



Senate

General Assembly

File No. 549

January Session, 2007

Substitute Senate Bill No. 1074

Senate, April 23, 2007

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE CONNECTICUT HIGHER EDUCATION
SUPPLEMENTAL LOAN AUTHORITY.***

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

1 Section 1. Subsection (a) of section 10a-224 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2007*):

4 (a) There is created a body politic and corporate to be known as the
5 "Connecticut Higher Education Supplemental Loan Authority". The
6 authority is constituted a public instrumentality and political
7 subdivision of the state and the exercise by the authority of the powers
8 conferred by this chapter shall be deemed and held to be the
9 performance of an essential public and governmental function. The
10 powers of the authority shall be vested in and exercised by a board of
11 directors which shall consist of eight members, one of whom shall be
12 the State Treasurer, one of whom shall be the Secretary of the Office of
13 Policy and Management and one of whom shall be the Commissioner

14 of Higher Education, each serving ex officio, and five of whom shall be
15 residents of the state appointed by the Governor, not more than three
16 of such appointed members to be members of the same political party.
17 Three of the appointed members shall be active or retired trustees,
18 directors, officers or employees of Connecticut institutions for higher
19 education. [, of whom not more than one shall be from a constituent
20 unit of the state system of higher education.] At least one of the
21 appointed members shall be a person having a favorable reputation for
22 skill, knowledge and experience in the higher education loan finance
23 field, and at least one of such appointed members shall be a person
24 having a favorable reputation for skill, knowledge and experience in
25 state and municipal finance, either as a partner, officer or employee of
26 an investment banking firm which originates and purchases state and
27 municipal securities, or as an officer or employee of an insurance
28 company or bank whose duties relate to the purchase of state and
29 municipal securities as an investment and to the management and
30 control of a state and municipal securities portfolio. Of the three
31 members first appointed who are trustees, directors, officers or
32 employees of Connecticut institutions for higher education, one shall
33 serve until July 1, 1986, one shall serve until July 1, 1987, and one shall
34 serve until July 1, 1988. Of the three remaining members first
35 appointed, one shall serve until July 1, 1983, one shall serve until July
36 1, 1984, and one shall serve until July 1, 1985. On or before the first day
37 of July, annually, the Governor shall appoint a member or members to
38 succeed those whose terms expire, each for a term of six years and
39 until his successor is appointed and has qualified. The Governor shall
40 fill any vacancy for the unexpired term. A member of the board shall
41 be eligible for reappointment. Any member of the board may be
42 removed by the Governor for misfeasance, malfeasance or wilful
43 neglect of duty. Each member of the board before entering upon his or
44 her duties shall take and subscribe the oath or affirmation required by
45 section 1 of article eleventh of the State Constitution. A record of each
46 such oath shall be filed in the office of the Secretary of the State. The
47 State Treasurer, the Secretary of the Office of Policy and Management
48 and the Commissioner of Higher Education may each designate a

49 deputy or any staff member to represent him as a member at meetings
50 of the board with full power to act and vote on his behalf.

51 Sec. 2. Section 10a-225 of the general statutes is amended by adding
52 subsection (d) as follows (*Effective July 1, 2007*):

53 (NEW) (d) (1) The authority may develop and require the use of a
54 master promissory note for education loans. Each master promissory
55 note shall allow borrowers to receive, in addition to initial education
56 loans, additional education loans for the same or subsequent periods
57 of enrollment. Each master promissory note shall include a provision
58 stating that the note shall be governed by and construed pursuant to
59 the laws of the state of Connecticut.

60 (2) Notwithstanding any provision of the general statutes or any
61 regulation adopted pursuant to said statutes, each education loan
62 made under a master promissory note pursuant to this subsection may
63 be sold or assigned independently of any other education loan made
64 under the same master promissory note and each such loan shall be
65 separately enforceable on the basis of an original or copy of the master
66 promissory note in accordance with the terms of the master
67 promissory note.

