

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 12-1, June 12, 2012 Special Session—HB 6001

Emergency Certification

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

SUMMARY: This act makes changes to implement the revised state budget for FY 13 as well as many other unrelated statutory changes. Among its major provisions, the act:

1. establishes new job and small business development programs and expands others;
2. subjects roll-your-own cigarette businesses to additional state taxes, fees, and regulation;
3. changes how payments or reimbursements are made under the Underground Storage Tank (UST) Petroleum Clean-up program, prohibits new applications after certain dates, and phases out the program as a way for certain tank owners or operators to meet federal and state financial environmental responsibility requirements;
4. eliminates a statutory requirement that the state employ a minimum number of 1,248 sworn state police officers and, beginning July 1, 2013, requires the number to be set according to standards recommended by the Legislative Program Review and Investigations Committee (LPRIC);
5. expands the state's "vaccine choice" pilot program by October 1, 2012, requires health providers to obtain vaccines for children from the Department of Public Health (DPH) beginning January 1, 2013, and changes the types of insurers who pay the fee to fund the program;
6. authorizes a three-year, \$3.5 million state loan to Bridgeport to cover its FY 12 educational expenses in return for allowing the state to approve its school superintendent or school district chief financial officer;
7. under certain conditions, allows the Department of Correction (DOC) commissioner to release qualifying inmates to nursing homes for palliative and end-of-life care;
8. eliminates the temporary suspension of police officers' and police departments' duty to collect certain traffic stop data until new collection methods are developed;
9. makes it easier to qualify for the state's emergency mortgage assistance program (EMAP); and
10. establishes a separate state Department of Housing (DOH).

The act also makes numerous changes in the laws governing the Department of Social Services (DSS) and some human services programs. Of major significance, it (1) permits registered nurses to delegate the administration of non-injectable medications to homemaker-home health aides who become certified and (2) requires DSS to reimburse independent pharmacists at a higher rate than

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chain pharmacies for dispensing prescriptions to Medicaid recipients, with federal approval.

A section-by-section analysis of the act appears below.

EFFECTIVE DATE: July 1, 2012 unless noted below.

§ 1 — FY 13 GENERAL FUND BUDGET CHANGES

The act makes various adjustments in the General Fund budget for FY 13 adopted by PA 12-104. It transfers a total of \$13.58 million between agencies and accounts, increases funding for the HUSKY Performance Monitoring account, and makes other minor changes. The changes increase total General Fund appropriations for FY 13 by \$44,001 in the aggregate.

§ 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 act 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.

§§ 3, 4 & 294 — MEDICAID INPATIENT HOSPITAL RATES, DISPROPORTIONATE SHARE PAYMENTS, AND HOSPITAL TAX

The act eliminates the obsolete inpatient hospital rate-setting formula DSS previously used to calculate Medicaid payment amounts. That formula required setting a target for the amount to be paid each individual hospital per patient discharged. As authorized by PA 11-44, DSS intends to replace this formula with a blended inpatient hospital rate that includes services to all Medicaid recipients but excludes any diagnoses designated by the DSS commissioner.

The act extends, from October 1, 2012 to October 1, 2013, the period during which the DSS commissioner must use federal fiscal year (FFY) 09 data, which can be adjusted for accuracy, to make interim Medicaid disproportionate share (DSH) payments to 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 act requires the commissioner to base these interim payments on the most recent, independent, certified DSH audit of federal fiscal year data. Under prior law, the commissioner, starting October 1, 2012, was to base interim payments on the most recent FFY data available. (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 act leaves unchanged (1) the hospital tax rates, (2) the base year on which the tax is assessed, and (3) those hospitals exempt from the outpatient portion of the tax

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based on financial hardship that was in effect on January 1, 2012.
EFFECTIVE DATE: Upon passage

§§ 5-7 & 15 — DSS PAYMENTS TO SPECIFIED FACILITIES

The act requires DSS to reduce the amount it reimburses (1) private facilities operated by regional education service centers for individuals with intellectual disabilities and autism and (2) intermediate care facilities for persons with intellectual disabilities if these facilities experience a “significant” decrease in their land and building costs to reflect these cost reductions. (The act 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 act eliminates the freeze and lower interim rate-based payment authority for FY 2013.

The act provides that for FY 13, DSS, within available appropriations, can increase rates for a residential care home (RCH), but a facility that would have been issued a lower rate due to its interim rate status must be issued that lower rate. Under prior law, RCHs’ rates had been frozen since FY 10, except in limited circumstances. The act also retroactively ends (rate year ending June 30, 2009) the additional 2% additional inflation adjustment applied to RCH rates. (But it continues to allow for an additional 1% inflation adjustment.)

The act 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 received in FY 12 the flat rate for residential services provided for in state regulation remain in effect in FY 13. State regulations 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 (Conn. Agencies Reg. § 17-311-54).

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.

§ 8 — VETERANS REQUIRED TO APPLY FOR FEDERAL BENEFITS

The act requires veterans and their families who apply for or receive Medicaid benefits to apply for any benefits, including medical 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.

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

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The act increases, from 75 to 125, the total number of people who can participate in DSS' two private assisted living pilot programs (one Medicaid- and one entirely state-funded). 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. need help with one or more activities of daily living, such as bathing, dressing, eating, or taking medication; and
3. qualify functionally and financially for the Connecticut Home Care Program for Elders (CHCPE).

§ 11 — MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL

The act 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 the medication.

The law already allows 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 act requires the DPH commissioner to adopt regulations to carry out the medication administration delegation provisions. The regulations must require 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 act requires the regulations to establish certification requirements for medication administration and the criteria that the agencies that serve 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, residents' rights, identifying the types of medication that unlicensed

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personnel may administer, behavioral health management, personal care, nutrition and food safety, and health and safety in general.

The act requires home health care agencies to ensure that by January 1, 2013 they (1) are allowing for delegation of nursing care tasks in home care settings and (2) have adopted policies for employing homemaker- home health aides to perform these tasks.

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 the delegated tasks unless (1) the aide is acting under 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 administer the medication; (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 act prohibits suing an RN for damages for delegating medication administration to a homemaker-home health aide unless the (1) employee acts under the nurse's specific instructions or (2) nurse fails to leave instructions when he or she should have done so.

Coercion Prohibited and Related Protocols

The act prohibits anyone from coercing an RN into compromising patient safety by requiring the RN to delegate medication administration if the nurse's assessment of the patient (1) documents a need for a nurse to do the administration and (2) identifies why the need cannot be safely met by using assistive technology or a certified homemaker-home health aide to administer the medication. The act 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 provide the required training for delegation.

The act requires DSS, in consultation with DPH and home health care agencies, to develop protocols for documenting these provisions. DSS must notify all licensed home health care agencies of these protocols before any of the medication administration provisions can be implemented.

Implementation While Regulations Being Adopted

The act allows the DPH commissioner to implement policies and procedures necessary to administer these provisions 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 final regulations are adopted.

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

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The act 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 assessment, planning, and evaluation decisions.

§ 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. Previously, the law required 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 act eliminates the numerical criteria for PA. It also eliminates a provision that allows providers (presumably home health agencies) to submit just one PA request a month for the same client.

§ 14 — MEDICAID PCA WAIVER

The Medicaid Personal Care Assistance Waiver Program offers PCA services to adults age 18 and older with severe disabilities 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 act requires program participants, at age 65, to be transitioned to 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 CHCPE.

§ 16 — NURSING HOME REIMBURSEMENT

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

EFFECTIVE DATE: January 1, 2013

§ 17 — COVERAGE OF CHIROPRACTOR SERVICES FOR MEDICAID RECIPIENTS

The act allows DSS to spend up to \$250,000 annually to "cover" chiropractor services for Medicaid recipients. These services can be coordinated with other initiatives under the Medicaid program.

The act requires the commissioner to implement policies and procedures to carry out this provision while in the process of adopting it in regulation provided he publishes notice of intent in the *Connecticut Law Journal* within 20 days of

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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 act 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 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 14%, or (3) an equivalent percentage as established under the Medicaid state plan. (The dispensing fee remains \$2 for independents and chains.)

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

Under prior law, DSS had to pay 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 the AWP minus 16%.

The act 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 act advances the date for reestablishing the Aging Department to January 1, 2013 from July 1, 2013 and makes related date changes.

§ 20 — PUBLIC ASSISTANCE RECOVERIES

The act makes a minor change regarding public assistance recoveries.

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 act requires 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.

§ 22 — BEHAVIORAL HEALTH MANAGED CARE PROGRAM

The act continues the Department of Mental Health and Addiction Services (DMHAS) commissioner’s authority to operate and audit the behavioral health managed care program for recipients of the now-defunct State-Administered

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General Assistance program for claims for services provided through June 30, 2012. It 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 act 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 to be not 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 act expands the number of entities that can administer DSS' Security Deposit Guarantee program. Previously, only emergency shelters that contracted with DSS could help administer it. The act instead allows local or regional nonprofit corporations or social service organizations, under contract with DSS, 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.

§ 24 — UNITED WE STAND

The act requires all the money in the "United We Stand commemorative account" to be transferred to the Office of Policy and Management (OPM) secretary. Under the act, as under prior law, the secretary must use the money to (1) reimburse boards of trustees or regents for the waiver of tuition and fees at the University of Connecticut (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) provide financial support for civil preparedness and related training activities; and (3) purchase supplies and equipment to support emergency personnel.

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

§ 25 — JOBS FIRST EMPLOYMENT SERVICES (JFES) PILOT

The law requires DSS and the Department of Labor (DOL) to implement a pilot program for JFES participants that includes (1) intensive case management;

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(2) support services; and (3) funding to facilitate participation in necessary adult basic education, skills training, postsecondary education, or subsidized employment. The act eliminates the requirement that all three be offered.

Under prior law, the commissioners jointly had to report on the program by October 1, 2012 and annually thereafter to the Appropriations and Human Services committees. The act 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 act specifies that this covers participants from the preceding fiscal year.

EFFECTIVE DATE: Upon passage

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

The act 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 a \$10,000 asset limit for the program, (2) count the income and assets of the parent of an applicant 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.

§ 27 — PRIOR AUTHORIZATION FOR PRESCRIPTION DRUGS

The act 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 to fill the prescription, (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 medical practitioner who has prescribed (1) a brand name drug when a chemically equivalent one is available; (2) an early refill; (3) a drug 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 that payment has been denied and why. DSS has notified pharmacists that they can contact the prescriber to initiate prior authorization with HP.

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

The act makes the Bureau of Rehabilitative Services, created by PA 11-44, a state department, headed by a commissioner. Under prior law, the bureau was within DSS for administrative purposes and was headed by an executive director. The act makes the Department of Rehabilitation Services, the successor authority

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to the bureau, thereby responsible for performing all the administrative and programmatic functions of the Board of Education and Services for the Blind, the Commission on the Deaf and Hearing Impaired, and other state rehabilitative services.

The act requires DSS to provide the department with administrative support services until (1) the department asks DSS to discontinue such services or (2) June 30, 2013, whichever is earlier.

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

§ 96 — SCHOOL-BASED HEALTH CENTER (SBHC) COMMUNICATIONS AGREEMENT

The act requires, by July 1, 2013, each SBHC that receives operational funding from DPH to enter into an agreement with the school's local or regional board of education to establish 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 the agreement would comply with this chapter, which covers a wide variety of municipal employee law.

