



# Senate

General Assembly

**File No. 43**

February Session, 2012

Substitute Senate Bill No. 29

*Senate, March 20, 2012*

The Committee on Higher Education and Employment Advancement reported through SEN. BYE of the 5th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE CONNECTICUT HEALTH AND EDUCATIONAL FACILITIES AUTHORITY.***

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

1 Section 1. Subsection (e) of section 10a-178 of the 2012 supplement  
2 to the general statutes is repealed and the following is substituted in  
3 lieu thereof (*Effective July 1, 2012*):

4 (e) "Institution for higher education" means (1) [an educational  
5 institution situated within this state which by virtue of law or charter  
6 is a nonprofit educational institution empowered to provide a program  
7 of education beyond the high school level;] a degree-granting  
8 educational institution within the United States authorized by  
9 applicable law to provide a program of education beyond high school  
10 level and (A) described in Section 501(c)(3) of the Internal Revenue  
11 Code of 1986, or any subsequent corresponding internal revenue code  
12 of the United States, as from time to time amended, and exempt from  
13 taxation under Section 501(a) of said code, or (B) exempt from taxation

14 under said code as a government unit; or (2) a public [educational  
15 institution, which, shall be the state colleges, known collectively as  
16 Connecticut State University] or independent institution for higher  
17 education in this state;

18 Sec. 2. Section 10a-178 of the 2012 supplement to the general statutes  
19 is amended by adding subsections (p) to (r), inclusive, as follows  
20 (*Effective July 1, 2012*):

21 (NEW) (p) "Connecticut Higher Education Supplemental Loan  
22 Authority" means the Connecticut Higher Education Supplemental  
23 Loan Authority established as a subsidiary of the authority with  
24 powers granted pursuant to chapter 187b.

25 (NEW) (q) "Education borrower" means any student or parent who  
26 has agreed to pay (1) a loan made by the Connecticut Higher  
27 Education Supplemental Loan Authority to a student or parent, or  
28 both, to finance the attendance of such student at an institution for  
29 higher education, or (2) a loan made by or on behalf of a Connecticut  
30 institution for higher education from the proceeds of a Connecticut  
31 Higher Education Supplemental Loan Authority loan to a student or  
32 parent, or both, to finance such student's attendance at such institution.

33 (NEW) (r) "Parent" means any parent, legal guardian or sponsor of a  
34 student at an institution for higher education.

35 Sec. 3. (NEW) (*Effective July 1, 2012*) (a) The Connecticut Higher  
36 Education Supplemental Loan Authority is constituted as a subsidiary  
37 of the Connecticut Health and Educational Facilities Authority. The  
38 Connecticut Higher Education Supplemental Loan Authority shall be  
39 deemed a quasi-public agency for purposes of chapter 12 of the  
40 general statutes and for the purpose of assisting education borrowers  
41 and Connecticut institutions for higher education in the financing and  
42 refinancing of the cost of higher education. The Connecticut Higher  
43 Education Supplemental Loan Authority shall have all the privileges,  
44 immunities, tax exemptions and other exemptions of the Connecticut  
45 Health and Educational Facilities Authority and may exercise the

46 powers granted pursuant to chapter 187b of the general statutes, which  
47 shall be deemed and held to be the performance of an essential public  
48 and government function. The Connecticut Higher Education  
49 Supplemental Loan Authority shall be subject to suit and liability  
50 solely from the assets, revenues and resources of the Connecticut  
51 Higher Education Supplemental Loan Authority and without recourse  
52 to the general funds, revenues, resources or any other assets of the  
53 Connecticut Health and Educational Facilities Authority. The  
54 Connecticut Higher Education Supplemental Loan Authority is  
55 authorized, for the purposes set forth in chapter 187b of the general  
56 statutes, to mortgage, convey or dispose of its assets and pledge its  
57 revenues in order to secure any borrowing, provided each such  
58 borrowing or mortgage shall be a special obligation of the Connecticut  
59 Higher Education Supplemental Loan Authority, which obligation  
60 may be in the form of bonds, bond anticipation notes or other  
61 obligations which evidence an indebtedness to the extent permitted  
62 under chapter 187b of the general statutes to fund, refinance and  
63 refund such borrowing and provide for the rights of holders of such  
64 bonds, bond anticipation notes or other obligation, and to secure such  
65 bonds, bond anticipation notes or other obligation by pledge of  
66 revenues, notes and mortgages of others, and which shall be payable  
67 solely from the assets, revenues and other resources of the Connecticut  
68 Higher Education Supplemental Loan Authority. The Connecticut  
69 Higher Education Supplemental Loan Authority shall have the  
70 purposes which shall be consistent with chapter 187b of the general  
71 statutes.

