



Senate

General Assembly

File No. 178

February Session, 2014

Substitute Senate Bill No. 324

Senate, March 27, 2014

The Committee on Human Services reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING DEPARTMENT OF SOCIAL SERVICES AND AGING PROGRAMS.

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

1 Section 1. Section 38a-47 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 All domestic insurance companies and other domestic entities
4 subject to taxation under chapter 207 shall, in accordance with section
5 38a-48, annually pay to the Insurance Commissioner, for deposit in the
6 Insurance Fund established under section 38a-52a, an amount equal to
7 the actual expenditures made by the Insurance Department during
8 each fiscal year, and the actual expenditures made by the Office of the
9 Healthcare Advocate, including the cost of fringe benefits for
10 department and office personnel as estimated by the Comptroller, plus
11 (1) the expenditures made on behalf of the department and the office
12 from the Capital Equipment Purchase Fund pursuant to section 4a-9
13 for such year, and (2) the amount appropriated to the Department [of
14 Social Services] on Aging for the fall prevention program established

15 in section 17b-33 from the Insurance Fund for the fiscal year, but
16 excluding expenditures paid for by fraternal benefit societies, foreign
17 and alien insurance companies and other foreign and alien entities
18 under sections 38a-49 and 38a-50. Payments shall be made by
19 assessment of all such domestic insurance companies and other
20 domestic entities calculated and collected in accordance with the
21 provisions of section 38a-48. Any such domestic insurance company or
22 other domestic entity aggrieved because of any assessment levied
23 under this section may appeal therefrom in accordance with the
24 provisions of section 38a-52.

25 Sec. 2. Section 38a-48 of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective from passage*):

27 (a) On or before June thirtieth, annually, the Commissioner of
28 Revenue Services shall render to the Insurance Commissioner a
29 statement certifying the amount of taxes or charges imposed on each
30 domestic insurance company or other domestic entity under chapter
31 207 on business done in this state during the preceding calendar year.
32 The statement for local domestic insurance companies shall set forth
33 the amount of taxes and charges before any tax credits allowed as
34 provided in section 12-202.

35 (b) On or before July thirty-first, annually, the Insurance
36 Commissioner and the Office of the Healthcare Advocate shall render
37 to each domestic insurance company or other domestic entity liable for
38 payment under section 38a-47, (1) a statement which includes (A) the
39 amount appropriated to the Insurance Department and the Office of
40 the Healthcare Advocate for the fiscal year beginning July first of the
41 same year, (B) the cost of fringe benefits for department and office
42 personnel for such year, as estimated by the Comptroller, (C) the
43 estimated expenditures on behalf of the department and the office
44 from the Capital Equipment Purchase Fund pursuant to section 4a-9
45 for such year, and (D) the amount appropriated to the Department [of
46 Social Services] on Aging for the fall prevention program established
47 in section 17b-33 from the Insurance Fund for the fiscal year, (2) a

48 statement of the total taxes imposed on all domestic insurance
49 companies and domestic insurance entities under chapter 207 on
50 business done in this state during the preceding calendar year, and (3)
51 the proposed assessment against that company or entity, calculated in
52 accordance with the provisions of subsection (c) of this section,
53 provided that for the purposes of this calculation the amount
54 appropriated to the Insurance Department and the Office of the
55 Healthcare Advocate plus the cost of fringe benefits for department
56 and office personnel and the estimated expenditures on behalf of the
57 department and the office from the Capital Equipment Purchase Fund
58 pursuant to section 4a-9 shall be deemed to be the actual expenditures
59 of the department and the office, and the amount appropriated to the
60 Department [of Social Services] on Aging from the Insurance Fund for
61 the fiscal year for the fall prevention program established in section
62 17b-33 shall be deemed to be the actual expenditures for the program.

63 (c) (1) The proposed assessments for each domestic insurance
64 company or other domestic entity shall be calculated by (A) allocating
65 twenty per cent of the amount to be paid under section 38a-47 among
66 the domestic entities organized under sections 38a-199 to 38a-209,
67 inclusive, and 38a-214 to 38a-225, inclusive, in proportion to their
68 respective shares of the total taxes and charges imposed under chapter
69 207 on such entities on business done in this state during the preceding
70 calendar year, and (B) allocating eighty per cent of the amount to be
71 paid under section 38a-47 among all domestic insurance companies
72 and domestic entities other than those organized under sections 38a-
73 199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, in
74 proportion to their respective shares of the total taxes and charges
75 imposed under chapter 207 on such domestic insurance companies
76 and domestic entities on business done in this state during the
77 preceding calendar year, provided if there are no domestic entities
78 organized under sections 38a-199 to 38a-209, inclusive, and 38a-214 to
79 38a-225, inclusive, at the time of assessment, one hundred per cent of
80 the amount to be paid under section 38a-47 shall be allocated among
81 such domestic insurance companies and domestic entities.