The act 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 to the Appropriations Committee on their status and any recommendations for improvements. The act 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 — PILOT GRANTS FOR TRIBAL LAND

The act expands the scope of a state payment in lieu of taxes (PILOT) to towns that contain land taken into trust by the federal government for tribal nations. By law, the state must pay a grant equal to 100% of the property taxes that would have been paid for land the federal government took into trust for the Mashantucket Pequot Tribal Nation on or before June 8, 1999 that was designated as being within the 1983 settlement boundary. The act additionally requires the state to pay a 45% PILOT grant for land the federal government took into trust for the (1) Mashantucket Pequots after this date that is within the boundary and (2) Mohegan Tribe of Connecticut at any time.

Under the act, the new grant applies only to the value of the land itself, not the assessed value of any structures, buildings, or other improvements on the land.

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The grant must be phased-in as follows, for the fiscal year beginning July 1:

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

Under prior law, PILOT grants had to be reduced proportionately if grant totals exceeded the amount appropriated in a given year. But, under the act, the above amounts cannot be reduced between July 1, 2012 and June 30, 2016.

§ 99 — CONNECTICUT HUMANITIES COUNCIL

The act eliminates the requirement that the Connecticut Humanities Council operate in conjunction with the Department of Economic and Community Development (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 act 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 act places the nine-member Commission on Medicolegal Investigations (COMLI) and the Office of the Chief Medical Examiner (which COMLI supervises and controls) within the UConn Health Center for administrative purposes only. Under prior law, COMLI was within the DPH for administrative purposes only.

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

For administrative purposes only, the act moves CHRO from the Department of Administrative Services (DAS) to DOL.

§ 102 — STATE PAYMENTS FOR RETIRED TEACHERS' HEALTH INSURANCE

Teachers' Retirement Board (TRB) Plan

By law, the 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

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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. (PA 12-104, § 21 temporarily overrides this law for FY 13 to reduce the state's share to 25% and increase the share paid by the retired teachers' health insurance premium account to 42%.)

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

Subsidy for Local Board Health Plans

Retired teachers not participating in Medicare Parts A and B can continue to participate in the health plan their last-employing board of education offers to its active teachers. The TRB provides a monthly subsidy to local school boards to offset retired teachers' local plan premiums. Retirees are responsible for paying the difference between the subsidy and the premium cost. The 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.

By law, the state General Fund pays one-third of the subsidy and the retired teachers' health insurance account pays two-thirds. For FY 13 only, this act reduces the state's contribution to 25%, thus increasing the account's contribution to 75%, of the subsidy.

EFFECTIVE DATE: Upon passage

§ 103 — DOL WORKFORCE INVESTMENT ACT ACCOUNT

The act makes a technical change to a provision in PA 12-104 that carried forward \$2 million from the DOL's Workforce Investment Act account to Personal Services for FY 13.

§ 104 — INMATES RELEASED TO NURSING HOMES

The act generally gives the 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 act 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 he or she no longer meets the criteria for release described above.

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The act does not apply to inmates convicted of a capital felony, under the applicable law in effect before 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.”)

By law, the Board of Pardons and Paroles can grant an inmate, other than one convicted of a capital felony or murder with special circumstances (as specified above), a release on medical parole or compassionate parole release. For a release on medical parole, the inmate must have a terminal condition, disease, or syndrome, and be so debilitated or incapacitated by it as to be physically incapable of presenting a danger to society. For a compassionate parole release, the inmate must:

1. be physically incapable of endangering society because he or she is physically or mentally debilitated, incapacitated, or infirm because of advanced age or a non-terminal condition, disease, or syndrome and
2. have served at least half of his or her sentence or half of the remaining sentence after the board commuted the original sentence.

§ 105 — MEDICAID AND MEDICARE SERVICES FOR VETERANS’ SERVICES

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

§ 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 act prohibits the OPM secretary from accepting or approving any CAMA grant program applications after June 30, 2012.

§§ 107-109 — MILITARY ACCOUNTS ESTABLISHED

The act establishes the following three nonlapsing military-related General Fund accounts and specifies their purposes:

1. “chargeable transient quarters and billeting account” to hold proceeds of room service charges at Camp Niantic and to be used to house armed forces members there,
2. “Governor’s Guards account” to hold proceeds from the Governor’s Guards programs and to be used to facilitate operation of the Guards, and
3. “Governor’s Guards horse account” to hold donations given to offset the cost of maintaining the horses and to be used to facilitate the operations of

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the Governor's Guards.

The accounts must also hold any other funds the law requires to be deposited into them.

§ 110 — DISPARITY STUDY

The act 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 existing law.

In conducting the study, the act 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 government entities.

Prior law required 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 act 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 to determine 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 act makes a technical change to this requirement.

Lastly, the act delays, from January 1, 2013 until 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 (§ 111), transfers \$2 million from funds collected through the systems benefit charge on electric utility customers to the Department of Energy and Environmental Protection (DEEP) for energy assistance for FY 13 through Operation Fuel. This act reserves \$200,000 of the transferred funds for a grant to Operation Fuel for its administrative expenses for the energy assistance program.

§§ 112-114 & 121 — DEPARTMENT OF HOUSING

The act establishes a DOH headed by a commissioner, and makes it, instead of DECD, the lead agency responsible for all housing matters.

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

Under the act, 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 (see below), 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 act establishes an interagency council on affordable housing to advise and assist the DOH commissioner in the planning and implementation of the department. 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 DECD commissioners, or their designees;
2. the OPM 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 (CHFA) executive director, 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:

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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.

After the committees receive the council's report, they must hold a public hearing within 15 days.

EFFECTIVE DATE: Upon passage

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

Starting with FY 14, the act 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 act, this difference is based on the (1) state fringe benefit rate calculated on the 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.

§ 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 act 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, and specifies that both the existing and new transfers are for FY 13.

Modified Transfers

The act 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. Under PA 12-104, the director must report to the Judicial Department on the director's expenses and programs for FY 12.

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 act, this transfer is to DECD, rather than SDE, for the same purpose.

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

The act increases the amount of this transfer to \$40,000, and changes its purpose. The act makes the transfer to DPH, Other Expenses for a grant to

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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 act also requires the DPH commissioner, by February 1, 2013, to transmit this analysis to the Public Health and Insurance and Real Estate committees.

Additional Transfers

As shown in Table 1, the act 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

Agency	For	Amount
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 act requires the \$500,000 appropriated in FY 13 under PA 12-104 to the DECD 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).

§§ 118 & 119 — COLLEGE TRANSITION PILOT PROGRAMS

The act delays, from October 1, 2012 until October 1, 2013, the date by which the education commissioner and president of the Board of Regents for Higher Education (BOR) must report to the Education and Higher Education committees on the results of the two college transition pilot programs established by PA 11-48. (This act replaces the higher education commissioner with the president. The higher education commissioner position was eliminated 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 earned a high school diploma or equivalent.

EFFECTIVE DATE: Upon passage

§ 120 — MILITARY FACILITIES

Definition of a Military Facility

The act makes substantive and technical changes affecting the funding, leasing, and use of military facilities. It redefines a “military facility” as any state-owned or -controlled military building, structure, or training site, instead of just a state-owned military building, to reflect the adjutant general’s broader responsibility for armories, rifle ranges, reservations, and other military property.

Leasing or Unpaid Use of a Military Facility

Under prior law, if an organization that leased or used a military facility charged admission, it had to obtain insurance indemnifying the state against personal injuries and property damage. The act exempts government entities from this requirement.

By law, various organizations and entities may lease a military facility or use one without charge. Under existing law, the lease or use cannot conflict with the drill night of an active military organization or the facility’s use for military purposes. Under the act, the lease or use also cannot conflict with federal military regulations.

Application to Use a Military Facility

By law, each military facility is under the charge of a commissioned officer, who may lease it as prescribed by law. Under prior law, an application to use or lease the facility had to be submitted to the officer, who forwarded it to the adjutant general for approval or disapproval. The act removes the commissioned officer from the process. It instead requires applications to be made directly to the adjutant general and specifies that he is responsible for leasing the facilities.

Military Facilities Account

The act creates the “military facilities account” as a separate, nonlapsing General Fund account and requires the Military Department to use it to maintain and renovate military facilities.

The account must contain:

1. state appropriations or other state funds provided for the purposes of the account;
2. any money the law requires to be deposited into it; and
3. gifts, grants, donations, or bequests made for the purposes of the account.

By law, the adjutant general must send to the state treasurer any proceeds collected from leasing military facilities. The act requires the treasurer to deposit

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the amount in the military facilities account.

Reporting Requirement

The act eliminates the adjutant general's duty to annually submit a report to the Military Department and Public Safety and Security Committee on proceeds received from leasing, and expenses for maintaining, military facilities. He must still submit the report to the Veterans' Affairs Committee.

EFFECTIVE DATE: Upon passage

§§ 122 & 181-182 — HOUSING ZONE ADOPTION PAYMENTS

The act modifies how grants are determined under the Housing for Economic Growth Program. The program authorizes grants to municipalities that zone land to develop housing mainly where transit facilities, infrastructure, and complementary uses exist or are planned or proposed. A municipality may receive grants (1) to adopt incentive housing zone (IHZ) regulations and (2) for building permits issued for housing built in these zones.

Under prior law, a municipality that created an IHZ and met the other requirements of the law was entitled to a grant of up to \$2,000 for each housing unit that could be built as of right (i.e., without getting further zoning approval) based on the definitions of developable land and densities specified in the law. Thus, if the zone allowed a developer to build 20 units in the zone, the maximum grant would be \$40,000; if the zone would allow 30 units, the grant would be \$60,000. The act instead entitles the municipality to a flat \$50,000 grant per zone.

The act also prohibits a municipality that receives a grant for creating a zone from receiving a grant for creating another zone until construction starts in the IHZ for which it received the previous grant.

It allows a municipality that applies for preliminary eligibility for the grant for creating a zone 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 act 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. Under prior law, OPM had to 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 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 act allows the secretary to also give grants under the program for IHZ predevelopment funds. Under prior law, the secretary had to provide these grants within available appropriations. The act instead requires him to provide the grants within available

resources.

§ 123 — CIGARETTE ROLLING MACHINES AND TOBACCO PRODUCT MANUFACTURERS

The act 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 any 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 act 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 act, 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 act 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 prior law, with some exceptions, the definition covered any entity or its successor that directly and not exclusively through an affiliate (1) manufactured cigarettes intended for sale in the United States, including sale through an importer or (2) was 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 act requires them to certify annually to the 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 was 2.82 cents per unit.) The act 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 an RYO business does not comply with the escrow payment requirements for tobacco product manufacturers, the act subjects it 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 manufacturer 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 (see Table on Penalties) and an unfair and deceptive trade practice to sell, offer to sell, distribute, or possess for sale Connecticut cigarettes not listed in the DRS directory. 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 and Required

The law already requires anyone whose business includes selling cigarettes or tobacco products in Connecticut to have either a DRS cigarette dealer's or cigarette or tobacco product distributor's license. 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 act 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 annual manufacturer's license fee is \$5,250. The annual fee for a distributor's license is \$1,250, unless a distributor sells cigarettes only to stores the distributor operates. The annual fees for a distributor selling only to its own stores are: (1) \$315, for a distributor that operates fewer than 15 stores, (2) \$625 for one that operates between 15 and 24 stores, and (3) \$1,250 for one that operates 25 or more stores.