68 (3) Notwithstanding any provision of the general statutes, each such
69 master promissory note shall be fully negotiable within the meaning
70 and for all purposes of title 42a, regardless of whether the form and
71 character of such master promissory note qualifies under the terms of
72 the provisions of title 42a.

73 (4) The authority may pledge all or any part of its interest in any
74 such master promissory note or the education loan evidenced by such
75 note as security for any issue of bonds or notes or any other
76 obligations. Such pledge shall be valid and binding from the time
77 when the pledge is made; the interest so pledged by the authority shall
78 immediately be subject to the lien of such pledge without any physical
79 delivery of the lien or further act, and the lien of any such pledge shall
80 be valid and binding against all parties having claims of any kind in

81 tort, contract or otherwise against the authority or any participating
82 institution for higher education, irrespective of whether such parties
83 have notice of the lien. Such lien shall have priority over all other liens,
84 including, without limitation, the lien of any person who in the
85 ordinary course of business furnishes services or materials to the
86 authority. Notwithstanding the provisions of title 42a, neither the bond
87 resolution nor any financing statement, continuation statement or
88 other instrument by which a pledge or security interest is created or by
89 which the authority's interest in such master promissory notes is
90 assigned need be filed in any public records in order to perfect the
91 security interest or lien thereof as against third parties. Any outright
92 sale by the authority of any education loan evidenced by such a master
93 promissory note shall be effective and perfected automatically upon
94 attachment as defined in title 42a.

95 Sec. 3. Section 10a-230 of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective July 1, 2007*):

97 (a) The authority may from time to time issue revenue bonds for
98 any corporate purpose and all such revenue bonds, notes, bond
99 anticipation notes or other obligations of the authority issued pursuant
100 to this chapter shall be and are hereby declared to be negotiable for all
101 purposes notwithstanding their payment from a limited source and
102 without regard to any other law or laws. In anticipation of the sale of
103 such revenue bonds, the authority may issue negotiable bond
104 anticipation notes and may renew the same from time to time, but the
105 maximum maturity of any such note, including renewals [thereof,] of
106 such notes shall not exceed five years from the date of issue of the
107 original note. Such notes shall be paid from any revenues of the
108 authority available therefor and not otherwise pledged, or from the
109 proceeds of sale of the revenue bonds of the authority in anticipation
110 of which they were issued. The notes shall be issued in the same
111 manner as the revenue bonds. Such notes and the resolution or
112 resolutions authorizing the same may contain any provisions,
113 conditions or limitations which a bond resolution of the authority may
114 contain.

115 (b) The revenue bonds and notes of every issue shall be payable
116 solely out of the revenues of the authority pertaining to the program
117 relating to such bonds or notes including principal and interest on
118 authority loans and education loans, and any other revenues derived
119 from or in connection with any other authority loans and education
120 loans, payments by participating institutions for higher education,
121 banks, guarantors, insurance companies or others pursuant to letters of
122 credit or purchase agreements, investment earnings from funds or
123 accounts maintained pursuant to the bond resolution, insurance
124 proceeds, loan funding deposits, proceeds of sales of education loans,
125 proceeds of refunding bonds and fees, charges and other revenues,
126 funds and other assets of the authority but subject only to any
127 agreements with the holders of particular revenue bonds or notes
128 pledging any particular revenues and subject to any agreements with
129 any participating institution for higher education.

130 (c) The revenue bonds or notes may be issued as serial bonds or
131 notes or as term bonds or notes, or the authority, in its discretion, may
132 issue bonds or notes of both types. The revenue bonds or notes shall be
133 authorized by resolution of the members of the board of directors of
134 the authority and shall bear such date or dates, mature at such time or
135 times, not exceeding the year following the last year in which the final
136 payments in an education loan series portfolio are due, or thirty years
137 from the date of issuance, whichever is sooner, from their respective
138 dates, bear interest at such rate or rates, payable at such time or times,
139 be in such denominations, be in such form either coupon or registered,
140 carry such registration or conversion privileges, be executed with
141 manual or facsimile signatures in such manner, be payable in lawful
142 money of the United States at such place or places, and be subject to
143 such terms of redemption, as such resolution or resolutions may
144 provide. Such resolution or resolutions may delegate to the executive
145 director, assistant executive director or any member of the board of
146 directors of the authority, or any combination of them, the power to
147 determine any of the matters set forth in this section and the power to
148 award the bonds to a purchaser or purchasers at public sale or to
149 negotiate a sale to a purchaser or purchasers. The revenue bonds or

