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**OLR Bill Analysis**

**HB 6001**

***Emergency Certification***

***AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET  
FOR THE FISCAL YEAR BEGINNING JULY 1, 2012.***

**SUMMARY:**

A section-by-section analysis follows.

EFFECTIVE DATE: Various, see below.

**§ 1—BUDGET CHANGES**

See Fiscal Note.

**§ 2—DENTAL SERVICES FOR ADULT MEDICAID RECIPIENTS**

The law (1) subjects most nonemergency Medicaid dental services to prior authorization and (2) directs the DSS commissioner to limit nonemergency dental services provided to adult recipients. This latter provision includes allowing for one periodic dental exam, one dental cleaning, and one set of x-rays yearly for healthy adults. The bill provides that these dental benefit limitations apply to each client regardless of how many providers serve the client.

DSS is in the process of establishing client-centered medical homes that include a dental home that coordinates a client's dental care.

EFFECTIVE DATE: July 1, 2012

**§§ 3, 4 & 266—MEDICAID INPATIENT HOSPITAL RATES,  
DISPROPORTIONATE SHARE PAYMENTS, AND HOSPITAL TAX**

The bill eliminates the inpatient hospital rate-setting formula the Department of Social Services (DSS) currently uses to calculate Medicaid payment amounts. That formula includes a hospital-specific target amount per discharge component that the commissioner can

adjust for accuracy or for hospitals serving disproportionate numbers of low-income patients. It appears that DSS intends to replace its current statutory formula with a cost-neutral, acuity-based, rate-setting method phased in over time. PA 11-44 directed the commissioner to submit a plan for doing so to the Appropriations and Human Services committees by January 1, 2012. (The department has not done so.)

The bill extends from October 1, 2012 to October 1, 2013, the period in which the DSS commissioner must use FFY 09 data, adjusted for accuracy, to make interim Medicaid disproportionate share (DSH) payments to short-term general hospitals. Federal law requires states to make such payment adjustments for hospitals that serve a disproportionate share of low-income patients. Beginning on October 1, 2013, the bill requires him to use the most recent, independent, certified DSH audit of federal fiscal year data. The law prohibits DSH payments to Connecticut Children's Medical Center and John Dempsey Hospital.

Beginning July 1, 2012 and for the following 15 months, the bill leaves unchanged (1) the hospital tax rates, (2) the base year on which the tax is assessed, and (3) those hospitals that are exempt from the outpatient portion of the tax based on financial hardship that were in effect on January 1, 2012.

EFFECTIVE DATE: Upon passage

**§§ 5-7 & 15—DSS PAYMENTS TO PRIVATE FACILITIES OPERATED BY REGIONAL EDUCATION SERVICE CENTERS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES AND AUTISM, NURSING HOMES, INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES (ICF-MR), AND RESIDENTIAL CARE HOMES**

The bill requires DSS to reduce the amount it reimburses (1) private facilities operated by regional education service centers for individuals with developmental disabilities and autism, (2) nursing homes, (3) ICF-MRs, and (4) residential care homes (RCH) if these facilities experience a "significant" decrease in their land and building costs to reflect these cost reductions. (The bill does not define significant.)

For FYs 12 and 13, PA 11-44 (1) froze the payments to these facilities unless they made a required capital improvement for resident safety and (2) allowed DSS to make lower payments over previous years to facilities for which it had issued interim rates. The bill eliminates the freeze and lower interim rate-based payment authority for FY 2013.

The bill provides that regardless of any other law to the contrary, the rates DSS pays to RCHs, community living arrangements (group homes), and community companion homes that receive in FY 12 the flat rate for residential services provided for in state regulation remain in effect in FY 13. State regulations (§ 17-311-54) permit these facilities to have their rates determined on a flat rate basis rather than individually on the basis of cost reports they submit to DSS.

The bill provides that for FY 13, DSS, within available appropriations, can provide rate increases to an RCH, but a facility that would have been issued a lower rate due to its interim rate status must be issued that lower rate.

In general, DSS sets reimbursement rates for various health care providers and residential facilities using a cost-based system that takes into account how efficiently the facility operates, among other things.

EFFECTIVE DATE: July 1, 2012

**§ 8—VETERANS REQUIRED TO APPLY FOR FEDERAL BENEFITS**

The bill requires veterans and their families who apply for or receive Medicaid benefits to apply for any benefits for which they might be eligible through the federal Veteran's Administration (VA) or Department of Defense. VA medical benefits are available to all veterans who served honorably for at least two years in any branch of the military.

The law defines veterans as individuals honorably discharged from, or released under honorable conditions from, active service in the armed forces.

EFFECTIVE DATE: July 1, 2012

**§§ 9 & 10—EXPANSION OF PRIVATE ASSISTED LIVING SERVICES PILOT**

The bill increases, from 75 to 125, the total number of people who can participate in two private assisted living pilot programs (one Medicaid- and one state-funded, administered by DSS). The programs help pay for assisted living services, but not room and board, for people living in private assisted living facilities who have used up their own resources. (Participants must use their own funds to pay their room and board costs.)

To qualify, applicants must:

1. be Connecticut residents at least age 65;
2. reside in a private assisted living facility;
3. need help with one or more activities of daily living, such as bathing, dressing, eating, or taking medication; and
4. qualify functionally and financially for the Connecticut Home Care Program for Elders.

EFFECTIVE DATE: July 1, 2012.

**§§ 11—MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL**

The bill permits a registered nurse (RN) to delegate the administration of medications that are not injected into patients to homemaker-home health aides who obtain certification for medication administration. Administration may not be delegated when the prescribing physician specifies that a nurse must administer it.

The law already allows residential care homes (RCHs) that admit residents requiring medication administration assistance to employ a sufficient number of certified, unlicensed personnel to perform this function in accordance with DPH regulations (CGS § 19a-495a).

***DPH Regulations***

***Home Health Care Agency.*** The bill requires the Department of

Public Health (DPH) commissioner to adopt regulations to carry out the medication administration delegation provisions. The regulations must require that each home health care agency that serves clients requiring help with medication administration to:

1. adopt practices that increase and encourage client choice, dignity, and independence;
2. establish policies and procedures to ensure that an RN may delegate allowed nursing care tasks, including medication administration to a homemaker-home health aide when the RN determines that it is in the patient's best interest and the homemaker-home health aide is deemed competent to perform the task;
3. designate homemaker-home health aides to obtain certification for medication administration; and
4. ensure that the aides receive the certification.

**Certification.** The bill requires the regulations to establish certification requirements for medication administration and the criteria that the agencies that service clients will use in determining (1) the aides who must obtain certification and (2) education and skill training requirements, including on-going requirements. The education and skill training requirements must include initial orientation, resident rights, identifying the types of medication that unlicensed personnel may administer, behavioral health management, personal care, nutrition and food safety, and health and safety in general.

The bill requires each home health care agency to ensure that by January 1, 2013 they are allowing for delegation of nursing care tasks in home care settings and they have adopted policies for employing homemaker- home health aides to perform these tasks.

Current law requires the DPH commissioner to establish regulations governing medication administration by unlicensed personnel in

RCHs. The regulations must include criteria that homes must use to determine the appropriate number of unlicensed personnel who will obtain certification. They must also establish ongoing training requirements including initial orientation, residents' rights, behavioral management, personal care, and general health and safety.

***Disciplinary Action Against Licensed Nurses***

An RN who delegates the medication administration task cannot be subject to disciplinary action based on the aide's performance of tasks he or she delegated to the aide unless (1) the aide is acting pursuant to the RN's instructions or (2) the RN fails to leave instructions when he or she should have done so. Additionally, the RN must (1) document in the patient's care plan that the aide can properly and safely perform the medication administration, (2) provide initial direction to the aide, and (3) provide ongoing supervision to the aide, including periodically assessing and evaluating the patient's health and safety related to the medication administration

The bill prohibits an RN from being sued for damages for delegating medication administration to a homemaker-home health aide unless (1) the employee acts under the nurse's specific instructions or (2) the nurse fails to leave instructions when he or she should have done so.

***Coercion Prohibited***

The bill prohibits any person from coercing an RN into compromising patient safety by requiring him or her to delegate medication administration if the nurse's assessment of the patient documents a need for a nurse to do the administration and identifies why the need cannot be safely met through using assistive technology or medication administration by a certified homemaker-home health aide. The bill prohibits an RN who has made a reasonable determination based on such assessment that delegation may compromise patient safety from being subject to any employer reprisal or disciplinary action under the Public Health Code for refusing to delegate or refusing to provide the required training for delegation.

***Implementation While Regulations Being Adopted***

The bill allows the DPH commissioner to implement policies and procedures necessary to administer these provision while in the process of adopting them in regulation, provided she publishes notice of intent to adopt in the *Connecticut Law Journal* within 20 days of implementation. These policies and procedures are valid until the time final regulations are adopted.

EFFECTIVE DATE: July 1, 2012

**§ 12—PERSONAL CARE ASSISTANTS (PCA) PERMITTED TO ADMINISTER MEDICATION**

The bill provides that nothing in the Nurse Practice Act can be construed to prohibit a PCA employed by a registered homemaker-companion agency from administering medications to a competent adult who directs his or her own care and makes his or her own decisions pertaining to assessment, planning, and evaluation.

EFFECTIVE DATE: July 1, 2012

**§ 13—REMOVAL OF SPECIFIC PRIOR AUTHORIZATION (PA) LIMITS**

By law, the DSS commissioner must establish PA procedures under the Medicaid program for home health services. Currently, the law requires PA for (1) more than two skilled nursing care visits a week and (2) more than 14 hours of home health aide visits a week. The bill eliminates the numerical criteria for PA. And it eliminates a provision that allows providers (presumably home health agencies) to submit just one PA request a month for the same client.

EFFECTIVE DATE: July 1, 2012

**§ 14—MEDICAID PCA WAIVER**

The Medicaid Personal Care Assistance Waiver Program offers PCA services to adults with severe disabilities age 18 and older who meet the program's eligibility criteria (e.g., income no higher than \$2,094 per month). PCAs help clients perform activities of daily living, enabling

them to remain in their communities and, when possible, work.

The bill requires program participants, once turning 65, to be transitioned to the Connecticut Home Care Program for Elders (CHCPE) to receive these services. CHCPE is a Medicaid- and state-funded program that provides home- and community-based services to frail individuals age 65 and older.

(In 2006, the legislature removed the PCA Waiver program's upper age limit and directed DSS to amend the waiver to allow individuals to continue receiving benefits once they turned 65. The state's current waiver allows individuals to either stay on the PCA waiver program or transition to the CHCPE.)

EFFECTIVE DATE: July 1, 2012

#### **§ 16—NURSING HOME REIMBURSEMENT**

The bill permits the DSS commissioner, within available appropriations, to provide pro rata fair rent increases in FY 13 for facilities that have undergone material changes in circumstances related to fair rent additions placed in service in cost report periods 2008 and 2011 and not otherwise include in their issued rates.

EFFECTIVE DATE: January 1, 2013

#### **§ 17—COVERAGE OF CHIROPRACTOR SERVICES FOR MEDICAID RECIPIENTS**

The bill allows DSS to "cover" chiropractor services for Medicaid recipients provided it does not spend more than \$250,000 annually for this coverage. These services can be coordinated with other initiatives under the Medicaid program.

The bill requires the commissioner to implement policies and procedures to carry out this provision while in the process of adopting it in regulation form provided he publishes notice of intent in the *Connecticut Law Journal* within 20 days of implementation. These policies and procedures are valid until the final regulations are adopted.

EFFECTIVE DATE: October 1, 2012

**§ 18—PHARMACY REIMBURSEMENT INCREASE FOR INDEPENDENTS**

Contingent on federal approval, the bill requires DSS, beginning October 1, 2012, to reimburse independent pharmacies for dispensing brand name drugs to Medicaid recipients a higher rate than it pays chain pharmacies. Specifically, it requires DSS to pay the independent pharmacies the lower of (1) the rate the Centers for Medicare and Medicaid Services (CMS) establishes as the federal acquisition cost, (2) the average wholesale prices (AWP) minus AWP-14%, or (3) an equivalent percentage as established under the Medicaid state plan. (The dispensing fee remains \$2 for independents and chains.)

The bill defines an “independent pharmacy” as a privately owned community pharmacy that has five or fewer stores in the state.

By law, DSS currently pays all pharmacies the lower of (1) the rate established by CMS as the federal acquisition cost, (2) the AWP minus 16%, or (3) an equivalent percentage as established under the Medicaid state plan. In practice, DSS currently pays AWP-16%.

The bill requires the DSS commissioner to submit a Medicaid state plan amendment by October 1, 2012 to establish the new rate for the independent pharmacies.

EFFECTIVE DATE: October 1, 2012

**§ 19—EARLIER START-DATE FOR DEPARTMENT ON AGING**

The bill moves the start-date for the re-established Department on Aging from July 1, 2013 to January 1, 2013.

EFFECTIVE DATE: July 1, 2012

**§ 20—TECHNICAL**

The bill makes a technical change.

EFFECTIVE DATE: Upon passage, and arising from any claim of the

state arising on or after July 1, 2011.

**§ 21—REPORT ON MEDICAL ASSISTANCE FRAUD INVESTIGATIONS**

The bill require the chief state’s attorney to report by October 1, 2013 to the Appropriations Committee on its Division of Criminal Justice’s monetary recoveries resulting from its investigations of fraud in DSS medical assistance programs.

EFFECTIVE DATE: July 1, 2012

**§ 22—DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES’ (DMHAS) BEHAVIORAL HEALTH MANAGED CARE PROGRAM**

The bill maintains the DMHAS commissioner’s authority to operate and audit the behavioral health managed care program for recipients of the now-defunct State-Administered General Assistance program for claims and services provided through June 30, 2012. It likewise keeps the program’s regulations effective as they are necessary for DMHAS to conduct program audits, including audits of (1) prior authorizations, (2) service payments, and (3) medical records.

The bill requires the commissioner to analyze the audit results and identify discrepancies and errors regarding services and payments and areas that involve program implementation and operation problems. It continues the commissioner’s authority to (1) recover reimbursements made to providers based on the audit findings and (2) impose progressive sanctions as she deems appropriate for any provider she finds not to be in compliance with the standards established in regulation. Providers can appeal withheld reimbursements and sanctions in accordance with the Uniform Administrative Procedures Act.

EFFECTIVE DATE: Upon passage

**§ 23—SECURITY DEPOSIT GUARANTEE PROGRAM**

The bill expands the number of entities that can administer DSS’ Security Deposit Guarantee Program. Currently, only emergency

shelters that contract with DSS can help with the program's administration. The bill instead allows local or regional nonprofit corporations or social service organizations to help.

Within available appropriations, this program provides security deposit guarantees (payment for any damages that occur) to landlords who rent to public assistance recipients or other people with a documented showing of need and who are living in emergency housing or have a government rental subsidy.

EFFECTIVE DATE: July 1, 2012

#### **§ 24—UNITED WE STAND**

The bill requires all the money in the "United We Stand commemorative account" to be transferred to the Office of Policy and Management (OPM) secretary. Under current law and the bill, the secretary must use this money to (1) reimburse boards of trustees or regents for the waiver of tuition and fees at UConn, the state university system, and regional community-technical colleges for, among other people, surviving spouses and dependent children of Connecticut residents who were victims of terrorism, (2) providing financial support for civil preparedness and related training activities, and (3) purchasing supplies and equipment to support emergency personnel.

Under current law, half of the money in this account is distributed quarterly to the U.S. State Department's "Rewards for Justice" Fund to help catch terrorists and bring them to trial, and half is transferred to OPM. Money for the account comes from the Department of Motor Vehicles' sale of "United We Stand" number plates (CGS § 14-21o).

EFFECTIVE DATE: July 1, 2012

#### **§ 25—JOBS FIRST EMPLOYMENT SERVICES (JFES) PILOT**

The law requires DSS and the Department of Labor to implement a pilot program for JFES participants that includes (1) intensive case management; (2) support services; and (3) funding to facilitate participation in necessary adult basic education, skills training,

postsecondary education, or subsidized employment. The bill eliminates the requirement that all three be offered.

Currently, the commissioners jointly must report on the pilot by October 1, 2012 and annually thereafter to the Human Services and Appropriations committees. The bill requires just two reports, the first by October 1, 2012 and the last by October 1, 2013.

The law requires the report to include the number of program participants. The bill specifies that this cover participants from the preceding fiscal year.

EFFECTIVE DATE: Upon passage

**§ 26—WAIVER FOR MEDICAID LOW-INCOME ADULTS (LIA)**

The bill directs the DSS commissioner to seek a Section 1115 Medicaid waiver to modify eligibility and coverage for LIA applicants and recipients. Specifically, the waiver would (1) establish an asset limit of \$10,000, (2) count the income and assets of the parent of an applicant who is under age 26 if the applicant lives with that parent or is declared as a dependent for income tax purposes, and (3) limit nursing home coverage to 90 days.

Currently, there is no asset limit for the program and only the applicant's income is counted.

EFFECTIVE DATE: July 1, 2012

**§ 27—PRIOR AUTHORIZATION FOR PRESCRIPTION DRUGS**

The bill requires the DSS commissioner, by October 1, 2012, to issue a flyer to pharmacies to distribute to Medicaid recipients who receive a one-time, 14-day supply of their prescription when prior authorization is needed and the pharmacy has not yet received the authorization. The flyer must notify the recipients that (1) prior authorization is needed for that prescription to be filled, (2) the 14-day supply is a one-time supply, and (3) they must contact the prescriber to arrange for prior authorization for a full prescription to be filled.

In practice, Hewlett Packard (HP), on behalf of DSS, requests prior authorization from a prescriber when a medical practitioner has prescribed (1) a brand name drug when a chemically equivalent is available; (2) an early refill; (3) a drug that is not on DSS' preferred drug list; or (4) a drug exceeding the optimal, instead of preferred, dosage. When this occurs, the point-of-sale system at the pharmacy will return a message to the pharmacist indicating why payment has been denied. DSS has notified pharmacists that they can contact the prescriber to initiate prior authorization with HP.

EFFECTIVE DATE: July 1, 2012

**§§ 28-95—BUREAU OF REHABILITATIVE SERVICES—NAME CHANGED TO DEPARTMENT OF REHABILITATION SERVICES**

The bill (1) makes the Bureau of Rehabilitative Services, created by PA 11-44, a stand-alone entity rather than a bureau within DSS for administrative purposes, (2) renames it the Department of Rehabilitation Services, (3) makes the department head a commissioner instead of an executive director, and (4) makes the newly named bureau a successor authority to the previously named bureau. Under PA 11-44, the bureau was authorized to perform all of the administrative and programmatic functions of the Board of Education and Services for the Blind, the Commission on Deaf and Hearing Impaired, and other state rehabilitation services.

The bill requires DSS to provide the department administrative support services until (1) the department requests that DSS no longer do so or (2) June 30, 2013, whichever is earlier.

The bill makes numerous technical and conforming changes and removes obsolete language.

EFFECTIVE DATE: July 1, 2012

**§ 96—SCHOOL-BASED HEALTH CENTER COMMUNICATIONS AGREEMENT**

The bill requires, by July 1, 2013, each school-based health center

(SBHC) that receives operational funding from the Department of Public Health to enter into an agreement with the school's local or regional board of education concerning the establishment of minimum standards for the frequency and content of communications between the SBHC and the school's nurses or nurse practitioners.

The agreement must comply with state laws on municipal employees (CGS Chapter 113). It is not clear how these laws would be applied.

It also requires the person or entity operating the SBHC to submit a copy of the agreement to the public health commissioner.

EFFECTIVE DATE: Upon passage

#### **§ 97—OFA STATE EXPENDITURE DATABASE REPORT**

By law, the Office of Fiscal Analysis (OFA) must maintain searchable internet databases of the state's expenditures and report quarterly on their status to the Appropriations Committee. The bill ends the requirement for quarterly reports and instead requires OFA to issue annual reports, with the first due by January 15, 2013.

EFFECTIVE DATE: Upon passage

#### **§ 98—LEDYARD AND MONTVILLE GRANT IN-LIEU OF TAXES**

By law, the OPM secretary must make a grant in lieu of taxes to each town where the state holds in trust reservation land for an Indian tribe. (Current law does not specify the amount of the grant for the Mohegan Tribe; it provides payment in lieu of taxes equal to 45% of property taxes for all other non-specified state-owned real property.) The bill provides a grant to Ledyard and Montville, phased-in from 2102-2016, equal to 45% of the property tax value of the land that federal government took into trust for the (1) Mashantucket Pequot Tribal Nation before June 8, 1999 or (2) Mohegan Tribe of Indians of Connecticut.

Specifically, under the bill, the state provides a grant to Ledyard and Montville of 45% of the property taxes which would have been

paid from any land designated within the 1983 settlement boundary and that the federal government took into trust for the Mashantucket Pequot Tribal Nation before June 8, 1999 or for the Mohegan Tribe of Indians of Connecticut, provided that the amount includes only the value of the land itself, not the assessed value of any structures, buildings, or other improvements on the land. The grant must be phased-in as follows, for the fiscal year beginning July 1:

1. 2012, 10% of the grant,
2. 2013, 35% of the grant,
3. 2014, 60% of the grant,
4. 2015, 85% of the grant, and
5. 2016, 100% of the grant.