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The act 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

In 2012, a state Superior Court judge 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 definition, a business's employees had to participate directly 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).

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 act 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 prior law, the company providing the service had to own at least 25% of the joint venture. The act 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 (IRC), at least 50% of the company's stock;
3. a "component member" under the IRC; or
4. an individual or entity to or from whom stock ownership is attributed under the IRC.

In addition, the act 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 act, 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

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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 — EMAP

EMAP Eligibility (§ 127)

The act makes it easier for applicants to qualify for EMAP, which 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 or planned unit development.

The act eliminates pensions and retirement funds valued at \$100,000 or less from the list of assets that an EMAP applicant must disclose to 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; and
6. lump-sum additions to family assets.

The act 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 prior law, they could include delinquent taxes and insurance, but only if they were required to be paid into escrow or impound accounts as reserves.

The act 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 act also makes mortgages insured by the Federal Housing Administration (FHA) eligible for EMAP.

The act specifies that CHFA may consider the length of time the mortgagor has lived in his or her home when determining the mortgagor's ability 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.

EMAP Recipient Litigation Rights (§ 126)

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

EMAP Payment Schedule (§ 128)

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

EFFECTIVE DATE: Upon passage

§ 129 — NOTICE OF COMMUNITY-BASED RESOURCES

The act 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 statewide 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 indicates 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: October 1, 2012

§ 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 act 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 act makes failure to do so a CUTPA violation.

The law also specifies that anyone maintaining computerized data that includes personal information he or she does not own must notify the owner or licensee of any breach of the data's security immediately following discovery, if the personal information was, or is reasonably believed to have been, accessed by an unauthorized user. The act specifies that this requirement applies only to personal information of state residents.

EFFECTIVE DATE: October 1, 2012

§ 131 — ELECTRONIC TRACKING OF HIGH-RISK FAMILY VIOLENCE PERPETRATORS

The act authorizes the Judicial Branch to resume and expand a family violence pilot program that was discontinued due to lack of funds. The program 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 act 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.

§§ 132-140 — JUDGES’ RETIREMENT SYSTEM

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

The act:

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

Compensation Commissioners (§ 136)

By law, a compensation commissioner’s retirement benefit and the allowance paid to his or her surviving spouse are based on the commissioner’s “salary.” For those who began serving after January 1, 1981, these benefits are based on the annual salary the commissioner was receiving at the time of retirement or death. The act keeps this definition of salary for commissioners who began serving on or before June 30, 2011, but for those who began serving on or after July 1, 2011, the act replaces it with the commissioner’s average annual salary over the five years immediately preceding retirement or death.

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The law also provides a benefit increase for retired compensation commissioners who received longevity payments. For those who began serving after January 1, 1981, this increase is based on the amount of time served as a compensation commissioner. For those who began serving on or after July 1, 2011, the act broadens the service time used to calculate the increase to include the commissioner's total state service and service as an elected official.

Cost of Living Adjustments (§§ 133 & 134)

The law provides annual COLAs to the pensions received by retired officials. Under prior law, the COLA matched 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 officials who retired on or before September 2, 2011. The act extends this retirement date threshold to October 1, 2011.

Prior law allowed a 2% maximum COLA for officials who were in service on or after September 1, 2011. The act removes this COLA limit and service date threshold and, for any official who retires after October 1, 2011, sets the COLA at the same rate as the COLA received by SERS members who retire after October 1, 2011. (Under their current contract, the COLA for these SERS employees must be between 2% and 7.5% and is 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 officials eligible for retirement benefits. For the surviving spouses of those officials who began serving after January 1, 1981, prior law limited the COLAs to a maximum 2% increase after January 1, 2012. The act 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 (§ 137)

To qualify for a normal retirement benefit, prior law required officials who retire on or after July 1, 2022, 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. The act increases the age requirement, from 62 to 65, for those officials with at least 10, but less than 25, years of service.

By law, (1) the normal retirement benefit for officials is two-thirds of their "salary," as defined in 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. The act explicitly states that these provisions also apply to officials retiring on or after July 1, 2022.

Option to Maintain Current Requirements (§139)

The act allows officials who were serving when it became effective (June 15, 2012) to make a one-time irrevocable decision to maintain their current normal retirement requirements, regardless of the changes scheduled to occur on July 1,

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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 act requires the State Employees Retirement Commission to prescribe the form used to indicate an official's decision. Eligible officials must decide to participate by July 1, 2013. Officials who make a successful agency error claim to the retirement commission must make payments according to the state's usual practice.

Family Support Magistrates (§ 138)

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 act 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.

By law, unchanged by the act, retired family support magistrates who received longevity payments while they worked receive a benefit increase based on the amount of time served as a family support magistrate, regardless of when they began serving.

Reduced Benefits for Officials Who Resign (§ 132)

By law, judges, family support magistrates, and compensation commissioners who resign after serving for at least 10 years can receive a reduced retirement benefit if they do not otherwise meet normal retirement requirements. The act specifies that the reduced benefit for those 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 20 years. The act also makes minor and technical changes to these provisions.

EFFECTIVE DATE: Upon passage

§ 141 — SEXUAL ASSAULT EVIDENCE EXAMS

Existing law prohibits health care facilities and sexual assault victims from being charged, directly or indirectly, for examinations health care facilities incur in collecting evidence under the state’s regulatory protocol. The act extends the no-charge provisions to medical forensic assessment interviews conducted by (1) health care facilities; (2) providers; or (3) examiners working with a child advocacy center or multidisciplinary team involved with child abuse and neglect

prevention, identification, and investigation. The act directs that charges for both the examinations and interviews be paid from the Judicial Branch’s Forensic Sex Evidence Exams account. Prior law required the evidence-gathering charges to be paid by the Judicial Branch’s Office of Victim Services (OVS).

The act also adds an OVS member 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 into the custody of the DMHAS, Department of Developmental Services (DDS), or Department of Children and Families’ (DCF) commissioners, as appropriate, for treatment to restore them to competency.

Defendants Placed in DMHAS Custody

The act expands the DMHAS commissioner’s authority to refuse to place certain defendants in DMHAS psychiatric facilities. Prior law authorized her to refuse to admit violent defendants when the department lacked trained staff, facilities, and security to accommodate them. The act removes the reference to “violent” defendants, instead allowing her to exclude defendants who present significant security, safety, or medical risks. It requires her to consult with the DOC commissioner, but makes DMHAS the final decision-maker.

When an admission is denied on these grounds, the act makes DOC responsible for the defendant’s custody and medical and psychiatric care. DMHAS is responsible for:

1. providing other services to restore his or her competency;
2. submitting progress reports to (a) courts, at various times and (b) the original psychiatrist or examining team when the court finds that a defendant has become competent or cannot attain competency within the placement period; and
3. providing testimony at any hearing to reconsider the defendant’s competency.

Defendants With Intellectual Disabilities: Release from Civil Commitment

If an incompetent 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 competency restoration period, the law allows a court to order him or her placed in the custody of the DDS commissioner for civil commitment. The act allows the court to order the commissioner to notify it if the department releases the defendant before the statute of limitations for prosecuting the crime has expired.

Periodic Examinations for Defendants in DDS Custody

The law authorizes courts to order periodic examinations of defendants who,

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after being charged with killing or seriously injuring another person, or with committing certain other crimes, are released from custody or placed into DMHAS custody because they are not competent to stand trial. The act specifies that this authority also applies to such defendants placed in DDS custody.

EFFECTIVE DATE: October 1, 2012

§ 143 — ADOPTIONS IN SUPERIOR COURT

PA 12-82 permits DCF to file adoption petitions in the Superior Court, instead of in the probate court, in certain circumstances. The act ensures this can occur by making an exception to the probate 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 (DESPP) (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, this act 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.

The act advances to October 1, 2013, from October 1, 2012, the first annual report DESPP and local police departments must provide OPM on traffic stop data summaries. It also makes technical and conforming changes.

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

The act makes the OPM secretary, rather than the DECD commissioner, the chairman of the Council of Advisors on Strategies for the Knowledge Economy. Under the act, the DECD commissioner continues to serve as a council member. Under prior law, the OPM secretary served as a council member. By law, the council (1) promotes university-industry partnerships, (2) identifies benchmarks

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for technology-based workforce innovation and competitiveness, and (3) provides advice on grant awards 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.

The act also makes technical and conforming changes.

§ 146 — SMALL BUSINESS INNOVATION ASSISTANCE PROGRAM

The act requires UConn or any of its campuses to establish a program to help small and medium businesses 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 act requires UConn and CCAT to collaborate with the businesses participating in the program. This includes allowing businesses to use UConn's and CCAT's facilities and equipment and granting the businesses access to their respective staffs and, in UConn's case, its faculty and 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, including minimum contributions from participating businesses. The program is open to Connecticut-based businesses with 100 or fewer employees. The act divides these businesses into "small businesses" (50 or fewer employees) and "medium businesses" (51 to 100 employees).

§§ 147-180, 183-186 & 292 — CONNECTICUT DEVELOPMENT AUTHORITY (CDA) AND CONNECTICUT INNOVATIONS, INC., (CII) MERGER

Overview

The act merges CDA into CII, transferring CDA's statutory powers and duties, including the power to issue bonds, to CII and obligating it to meet CDA's financial commitments. Under prior law, CDA and CII were two separate quasi-public economic development agencies performing different functions. CDA made and guaranteed business loans and provided other forms of financing for business and infrastructure projects. CII invested capital in early stage technology-based businesses and provided other types of venture financing for individuals and businesses developing new products and techniques.

The act also expands CII's board of directors, changes its composition to reflect its expanded purpose, broadens CII's tax exemption, and makes many conforming changes.

Transfer of Powers and Assumption of Obligations (§ 148)

The act accomplishes the merger by transferring CDA's statutory powers and

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duties to CII and requiring CII to repay CDA's bonds and comply with their contractual requirements. It specifies that CII use these new powers to fulfill its existing and expanded purposes.

The act also specifies that CDA's notes, bonds, and other obligations are valid and binding on CII as CDA's successor, as well as the terms and conditions specified in the resolutions, contracts, and the other types of agreements under which CDA incurred these debts. This extension includes assets; real and personal property and rights in such property; and funds, money, revenue, and receipts. Further, the act makes or deems CDA's resolutions CII's resolutions and does the same with respect to any action CDA took to help finance a project, in both cases limited only by the agreements under which CDA issued the bonds or incurred the debt.

Lastly, the act requires CII to follow the procedures CDA adopted under the statutory procedure all quasi-public agencies must follow for notifying the public before adopting a proposed procedure (the equivalent of the procedure state agencies follow when adopting regulations). CII must do this with respect to any matter before it.

Subsidiaries (§§ 148, 150 & 175)

General. Existing law, unchanged by the act, allows CII to create affiliates. The act allows CII to form subsidiaries to fulfill its statutory duties and support them with money and property. It allows CII to do so under provisions similar to those under which CDA could form subsidiaries. Consequently, CII can form a subsidiary as a stock or nonstock corporation or a limited liability company and adopt resolutions specifying the subsidiary's purpose and powers. Like CII, the subsidiary is a quasi-public agency and enjoys the same privileges, immunities, tax exemptions, and other exemptions as CII. It also operates under conditions similar to those that governed CDA's subsidiaries, but it cannot borrow money without CII's approval. The subsidiary and CII can purchase and hold the bonds they issue.