82 (2) When the amount any such company or entity is assessed
83 pursuant to this section exceeds twenty-five per cent of the actual
84 expenditures of the Insurance Department and the Office of the
85 Healthcare Advocate, such excess amount shall not be paid by such
86 company or entity but rather shall be assessed against and paid by all
87 other such companies and entities in proportion to their respective
88 shares of the total taxes and charges imposed under chapter 207 on
89 business done in this state during the preceding calendar year, except
90 that for purposes of any assessment made to fund payments to the
91 Department of Public Health to purchase vaccines, such company or
92 entity shall be responsible for its share of the costs, notwithstanding
93 whether its assessment exceeds twenty-five per cent of the actual
94 expenditures of the Insurance Department and the Office of the
95 Healthcare Advocate. The provisions of this subdivision shall not be
96 applicable to any corporation which has converted to a domestic
97 mutual insurance company pursuant to section 38a-155 upon the
98 effective date of any public act which amends said section to modify or
99 remove any restriction on the business such a company may engage in,
100 for purposes of any assessment due from such company on and after
101 such effective date.

102 (d) For purposes of calculating the amount of payment under
103 section 38a-47, as well as the amount of the assessments under this
104 section, the "total taxes imposed on all domestic insurance companies
105 and other domestic entities under chapter 207" shall be based upon the
106 amounts shown as payable to the state for the calendar year on the
107 returns filed with the Commissioner of Revenue Services pursuant to
108 chapter 207; with respect to calculating the amount of payment and
109 assessment for local domestic insurance companies, the amount used
110 shall be the taxes and charges imposed before any tax credits allowed
111 as provided in section 12-202.

112 (e) On or before September thirtieth, annually, for each fiscal year
113 ending prior to July 1, 1990, the Insurance Commissioner and the
114 Healthcare Advocate, after receiving any objections to the proposed
115 assessments and making such adjustments as in their opinion may be

116 indicated, shall assess each such domestic insurance company or other
117 domestic entity an amount equal to its proposed assessment as so
118 adjusted. Each domestic insurance company or other domestic entity
119 shall pay to the Insurance Commissioner on or before October thirty-
120 first an amount equal to fifty per cent of its assessment adjusted to
121 reflect any credit or amount due from the preceding fiscal year as
122 determined by the commissioner under subsection (g) of this section.
123 Each domestic insurance company or other domestic entity shall pay
124 to the Insurance Commissioner on or before the following April
125 thirtieth, the remaining fifty per cent of its assessment.

126 (f) On or before September first, annually, for each fiscal year
127 ending after July 1, 1990, the Insurance Commissioner and the
128 Healthcare Advocate, after receiving any objections to the proposed
129 assessments and making such adjustments as in their opinion may be
130 indicated, shall assess each such domestic insurance company or other
131 domestic entity an amount equal to its proposed assessment as so
132 adjusted. Each domestic insurance company or other domestic entity
133 shall pay to the Insurance Commissioner (1) on or before June 30, 1990,
134 and on or before June thirtieth annually thereafter, an estimated
135 payment against its assessment for the following year equal to twenty-
136 five per cent of its assessment for the fiscal year ending such June
137 thirtieth, (2) on or before September thirtieth, annually, twenty-five per
138 cent of its assessment adjusted to reflect any credit or amount due
139 from the preceding fiscal year as determined by the commissioner
140 under subsection (g) of this section, and (3) on or before the following
141 December thirty-first and March thirty-first, annually, each domestic
142 insurance company or other domestic entity shall pay to the Insurance
143 Commissioner the remaining fifty per cent of its proposed assessment
144 to the department in two equal installments.

145 (g) If the actual expenditures for the fall prevention program
146 established in section 17b-33 are less than the amount allocated, the
147 Commissioner [of Social Services] on Aging shall notify the Insurance
148 Commissioner and the Healthcare Advocate. Immediately following
149 the close of the fiscal year, the Insurance Commissioner and the

150 Healthcare Advocate shall recalculate the proposed assessment for
151 each domestic insurance company or other domestic entity in
152 accordance with subsection (c) of this section using the actual
153 expenditures made by the Insurance Department and the Office of the
154 Healthcare Advocate during that fiscal year, the actual expenditures
155 made on behalf of the department and the office from the Capital
156 Equipment Purchase Fund pursuant to section 4a-9 and the actual
157 expenditures for the fall prevention program. On or before July thirty-
158 first, the Insurance Commissioner and the Healthcare Advocate shall
159 render to each such domestic insurance company and other domestic
160 entity a statement showing the difference between their respective
161 recalculated assessments and the amount they have previously paid.
162 On or before August thirty-first, the Insurance Commissioner and the
163 Healthcare Advocate, after receiving any objections to such statements,
164 shall make such adjustments which in their opinion may be indicated,
165 and shall render an adjusted assessment, if any, to the affected
166 companies.

167 (h) If any assessment is not paid when due, a penalty of twenty-five
168 dollars shall be added thereto, and interest at the rate of six per cent
169 per annum shall be paid thereafter on such assessment and penalty.

170 (i) The commissioner shall deposit all payments made under this
171 section with the State Treasurer. On and after June 6, 1991, the moneys
172 so deposited shall be credited to the Insurance Fund established under
173 section 38a-52a and shall be accounted for as expenses recovered from
174 insurance companies.