Under current law, grant amounts paid to municipalities are reduced proportionately if grant totals exceed the amount appropriated in a given year. But, the bill specifies that the above amounts for Ledyard and Montville cannot be reduced between July 1, 2012 and July 1, 2015.

EFFECTIVE DATE: July 1, 2012

### **§ 99—CONNECTICUT HUMANITIES COUNCIL**

The bill eliminates the requirement that the Connecticut Humanities Council operate in conjunction with DECD for strategic planning and financial reporting purposes with respect to culture, history, the arts, and the tourism and digital media and motion picture industries in Connecticut. The Connecticut Trust for Historic Preservation must continue to work with DECD for these purposes.

The bill also eliminates the requirement that (1) the council submit its proposals for projects requiring bonding to DECD and (2) DECD review these proposals and submit those with merit to the Finance, Revenue, and Bonding Committee with its recommendations for funding.

EFFECTIVE DATE: Upon passage

**§ 100—COMMISSION ON MEDICOLEGAL INVESTIGATIONS**

The bill places the nine-member Commission on Medicolegal Investigations (COMLI) and the Office of the Chief Medical Examiner (OCME) (which COMLI supervises and controls) within the UConn Health Center for administrative purposes only. Under current law, COMLI is within the Department of Public Health for administrative purposes only.

EFFECTIVE DATE: July 1, 2012

**§ 101—COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES (CHRO)**

For administrative purposes only, the bill moves CHRO from the Department of Administrative Services to the Labor Department.

EFFECTIVE DATE: July 1, 2012

**§ 102—HEALTH INSURANCE FOR RETIRED TEACHERS**

***Teachers' Retirement Board Plan***

By law, the Teachers' Retirement Board (TRB) must offer one or more health plans to retired teachers and their spouses, surviving spouses, or disabled dependents, if they are participating in Medicare, Parts A and B. The state must pay one-third of the annual premiums for the basic TRB plan, while the retiree and the retired teachers' health insurance premium account, to which active teachers contribute 1.25% of their salary, split the remaining two-thirds. The retiree is also responsible for the difference between the premium cost of the basic plan and any optional plans he or she chooses.

Starting July 1, 2012, this bill requires the federal subsidies TRB receives for retiree drug coverage for TRB retirees under Medicare Part D to offset the state's required contribution to the cost of the TRB basic plan premium.

***Subsidy for Local Board Health Plans***

Retired teachers who are not participating in Medicare Parts A and

B can continue to participate in the health plan their last-employing board of education offers its active teachers. The TRB provides a monthly premium subsidy to local school boards. Retirees are responsible for paying the difference between the subsidy and the premium cost. The current subsidy is \$110 per person, per month for most retirees, and \$220 for retirees over age 65 who pay at least \$220 per person, per month in premiums.

Under current law, the state General Fund pays one-third of the cost of the subsidy and the retired teachers' health insurance account pays the remainder. For FY 13, this bill reduces the state's contribution to one-quarter of the cost of the subsidy, thus increasing the share to be paid from the account.

EFFECTIVE DATE: Upon passage

**§ 103—LABOR DEPARTMENT WORKFORCE INVESTMENT ACT ACCOUNT**

The bill makes technical changes to provisions in PA 12-104 that carried forward \$2 million from the Labor Department's Workforce Investment Act account to the FY 13 Personal Services account.

EFFECTIVE DATE: July 1, 2012

**§ 104—INMATES RELEASED TO NURSING HOMES**

The bill generally gives the Department of Correction (DOC) commissioner the discretion to release certain inmates from custody for nursing home placement for palliative and end-of-life care, under certain conditions. DOC must supervise in the community any inmate released in this manner.

The placement must be in a licensed community-based nursing home under contract with the state. Before the commissioner can authorize such a placement, the DOC medical director must determine that the inmate is suffering from a terminal condition, disease, or syndrome or is so debilitated or incapacitated by it as to (1) need continuous palliative or end-of-life care or (2) be physically incapable of presenting a danger to society.

The bill allows the DOC commissioner, as a condition of the nursing home placement, to require the medical director to periodically review and diagnose the inmate during his or her release. An inmate must be returned to DOC custody if the medical director determines that the inmate no longer meets the criteria for release described above.

The bill does not apply to inmates convicted of a capital felony, under the applicable law in effect prior to April 25, 2012, or murder with special circumstances under the law in effect on or after that date. (PA 12-5, which took effect April 25, 2012, eliminated the death penalty as a sentencing option for a capital felony committed on or after its EFFECTIVE DATE and renamed the crime of capital felony as "murder with special circumstances.")

EFFECTIVE DATE: July 1, 2012

**§ 105—VETERANS' AFFAIRS AND DAS**

The bill conforms state law to current practice by requiring the administrative services commissioner to investigate, determine, bill, and collect all charges for services covered under Medicaid or Medicare for people aided, cared for, or treated by the Department of Veterans' Affairs.

EFFECTIVE DATE: July 1, 2012

**§ 106—COMPUTER-ASSISTED MASS APPRAISAL (CAMA) SYSTEM GRANTS**

Under existing law, the CAMA program provides financial assistance to towns for costs associated with developing or modifying systems used for tax assessment and collection functions. The bill prohibits the OPM secretary from accepting or approving any CAMA grant program applications after June 30, 2012.

EFFECTIVE DATE: July 1, 2012

**§§ 107-109—CERTAIN MILITARY ACCOUNTS**

The bill establishes three separate, nonlapsing accounts within the General Fund; requires each account to contain any funds the law

requires to be deposited into them; and specifies their purposes.

Specifically, it establishes the:

1. "Chargeable Transient Quarters and Billeting Account" into which proceeds of room charges at Camp Niantic must be deposited and requires the Adjutant General (AG) to use the funds to billet members of the Armed Forces at Camp Niantic,
2. "Governor's Guards Account" into which proceeds from the Governor's Guards programs must be deposited and requires the AG to use the funds to facilitate the operations of the Governor's Guards programs, and
3. "Governor's Guards Horse Account" into which donations given to offset the cost of maintaining the horses must be deposited and requires the AG to use the funds to facilitate the operations of the Governor's Guards programs.

EFFECTIVE DATE: July 1, 2012

### **§ 110—DISPARITY STUDY**

The bill transfers, from CHRO to the Connecticut Academy of Science and Engineering (CASE), responsibility for conducting a disparity study to determine whether the state's set-aside program (now called the supplier diversity program) is achieving the goal of helping small contractors and minority business enterprises (MBEs) obtain state contracts. It requires CASE to consult with CHRO and other state agencies as appropriate, in addition to consulting with DAS as under current law.

In conducting the study, the bill requires CASE to provide an analysis of existing statistical data of the supplier diversity program, rather than generate its own data. It also requires that the study review the state's current supplier diversity program practices and best practices of other states or governmental entities.

Current law requires the study to at least examine (1) whether there

is significant evidence of past or continuing discrimination in the way that the state executes its contracting duties and (2) the number of small contractors or MBEs that qualify under the supplier diversity program and whether they are legitimate small contractors or legitimately owned by a minority. The bill specifies that (1) these examinations must be based on available data and analysis, (2) the evidence of discrimination must be statistical, and (3) the examination of discrimination must concern the awarding of state contracts, rather than the way the state executes its contracting duties. Additionally, it removes the requirement on whether qualifying small contractors and MBEs are legitimate small contractors or legitimately owned by a minority.

The law also requires the study to examine state contracting processes to determine if they present any unintentional barriers that prevent full participation by small contractors or MBEs. The bill makes a technical change to this requirement.

Lastly, the bill delays, from January 1, 2013 to June 30, 2013, the date by which the study's findings and any recommendations for legislative action concerning the study must be submitted to the Government Administration and Elections Committee.

EFFECTIVE DATE: Upon passage

### **§ 111—OPERATION FUEL ENERGY ASSISTANCE**

The budget act, PA 12-104, transfers \$2 million of the funds collected through the systems benefit charge on electric utility customers to the Department of Energy and Environmental Protection for energy assistance for FY 13 through Operation Fuel.

This bill makes \$200,000 of the transferred funds available for Operation Fuel's FY 13 administrative expenses for the energy assistance program.

EFFECTIVE DATE: July 1, 2012

### **§§ 112-114 & 121—DEPARTMENT OF HOUSING**

The bill establishes a Department of Housing (DOH), with a commissioner as its department head, and makes it the lead agency responsible for all housing matters. It establishes an Interagency Council on Affordable Housing to advise and assist the DOH commissioner. By January 15, 2013 the council must report to the governor and joint standing committees of cognizance on (1) planning and implementing the new department and (2) the state's housing resources and delivery systems.

The bill also makes technical and conforming changes.

### **DOH**

The bill places DOH in DECD for administrative purposes only, making it DECD's successor with respect to housing-related functions, powers, and duties (which include community development, redevelopment, and urban renewal). Any DECD order or regulation in force on January 1, 2013, continues in force and effect until amended, repealed, or superseded by law.

**Commissioner's Duties and Reporting Requirement.** The DOH commissioner is responsible for developing strategies to encourage housing provision in the state, including for very low-, low-, and moderate-income families. In consultation with the Interagency Council on Affordable Housing, the commissioner must review the organization and delivery of state housing programs and report to the Housing and Appropriations committees by January 15, 2013 with their recommendations.

### **Interagency Council on Affordable Housing**

**Members and Chairperson.** The governor must designate the chairperson from among the 13-member council, which consists of:

1. the Social Services, Mental Health and Addiction Services, Children and Families, Correction, and Economic and Community Development commissioners, or their designees;
2. the Office of Policy and Management secretary, or his designee;

3. the Partnership for Strong Communities executive director, or his designee;
4. the Connecticut Housing Coalition executive director, or her designee;
5. the Connecticut Coalition to End Homelessness executive director, or her designee;
6. the Connecticut Housing Finance Authority executive, or his designee;
7. two members, appointed by the 10 members listed above, who are tenants receiving state housing assistance; and
8. one member, appointed by the first 10 members listed above, who is a state resident eligible to receive housing assistance.

**Duties.** The council must convene by July 15, 2012 to develop strategies and recommendations for implementing DOH. It must:

1. assess the housing needs of low-income individuals and families,
2. review and analyze the effectiveness of existing state programs in meeting those needs,
3. identify barriers to effective housing delivery systems, and
4. develop strategies and recommendations to enhance the availability of safe and affordable housing in communities statewide through DOH.

**Report and Recommendations.** By January 15, 2013, the council must report to the governor and the Appropriations, Housing, and Human Services committees on the department's implementation. The report must include recommendations on:

1. transferring programs to DOH and an implementation timeline,

2. effective changes to the state's housing delivery systems,
3. prioritizing housing resources, and
4. enhanced coordination among housing systems.

**Action on Recommendations.** No later than 15 days after receiving the council's report, the joint standing committees must hold a public hearing on it. No later than 30 days after receiving the report, the committees must let the council know whether they approve or disapprove of the report's recommendations or want to modify them.

**Conference Committee.** If the joint standing committees do not agree to accept the report, their chairpersons must appoint a nine-member conference committee consisting of three members from committee. Each committee's chairpersons must appoint at least one minority party member.

The conference committee must vote to accept or reject the interagency council's report and give the results to each joint standing committee. The conference committee's report and cannot be amended.

If a joint standing committee rejects the conference committee's report, the council's recommendations are deemed approved. If all three approve the report, they must let the council know of any modifications to its recommendations. DOH must implement the final approved recommendations.

EFFECTIVE DATE: Upon passage

### **§ 115—UCONN HEALTH CENTER (UHC) FRINGE BENEFIT DIFFERENTIAL**

Starting with FY 14, the bill requires the state comptroller to pay the difference, up to \$13.5 million per fiscal year, between the state fringe benefit rate for UHC employees and that for the state's private hospitals from the appropriations for State Comptroller - Fringe Benefits. Under the bill, this difference is based on the (1) state fringe benefit rate calculated on UHC payroll and (2) average member

fringe benefit rate at the state's acute care hospitals as listed in the annual reports the hospitals file with the Office of Health Care Access.

EFFECTIVE DATE: July 1, 2012

### **§ 116—PROBATE FUND TRANSFERS**

PA 12-104 (§ 17) increased, by approximately \$2.3 million, the amount of surplus funds that had to be transferred from the Probate Court Administration Fund on June 30, 2012 to various agencies for specified purposes instead of to the General Fund. The bill modifies three of those transfers and adds four more transfers, for a net increase of approximately \$1.09 million in such transfers. It also makes technical changes to two transfers.

#### ***Modified Transfers***

Under PA 12-104, \$50,000 had to be transferred from the probate surplus to the Department of Education (SDE), Neighborhood Youth Centers for a grant to the Neighborhood Music School in New Haven to provide scholarships. Under the bill, this transfer is to the Department of Economic and Community Development, rather than SDE, for the same purpose.

The bill increases, from \$100,000 to \$225,000, the amount that must be transferred from the probate surplus to the Judicial Department, for Children of Incarcerated Parents, for a grant to the Greater Hartford Male Youth Leadership Program.

PA 12-104 provided for the transfer of \$36,000 from the probate surplus to the Department of Public Health (DPH), Other Expenses, for a grant to Yale University to study pediatric autoimmune neuropsychiatric disorder associated with streptococcal infections (PANDAS).

The bill increases the amount of this transfer to \$40,000, and changes the purpose of the transfer. The bill makes the transfer to DPH, Other Expenses for a grant to PANDAS Resource Network, for a comprehensive analysis, including (1) research in the diagnoses and treatment for pediatric autoimmune neuropsychiatric disorder in other

states and countries, (2) an evaluation of the level and recognition of the disorder in the medical community, laboratory assessment and treatment evaluation, and insurance coverage issues, and (3) a retrospective study of PANDAS/PANS patients on antibiotics. The bill also requires the public health commissioner, by February 1, 2013, to report on this analysis to the Public Health and Insurance and Real Estate committees.

### **Additional Transfers**

As shown in Table 1, the bill adds the following four transfers from the Probate Court Administration Fund surplus to specified agencies on June 30, 2012.

**Table 1: Additional Transfers from Probate Court Administration Fund Surplus**

<b>Agency</b>	<b>For</b>	<b>Amount</b>
DSS	Other Expenses - Grant to the Norwich/ New London Continuum of Care to facilitate rapid rehousing and homelessness prevention in southeastern Connecticut	\$250,000
SDE	After School Program – Grant to Bridgeport for the Lighthouse After School Program	150,000
SDE	Connecticut Writing Project	50,000
Judicial	Other Expenses – electronic monitoring under the family violence electronic monitoring pilot program	510,517

EFFECTIVE DATE: Upon passage

### **§ 117—LOCAL THEATER GRANT**

The bill requires the \$500,000 appropriated in FY 13 under PA 12-104 to the Department of Economic and Community Development Local Theater Grant to be distributed equally among the following theaters: Long Wharf Theatre of New Haven, Hartford Stage of Hartford, Eugene O'Neill Theater Center of Waterford, Goodspeed Opera House of East Haddam, Yale Repertory Theatre of New Haven, Warner Theatre of Torrington, and Westport Country Playhouse of Westport (i.e., each theater receives \$71,428).

EFFECTIVE DATE: July 1, 2012

### **§§ 118 & 119—COLLEGE TRANSITION PILOT PROGRAMS**

The bill delays, from October 1, 2012 to October 1, 2013, the date by which the education and higher education commissioners (note, the higher education commissioner position no longer exists) must report to the Education and Higher Education committees on the results of the two college transition pilot programs established by PA 11-48. One of the programs must offer college preparatory classes to adults who (1) have a high school diploma or its equivalent and (2) require intensive postsecondary developmental education that will enable them to enroll directly, upon completing the pilot program, in a higher education institution program that awards college credit. The second program is the same except it is for high school students who have not yet gotten a high school diploma or equivalent

EFFECTIVE DATE: Upon passage

#### **§ 120—MILITARY FACILITIES**

The bill addresses the funding, lease, and use of military facilities. It creates the “militaries facilities account” as a separate, nonlapsing account within the General Fund and requires the Military Department to use it to maintain and renovate military facilities.

The bill requires nongovernmental entities leasing or using a military facility to obtain an insurance certificate indemnifying the state against personal injuries and property damage. It also makes a minor change to the application process for leasing, or using without charge, the various military properties.

The bill eliminates the requirement to report to the Military Department and Public Safety and Security Committee on proceeds received from leasing each military facility and expenses for maintaining facilities, but leaves the requirement to report this information to the Veterans' Affairs Committee.

It specifies that a “military facility” is any state-owned or controlled military building, structure, or training site and that the adjutant general is responsible for using, maintaining, and leasing the facilities. Under existing law, military structures and training sites are note

included and the adjutant general has responsibility for armories, rifle ranges, reservations, and other military property.

The bill makes minor, technical, and conforming changes.

***Military Facilities Account.*** Under the bill, the account must contain:

1. any amounts appropriated or otherwise made available by the state for the purposes of the account;
2. any moneys required by law to be deposited in the account; and
3. gifts, grants, donations or bequests made for the purposes of the account.

The bill requires the state treasurer to deposit any leasing proceeds from military facilities into the account.

***Leasing or Unpaid Use of a Military Facility.*** Current law requires that in all cases when an organization that leases or uses a facility charges admission, it must obtain an insurance certificate indemnifying the state against personal injuries and property damage. (By law, the insurance cost is in addition to the lease or maintenance charge.) The bill instead requires that in all cases when a nongovernmental entity leases or uses a military facility, it must obtain an insurance certificate indemnifying the state against personal injuries and property damage. It is unclear if the insurance requirement applies to private entities that can use the facility without a lease or maintenance charge (e. g. , veterans' organizations or the Red Cross).

By law, various organizations and entities may lease a military facility or use one without charge (see BACKGROUND). Under existing law, the lease or use of a military facility cannot conflict with the drill night of an active military organization or its use for military purposes. The bill specifies the lease, use, or assignment of space of a military facility cannot conflict with federal military regulations.

By law, each military facility is under the charge of a commissioned

officer. Under current law, to lease or use a facility a person or organization must apply to the officer in charge of the facility. He or she must then forward the application to the adjutant general. Under the bill, an applicant applies directly to the adjutant general. As under existing law, the adjutant general approves or disapproves the application and informs the applicant.

**Background.** By law, the adjutant general must assign space in military facilities, as available, to veterans' service organizations, subject to regulations. Veterans' organizations may use military facilities without charge if the organization is not charging admission and the meeting is (1) before midnight and (2) on its regular meeting night. Otherwise, the organization is charged the military rate.

The law also authorizes the adjutant general to allow the following organizations, with conditions in certain circumstances, to use military facilities without charge:

1. public or private schools and public higher education institutions for athletic events for which no admission price is charged;
2. the American Red Cross for blood supply programs; and
3. local, state, and federal governmental agencies.

Additionally, agricultural and other associations receiving state aid may use military facilities for the cost of maintaining a facility while the organization is using it.

EFFECTIVE DATE: Upon passage

## **§§ 122 & 182-183—HOUSING FOR ECONOMIC GROWTH PROGRAM**

### ***Zone Adoption Payments***

The bill gives OPM more discretion over incentive housing zone (IHZ) adoption grants it awards to municipalities under Connecticut's Housing for Economic Growth Program (see BACKGROUND). Specifically, it allows OPM to award a grant of up to \$50,000, rather

than up to \$2,000 for each housing unit that can be built on developable land in the zone based on the law's minimum as-of-right densities. The bill also prohibits a municipality that receives a zone adoption grant from receiving a subsequent grant until construction starts in the IHZ for which it received the previous grant.

It allows a municipality that applies for preliminary eligibility for a zone adoption grant to subsequently waive its right to receive the payment by providing OPM its written notice of intent to do so. It must submit this notice when it submits the statement that its zoning commission adopted IHZ regulations and design standards.

The bill eliminates the deadline by which OPM must make one-time building permit grant payments to municipalities for each building permit they issue in an incentive housing development (IHD). Currently, OPM must pay these grants no later than 60 days after (1) a municipality submits proof that it issued the permits for the incentive housing developments within five years after it adopted the IHZ regulations and (2) it verifies that no one appealed or challenged the building permit.

The bill also makes technical changes.

### ***Technical Assistance and Predevelopment Funds Grants***

The law allows the OPM secretary to give grants to municipalities under the Housing for Economic Growth Program to provide technical assistance for planning IHZs, drafting implementing regulations and design standards, and reviewing and revising applicable subdivision regulations. The bill allows the secretary to also give grants for under the program for IHZ predevelopment funds.

Currently, the secretary must provide these grants within available appropriations. The bill instead requires him to provide the grants within available resources.

EFFECTIVE DATE: July 1, 2012

### ***Background***

***Housing for Economic Growth Program.*** Connecticut's Housing for Economic Growth Program authorizes grants to municipalities that choose to zone land for developing housing mainly where transit facilities, infrastructure, and complementary uses already exist or have been planned or proposed. A municipality may receive the incentives only after it has established an IHZ and approved incentive housing developments IHD in the zone.