The act gives CII subsidiaries powers needed to acquire and convey property. A subsidiary can assume or take title to property, subject to any lien, encumbrance, or mortgage. It can also issue bonds, notes, and other obligations by mortgaging, conveying, or disposing of its assets, but any debt it incurs is its special obligation, which it must secure and repay with its resources. CII may assign any rights, money, or other assets it has under any government program.

Brownfield Subsidiaries. The act makes a CDA subsidiary, the Connecticut Brownfield Redevelopment Authority, a CII subsidiary. But it also allows CII to form other subsidiaries to clean up contaminated property under similar conditions. The act exempts CII and its subsidiaries from paying the Department of Energy and Environmental Protection's fee for a covenant not to sue. Prior law exempted CDA and its subsidiaries from this fee.

Transfer Mechanism (§ 149)

The act allows CDA and CII to enter into agreements with each other and

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third parties to help CII assume CDA's rights and responsibilities. They may do so between June 15, 2012 and July 1, 2012 (i.e., the transfer period). But transfers occur regardless of whether (1) third parties consent to them or (2) CDA and CII enter into transfer agreements.

In addition, unrelated to the act's authorization to enter into agreements, the act 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.

State Assurances to CII Bond Holders and Contractors (§ 168)

Besides transferring CDA's bonding and contracting powers to CII, the act also transfers an assurance to the parties purchasing CII's bonds or contracting with it. The assurance is a pledge that the state pledge that will not limit or change the rights until CII fulfills its obligations to them or adequately protects the parties.

CII Board of Directors (§§ 151 & 173)

The act increases CII's board of directors, from 15 to 17 members, and changes its composition to reflect CII's new powers and duties. Under prior law, the board consisted of three *ex officio* and 12 appointed members. The act adds the state treasurer as the fourth *ex officio* member. The others are the DECD commissioner (who is also the board's chairperson), the Board of Regents (BOR) of Higher Education's president, and the OPM secretary.

The act allows the governor to appoint an additional member, increasing his total appointments from eight to nine. Under prior law, the governor had to appoint at least six members 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 act requires him to appoint six members with knowledge, skills, and experience in developing innovative start-up businesses and three with skill, knowledge, and experience in financial lending or developing trade, commerce, and business. By law, which the act does not change, the legislative leaders appoint four members.

The act also changes how CII's board must approve applications for equity investments and other assistance CII provides. Under prior law, the board's finance committee approved or denied applications CII executive director submitted to it. The act requires the board or a committee it creates to perform this task. It also renames the executive director, the chief executive officer.

CII Tax Exemption (§§ 169 & 170)

General. The act broadens CII's tax exemption, reflecting its expanded powers under the act. Prior law exempted CII and CDA from most local and state taxes, but CDA's exemptions were broader, reflecting its statutory authority to develop property and issue bonds. For example, CDA paid no (1) local or state

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taxes on the projects it developed or (2) state taxes on its projects, property, money, and bonds and notes. Further, the parties holding CDA's bonds and notes were liable only for estate and succession taxes on income or profit they earned from these investments. The act transfers CDA's exemption to CII.

Sales Tax Exemption for Economic Development Projects. The act allows CII to grant sales and use tax exemptions to developers undertaking economic development projects. The exemptions apply to tangible personal property and services purchased, stored, or consumed to develop, construct, rehabilitate, renovate, or repair projects that qualify for development financing under statutory authority the act transfers from CDA to CII. CDA provided a similar exemption under prior law.

The projects must be approved by CII's board of directors according to procedures it must adopt. In approving an exemption, the board may limit or condition its use and provide a certificate specifying the exempted property and services. CII must develop the certificate in consultation with the revenue services commissioner and it must be presented when purchasing an exempted item.

Equity Investments (§ 166)

Under prior law, CDA, CII, and DECD had to require the entities they funded to provide a lien, letter of credit, or other security for the funding. The requirement applied to equity investments, which could have been made by CII or CDA. The only exemptions were grants and loans that had to be repaid within a year. The act exempts equity investments and specifies that the security required for other forms of assistance must be appropriate and reasonable, based on the circumstances.

Relocation Penalty (§ 171)

Under prior law, businesses receiving CDA or DECD loans and loan guarantees had to immediately repay it plus a 5% penalty if they relocated out of the state within 10 years after receiving the assistance. The act extends this requirement to business receiving CII loans, loan guarantees, and other forms of business financing that CII provides under the act and any outstanding loans it made on or after June 23, 1993. But it exempts from the requirement equity and similar types of investments, which, under prior law, were mostly provided by CII.

Revenue Restrictions (§ 178)

In transferring CDA's powers and duties to CII, the act requires CII to receive revenue generated by the former CDA programs and activities. Consequently, the act specifies how CII must handle this revenue. Prior law specified how CII had to handle only application fees, royal payments, investment income, and loan repayments, the types of revenue generated by CII's traditional venture capital activities. The act expands the types of revenue CII must handle to include license fees; lease payments; proceeds from the sale and disposition of investments; and

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application, commitment, and financing fees.

Under prior law, much of this revenue was generated by bonds CDA issued under its own authority or by the state to fund CDA programs. The agreements under which both types of bonds were issued included provisions assuring that the bonds would be repaid. Some provisions pledge the revenue the programs generate to repaying the bonds or restrict it in other ways. The act requires CII to comply with bond agreements, including those under which it may issue bonds. It also requires CII to treat as unrestricted funds any unpledged revenue or revenue remaining after the bond agreements have been satisfied.

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.

§§ 187 & 188 — CAPITAL REGION DEVELOPMENT AUTHORITY (CRDA)

The act further expands the types of projects the Capital Region Development Authority (CRDA) may undertake. As the successor of the Capital City Economic Development Authority (CCEDA), CRDA can, among other things:

1. develop riverfront infrastructure and improvements anywhere in Hartford and East Hartford,
2. construct or rehabilitate up to 3,000 downtown housing units in the statutorily designated Capital City Economic Development District,
3. demolish or redevelop vacant buildings anywhere in Hartford or East Hartford,
4. construct new buildings and redevelop existing ones anywhere in Hartford, and
5. add downtown parking (PA 12-147).

This act 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.

As CCEDA's successor, CRDA can exercise a broad range of powers to plan and implement capital city projects, but, under PA 12-147, it can only do so in the Capital City Economic Development District. This act allows CRDA to exercise those powers to plan and implement projects authorized outside the district, such as riverfront infrastructure and improvement in East Hartford. 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. planning for, acquiring, financing, constructing, developing, owning, operating, marketing, promoting, maintaining 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. borrowing money, issuing bonds, and entering into credit and other agreements to make the bonds more marketable;

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7. collecting fees and rents from the facilities it develops and adopting procedures for operating and occupying them;
8. engaging independent professionals, such as lawyers, accountants, and architects;
9. adopting and amending procurement procedures; and
10. receiving money, property, and labor from any source, including government sources.

§§ 189-191—PLANNING REGIONS

Designating Planning Regions

By law, the OPM secretary must divide the state into logical planning regions by designating and redesignating the regions' boundaries. Under prior law, starting by January 1, 2012, the secretary had to analyze the regional boundaries at least once every 20 years and redesignate them if necessary. The act extends this deadline by two years to January 1, 2014. It also requires the secretary to conduct this analysis in consultation 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. Under prior law, the OPM secretary conducted the analysis alone.

Under prior law, as part of the analysis, the secretary had to develop criteria to evaluate how urban centers affect neighboring towns. At a minimum, the criteria had to evaluate trends in economic development and the environment, including trends in housing patterns, employment levels, commuting patterns for the most common types of jobs, traffic patterns on major roads, and changes in how people see social and historic ties.

The act eliminates the requirement that he develop these criteria and instead requires him to evaluate:

1. opportunities for coordinated planning and the regional delivery of state and local services;
2. economic regions, including regional economic development districts and the comprehensive economic development strategies they 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 municipal boundaries and congressional, senate, and assembly districts;
8. transportation corridors, connectivity, and boundaries, including metropolitan planning agency boundaries;
9. current federal, state, and municipal service delivery regions, including emergency, health, transportation and human services regions; and
10. the current capacity of each regional planning organization (RPO) to

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deliver diverse state and local services.

As under prior law, the analysis must specify a minimum size for logical planning areas based on the number of municipalities, total population, and total square mileage. The act requires the secretary also to consider whether the proposed planning region will have the capacity to successfully deliver necessary regional services.

The act authorizes the secretary to enter into contracts as necessary to complete the analysis. It makes any changes to the regional boundaries effective January 1, 2015, rather than on July 1 following the date when the secretary finished analyzing or modifying the boundaries, as prior law required.

Voluntary Consolidation of Two or More Regions

The act exempts from redesignation any two or more contiguous planning regions that voluntarily consolidate to form a single regional council of governments (COG) or regional council of elected officials. The act requires the new planning region to encompass at least 14 municipalities, but allows the secretary to waive this requirement. The secretary must approve the redesignated region by January 1, 2014.

Notifying Municipal Officers of Planning Boundary Revisions

The law requires the secretary to notify municipalities about the planning region revisions he proposes and establishes a process by which municipalities can contest them. The act extends, from January 1, 2012 to January 1, 2014, the deadline for the secretary to notify municipalities about the revisions.

By law, if a municipality's legislative body objects to the revision, its 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 act extends, from 45 to 60 days, the time the CEO has to propose holding the meeting after submitting the petition. By law, the 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 make this 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 act, 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 temporary Voluntary Regional Consolidation Bonus Pool payments to any two or more RPOs that (1) vote to merge, forming a new regional COG or council of elected officials, within a proposed or newly

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redesignated planning region and (2) submit a redesignation request to the secretary. Under prior law, the bonuses were (1) for FY 12 and FY 13 and (2) awarded on a first-come, first-served basis from any appropriation available for them until exhausted for the fiscal year.

The act (1) designates the Regional Performance Incentive account as the funding source for the bonus payments; (2) retains the requirement that the funds be awarded on a first-come, first-served basis; and (3) specifies that the payments are to offset reasonable consolidation costs, as the secretary determines. The Regional Performance Incentive account is a separate, nonlapsing General Fund account that, under existing law, funds the regional performance incentive grant program.

For FY 13 through FY 15, the act also requires the secretary to make supplemental bonus payments, within available appropriations, to any regional COG or council of elected officials created during these fiscal years through the consolidation of two or more regional COGs, councils of elected officials, or regional planning agencies. The supplemental payment is equal to 50% of the bonus payment made to offset the reasonable costs of voluntary consolidation. To qualify, the act requires the consolidated regional entity to encompass at least 14 municipalities, but it allows the secretary to waive this requirement.

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

§§ 192-196 — CALCULATING TAX LIABILITY FOR MANUFACTURING REINVESTMENT ACCOUNT DEPOSITS AND WITHDRAWALS

Eligible Uses of Deposited Funds

The act 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 manufacturing facilities. Under prior law, withdrawals were taxed at 3.5%, regardless of whether the manufacturer was organized as a corporation, or other type of business entity in which the partners pay personal income taxes on the income they derive from the business.