175 Sec. 3. Subdivision (1) of subsection (h) of section 17b-340 of the
176 2014 supplement to the general statutes is repealed and the following
177 is substituted in lieu thereof (*Effective from passage*):

178 (h) (1) For the fiscal year ending June 30, 1993, any residential care
179 home with an operating cost component of its rate in excess of one
180 hundred thirty per cent of the median of operating cost components of
181 rates in effect January 1, 1992, shall not receive an operating cost
182 component increase. For the fiscal year ending June 30, 1993, any

183 residential care home with an operating cost component of its rate that
184 is less than one hundred thirty per cent of the median of operating cost
185 components of rates in effect January 1, 1992, shall have an allowance
186 for real wage growth equal to sixty-five per cent of the increase
187 determined in accordance with subsection (q) of section 17-311-52 of
188 the regulations of Connecticut state agencies, provided such operating
189 cost component shall not exceed one hundred thirty per cent of the
190 median of operating cost components in effect January 1, 1992.
191 Beginning with the fiscal year ending June 30, 1993, for the purpose of
192 determining allowable fair rent, a residential care home with allowable
193 fair rent less than the twenty-fifth percentile of the state-wide
194 allowable fair rent shall be reimbursed as having allowable fair rent
195 equal to the twenty-fifth percentile of the state-wide allowable fair
196 rent. Beginning with the fiscal year ending June 30, 1997, a residential
197 care home with allowable fair rent less than three dollars and ten cents
198 per day shall be reimbursed as having allowable fair rent equal to
199 three dollars and ten cents per day. Property additions placed in
200 service during the cost year ending September 30, 1996, or any
201 succeeding cost year shall receive a fair rent allowance for such
202 additions as an addition to three dollars and ten cents per day if the
203 fair rent for the facility for property placed in service prior to
204 September 30, 1995, is less than or equal to three dollars and ten cents
205 per day. For the fiscal year ending June 30, 1996, and any succeeding
206 fiscal year, the allowance for real wage growth, as determined in
207 accordance with subsection (q) of section 17-311-52 of the regulations
208 of Connecticut state agencies, shall not be applied. For the fiscal year
209 ending June 30, 1996, and any succeeding fiscal year, the inflation
210 adjustment made in accordance with subsection (p) of section 17-311-
211 52 of the regulations of Connecticut state agencies shall not be applied
212 to real property costs. Beginning with the fiscal year ending June 30,
213 1997, minimum allowable patient days for rate computation purposes
214 for a residential care home with twenty-five beds or less shall be
215 eighty-five per cent of licensed capacity. Beginning with the fiscal year
216 ending June 30, 2002, for the purposes of determining the allowable
217 salary of an administrator of a residential care home with sixty beds or

218 less the department shall revise the allowable base salary to thirty-
219 seven thousand dollars to be annually inflated thereafter in accordance
220 with section 17-311-52 of the regulations of Connecticut state agencies.
221 The rates for the fiscal year ending June 30, 2002, shall be based upon
222 the increased allowable salary of an administrator, regardless of
223 whether such amount was expended in the 2000 cost report period
224 upon which the rates are based. Beginning with the fiscal year ending
225 June 30, 2000, and until the fiscal year ending June 30, 2009, inclusive,
226 the inflation adjustment for rates made in accordance with subsection
227 (p) of section 17-311-52 of the regulations of Connecticut state agencies
228 shall be increased by two per cent, and beginning with the fiscal year
229 ending June 30, 2002, the inflation adjustment for rates made in
230 accordance with subsection (c) of said section shall be increased by one
231 per cent. Beginning with the fiscal year ending June 30, 1999, for the
232 purpose of determining the allowable salary of a related party, the
233 department shall revise the maximum salary to twenty-seven
234 thousand eight hundred fifty-six dollars to be annually inflated
235 thereafter in accordance with section 17-311-52 of the regulations of
236 Connecticut state agencies and beginning with the fiscal year ending
237 June 30, 2001, such allowable salary shall be computed on an hourly
238 basis and the maximum number of hours allowed for a related party
239 other than the proprietor shall be increased from forty hours to forty-
240 eight hours per work week. For the fiscal year ending June 30, 2005,
241 each facility shall receive a rate that is two and one-quarter per cent
242 more than the rate the facility received in the prior fiscal year, except
243 any facility that would have been issued a lower rate effective July 1,
244 2004, than for the fiscal year ending June 30, 2004, due to interim rate
245 status or agreement with the department shall be issued such lower
246 rate effective July 1, 2004. Effective upon receipt of all the necessary
247 federal approvals to secure federal financial participation matching
248 funds associated with the rate increase provided in subdivision (4) of
249 subsection (f) of this section, but in no event earlier than October 1,
250 2005, and provided the user fee imposed under section 17b-320 is
251 required to be collected, each facility shall receive a rate that is
252 determined in accordance with applicable law and subject to