72 (b) The Connecticut Higher Education Supplemental Loan  
73 Authority shall be governed by a board of directors consisting of the  
74 following nine members: (1) The State Treasurer, or the Treasurer's  
75 designee, who shall serve as an ex-officio voting member; (2) the  
76 Secretary of the Office of Policy and Management, or the secretary's  
77 designee, who shall serve as an ex-officio voting member; (3) the  
78 President of the Board of Regents for Higher Education, or the  
79 president's designee, who shall serve as an ex-officio voting member;  
80 (4) the chairperson of the board of directors of the Connecticut Health

81 and Educational Facilities Authority; (5) the executive director of said  
82 authority; (6) a member of the board of directors of said authority who  
83 is an active or retired trustee, director, officer or employee of a  
84 Connecticut institution for higher education, appointed by the board of  
85 directors of said authority; (7) a member of the board of directors of  
86 said authority who is an active or retired trustee, director, officer or  
87 employee of a Connecticut institution for higher education, appointed  
88 by the board of directors of said authority; (8) a resident of this state  
89 with a favorable reputation for skill, knowledge and experience in the  
90 higher education loan field, who shall be appointed by the board of  
91 directors of said authority; and (9) a resident of this state with a  
92 favorable reputation for skill, knowledge and experience in either the  
93 higher education loan field or in state and municipal finance,  
94 appointed by the board of directors of said authority. Of the four  
95 appointed members, not more than two may be members of the same  
96 political party. The two members who are members of the board of  
97 said authority and active or retired trustees, directors, officers or  
98 employees of Connecticut institutions for higher education shall serve  
99 so long as such member remains a member of the board of said  
100 authority or until such time as a successor is appointed. One appointed  
101 member shall serve until the earlier of July 1, 2017, or, if such person  
102 was a member of the Connecticut Higher Education Supplemental  
103 Loan Authority board on June 30, 2012, the date on which such  
104 member's then current term was originally scheduled to end. One  
105 appointed member shall serve until the earlier of July 1, 2018, or, if  
106 such person was a member of the Connecticut Higher Education  
107 Supplemental Loan Authority board on June 30, 2012, the date on  
108 which such member's then current term was originally scheduled to  
109 end. Except as provided in this subsection and notwithstanding the  
110 original date of expiration of the term of any person who is an  
111 appointed member of the Connecticut Higher Education Supplemental  
112 Loan Authority board on June 30, 2012, the term of all such persons  
113 shall expire on June 30, 2012. The Connecticut Health and Educational  
114 Facilities Authority board shall appoint a member or members each for  
115 a term of six years or until his or her successor is appointed and has

116 qualified to succeed the members whose terms expire. Said authority  
117 board shall fill any vacancy for the unexpired term. A member of the  
118 Connecticut Higher Education Supplemental Loan Authority board  
119 shall be eligible for reappointment. Any member of the Connecticut  
120 Higher Education Supplemental Loan Authority board may be  
121 removed by the appointing authority for misfeasance, malfeasance or  
122 wilful neglect of duty. Each member of the Connecticut Higher  
123 Education Supplemental Loan Authority board before entering upon  
124 his or her duties shall take and subscribe the oath or affirmation  
125 required by section 1 of article eleventh of the State Constitution. A  
126 record of each such oath shall be filed in the office of the Secretary of  
127 the State.

128 (c) The chairperson of the board of the directors of the Connecticut  
129 Health and Educational Facilities Authority shall serve as chairperson  
130 of the Connecticut Higher Education Supplemental Loan Authority  
131 board. The Connecticut Higher Education Supplemental Loan  
132 Authority board shall annually elect one of its members as vice-  
133 chairman. The Connecticut Higher Education Supplemental Loan  
134 Authority board may appoint an executive director, who shall be an  
135 employee of the Connecticut Health and Educational Facilities  
136 Authority and who shall serve at the pleasure of the Connecticut  
137 Higher Education Supplemental Loan Authority board.