150 notes may be sold for such price or prices as the authority shall
151 determine. Pending preparation of the definitive bonds, the authority
152 may issue interim receipts or certificates which shall be exchanged for
153 such definitive bonds.

154 (d) Any resolution or resolutions authorizing any revenue bonds or
155 any issue of revenue bonds may contain provisions, which shall be a
156 part of the contract with the holders of the revenue bonds to be
157 authorized, as to: (1) Pledging all or any part of the revenues, funds or
158 other assets of the authority, including, but not limited to, the
159 authority loans and education loans to secure such bonds or notes; (2)
160 pledging all or any part of the revenues paid to the authority by any
161 guarantor or insurance company; (3) pledging any revenue-producing
162 contract or contracts made by the authority with any individual,
163 partnership, corporation or association or other body, public or
164 private, or any federally guaranteed security and moneys received or
165 receivable therefrom whether such security is acquired by the
166 authority or a participating institution for higher education to secure
167 the payment of the revenue bonds or notes or of any particular issue of
168 revenue bonds or notes, subject to such agreements with bondholders
169 or noteholders as may then exist; (4) the fees and other amounts to be
170 charged, and the sums to be raised in each year thereby, and the use,
171 investment and disposition of such sums; (5) the establishment and
172 setting aside of reserves or sinking funds, the setting aside of loan
173 funding deposits, capitalized interest accounts, and cost of issuance
174 accounts, and the regulation and disposition thereof; (6) limitations on
175 the use of the education loans; (7) limitations on the purpose to which
176 the proceeds of the sale of any issue of revenue bonds or notes then or
177 thereafter to be issued may be applied, including as authorized
178 purposes, all costs and expenses necessary or incidental to the issuance
179 of bonds, to the acquisition of or commitment to acquire any federally
180 guaranteed security and pledging such proceeds to secure the
181 payment of the revenue bonds, notes or any issue of the revenue bonds
182 or notes; (8) limitations on the issuance of additional bonds or notes,
183 the terms upon which additional bonds or notes may be issued and
184 secured and the terms on which additional bonds or notes rank on a

185 parity with, or be subordinate or superior to, other bonds or notes; (9)
186 the refunding of outstanding bonds or notes; (10) the procedure, if any,
187 by which the terms of any contract with bondholders or noteholders
188 may be amended or abrogated, the amount of bonds or notes the
189 holders of which must consent thereto, and the manner in which such
190 consent may be given; (11) limitations on the amount of moneys
191 derived from the educational program to be expended for operating,
192 administrative or other expenses of the authority; (12) defining the acts
193 or omissions to act which shall constitute a default in the duties of the
194 authority to holders of its obligations and providing the rights and
195 remedies of such holders in the event of default; (13) the duties,
196 obligations and liabilities of any trustee or paying agent; (14)
197 providing for guarantees, pledges of endowments, letters of credit,
198 property or other security for the benefit of the holders of such bonds
199 or notes; and (15) any other matters relating to the bonds or notes
200 which the authority deems desirable.