253 appropriations, except any facility that would have been issued a
254 lower rate effective October 1, 2005, than for the fiscal year ending June
255 30, 2005, due to interim rate status or agreement with the department,
256 shall be issued such lower rate effective October 1, 2005. Such rate
257 increase shall remain in effect unless: (A) The federal financial
258 participation matching funds associated with the rate increase are no
259 longer available; or (B) the user fee created pursuant to section 17b-320
260 is not in effect. For the fiscal year ending June 30, 2007, rates in effect
261 for the period ending June 30, 2006, shall remain in effect until
262 September 30, 2006, except any facility that would have been issued a
263 lower rate effective July 1, 2006, than for the fiscal year ending June 30,
264 2006, due to interim rate status or agreement with the department,
265 shall be issued such lower rate effective July 1, 2006. Effective October
266 1, 2006, no facility shall receive a rate that is more than four per cent
267 greater than the rate in effect for the facility on September 30, 2006,
268 except for any facility that would have been issued a lower rate
269 effective October 1, 2006, due to interim rate status or agreement with
270 the department, shall be issued such lower rate effective October 1,
271 2006. For the fiscal years ending June 30, 2010, and June 30, 2011, rates
272 in effect for the period ending June 30, 2009, shall remain in effect until
273 June 30, 2011, except any facility that would have been issued a lower
274 rate for the fiscal year ending June 30, 2010, or the fiscal year ending
275 June 30, 2011, due to interim rate status or agreement with the
276 department, shall be issued such lower rate, except (i) any facility that
277 would have been issued a lower rate for the fiscal year ending June 30,
278 2010, or the fiscal year ending June 30, 2011, due to interim rate status
279 or agreement with the Commissioner of Social Services shall be issued
280 such lower rate; and (ii) the commissioner may increase a facility's rate
281 for reasonable costs associated with such facility's compliance with the
282 provisions of section 19a-495a concerning the administration of
283 medication by unlicensed personnel. For the fiscal year ending June 30,
284 2012, rates in effect for the period ending June 30, 2011, shall remain in
285 effect until June 30, 2012, except that (I) any facility that would have
286 been issued a lower rate for the fiscal year ending June 30, 2012, due to
287 interim rate status or agreement with the Commissioner of Social

288 Services shall be issued such lower rate; and (II) the commissioner may
289 increase a facility's rate for reasonable costs associated with such
290 facility's compliance with the provisions of section 19a-495a
291 concerning the administration of medication by unlicensed personnel.
292 For the fiscal year ending June 30, 2013, the Commissioner of Social
293 Services may, within available appropriations, provide a rate increase
294 to a residential care home. Any facility that would have been issued a
295 lower rate for the fiscal year ending June 30, 2013, due to interim rate
296 status or agreement with the Commissioner of Social Services shall be
297 issued such lower rate. For the fiscal years ending June 30, 2012, and
298 June 30, 2013, the Commissioner of Social Services may provide fair
299 rent increases to any facility that has undergone a material change in
300 circumstances related to fair rent and has an approved certificate of
301 need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. For the
302 fiscal years ending June 30, 2014, and June 30, 2015, for those facilities
303 that have a calculated rate greater than the rate in effect for the fiscal
304 year ending June 30, 2013, the commissioner may increase facility rates
305 based upon available appropriations up to a stop gain as determined
306 by the commissioner. No facility shall be issued a rate that is lower
307 than the rate in effect on June 30, 2013, [Any] except that any facility
308 that would have been issued a lower rate for the fiscal year ending
309 June 30, 2014, or the fiscal year ending June 30, 2015, due to interim
310 rate status or agreement with the commissioner, shall be issued such
311 lower rate.

312 Sec. 4. Subdivision (4) of subsection (f) of section 17b-340 of the 2014
313 supplement to the general statutes is repealed and the following is
314 substituted in lieu thereof (*Effective from passage*):

315 (4) For the fiscal year ending June 30, 1992, (A) no facility shall
316 receive a rate that is less than the rate it received for the rate year
317 ending June 30, 1991; (B) no facility whose rate, if determined pursuant
318 to this subsection, would exceed one hundred twenty per cent of the
319 state-wide median rate, as determined pursuant to this subsection,
320 shall receive a rate which is five and one-half per cent more than the
321 rate it received for the rate year ending June 30, 1991; and (C) no

322 facility whose rate, if determined pursuant to this subsection, would be
323 less than one hundred twenty per cent of the state-wide median rate,
324 as determined pursuant to this subsection, shall receive a rate which is
325 six and one-half per cent more than the rate it received for the rate year
326 ending June 30, 1991. For the fiscal year ending June 30, 1993, no
327 facility shall receive a rate that is less than the rate it received for the
328 rate year ending June 30, 1992, or six per cent more than the rate it
329 received for the rate year ending June 30, 1992. For the fiscal year
330 ending June 30, 1994, no facility shall receive a rate that is less than the
331 rate it received for the rate year ending June 30, 1993, or six per cent
332 more than the rate it received for the rate year ending June 30, 1993.
333 For the fiscal year ending June 30, 1995, no facility shall receive a rate
334 that is more than five per cent less than the rate it received for the rate
335 year ending June 30, 1994, or six per cent more than the rate it received
336 for the rate year ending June 30, 1994. For the fiscal years ending June
337 30, 1996, and June 30, 1997, no facility shall receive a rate that is more
338 than three per cent more than the rate it received for the prior rate
339 year. For the fiscal year ending June 30, 1998, a facility shall receive a
340 rate increase that is not more than two per cent more than the rate that
341 the facility received in the prior year. For the fiscal year ending June
342 30, 1999, a facility shall receive a rate increase that is not more than
343 three per cent more than the rate that the facility received in the prior
344 year and that is not less than one per cent more than the rate that the
345 facility received in the prior year, exclusive of rate increases associated
346 with a wage, benefit and staffing enhancement rate adjustment added
347 for the period from April 1, 1999, to June 30, 1999, inclusive. For the
348 fiscal year ending June 30, 2000, each facility, except a facility with an
349 interim rate or replaced interim rate for the fiscal year ending June 30,
350 1999, and a facility having a certificate of need or other agreement
351 specifying rate adjustments for the fiscal year ending June 30, 2000,
352 shall receive a rate increase equal to one per cent applied to the rate the
353 facility received for the fiscal year ending June 30, 1999, exclusive of
354 the facility's wage, benefit and staffing enhancement rate adjustment.
355 For the fiscal year ending June 30, 2000, no facility with an interim rate,
356 replaced interim rate or scheduled rate adjustment specified in a