138 (d) To the extent necessary or appropriate to assure that the interest  
139 on any of its bonds, notes or other obligations are or continue to be  
140 excluded from the gross income of the recipients for federal income tax  
141 purposes, the Connecticut Health and Educational Facilities Authority  
142 or the Connecticut Higher Education Supplemental Loan Authority  
143 shall take such actions to comply with the provisions of the Internal  
144 Revenue Code of 1986 or any subsequent corresponding internal  
145 revenue code of the United States, as from time to time amended, if  
146 necessary, to qualify and maintain such subsidiary as a corporation  
147 exempt from taxation under said Internal Revenue Code.

148 (e) The provisions of section 1-125 of the general statutes, subsection

149 (e) of section 10a-185 of the general statutes and this subsection shall  
150 apply to any officer, director, designee or employee appointed as a  
151 member, director or officer of the Connecticut Higher Education  
152 Supplemental Loan Authority. Any such persons so appointed shall  
153 not be personally liable for the debts, obligations or liabilities of the  
154 Connecticut Higher Education Supplemental Loan Authority as  
155 provided in said section 1-125. The subsidiary shall and the  
156 Connecticut Health and Educational Facilities Authority may provide  
157 for the indemnification to protect, save harmless and indemnify such  
158 officer, director, designee or employee as provided by said section 1-  
159 125.

160 (f) The Connecticut Health and Educational Facilities Authority or  
161 the Connecticut Higher Education Supplemental Loan Authority may  
162 take such actions as are necessary to comply with the provisions of the  
163 Internal Revenue Code of 1986 or any subsequent corresponding  
164 internal revenue code of the United States, as from time to time  
165 amended, to qualify and maintain any such subsidiary as a corporation  
166 exempt from taxation under said Internal Revenue Code.

167 Sec. 4. Section 10a-180 of the general statutes is amended by adding  
168 subsection (x) as follows (*Effective July 1, 2012*):

169 (NEW) (x) To provide and be compensated for such services to or  
170 on behalf of the Connecticut Higher Education Supplemental Loan  
171 Authority as are appropriate for the operation and management of  
172 said authority, including, without limitation, to provide to said  
173 authority and to be reimbursed for costs associated with such space,  
174 equipment, supplies and employees as are necessary and appropriate  
175 for the operations of said authority.

176 Sec. 5. Section 10a-223 of the general statutes is repealed and the  
177 following is substituted in lieu thereof (*Effective July 1, 2012*):

178 In this chapter, the following words and terms shall have the  
179 following meanings unless the context indicates another or different  
180 meaning or intent:

181 [(a)] (1) "Authority" means the Higher Education Supplemental  
182 Loan Authority [established pursuant to section 10a-224] constituted as  
183 a subsidiary of the Connecticut Health and Educational Facilities  
184 Authority as provided in section 3 of this act;

185 (2) "Authorized officer" means an employee of the Connecticut  
186 Health and Educational Facilities Authority or of the authority who is  
187 authorized by the Connecticut Health and Educational Facilities  
188 Authority to execute and deliver documents and papers and to act in  
189 the name of and on behalf of the Connecticut Health and Educational  
190 Facilities Authority;

191 [(b)] (3) "Authority loans" means education loans by the authority,  
192 or loans by the authority from the proceeds of bonds for the purpose of  
193 funding education loans;

194 [(c)] (4) "Bonds" or "revenue bonds" means revenue bonds or notes  
195 of the authority issued under the provisions of this chapter, including  
196 revenue refunding bonds or notes;

197 [(d)] (5) "Bond resolution" means the resolution or resolutions of the  
198 authority and the trust agreement, if any, authorizing the issuance of  
199 and providing for the terms and conditions applicable to bonds;

200 [(e)] (6) "Borrower" means a student and any parent who has  
201 received or agreed to pay an education loan;

202 (7) "Connecticut Health and Educational Facilities Authority" means  
203 the quasi-public authority established pursuant to section 10a-179;

204 [(f)] (8) "Connecticut institution for higher education" means an  
205 institution for higher education within the state;

