section 10-66m of the general statutes is repealed and the
173 following is substituted in lieu thereof (*Effective July 1, 2005*):

174 No provisions of sections 10-66a to 10-66l, inclusive, shall be
175 construed to affect cooperative arrangements by boards of education
176 under section [10-76e or section] 10-158a.

177 Sec. 6. Section 10-282 of the general statutes is repealed and the

178 following is substituted in lieu thereof (*Effective July 1, 2005*):

179 As used in this chapter [,] and section 10-65: [and section 10-76e:]

180 (1) "Elementary school building" means any public school building
181 designed to house any combination of grades below grade seven or
182 children requiring special education who are described in subdivision
183 (2) of subsection (b) of section 10-76d;

184 (2) "Secondary school building" means any public school building
185 designed to house any combination of grades seven through twelve or
186 any regional vocational agriculture center established under the
187 provisions of part IV of chapter 164, and may also include any separate
188 combination of grades five and six or grade six with grades seven and
189 eight in a program approved by the State Board of Education when the
190 use of special facilities generally associated with secondary schools is
191 an essential part of the program for all grades included in such school;

192 (3) "School building project", except as used in section 10-289, means
193 (A) the construction, purchase, extension, replacement, renovation or
194 major alteration of a building to be used for public school purposes,
195 including the equipping and furnishing of any such construction,
196 purchase, extension, replacement, renovation or major alteration, the
197 improvement of land therefor, or the improvement of the site of an
198 existing building for public school purposes, but shall not include the
199 cost of a site, except as provided in subsection (b) of section 10-286d;
200 (B) the construction and equipping and furnishing of any such
201 construction of any building which the towns of Norwich, Winchester
202 and Woodstock may provide by lease or otherwise for use by the
203 Norwich Free Academy, Gilbert School and Woodstock Academy,
204 respectively, in furnishing education for public school pupils under the
205 provisions of section 10-34; and (C) the addition to, renovation of and
206 equipping and furnishing of any such addition to or renovation of any
207 building which may be leased, upon the approval of the Commissioner
208 of Education, to any local or regional board of education for a term of
209 twenty years or more for use by such local or regional board in

210 furnishing education of public school pupils;

211 (4) "Extension" of an existing school building means the addition to
212 an existing building or remaining portion of an existing building
213 damaged by fire, flood or other natural catastrophe, or the erection of a
214 new structure or group of structures on the same site which, together
215 with the existing building, is designed to house pupils in an
216 educational program under the supervision of one school principal;

217 (5) "Replacement" of a school building means the erection of a new
218 structure on the same or another site to replace a school building
219 totally destroyed by fire, flood or other natural catastrophe or one to be
220 abandoned for school use upon completion of its replacement;

221 (6) "Major alteration" means a capital improvement of an existing
222 building, the total project costs of which exceed ten thousand dollars
223 except for projects approved pursuant to subsection (a) of section 10-
224 65, for public school purposes resulting in improved educational
225 conditions;

226 (7) "Code violation" means the correction of any condition in an
227 existing building for public school purposes, the total project costs of
228 which exceed ten thousand dollars, and which condition is in violation
229 of the requirements of the State Building, Fire Safety or Public Health
230 Codes, state or federal Occupational, Safety and Health
231 Administration Codes, federal or state accessibility requirements or
232 regulations of the federal Environmental Protection Agency or the
233 state Department of Environmental Protection, state Department of
234 Public Health regulations for radon or federal standards for lead
235 contamination in school drinking water;

236 (8) "Completed school building project" means a school building
237 project declared complete by the applicant board of education as of the
238 date shown on the final application for grant payment purposes as
239 submitted by said board to the Commissioner of Education or his
240 agent;

241 (9) "Date of beginning of construction" means the date on which the
242 general construction contract or the first phase thereof, purchase
243 agreement or leasing agreement is signed by the authorized agent of
244 the town or regional school district;

245 (10) "Standards" means architectural, engineering and education
246 space specifications and standards for facility eligibility;