As discussed below, the act changes how withdrawals are taxed, but also specifies that a reduced tax rate applies to a withdrawal only if the funds will be used (1) to purchase machines and equipment that will be used in Connecticut or a manufacturing facility or (2) for training, developing, or expanding a workforce here.

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

Tax Deferrals on Deposits

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The law allows manufacturers to defer paying taxes on funds they deposit in a manufacturing reinvestment account, but limits the total amount each manufacturer may annually deposit to the lesser of \$100,000 or 100% of its domestic gross receipts. The act limits the tax deferral to that portion of the deposit the manufacturer cannot deduct from federal taxes. As explained below, the manufacturer pays reduced taxes only on that portion when it is withdrawn from the account.

Determining Tax Liability on Distributions

The tax liability on an amount a manufacturer withdraws from an account for the current or preceding tax year depends on whether the manufacturer (1) excluded that amount from gross income when calculating its federal taxes and (2) used the amount withdrawn for an eligible purpose. If the amount was excluded from federal taxes, the manufacturer must adhere to these rules for determining its tax liability:

1. if the manufacturer withdraws the amount and uses it for an eligible purpose, it may exclude half of the amount from its calculation of net income for corporation business taxes or Connecticut adjusted gross income for income taxes for the applicable tax year;
2. if the manufacturer withdraws the amount and uses it for an ineligible purpose, it must add the entire amount to net income; or
3. if the manufacturer does not withdraw the amount and it remains in the account after the five-year period expires, it must add the amount to net income.

Interest Accrual

The act allows manufacturers to accumulate interest income on the funds they deposit in a manufacturing reinvestment account. By law, they can deposit up to \$100,000 per year or 100% of their domestic gross receipts, whichever is less, for up to five years. Under prior law, manufacturers had to pay taxes on interest income that exceeded the statutory limit. The act 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, as described above.

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

§ 197 — URBAN REVITALIZATION PILOT PROGRAM

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

occupancy.

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

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 act 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 administered by departments or agencies other than DECD, such as CHFA;
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 for resale;
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 act, the DECD commissioner must (1) by October 1, 2012,

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establish program parameters and (2) by January 1, 2013, designate at least one municipality to participate.

Anyone who receives program assistance to acquire or renovate must agree to occupy the home, or a unit in it, as his or her primary residence for at least five years or transfer it to someone who agrees to do so. The act does not specify what happens if someone receiving assistance stops complying with this requirement. The act authorizes the program to give priority to first-time home buyers and people living in a targeted neighborhood.

The act authorizes DECD to contract with at least one statewide nonprofit organization to administer the program and establishes requirements for the program administrator. It 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

§ 198 — EXTENSION OF JOB EXPANSION TAX CREDIT

The act extends the \$900 per month job expansion tax credit to employers hiring Connecticut residents who receive DMHAS services or participate 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 hour per week for at least 48 weeks in a calendar year. Under the act, the employer continues to qualify for the \$900 credit for hiring employees who meet this minimum work hour requirement and receive vocation rehabilitation services from the Bureau of Rehabilitation Services.

By law, an employer also qualifies for the \$900 credit or a \$500 per month credit for hiring other types of new employees. It qualifies for the \$900 credit if the new employee (1) is a current armed forces member or was honorably discharged or released from active service or (2) receives unemployment compensation benefits or has not had a full-time job since exhausting those benefits. In either case, the employee must work at least 35 hours per week for at least 48 weeks in a calendar year. The employer also qualifies for the \$500 per month credit for all other new employees who meet this minimum work hour requirement and reside in Connecticut. It cannot claim credits for new employees hired to fill temporary or seasonal jobs.

The employer must meet the law's other criteria to claim the credits. It must create a minimum number of jobs depending on the number of people it employs when it applies for the credit. Businesses with 50 or fewer employees must create at least one new job; those with 51 to 100 employees must create at least five; and those with 100 or more employees must create at least 10. These employees must remain on the employer's payroll during the three-year period it is eligible for the credits.

Besides meeting the employee criteria, the employer must (1) have been in

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business for 12 consecutive months before applying for the credits and (2) be liable for insurance premium, corporation business, utility company, or personal income taxes. Further, the jobs for which the employer claims the credits must not have existed in Connecticut before it applied for them. The credits are available for jobs created between January 1, 2012, and January 1, 2014 and filled with eligible employees.

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

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

§§ 199-201 — EXPRESS PROGRAM

The act expands and 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 act makes changes to both sets of requirements.

Eligible Businesses

The act opens the program's components to more businesses. Under prior law, a business qualified for assistance if it employed 50 or fewer people during at least half of its working days in the prior 12 months and met other criteria. The business also had to be based in Connecticut, operate here, and registered to do business in Connecticut for at least 12 months.

The act 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.

By law, the business must be current on all state and local taxes and be in good standing with all state agencies.

Relocation Penalties

The act 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 prior law, a business receiving Express assistance had to repay 100% of the assistance plus 5% if it relocated from Connecticut within five years after receiving the assistance. The act changes this period to five years or the loan's term, whichever is longer. As discussed below, the act sets the maximum repayment period for Express loans at 10 years.

Eligible Costs

The act expressly allows businesses to use revolving loan funds or matching

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

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

Administrative Changes

The act makes several administrative changes in the Express program. It allows the commissioner to run the program by partnering with lenders participating in the Connecticut Credit Consortium, a DECD-administered small business assistance revolving fund.

The act specifies how the commissioner must help Express program applicants obtain assistance from the Subsidized Training and Employment Program (STEP), which is administered by the Labor Department. Prior law required her to work with them to provide a package of assistance from STEP and other appropriate state programs. The act allows the DECD commissioner to refer applicants to STEP instead of providing an assistance package that includes STEP.

The act 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 for Small Business Express assistance. DECD and its administrative partners can use the account to cover administrative expenses and other operating costs.

Bonding

The act changes the bond allocations for the Express program's three components. PA 11-1, October Special Session, authorized \$100 million in bonds for the program, \$50 million in FY 12 and \$50 million FY 13. It also divided the \$100 million authorization among the components. Specifically, it allocated \$40 million to the revolving loan component, \$20 million in FY 12 and \$20 million in FY 13. This act simultaneously (1) reduces this component's allocation by \$20 million, \$10 million per year in FY 12 and FY 13 and (2) increases the total allocation for the job creation incentive component from \$20 million to \$40

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million, \$10 million in FY 12 and \$10 million in FY 13.

EFFECTIVE DATE: Upon passage

§§ 202-203—STEP

Eligible Businesses

The act expands and makes programmatic and administrative changes to STEP, which subsidizes the costs of training and compensating new employees during their 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 act opens STEP to more small businesses and small manufacturers. Under prior law, a business qualified for STEP if it employed 50 or fewer people during at least half of its working days in the prior 12 months and:

1. was based and operated in Connecticut,
2. had been registered to do business in Connecticut for at least 12 months, and
3. was current on all state and local taxes.

The act 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 (e.g., the subsidiary of a corporation).

The act opens the program to businesses employing up to 100 people and to retailers, which prior law explicitly excluded. The act specifies that the subsidies are available only to retailers’ new permanent full-time and part-time employees, not former temporary or seasonal employees.

Subsidy Schedule

The act 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 prior law, the portion declined over each new employee's first six calendar months on the job.

The act changes the subsidy period from calendar months to a 180-day period divided into four sub 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

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

(The subsidy for small manufacturers, which the act does not change, is a grant that phases out over six months. The maximum grant ranges from \$2,500

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for the first month to \$1,600 for the last.)

Administrative Costs

The act increases the share of STEP funds that can be used to cover administrative costs and creates separate set-asides for different entities involved in running the program.

Prior law provided one set-aside, which could not exceed 4% of the allocated funds and allowed DOL to use it to pay outside consultants retained to run the program. The act allows DOL to also use this set-aside to retain the workforce investment boards to run the program.

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

Reporting Period

The act sets deadlines for submitting each biannual report. Under prior law, DOL had to submit the first report by June 30, 2012, and subsequent reports every six months thereafter. Under the act, the report for the January to June period is due July 15, starting in 2012, and annually thereafter. The report for the July to December period is due January 15, starting in 2013 and annually thereafter.

Bonds

The act extends the period during which bonds authorized for STEP's small business and manufacturing components are available. The law authorizes \$20 million for STEP, with \$10 million available in FY 12 and FY 13. Prior law divided the annual authorization between the two components, authorizing \$5 million for each in FY 12 and FY 13. The act keeps the \$10 million bond authorization for each component, but makes it available over a three-year period from FY 12 to FY 14 without apportioning a specified amount per year.

EFFECTIVE DATE: Upon passage

§§ 204-205 — UNEMPLOYED ARMED FORCES MEMBER SUBSIDIZED TRAINING AND EMPLOYMENT PROGRAM

Purpose

The act establishes the Unemployed Armed Forces Member Subsidized Training and Employment program, which is similar to STEP. The program provides grants subsidizing businesses' costs of hiring unemployed veterans during their first 180 days on the job. The act authorizes \$10 million in bonds for the program, with \$5 million available July 1, 2012 and the balance available in FY 14. The act requires the DOL commissioner to run the program and allows him to adopt implementing regulations.

Eligibility

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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, regardless of whether 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" is a business associated with the business hiring the employee. It can be a corporation, limited liability company (LLC), partnership, association, or trust. It is related to the hiring business if (1) it controls that business or is controlled by it or (2) it and the hiring business belong to a group of businesses controlled by another business.

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. Under the act, a business has control of a corporation if it owns enough stock to control at least half of the combined voting power of all classes. It has control of a trust if it owns at least half of its beneficial interest. The business must determine ownership based on the federal Internal Revenue Code's rules for determining the constructive ownership of stock.

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 the U.S. Armed Forces or Reserves or 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 separated from service earlier 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 the training when reviewing 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 3 shows, the grant amount phases out during this period.

Table 3: Subsidy Schedule

<i>Period</i>	<i>Grant Amount as Percent of Employee's Wages</i>
Day 1-30	100%

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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 under this program cannot receive (1) a second grant for an employee who remains after this period or (2) a STEP grant.

Administrative Costs

The act allows a portion of the funds allocated for the program to cover administrative costs and creates 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 act also allows DOL to use up to 4% of the funds to cover the program's marketing and operations costs.

Reporting

The DOL commissioner must report biannually on the program to the Appropriations; Commerce; Finance, Revenue and Bonding; Labor; and Veterans committees. Each six-month report must include available data on the number and types of businesses that received training and employment grants and 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.

§ 206 — "CONNECTICUT-MADE" MARKETING CAMPAIGN

Purpose

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

1. provide for the design, planning, and implementation of a multiyear, statewide marketing and advertising plan that includes television and radio advertisements showcasing Connecticut-made products and the advantages

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- 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 DECD 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 act 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 act 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 act requires the commissioner to submit annual status reports to the Commerce Committee. The reports must describe the program's activities and the amount of private matching funds DECD received and spent.

EFFECTIVE DATE: October 1, 2012

§ 207 — CONNECTICUT TREASURES

The act requires the DECD commissioner, by October 1, 2012, to develop a program to designate culturally, educationally, and historically significant locations as "Connecticut Treasures" and promote them or state-owned and –operated museums. The commissioner must do this in consultation with the Tourism Advisory Committee.