### **§ 123—CIGARETTE ROLLING MACHINES AND TOBACCO PRODUCT MANUFACTURERS**

The bill makes anyone who has or allows someone to use a "cigarette rolling machine," also known as a "roll-your-own" (RYO) machine, to make cigarettes at his or her retail or commercial premises a tobacco product manufacturer, subject to existing laws and restrictions governing such manufacturers who sell cigarettes in Connecticut.

It (1) requires the owner of such a business to get and maintain a cigarette manufacturer's license; (2) requires those that intend to distribute the cigarettes they make in Connecticut to also have a cigarette distributor's license; and (3) allows the Department of Revenue Services (DRS), after a hearing, to suspend or revoke a cigarette dealer or cigarette or tobacco product distributor license and sales tax seller's permit held by the owner if he or she fails to get and maintain a manufacturer's license.

#### ***Cigarette Rolling (RYO) Machine***

The bill defines an RYO machine as one that allows someone to process tobacco or anything made or derived from tobacco into a roll or tube. To be covered by the bill, the machine must be located, and the rolling process must take place, at a retail establishment or on commercial premises.

#### ***Expanded Definition of Tobacco Product Manufacturer***

The bill expands the definition of a tobacco product manufacturer to cover anyone who owns, leases, possesses, controls, operates, or otherwise uses an RYO machine at his or her commercial or retail

premises, or permits someone else to operate or use the machine at those premises.

Under current law, with some exceptions, a tobacco product manufacturer is any entity or its successor that, after July 1, 2000, directly and not exclusively through an affiliate (1) manufactures cigarettes intended for sale in the United States, including sale through an importer or (2) is the first purchaser anywhere of cigarettes for resale in the United States from a manufacturer that did not intend them for sale in the United States.

### ***Tobacco Product Manufacturer Escrow Requirements***

By defining RYO business owners as tobacco products manufacturers, the bill requires them to certify annually to DRS commissioner that they either (1) enter into, and perform financial obligations under, the 1998 master tobacco settlement agreement or (2) pay into a qualified escrow account a specified inflation-adjusted amount for each "unit" (cigarette or 0.09 ounces of roll-your-own tobacco) they sell in the state. (For sales in 2011, the escrow payment is 2.82 cents per unit.) It also extends to any such business the existing ban on, and penalties for, selling, either directly or through distributors or dealers, cigarettes made by manufacturers not listed in the DRS directory of manufacturers and their cigarette brands that comply with the law.

### ***Penalties for Violating Escrow Requirements***

If RYO businesses do not comply with the escrow payment requirements for tobacco product manufacturers, the bill subjects them to existing penalties.

Manufacturers that violate the escrow payment requirements face a possible civil penalty of up to 5% of the improperly withheld escrow amount for each day of violation up to 100% of that amount. For a knowing violation, the penalty may be up to 15% of the improperly withheld amount per day up to 300% of that amount. For a second knowing violation, a violator is barred from selling cigarettes in the state, either directly or indirectly, for up to two years. Each failure to

make the required annual deposit is a separate violation.

In addition, it is both a class A misdemeanor and an unfair and deceptive trade practice to sell, offer to sell, distribute, or possess for sale cigarettes in Connecticut that are not listed in the DRS directory. A class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both. Unlisted cigarettes sold or offered for sale are considered contraband and are subject to confiscation, search, and forfeiture. Seized contraband cigarettes must be destroyed. The attorney general, on the DRS commissioner's behalf, may ask for an injunction against actual or threatened violations of the sale prohibitions.

Finally, when it prevails in any action against a tobacco product manufacturer to enforce the payment law, the state is entitled to recover its costs for investigation, bringing the action, and expert witness and reasonable attorneys' fees. A violator must pay to the state any profits, gains, gross receipts, or other benefits it received from the violation. Unless expressly provided otherwise, these remedies and penalties are cumulative, both with each other and with those available under other state laws.

### ***Licenses Required***

The law already requires anyone whose business includes selling cigarettes or tobacco products in Connecticut to have either a cigarette dealer's or cigarette or tobacco product distributor's license from DRS. In order to be listed and have its brands listed in the DRS directory, a tobacco product manufacturer whose cigarettes are sold to consumers in Connecticut must also have a cigarette manufacturer's license. Finally, a person who sells cigarettes or tobacco products at retail must have a sales tax seller's permit, since cigarette and tobacco product sales are subject to both the sales and either the cigarette or tobacco products taxes.

The bill requires an RYO business to obtain and maintain a cigarette manufacturer's license and, if it intends to distribute its cigarettes in Connecticut, a cigarette distributor's license as well. The

manufacturer's license fee is \$5,250 and the license is renewable annually for the same fee. The annual fee for a distributor's license \$1,250, unless a distributor sells cigarettes only to stores the distributor operates. The annual fees for the latter are: (1) \$315, for a distributor who operates fewer than 15 stores, (2) \$625 for a distributor who operates between 15 and 24 stores, and (3) \$1,250 for a distributor who operates 25 or more stores.

The bill makes an RYO business' failure to get and maintain a manufacturer's license grounds for DRS, after a hearing, to suspend or revoke the person's dealer or distributor license and sales tax seller's permit.

### **Background**

**Related Court Case.** A state Superior Court recently ruled that merely owning and renting cigarette rolling machines was not enough to make a business a tobacco product manufacturer subject to a temporary injunction against selling cigarettes not listed in the DRS directory. Rather, to meet the current definition, a business's employees must directly participate in operating the machines "to make finished cigarettes for sale or for the benefit of customers" (*State of Connecticut v. Tracey's Smoke Shop and Tobacco, LLC.*, 2012 WL 953408, Feb. 24, 2012, Bright, J., unpublished).

**Cigarette and Tobacco Products Taxes.** The cigarette tax is 17 cents per cigarette or \$3.40 for a pack of 20. The tobacco products tax (applicable to cigars, snuff, pipe and other types of loose tobacco, and similar products) is (1) 50% of the wholesale price, capped at 50 cents each for cigars and (2) \$1 per ounce for snuff tobacco.

EFFECTIVE DATE: October 1, 2012

### **§ 124—SALES TAX EXEMPTION FOR PARTICIPANTS IN CERTAIN AIRCRAFT INDUSTRY JOINT VENTURES**

By law, specified business services rendered between participants in certain kinds of joint ventures under a joint venture agreement are exempt from the sales tax. The bill expands eligibility for, and extends the duration of, the exemption for certain kinds of joint ventures in the

aircraft industry.

By law, the exemption applies to personnel; commercial or industrial marketing, development, testing, and research; and business analysis and management services rendered under a joint venture agreement. Under current law, the company providing the service must own at least 25% of the joint venture. The bill allows a joint venture in the aircraft industry to qualify if each participant's ownership interest is equal to the aggregate ownership interest percentage of each related member participating in the venture.

By law, a related member is:

1. a stockholder, who individually or with his or her family or affiliated business entities, owns at least 50% of the value of the company's stock;
2. another corporation or entity that owns, or is considered to own under the Internal Revenue Code, at least 50% of the company's stock;
3. a "component member" under the Internal Revenue Code; or
4. a person who is considered to own the company under the Internal Revenue Code.

In addition, the bill extends, from 30 to 40 consecutive years, the duration of the exemption for aircraft industry joint ventures that existed before January 1, 1986. By law, the exemption for all other joint ventures is for 20 consecutive years from the date the joint venture is formed, incorporated, or organized.

By law, unchanged by the bill, to qualify for the exemption, (1) a joint venture's purpose must relate directly to producing or developing new or experimental products or systems and supporting and marketing them; (2) one of its corporate participants must have been actively engaged in business in Connecticut for at least 10 years; and (3) the entity receiving services must be either a corporation, partnership, or limited liability company and the one giving services

must be its corporate shareholder, partner, or member, respectively.

EFFECTIVE DATE: July 1, 2012, and applicable to sales occurring on or after that date.

**§§ 125-128—EMERGENCY MORTGAGE ASSISTANCE PROGRAM (EMAP)**

**§ 127—EMAP Eligibility**

The bill makes it easier for applicants to qualify for EMAP (see BACKGROUND). It eliminates pensions and retirement funds valued at \$100,000 or less from the list of assets that an EMAP applicant must disclose to the Connecticut Housing Finance Authority (CHFA). The applicant must still report all household income, liabilities, and assets, including:

1. the sum of the household's savings and checking accounts;
2. market value of stocks, bonds, and securities;
3. other capital investments;
4. personal property and equity in real property, including the subject mortgage property;
5. pension and retirement funds valued at over \$100,000 (the first \$100,000 of which is exempt); and
6. lump-sum additions to family assets.

The bill also allows applicants to include delinquent taxes; insurance; and condominium or common interest community charges, assessments, and fees, whether or not they are paid into escrow or impound accounts as reserves, in their applications as proof of EMAP eligibility. Under current law, they can include delinquent taxes and insurance, but only if they are required to be paid into escrow or impound accounts as reserves.

The bill eliminates a requirement for qualifying debts to be contractually delinquent. Thus, an applicant may qualify for EMAP

whether or not there is a contractual obligation to pay an otherwise allowable debt. The bill also makes mortgages insured by the Federal Housing Administration (FHA) eligible for EMAP.

The bill specifies that CHFA may consider the length of time the mortgagor has lived in his or her home when determining if the mortgagor will be able to repay EMAP within a reasonable time. Existing law allows CHFA to consider the mortgage's structure, its repayment schedules, and any other relevant factors or criteria it deems appropriate.

**§ 126—EMAP Recipient Litigation Rights**

The bill also allows EMAP recipients to file defenses, counterclaims, or set-offs against foreclosure on the assisted mortgage.

**§ 128—EMAP Payment Schedule**

Under current law, CHFA can make EMAP monthly payments to a mortgagee either consecutively or nonconsecutively for up to 60 months. The bill specifies that the calculation of the maximum 60 months of EMAP payments begins with the first payment.

EFFECTIVE DATE: Upon passage

**Background**

**EMAP.** By law, EMAP provides short-term loans to homeowners experiencing financial hardships beyond their control. The loans help them pay their mortgages. The program covers one-to-four family owner-occupied homes, including single-family units in a condominium, cooperative, or other common interest community.

**§ 129—NOTICE OF COMMUNITY BASED RESOURCES**

The bill requires:

1. each mortgagee to give a mortgagor the Judicial Branch's form on community-based resources for people involved in foreclosure mediation with any notice of intent to accelerate the mortgage loan;

2. municipalities to include the form with any statement sent to a homeowner about a public sewer, water service, or property tax arrearage; and
3. the Judicial Branch to provide copies of the form to public libraries, religious organizations, and community-based programs throughout Connecticut to ensure that it is readily available to mortgagors.

The form must include a:

1. reference to both CHFA and Housing and Urban Development-approved counselors,
2. column in the approved housing counselor chart that includes the counties in which each counselor serves, and
3. notification to mortgagors currently in foreclosure that they should contact the Department of Banking's foreclosure assistance hotline for assistance with time sensitive foreclosure concerns.

EFFECTIVE DATE: Upon passage

**§ 130—DISCLOSING SECURITY BREACHES OF COMPUTERIZED DATA**

The law generally requires anyone who conducts business in Connecticut and who, in the ordinary course of business, owns, licenses, or maintains computerized data that includes personal information to disclose a security breach without unreasonable delay to state residents whose personal information has been, or is reasonably believed to have been, accessed by an unauthorized person. Failure to provide such notice constitutes a Connecticut Unfair Trade Practices Act (CUTPA) violation.

The bill requires the person also to provide notice of the security breach to the attorney general no later than when the affected residents are notified. The bill makes failure to do so a CUTPA violation.

The bill also specifies that a person maintaining computerized data that includes a Connecticut resident's personal information he or she does not own must notify the owner or licensee of the information of any breach of the data's security immediately following discovery, if the resident's personal information was, or is reasonably believed to have been, accessed by an unauthorized user.

EFFECTIVE DATE: October 1, 2012

**§ 131—ELECTRONIC TRACKING OF HIGH-RISK FAMILY VIOLENCE PERPRETRATORS**

The bill authorizes the Judicial Branch to resume and expand a family violence pilot program that had been discontinued due to lack of funds. The pilot had allowed judges in Bridgeport, Danielson, and Hartford to order electronic monitoring when necessary to protect a family violence victim. Those subject to court-ordered monitoring must have been (1) charged with violating a family-violence-related restraining or protective order and (2) classified as a "high-risk offender" by the court's Family Violence Intervention Unit. Monitoring such individuals warned law enforcement agencies, a statewide information collection center, and the victim when the person being monitored was within a specified distance from the victim.

The bill permits the branch to revive the pilot program beginning July 1, 2012, within available resources. It also permits one or more additional districts to participate.

EFFECTIVE DATE: July 1, 2012

**§§ 132-140—JUDGES' RETIREMENT SYSTEM**

The bill makes numerous changes to the retirement benefits and requirements for judges, family support magistrates, and compensation commissioners, whose retirement system is separate from the State Employees Retirement System (SERS). This system has its own pension fund, is governed by statute, and is not subject to collective bargaining.

The bill:

1. changes how retirement benefits are calculated for (a) compensation commissioners who began serving on or after July 1, 2011 and (b) family support magistrates who began serving before July 1, 2011;
2. changes how cost of living adjustments (COLAs) are calculated for retired judges, family support magistrates, compensation commissioners, and their surviving spouses;
3. increases retirement age requirements for those officials with at least 10, but less than 25, years of service;
4. allows the officials to maintain their current retirement requirements by increasing their contributions to the retirement system; and
5. makes various minor, technical, and conforming changes.

### ***Compensation Commissioners***

By law, a compensation commissioner's retirement benefit and the allowance paid to a surviving spouse are based on the commissioner's salary. For those who began serving after January 1, 1981, current law bases the benefit on the annual salary the commissioner was receiving at the time of his or her retirement or death. For retired compensation commissioners who received longevity payments, the law also provides a benefit increase based on the amount of time served as a compensation commissioner.

Under the bill, the retirement and surviving spouse benefit for compensation commissioners who begin serving on or after July 1, 2011 is based on the commissioner's average annual salary over the five years immediately preceding his or her retirement or death. The bill also broadens the service time used to calculate their longevity benefit increase to include the commissioner's total state service and service as an elected official.

***Family Support Magistrates***

PA 11-61 changed the definition of the “salary” used to determine the retirement benefits paid to all family support magistrates and their surviving spouses from the annual salary payable at the time of retirement to the magistrate's average annual salary over the five years preceding his or her retirement or death. The bill returns magistrates who began serving before July 1, 2011 to the prior definition of salary (the annual salary payable at the time of retirement) and applies PA 11-61's definition (average annual salary over the five years preceding retirement) only to those magistrates who began serving on or after July 1, 2011. As under current law, retired family support magistrates who received longevity payments receive a benefit increase based on the amount of time served as a family support magistrate, regardless of when they began serving.

***Cost Of Living Adjustments***

The law provides an annual COLA to the pensions received by retired judges, family support magistrates, and compensation commissioners. Under current law, the COLA matches the previous year's increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), up to 3% for those officials who retired on or before September 2, 2011. The bill extends this retirement date threshold to October 1, 2011.

Current law allows a 2% maximum COLA for those officials who were in service on or after September 1, 2011. The bill removes the 2% limit and instead sets the COLA for any official who retires after October 1, 2011, as the same as those for retired state employees in SERS who retire after October 1, 2011. (Under their current contract, the COLA for these SERS employees must be between 2% and 7.5% and calculated as 60% of the annual CPI-W increase, up to 6%, plus 75% of any annual CPI-W increase over 6%.)

The law also provides CPI-W based COLAs to the surviving spouses of deceased judges, family support magistrates, and compensation commissioners eligible for retirement benefits. For the surviving spouses of those officials who began serving after January 1,

1981, current law limits the COLAs to a maximum 2% increase after January 1, 2012. The bill instead requires these COLAs to be the same as the COLAs for retired state employees in SERS who retire after October 1, 2011.

### ***Service and Age Requirements***

PA 11-61 established new service and age requirements for judges, family support magistrates, and compensation commissioners who retire on or after July 1, 2022, requiring them to have either (1) 25 years of service and be at least 63 years old or (2) 10 years of service and be at least 62 years old, to qualify for a normal retirement benefit. The bill increases the age requirement, from 62 to 65, for those officials with at least 10, but less than 25, years of service.

The bill eliminates pension eligibility for a judge retiring on or after July 1, 2022 who does not meet these requirements but (1) is at least age 63, (2) served at least 16 years as a judge, (3) was nominated by the governor for another term, and (4) was not reappointed. (An identical provision remains in statute for judges who retire before July 1, 2022 (CGS § 51-50a(a)(3)).

The bill also specifies that for judges, family support magistrates, and compensation commissioners retiring on or after July 1, 2022, (1) the normal retirement benefit is two-thirds of their "salary," as defined in the bill and various statutes and (2) the benefit for officials who retire with less than 10 years of service is reduced by the ratio an official's completed service years has to the lesser of either the number of service years the official would have had at age 70 or 10 years. Current law applies the same provisions to officials retiring before July 1, 2022.

### ***Option to Maintain Current Requirements***

The bill allows judges, family support magistrates, and compensation commissioners who are serving when the bill is enacted to make a one-time irrevocable decision to maintain their current normal retirement requirements, regardless of the changes scheduled to occur on July 1, 2022, by increasing their contributions to the

retirement system. The amount of the increase must be the actuarial pension cost of maintaining eligibility in the existing plan, as determined by the retirement system's actuaries and provided to the officials by the Retirement Division of the Office of the State Comptroller. The bill requires the State Employees Retirement Commission to prescribe the form used to indicate an official's decision. They must decide to participate by July 1, 2013. Officials who make a successful agency error claim to the State Employees Retirement Commission must make payments according to the state's usual practice.

### ***Reduced Benefits for Officials Who Resign***

Under current law, judges, family support magistrates, and compensation commissioners can receive a reduced retirement benefit prior to meeting normal retirement requirements if they resign after serving for at least 10 years, but. The bill specifies that the reduced benefit for any officials who resign after October 1, 2011, is calculated as a fraction of the benefit they would have received if they had been eligible for normal retirement when they resigned. This fraction is the ratio between an official's completed service years and the lesser of either the number of service years the official would have had at age 65 or twenty years. The bill also makes minor and technical changes to these provisions.

EFFECTIVE DATE: Upon passage

### **§ 141—SEXUAL ASSAULT EVIDENCE EXAMS**

Current law prohibits health care facilities and sexual assault victims from being charged, directly or indirectly for examinations conducted to gather evidence under the state's regulatory protocol. Costs of pregnancy and sexually transmitted disease testing and prophylactic care are specifically prohibited.

The bill extends the no-charge provisions to medical forensic assessment interviews or physical examinations conducted by providers or by examiners working cooperatively (1) toward the prevention, identification, and investigation child abuse and neglect.

or (2) with a child advocacy centers. And it removes references to the services listed in prior law.

By law, these costs must be charged to the Judicial Branch's Office of Victim Services (OVS).

The bill also adds a member of the OVS to the Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations.

EFFECTIVE DATE: October 1, 2012

### **§ 142—COMPETENCY TO STAND TRIAL**

By law, a court may order a defendant it finds incompetent to stand trial to the custody of the Department of Mental Health and Addiction Services (DMHAS) commissioner for the purpose of rendering him or her competent. These defendants are placed in a mental health facility unless they are too violent to be accommodated.

The bill expands the exception to placement, specifies that those defendants not placed remain in the Department of Correction's (DOC) custody, and outlines the responsibilities of commissioners of both departments with respect to them.

The bill also permits a court to require notice if a defendant found incompetent to stand trial because of an intellectual disability is released from custody before the statute of limitations for prosecuting him or her expires.

#### ***Defendants Placed In Custody of DMHAS***

The bill expands the DMHAS commissioner's authority to refuse to place certain defendants in mental health facilities.

Under current laws, he does not have to place a violent defendant in a mental institution that lacks the facility, security, and trained staff to accommodate him or her. The bill, instead, allows the commissioner to exclude any defendant from a hospital for psychiatric disabilities who (1) presents a significant security, safety, or medical risk and (2) the

commissioner, in consultation with the DOC commissioner, determines that the staff, facility, or security cannot accommodate the defendant. Any defendant not placed in such a hospital remains in DOC custody. In these cases, the DOC is responsible for the defendant's medical and psychiatric care. DMHAS is responsible for:

1. providing other services to restore his or her competency,
2. (a) submitting to the court reports on the defendant's progress and (b) a written progress report to the medical professionals who initially decided the defendant's competency if he or she attains competency or a court determines he or she will not attain competency within the placement period, and
3. providing testimony at any hearing to reconsider the defendant's competency.

A court must determine whether to involuntarily medicate the defendant if it finds that he or she (1) will not attain competency during the placement period without psychiatric medication and (2) is unable or unwilling to consent to taking the medication. The court must appoint a health care guardian to represent the defendant and hold a hearing before making this decision.