206 [(g)] (9) "Default insurance" means insurance insuring education  
207 loans, authority loans or bonds against default;

208 [(h)] (10) "Default reserve fund" means a fund established pursuant  
209 to a bond resolution for the purpose of securing education loans,

210 authority loans or bonds;

211 [(i)] (11) "Education loan" means a loan which is made by the  
212 authority to a student in or from the state, or the parents of such a  
213 student, or both, to finance the attendance of the student at an  
214 institution for higher education, or a loan by or on behalf of a  
215 participating institution for higher education from the proceeds of an  
216 authority loan, to a student, or the parents of a student, or both, to  
217 finance the student's attendance at such institution;

218 [(j)] (12) "Loan funding deposit" means moneys or other property  
219 deposited by a Connecticut institution for higher education with the  
220 authority, a guarantor or a trustee for the purpose of [(1)] (A)  
221 providing security for bonds, [(2)] (B) funding a default reserve fund,  
222 [(3)] (C) acquiring default insurance, or [(4)] (D) defraying costs of the  
223 authority, such moneys or properties to be in such amounts as deemed  
224 necessary by the authority or guarantor as a condition for such  
225 institution's participation in the authority's programs;

226 [(k)] (13) "Institution for higher education" means a degree-granting  
227 educational institution within the United States authorized by  
228 applicable law to provide a program of education beyond the high  
229 school level and [(1)] (A) described in Section 501(c)(3) of the Internal  
230 Revenue Code of 1986, or any subsequent corresponding internal  
231 revenue code of the United States, as from time to time amended, and  
232 exempt from taxation under Section 501(a) of said code with respect to  
233 a trade or business carried on by such institution which is not an  
234 unrelated trade or business, determined by applying Section 513(a) of  
235 said code to such organization or a foundation established for its  
236 benefit, or [(2)] (B) exempt from taxation under said code as a  
237 governmental unit;

238 [(l)] (14) "Participating institution for higher education" means a  
239 Connecticut institution for higher education which, pursuant to the  
240 provisions of this chapter, undertakes the financing directly or  
241 indirectly of education loans as provided in this chapter;

242 [(m)] (15) "Parent" means any parent, legal guardian or sponsor of a  
243 student at an institution for higher education;

244 [(n)] (16) "Education loan series portfolio" means all education loans  
245 made by the authority or by or on behalf of a specific participating  
246 institution for higher education which are funded from the proceeds of  
247 a related specific bond issue of the authority.

248 Sec. 6. Section 10a-224 of the general statutes is repealed and the  
249 following is substituted in lieu thereof (*Effective July 1, 2012*):

250 [(a)] There is created a body politic and corporate to be known as the  
251 "Connecticut Higher Education Supplemental Loan Authority". The  
252 authority is constituted a public instrumentality and political  
253 subdivision of the state and the exercise by the authority of the powers  
254 conferred by this chapter shall be deemed and held to be the  
255 performance of an essential public and governmental function. The  
256 powers of the authority shall be vested in and exercised by a board of  
257 directors which shall consist of eight members, one of whom shall be  
258 the State Treasurer, one of whom shall be the Secretary of the Office of  
259 Policy and Management and one of whom shall be the president of the  
260 Board of Regents for Higher Education, each serving *ex officio*, and  
261 five of whom shall be residents of the state appointed by the Governor,  
262 not more than three of such appointed members to be members of the  
263 same political party. Three of the appointed members shall be active or  
264 retired trustees, directors, officers or employees of Connecticut  
265 institutions for higher education. At least one of the appointed  
266 members shall be a person having a favorable reputation for skill,  
267 knowledge and experience in the higher education loan finance field,  
268 and at least one of such appointed members shall be a person having a  
269 favorable reputation for skill, knowledge and experience in state and  
270 municipal finance, either as a partner, officer or employee of an  
271 investment banking firm which originates and purchases state and  
272 municipal securities, or as an officer or employee of an insurance  
273 company or bank whose duties relate to the purchase of state and  
274 municipal securities as an investment and to the management and