357 certificate of need or other agreement for the fiscal year ending June
358 30, 2000, shall receive a rate increase that is more than one per cent
359 more than the rate the facility received in the fiscal year ending June
360 30, 1999. For the fiscal year ending June 30, 2001, each facility, except a
361 facility with an interim rate or replaced interim rate for the fiscal year
362 ending June 30, 2000, and a facility having a certificate of need or other
363 agreement specifying rate adjustments for the fiscal year ending June
364 30, 2001, shall receive a rate increase equal to two per cent applied to
365 the rate the facility received for the fiscal year ending June 30, 2000,
366 subject to verification of wage enhancement adjustments pursuant to
367 subdivision (14) of this subsection. For the fiscal year ending June 30,
368 2001, no facility with an interim rate, replaced interim rate or
369 scheduled rate adjustment specified in a certificate of need or other
370 agreement for the fiscal year ending June 30, 2001, shall receive a rate
371 increase that is more than two per cent more than the rate the facility
372 received for the fiscal year ending June 30, 2000. For the fiscal year
373 ending June 30, 2002, each facility shall receive a rate that is two and
374 one-half per cent more than the rate the facility received in the prior
375 fiscal year. For the fiscal year ending June 30, 2003, each facility shall
376 receive a rate that is two per cent more than the rate the facility
377 received in the prior fiscal year, except that such increase shall be
378 effective January 1, 2003, and such facility rate in effect for the fiscal
379 year ending June 30, 2002, shall be paid for services provided until
380 December 31, 2002, except any facility that would have been issued a
381 lower rate effective July 1, 2002, than for the fiscal year ending June 30,
382 2002, due to interim rate status or agreement with the department shall
383 be issued such lower rate effective July 1, 2002, and have such rate
384 increased two per cent effective June 1, 2003. For the fiscal year ending
385 June 30, 2004, rates in effect for the period ending June 30, 2003, shall
386 remain in effect, except any facility that would have been issued a
387 lower rate effective July 1, 2003, than for the fiscal year ending June 30,
388 2003, due to interim rate status or agreement with the department shall
389 be issued such lower rate effective July 1, 2003. For the fiscal year
390 ending June 30, 2005, rates in effect for the period ending June 30, 2004,
391 shall remain in effect until December 31, 2004, except any facility that

392 would have been issued a lower rate effective July 1, 2004, than for the
393 fiscal year ending June 30, 2004, due to interim rate status or
394 agreement with the department shall be issued such lower rate
395 effective July 1, 2004. Effective January 1, 2005, each facility shall
396 receive a rate that is one per cent greater than the rate in effect
397 December 31, 2004. Effective upon receipt of all the necessary federal
398 approvals to secure federal financial participation matching funds
399 associated with the rate increase provided in this subdivision, but in
400 no event earlier than July 1, 2005, and provided the user fee imposed
401 under section 17b-320 is required to be collected, for the fiscal year
402 ending June 30, 2006, the department shall compute the rate for each
403 facility based upon its 2003 cost report filing or a subsequent cost year
404 filing for facilities having an interim rate for the period ending June 30,
405 2005, as provided under section 17-311-55 of the regulations of
406 Connecticut state agencies. For each facility not having an interim rate
407 for the period ending June 30, 2005, the rate for the period ending June
408 30, 2006, shall be determined beginning with the higher of the
409 computed rate based upon its 2003 cost report filing or the rate in
410 effect for the period ending June 30, 2005. Such rate shall then be
411 increased by eleven dollars and eighty cents per day except that in no
412 event shall the rate for the period ending June 30, 2006, be thirty-two
413 dollars more than the rate in effect for the period ending June 30, 2005,
414 and for any facility with a rate below one hundred ninety-five dollars
415 per day for the period ending June 30, 2005, such rate for the period
416 ending June 30, 2006, shall not be greater than two hundred seventeen
417 dollars and forty-three cents per day and for any facility with a rate
418 equal to or greater than one hundred ninety-five dollars per day for
419 the period ending June 30, 2005, such rate for the period ending June
420 30, 2006, shall not exceed the rate in effect for the period ending June
421 30, 2005, increased by eleven and one-half per cent. For each facility
422 with an interim rate for the period ending June 30, 2005, the interim
423 replacement rate for the period ending June 30, 2006, shall not exceed
424 the rate in effect for the period ending June 30, 2005, increased by
425 eleven dollars and eighty cents per day plus the per day cost of the
426 user fee payments made pursuant to section 17b-320 divided by