***Release from Custody***

If a defendant is a person with an intellectual disability and a court determines at any time that he or she is not likely to attain competency or is not competent at the end of the placement period, the law allows a court to order him or her placed in the custody of the developmental services commissioner for civil commitment. The bill allows the court to order the commissioner to notify it if the department releases the defendant before the statute of limitations for prosecuting him or her has expired.

EFFECTIVE DATE: October 1, 2012

**§ 143—ADOPTIONS IN SUPERIOR COURT**

PA 12-82 permits the Department of Children and Families to file adoption petitions in the Superior Court, instead of the probate court, in certain circumstances. The bill ensures this can occur by making an exception to existing law's requirement that all adoption applications be filed in the probate court.

EFFECTIVE DATE: October 1, 2012

**§ 144—TRAFFIC STOP DATA**

Public Act 12-74 suspends on July 1, 2012 the duty of municipal police departments' and the Department of Emergency Services and Public Protection (which includes the State Police) to record and report traffic stop data. It requires them to resume (1) recording the data starting on July 1, 2013 and (2) annually reporting data summaries to OPM starting on October 1, 2013, if new standardized methods are developed.

Until standardized methods are developed, the bill requires the departments and DESPP using the form developed and promulgated in effect on January 1, 2012, to record and retain the following information:

1. the number of people stopped for traffic violations;
2. the race, color, ethnicity, gender, and age, provided these characteristics are based on the officer's observation and perception of the officer and not required to be provided by the person stopped;
3. the alleged violation resulting in the stop;
4. whether a warning or citation was issued, an arrest made or search conducted; and
5. any additional information the departments or DESPP deem appropriate, except any other identifying information about the person, such as his or her operator's license number, name, or address.

By October 1, 2012, instead of October 1, 2013, and annually thereafter, the bill requires the departments and DESPP to provide OPM with traffic stop data summaries. The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2012

**§ 145—COUNCIL OF ADVISERS ON STRATEGIES FOR THE KNOWLEDGE ECONOMY**

The bill directs the OPM commissioner, rather than the DECD commissioner, to chair the Council of Advisors on Strategies for the Knowledge Economy. Under the bill, the DECD commissioner continues to serve as a council member. By law, the council (1) promotes university-industry partnerships, (2) identifies benchmarks for technology-based workforce innovation and competitiveness, and (3) advises the process for awarding grants under the Innovation Challenge Grant program and several DECD-administered grant programs preparing college students for careers in research and development and encouraging colleges and universities to collaborate with businesses on research projects.

It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2012

**§ 146—SMALL BUSINESS INNOVATION ASSISTANCE PROGRAM**

The bill requires UConn or any of its campuses to establish a program assisting small and medium businesses to develop innovative advanced manufacturing technologies. UConn must do this in concert with the Connecticut Center for Advanced Technology (CCAT), a nonprofit organization helping manufacturers, high technology firms, small businesses, and entrepreneurs operate more efficiently and improve their workforce.

The bill requires UConn and CCAT to collaborate with the businesses participating in the program, including allowing businesses to use UConn's and CCAT's facilities and equipment and granting them access to their respective staffs, and, in UConn's case, its

students. In FY 13, UConn must provide \$250,000 to CCAT from any funds appropriated to the program.

UConn and CCAT must establish eligibility criteria for participating in the program that must include minimum contributions from participating businesses. The program is open to Connecticut-based businesses with 100 or fewer employees. The bill divides these businesses into “small businesses,” with 50 or fewer employees, and “medium businesses,” with 51 to 100 employees.

EFFECTIVE DATE: July 1, 2012

**§§ 147-180, 184-187, 267-268 & 295—CDA AND CII MERGER**

This bill merges the Connecticut Development Authority (CDA) into Connecticut Innovations, Inc. (CII), transferring CDA's statutory mission, powers, obligations, and assets to CII and allowing the two agencies to take specific steps to facilitate the transfer.

CDA and CII are quasi-public economic development agencies. CDA makes and guarantees business loans and provides other forms of financing for business and infrastructure projects. CII invests venture capital in early stage technology-based businesses and provides other types of financing and technical assistance for developing new products and techniques.

The bill makes a CDA subsidiary, the Connecticut Brownfield Redevelopment Authority, a CII subsidiary. But it also allows CII to form subsidiaries to remediate contaminated property or fulfill its statutory purposes.

Lastly, the bill expands CII's board of directors from 15 to 17 members, adding the treasurer and another gubernatorial appointee. It also changes the board's composition by requiring the governor to appoint three members with backgrounds in business lending and development, in addition to six experienced in developing innovative start-up businesses. Under current law, the governor appoints eight members, at least six of whom must be knowledgeable about technology development.

The bill makes many conforming changes.

EFFECTIVE DATE: July 1, 2012, except for the provisions authorizing the steps CDA and CII can take to facilitate the transfer, which take effect upon passage.

**§ 148—Powers, Obligations, and Assets**

The bill transfers CDA's powers, duties, and functions to CII, thus expanding CII's mission to include financing business, infrastructure, and brownfield cleanup projects. It specifically allows CII to exercise these powers to fulfill its statutory duties as well as CDA's.

The bill transfers CDA's obligations to CII, making them CII's obligations. These include bonds, notes, and other debt CDA incurred to finance projects and the terms and conditions under which it did so. The bill specifically makes CDA's resolutions and other actions in support of a project CII's, subject only to agreements with parties holding the outstanding bonds, notes, and other obligations.

The bill also transfers CDA's procedures to CII, specifying that they control any matter before it.

Lastly, the bill transfers to CII the assets CDA pledged to secure its bonds, notes, and other obligations. These assets include real and personal property and funds, money, revenue, and receipts.

**§§ 150 & 175—Subsidiaries**

The bill authorizes CII to form subsidiaries to fulfill its statutory duties and provide money and property to help them do so. Each such subsidiary is a quasi-public agency for tax purposes. Current law allows CII to create affiliates. Under the bill, CII can organize a subsidiary as a stock or nonstock corporation or a limited liability company and specify its powers in a resolution stating the subsidiary's purpose. These subsidiaries operate under similar conditions as CDA's subsidiaries currently do, except the bill prohibits them from borrowing money without CII's approval. The bill allows CII and its subsidiaries to purchase and hold the bonds they issue.

Although the bill makes CDA's brownfield remediation subsidiary a CII subsidiary, it also allows CII to form one or more subsidiaries for the same purposes and under similar conditions. The bill exempts CII and its subsidiaries from paying the Department of Energy and Environmental Protection's fee for a covenant not to sue. Current law exempts CDA and its subsidiaries from this fee.

**§ 149—*Transfer Mechanism***

The bill allows CDA and CII to enter into agreements with each other and third parties to facilitate the transfers described above, including CII's assumption of CDA's rights and responsibilities. They may do so between the bill's passage and July 1, 2012 (i.e., the transfer period). But transfers occur regardless of whether third parties consent to them or CDA and CII enter into transfer agreements.

Unrelated to the bill's authorization to enter into agreements, the bill requires CDA to help CII prepare for and complete the transfers. In doing so, CDA must give CII the necessary professional and clerical support facilities, equipment, and supplies during the transfer period.

**§ 168—*State Pledge to CDA Bond Holders and Contractors***

The bill transfers to CII the state's pledge to CDA's bond holders and contractors. Under that pledge, the state agrees not to limit or change CDA's rights until CDA meets its contractual obligations or, if the state does so, it adequately protects these parties. The bill extends this pledge to CII as CDA's successor.

**§§ 151 & 173—*CII Board of Directors***

The bill increases CII's board of directors from 15 to 17 members and changes its composition to reflect CII's new powers and duties. Currently, the board consists of three ex officio and 12 appointed members. The ex officio members are the economic and community development commissioner (who is also the board's chairperson), the Board of Regents of Higher Education's president, and the Office of Policy and Management secretary. The bill adds the state treasurer.

Under current law, the governor appoints eight members, at least

six of whom must be known for their knowledge, skills, and experience in developing innovative technology and technological processes, including academic research, technology transfer and applications, and inventions and new enterprises.

The bill increases the gubernatorial appointments from eight to nine and specifies that six such members must have knowledge, skills, and experience in developing innovative start-up businesses, including the activities listed above. It also requires three members to be known for their skill, knowledge, and experience in financial lending or developing trade, commerce, and business.

By law, which the bill does not change, the legislative leaders appoint four members.

The bill also changes how CII's board must approve applications for equity investments and other assistance CII provides under current law. Under current law, the board's finance committee approves or denies applications CII executive director submits to it. The bill requires the board or a committee it creates to perform this task. It also renames the executive director, the chief executive officer.

**§ 170—Sales and Use Tax Exemption**

The bill transfers to CII CDA's authority to grant sales and use tax exemptions, but specifies the conditions under which it may do so. Current law exempts tangible personal property CDA sells from the sales and use tax. CDA extends this exemption to large-scale development projects that significantly benefit the economy, but the law does not specify conditions under which CDA may do so.

The bill specifically allows CII to extend the exemption to tangible personal property or services incorporated into or consumed to develop, construct, rehabilitate, renovate, or repair projects approved under procedures adopted by its board of directors. If the board decides to grant an exemption to a project, it must do so by providing a certificate to the developer he may use to purchase the property. CII must develop the certificate in consultation with the revenue services

commissioner.

### **§ 166—Equity Investments**

The bill modifies the requirement that business receiving state economic development assistance provide security for it. When CII invests in businesses, the bill prohibits it from requiring these businesses to provide security for the investments. Under existing law, the security could be a letter of credit or lien on the property. Current law prohibits DECD, CDA, and CII from requiring security for loans and grants when the time period for the assistance is less than one year.

Under current law, the security requirement applies to assistance provided under CDA and DECD programs. When required to provide security, the bill specifies that it must be appropriate and reasonable to the circumstances under which the state is providing assistance.

### **§ 171—Relocation Penalty**

Under current law, businesses receiving loans and loan guarantees from CDA or DECD must immediately repay it plus a 5% penalty if they relocate out of the state within 10 years after receiving the assistance. The bill extends this requirement to business financing CII provides under the bill except equity investments and other types of investment with predominantly equity characteristics.

### **§ 178—Fund Restrictions**

By merging CDA and CII, the bill expands the types of revenue CII receives and manages. The revenue CII currently receives reflects its purpose as the state's quasi-public venture capital agency. Consequently, it receives fees paid by people and entities that apply for CII assistance, royalties from the products it invested in, returns on its investments, and repayments on the loans it makes. Under current law, CII must hold, administer, or invest this income or deposit it in an institution CII chooses or pay as it directs. It must use the funds only for its statutory purposes.

The bill adds to these funds the types of income CDA currently

receives from making and guaranteeing loans and providing other types of capital: license fees; lease payments; application, commitment, and financing fees; and selling and disposing of investments. Because this revenue may have been generated by projects that were financed with CDA bonds or other debt, the bill requires CII, as CDA's successor, to manage the funds according to the agreements under which the bonds were issued or debt incurred. It also requires CII to comply with the agreement it enters into when issuing bonds or incurs other debt.

**§ 181—FREEDOM OF INFORMATION EXEMPTION**

The bill exempts from disclosure under the Freedom of Information Act records state agencies and state quasi-public agencies receive from businesses and other organizations requesting state assistance to expand or relocate here. The exemption applies if disclosing the records could harm the financial interests of the state or the entity requesting assistance.

EFFECTIVE DATE: July 1, 2012

**§§ 188 & 189—CAPITAL REGION DEVELOPMENT AUTHORITY (CRDA)**

PA 12-147 redesignates the Capital City Economic Development Authority(CCEDA) as the Capitol Region Development Authority, preserving many of CCEDA's powers, duties, and functions and the types of projects it can undertake. The bill expands the types of projects CRDA can under take. Under existing law, CRDA can:

1. develop riverfront infrastructure and improvements anywhere in Hartford and East Hartford,
2. construct or rehabilitate of up to 3,000 downtown housing units and demolish or redevelop vacant buildings,
3. construct new buildings and redevelop existing ones anywhere in Hartford, and
4. add downtown parking.

The law refers to these projects as “Capital City Projects,” even though some are authorized outside of Hartford.

The bill also allows CRDA, in consultation with the Sports Advisory Board, to promote and attract in-state professional and amateur sports and sporting events anywhere in Connecticut.

Existing law grants CRDA certain powers to plan and implement specific projects, such as the convention center and the downtown higher education center, in the statutorily designated Capital City Economic Development District, which is located entirely in Hartford. (CCEDA completed both projects.) The powers include:

1. acquiring and disposing of property;
2. acquiring property by eminent domain, in consultation with Hartford’s mayor and according to the procedures redevelopment agencies use when taking property;
3. owning and operating facilities;
4. entering into contracts;
5. marketing and promoting the region to attract national, regional, and local conventions, trade shows, and other events to increase the use of CRDA’s exhibition, sporting, and entertainment facilities;
6. planning for, acquiring, financing, constructing, developing, operating, marketing, promoting, and maintaining facilities;
7. borrowing money, issuing bonds, and entering into credit and other agreements to make the bonds more marketable;
8. collecting fees and rents from the facilities it develops and adopting procedures for operating and occupying them;
9. engaging independent professionals, such as lawyers, accountants, and architects;

10. adopting and amending procurement procedures; and
11. receiving money, property, and labor from any source, including government sources.

The bill allows CRDA exercise these powers to plan and implement those projects authorized outside the district.

EFFECTIVE DATE: July 1, 2012

### **§§ 190-192—PLANNING REGIONS**

The bill changes criteria for the OPM secretary's analysis of state planning regions and extends certain deadlines concerning municipal notification about proposed planning regions.

It also makes the regional performance incentive account the source of funding for bonus pool payments to planning regions that voluntarily consolidate and extends supplemental payments from the pool to FYs 13 to 15 to offset costs for certain consolidations.

The bill (1) creates an incentive for areas of the state that contain two or more contiguous planning regions and have at least 14 municipalities to consolidate to form a single regional council of governments or regional council of elected officials by exempting them from redesignation in 2014 and (2) allows the secretary to waive the requirement that the redesignated region contain at least 14 municipalities.

It makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, except the provisions concerning bonus payments, which are effective July 1, 2012.

#### ***Extended Deadlines***

By law, the OPM secretary must divide the state into logical planning regions and redesignate them (by changing the boundaries). There are currently 15 approved regions, but this will change to 14 as OPM recently approved the consolidation of two regions.

The bill extends by two years, from January 1, 2012 to January 1, 2014, the deadline by which the secretary must complete an initial analysis of boundaries of logical planning regions and notify municipalities in regions slated for redesignation.

Under current law, any changes to the regional boundaries are effective on July 1 following the date when the analysis or modification is completed. Under the bill, they are effective January 1, 2015.

***Analysis of Boundaries of Logical Planning Regions***

***Consultation.*** Currently, the OPM secretary alone is authorized to analyze the boundaries of local planning regions. The bill requires the secretary to consult with the (1) chairpersons and ranking members of the Planning and Development Committee, (2) Connecticut Conference of Municipalities, (3) Connecticut Council of Small Towns, and (4) regional planning organizations.

***Analysis.*** Under current law, as part of the analysis, the secretary has to develop criteria to evaluate how urban centers affect neighboring towns. The bill instead requires him to evaluate opportunities for coordinated planning and the regional delivery of state and local services.

Under current law, the secretary must develop criteria to evaluate the impact of urban centers on neighboring towns. These criteria must evaluate trends in economic development and the environment, including trends in housing patterns, employment levels, commuting patterns for the most common job classifications in the state, traffic patterns on major roadways, and local perceptions of social and historic ties.

The bill deletes these criteria and instead requires the analysis to include an evaluation of:

1. economic regions, including regional economic development districts;
2. comprehensive economic development strategies that these

districts develop;

3. labor market areas and workforce investment regions;
4. natural boundaries, including watersheds, coastlines, ecosystems and habitats;
5. relationships between urban, suburban, and rural areas, including central cities and areas outside of the state;
6. census and other demographic information;
7. political boundaries, including (a) municipal boundaries and (b) congressional, senate, and assembly districts;
8. transportation corridors, connectivity, and boundaries, including the boundaries of metropolitan planning agencies;
9. current federal, state, and municipal service delivery regions, including regions established to provide emergency, health, transportation or human services; and
10. the current capacity of each RPO to deliver diverse state and local services.

By law, the evaluation must also establish a minimum size for logical planning areas that takes into consideration the number of municipalities, total population, and total square mileage. The bill expands this to also include whether the proposed planning region will have the capacity to successfully deliver necessary regional services. The bill authorizes the secretary to enter into contracts as necessary to complete the analysis.

***Timelines for Notification of and Municipal Objection to Proposed Redesignation***

The bill extends various timelines in the notification and redesignation process.

It extends the deadline for the secretary to notify municipalities about the planning regions he proposes to redesignate to January 1,

2014 from January 1, 2012.

By law, if a municipality's legislative body objects to the revision, the municipality's chief executive officer (CEO) must petition the secretary to attend a meeting with the legislative body to hear its objections. The CEO must do so within 30 days after receiving the notice. The petition must specify the meeting's place, date, and time.

The bill also extends, from 45 to 60 days, the time the CEO has to propose holding the meeting after submitting the petition. As under existing law, the OPM secretary or his designee must make every reasonable effort to attend this meeting or a meeting held on another date, which must fall within this period. If the secretary cannot attend the meeting, he and the CEO may schedule the meeting for another date and time, which must fall within 210, instead of 120, days of the secretary's notice to the CEO.

By law, the legislative body must use the meeting to inform the secretary about its objections and the secretary must consider them. Under the bill, the secretary has 60, instead of 45, days to notify the CEO about his decision on the proposed boundary changes. By law, he must state his reasons for the decision.

***Voluntary Regional Consolidation Bonus Pool Payments for Redesignation***

By law, OPM must make Voluntary Regional Consolidation Bonus Pool (VRCBP) payments to any two or more RPOs that (1) vote to merge, forming a new regional council of governments (COG) or chief elected officials (RCEO), within a proposed or newly redesignated planning region boundary and (2) submit a redesignation request to the OPM secretary. The bill specifies that VRCBP payments are to offset any and all reasonable consolidation costs, as the OPM secretary determines.

The bill funds VRCBP with money from the "regional performance incentive account," which is a separate, nonlapsing account in the General Fund that, under existing law, provides grants for the regional performance incentive program. Under current law, VRCBP payments

are funded by any appropriation available for this purpose. By law, these payments are on a first come, first served basis in FY 12 and FY 13.

For FYs 13, 14, and 15, the bill requires the OPM secretary to make supplemental VRCBP payments, within available appropriations, to any regional COG or RCEO created during these fiscal years by consolidating two or more regional COGs, RCEOs, or regional planning agencies (RPAs), when the consolidated regional COG or RCEO contains a combined total of 14 or more municipalities. But, the bill allows the secretary to waive the requirement that a consolidated regional COG or RCEO contain a combined total of 14 or more municipalities.

The supplemental payment is equal to 50% of the annual payment made to offset the reasonable costs of voluntary consolidation.

## **§§ 193-197—CALCULATING TAX LIABILITY FOR MANUFACTURING REINVESTMENT ACCOUNT DEPOSITS AND WITHDRAWALS**

### ***Eligible Uses of Deposited Funds***

The bill specifies the rules manufacturers must use to determine the corporate business or personal income tax they owe when depositing or withdrawing money in a manufacturing reinvestment account. Small manufacturers (50 or fewer employees) may establish these accounts and defer paying taxes on the money they deposit in them until they withdraw funds for a range of eligible uses, including purchasing machinery and equipment and developing or expanding facilities. Under current law, withdrawals are taxed at 3.5%, regardless of whether the manufacturer is organized as a corporation, partnership, or other type of business entity.

As discussed below, the bill changes how distributions are taxed, but also specifies that a reduced rate applies to distributions for machinery, equipment, and facility purchases only if the (1) machines and equipment will be used in Connecticut, (2) the facility is to be constructed or expanded here, and (3) the workforce training,

development, and expansion will occur in Connecticut.

Current law allows manufacturers to establish the funds for five years, after which they must pay taxes on the balance at the applicable rate. The bill specifies that the five-year period starts when the account is established.

### ***Tax Deferrals on Deposits***

Current law allows manufacturers to defer paying taxes on funds they deposit in a manufacturing reinvestment account, but limits the total amount of funds they can deposit each year to \$50,000. The bill allows them to deposit only funds they cannot deduct from federal taxes.

### ***Determining Tax Liability on Withdrawals***

The bill specifies how manufacturers must determine the state taxes owed on amounts distributed from an account. It does this by specifying how they must treat a distribution when computing income for the current or preceding tax year. The rules apply only to those deposits that (1) are not included in gross income for federal taxes and (2) were deducted from gross income for state taxes when the funds were deposited in the account.

The rules vary depending on the reasons for a distribution as follows:

1. If a manufacturer distributes funds for purchasing machinery, equipment, or facilities projects, it must exclude half of the amount distributed from its calculation of net income for the applicable tax year.
2. If the manufacturer distributes funds for an ineligible use, it must add the amount to its net income for the applicable year.
3. Lastly when all the funds in the account are returned to the manufacturer after the five-year period expires, the manufacturer must add the amount to its net income for the applicable tax year.