247 (11) "Application" or "grant application" means formal notification
248 of intention to apply for a state grant-in-aid for a particular school
249 building project;

250 (12) "Net eligible costs" means eligible project costs adjusted for the
251 state standard education space specifications;

252 (13) "Regional educational service center" means a body corporate
253 and politic established pursuant to the provisions of part IVa of
254 chapter 164;

255 (14) "Regional educational service center administrative or service
256 facility" means a building designed for administrative offices or
257 residential facilities, operated by a regional educational service center;

258 (15) "Vocational agriculture" includes vocational aquaculture and
259 marine-related employment;

260 (16) "Bonds or municipal bonds", except as used in section 10-289,
261 means (A) any bond, note, certificate or other evidence of
262 indebtedness, and (B) any energy conservation lease purchase
263 agreement;

264 (17) "Energy conservation lease purchase agreement" means any
265 lease purchase agreement, installment sale agreement or other similar
266 agreement providing for periodic payments by a town or regional
267 school district which (A) has as its purpose the financing of a school
268 building project concerning energy conservation, (B) separately states
269 the principal and interest components of the periodic payments to be

270 made under the agreement, and (C) provides that the town or regional
271 school district acquire title to the school building project upon
272 payment of the total amount outstanding under the agreement;

273 (18) "Renovation" means a school building project to totally
274 refurbish an existing building which results in the renovated facility
275 taking on a useful life comparable to that of a new facility and which
276 will cost less than building a new facility as determined by the
277 department, provided the school district may submit a feasibility study
278 and cost analysis of the project prepared by an independent licensed
279 architect to the department prior to final plan approval;

280 (19) "Certified school indoor air quality emergency" means the
281 existence of a building condition determined by the Department of
282 Public Health to present a substantial and imminent adverse health
283 risk that requires remediation in an amount greater than one hundred
284 thousand dollars.

285 Sec. 7. Subsection (a) of section 10-283 of the general statutes is
286 repealed and the following is substituted in lieu thereof (*Effective July*
287 *1, 2005*):

288 (a) (1) Each town or regional school district shall be eligible to apply
289 for and accept grants for a school building project as provided in this
290 chapter. Any town desiring a grant for a public school building project
291 may, by vote of its legislative body, authorize the board of education of
292 such town to apply to the Commissioner of Education and to accept or
293 reject such grant for the town. Any regional school board may vote to
294 authorize the supervising agent of the regional school district to apply
295 to the Commissioner of Education for and to accept or reject such grant
296 for the district. Applications for such grants under this chapter shall be
297 made by the superintendent of schools of such town or regional school
298 district on the form provided and in the manner prescribed by the
299 Commissioner of Education. The application form shall require the
300 superintendent of schools to affirm that the school district considered
301 the maximization of natural light and the use and feasibility of wireless

302 connectivity technology in projects for new construction and alteration
303 or renovation of a school building. Grant applications for school
304 building projects shall be reviewed by the Commissioner of Education
305 on the basis of categories for building projects and standards for school
306 construction established by the State Board of Education in accordance
307 with this section, provided grant applications submitted for purposes
308 of subsection (a) of section 10-65 [or section 10-76e] shall be reviewed
309 annually by the commissioner on the basis of the educational needs of
310 the applicant. Notwithstanding the provisions of this chapter, the
311 Board of Trustees of the Community-Technical Colleges on behalf of
312 Manchester Community College may apply for and shall be eligible to
313 receive grants for school building projects pursuant to section 10-264h.