275 control of a state and municipal securities portfolio. Of the three  
276 members first appointed who are trustees, directors, officers or  
277 employees of Connecticut institutions for higher education, one shall  
278 serve until July 1, 1986, one shall serve until July 1, 1987, and one shall  
279 serve until July 1, 1988. Of the three remaining members first  
280 appointed, one shall serve until July 1, 1983, one shall serve until July  
281 1, 1984, and one shall serve until July 1, 1985. On or before the first day  
282 of July, annually, the Governor shall appoint a member or members to  
283 succeed those whose terms expire, each for a term of six years and  
284 until his successor is appointed and has qualified. The Governor shall  
285 fill any vacancy for the unexpired term. A member of the board shall  
286 be eligible for reappointment. Any member of the board may be  
287 removed by the Governor for misfeasance, malfeasance or wilful  
288 neglect of duty. Each member of the board before entering upon his or  
289 her duties shall take and subscribe the oath or affirmation required by  
290 section 1 of article eleventh of the State Constitution. A record of each  
291 such oath shall be filed in the office of the Secretary of the State. The  
292 State Treasurer, the Secretary of the Office of Policy and Management  
293 and the president of the Board of Regents for Higher Education may  
294 each designate a deputy or any staff member to represent him as a  
295 member at meetings of the board with full power to act and vote on his  
296 behalf.

297 (b) The chairperson of the board shall be appointed by the Governor  
298 with the advice and consent of both houses of the General Assembly.  
299 The board shall annually elect one of its members as vice-chairman.  
300 The board may appoint an executive director and assistant executive  
301 director, who shall not be members of the board and who shall serve at  
302 the pleasure of the board. The executive director and assistant  
303 executive director shall receive such compensation as shall be fixed by  
304 the board.]

305 [(c)] (a) The executive director of the Connecticut Higher Education  
306 Supplemental Loan Authority shall supervise the administrative  
307 affairs and technical activities of the authority in accordance with the  
308 directives of the board. The executive director shall keep a record of

309 the proceedings of the authority and shall be custodian of all books,  
310 documents and papers filed with the authority, the minute book or  
311 journal of the authority, and its official seal. The executive director or  
312 assistant executive director or other person may cause copies to be  
313 made of all minutes and other records and documents of the authority  
314 and may give certificates under the official seal of the authority to the  
315 effect that such copies are true copies, and all persons dealing with the  
316 authority may rely upon such certificates.

317 [(d)] (b) (1) Five members of the board shall constitute a quorum.  
318 The affirmative vote of five of the members of the board shall be  
319 necessary for any action taken by the board. No vacancy in the  
320 membership of the board shall impair the right of a quorum of  
321 members to exercise all the rights and perform all the duties of the  
322 board. Any action taken by the board under the provisions of this  
323 chapter may be authorized by resolution at any regular or special  
324 meeting, and each such resolution shall take effect immediately and  
325 need not be published or posted. (2) The board of directors may  
326 delegate to three or more of its members such board powers and duties  
327 as it may deem proper. At least one of such members shall not be a  
328 state employee.

329 [(e)] (c) Before the issuance of any bonds or notes under the  
330 provisions of this chapter, the chairman and vice-chairman of the  
331 board of directors, the executive director and assistant executive  
332 director of the authority and any other member of the board  
333 authorized by resolution of the board to handle funds or sign checks of  
334 the authority shall execute a surety bond in the penal sum of fifty  
335 thousand dollars, or in lieu thereof the chairman shall obtain a blanket  
336 position bond covering the executive director and every member of the  
337 board and other employee of the authority in the penal sum of fifty  
338 thousand dollars. Each such bond shall be conditioned upon the  
339 faithful performance of the duties of the principal or the members,  
340 executive director and other employees, as the case may be, shall be  
341 executed by a surety company authorized to transact business in the  
342 state as surety, and shall be filed in the office of the Secretary of the

343 State. The cost of each such bond shall be paid by the authority.

344 [(f)] (d) The members of the board shall receive no compensation for  
345 the performance of their duties hereunder but each such member shall  
346 be paid the necessary expenses incurred by such member while  
347 engaged in the performance of such duties.

348 [(g)] (e) (1) No member of the board or officer, agent or employee of  
349 the authority shall, directly or indirectly, have any financial interest in  
350 any participating institution for higher education or in any  
351 corporation, business trust, estate, trust, partnership or association,  
352 two or more persons having a joint or common interest, or any other  
353 legal or commercial entity contracting with the authority. Any  
354 individual who violates the provisions of this subsection shall be  
355 punished by a fine of not less than fifty dollars nor more than one  
356 thousand dollars, or by imprisonment for not more than one month, or  
357 both.