427 annual resident service days, except for any facility with an interim
428 rate below one hundred ninety-five dollars per day for the period
429 ending June 30, 2005, the interim replacement rate for the period
430 ending June 30, 2006, shall not be greater than two hundred seventeen
431 dollars and forty-three cents per day and for any facility with an
432 interim rate equal to or greater than one hundred ninety-five dollars
433 per day for the period ending June 30, 2005, the interim replacement
434 rate for the period ending June 30, 2006, shall not exceed the rate in
435 effect for the period ending June 30, 2005, increased by eleven and one-
436 half per cent. Such July 1, 2005, rate adjustments shall remain in effect
437 unless (i) the federal financial participation matching funds associated
438 with the rate increase are no longer available; or (ii) the user fee
439 created pursuant to section 17b-320 is not in effect. For the fiscal year
440 ending June 30, 2007, each facility shall receive a rate that is three per
441 cent greater than the rate in effect for the period ending June 30, 2006,
442 except any facility that would have been issued a lower rate effective
443 July 1, 2006, than for the rate period ending June 30, 2006, due to
444 interim rate status or agreement with the department, shall be issued
445 such lower rate effective July 1, 2006. For the fiscal year ending June
446 30, 2008, each facility shall receive a rate that is two and nine-tenths
447 per cent greater than the rate in effect for the period ending June 30,
448 2007, except any facility that would have been issued a lower rate
449 effective July 1, 2007, than for the rate period ending June 30, 2007, due
450 to interim rate status or agreement with the department, shall be
451 issued such lower rate effective July 1, 2007. For the fiscal year ending
452 June 30, 2009, rates in effect for the period ending June 30, 2008, shall
453 remain in effect until June 30, 2009, except any facility that would have
454 been issued a lower rate for the fiscal year ending June 30, 2009, due to
455 interim rate status or agreement with the department shall be issued
456 such lower rate. For the fiscal years ending June 30, 2010, and June 30,
457 2011, rates in effect for the period ending June 30, 2009, shall remain in
458 effect until June 30, 2011, except any facility that would have been
459 issued a lower rate for the fiscal year ending June 30, 2010, or the fiscal
460 year ending June 30, 2011, due to interim rate status or agreement with
461 the department, shall be issued such lower rate. For the fiscal years

462 ending June 30, 2012, and June 30, 2013, rates in effect for the period
463 ending June 30, 2011, shall remain in effect until June 30, 2013, except
464 any facility that would have been issued a lower rate for the fiscal year
465 ending June 30, 2012, or the fiscal year ending June 30, 2013, due to
466 interim rate status or agreement with the department, shall be issued
467 such lower rate. For the fiscal year ending June 30, 2014, the
468 department shall determine facility rates based upon 2011 cost report
469 filings subject to the provisions of this section and applicable
470 regulations except: (I) A ninety per cent minimum occupancy standard
471 shall be applied; (II) no facility shall receive a rate that is higher than
472 the rate in effect on June 30, 2013; and (III) no facility shall receive a
473 rate that is more than four per cent lower than the rate in effect on June
474 30, 2013, [; and (IV)] except that any facility that would have been
475 issued a lower rate effective July 1, 2013, than for the rate period
476 ending June 30, 2013, due to interim rate status or agreement with the
477 department, shall be issued such lower rate effective July 1, 2013. For
478 the fiscal year ending June 30, 2015, rates in effect for the period
479 ending June 30, 2014, shall remain in effect until June 30, 2015, except
480 any facility that would have been issued a lower rate effective July 1,
481 2014, than for the rate period ending June 30, 2014, due to interim rate
482 status or agreement with the department, shall be issued such lower
483 rate effective July 1, 2014. The Commissioner of Social Services shall
484 add fair rent increases to any other rate increases established pursuant
485 to this subdivision for a facility which has undergone a material
486 change in circumstances related to fair rent, except for the fiscal years
487 ending June 30, 2010, June 30, 2011, and June 30, 2012, such fair rent
488 increases shall only be provided to facilities with an approved
489 certificate of need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-
490 355. For the fiscal year ending June 30, 2013, the commissioner may,
491 within available appropriations, provide pro rata fair rent increases for
492 facilities which have undergone a material change in circumstances
493 related to fair rent additions placed in service in cost report years
494 ending September 30, 2008, to September 30, 2011, inclusive, and not
495 otherwise included in rates issued. For the fiscal years ending June 30,
496 2014, and June 30, 2015, the commissioner may, within available

497 appropriations, provide pro rata fair rent increases, which may include
498 moveable equipment at the discretion of the commissioner, for
499 facilities which have undergone a material change in circumstances
500 related to fair rent additions or moveable equipment placed in service
501 in cost report years ending September 30, 2012, and September 30,
502 2013, and not otherwise included in rates issued. The commissioner
503 shall add fair rent increases associated with an approved certificate of
504 need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. Interim
505 rates may take into account reasonable costs incurred by a facility,
506 including wages and benefits. Notwithstanding the provisions of this
507 section, the Commissioner of Social Services may, subject to available
508 appropriations, increase or decrease rates issued to licensed chronic
509 and convalescent nursing homes and licensed rest homes with nursing
510 supervision.