201 (e) Subject to the approval of the State Treasurer or the Treasurer's
202 deputy appointed pursuant to section 3-12, required under subsection
203 (b) of section 1-124, in connection with, or incidental to:

204 (1) The issuance or carrying of bonds, notes or other obligations of
205 the authority, or the acquisition or carrying of any investment or
206 program of investment, the authority may enter into any contract
207 which the authority determines to be necessary or appropriate to place
208 the obligation or investment of the authority, as represented by the
209 bonds, notes or other obligations, investment or program of
210 investment and the contract or contracts, in whole or in part, on the
211 interest rate, cash flow or other basis desired by the authority,
212 including, without limitation, contracts commonly known as interest
213 rate swap agreements, forward payment conversion agreements,
214 futures or contracts providing for payments based on levels of, or
215 changes in, interest rates, stock or other indices, or contracts to
216 exchange cash flows or a series of payments, or contracts, including,
217 without limitation, interest rate floors or caps, options, puts or calls to
218 hedge payment, rate, spread or similar exposure or contracts for the

219 purchase of option rights with respect to the mandatory tender for
220 purchase of bonds, notes or other obligations of the authority, which
221 are subject to mandatory tender or redemption, including the issuance
222 of certificates evidencing the right of the owner to exercise such option
223 rights. Such contracts or agreements may also be entered into by the
224 authority in connection with, or incidental to, entering into or
225 maintaining any agreement which secures its bonds, notes or other
226 obligations, subject to the terms and conditions of the agreement
227 respecting outstanding obligations. In entering into any such contract
228 or agreement, the authority shall give due consideration to the
229 creditworthiness of the counter party or counter parties, including any
230 rating by a nationally recognized rating agency, the impact on any
231 rating on outstanding bonds or notes of the authority or any other
232 criteria as the authority may deem appropriate, provided the
233 unsecured long-term obligations of the counter party are rated the
234 same or higher than the underlying rating of the authority on the
235 applicable bonds or notes by at least one nationally recognized rating
236 agency. For purposes of this subsection, counter party includes any
237 party providing an unconditional guaranty of the obligations of the
238 counter party under such contract or agreement; and

239 (2) The issuance or carrying of bonds, notes or other obligations or
240 entering into any of the contracts or agreements referred to in
241 subdivision (1) of this subsection, the authority may enter into credit
242 enhancement or liquidity agreements, with payment, interest rate,
243 security, default, remedy and other terms and conditions as the
244 authority determines, and the authority may pledge all of any part of
245 the collateral that secures the applicable bonds or notes, to the
246 authority's payment obligations under any contract or agreement
247 entered into pursuant to this subsection. The authority's obligations
248 under any contract or agreement entered into pursuant to this
249 subsection may be enforced as provided in section 10a-235.

250 [(e)] (f) Neither the members of the board of directors of the
251 authority nor any person executing the revenue bonds or notes shall be
252 liable personally on the revenue bonds or notes or be subject to any

253 personal liability or accountability by reason of the issuance thereof.

254 [(f)] (g) The authority shall have power out of any funds available
255 therefor to purchase its bonds or notes. The authority may hold,
256 pledge, cancel or resell such bonds or notes subject to and in
257 accordance with the agreements with bondholders.

258 Sec. 4. Subsection (b) of section 12-742 of the general statutes is
259 repealed and the following is substituted in lieu thereof (*Effective July*
260 *1, 2007*):

261 (b) (1) In cases where any person or entity is due a refund of state
262 income taxes, and that same person is in default of a student loan
263 made or guaranteed by the Connecticut Student Loan Foundation or
264 the Connecticut Higher Education Supplemental Loan Authority, the
265 Connecticut Student Loan Foundation or the Connecticut Higher
266 Education Supplemental Loan Authority, as appropriate, shall notify
267 the Commissioner of Administrative Services of such default. The
268 Commissioner of Revenue Services, upon notification by the
269 Commissioner of Administrative Services, shall withhold the payment
270 of said refund to such person to the extent of such default, provided
271 the Commissioner of Revenue Services shall notify such person in
272 default that he or she has the right to a hearing before an officer
273 designated by the Commissioner of Administrative Services if he or
274 she contests the validity or amount of the Commissioner of
275 Administrative Services' claim. If the person in default fails to apply in
276 writing to the Commissioner of Administrative Services for a hearing
277 within sixty days of the issuance of notice of withholding, the
278 Commissioner of Revenue Services shall remit the amount of the
279 withheld refund to the Commissioner of Administrative Services, who
280 in turn shall remit the amount of such withheld refund to the
281 Connecticut Student Loan Foundation or the Connecticut Higher
282 Education Supplemental Loan Authority, as appropriate. If the person
283 in default elects an administrative hearing within this time, the
284 Commissioner of Revenue Services shall remit the amount of the
285 withheld refund in accordance with any decisions of the hearing