358 (2) Notwithstanding the provisions of subdivision (1) of this  
359 subsection or the provisions of any other law to the contrary, it shall  
360 not be or constitute a conflict of interest or violation of the provisions  
361 of said subdivision or the provisions of any other law for a trustee,  
362 director, officer or employee of a participating institution of higher  
363 education or for a person having the required favorable reputation for  
364 skill, knowledge and experience in state and municipal finance or for a  
365 person having the required favorable reputation for skill, knowledge  
366 and experience in the higher education loan finance field to serve as a  
367 member of the board; provided, in each case to which the provisions of  
368 this subdivision are applicable, such trustee, director, officer or  
369 employee of such participating institution of higher education abstains  
370 from discussion, deliberation, action and vote by the board in specific  
371 respect to any undertaking pursuant to this chapter in which such  
372 participating institution of higher education has a direct interest  
373 separate from the interests of all of the participating institutions  
374 generally, or such person having the required favorable reputation for  
375 skill, knowledge and experience in state and municipal finance

376 abstains from discussion, deliberation, action and vote by the board in  
377 specific respect to any sale, purchase or ownership of bonds of the  
378 authority in which the investment banking firm or insurance company  
379 or bank of which such person is a partner, officer or employee has or  
380 may have a current or future interest, or such person having the  
381 required favorable reputation for skill, knowledge and experience in  
382 the higher education loan finance field abstains from discussion,  
383 deliberation, action and vote by the board in specific respect to any  
384 action of the authority in which any partnership, firm, joint venture,  
385 sole proprietorship or corporation of which such person is an owner,  
386 venturer, participant, partner, officer or employee has or may have a  
387 current or future interest.

388 [(h)] (f) The board of directors of the authority shall adopt written  
389 procedures, in accordance with the provisions of section 1-121, for: (1)  
390 Adopting an annual budget and plan of operations, including a  
391 requirement of board approval before the budget or plan may take  
392 effect; (2) hiring, dismissing, promoting and compensating employees  
393 of the authority, including an affirmative action policy and a  
394 requirement of board approval before a position may be created or a  
395 vacancy filled; (3) acquiring real and personal property and personal  
396 services, including a requirement of board approval for any  
397 nonbudgeted expenditure in excess of five thousand dollars; (4)  
398 contracting for financial, legal, bond underwriting and other  
399 professional services, including a requirement that the authority solicit  
400 proposals at least once every three years for each such service which it  
401 uses; (5) issuing and retiring bonds, bond anticipation notes and other  
402 obligations of the authority; (6) awarding loans, grants and other  
403 financial assistance, including eligibility criteria, the application  
404 process and the role played by the authority's staff and board of  
405 directors; and (7) the use of surplus funds to the extent authorized  
406 under this chapter or other provisions of the general statutes.

407 [(i)] (g) The authority shall continue as long as it shall have bonds or  
408 other obligations outstanding and until its existence is terminated by  
409 law. Upon termination of the existence of the authority, all its rights

410 and properties shall pass to and be vested in the state of Connecticut.

411 (h) The provisions of section 1-125, subsection (f) of section 10a-230  
 412 and this subsection shall apply to any officer, director or employee of  
 413 the Connecticut Health and Educational Facilities Authority appointed  
 414 as a director of the authority and to any employee of the Connecticut  
 415 Health and Educational Facilities Authority who is an authorized  
 416 officer of the Connecticut Health and Educational Facilities Authority.  
 417 Any such person shall not be personally liable for the debts,  
 418 obligations or liabilities of the authority as provided in said section 1-  
 419 125. The authority shall and the Connecticut Health and Educational  
 420 Facilities Authority may provide for the indemnification to protect,  
 421 save harmless and indemnify such officer, director or employee of the  
 422 Connecticut Health and Educational Facilities Authority as provided  
 423 by said section 1-125.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2012	10a-178(e)
Sec. 2	July 1, 2012	10a-178
Sec. 3	July 1, 2012	New section
Sec. 4	July 1, 2012	10a-180
Sec. 5	July 1, 2012	10a-223
Sec. 6	July 1, 2012	10a-224

**Statement of Legislative Commissioners:**

In section 3, references to "the authority" were changed to "the Connecticut Health and Educational Facilities Authority" or "said authority" for clarity and accuracy.