***Interest Accrual***

The bill allows manufacturers to accumulate interest income on the funds they deposit in a manufacturing reinvestment account. By law, they can deposit up to \$50,000 per year or 100% of their domestic gross receipts, whichever is less, for up to five years. Under current law, manufacturers must pay taxes on interest income that exceeds the statutory limit. The bill eliminates this requirement, thus allowing them to accumulate interest during the five-year period above the statutory limit without paying taxes on the increment. But, at end of this period, it requires any balance, including interest earnings, to be returned to the manufacturer and subject to tax.

EFFECTIVE DATE: Effective upon passage, except for the rules to determining the tax liability on withdrawals take effect upon passage and apply to income years beginning on or after January 1, 2011

**§ 198—URBAN REVITALIZATION**

The bill requires the DECD commissioner, within existing DECD resources, to establish a pilot program in one or more distressed municipalities to foster revitalization and stabilization in city neighborhoods by facilitating the acquisition and renovation of one- to four-family homes and prioritizing owner-occupancy.

DECD must report to the Housing Committee by (1) February 1, 2013 on the program's status; (2) January 1, 2014 with an interim report; and (3) January 1, 2015 with a final report.

***Program Goals and Promoting Participation***

The program's goal is to increase homeownership in targeted neighborhoods with high proportions of one- to four-family properties. In doing so it must give priority to owner-occupancy in buildings that are for sale, vacant, deteriorated, in foreclosure, or bank- or investor-owned. To accomplish this goal, the bill requires the program administrator, as necessary, to:

1. draw on diverse public and private funding sources and programs, including foundations, local loan funds, and

programs that agencies other than DECD administer, such as the Connecticut Housing Finance Authority;

2. use public funds to leverage private resources;
3. provide financing or investment to support property purchase, rehabilitation, construction, demolition, energy efficiency, and aesthetic improvements, including financial products that promote homeownership (e. g. , down payment assistance), and identify other financial resources to support such activities;
4. offer incentives to investors to develop tenants into owners, apply income restrictions to housing units to ensure affordability, and conduct energy efficiency improvements to meet weatherization goals;
5. identify and coordinate access for program participants to (a) rental assistance and foreclosure prevention resources and (b) other resources that will increase homeownership, stabilize or decrease occupancy costs, and stabilize neighborhoods;
6. provide assistance to (a) individuals who are or will become homeowners and (b) nonprofit and for-profit entities that will buy and rehabilitate properties to sell to individuals who will become homeowners;
7. provide support services to program participants who are or will become homeowners to maximize the likelihood of their success in maintaining long-term homeownership, including (a) training in skills necessary to be an effective landlord and (b) assistance in resolving problems that may arise after closing on a home;
8. identify and structure incentives to encourage program participation by lenders, investors, and developers with a goal of promoting homeownership; and
9. help program participants to find purchase financing and counseling before and after any purchase and direct them to programs that provide deferred, low, or no-interest or forgivable

loans, including the state Rental Housing Revolving Loan Fund.

***Program Parameters and Administration***

Under the bill, DECD must (1) by October 1, 2012, establish program parameters and (2) by January 1, 2013, designate at least one municipality to participate.

A person who receives program assistance must agree to (1) occupy the home, or a unit in it, as his or her primary residence for at least five years or (2) transfer the home to a person who agrees to do so. The bill authorizes the program to give priority to first-time home buyers and people living in a targeted neighborhood.

The bill authorizes DECD to contract with at least one statewide nonprofit organization to administer the program and establishes requirements for the program administrator. The bill does not specify who administers the program if DECD does not contract with a nonprofit organization for this purpose.

The bill requires the program administrator to:

1. target neighborhoods where concentrated resources can have a substantial impact on revitalizing and stabilizing the surrounding community and
2. recruit community stakeholders to provide active support for the program, including local banks, local boards of realtors, neighborhood revitalization zone committees, community-based organizations, community development financial institutions, and similar entities.

EFFECTIVE DATE: Upon passage

**§ 199—JOB EXPANSION TAX CREDIT**

The bill extends the \$900 per month job expansion tax credit to employers hiring people:

1. receiving services from DMHAS or

2. participating in DSS-funded or -operated programs providing employment opportunities and day services.

An employer qualifies for the credit if these new hires work at least 20 hours per week for at least 48 weeks in a calendar year.

By law, the credits are administered by the DECD commissioner. The bill requires her to consult with the DMHAS or DSS commissioner, as applicable, about verifying whether a newly hired employee received such services.

By law, the credits apply against the insurance premium, corporation business, utility company, or personal income tax and are available to businesses that create new jobs and hire certain Connecticut residents to fill them. The credit is \$500 per month for each new employee that lives in Connecticut or \$900 per month if, when hired, the new employee is:

1. receiving unemployment compensation benefits or has not had a full-time job since exhausting his or her unemployment benefit,
2. a current armed forces member or one who was honorably discharged or released from active service, or
3. receiving vocational rehabilitation services from the Bureau of Rehabilitation Services.

An employer who hires a person receiving unemployment compensation benefits or rehabilitation services qualifies for the \$900 credit if the new employee works at least 20 hours per week for at least 48 weeks in a calendar year.

A business meeting these hiring criteria qualifies for the credit only for jobs it creates between January 1, 2012, and January 1, 2014. To be eligible, the business must (1) have been in business for 12 consecutive months before applying for the credits and (2) liable for any of the taxes to which the credits apply. Further, the jobs must not have existed in Connecticut before the application and be filled by eligible employees.

EFFECTIVE DATE: July 1, 2012 and applicable to income or taxable years commencing on or after January 1, 2012.

### **§§ 200-202—EXPRESS PROGRAM**

The bill makes several programmatic changes to the Express Program, which consists of separate revolving loan, job incentive loan, and matching grant components. Some of the program's requirements apply to all of the components, some to specific ones. The bill makes changes to both sets of requirements.

#### ***Eligible Businesses***

The bill opens the program's components to more businesses. Under current law, a business qualifies for assistance if it employed 50 or fewer people during at least half of its working days in the prior 12 months and meets other criteria. The business must also:

1. be based in Connecticut and operate here,
2. have been registered to do business in Connecticut for at least 12 months,
3. be current on all state and local taxes, and
4. be in good standing with all state agencies.

The bill extends Express assistance to businesses based in other states if they have been registered to do business here or in other states for at least 12 months and have operations in Connecticut (i. e. , a subsidiary of a corporation). It also extends assistance to more small businesses by raising the employee threshold from 50 to 100.

#### ***Relocation Penalties***

The bill extends the time period during which a business receiving assistance under any component is subject to the statutory penalty for relocating out of state after receiving assistance (CGS § 32-5a). Under current law, a business receiving state economic assistance under any program, including Express, must repay 100% of the assistance plus 5% if it relocates from Connecticut within five years after receiving the

assistance. Under the bill, the period for Express borrowers is five years or the loan's term, whichever is longer. As discussed below, the bill sets the maximum repayment period for Express loans at 10 years.

### ***Eligible Costs***

The bill expressly allows businesses to use revolving loan funds or matching grants to purchase machinery and equipment. Under existing law, revolving loans can already be used to acquire machinery and equipment, construct facilities or make leasehold improvements, cover moving expenses, or provide working capital. Matching grants can also be used for these activities and new and ongoing workforce training.

### ***Loan Amounts and Terms***

The bill extends the maximum period for repaying a revolving loan from five to 10 years. Under current law and the bill, the commissioner can charge up to 4% interest on these loans.

The bill increases the maximum job incentive loan from \$250,000 to \$300,000. Current law authorizes loan amounts ranging from \$10,000 to \$250,000, but sets no interest rate or repayment term for them. The bill (1) allows the commissioner to charge up to 4% on the loans and (2) sets the repayment period at up to 10 years. Under both the bill and current law, the commissioner may forgive these loans or defer their repayment.

### ***Administrative Changes***

The bill makes several administrative changes. It allows the commissioner to run the program by partnering with other entities, including the Connecticut Credit Consortium, a DECD-administered small business assistance revolving fund.

The bill specifies how the commissioner must help Express applicants obtain Subsidized Training and Employment Program (STEP) assistance (described below). Current law requires her to work with them to provide a package of assistance from STEP and other appropriate state programs. STEP is administered by the Labor

Department. The bill allows the commissioner to refer applicants to that program instead of providing a package that includes STEP assistance.

The bill establishes a separate, nonlapsing General Fund account for Express that must contain any funds the law requires to be deposited there, principal and interest loan repayments, and any other funds DECD receives in consideration for Small Business Express assistance. DECD and its administrative partners can use the fund to cover administrative expenses and other costs of running the program.

### ***Bonding***

The bill changes the bond allocations for Express' three program components. PA 11-1, October Special Session, authorized \$50 million in bonds per year in FY 12 and FY 13 and allocated \$20 million of that total in each of those years for the revolving loan component. The bill reduces this allocation to \$10 million per year in FY 12 and FY 13.

EFFECTIVE DATE: Upon passage

### **§§ 203-204—STEP**

#### ***Eligible Businesses***

The bill makes programmatic and administrative changes to STEP, which subsidizes the costs of training and compensating a new employee during his or her first six months on the job. The subsidies are different for small manufacturers and other types of small businesses, but the eligibility criteria are mostly the same.

The bill opens STEP to more small businesses and small manufacturers. Under current law, a business qualifies for STEP if it employed 50 or fewer people during at least half of its working days in the prior 12 months and:

1. is based in Connecticut and operates here,
2. has been registered to do business in Connecticut for at least 12 months, and

3. is current on all state and local taxes.

The bill extends STEP assistance to businesses based in other states if they have been registered to do business here or in other states for at least 12 months and have operations in Connecticut (i.e., the subsidiary of a corporation).

The bill opens the program to businesses employing up to 100 people and to retailers, which current law explicitly excludes. In opening the program to retailers, the bill specifies that the subsidies are available only for new permanent full-time and part-time employees, not former temporary or seasonal employees.

### ***Subsidy Schedule***

The bill resets the schedule for making subsidy payments to non-manufacturing small businesses. By law, the subsidies cover a portion of the training and compensation cost of each new employee, up to \$20 per hour. Under current law, the portion declines over each new employee's first six calendar months on the job.

The bill changes the subsidy period from calendar months to a 180-day period divided into four periods, but does not change the subsidy levels, which range from 100% to 25%, as Table 1 shows.

Table 2: STEP Subsidy Schedule for Non Manufacturing Small Businesses

Period	Subsidy Level
Days 1-30	100%
Days 31-90	75%
Days 91-150	50%
Days 151-180	20%

(The subsidy for small manufacturers, which the bill does not change, is a grant that phases out over six months. The maximum grant ranges from \$2,500 for the first month to \$1,600 for the last. )

### ***Administrative Costs***

The bill increases the share of STEP funds that can be used to cover administrative costs. In doing so, it creates two separate set-asides for different entities involved in running the program.

Current law provides one set-aside, which cannot exceed 4% of the allocated funds. The Department of Labor (DOL) can use the set-aside to cover the cost of retaining outside consultants to run the program. The bill allows DOL to also use the set-aside to retain the Workforce Investment Boards to run the program.

The bill creates a separate set-aside for covering STEP's marketing and operations costs. In FY 13, it allows DOL to use up to 4% of STEP's funds for these costs.

### ***Reporting Period***

The bill sets deadlines for submitting each biannual report. Under current law, DOL must submit the first report by June 30, 2012, and subsequent reports every six months from that date. Under the bill, the report for the period covering January to June is due July 15, starting in 2012, and annually thereafter. The report for the period covering July to December is due January 15, starting in 2013 and annually thereafter.

### ***Bonds***

The bill extends the period during which the bonds authorized for STEP's small business and small manufacturers components are available. The law authorizes \$20 million for STEP, with \$10 million available each in FY 12 and FY 13. Current law divides the annual authorization between the two components, providing \$5 million for each in FY 12 and FY 13. The bill extends the time for both components bonds by one year, to FY 14.

EFFECTIVE DATE: Upon passage

## **§§ 205-206—UNEMPLOYED ARMED FORCES MEMBER SUBSIDIZED TRAINING AND EMPLOYMENT PROGRAM**

### ***Purpose***

The bill establishes the Unemployed Armed Forces Member

Subsidized Training and Employment Program to provide grants subsidizing businesses' costs of hiring unemployed veterans during their first 180 days on the job. It authorizes \$10 million in bonds for the program, with \$5 million available upon its passage and the balance available in FY 14. The bill requires the labor commissioner to run the program and allows him to adopt implementing regulations.

**Eligibility**

**Business.** The program is open to any business that has operations in Connecticut, has been registered to do business here or in other states for at least 12 months, and is in good standing regarding all state and local taxes.

**Employee.** The business qualifies for a training and employment grant depending on the new employees' prior employment and veteran status. A new employee (1) must be unemployed before the business hired him or her, whether or not he or she received unemployment benefits, and (2) cannot have been employed by a related person in Connecticut at any time during the 12 months before he or she was hired.

A "related person" includes a corporation, limited liability company (LLC), partnership, association, or trust that controls the eligible business or is under its control. Control is based on ownership of (1) stock in a corporation; (2) capital or profit interest in a partnership, LLC, or association; or (3) a beneficial interest in a trust, all according to federal tax law. A related person also includes an entity that is part of the same controlled group, such affiliates.

The business' eligibility for the grant also depends on the new employee's veteran status. He or she must have been:

1. a member of (1) the United States Army, Navy, Marine Corps, Coast Guard, or Air Force or any reserve component of these armed forces or (2) a state National Guard;
2. called to active service in support of Operation Enduring Freedom (Afghanistan) or presidentially authorized military

operations against Iraq; and

3. honorably discharged after serving at least 90 days in an area the president designated by executive order as a combat zone, or earlier if the employee was separated from service due to a Veterans' Administration-rated service connected disability.

### ***Training and Employment Grants***

Businesses may apply to DOL for a grant for each employee meeting the above criteria. In doing so, they must describe the on-the-job training the employee will receive. The DOL commissioner or his designee must review and approve that description as part of the business' grant application.

The grant covers a portion of the cost of compensating the employee, not counting benefits, during the first 180 days on the job, up to a maximum of \$20 per hour. As Table 1 shows, the grant amount phases out during this period.

Table 3: Subsidy Schedule

Period	Grant Amount as Percent of Employee's Wages
Day 1-30	100%
Day 31-90	75%
Day 91-150	50%
Day 151-180	25%

The grant payments immediately end if the employee leaves the business before the end of the six-month period. A business receiving a grant cannot receive (1) a second grant for an employee who remains after this period or (2) a STEP grant.

### ***Administrative Costs***

The bill allows a portion of the funds allocated for the program to cover administrative costs. It does so by creating two separate set-asides for different entities involved in running the program. It allows

DOL to use up to 4% of the funds to cover the costs of retaining the Workforce Investment Boards or outside consultants to run the program. In FY 13, the bill also allows DOL to use up to 4% of the funds to cover the program's marketing and operations costs.

***Reporting***

The labor commissioner must report biannually on the program to the Appropriations; Commerce; Labor; Veterans; and Finance, Revenue and Bonding committees. Each six-month report must include available data on:

1. the number and types of businesses that received training and employment grants, and
2. the number of unemployed veterans hired because of these grants.

The biannual report covering the January to June period is due July 15, starting in 2013, and annually thereafter; the report covering the July to December period is due January 15, starting in 2014, and annually thereafter.

EFFECTIVE DATE: Upon passage, except the bond authorization takes effect July 1, 2012

**§ 207—“CONNECTICUT-MADE” MARKETING CAMPAIGN**

***Purpose***

The bill requires the DECD commissioner to encourage the development of the state's manufacturing and production sectors by establishing and administering a program that promotes the marketing of Connecticut-made products. The commissioner must administer the program within available appropriations. She may also adopt implementing regulations.

***Program Components***

The bill specifies the components the commissioner must include in the program. She must:

1. provide for the design, planning, and implementation of a multiyear, state-wide marketing and advertising plan that includes television and radio advertisements showcasing Connecticut-made products and the advantages they offer;
2. establish and continuously update an associated website that lists Connecticut manufacturers, the products they make, and the retailers that sell them;
3. help Connecticut manufacturers and producers needing assistance access appropriate economic development organizations; and
4. foster contacts and relationships between businesses making or producing Connecticut products and retailers, marketers, chambers of commerce, regional tourism districts, and other potential institutional customers (i. e. , program stakeholders).

The last component includes providing a feature on the website linking Connecticut manufacturers and producers with potential buyers and staging statewide or regional promotional events where these groups can participate.

In addition to these required components, the bill allows the commissioner to make grants, within available appropriations, to individuals and businesses that promote and market Connecticut-made products. Grant recipients must clearly incorporate the phrases, "CONNECTICUT-MADE" or "CT-Made" in their promotional and marketing activities.

### ***Business Participation***

The bill requires the commissioner to engage the program's stakeholders in its activities. She must make her best efforts to solicit their cooperation and participation in advertising Connecticut products; developing the website; and planning events, including soliciting private funds to match state funds.

### ***Annual Reports***

Beginning January 1, 2013, the bill requires the commissioner to submit annual status reports to the Commerce Committee. The report must describe the program's activities and the amount of private matching funds DECD received and spent.

EFFECTIVE DATE: October 1, 2012

**§ 208—CONNECTICUT TREASURES**

The bill authorizes a method to identify and promote Connecticut's "cultural treasures." It requires the DECD commissioner to consult with the Tourism Advisory Committee about developing a program to designate culturally, educationally, and historically significant locations and promote them or state-owned and -operated museums.

The program must also integrate DECD's existing programs in promoting these locations and museums to adults and children. In doing so, it must offer a "Connecticut Treasures Passport," which must provide free or reduced admission to the designated treasures and all state-owned and operated-museums for children under age 18 who are accompanied by an adult.

EFFECTIVE DATE: Upon passage

**§ 209—MAIN STREET INVESTMENT FUND PROGRAM**

The bill makes administrative changes to the Main Street Investment Fund program, which provides grants for developing and improving commercial centers in relatively small towns. The grants are administered by the OPM secretary. The bill allows the secretary to contract with a nonprofit entity to administer the program and use the funds to cover its reasonable administrative expenses. Under current law, he can use the funds only to make property improvement grants.

EFFECTIVE DATE: Upon passage

**§ 210—FIRST FIVE PLUS JOBS RELOCATION PREFERENCE**

The bill allows the DECD commissioner to give a preference under the "First Five Plus" program to proposed business projects that will relocate overseas jobs to Connecticut. The program offers loans, tax

incentives, and other forms of economic development assistance to businesses committing to create jobs and invest capital within the law's timeframes. Current law allows her to give preferences to:

1. manufacturers from other states or countries relocating to Connecticut,
2. businesses relocating their corporate headquarters here, or
3. business "redevelopment projects" that she believes can create jobs and invest capital sooner than the law requires.

By law, a business qualifies for First Five assistance if it commits to:

1. create at least 200 jobs within 24 months after the commissioner approves the assistance, or
2. invest at least \$25 million and create at least 200 new jobs within five years after she approves the assistance.

EFFECTIVE DATE: Upon passage

### **§ 211—BONDS FOR SMALL BUSINESS DEVELOPMENT PROGRAMS**

The bill allows more businesses to qualify for assistance under existing bond funded small business development programs. PA 11-1, October Special Session, provided more bonds for these programs by increasing the GO bond authorization for DECD's Manufacturing Assistance Act program by up to \$340 million, from \$40 million annually in FY 12 and FY 13 to \$140 million in FY 12 and \$280 million in FY 13. The act also reserved \$60 million of the authorized funds to assist business with 50 or fewer employees, \$20 million in FY 12 and \$40 million in FY 13.

The bill allows more businesses to qualify for assistance funded with these bonds by raising the size criterion from 50 or fewer employees to 100 or fewer employees.

Lastly, the bill reserves up to \$20 million from a FY 13 \$280 million

economic development bond authorization that may be used for businesses that propose to relocate at least 100 overseas jobs to Connecticut. Any balance remaining in this \$20 million reservation after FY 13 must be used to fund economic development projects.

EFFECTIVE DATE: Upon passage

**§ 212—DPH VACCINE WASTAGE POLICY**

By October 1, 2012, the bill requires the Department of Public Health (DPH) to post on its most current policy regarding vaccine wastage on its website. The department must (1) include in this policy a statement of the factors it used to make the policy and (2) update it as necessary so that it reflects the most current policy in effect. The bill requires DPH to make a form available to health care providers to report instances when the provider does not receive a full order of a requested vaccine. DPH must track, record, and investigate all reported instances and post aggregate findings and reasons for these findings on its website. It must do this within available resources by January 1, 2013, and biannually thereafter.

EFFECTIVE DATE: Upon passage

**§ 213—CHILDHOOD IMMUNIZATIONS**

PA 11-242 created a pilot program for certain health care providers who administer vaccines to children under the federal Vaccines For Children (VFC) program (operated by DPH under federal authority) to choose under the federal program any vaccine the federal Food and Drug Administration (FDA) licenses, including any combination vaccine and dosage form, if it is (1) recommended by the National Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices and (2) made available to the department by CDC. DPH must provide the vaccine.