286 officer or the court upon an appeal of the hearing officer's decision. If a
 287 person in default also owes a debt or obligation described in
 288 subsection (a) of this section, the refund shall be applied against such
 289 debt or obligation before being credited against the amount of the
 290 default.

291 (2) The Commissioner of Revenue Services, the Commissioner of
 292 Administrative Services, [and] the president of the Connecticut
 293 Student Loan Foundation or the executive director of the Connecticut
 294 Higher Education Supplemental Loan Authority, as appropriate, on
 295 behalf of such corporation, shall enter into an agreement for the
 296 crediting of income tax refunds against the amount a taxpayer is in
 297 default of a loan pursuant to subdivision (1) of this subsection. The
 298 agreement shall include procedures for the Connecticut Student Loan
 299 Foundation or the Connecticut Higher Education Supplemental Loan
 300 Authority, as appropriate, to (A) notify the Commissioner of
 301 Administrative Services of a default, and the amount of the default,
 302 and (B) reimburse the Department of Administrative Services and the
 303 Department of Revenue Services for any costs incurred by the
 304 departments in carrying out the provisions of this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2007	10a-224(a)
Sec. 2	July 1, 2007	10a-225
Sec. 3	July 1, 2007	10a-230
Sec. 4	July 1, 2007	12-742(b)

HED *Joint Favorable Subst. C/R*

FIN

FIN *Joint Favorable*

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Administrative Services	GF - Cost	Less than \$40,000	Less than \$40,000
Department of Revenue Services	GF - Cost	Minimal	None

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill makes several changes to the Connecticut Higher Education Supplemental Loan Authority's (CHESLA) operations and authority. The bill requires CHESLA to notify the Department of Administrative Services (DAS) when a person or entity entitled to a state income tax refund is in default of a CHESLA-made or -guaranteed student loan. It requires the Department of Revenue Services (DRS) to withhold the defaulter's state income tax refund up to the default amount when notified by DAS. DRS must notify the taxpayer that he has a right to a hearing before an officer designated by DAS if he contests the validity or amount of the DAS claim.

DAS will need a part-time position, with an estimated salary of less than \$40,000, to conduct defaulted student loan hearings.

The bill is expected to result in a minimal one-time cost to DRS to modify their Integrated Tax Administration System (ITAS) to match individuals that have defaulted on a student loan made or guaranteed by CHESLA and are due a tax refund.

The Out Years

The DRS cost is a one-time cost, the DAS cost would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1074*****AN ACT CONCERNING THE CONNECTICUT HIGHER EDUCATION SUPPLEMENTAL LOAN AUTHORITY.*****SUMMARY:**

This bill makes several changes to the Connecticut Higher Education Supplemental Loan Authority's (CHESLA) operations and authority. It requires the state to withhold the state income tax refund of any taxpayer who has defaulted on a CHESLA-made or -guaranteed student loan. The bill permits the authority, with approval of the state treasurer, or the treasurer's deputy, to enter into interest rate swap agreements and credit enhancement or liquidity agreements in connection with its debt obligations. It allows CHESLA to develop and require the use of master promissory notes for education loans. And it allows more than one of the three members of CHESLA's board of directors representing Connecticut higher education institutions to be from a public higher education institution.