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 accompanied by an adult.

EFFECTIVE DATE: Upon passage

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§ 208 — MAIN STREET INVESTMENT FUND PROGRAM

The act 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 act allows the secretary to contract with a nonprofit entity to administer the program and use the funds to cover its reasonable administrative expenses. Under prior law, he could use the funds only to make property improvement grants.

EFFECTIVE DATE: Upon passage

§ 209 — FIRST FIVE PLUS PROGRAM

The act makes a programmatic change to the First Five Plus program, which provides loans, tax incentives, and other forms of economic development assistance to businesses committing to create jobs and invest capital within existing law's timeframes. It also allows the commissioner to give a preference for First Five assistance to proposed business projects that will relocate overseas jobs to Connecticut. This preference is in addition to those the law already authorizes for:

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

By law, a business receiving First Five assistance must commit 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.

By law, the commissioner's authority to provide First Five assistance expires June 30, 2013.

EFFECTIVE DATE: Upon passage

§ 210 — BONDS FOR BUSINESS DEVELOPMENT PROJECTS

Extension of Small Business Development Programs

The act temporarily allows more small businesses to qualify for assistance under existing small business development programs. PA 11-1, October Special Session, increased the bond authorization for DECD's Manufacturing Assistance Act (MAA) program and reserved a portion of each year's authorization to assist businesses with 50 or fewer employees, doing both in two steps. It increased:

1. the FY 12 authorization by \$100 million, reserving \$20 million for these businesses and
2. the FY 13 authorization by \$240 million, reserving \$40 million for them.

The act raises the employee threshold for programs funded with the bonds reserved for these businesses to those with 100 or fewer employees, thus allowing more small businesses to qualify under these programs. But, by law, each fiscal

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year's reservation expires at the end of the fiscal year, and any remaining authorization may be used only to fund businesses under the MAA.

Bond Reservation for Businesses Relocating Overseas Jobs

The act reserves a portion of the increase in the MAA bond authorization for businesses bringing overseas jobs to Connecticut. As mentioned above, PA 11-1, October Special Session, increased MAA's FY 13 bond authorization by \$240 million and reserved \$40 million for small businesses. The act reserves an additional \$20 million from that authorization for businesses committing to relocate at least 100 overseas jobs to Connecticut. This reservation also expires at the end of FY 13, and any remaining authorization may be used for funding MAA projects.

EFFECTIVE DATE: Upon passage

§ 211 — DPH VACCINE WASTAGE POLICY

By October 1, 2012, the act requires DPH to post its most current vaccine wastage policy 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 to reflect the most current policy in effect. The act requires DPH to make a form available to health care providers to report instances when they do 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

§ 212—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 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) CDC made it available to DPH, which operates the VFC program under federal authority. 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, the program must expand to include all VFC providers. The act changes the program expansion date from July 1, 2012 to October 1, 2012.

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 act covers the same vaccines as specified above, but with two additional conditions. The act specifies that the vaccines' availability is

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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) require the same number of doses, and (4) are recommended for similar populations by the CDC.

Starting January 1, 2013, the act 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, the 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 act, health care providers participating in the VFC or state childhood immunization programs are not required to procure or administer a vaccine provided by DPH if:

1. DPH directs them to procure the vaccine from another source, including during a declared state or national vaccine shortage or
2. they determine, based on their medical judgment, that (a) administering the vaccine is medically inappropriate or (b) administering another vaccine not authorized or supplied by DPH is more medically appropriate.

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

Report

The act 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

§§ 213 & 214—CHILDHOOD IMMUNIZATION INSURANCE ASSESSMENT

Assessment Application

By law, DPH operates a state childhood immunization program, under which, and within available appropriations, it 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 prior law, the assessment applied to all domestic health insurers specified in law. The act applies the assessment only to those domestic health insurance companies and HMOs that cover (1) basic hospital expenses, (2) basic medical-surgical expenses,

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(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 act requires each health insurer, HMO, TPA, and exempt insurer to report annually by September 1 to the insurance commissioner on the number of insured or enrolled lives (enrollees) in Connecticut, as of the immediately preceding May 1, 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 enrollees in (1) Medicare, (2) DSS 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 his or her 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 people insured or enrolled 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 act requires the insurance commissioner, by November 1 instead of October 1, to annually determine each entity’s assessment for the following year. Under the act, 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. (OPM 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 prior law, the assessment was a percentage of the appropriation determined by each insurer’s share of health and life insurance premiums and subscriber charges.

The act requires the insurance commissioner, by 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. The act extends this right to TPAs and exempt insurers.

§§ 215 & 216 — 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

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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 act 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.

§§ 217 & 218 — CONNECTICUT HEALTH INSURANCE EXCHANGE BOARD MEMBERS AND EMPLOYEES

The act makes the healthcare advocate a voting member of the Connecticut Health Insurance Exchange board. She was previously an *ex-officio* nonvoting board member. The act 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 act expands upon these.

Specifically, under law, a board appointee 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 act extends this restriction to all board members and staff.

By 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 act also prohibits them from 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

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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

§ 219 — CONNECTICUT HEALTH INSURANCE EXCHANGE ADVANCED FUNDING

The act permits the Connecticut Health Insurance Exchange's chief executive officer (CEO) to ask the OPM secretary for a funding advance of up to \$5 million 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.

If the OPM secretary approves the request, OPM must notify the treasurer and comptroller of the amount approved, and the comptroller must draw a warrant for disbursing the amount. The act 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 act 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 on any approved advances as the comptroller requires.

§§ 220 & 221 — KIRKLYN M. KERR PROGRAM

The act transfers, from BOR 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.

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

The act establishes, within available appropriations, a loan reimbursement program for up to 20 educators who teach bilingual education or English language learners. Under the act, recipients 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

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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 after receiving the endorsement.

The act requires the Office of Financial and Academic Affairs for Higher Education (OFAAHE) to administer the program 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 act, 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 teaches for only three years must repay at least 40% of the reimbursement). The executive director must determine the manner of repayment.

§ 223 — YOUTH EMPLOYMENT

The act requires the DOL 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.

§§ 224 & 225 — CURRICULAR ALIGNMENT AND PILOT PROGRAM

Curricular Alignment (§ 224)

The act requires local and regional boards of education, in collaboration with BOR and the UConn Board of Trustees, to develop a plan to align Connecticut's common core state standards 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.

Pilot Program (§ 225)

The act 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

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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 OFAAHE. The act does not include a reporting deadline.

EFFECTIVE DATE: July 1, 2012 except the pilot program is effective upon passage.

§§ 226-229 — SCHOOL CONSTRUCTION PROJECTS

The act 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 the applicable conditions.

Table 4: Notwithstanding Provisions for Local School Projects

§	<i>District</i>	<i>Project</i>	<i>Exemption, Waiver, or Other Change</i>
226	New Haven	Bowen Field new construction	Makes the athletic field project (cost of up to \$11 million) eligible for state reimbursement including field illumination (a separate item for a cost of up to \$600,000) provided the application is submitted before June 30, 2013
227	Brooklyn	Brooklyn Middle School extension and alteration	Waives standard space specifications for the project
228	Manchester	Elisabeth M. Bennet Academy off-site chiller system for air conditioning	<ul style="list-style-type: none"> • Waives deadline for change orders and other change directives to make the project eligible for reimbursement provided (1) the change orders have been approved by bureau of school facilities and (2) Manchester ensures that there will be no other connections to the off-site chiller system other than the Bennet Academy • Waives requirement for bureau of school facilities plan approval before bid, provided plans and specification have been approved
229	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

§ 230 — YOUTH SERVICE BUREAU GRANTS

The act expands eligibility for SDE grants to youth service bureaus (YSBs) by

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making a YSB eligible for a grant starting in FY 13 if it applied by June 30, 2012, rather than by June 30, 2007. By law, a YSB may apply for state grants only after receiving approval for its town's required 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

§§ 231-234 — GRANTS FOR EDUCATIONAL REFORM DISTRICTS

The act establishes four grants, including two for pilot programs, for educational reform districts. SDE and the education commissioner must administer the grants.

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.

Coordinated School Health Pilot Program (§ 231)

For FY 13, the act requires SDE 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. 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 Appropriations and Education committees.

Wraparound Services Grant Program (§ 232)

The act requires the education commissioner, within available appropriations, to establish a program to provide grants to educational reform districts for (1) social-emotional behavioral supports, (2) family involvement and support, (3) student engagement, (4) physical health and wellness, and (5) social work and

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case management. It allows an educational reform district's school board to apply for a grant when and how the commissioner prescribes.

Parent University Pilot Program (§ 233)

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

The act allows an educational reform district's school board, or the 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.

Science Grant Program (§ 234)

The act requires the education commissioner to establish a grant program, within available appropriations, for educational reform districts to improve the academic performance of students in kindergarten through 8th 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.

§ 235 — ACHIEVEMENT GAP TASK FORCE REPORTING DEADLINES

The act 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 act delays, from July 1, 2012 until January 15, 2013, the deadline for the task force to submit a master plan to eliminate the academic achievement gaps. By law, it must submit the plan to the Education Committee and the Interagency Council for Ending the Achievement Gap. The act also changes the schedule for the task force's annual progress reports on the plan's implementation from annually starting January 1, 2013 to annually starting July 1, 2013, except it continues to require the final progress report to be submitted by the task force's January 1, 2020 termination date.

EFFECTIVE DATE: Upon passage

§ 236 — 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 act allows a local or regional school board to spend its per-student grant increase for its vo-ag program even if doing so 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.

§ 237 — FOODCORPS IN CONNECTICUT FUND TRANSFER

The act transfers \$27,000 that the budget act (PA 12-104) appropriated for the Department of Education for Other Expenses to UConn's Cooperative Extension Service to coordinate FoodCorps in Connecticut for FY 13. FoodCorps is a national organization that sponsors young adults for a year of public service focused on healthy food education and choices for school children.

§ 238 — SCHOOL NUTRITIONAL RATING PILOT GRANT PROGRAM

The act requires the education commissioner to establish a school nutritional rating system pilot grant program to be implemented in school districts for the school years beginning 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 act to adopt and implement a nutritional rating system to be used in at least one elementary, one middle, and one high school in a school district that:

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

Eligible Applicants

Under the act, an eligible applicant can apply to the commissioner for a grant when and how the commissioner prescribes (but the act also requires the program to be implemented starting with the school year beginning July 1, 2012). The act allows local or regional boards of education to apply individually or as a group. To be eligible, applicants must have at least one elementary, one middle, and one high school located in the school district or districts.

An eligible applicant receiving a grant 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. He must select at least one eligible applicant from each of the following resident student population groups (1) fewer

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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 the grant program, provided the donations do not limit the scope of program grants.

He must submit a report by October 1, 2014, assessing the program and including any recommendations relating to its expansion to the Education Committee. He must consult with the participating school district food service directors in developing the report and recommendations.

§ 239 — STATEWIDE SCHOOL NUTRITIONAL FOOD PROCUREMENT GUIDE

The act requires the education commissioner to submit to the Education Committee, by July 1, 2013, a report and recommendations on establishing a statewide food procurement guide to be used by local and regional boards of education. He must consult with food service directors for school districts throughout the state in developing the report and recommendations. The guide must contain nutritional rating information for food that boards of education most commonly procure.