By law, if the DPH commissioner's required evaluation of the pilot program does not show a significant reduction in child immunization rates or an increased risk to children's health and safety, then the program must expand to include all VFC providers. The bill changes,

from July 1, 2012 to October 1, 2012, the date by which this program expansion must occur. It also extends this choice over vaccine selection to health care providers who administer vaccines to children under the state childhood immunization program.

For such providers, the bill covers the same vaccines as specified above, but with two additional conditions. The bill specifies that the vaccines' availability is subject to the vaccines being included in the state program due to available appropriations. Moreover, the commissioner must determine that the vaccine is equivalent to the cost for vaccine series completion of comparable available vaccines. For this purpose, vaccines are considered comparable if they (1) protect against the same infections, (2) have similar safety and efficacy profiles, (3) requires the same number of doses, and (4) are recommended for similar populations by the CDC.

Starting January 1, 2013, the bill requires all health care providers who administer vaccines to children to obtain vaccines from DPH (presumably through the state child immunization program) under the same conditions specified above regarding choice over vaccine selection.

By law, these provisions expanding vaccine choices do not apply in the event of a public health emergency, attack, major disaster, emergency, or disaster emergency as defined in law.

***Exceptions***

Under the bill, a health care provider participating in the VFC or state childhood immunization programs is not required to procure or administer a vaccine provided by DPH if:

1. the department directs the provider to procure the vaccine from another source, including during a declared state or national vaccine shortage or
2. the provider determines, based on his or her medical judgment, that (a) administering the vaccine is medically inappropriate or (b) it is more medically appropriate to administer another

vaccine DPH is not authorized to or does not supply.

The bill prohibits a health care provider from seeking or receiving remuneration for or selling any vaccine provided by DPH. But, it allows providers to bill or charge for administering the vaccine.

**Report**

The bill requires DPH to report to the legislature by January 1, 2014 on the effectiveness of implementing expanded vaccine choice and universal health care provider participation.

EFFECTIVE DATE: October 1, 2012

**§§ 214 & 215—CHILDHOOD IMMUNIZATION INSURANCE ASSESSMENT**

***Assessment Application***

By law, DPH operates a state childhood immunization program, under which, and within available appropriations, the department must provide vaccines at no cost to participating health care providers. The program is funded by a “health and welfare” assessment on the state’s health and life insurers. Under current law, the insurance assessment applies to all domestic health insurers specified in law. The bill applies the assessment only to those domestic health insurance companies and HMOs that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services. It also excludes life insurers from the assessment and extends the assessment to (1) licensed third-party administrators (TPA) that provide administrative services for self-insured health benefit plans and (2) domestic insurers exempt from TPA licensure who administer self-insured health benefit plans (hereafter called “exempt insurer”). TPAs and exempt insurers must pay the assessment on behalf of the health benefit plans they administer.

***Reporting Requirement***

The bill requires each health insurer, HMO, TPA, and exempt insurer to annually report by September 1<sup>st</sup> to the insurance commissioner on the number of insured or enrolled lives in

Connecticut as of the immediately preceding May 1<sup>st</sup> for which they are providing health insurance or administering a self-insured health benefit plan that provides the types of coverage listed above. This number must exclude lives enrolled in (1) Medicare, (2) Department of Social Services medical assistance programs, (3) workers' compensation insurance, or (4) Medicare Part C plans.

Any individual or entity that fails to file this report must pay a late filing fee of \$100 per day. The insurance commissioner may require anyone to produce records in their possession that were used to prepare the report for examination by the commissioner or his designee. If the commissioner determines there is discrepancy between the actual and reported number of insured or enrolled lives that was not made in good faith, the individual or entity must pay a civil penalty of up to \$15,000 for each report filed with such a discrepancy.

### ***Assessment Determinations***

The bill requires the insurance commissioner, by each November 1 instead of October 1, to annually determine each insurer's assessment for the following year. Under the bill, the commissioner must calculate the assessment by multiplying the number of reported lives by a factor he determines annually to fully fund the program's appropriation (the Office of Policy and Management determines the appropriation annually in consultation with DPH). To determine the factor, the commissioner must divide the appropriation by the total number of reported lives. Under current law, the assessment is a percentage of the appropriation determined by each insurer's share of health and life insurance premiums and subscriber charges.

The bill requires the insurance commissioner, by each December 1 instead of November 1, to annually provide each assessed entity with a statement of its proposed assessment. The assessment must be paid to the department by February 1 annually. Under existing law, any insurance company or HMO aggrieved by the assessment can appeal to Superior Court, which the bill extends to TPAs and exempt insurers.

EFFECTIVE DATE: July 1, 2012

**§§ 216 & 217—CAPTIVE INSURERS**

PA 11-1, October Special Session, revised and expanded the laws governing captive insurance companies (i.e., captives), which are wholly owned subsidiaries of other companies that formed the captives to insure all or part of the other companies' risks. It created a separate, nonlapsing captive insurance regulatory and supervision account for depositing Insurance Department fees and assessments related to captives and 11% of captive premium taxes.

The bill eliminates the account, requires the revenue to be deposited in the Insurance Fund instead, and makes conforming technical changes. It also limits the statutory limits on captives' risks to risk retention groups, a type of captive insurer formed under the federal Products Liability Risk Retention Act, instead of all captives.

EFFECTIVE DATE: July 1, 2012, with the provisions eliminating the captive insurance regulatory and supervision account applying to calendar years beginning on or after January 1, 2012.

**§§ 218 & 219—CONNECTICUT HEALTH INSURANCE EXCHANGE BOARD MEMBERS AND EMPLOYEES**

The bill makes the Healthcare Advocate a voting member of the Connecticut Health Insurance Exchange board. She is currently an ex-officio nonvoting board member. The bill also:

1. increases, from six to seven, the number of board members that constitutes a quorum;
2. expands outside employment and affiliations restrictions applicable to exchange board members and staff;
3. lengthens the term of the House majority leader's health care economist board appointee from one year to two years;
4. allows exchange employees to enroll in the state employee health plan if the exchange pays the enrollment costs; and
5. makes technical changes.

***Outside Employment and Affiliations Restrictions***

The law subjects exchange board members and staff to certain restrictions relating to their employment and affiliations. The bill expands upon these.

Specifically, under current law, board appointees cannot be employed by, serve as a consultant to, be a board member of, be affiliated with, or represent an insurer, insurance producer or broker, health care provider, health care facility, or health or medical clinic. The bill extends this restriction to all board members and staff.

Under current law, board members and staff cannot be members, board members, or employees of a trade association of insurers, insurance producers or brokers, health care providers, health care facilities, or health or medical clinics. The bill prohibits them from also being consultants to such trade associations.

In addition to the restrictions described above, the law prohibits board members and staff from being health care providers unless they receive no compensation as providers and have no ownership interest in a professional health care practice. A staff member may also be a health care provider if the exchange's chief executive officer approves the hiring to fill an area of needed expertise.

Board members may engage in private employment or in a profession or business, subject to any federal or state laws, regulations, and rules regarding ethics and conflict of interest.

The law specifies that it does not constitute a conflict of interest for a trustee, director, partner, or officer of any person, firm, or corporation, or any individual having a financial interest in the person, firm, or corporation, to serve as a board member. But such a member must abstain from any deliberation, action, or vote relating to the person, firm, or corporation.

EFFECTIVE DATE: Upon passage

**§ 220—CONNECTICUT HEALTH INSURANCE EXCHANGE  
ADVANCED FUNDING**

The bill permits the Connecticut Health Insurance Exchange's CEO to request from the OPM secretary a funding advance from the General Fund if the CEO determines that (1) the exchange's current expenses exceed the amount of available cash and (2) an advance of funds from federal grants awarded to the exchange is not available. The CEO's request must be in writing and cannot exceed \$5 million.

If the OPM secretary approves the request, OPM must notify the treasurer and comptroller of the amount approved. The comptroller must draw a warrant for disbursement for that amount. The bill prohibits the OPM secretary from approving any funding advance (1) until all prior advances have been repaid, (2) if sufficient federal grant awards to repay an advance are unavailable, and (3) after December 31, 2014.

The bill requires the exchange to (1) process draw-downs of federal grant funds as soon as practicable and (2) repay the comptroller the amount advanced from the General Fund within seven business days after receiving the advance. The exchange and OPM must provide reports regarding any approved advances as the comptroller requires.

EFFECTIVE DATE: July 1, 2012

**§§ 221 & 222—KIRKLYN M. KERR PROGRAM**

The bill transfers, from the Board of Regents for Higher Education to UConn, responsibility for administering the Kirklyn M. Kerr veterinary medicine grant program. The program allows up to five Connecticut residents per cohort to attend Iowa State University's College of Veterinary Medicine and pay reduced tuition.

EFFECTIVE DATE: July 1, 2012

**§ 223—LOAN FORGIVENESS FOR TEACHING BILINGUAL  
EDUCATION OR ENGLISH LANGUAGE LEARNERS**

The bill establishes a loan reimbursement program for up to 20 educators who teach bilingual education or English language learners.

Under the bill, borrowers of federal or state education loans who meet the program's criteria may receive reimbursements of up to \$5,000 per person, per year for a maximum of five years.

To be eligible for the program, a person must, on or after May 1, 2012:

1. (a) graduate from an in-state teacher preparation program and complete the state's teaching certification requirements or (b) hold a teaching certificate and complete an in-state program to obtain an endorsement in bilingual education or teaching English to speakers of other languages;
2. obtain such an endorsement if he or she has not already done so;
3. be employed at a Connecticut public school in a teaching position that requires such an endorsement; and
4. make a written commitment to remain employed in such a position at a Connecticut public school for at least five years following receipt of the endorsement.

The bill requires the Office of Financial and Academic Affairs for Higher Education (OFAAHE) to administer the program from within available appropriations and allows the office to adopt regulations for this purpose. It requires OFAAHE's executive director to seek repayment of the reimbursement from any recipient who does not fulfill the five-year employment requirement. Under the bill, for each year that the person does not meet the employment requirement, he or she must repay at least 20% of the reimbursement (e.g., a recipient who only teaches for three years must repay at least 40% of the reimbursement). The executive director must determine the manner of repayment.

EFFECTIVE DATE: July 1, 2012

#### **§ 224—YOUTH EMPLOYMENT**

The bill requires the labor commissioner, in consultation with the

Connecticut Employment and Training Commission, to develop youth employment strategies to bolster youth employment and address youth and young adult unemployment. The strategies must include educating employers about the job expansion tax credit program and the ability to claim the credit for hiring a qualifying young adult.

Additionally, the strategies must reflect the (1) impact of an aging population on youth and young adult employment and (2) importance of urban centers as youth employment hubs. The commissioner must report on such strategies to the Higher Education Committee by December 31, 2012.

EFFECTIVE DATE: July 1, 2012

**§§ 225 & 226—CURRICULAR ALIGNMENT AND PILOT PROGRAM**

**§ 225—*Curricular Alignment***

The bill requires local and regional boards of education, in collaboration with the Board of Regents for Higher Education (BOR) and the UConn Board of Trustees, to develop a plan to align Connecticut's common core state standards (see BACKGROUND) with college-level programs at Connecticut public higher education institutions. The standards and programs must be aligned within one year of Connecticut's implementation of the standards.

EFFECTIVE DATE: July 1, 2012

**§ 226—*Pilot Program***

The bill also requires the State Department of Education (SDE), by July 1, 2013, in collaboration with BOR and the UConn Board of Trustees, to develop a pilot program to incorporate the common core standards into priority school district curricula. The program must also, for the 2013-2014 through the 2017-2018 school years, align the districts' curricula with college-level programs at Connecticut public and independent higher education institutions.

Under the pilot program, the local or regional board of education for a priority school district must partner with BOR, the UConn Board of Trustees, and independent institutions' governing boards, as

appropriate, to (1) evaluate and align curricula, (2) test grade 10 or grade 11 students using a college readiness assessment developed or adopted by SDE, (3) use the results to assess college readiness, and (4) offer a support plan for grade 12 students found to be unready for college. The local or regional board must annually report the test results to SDE, BOR, UConn, and the Office of Financial and Academic Affairs for Higher Education. The bill does not include a reporting deadline.

EFFECTIVE DATE: Upon passage

### **Background**

**Common Core State Standards.** The common core state standards are a set of state K-12 education standards for English language arts and mathematics developed by the National Governors Association and the Council of Chief State School Officers. The standards, which states may voluntarily adopt, seek to raise student achievement and provide more uniform curricula and instruction among states. The State Board of Education adopted the standards in July 2010.

### **§§ 227-230—SCHOOL CONSTRUCTION PROJECTS**

The bill exempts specified school construction projects from various statutory and regulatory requirements to allow them to qualify for state grants. These exemptions are referred to as “notwithstanding” provisions. Table 4 summarizes each exemption and any applicable conditions.

Table 4: Notwithstanding Provisions for Local School Projects

§	District	Project	Exemption, Waiver, or Other Change
227	New Haven	Bowen Field new construction	Makes athletic field project eligible for state reimbursement including field illumination provided the application is submitted before June 30, 2013.
228	Brooklyn	Brooklyn Middle School extension and alteration	Waives standard space specifications for the extension and alteration project.
229	Manchester	Elisabeth M. Bennett Academy off-site chiller system for air conditioning	<ul style="list-style-type: none"> <li>• Waives deadline for change orders and other change directives to make eligible for reimbursement provided the change orders have been approved by bureau of school facilities and that Manchester ensures that there will be no</li> </ul>

			<p>other connections to the off-site chiller system other than the Bennett Academy.</p> <ul style="list-style-type: none"> <li>• Waives requirement for bureau of school facilities plan approval before bid, provided plans and specification have been approved.</li> </ul>
230	Wethersfield	Extension and alteration project at Wethersfield High School	Waives competitive bidding requirement for architect fees provided the project meets all other requirements.

EFFECTIVE DATE: Upon passage

### § 231—YOUTH SERVICE BUREAU GRANTS

The bill effectively increases the number of youth service bureaus (YSBs) eligible for SDE grants. It does so by making any YSB eligible for state grants starting in FY 13 if it applied by June 30, 2012, rather than by June 30, 2007, after receiving approval for its town's matching contribution. The grants are \$14,000 each, with any excess funds distributed among YSBs that received grants of more than \$15,000 in FY 95.

EFFECTIVE DATE: Upon passage

### § 232—COORDINATED SCHOOL HEALTH PILOT PROGRAM

For FY 13, the bill requires the education commissioner to establish a pilot program to provide grants to two educational reform districts the commissioner selects to coordinate school health, education, and wellness and reduce childhood obesity. The educational reform districts are the 10 districts with the lowest student performance on statewide mastery tests, according to a district performance index established in PA 12-116. They are: Bridgeport, East Hartford, Hartford, Meriden, New Britain, New Haven, New London, Norwich, Waterbury, and Windham.

Pilot programs must enhance student health, promote academic achievement, and reduce childhood obesity by bringing together school staff, students, families, and community members to (1) assess health needs; (2) establish priorities; and (3) plan, implement, and

evaluate school health activities. They must include at least the following:

1. school nutrition services,
2. physical education,
3. a healthy school environment,
4. staff health and wellness,
5. family and community involvement,
6. health education and services,
7. school counseling, and
8. school psychological and social services.

The commissioner must establish program implementation guidelines for the selected districts to use and provide technical assistance and resources to the districts on implementing the programs. He must make a final report on the program by October 1, 2013 to the governor and the Education and Appropriations committees.

EFFECTIVE DATE: July 1, 2012

**§ 233—WRAPAROUND SERVICES GRANT PROGRAM**

The bill requires the education commissioner, within available appropriations, to establish a program to provide grants to educational reform districts (see § 232) for: (1) social-emotional behavioral supports, (2) family involvement and support, (3) student engagement, (4) physical health and wellness, and (5) social work and case management. It allows an educational reform district's school board to apply for a grant when and how the commissioner prescribes.

EFFECTIVE DATE: July 1, 2012

**§ 234—PARENT UNIVERSITY PILOT PROGRAM**

For FY 13, the bill requires SDE to provide grants for a parent university pilot program in two educational reform districts (see § 232) the education commissioner selects. Each parent university must provide educational opportunities for parents both district-wide and for those whose children attend certain schools and who live in certain neighborhoods.

The bill allows an educational reform district's school board, or such a board's nonprofit organization partner, to apply for a grant when and how the commissioner prescribes. It also allows SDE to accept private donations for the program as long as they do not limit the scope of the grants.

EFFECTIVE DATE: July 1, 2012

**§ 235—EDUCATIONAL REFORM DISTRICT SCIENCE GRANT PROGRAM**

The bill requires the education commissioner to establish a grant program, within available appropriations, for educational reform districts (see § 232) to improve the academic performance of students in kindergarten through 8<sup>th</sup> grade in science, reading, and numeracy. It allows an educational reform district's school board to apply for a grant when and how the commissioner prescribes. In awarding grants, the commissioner must prioritize (1) programs partnering with schools with a record of low science performance and (2) after-school elementary programs with a record of improving science performance.

EFFECTIVE DATE: July 1, 2012

**§ 236—ACHIEVEMENT GAP TASK FORCE REPORTING DEADLINES**

The bill postpones reporting deadlines for the Achievement Gap Task Force. By law, the 11-member task force must address academic achievement gaps between Connecticut students and consider effective approaches to closing those gaps in elementary, middle, and high schools.

The bill delays, from July 1, 2012 to January 15, 2013, the deadline

for the task force to submit a master plan to eliminate the academic achievement gaps. It also changes the schedule for the task force's annual progress reports from annually starting January 1, 2013 to annually starting July 1, 2013. The bill does not change the task force's January 1, 2020 termination date.

EFFECTIVE DATE: Upon passage

**§ 237—PER-STUDENT GRANT FOR VO-AG CENTERS**

PA 12-116 increases the annual state grant for each student attending a regional agricultural science and technology (“vo-ag”) center from \$1,355 to \$1,750. It also prohibits local and regional boards of education that operate centers from using any increase in state funding to supplant local education funding for FY 13 or any subsequent fiscal year.

For FY 13, this bill allows a local or regional school board to receive and spend the increased per-student grants for its vo-ag program even if that spending causes it to exceed the total budgeted amount for education for FY 13 approved by its municipality or regional school district. It thus temporarily overrides statutes limiting the total amount a local or regional board of education may spend without additional authorization to the total specified in the town's or region's approved budget for the year.

EFFECTIVE DATE: July 1, 2012

**§ 238—FOODCORPS IN CONNECTICUT FUND TRANSFER**

Under the bill \$27,000 that the budget act appropriated for the Department of Education for Other Expenses is transferred to UConn's Cooperative Extension Service to coordinate FoodCorps in Connecticut for FY 2013. FoodCorps is a national organization that sponsors young adults dedicating a year of public service to help bring healthy food education and choices to school children.

EFFECTIVE DATE: July 1, 2012

**§ 239—SCHOOL NUTRITIONAL RATING PILOT GRANT PROGRAM**

The bill requires the education commissioner to establish a school nutritional rating system pilot grant program to be implemented in school districts for the school years commencing July 1, 2012, and July 1, 2013.

The program must provide grants of up to \$50,000 to eligible applicants the commissioner selects in accordance with the bill to adopt and implement a nutritional rating system to be used in at least one elementary, one middle, and one high school in the school district that:

1. provides information on the nutritional value of food provided to students in the school cafeteria to guide student food choices and
2. assists local and regional boards of education in food service procurement decisions.

***Eligible Applicants***

Under the bill, an eligible applicant can apply to the commissioner for a grant at a time and in a manner as the commissioner prescribes. It defines an “eligible applicant” as a local or regional board of education submitting an application on its own or a group of boards of education submitting an application together that has at least one elementary school, one middle school, and one high school located in the school district or districts.

An eligible applicant receiving a grant under this section must monitor and report to the commissioner on whether the development or adoption of the nutritional rating system affected student food-purchasing patterns.

***Applicant Selection***

The commissioner must select at least three but not more than five applications submitted by eligible applicants pursuant to the bill. The commissioner must select at least one eligible applicant from each of

the following resident student population groups:

1. fewer than 1,000 students,
2. at least 1,000, but fewer than 10,000, and
3. at least 10,000.

***Donations and Reporting***

The commissioner may accept private donations for purposes of the nutritional rating system grant program, provided the donations do not limit the scope of the pilot program grants under the bill.

The commissioner must submit a report by October 1, 2014, assessing this program to the Education Committee. The report must include any recommendations relating to the program's expansion. The commissioner must consult with the participating school district food service directors in developing the report and recommendations.

EFFECTIVE DATE: July 1, 2012

**§ 240—STATEWIDE SCHOOL NUTRITIONAL FOOD PROCUREMENT GUIDE**

The bill requires the education commissioner to submit to the Education Committee, by July 1, 2013, a report and recommendations relating to the establishment of a statewide food procurement guide for use by local and regional boards of education. The report must contain nutritional rating information for food items most commonly procured by boards of education. The commissioner must consult with food service directors for school districts throughout the state in developing the report and recommendations.