511 Sec. 5. Section 17b-408 of the general statutes is repealed and the
512 following is substituted in lieu thereof (*Effective October 1, 2014*):

513 Upon receipt of a report or complaint as provided in section
514 17b-407, the [commissioner] Commissioner of Social Services shall
515 determine immediately whether there are reasonable grounds for an
516 investigation. If it is determined that reasonable grounds do not exist
517 for an investigation, the complainant or the person making the report
518 shall be notified of this determination not later than five working days
519 after the receipt of such complaint or report. If such reasonable
520 grounds are found, the [commissioner] Commissioner of Social
521 Services shall investigate such report or complaint not later than ten
522 working days thereafter. The [commissioner] Commissioner of Social
523 Services shall complete an investigation and make a report of the
524 findings not later than fifteen working days after the receipt of the
525 complaint or report. If the investigation indicates that there is a
526 possible violation of section 19a-533, 19a-535 or 19a-537, the
527 [commissioner] Commissioner of Social Services shall refer the report
528 or complaint together with a report of any investigation the
529 commissioner has undertaken to the Department of Public Health for
530 action as appropriate. If the investigation indicates that there is a

531 possible violation of the provisions of the Public Health Code with
532 respect to licensing requirements, the [commissioner] Commissioner of
533 Social Services shall refer the report or complaint, together with a
534 report of the [commissioner's] investigation, to the Commissioner of
535 Public Health for appropriate action. If no violation of the Public
536 Health Code is indicated, the [commissioner] Commissioner of Social
537 Services shall take whatever action [the] said commissioner deems
538 necessary, and shall notify the complainant or the person making the
539 report, of the action taken not later than fifteen working days after
540 receipt of the complaint or report. If the investigation indicates that a
541 person has abused, neglected, exploited or abandoned a resident in a
542 long-term care facility, the [commissioner] Commissioner of Social
543 Services shall refer such information in writing to the Chief State's
544 Attorney or the Chief State's Attorney's designee who shall conduct
545 such further investigation, if any, as deemed necessary and shall
546 determine whether criminal proceedings should be initiated against
547 such person in accordance with applicable state law.

548 Sec. 6. Section 17b-239 of the 2014 supplement to the general statutes
549 is repealed and the following is substituted in lieu thereof (*Effective July*
550 *1, 2014*):

551 (a) (1) Until the time subdivision (2) of this subsection is effective,
552 the rate to be paid by the state to hospitals receiving appropriations
553 granted by the General Assembly and to freestanding chronic disease
554 hospitals providing services to persons aided or cared for by the state
555 for routine services furnished to state patients, shall be based upon
556 reasonable cost to such hospital, or the charge to the general public for
557 ward services or the lowest charge for semiprivate services if the
558 hospital has no ward facilities, imposed by such hospital, whichever is
559 lowest, except to the extent, if any, that the commissioner determines
560 that a greater amount is appropriate in the case of hospitals serving a
561 disproportionate share of indigent patients. Such rate shall be
562 promulgated annually by the Commissioner of Social Services.

563 (2) On or after July 1, 2013, Medicaid rates paid to acute care and

564 children's hospitals shall be based on diagnosis-related groups
565 established and periodically rebased by the Commissioner of Social
566 Services, provided the Department of Social Services completes a fiscal
567 analysis of the impact of such rate payment system on each hospital.
568 The Commissioner of Social Services shall, in accordance with the
569 provisions of section 11-4a, file a report on the results of the fiscal
570 analysis not later than six months after implementing the rate payment
571 system with the joint standing committees of the General Assembly
572 having cognizance of matters relating to human services and
573 appropriations and the budgets of state agencies. The Commissioner of
574 Social Services shall annually determine in-patient rates for each
575 hospital by multiplying diagnostic-related group relative weights by a
576 base rate. Within available appropriations, the commissioner may, in
577 his or her discretion, make additional payments to hospitals based on
578 criteria to be determined by the commissioner. Nothing contained in
579 this section shall authorize Medicaid payment by the state to any such
580 hospital in excess of the charges made by such hospital for comparable
581 services to the general public.

582 (b) Effective October 1, 1991, the rate to be paid by the state for the
583 cost of special services rendered by such hospitals shall be established
584 annually by the commissioner for each such hospital based on the
585 reasonable cost to each hospital of such services furnished to state
586 patients. Nothing contained in this subsection shall authorize a
587 payment by the state for such services to any such hospital in excess of
588 the charges made by such hospital for comparable services to the
589 general public.

590 (c) The term "reasonable cost" as used in this section means the cost
591 of care furnished such patients by an efficient and economically
592 operated facility, computed in accordance with accepted principles of
593 hospital cost reimbursement. The commissioner may adjust the rate of
594 payment established under the provisions of this section for the year
595 during which services are furnished to reflect fluctuations in hospital
596 costs. Such adjustment may be made prospectively to cover anticipated
597 fluctuations or may be made retroactive to any date subsequent to the

598 date of the initial rate determination for such year or in such other
599 manner as may be determined by the commissioner. In determining
600 "reasonable cost" the commissioner may give due consideration to
601 allowances for fully or partially unpaid bills, reasonable costs
602 mandated by collective bargaining agreements with certified collective
603 bargaining agents or other agreements between the employer and
604 employees, provided "employees" shall not include persons employed
605 as managers or chief administrators, requirements for working capital
606 and cost of development of new services, including additions to and
607 replacement of facilities and equipment. The commissioner shall not
608 give consideration to amounts paid by the facilities to employees as
609 salary, or to attorneys or consultants as fees, where the responsibility
610 of the employees, attorneys or consultants is to persuade or seek to
611 persuade the other employees of the facility to support or oppose
612 unionization. Nothing in this subsection shall prohibit the
613 commissioner from considering amounts paid for legal counsel related
614 to the negotiation of collective bargaining agreements, the settlement
615 of grievances or normal administration of labor relations.

616 (d) (1) Until such time as subdivision (2) of this subsection is
617 effective, the state shall also pay to such hospitals for each outpatient
618 clinic and emergency room visit a reasonable rate to be established
619 annually by the commissioner for each hospital, such rate to be
620 determined by the reasonable cost of such services.