**HED**      *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### **OFA Fiscal Note**

**State Impact:** See Below

**Municipal Impact:** None

### **Explanation**

The bill will result in administrative cost savings associated with making the Connecticut Higher Education Supplemental Loan Authority (CHESLA) a subsidiary of the Connecticut Health and Educational Facilities Authority (CHEFA). It is anticipated that any administrative service fees charged by CHEFA will be less than the current annual costs incurred by CHESLA for contracts related to management (\$106,000), general counsel (\$80,000), and accounting services (\$35,000), as well as office expenses (\$24,000) and any location expenses.

As both entities will remain quasi-public agencies, the state's General Fund will not realize any savings.

The bill expands the pool of higher education institutions for which the Connecticut Health and Education Facilities Authority (CHEFA) may finance capital projects that are secured by a special capital reserve fund (SCRF). SCRF bonds are a contingent liability of the state, which does not count against the state's statutory limit on General Obligation (GO) bonds in CGS Sec. 3-21<sup>1</sup>. That liability would only be realized in the event that the SCRF fell below the minimum required reserve and the state had to appropriate funds in order to maintain the

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<sup>1</sup> CGS Sec. 3-21 imposes a ceiling on the amount of General Fund-supported debt that the Legislature may authorize that is equal to 1.6 times net General Fund tax receipts projected by the Finance, Revenue and Bonding Committee for the fiscal year in which the bonds are authorized.

SCRF minimum balance. If the state were required to do this, there would be a negative effect on the state's cash flow and a loss of short-term interest on the appropriated funds. CHEFA had a \$248.3 million outstanding balance of SCRF- backed bonds as of February 1, 2011.

### ***Background***

The state permits quasi-public authorities to issue SCRF-backed bonds because the SCRF provides a higher level of repayment security, which results in a lower rate of interest on the bond issuance.

A SCRF is a debt service reserve fund that is set up at the time the bonds are issued, in an amount equal to the lesser of either one year's principal and interest on the bonds or ten percent of the issue. If the borrower makes the scheduled debt service payments, the interest earnings on the reserve fund will pay the interest on the bonds that created it and the principal will go to retire the final maturity of the bond issue. If the borrower is unable to pay all or part of the scheduled debt service payments, the reserve may be drawn upon to pay debt service. The reserve provides up to a year's adjustment time to deal with a revenue shortfall. When the SCRF has been drawn down in part or completely, a draw on the General Fund is authorized and the reserve is fully restored. The draw on the General Fund is deemed to be appropriated and is not subject to the constitutional or statutory appropriations cap. All that is required is a certification by the issuing authority of the amount required. If draws on a SCRF continue, the annual draws on the General Fund required to refill it also continue.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 29*****AN ACT CONCERNING THE CONNECTICUT HEALTH AND EDUCATIONAL FACILITIES AUTHORITY.*****SUMMARY:**

This bill merges the Connecticut Health and Educational Facilities Authority (CHEFA) with the Connecticut Higher Education Supplemental Loan Authority (CHESLA) by making CHESLA a subsidiary of CHEFA. CHESLA retains authority to, among other things, issue loans and bonds and hire its own employees. The bill also (1) dissolves and reconstitutes the CHESLA board of directors, (2) expands the pool of higher education institutions for which CHEFA may finance capital projects, and (3) makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2012

**CHESLA*****Board of Directors***

The bill dissolves and reconstitutes the CHESLA board of directors, terminating the terms of all current directors on June 30, 2012 (see COMMENT). The reconstituted board is generally similar to the existing board (see Tables 1 and 2), with the primary differences being the board's size (it increases from eight to nine) and the appointing authority (which the bill changes from the governor to the CHEFA board of directors). The bill also lowers, from three to two, the maximum number of the four appointees who may be from the same political party.