EFFECTIVE DATE: July 1, 2012

**§ 241—DIVISION OF SCIENTIFIC SERVICES**

Under current law, either the emergency services and public protection (DESPP) commissioner or a deputy commissioner designated by the commissioner must head the department's Division of Scientific Services. It requires the commissioner to designate a

director, rather than a deputy commissioner, to head the division. The director is in the unclassified service and serves at the commissioner's pleasure. The bill maintains the commissioner's ability to head the division himself.

EFFECTIVE DATE: Upon passage

**§ 242—E 9-1-1 TELECOMMUNICATIONS FUND**

The bill requires the Office of State-Wide Emergency Telecommunications, which administers the state's Enhanced 9-1-1 (E 9-1-1) program, by January 1 each year, to prepare and submit, the annual budget for use of the money in the E 9-1-1 Telecommunications Fund to the Office of Policy and Management secretary for review and approval. By January 15 annually, the secretary must submit a report of the proposed use of the funds to the Appropriations; Public Safety; and Finance, Revenue and Bonding committees.

By law, the funds are used exclusively for E 9-1-1 program expenses.

EFFECTIVE DATE: July 1, 2012

**§ 243—AMENDMENT TO AGREEMENTS WITH TRIBES**

The bill deems approved the amendment to the state's settlement agreements with the Mohegans and Mashantucket Pequot tribes regarding promotional programs under which they provide certain customers with coupons, credits, or both to play slot machines for free, up to the face value of the coupons or credits.

Under the amendments, each tribe has agreed that whenever the coupons or credits used in any month exceed 11%, instead of 5.5%, of gross operating slot machine revenue, the tribe will contribute 25% of the excess amount to the state. The 25% contribution is based on a memorandum of understanding each tribe has with the state, giving the tribes the exclusive right to operate video slot machines in Connecticut in exchange for a 25% cut of gross operating revenue from slot machines.

EFFECTIVE DATE: Upon passage

**§§ 244-248 & 294—STATE POLICE STAFFING**

From the date the bill passes until June 30, 2013, the bill eliminates the 1,248 minimum police officer staffing requirement for the Division of State Police and instead requires the emergency services and public protection commissioner to appoint and maintain the number that he judges and determines sufficient to efficiently maintain the division. Beginning July 1, 2013, it requires him to set the number in accordance with standards recommended by the Legislative Program Review and Investigations Committee (LPRIC) and outlined below.

The bill eliminates a requirement for the commissioner to report annually on troop projections to the Appropriations and Public Safety committees and inform them of the need to authorize a trooper trainee class. Instead, biennially, beginning by February 1, 2013, it requires the commissioner to submit to the committees an assessment of the number of officers needed for the biennium beginning the following July 1. If he recommends fewer than 1,248, he must include an assessment of the impact on public safety and any potential negative impact specifically attributable to the lower number.

***Program Review Study***

The bill requires LPRIC to conduct a study to develop standards that the commissioner must use in setting the state police officer staffing level for purposes of the biennial budget. It must submit the report, by January 9, 2013, to the Public Safety and Security Committee and send a copy to the DESPP commissioner.

In developing the standards, the LPRIC Committee must consider:

1. technological improvements,
2. federal mandates and funding,
3. statistical data on crime rates and type,
4. patrol staffing positions,

5. staffing of positions within the State Police and DESPP that do not require the exercise of police powers,
6. changes in municipal police policy and staffing, and
7. other criteria LPRIC deems relevant.

**Auxiliary Officers**

The bill makes a conforming change as it relates to auxiliary officers. (As of February, there were 50 auxiliary officers on staff. They mainly help disabled motorists, help with traffic control at accident scenes, and perform administrative functions. )

EFFECTIVE DATE: Upon passage, except a technical change that is effective July 1, 2012

**§ 249—DAS MEMORANDUM OF UNDERSTANDING**

The bill requires the Department of Administrative Services (DAS) to enter into a memorandum of understanding (MOU) with each state agency for which it provides personnel, payroll, business office, and affirmative action functions. Each MOU must establish DAS's and the agency's responsibilities regarding these services, which DAS provides through its SmART Unit.

The bill requires DAS and each agency to enter into the MOUs by October 1, 2012 or three months after DAS begins providing services to the agency, whichever is later. DAS must report on the status of each MOU by these same dates to the Appropriations Committee through the Office of Fiscal Analysis.

EFFECTIVE DATE: July 1, 2012

**§ 250—P-CARD LIMIT INCREASE**

The bill raises, from \$10,000 to \$250,000, the limit on state agency purchasing card (P-Card) transactions and purchases. It authorizes agencies to exceed this limit if they receive written approval from the comptroller and DAS commissioner. By law, the comptroller may allow budgeted state agencies to use P-Cards instead of separate

purchase orders for approved state purchases.

The P-Card program is a credit card program that DAS and the Office of the State Comptroller co-sponsor. Each agency and state employee receiving a P-Card is bound by the limits, policies, and procedures outlined in The State of Connecticut Purchasing Card Program Cardholder Work Rules and the Agency Purchasing Card Coordinator Manual. Under the program, individual agencies prescribe approved state purchases and are liable for all authorized charges made by its employees. Individuals are responsible for repaying improper charges and are personally liable for card misuse.

EFFECTIVE DATE: July 1, 2012

**§ 251—AIR EMISSIONS TESTING PAYMENTS**

The bill requires the owner of a resources recovery facility to pay all testing costs incurred by the facility, or any other activity eligible for payment. Current law requires owners to pay for certain specified emissions testing, and other testing costs or activity eligible for payment is paid from the General Fund. By law, resources recovery facility owners must pay for:

1. continuous meteorological and emissions monitoring testing and a proportionate share of the Department of Energy and Environmental Protection's (DEEP) telemetry costs;
2. initial permit performance testing such as for dioxin and furan emissions and residue, but not ambient air and ambient environmental monitoring for dioxin;
3. facility modification performance testing for DEEP approval of a new or amended construction or operating permit; and
4. other special testing needed to show DEEP permit compliance.

EFFECTIVE DATE: July 1, 2012

**§§ 252-264—UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM**

### ***Board Elimination***

The bill eliminates the Underground Storage Tank Petroleum Clean-Up Review Board and designates DEEP as its successor with the DEEP commissioner administering the underground storage tank petroleum clean-up program.

It specifies that:

1. any application received by, filed with, or submitted to the board is considered received by, filed with, or submitted to the commissioner on the date it was received by, filed with, or submitted to the board, and
2. any board approval, determination, or decision on an application is considered made by the commissioner.

The bill also makes many conforming, minor, and technical changes to the underground storage tank program statutes.

### ***Program Applicants***

The bill prohibits the DEEP commissioner from ordering payment or reimbursement to an applicant until he determines the applicant's status as a municipal or other applicant, or a small, mid-size, or large station applicant.

For purposes of the underground storage tank petroleum clean-up program, the bill defines an "applicant" as anyone who filed a request or application for payment or reimbursement from the program, including a supplemental application.

A "small station applicant" is an applicant who owned, operated, leased, used, or had an interest in five or less in- or out-of-state parcels of real property when the program received the applicant's first application, on which an underground storage tank system was or had been previously located. The bill defines "mid-size station applicant" as an applicant who owned, operated, leased, used, or had an interest in six to 99 such parcels and a "large station applicant" as an applicant who owned operated, leased, used, or had an interest in at least 100

such parcels, when the program received their first application. The bill does not explicitly require at least one parcel to be located in Connecticut. Gas station and other commercial applicants are covered by these provisions but it is unclear whether the bill excludes residential parcels. A “municipal applicant” is an applicant that is a consolidated or unconsolidated town, city, or borough and an “other applicant” is any applicant that is not a municipal applicant or a small, mid-size, or large station applicant.

The DEEP commissioner must make one determination per applicant which applies to all applications submitted by an applicant, including those which payment or reimbursement was ordered but has not been made. The bill requires the determination to be based on an applicant’s status when the commissioner received such applicant’s first application.

The bill requires each applicant to submit to the commissioner (1) information about whether it is a municipal or other applicant, or a small, mid-size, or large station applicant on a form he prescribes and (2) any additional information he believes necessary to make the determination. When determining an applicant’s status, the commissioner must (1) include all affiliates of the applicant and (2) consider an underground storage tank system owned, operated, leased, or used by an applicant on another person’s property to be an interest in a parcel. An “affiliate” is a person that directly or indirectly through at least one intermediary owns or controls, is owned or controlled by, or is under common control with an applicant.

The bill requires assignees of approved applications to assume the applicant status of the assignor.

***Payment or Reimbursement Application Deadline***

Under the bill, anyone who would qualify as a large station applicant must submit applications for payment or reimbursement before October 1, 2012.

The bill prohibits anyone who would qualify as a mid-size station

applicant from submitting an application for payment or reimbursement beginning October 1, 2013. They can submit an application to the program by September 30, 2013 for a release reported to the DEEP commissioner before October 1, 2012, but not for a release reported on or after that date.

Beginning October 1, 2014, anyone who would qualify as a municipal, small station, or other applicant, may not submit an application for payment or reimbursement from the program. The bill allows them to submit an application by September 30, 2014 for a release reported to the commissioner before October 1, 2013, but not for a release reported on or after that date.

***Payment or Reimbursement from the Program***

***Funding Distribution to Applicant Groups.*** The bill requires any amount available to the underground storage tank petroleum clean-up program for making payments or reimbursements to be equally distributed to the four applicant groups, each receiving one-quarter of the funds. (PA 12-189 authorizes \$36 million in bonds for DEEP to provide payment or reimbursement under the program. It authorizes \$9 million in bonds for each of the next four fiscal years.)

It creates an order of priority for redistributing the remaining funds of any applicant group when such group has no (1) pending applications or (2) applications that payment or reimbursement was ordered by the DEEP commissioner but has not been made.

Under the bill, the remaining funds first go to paying or reimbursing municipal and other applicants. If funds remain after redistributing to municipal and other applicants, the funds go to small station applicants. Any funds remaining after redistribution to municipal, other, and small station applicants go to mid-size station applicants. And remaining funds after redistribution to the applicants in the above-described priority order go to large station applicants.

***Procedure for Municipal, Small Station, and Other Applicants.*** The bill prioritizes payment or reimbursement to municipal, small

station, and other applicants by the date that the DEEP commissioner has ordered payment or reimbursement, beginning from the earliest order date. It specifies that if payment or reimbursement was ordered on the same day, the earliest application received by the commissioner is given priority. The payment priority applies to all submitted applications, including those which had payment or reimbursement ordered by the commissioner but not yet made.

Under the bill, if there are insufficient funds to pay or reimburse these applicants, the priority order carries over to the next fiscal quarter and from year to year if necessary.

***Procedure for Mid-Size and Large Station Applicants.*** The bill creates a “reverse auction” system to make payments or reimbursements to mid-size and large station applicants (see below). It applies to all submitted applications including those with payment or reimbursement ordered but not yet made.

It provides priority payment or reimbursement to the mid-size and large station applicants that agree to accept the greatest reduction in the amount ordered by the DEEP commissioner (the “reduced payment election”). If at least two applicants choose the same reduced payment election, priority is given to the application the commissioner ordered earliest. If he ordered payment or reimbursement on the same day, priority is given to the earliest received application.

Mid-size and large station applicants that do not make a reduced payment election are paid when (1) the fiscal year payment amount reaches one dollar (FY19 and FY28, respectively, see below) and (2) all mid-size and large station applicants that made a reduced payment election with unpaid or unreimbursed applications ordered by the DEEP commissioner have been paid or reimbursed. Amongst these applicants, priority is determined by the date the commissioner ordered payments or reimbursements, beginning with the earliest date.

The bill specifies that if there are insufficient funds to pay or reimburse mid-size and large station applicants, the priority carries over to the next fiscal quarter and from year to year, if needed. The

order of priority can change if an applicant makes a subsequent reduced payment election.

**Mid-Size Station Applicant Payments.** The bill prohibits payments to mid-size station applicants over 35 cents on each dollar the DEEP commissioner orders to be paid or reimbursed in the fiscal year beginning July 1, 2012. This per dollar amount increases each subsequent fiscal year by 10 cents on each dollar but not over one dollar. The bill specifies that no payment or reimbursement made by the commissioner can exceed the per dollar amount in effect for that fiscal year.

The bill allows a mid-size station applicant to receive an additional 10 cents on each dollar of the amount the commissioner would pay if the applicant agrees in writing not to submit any applications for payment or reimbursement on and after October 1, 2012. But it prohibits an applicant from receiving more than one dollar on each dollar ordered to be paid or reimbursed. The bill prohibits using the additional funds to determine an applicant's priority status for payment.

**Large Station Applicant Payments.** Beginning in the same fiscal year, payments to large station applicants are capped at 20 cents on each dollar the DEEP commissioner orders to be paid or reimbursed. This per dollar amount increases each subsequent fiscal year by five cents on each dollar but not over one dollar. The bill prohibits payment or reimbursement over the per dollar amount in effect for that fiscal year.

**Reduced Payment Election.** Under the bill's reverse auction system, annually between July 1 and August 1, mid-size and large station applicants must submit a payment election to the DEEP commissioner on a form he prescribes indicating what reduced payment election the applicant accepts, if any. The commissioner can add time periods to submit the payment election.

An applicant is exempt from providing a payment election as described above if it (1) submits an application for the first time or (2)

intends to keep its current payment election. First-time applicants must submit a payment election with their application. An applicant agreeing to accept a lower payment election than in a previous submission may file a new payment election.

The bill requires an applicant's payment election to apply to all applications submitted by the applicant including those the commissioner has ordered payment or reimbursement but not made. A payment election is effective no matter when the commissioner orders payment or reimbursement or when it is made. The bill (1) specifies that a payment election is final and (2) prohibits an applicant from modifying an election unless agreeing to a lower reduced payment election.

Under the bill, accepting payment or reimbursement in the amount contained in a reduced payment election is final and full payment of all applications covered by the election. The bill specifies that by accepting payment or reimbursement on a reduced payment election, an applicant agrees it will not seek additional payment or reimbursement in an administrative or judicial proceeding for any cost, expense, or other obligation associated with the applications.

### ***Financial Responsibility***

The bill phases out the program as a financial assurance mechanism. By federal and state law, owners and operators of underground storage tanks must demonstrate the ability to pay for cleanup or third-party liability compensation (see BACKGROUND).

The bill prohibits, beginning October 1, 2012, anyone required to meet the financial responsibility requirements who owns or operates at least one underground storage tank system on more than five separate parcels from demonstrating such responsibility through the program.

It prohibits (1) municipalities and (2) owners or operators of at least one underground storage tank system on five or less separate parcels who must meet the financial responsibility requirements, from demonstrating responsibility through the program starting on October

1, 2013.

The bill requires an owner or operator, within 30 days of a written request from the DEEP commissioner, to provide him with any information he believes is necessary to determine the owner or operator's prohibition date. It requires all in- and out-of-state underground storage tank systems to be included in determining an owner's or operator's status.

***Certification of Approval***

Under current law, applicants seeking payment or reimbursement must show that the labor, equipment, and materials provided and the services and activities undertaken in response to a release or suspected release are approved in writing. If total costs, expenses, or other obligations are \$250,000 or less, the DEEP commissioner or a licensed environmental professional (LEP) can provide such approval. The DEEP commissioner must approve total costs, expenses, or other obligations above \$250,000, but he can allow an LEP to do so.

By law, an LEP must submit a specific certification for the approval, stating that the labor, equipment, materials, services, and activities were (1) appropriate to abate an emergency, or (2) performed under a plan to ensure that a release or suspected release is or was investigated and remediated.

The bill specifies that the certification must be executed. It also prohibits the DEEP commissioner from ordering or making payment or reimbursement from the program if an application that relies on LEP approval does not include such certification.

EFFECTIVE DATE: Upon passage

***Background***

***Underground Storage Tank Petroleum Clean-Up Program.*** The underground storage tank petroleum clean-up program is a federally approved program that provides payment and reimbursement for environmental investigation and remediation costs incurred from leaking commercial tanks and certain related claims. It also enables

owners and operators of federally regulated petroleum underground storage tanks to demonstrate financial responsibility through the program.

**Financial Responsibility.** Federal law requires certain underground storage tank owners and operators to demonstrate the ability to pay for cleanup or third-party liability compensation from a tank release (40 CFR § 280.90 et seq.). It enables owners or operators to show financial responsibility through a state fund that provides some or all financial responsibility to the degree it pays for cleanup and third-party compensation. An owner or operator can also show demonstrate financial responsibility through such things as insurance coverage, a financial test of self-issuance, a trust, or obtaining a corporate guarantee, surety bond, or letter of credit. State agencies are responsible for ensuring that owners and operators comply with the federal requirements. Connecticut's underground storage tank regulations also require owner and operator financial responsibility (Conn. Agencies Reg. § 22a-449(d)-109).

### **§§ 265 & 296—EQUESTRIAN TRAIL USE IN STATE PARKS AND FORESTS**

The bill eliminates a requirement for the DEEP commissioner to (1) designate trails in state parks and forests for horseback riding and (2) preserve certain trails for equine use. It requires him instead to allow equestrians to use all, instead of designated, multi-use trails in state parks and forests, unless he specifically prohibits such use. It requires that before he decides to prohibit equestrians from a trail historically used for that purpose, he must consult with the Equine Advisory Council. This council was created by law in 2007 to help DEEP study the issue of preserving equine trails in Connecticut.

The bill specifies that (1) it does not prohibit other public uses of the trails and (2) DEEP's action is not to be considered an expansion of the trails. It also explicitly allows the commissioner to temporarily close a multi-use trail for safety reasons or to protect natural resources.

EFFECTIVE DATE: July 1, 2012

**§§ 269-270—JUVENILE COURTS AND FAMILIES WITH SERVICE NEEDS**

The bill specifies that juvenile courts and Families with Service Needs (FWSN--see BACKGROUND) services and programs are not available to children who were under age seven when they allegedly committed an otherwise-qualifying act.

EFFECTIVE DATE: October 1, 2012

**§§ 271 & 284—JUVENILE COMPETENCY**

The bill creates a procedure, similar to that used in adult court, when there is a question about the competency of a child charged with a delinquent or FWSN offense.

Under existing law and the bill, children and youth (hereafter “children” or “child”) are presumed to be competent. But if it appears at any time during a juvenile court delinquency, FWSN, or other court proceeding that the child may not be competent, the law and bill prohibit his or her being tried, convicted, adjudicated, or subject to any court disposition. The bill states that transfers from juvenile to adult court dockets are not dispositions and are therefore permissible, even if the child is not competent.

***Court Hearing to Determine if Mental Examination is Warranted***

Under the bill, the child’s attorney or the prosecutor may request a hearing to determine if a competency examination is warranted. The judge can also raise this question on his or her own motion. The bill requires that the child be represented by an attorney whenever the court is considering a request for such an examination. (Existing law entitles children to legal representation throughout delinquency and FWSN proceedings.).

Under the bill, the party raising the question of competency bears the burden going forward with the evidence and proving, by a preponderance of the evidence, that the child is not competent. The prosecutor bears the burden of going forward with the evidence when the judge raises the issue. The judge may call his or her own witnesses

and ask questions at this proceeding.

**Competency Examinations**

Under the bill, the court must order a competency examination after the initial hearing if a preponderance of the evidence shows that (1) the examination is justified and (2) probable cause exists to believe that the child committed the offense with which he or she is charged. The bill requires that the examination be conducted, within available appropriations, by (1) a three-person clinical team constituted under policies and procedures established by the chief court administrator or (2) if the parties agree, a physician specializing in psychiatry with experience in conducting forensic interviews and in child and adult psychiatry (“psychiatrist”).

The bill requires clinical teams to be composed of a clinical psychologist with experience in child and adolescent psychiatry and two of the following: a (1) licensed clinical social worker, (2) child psychiatric nurse clinical specialist holding a master’s degree in nursing, or (3) physician specializing in psychiatry. At least one must have experience in conducting forensic interviews and at least one must have experience in child and adolescent psychiatry.

At the child’s expense, the bill allows him or her to select a mental health professional with one of the above qualifications to observe the examination. If the child is represented by an attorney appointed through the Public Defender Services Commission, the Chief Public Defender’s Office will provide an observer. In such cases, the bill also allows a social worker employed by the commission to attend the examination.

Examinations must be completed within 15 business days of the date they were ordered, unless the court finds good cause for granting more time. The bill directs the court to resume delinquency or FWSN matters whenever it finds the child competent.

**Examination Reports.** The bill requires the clinical team or psychiatrist to prepare, sign, and file its report within 21 business days

of the date of the court's examination order. The report need not be notarized, but must address the child's (1) ability to understand the proceedings or (2) assist in his or her own defense.

If the opinion of the clinical team or psychiatrist is that the child does not meet one or both of the above criteria, the report must also include:

1. a determination if there is a substantial probability that the child will attain or regain competency within 90 days of a court-ordered intervention and
2. the nature and type of recommended intervention and the least restrictive setting possible for implementing it.

The bill requires the court clerk to send the attorneys representing the state and child copies of the report at least 48 hours in advance of the competency hearing.