EFFECTIVE DATE: July 1, 2007

§ 4 — WITHHOLDING INCOME TAX REFUNDS

The bill requires CHESLA to notify the Department of Administrative Services (DAS) commissioner when a person or entity entitled to a state income tax refund is in default of a CHESLA-made or -guaranteed student loan. It requires the Department of Revenue Services (DRS) commissioner to withhold the defaulter's state income tax refund up to the default amount when notified by the DAS commissioner. The DRS commissioner must notify the taxpayer that he or she has a right to a hearing before an officer designated by the DAS commissioner if he or she contests the validity or amount of the DAS commissioner's claim. Unless the person asks for a hearing

within 60 days after the DRS commissioner issues the withholding notice, the commissioner must send the withheld money to the DAS commissioner who must, in turn, send it to CHESLA. If the defaulter requests a hearing, the DRS commissioner must remit the tax refund according to the hearing officer's decision or, if the decision is appealed to court, according to the court decision.

Any debts the taxpayer owes to the state take priority over the defaulted student loans, and tax refunds must be credited first against such debts.

The bill requires the commissioners and CHESLA's executive director to make an agreement to credit income tax refunds against a taxpayer's defaulted student loans. The agreement must include procedures for CHESLA to notify the DAS commissioner of defaults and the default amounts and to reimburse DRS and DAS for their administrative costs in carrying out the bill.

§ 3 — INTEREST RATE SWAP, CREDIT ENHANCEMENT, AND LIQUIDITY AGREEMENTS

The bill allows CHESLA, with the approval of the state treasurer or the treasurer's deputy, to enter into arrangements to manage interest rate and cash flow fluctuations in connection with issuing, carrying, or securing its bonds or notes and allows CHESLA to enter into credit enhancement or liquidity agreements in connection with those arrangements. Under the bill, such arrangements can include interest rate swap agreements, futures contracts, interest rate floors or caps, options, puts, or calls.

The bill:

1. requires CHESLA, in selecting the other parties, to consider (a) the party's ability to meet its obligations, including its ratings by nationally recognized rating agencies, (b) the agreement's impact on the ratings of any of the authority's outstanding bonds or notes, and (c) any other criteria it considers appropriate;

2. requires the other party's unsecured long-term debt to be rated the same or higher than CHESLA's by at least one nationally recognized rating agency;
3. allows CHESLA to pledge all or any part of the collateral securing its debt obligations to secure its payment obligations under an interest rate swap agreement;
4. authorizes CHESLA to enter into credit enhancements or liquidity agreements containing whatever payment, interest rate, security, default, remedy or other terms and conditions CHESLA thinks appropriate; and
5. allows those holding the agreements to bring suits, actions, or other proceedings to enforce their rights under law and compel CHESLA to perform its duties.

§ 2 — MASTER PROMISSORY NOTES

Currently, CHESLA issues a separate promissory note for each education loan. The bill allows CHESLA to issue a master promissory note to cover all of one borrower's education loans for the same or subsequent periods of enrollment. The note must include a provision stating that it is governed by and construed pursuant to Connecticut law.

Regardless of existing law or regulations, each loan made under a master promissory note (1) may be sold or assigned independently of any other loan made under the same note and (2) is separately enforceable, according to the note's terms, based on an original or copy of the note. Each note is fully negotiable within the meaning and purposes of the Uniform Commercial Code (UCC), regardless of the code's requirements.

The bill allows CHESLA to pledge all or any part of its interest in its master promissory notes, or the loans covered by the notes, to secure its debt obligations. Any pledge CHESLA makes concerning these master promissory notes is binding from the time it is made and the

interest received on the notes is immediately subject to the pledge's lien without physical delivery of the money. It is binding on all parties with any claim against CHESLA or any participating higher education institutions and has priority over all other liens, including those of people who do business with CHESLA. Regardless of UCC requirements, the lien need not be recorded or filed. CHESLA's sale of any loan covered by a master promissory note is automatically effective and perfected upon attachment.

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable Substitute Change of Reference

Yea 19 Nay 0 (02/22/2007)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 51 Nay 0 (04/10/2007)