§ 240 — DIVISION OF SCIENTIFIC SERVICES HEAD

Prior law required the DESPP commissioner, or a deputy commissioner he designated, to serve as head of DESPP's Division of Scientific Services. Under the act, if the commissioner does not fill the role himself, he must appoint a director, rather than a deputy commissioner, to fill it. The act puts the director in the unclassified service and requires that he or she serve at the commissioner's pleasure.

EFFECTIVE DATE: Upon passage

§ 241 — E 9-1-1 TELECOMMUNICATIONS FUND

The act requires the Office of State-Wide Emergency Telecommunications (OSET), by January 1 annually, to prepare and submit the annual budget for the Enhanced 9-1-1 (E 9-1-1) Telecommunications Fund to the Office of Policy and Management secretary for review and approval. By January 15 annually, it requires the secretary to submit a report of the proposed use of the money in the fund to the Appropriations; Finance, Revenue and Bonding; and Public Safety and Security committees.

OSET administers the state's E 9-1-1 program, which provides dispatch services to people who call 9-1-1. By law, the Telecommunications Fund must be used exclusively for E 9-1-1 program expenses.

§ 242 — AMENDMENTS TO AGREEMENTS WITH TRIBES

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The act deems approved the amendments to the state's settlement agreements with the Mohegan and Mashantucket Pequot tribes regarding promotional programs under which the tribes provide certain casino 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 25% of the gross operating revenue from slot machines.

EFFECTIVE DATE: Upon passage

§§ 243-247 & 291 — STATE POLICE STAFFING

From the date the act passes until July 1, 2013, the act eliminates the 1,248 minimum sworn police officer staffing requirement for the Division of State Police. It instead requires the DESPP 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 LPRIC and outlined below.

The act eliminates a requirement for the commissioner to report annually on troop projections to the Appropriations and Public Safety and Security 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 act 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 act makes a conforming change as it relates to auxiliary officers. These officers mainly help disabled motorists, help with traffic control at accident scenes, and perform administrative functions.

The act also makes technical changes.

EFFECTIVE DATE: Upon passage, except one technical change is effective July 1, 2012 and one is effective October 1, 2012.

§ 248 — DAS MEMORANDUM OF UNDERSTANDING

The act requires 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 act 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.

§ 249 — P-CARD LIMIT INCREASE

The act 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 State Comptroller's Office 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 their employees. Individuals are responsible for repaying improper charges and are personally liable for card misuse.

§ 250 — AIR EMISSIONS TESTING PAYMENTS

The act requires a resources recovery facility owner to pay the cost of all testing or any other activity eligible for payment. Prior law required an owner to pay for certain specified emissions testing, and other testing costs or activity eligible for payment were paid from the General Fund. It required resources recovery facility owners to pay for:

1. continuous meteorological and emissions monitoring testing and a proportionate share of DEEP's telemetry costs;
2. initial permit performance testing such as for dioxin and furan emissions

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- 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.

§§ 251-263 — UNDERGROUND STORAGE TANK (UST) PETROLEUM CLEAN-UP PROGRAM

Board Elimination

The act eliminates the UST Petroleum Clean-Up Review Board and designates DEEP as its successor. It requires the DEEP commissioner to administer the UST Petroleum Clean-Up Program.

The program is a federally approved program that provides payment and reimbursement for costs incurred in environmental investigation and remediation of leaking commercial tanks and certain related claims. It also enables owners and operators of federally regulated petroleum USTs to demonstrate financial responsibility (see below).

The act 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 application approval, determination, or decision by the board is considered made by the commissioner.

It also makes many conforming, minor, and technical changes to the underground storage tank petroleum clean-up program statutes.

Program Applicants

The act requires the DEEP commissioner to determine whether an applicant is a small, mid-size, or large station applicant or a municipal or other applicant. It prohibits him from ordering payment or reimbursement to an applicant until he makes this determination.

For purposes of the program, the act defines an “applicant” as anyone who filed a request or application for payment or reimbursement from the program.

The act defines an applicant as one who, at the time the program received its first application, owned, operated, leased, used, or had an interest in in-or out-of-state parcels of land on which a UST system was or had been previously located, as follows:

1. small station applicant, five or fewer separate parcels;
2. mid-size station applicant, six to 99; and
3. large station applicant, 100 or more.

The commissioner must make one determination of each applicant’s status, which applies to all applications the applicant submits, including those for which payment or reimbursement was ordered but has not been made. The act requires

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the determination to be based on an applicant's status (e.g., how many parcels with a UST system the applicant has or whether it is a municipal or other applicant) when the commissioner received such applicant's first application.

The act 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 of the applicant's affiliates and (2) consider a UST system owned, operated, leased, or used by the 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 act requires assignees of approved applications to assume the applicant status of the assignor.

Payment or Reimbursement Application Deadline

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

The act allows anyone who qualifies as a mid-size station applicant to 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. It prohibits such applicants from submitting an application for payment or reimbursement beginning October 1, 2013.

The act allows anyone who qualifies as a municipal, other, or small station applicant 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. Beginning October 1, 2014, these applicants may not submit an application for payment or reimbursement from the program.

Payment or Reimbursement from the Program

Funding Distribution to Applicant Groups. The act requires any amount available to the UST program for making payments or reimbursements to be equally distributed to the four applicant groups (municipal and other, and small, mid-size, and large station applicants), 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 four following fiscal years: FYs 13 - 16.)

The act creates a priority order for redistributing the remaining funds of any applicant group when the group has no (1) pending applications or (2) applications for which payment or reimbursement ordered by the DEEP commissioner has not been made. The remaining funds first go to paying or reimbursing municipal and other applicants. If funds remain after this redistribution they go to small station applicants. Any funds remaining after these redistributions go to mid-size station applicants. Any remaining funds go to large station applicants.

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Procedure for Municipal, Other, and Small Station Applicants. The act prioritizes payment or reimbursement to municipal, other, and small station applicants by the date that the 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 for which payment or reimbursement has been ordered by the commissioner but not yet made.

Under the act, 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 act requires mid-size and large station applicants to (1) accept a payment reduction or (2) wait until full payment or reimbursement is allowed under the act and all applicants accepting a payment reduction are paid. It creates a “reverse auction” system to make payments or reimbursements to mid-size and large station applicants, which applies to all submitted applications, including, those for which payment or reimbursement has been ordered but not yet made. (In a reverse auction, the lowest bids are accepted first.)

The act 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 commissioner (the “reduced payment election”). If at least two applicants choose the same reduced payment election, priority is given to the application for which the commissioner first ordered payment or reimbursement. If he ordered payment or reimbursement on the same day, priority is given to the application received earliest.

Mid-size and large station applicants that do not accept a reduced payment do not get paid until (1) the fiscal year full payment is authorized and (2) all mid-size and large station applicants that made a reduced payment election receive the payments or reimbursements ordered by the commissioner (FY 19 and FY 28 or later, respectively, see below). Among these applicants, priority is determined by the date the commissioner ordered payment or reimbursement, beginning with the earliest date.

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

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

The act 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

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October 1, 2012. But it prohibits an applicant from receiving more than \$1 on each dollar ordered to be paid or reimbursed. The act also 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 made to large station applicants are capped at 20 cents on each dollar the commissioner orders to be paid or reimbursed. This per dollar amount increases each subsequent fiscal year by five cents on each dollar but not to more than one dollar. No payment or reimbursement can exceed the per dollar amount in effect for that fiscal year.

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

An applicant does not need to submit this election if it (1) submits an application for the first time or (2) previously submitted a reduced payment election. First-time applicants must submit a payment election with their application.

The act requires an applicant's payment election to apply to all applications the applicant submits, including those for which the commissioner has ordered payment or reimbursement but not made. A payment election is effective no matter when the commissioner orders or makes the payment or reimbursement. The act (1) specifies that a payment election is final and (2) prohibits modifying an election unless an applicant agrees to a lower reduced payment election. An applicant may submit a new reduced payment election if agreeing to accept a lower payment election than in a previous submission.

Under the act, if an applicant accepts payment or reimbursement under a reduced payment election, the decision is final and constitutes full payment of all applications covered by the election. The act specifies that by accepting such payment or reimbursement, 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

By federal and state law, certain owners and operators of USTs must demonstrate the ability to pay for cleanup or third-party liability compensation from a tank release (40 CFR § 280.90 *et seq.* and Conn. Agencies Reg. § 22a-449(d)-109). Owners and operators can show financial responsibility through a state fund or other means such as insurance.

The act phases out the underground storage tank petroleum clean-up program as a financial assurance mechanism. Beginning October 1, 2012, it prohibits anyone required to meet the financial responsibility requirements who owns or operates at least one UST system on more than five separate parcels from demonstrating such responsibility through the program.

It prohibits (1) municipalities and (2) anyone who owns or operates at least one UST system on five or fewer separate parcels who must meet the financial

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responsibility requirements, from demonstrating such responsibility through the program starting on October 1, 2013.

The act requires UST owners or operators, within 30 days of a written request from the DEEP commissioner, to provide him with any information he believes is necessary to determine which deadline applies to the owner or operator. All of an owner's or operator's UST systems in- and out-of-state must be included when making the determination.

Certification of Approval

By law, applicants seeking payment or reimbursement for UST investigation and remediation costs must show that the labor, equipment, and material provided and the services and activities undertaken in response to a release or suspected release are approved in writing. The DEEP commissioner or a licensed environmental professional (LEP) may approve total costs, expenses, or other obligations of \$250,000 or less. The commissioner must approve amounts over \$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, material, 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 act specifies that the certification must be executed. It also prohibits the 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

§§ 264 & 293 — EQUESTRIAN TRAIL USE IN STATE PARKS AND FORESTS

The act 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 equestrian use on all, instead of designated, multi-use trails in state parks and forests, unless he specifically prohibits such use. It requires him to consult with the Equine Advisory Council before he decides to prohibit equestrians from a trail historically used for that purpose. This council was created by law in 2007 to help DEEP study the issue of preserving equine trails in Connecticut.

The act specifies that (1) it does not prohibit other public uses of the trails and (2) allowing equestrian use on multi-use trails 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.

§§ 266-267 — JUVENILE COURTS AND FAMILIES WITH SERVICE NEEDS

The act specifies that children who were under age seven when they allegedly committed an otherwise-qualifying act are ineligible for juvenile courts and

Families with Service Needs (FWSN) services and programs. (Children are classified as FWSNs for such things as running away, skipping school, and defying parents or school authorities). These younger children qualify under existing law for behavioral health and related services under DCF's voluntary services program.

EFFECTIVE DATE: October 1, 2012

§ 268 — JUVENILE COMPETENCY

The act creates a court procedure for addressing questions about the competency of a child charged with a delinquent or FWSN offense. The procedure is similar to that used in adult court.

Under existing law and the act, 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 (i.e., cannot understand the proceedings or participate in his or her own defense), the law and act prohibit him or her from being tried, convicted, adjudicated, or subject to any court disposition. The act 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 act, 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 act 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 act, 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 act, 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 act 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 psychiatrist experienced in conducting forensic interviews and in child and adult psychiatry.

The act requires clinical teams to be composed of a clinical psychologist with experience in child and adolescent psychiatry and two of the following: a (1)

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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.

The act allows the child, at his or her own expense, 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 act 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 act directs the court to resume delinquency or FWSN matters whenever it finds the child competent.