314 (2) Each school building project shall be assigned to a category on
315 the basis of whether such project is primarily required to: (A) Create
316 new facilities or alter existing facilities to provide for mandatory
317 instructional programs pursuant to this chapter, for physical education
318 facilities in compliance with Title IX of the Elementary and Secondary
319 Education Act of 1972 where such programs or such compliance
320 cannot be provided within existing facilities or for the correction of
321 code violations which cannot be reasonably addressed within existing
322 program space; (B) create new facilities or alter existing facilities to
323 enhance mandatory instructional programs pursuant to this chapter or
324 provide comparable facilities among schools to all students at the same
325 grade level or levels within the school district unless such project is
326 otherwise explicitly included in another category pursuant to this
327 section; and (C) create new facilities or alter existing facilities to
328 provide supportive services, provided in no event shall such
329 supportive services include swimming pools, auditoriums, outdoor
330 athletic facilities, tennis courts, elementary school playgrounds, site
331 improvement or garages or storage, parking or general recreation
332 areas. All applications submitted prior to the first day of July in any
333 year shall be reviewed promptly by the commissioner and the amount
334 of the grant for which such project is eligible shall be estimated. The
335 commissioner shall annually prepare a listing of all such eligible school

336 building projects listed by category together with the amount of the
337 estimated grants therefor and shall submit the same to the Governor
338 and the General Assembly on or before the fifteenth day of December,
339 except as provided in section 10-283a, with a request for authorization
340 to enter into grant commitments. Each such listing submitted after
341 December 1995 shall include a separate schedule of authorized projects
342 which have changed in scope or cost to a degree determined by the
343 commissioner. The percentage determined pursuant to section 10-285a
344 at the time a school building project on such schedule was originally
345 authorized shall be used for purposes of the grant for such project. The
346 General Assembly shall annually authorize the commissioner to enter
347 into grant commitments on behalf of the state in accordance with the
348 commissioner's categorized listing for such projects as the General
349 Assembly shall determine. The commissioner may not enter into any
350 such grant commitments except pursuant to such legislative
351 authorization. Any regional school district which assumes the
352 responsibility for completion of a public school building project shall
353 be eligible for a grant pursuant to subdivision (5) or (6), as the case
354 may be, of subsection (a) of section 10-286, when such project is
355 completed and accepted by such regional school district.

356 (3) (A) All final calculations completed by the Department of
357 Education for school building projects authorized on or after July 1,
358 1996, shall include a computation of the state grant for the school
359 building project amortized on a straight line basis over a twenty-year
360 period for school building projects with costs equal to or greater than
361 two million dollars and over a ten-year period for school building
362 projects with costs less than two million dollars. Any town or regional
363 school district which abandons, sells, leases, demolishes or otherwise
364 redirects the use of such a school building project to other than a
365 public school use during such amortization period shall refund to the
366 state the unamortized balance of the state grant remaining as of the
367 date the abandonment, sale, lease, demolition or redirection occurs.
368 The amortization period for a project shall begin on the date the project
369 was accepted as complete by the local or regional board of education.

370 A town or regional school district required to make a refund to the
371 state pursuant to this subdivision may request forgiveness of such
372 refund if the building is redirected for public use. The department
373 shall include as an addendum to the annual school construction
374 priority list all those towns requesting forgiveness. General Assembly
375 approval of the priority list containing such request shall constitute
376 approval of such request. This subdivision shall not apply to projects
377 pursuant to subsection (b) of this section or projects subject to the
378 provisions of section 10-285c.

379 (B) Any moneys refunded to the state pursuant to subparagraph (A)
380 of this subdivision shall be deposited in the state's tax-exempt
381 proceeds fund and used within sixty days of repayment to pay debt
382 service on, including redemption, defeasance or purchase of,
383 outstanding bonds of the state the interest on which is not included in
384 gross income pursuant to Section 103 of the Internal Revenue Code of
385 1986, or any subsequent corresponding internal revenue code of the
386 United States, as from time to time amended.

387 Sec. 8. Subdivision (4) of subsection (a) of section 10-286 of the
388 general statutes is repealed and the following is substituted in lieu
389 thereof (*Effective July 1, 2005*):

390 (4) In the case of a regional vocational agriculture center or the
391 purchase of equipment pursuant to subsection (a) of section 10-65, [or
392 a regional special education facility pursuant to section 10-76e,] an
393 amount equal to the eligible cost of such project, as determined by the
394 Commissioner of Education.