### ***Competency Hearing***

The bill requires the court to hold an evidentiary competency hearing within 10 business days of receipt of the clinical report. The child may waive his or her rights to this hearing if none of the examiners found the child incompetent.

At the hearing, either party can introduce the examination report or other evidence regarding a child's competency. If the report is introduced as evidence, the bill requires at least one member of the clinical team or the psychiatrist, as appropriate, to be present to explain the basis for the report's determinations. The prosecutor and child can jointly waive this requirement.

### ***Competency—Restoration Considerations***

If the court finds that the child is incompetent, it must decide if (1) there is a substantial probability that competency will be restored within 90 days of a court-ordered intervention and (2) any proposed intervention is appropriate. To make the latter finding, the bill allows it to consider:

1. the nature and circumstances of the alleged offense,
2. how long the clinical team or psychiatrist estimate it will take to restore the child to competence,
3. if the child poses a substantial risk of reoffending, and
4. if he or she can receive community-based services or treatment that could prevent reoffending.

***When Competency Restoration is Not Likely.*** If the judge finds there is not a substantial probability that the child will attain or regain competency within 90 days or that the recommended intervention is not appropriate, it can order one of the following:

1. dismissal, if the child is charged with a delinquent act or FWSN offense;
2. that the Department of Children and Families (DCF) assume temporary custody and notify the public defender's office, which must assign an attorney to serve as the child's guardian ad litem (representative of the child's best interest) and investigate whether an abuse and neglect petition should be filled on the child's behalf; or
3. that DCF or some other person, agency, mental health facility or treatment program, or the child's probation officer conduct or obtain an appropriate assessment and, where appropriate, propose a plan for services that appropriately address the child's needs in the least restrictive setting available and appropriate.

Under the bill, any plan for services may include a provision allowing for interagency collaborations in order to transition the child to adult service providers when he or she reaches age 18.

When the court chooses to issue an order under options 2 or 3 above, it must hold a hearing within 10 business days to review the order of temporary custody or any recommendations made by DCF and the child's probation officer, attorney, and guardian ad litem.

***When Competency Restoration is Likely.*** If the court finds a substantial probability that the child will attain or regain competency within 90 days if provided an appropriate intervention, the bill requires it to schedule an intervention implementation hearing within five business days.

Under the bill, such interventions must (1) not exceed 90 days, unless extended for an additional 90 days under criteria the bill establishes; and (2) be provided by DCF, unless the child's parents agree to pay for these services to be administered by another appropriate person, agency, mental health facility, or treatment program that agrees to provide appropriate intervention services in the least restrictive setting available and to comply with the bill's competency provisions. (It is unclear to which provisions the bill is referring.)

Before the hearing, the court must notify the DCF commissioner or her designee or the alternative service provider that it will be ordering an intervention at the hearing. It must provide the appropriate entity a copy of the clinical team or psychiatrist's report. Before the hearing, the participating entity must inform the court how it proposes to implement the intervention plan.

At the hearing, the court must review the clinical report and order an appropriate intervention lasting no longer than 90 days and to be provided in the least restrictive setting available. The court must base its determination of "appropriateness" on the same criteria the bill requires it to use in making this decision after the initial competency examination (see above). The court must also set a hearing date to reconsider the child's competency. The hearing cannot be held for at least 10 business days after the intervention period expires.

At least 10 business days before the scheduled hearing, the bill requires the DCF commissioner or designee or the alternative treatment provider to file a report with the clinical team or psychiatrist regarding the progress of its intervention efforts. Under the bill, the same clinical team or psychiatrist must then reassess the child. If one

of these individuals is not available, the bill authorizes the appointment of a new team that, where possible, includes at least one of the original members. The newly-appointed health care providers must have the same professional credentials as the original members, and must be given access to the intervention services provider's clinical information.

The bill requires the team or psychiatrist to submit a court report reassessing the child's competency. The report must include:

1. the clinical findings of the intervention service provider and the facts upon which the findings are based;
2. the team's or examining physician's opinion as to whether the child has attained or regained competency or is making progress towards restoration within the 90 days covered by the court's order; and
3. other information the court requests, including what method of intervention is being used and the type, dosage, and effect of any medication the child is being given.

The court must hold a hearing within two business days of the date on which the reassessment report was filed. The hearing's purpose is to determine if the child attained or regained competency during the intervention period. If the child remains incompetent, the court must determine whether further efforts are appropriate. It must consider the same criteria described above.

If the court finds that further efforts to attain or regain competency are appropriate, it must order a new competency restoration period lasting no more than 90 days. If it finds that further intervention is not appropriate or the child remains incompetent when the second period expires, it must enter an order meeting the same requirements as those the bill requires in situations where competency restoration is not likely or appropriate (see above).

***When DCF Finds the Child to Be Abused or Neglected***

If DCF substantiates a claim of abuse or neglect or the court approves a plan for services, the bill permits the court to dismiss the delinquency or FWSN complaint or order that the prosecution be suspended for up to 18 months. It may also direct DCF to provide periodic reports while the prosecution is suspended to ensure that the child is receiving appropriate services.

If the child or his or her parent or guardian do not comply with the plan for services, the court may hold a hearing to decide whether to file its own DCF petition. Otherwise, it must dismiss the delinquency or FWSN matter on the earlier of the date on which (1) it finds that the suspension is no longer necessary or (2) the 18-month suspension period expires.

These provisions in the bill apparently apply whether or not the child is competent.

EFFECTIVE DATE: October 1, 2012

### **§ 272—ESTABLISHING PATERNITY**

The bill increases the emphasis on establishing paternity in DCF abuse and neglect proceedings. Under prior law, when a man named as the father of a DCF-involved child (a putative father) appeared at the department's initial hearing and denied paternity, the court had to advise him that he may be barred from participating in further legal proceedings concerning the child and either (1) order genetic testing or (2) direct him to fill out and sign a court form used for denying paternity.

The bill, instead, directs the court to order the testing. It creates a rebuttable presumption that the man is the child's father when (1) the test results indicate at least a 99% chance of paternity and (2) the court finds evidence that the child's mother and putative father engaged in sexual intercourse during the period in which the child was conceived. After giving the putative father the opportunity for a hearing, the bill allows the court to issue a judgment adjudicating paternity.

If the test results indicate that the person tested is not the child's

father, the court must issue a judgment to that effect. Under prior law, this w, this action was permissive.

***Filing Paternity Documents***

The bill directs the court clerk to send a copy of the paternity judgment to the Department of Public Health for inclusion in the department's paternity registry. It also directs the clerk to do this with paternity acknowledgment documents a man voluntarily signs at the initial court hearing. In the latter situation, the bill requires the clerk to keep certified copies in the court's file.

EFFECTIVE DATE: October 1, 2012

**§ 273—ROLE OF CHILD'S ATTORNEY IN ABUSE AND NEGLECT PROCEEDINGS**

Existing law and the Rules of Professional Conduct specify that an attorney's primary role when representing a child is to advocate for his or her legal interests. The bill creates an exception and requires attorneys to advocate for their clients' best interests if the child's age or other incapacity makes him or her incapable of expressing his or her wishes to the attorney.

EFFECTIVE DATE: July 1, 2012

**§ 274—LIMITING COURT DISPOSITIONS FOR DELINQUENT CHILDREN**

The bill eliminates the court's authority to order that a child it has adjudicated as delinquent be placed in the care of any institution or agency legally permitted to care for children. It retains its authority to order all other dispositions permitted under current law.

EFFECTIVE DATE: July 1, 2012

**§ 275—RELATIVES SEEKING GUARDIANSHIP**

Prior law generally allowed a child's relatives to intervene in abuse and neglect proceedings to request the court to grant them permanent guardianship of a DCF-involved child. By law, the court has the discretion to permit any relative to intervene after the expiration of a

90-day period following the department's initial hearing in the matter. The law requires the court to grant the relative's motion when the child's most recent placement has been, or is about to be interrupted unless it has good cause to rule otherwise.

The same standards apply under the bill, but the court cannot make this guardianship appointment permanent.

EFFECTIVE DATE: October 1, 2012

**§ 276—CREATION OF “PERMANENT LEGAL GUARDIANSHIP” STATUS**

The bill creates the status of “permanent legal guardianship,” which it defines as a being the same as the bill's revised definition of “permanent guardianship” under the state's Probate Code. This guardianship is one intended to last until the minor reaches age 18, and does not terminate parental rights.

The new status applies to a person who has the following obligations and authority with respect to a minor child:

1. the obligation of care and control;
2. the authority to make major decisions affecting the minor's education and welfare, such as consent determinations regarding marriage, enlistment in the armed forces, and major medical, psychiatric or surgical treatment; and
3. upon the death of the minor, the authority to make decisions concerning funeral arrangements and the disposition of the minor's body.

***Appointing a Permanent Legal Guardian: Court Requirements***

When the court determines a child has been abused, neglected, or uncared-for, existing law gives it discretion to commit the child to DCF's custody or grant legal guardianship to (1) an agency legally authorized to care for abused and neglected children under age 18, or (2) any other person, including a relative, it finds “suitable and worthy” of such responsibility. The law also allows the court to place

the child in a parent or guardian's custody with protective supervision by DCF, subject to any conditions the court establishes.

The bill gives courts an additional option by permitting the court to grant permanent legal guardianship to a suitable or worthy person, including one related to the child by blood or marriage. To grant permanent legal guardianship, the bill requires the court to first notify the child's parents that they may not file a court motion to terminate the permanent legal guardianship, or indicate on the record why it could not provide this notice. It may order permanent legal guardianship if it finds, by clear and convincing evidence, that this is in child's best interests and:

1. one of the statutory grounds for termination of parental rights exists or the parents have voluntarily consented to the guardianship;
2. adoption is not possible or appropriate;
3. the child, if over age 12, consents to the appointment or, if he or she is younger, the proposed permanent legal guardian is (a) a relative or (b) already a sibling's or siblings' permanent legal guardian;
4. the child has lived with the applicant for at least a year; and
5. the person seeking this status is a suitable and worthy person, committed to remaining the child's permanent legal guardian and assuming the right and responsibilities for the child until he or she reaches age 18.

***Reopening and Modifying a Permanent Legal Guardianship Appointment.*** The bill allows the court to reopen and modify such an appointment and may remove a person serving as a child's permanent legal guardian when a motion is filed by someone other than the parent. The moving party must prove by a fair preponderance of the evidence that the guardian is no longer suitable and worthy. Under the bill, the court must hold a hearing before terminating a permanent

legal guardianship. It is authorized to appoint a successor to serve as the child's legal or permanent legal guardian using the same method described above.

EFFECTIVE DATE: October 1, 2012

**§ 276—HEARSAY EVIDENCE AT CONTESTED DCF HEARINGS**

The bill permits courts to admit credible hearsay evidence on a party's compliance with court orders at contested hearings concerning permanent living arrangements for a child in DCF custody.

EFFECTIVE DATE: October 1, 2012

**§ 277—PETITIONS TO REINSTATE GUARDIANSHIP OF A PARENT OR OTHER FORMER GUARDIAN**

The bill creates a court procedure that allows parents or other former guardians to file a court petition asking for reinstatement as guardians. When a reinstatement petition is filed, the court may order DCF to investigate and report on the current home conditions and needs of the child and those of the person seeking reinstatement.

The bill authorizes it to grant the petition if it finds that the cause for removing guardianship no longer exists and that their reinstatement is in the child's best interests.

The bill allows someone to file such a petition no more than once every six months. The petitioner is generally not entitled to court-appointed counsel, but the court can order such counsel if justice requires.

EFFECTIVE DATE: October 1, 2012

**§ 278-282—PERMANENT GUARDIANSHIP APPOINTMENTS IN PROBATE COURT**

The bill applies the standards it created for permanent legal guardianship appointments in Superior Court to Probate Court proceedings, but refers to this status as "permanent guardianship." It also contains a provision, absent in the Superior Court provisions, for replacing a permanent guardian when he or she becomes unwilling or

unable to remain in that status. It allows the court to follow existing law in appointing a successor guardian or permanent guardian or to reinstate a parent as guardian, and takes into account the same considerations as are used in the bill's Superior Court provisions. The bill prohibits parents from filing Probate Court petitions seeking removal of a permanent legal guardian.

EFFECTIVE DATE: October 1, 2012

### **§ 283—CRIMINAL MATTERS TRANSFERRED BETWEEN DELINQUENCY AND ADULT DOCKETS**

The law requires juvenile courts presiding over delinquency matters to automatically transfer cases involving children at least age 14 charged with capital felonies (PA 12-5 eliminates this classification for crimes committed after April 25, 2012) , class A or B felonies, or arson murder to the adult criminal docket once an attorney has been appointed. The bill removes a 10-working-day deadline for prosecutors to file motions to return to the juvenile docket cases involving class B felonies and statutory rape and for courts to rule on these motions. It also makes a conforming change eliminating the prior requirement that transferred case files be sealed for 10 days. Instead, they are unsealed as soon as the child is arraigned on the adult criminal docket.

#### ***Hearings on Motions to Transfer Certain Felony Cases***

Prior law permitted a juvenile court to rule on a prosecutor's motion to transfer from the juvenile to regular adult docket a case of any child charged with a class C or D, or unclassified felony without first holding a hearing. The bill eliminates this practice. It also eliminates a requirement that courts rule on these motions within 10 days of the date of transfer, instead allowing the court to order their return at any time before a jury verdict or guilty plea for good cause shown.

Under prior law, juvenile courts could not grant a prosecutor's transfer motion unless found that the offense was committed after the child reached age 14 and made an ex parte finding that there was probable cause to believe that the child committed the act with which

he or she was charged.

The bill eliminates the provision that requires the court to rule *ex parte* on the issue of probable cause. It also prohibits the court from granting such transfer motions unless it also finds that the best interests of the child and public will not be served by maintaining the case on the juvenile docket. The bill directs courts to consider:

1. the child's prior criminal or juvenile court convictions and their seriousness,
2. any evidence that the child has intellectual disability or mental illness, and
3. the availability of juvenile court services that can serve the child's needs.

It requires that motions filed under this provision be made, and any hearing held, within 30 days after the child's arraignment. The bill eliminates a provision that the files of transferred cases remain sealed until the criminal court judge accepts the transfer from the juvenile docket. It also extends the period criminal judges have to return cases to juvenile courts. Previously, such actions had to be taken within 10 working days after the date of the transfer. Under the bill, the judge can return the case at any time prior to the jury's verdict or the entry of a guilty plea.

Prior law required that such arraignments take place on the next court date and in a courtroom separate from adult criminal proceedings. The bill eliminates these provisions. It also makes transfers to the adult docket final as soon as the child is arraigned and to remain so unless the prosecutor files, and the court grants, a motion to return the case to Juvenile Court.

EFFECTIVE DATE: October 1, 2012

**§ 285—SHEFF MAGNET SCHOOL SUPPLEMENTAL  
TRANSPORTATION GRANTS**

***Supplemental Grants for FY 12 Authorized***

By law, magnet school operators that transport students to interdistrict magnet schools in towns other than where they live are eligible for a state grant for the cost of that transportation. For operators transporting such students to help meet *Sheff* goals, as determined by the education commissioner, the grant is \$2,000 per student.

The bill authorizes the education commissioner, within available appropriations, to provide supplemental transportation grants for FY 12 to regional education service centers (RESCs) that transport students to *Sheff* interdistrict magnet schools. The state also provided such supplemental grants for FY 11. The bill carries forward the unspent balance of an FY 12 appropriation for magnet schools to fund the grants (see below).

***Financial Review Requirement***

By law, the supplemental grants are payable only after a comprehensive financial review of all transportation activities as prescribed by the education commissioner. In addition, the commissioner may require a RESC to provide an independent financial review to be paid for out of its supplemental grant. When the commissioner opts to require the latter review, this bill also requires him to select an auditor to perform it.

***Supplemental Grant Payments***

The bill changes the supplemental grant payment schedule to hold back more of the funds pending the financial review. For FY 11, up to 75% of the supplemental grant was payable by June 30, 2011 with the balance paid by September 1, 2011, on completion of the comprehensive financial review. For FY 12, the bill reduces the initial payment, payable by June 30, 2012, to 50% of the grant. It requires the balance to be paid by September 1, 2012,

EFFECTIVE DATE: July 1, 2012

**§§ 286-288—EDUCATION DEPARTMENT FUNDS CARRIED FORWARD**

Instead of allowing them to lapse at the end of FY 12, the bill carries forward the following SDE appropriations to FY 13 for the purposes specified.

Table 5: SDE Appropriations Carried Forward in FY 13

§	FY 12 Appropriation	For FY 13	Amount
286	Magnet Schools	<i>Sheff</i> programming, including supplemental magnet school transportation grants for RESCs	Unspent balance
287	Magnet Schools	Other expenses – for (1) litigation costs associated with <i>Connecticut Coalition for Justice in Education Funding v. Rell</i> and (2) school reform activities	Up to \$700,000
288	Interdistrict Cooperation	Other expenses – for technology initiatives with local and regional school boards	Up to \$200,000

EFFECTIVE DATE: Upon passage for the *Sheff* programming funds (§ 286); July 1, 2012 for the other funds (§§ 287 & 288).

#### **§ 289—UNEXPENDED SCHOOL READINESS FUNDS**

By law, the education commissioner may use up to \$500,000 in unexpended school readiness funds from each fiscal year in the subsequent fiscal year to help early childhood education programs' staff members meet the qualification requirements.

The bill specifies that the funds may also be available for the provision of early childhood professional development offered by a professional development and program improvement system within the Connecticut State University System. The law requires SDE to give a preference to staff members attending a Board of Regents- or State Board of Education-accredited institution that is also regionally accredited.

#### **§§ 290 & 291—MINIMUM LOCAL FUNDING REQUIREMENTS FOR ALLIANCE DISTRICTS**

For FY 13, the bill requires alliance districts to maintain a minimum level of annual local funding for education and establishes a separate minimum budget requirement (MBR) for such districts. Alliance districts are the 30 districts with the lowest student performance on statewide mastery tests, according to a district performance index established in PA 12-116.

Under the bill, each alliance district's budgeted appropriation for education for FY 13 must at least (1) equal its budgeted appropriation for education for FY 12 and (2) meet the minimum local education funding percentage for the year. Under the bill, the minimum local funding percentage is 20% for FY 13, 21% for FY 14, 22% for FY 15, 23% for FY 16, and 24% for FY 17.

The education commissioner can allow an alliance district town to reduce its FY 13 appropriation for education if it can demonstrate that its local contribution for education for FY 13 has increased compared to the local contribution used to determine its local funding percentage under the bill. That percentage is determined by dividing, for the fiscal year two years prior to the ECS grant year, the district's:

1. total current education spending excluding (a) capital construction and debt service, private school health services, and adult education, (b) other state education grants, federal grants other than those for adult education and impact aid, and income from school meals and student activities, (c) income from private and other sources, and (d) tuition,
2. by its total current education spending excluding only capital construction and debt service, private school health services, and adult education.

EFFECTIVE DATE: July 1, 2012

### **§ 292—EDUCATION LOAN TO BRIDGEPORT**

The bill allows the education commissioner, with the OPM secretary's approval, to loan up to \$3.5 million to Bridgeport. The city must include the money in its budgeted appropriation for education for FY 12 and use it to cover education expenses incurred during that year.

The bill carries forward a total of \$3.5 million from the following FY 12 appropriations to SDE and makes it available for the loan during FY 13: (1) \$2.3 million for Personal Services, (2) \$700,000 for *Sheff* Settlement, and (3) \$500,000 for the Open Choice Program.

As conditions of the loan, the education commissioner:

1. must require Bridgeport's board of education to select the school district's superintendent or chief financial officer from a pool of up to three candidates approved by the commissioner and
2. may require the district to include additional process or outcome targets in its alliance district improvement plan required under PA 12-116.

The city must repay the loan by June 30, 2015, but the education commissioner may:

1. allow repayment through reductions in Bridgeport's ECS grant in each year of the loan's three-year term and
2. with the OPM secretary's approval, forgive all or part of the loan if (a) the city complies with the loan conditions and (b) the commissioner has approved its alliance district improvement plan.

EFFECTIVE DATE: July 1, 2012

### **§ 293—INDIGENTS AND FRIVOLOUS LAWSUITS**

The law requires the court to waive a court fee and the state to pay service of process costs for a party to a civil or criminal matter who is indigent and unable to pay. The bill repeals a provision of PA 12-133 that requires the court to determine that the matter is not frivolous before the court must waive a fee or the state must pay for service of process.

EFFECTIVE DATE: Upon passage

### **§ 297—REPEALERS**

The bill repeals:

1. obsolete provisions regarding the newly named Department of Rehabilitation Services (CGS §§ 17b-650b to -650d);

2. an obsolete two-year “reliable transportation” pilot program that sunsetted in 2000 to help workers and job seekers secure reliable transportation to travel to employment, educational programs, job training, and child care facilities (CGS § 17b-688j); and
3. a hospital rate-setting statute to conform with § 266 of the bill (CGS § 19a-617c).

EFFECTIVE DATE: July 1, 2012