Examination Reports. The act 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 ability to (1) understand the proceedings or (2) assist in his or her own defense.

If, in the opinion of the clinical team or psychiatrist, 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 act requires the court clerk to send the attorneys representing the state and child copies of the report at least 48 hours before the competency hearing.

Competency Hearing

The act 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 act 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 act allows the court to consider:

1. the nature and circumstances of the alleged offense,
2. how long the clinical team or psychiatrist estimates it will take to restore the child to competence,

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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 court finds (1) there is not a substantial probability that the child will attain or regain competency within 90 days or (2) 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 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 filed 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 act, any plan for services may include a provision allowing for interagency collaboration 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 act requires it to schedule an intervention implementation hearing within five business days.

Under the act, such interventions must not exceed 90 days, unless extended for an additional 90 days under criteria the act establishes. Also, they must be provided by DCF, unless the child's parents agree to pay for these intervention 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 act's competency provisions. (It is unclear to which provisions the act 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's 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 act 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

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be held for at least 10 business days after the intervention period expires.

At least 10 business days before the scheduled hearing, the act 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 act, the same clinical team or psychiatrist must then reassess the child. If one of these individuals is not available, the act 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 act 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 act 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 new plan for services, the act 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. This option applies only to children (1) who have not been restored to competency and are unlikely to do so or (2) for whom the court has determined that no further intervention is appropriate.

If the child or his or her parent or guardian does 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.

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

EFFECTIVE DATE: October 1, 2012

§ 269 — ESTABLISHING PATERNITY IN ABUSE AND NEGLECT CASES

The act expands paternity testing requirements in certain 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 act, 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 the court gives the putative father the opportunity for a hearing, the act allows it to issue a judgment adjudicating paternity.

If the test results indicate that the person tested is not the child's father, the act requires, rather than allows, the court to issue a judgment to that effect.

Filing Paternity Documents

The act directs the court clerk to send a copy of the paternity judgment to DPH for inclusion in the department's paternity registry. It also directs him or her to do the same with paternity acknowledgment documents a man voluntarily signs at the initial court hearing. In the latter situation, the act requires the clerk to keep certified copies in the court file.

EFFECTIVE DATE: October 1, 2012

§ 270 — 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 act 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.

§ 271 — LIMITING COURT DISPOSITIONS FOR DELINQUENT CHILDREN

The act 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. Instead, it must place the child in DCF custody and let DCF determine the appropriate placement. The court retains its authority to order all

other dispositions permitted under existing law.

§ 272 — RELATIVES SEEKING GUARDIANSHIP

The law gives Superior Court judges discretion to grant relatives permission to intervene in proceedings involving children alleged or determined to have been abused or neglected once 90 days have passed since the original court hearing. Prior law required that their intervention be for the purpose of obtaining permanent guardianship. The act substitutes the term “guardianship” for “permanent guardianship.” As neither term is defined in this context, the effect of this change is unclear.

EFFECTIVE DATE: October 1, 2012

§ 273 — CREATION OF “PERMANENT LEGAL GUARDIANSHIP” STATUS

The act expands the options open to Superior Court judges when they find a minor to be abused or neglected. It allows them to grant applicants the status of “permanent legal guardian,” which it defines as one (1) intended to last until the minor reaches age 18 and (2) that does not involve the termination of parental rights. It adds references to permanent legal guardians to most existing abuse and neglect laws that previously referred only to legal guardians. It creates a rebuttable presumption that relatives are suitable and worthy for permanent legal guardian appointments and makes permanent legal guardianship an optional permanent living arrangement for abused and neglected children.

Permanent legal guardians have the following rights and responsibilities, which are the same as those exercised by guardians appointed under the state Probate Code:

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 about funeral arrangements and the disposition of the 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, neglected, and uncared-for minors or (2) any other “suitable and worthy” person, including one related to the child by blood or marriage. 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 act additionally gives courts the option of appointing a permanent legal guardian. It requires the court to first notify the parents that they will not be able to petition the court to end this arrangement once the court has made such an

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appointment. If the court is unable to provide this notice, the judge must explain on the record why its efforts failed.

The act authorizes courts to establish permanent legal guardianships when they find, by clear and convincing evidence, that this is in the 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.

The act also makes conforming changes.

Reopening and Modifying a Permanent Legal Guardianship Appointment

The act allows the court to reopen and modify such an appointment and to 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 act, 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

§ 273 — HEARSAY EVIDENCE AT CONTESTED DCF HEARINGS

The act permits courts to admit credible hearsay evidence in proceedings held to decide on permanent living arrangements for abused and neglected children. "Hearsay" consists of statements made out of the court's presence that a party seeks to use to prove that a disputed fact is true. The act limits its use to disputes involving the adequacy of a parent's efforts to rehabilitate him- or herself in order to be reunified with his or her child.

EFFECTIVE DATE: October 1, 2012

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

In cases in which the court has appointed a person to serve as an abused or neglected child's legal (not permanent legal) guardian, the act allows parents or others whose guardianship rights have been revoked to ask a Superior Court judge to reinstate them. When such requests are made, the court may order DCF to investigate and make recommendations based on the child's current home conditions and needs and the home conditions of the parent or former legal

guardian seeking reinstatement.

The act authorizes courts to grant petitions if they find that the cause for revoking the guardianship no longer exists and reinstatement is in the child's best interests. Petitions must be filed at least six months apart and petitioners are generally not entitled to court-appointed counsel.

EFFECTIVE DATE: October 1, 2012

§ 274-279 — PERMANENT GUARDIANSHIP APPOINTMENTS IN PROBATE COURT

The act allows probate court judges to appoint "permanent guardians" of a child's person, whose rights and responsibilities match those of permanent legal guardians appointed in Superior Court. Although the act adds procedures for such Superior Court appointments, the probate court rules already use them in guardianship cases.

The major differences between Probate and Superior court proceedings are that the Probate Court provisions:

1. allow the court to appoint permanent guardians at any time and
2. require it, when deciding on a prospective permanent guardian's appointment, to take into account (a) the person's ability to meet the child's daily needs, (b) the wishes of a child over age 12 (or younger if capable of forming an intelligent preference), and (c) whether the applicant has an established relationship with the child.

EFFECTIVE DATE: October 1, 2012

§ 280—CRIMINAL MATTERS TRANSFERRED BETWEEN DELINQUENCY AND ADULT DOCKETS

Juvenile Court Cases Automatically Transferred to Adult Docket

The law requires juvenile courts presiding over delinquency matters to automatically transfer cases involving children at least age 14 charged with certain crimes to the adult docket once an attorney has been appointed for the child. The crimes are class A or B felonies, arson murder, and capitol felonies (PA 12-5 eliminates the capitol felony classification for crimes committed after April 25, 2012, the date on which the state's death penalty was eliminated). Prosecutors can file motions asking to have cases involving class B or statutory rape charges returned to juvenile court. Under prior law, they had 10 working days to file their motions; the act allows them to do so at any time. The act also eliminates the requirement that the court (1) hold hearings and (2) issue rulings within 10 days. It also eliminates the requirement that court files involving cases transferred from the juvenile to adult docket be sealed.

Motions to Transfer Lower-Level Felony Cases from Juvenile to Adult Court

Existing law permits prosecutors to file motions asking to transfer cases involving minors charged with class C, D, or unclassified felonies from the

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juvenile to adult criminal docket. Prior law permitted the court to grant these motions without holding a hearing. The act requires a hearing.

It also requires juvenile court judges to make additional findings before granting a transfer motion. Under prior law, they had to find that (1) the child was at least age 14 when the offense was committed and (2) there was probable cause to believe that the child committed the act with which he or she was charged. The judge made the second finding on an *ex parte* basis.

The act eliminates the requirement that probable cause determinations be made *ex parte*. It also prohibits the court from granting such motions unless it finds that the best interests of the child and public will not be served by maintaining the case on the juvenile docket. The act 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 seeking to transfer lower-level felony cases from juvenile to adult court be made, and any hearing held, within 30 days after the child's juvenile court arraignment.

The act also allows criminal court judges to return these cases to the juvenile docket at any time before a jury renders its verdict or the defendant enters a guilty plea. There was a 10-working-day deadline under prior law. The judge's decision must be based on a good cause showing.

Prior law required that arraignments and other court proceedings in cases transferred from juvenile to adult court take place on the next hearing date and in courtrooms separate from those where adult criminal proceedings were heard. The act eliminates both requirements. Finally, it specifies that proceedings concerning cases automatically transferred to the adult criminal docket are final from the date the child is arraigned until the court grants a prosecutor's motion to transfer the case back to juvenile court. And proceedings involving cases discretionarily transferred to the criminal docket become final on the date the child is arraigned until the court orders the case returned to juvenile court.

EFFECTIVE DATE: October 1, 2012

§ 282 — 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.

This act 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

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FY 11. The act carries forward the unspent balance of an FY 12 appropriation for magnet schools to fund the grants (see next section).

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, which can be paid for out of its supplemental grant. When the commissioner opts to require the latter review, the act also requires him to select an auditor to perform it.

Supplemental Grant Payments

The act 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 act reduces the initial payment, payable by June 30, 2012, to a maximum of 50% of the grant. It requires the balance to be paid by September 1, 2012, on completion of the review.

§§ 283-285 — EDUCATION DEPARTMENT FUNDS CARRIED FORWARD

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

Table 5: SDE Appropriations Carried Forward to FY 13

§	<i>FY 12 Appropriation</i>	<i>Carried Forward For</i>	<i>Amount</i>
283	Magnet Schools	<i>Sheff</i> programming, including paying supplemental magnet school transportation grants for RESCs, as described in § 282	Unspent balance
284	Magnet Schools Administration	Other expenses, for (1) litigation costs associated with the <i>Connecticut Coalition for Justice in Education Funding v. Rell</i> lawsuit and (2) school reform activities	Up to \$700,000
285	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; July 1, 2012 for the other funds.

§ 286 — UNEXPENDED SCHOOL READINESS FUNDS

By law, the education commissioner may use up to \$500,000 in unexpended

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school readiness funds from each fiscal year in the following fiscal year to help early childhood education programs' staff members meet the law's qualification requirements.

The act expands the use of such funds to include providing staff with early childhood professional development offered by a professional development and program improvement system within the Connecticut State University System. It thus allows funds to go to staff who already meet the qualification requirements.

§§ 287 & 288 — MINIMUM LOCAL FUNDING REQUIREMENTS FOR ALLIANCE DISTRICTS

For FY 13, the act 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.

The act requires each alliance district's budgeted appropriation for education for FY 13 to 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 act, the minimum local funding percentage for FY 13 is 20%. The minimum percentage increases by one percentage point in each of the following four years, reaching 24% for FY 17.

The act allows the education commissioner to let an alliance district town 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 act. 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.

§ 289 — EDUCATION LOAN TO BRIDGEPORT

The act 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 act 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:

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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 he approves 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 commissioner may:

1. allow repayment through reductions in Bridgeport's ECS grants 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.

§ 290 — 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 act repeals a provision of PA 12-133 that required the court to determine that the matter was not frivolous before it waives a fee or the state pays for service of process.

EFFECTIVE DATE: Upon passage

§ 294 — REPEALERS

The act 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 § 3 of the act (CGS § 19a-617c).

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