621 (2) On or after July 1, 2013, hospitals shall be paid for outpatient and
622 emergency room episodes of care based on prospective rates
623 established by the commissioner in accordance with the Medicare
624 Ambulatory Payment Classification system in conjunction with a state
625 conversion factor, provided the Department of Social Services
626 completes a fiscal analysis of the impact of such rate payment system
627 on each hospital. The Commissioner of Social Services shall, in
628 accordance with the provisions of section 11-4a, file a report on the
629 results of the fiscal analysis not later than six months after
630 implementing the rate payment system with the joint standing
631 committees of the General Assembly having cognizance of matters

632 relating to human services and appropriations and the budgets of state
633 agencies. The Medicare Ambulatory Payment Classification system
634 shall be modified to provide payment for services not generally
635 covered by Medicare, including, but not limited to, pediatric, obstetric,
636 neonatal and perinatal services. Nothing contained in this subsection
637 shall authorize a payment by the state for such episodes of care to any
638 hospital in excess of the charges made by such hospital for comparable
639 services to the general public. Those outpatient hospital services that
640 do not have an established Ambulatory Payment Classification code
641 shall be paid on the basis of a ratio of cost to charges, or the fixed fee in
642 effect as of January 1, 2013. The Commissioner of Social Services shall
643 establish a fee schedule for outpatient hospital services to be effective
644 on and after January 1, 1995, and may annually modify such fee
645 schedule if such modification is needed to ensure that the conversion
646 to an administrative services organization is cost neutral to hospitals in
647 the aggregate and ensures patient access. Utilization may be a factor in
648 determining cost neutrality.

649 (e) The commissioner shall adopt regulations, in accordance with
650 the provisions of chapter 54, establishing criteria for defining
651 emergency and nonemergency visits to hospital emergency rooms. All
652 nonemergency visits to hospital emergency rooms shall be paid at the
653 hospital's outpatient clinic services rate. Nothing contained in this
654 subsection or the regulations adopted under this section shall
655 authorize a payment by the state for such services to any hospital in
656 excess of the charges made by such hospital for comparable services to
657 the general public. To the extent permitted by federal law, the
658 Commissioner of Social Services shall impose cost-sharing
659 requirements under the medical assistance program for nonemergency
660 use of hospital emergency room services.

661 [(f) On and after July 1, 1995, no payment shall be made by the state
662 to an acute care general hospital for the inpatient care of a patient who
663 no longer requires acute care and is eligible for Medicare unless the
664 hospital does not obtain reimbursement from Medicare for that stay.]

665 [(g)] (f) The commissioner shall establish rates to be paid to
 666 freestanding chronic disease hospitals.

667 [(h)] (g) The Commissioner of Social Services may implement
 668 policies and procedures as necessary to carry out the provisions of this
 669 section while in the process of adopting the policies and procedures as
 670 regulations, provided notice of intent to adopt the regulations is
 671 published in [the Connecticut Law Journal] accordance with section
 672 17b-10 not later than twenty days after the date of implementation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	38a-47
Sec. 2	<i>from passage</i>	38a-48
Sec. 3	<i>from passage</i>	17b-340(h)(1)
Sec. 4	<i>from passage</i>	17b-340(f)(4)
Sec. 5	<i>October 1, 2014</i>	17b-408
Sec. 6	<i>July 1, 2014</i>	17b-239

HS *Joint Favorable Subst.*

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

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill makes several technical and clarifying changes that have no fiscal impact.

Additionally, section 6 of the bill eliminates the requirement that the Department of Social Services (DSS) make payments to hospitals for administratively necessary days, when a patient no longer needs an acute level of care but has not yet been placed in the community. As these payments are recouped in the subsequent cost settlement process, there is no change in DSS's net payments to hospitals.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 324*****AN ACT CONCERNING DEPARTMENT OF SOCIAL SERVICES AND AGING PROGRAMS.*****SUMMARY:**

This bill repeals a provision that prohibits the Department of Social Services (DSS) from paying an acute care general hospital for a dually eligible (Medicare and Medicaid) patient's administratively necessary days (ANDs) unless Medicare does not reimburse the hospital for the days. ANDs are the days during which a patient remains in an acute care hospital, even though he or she no longer needs that level of care, while the hospital finds an appropriate placement.

The bill also allows DSS, in certain circumstances, to set lower rates than currently allowed by law for residential care homes (RCHs) and nursing homes.

Finally, the bill makes several minor and technical changes, including changes to conform (1) with the establishment of the Department on Aging and (2) a law regarding DSS' regulation adoption procedure to current practice.

EFFECTIVE DATE: Upon passage, except for a provision that makes technical changes, which is effective July 1, 2014, and the provision pertaining to acute care payments, which is effective on October 1, 2014.

FALL PREVENTION PROGRAM OVERSIGHT AND DEPARTMENT ON AGING

A 2013 law transferred oversight of DSS' Fall Prevention Program to the Department on Aging (PA 13-125). The bill makes conforming changes. By law, the program must promote and support fall

prevention research; oversee research and demonstration projects; and establish, in consultation with the DPH commissioner, a professional education program on fall prevention for healthcare providers.

The bill also makes technical changes to reflect the fact that the DSS commissioner still administers and conducts investigations for the Protective Services for the Elderly Program.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/11/2014)