395 Sec. 9. Section 10-287d of the general statutes is repealed and the
396 following is substituted in lieu thereof (*Effective July 1, 2005*):

397 For the purposes of funding (1) grants to projects that have received
398 approval of the State Board of Education pursuant to sections 10-287
399 and 10-287a [] and subsection (a) of section 10-65, [and section 10-76e,]
400 (2) grants to assist school building projects to remedy safety and health

401 violations and damage from fire and catastrophe, and (3) regional
402 vocational-technical school projects pursuant to section 10-283b, the
403 State Treasurer is authorized and directed, subject to and in
404 accordance with the provisions of section 3-20, to issue bonds of the
405 state from time to time in one or more series in an aggregate amount
406 not exceeding four billion one hundred seventy-one million eight
407 hundred sixty thousand dollars, provided six hundred twenty-five
408 million five hundred thousand dollars of said authorization shall be
409 effective July 1, 2004. Bonds of each series shall bear such date or dates
410 and mature at such time or times not exceeding thirty years from their
411 respective dates and be subject to such redemption privileges, with or
412 without premium, as may be fixed by the State Bond Commission.
413 They shall be sold at not less than par and accrued interest and the full
414 faith and credit of the state is pledged for the payment of the interest
415 thereon and the principal thereof as the same shall become due, and
416 accordingly and as part of the contract of the state with the holders of
417 said bonds, appropriation of all amounts necessary for punctual
418 payment of such principal and interest is hereby made, and the State
419 Treasurer shall pay such principal and interest as the same become
420 due. The State Treasurer is authorized to invest temporarily in direct
421 obligations of the United States, United States agency obligations,
422 certificates of deposit, commercial paper or bank acceptances such
423 portion of the proceeds of such bonds or of any notes issued in
424 anticipation thereof as may be deemed available for such purpose.

425 Sec. 10. Section 10-287i of the general statutes is repealed and the
426 following is substituted in lieu thereof (*Effective July 1, 2005*):

427 A grant under this chapter for any school building project
428 authorized by the General Assembly on or after July 1, 1996, or for any
429 project for which application is made pursuant to subsection (b) of
430 section 10-283, on or after July 1, 1997, shall be paid as follows:
431 Applicants shall request progress payments for the state share of
432 eligible project costs calculated pursuant to sections 10-65 [, 10-76e]
433 and 10-286, at such time and in such manner as the Commissioner of

434 Education shall prescribe provided no payments shall commence until
 435 the applicant has filed a notice of authorization of funding for the local
 436 share of project costs, and provided further no payments other than
 437 those for architectural planning and site acquisition shall be made
 438 prior to approval of the final architectural plans pursuant to section 10-
 439 292. The Department of Education shall withhold five per cent of a
 440 grant pending completion of an audit pursuant to section 10-287
 441 provided, if the department is unable to complete the required audit
 442 within six months of the date a request for final payment is filed, the
 443 applicant may have an independent audit performed and include the
 444 cost of such audit in the eligible project costs.

445 Sec. 11. Sections 10-14s and 10-76e of the general statutes are
 446 repealed. (*Effective July 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2005</i>	10-262i(c)
Sec. 2	<i>July 1, 2005</i>	10-76d(a)
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>July 1, 2005</i>	10-285f(a)
Sec. 5	<i>July 1, 2005</i>	10-66m
Sec. 6	<i>July 1, 2005</i>	10-282
Sec. 7	<i>July 1, 2005</i>	10-283(a)
Sec. 8	<i>July 1, 2005</i>	10-286(a)(4)
Sec. 9	<i>July 1, 2005</i>	10-287d
Sec. 10	<i>July 1, 2005</i>	10-287i
Sec. 11	<i>July 1, 2005</i>	10-14s and 10-76e repealed

Statement of Purpose:

To make minor revisions to the education 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.]