**Table 1: CHESLA Board of Directors**

<i>Provision</i>	<i>Current Law</i>	<i>The Bill</i>
<b>Size</b>	Eight members	Nine members
<b>Composition</b>	Three ex-officio members and five appointees  See Table 2 for details	Five ex-officio members and four appointees  See Table 2 for details
<b>Appointing Authority</b>	Governor	CHEFA board of directors
<b>Term Length for Appointed Members</b>	Six years	Same, with exceptions described in Table 2
<b>Chairperson</b>	Governor designates the chairperson, who is subject to confirmation by both the House and Senate	CHEFA board chairperson serves as the CHESLA board chairperson (under existing law, the CHEFA board chairperson is designated by the governor and subject to confirmation by both chambers)
<b>Vacancies</b>	Filled by appointing authority	Same
<b>Removal of Members</b>	May be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty	Same

**Table 2: CHESLA Board of Directors Composition**

<i>Selection Method</i>	<i>Current Law</i>	<i>The Bill</i>
<b>Ex-Officio</b>	Treasurer, Office of Policy and Management secretary, and Board of Regents for Higher Education president, or their designees	Same, with the addition of the CHEFA (1) executive director and (2) board chairperson
<b>Appointed</b>	Three active or retired trustees, directors, officers, or employees of Connecticut institutions of	Same, except (1) there are two, rather than three such appointees and (2) the appointees must be

	higher education	members of the CHEFA board  These appointees serve on the CHESLA board (1) for as long as they are on the CHEFA board or (2) until a successor is appointed
	One person with a favorable reputation for skill, knowledge, and experience in the higher education loan finance field	Same (the bill's qualification is "higher education loan" rather than "higher education loan finance")
	One person with a favorable reputation for skill, knowledge, and experience in state and municipal finance  This person must be (1) a partner, officer, or employee of an investment bank that originates and purchases state and municipal securities or (2) an officer or employee of an insurance company or bank whose duties relate to purchasing state and municipal securities and managing and controlling a state and municipal securities portfolio	Same, except the bill (1) allows the appointee's skill, knowledge, and experience to be in the higher education loan field and (2) removes the requirements concerning the appointee's occupation

If a member of the current CHESLA board is reappointed to the new CHESLA board, the bill requires his or her initial term on the new board to end on the date that his or her term on the current board was previously scheduled to end. Otherwise, one of the newly-appointed members must serve an initial five-year term. As under current law, the CHESLA board must annually elect one of its members as board vice chairperson.

**Liability Limits**

The bill subjects CHESLA to suit and liability solely from its own assets, revenues, and resources and without recourse to CHEFA's general funds, revenues, resources, and assets. It maintains current

law's provisions that indemnify CHESLA's officers, directors, and employees and protect them from personal liability.

### **Employees**

The bill maintains the provision in current law allowing CHESLA to have its own employees and allows the CHESLA board to appoint an executive director, who serves at the board's pleasure. However, the bill makes the CHESLA executive director a CHEFA employee. Additionally, the bill eliminates the CHESLA board's ability to appoint an assistant executive director.

### **Tax Exemption**

The bill requires CHEFA and CHESLA to take any necessary actions to (1) maintain CHESLA's tax-exempt status and (2) ensure that interest on CHEFA bonds, notes, or other obligations are not counted as gross income for federal tax purposes.

### **CHEFA**

The bill allows CHEFA to finance a capital project at any nonprofit college or university in the nation. Current law limits eligibility to nonprofit institutions in Connecticut. Additionally, the bill allows all public colleges and universities in Connecticut to finance projects through CHEFA, not just those at the Connecticut State University System, as under current law.

The bill also allows CHEFA to provide and be compensated for services to or on behalf of CHESLA, including services providing CHESLA with space, equipment, supplies, and employees.

## **BACKGROUND**

### **CHEFA**

CHEFA is a quasi-public agency that finances capital projects for health care institutions, institutions of higher education, nursing homes, and other nonprofit organizations.

### **CHESLA**

CHESLA is a quasi-public agency that provides education loans for

(1) students attending a non-profit college or university in Connecticut or (2) Connecticut residents attending a nonprofit college or university in the U.S.

**COMMENT**

***Action Occurring Before Bill's Effective Date***

Under Section 3 of the bill, the current CHESLA board members' terms expire on June 30, 2012, prior to the bill's July 1, 2012 effective date.

**COMMITTEE ACTION**

Higher Education and Employment Advancement Committee

Joint Favorable

Yea 19 Nay 0 (03/06/2012)