

# **SUMMARY OF 2010 PUBLIC ACTS**

**Connecticut General Assembly**

OFFICE OF LEGISLATIVE RESEARCH  
LEGISLATIVE OFFICE BUILDING  
ROOM 5300  
HARTFORD, CT 06106

E-Mail: [olr@cga.ct.gov](mailto:olr@cga.ct.gov)  
Telephone: (860)240-8400  
Web Site: <http://www.cga.ct.gov/olr/>

# OFFICE OF LEGISLATIVE RESEARCH

Sandra Norman-Eady, Director  
Soncia Coleman, Project Manager  
Nicole Dube, Assistant Project Manager  
Tracey Jones-Otero, Project Coordinator

## **Research Staff**

Terrance Adams  
Duke Chen  
Robin Cohen  
Soncia Coleman  
Nicole Dube  
Paul Frisman  
John Kasprak  
Janet Kaminski Leduc  
Judith S. Lohman  
Kevin E. McCarthy  
John Moran  
Sandra Norman-Eady  
Ryan O'Neil  
James Orlando  
Rute Pinho  
Susan Price  
John G. Rappa  
Christopher Reinhart  
Veronica Rose  
Saul Spigel  
Kristin Sullivan

## **Library Staff**

Christine Graesser  
Jennifer Bernier  
Elizabeth Covey  
Carrie Rose

## **Support Staff**

Dawn Frechette  
Tangy Stroman

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## NOTICE TO USERS

This publication, *Summary of 2010 Public Acts*, summarizes all public acts passed by the 2010 Regular Session and the June and July 2010 Special Sessions of the Connecticut General Assembly. Special acts are not summarized.

### *Use of this Book*

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### *Organization of the Book*

The summaries are organized in chapters based on the committee that sponsored the bill. Bills sent directly to the floor without committee action (emergency certification) are placed in chapters according to subject matter. The acts from the June and July Special Sessions each appear in separate chapters according to the Special Session. Within each chapter, summaries are arranged in order by public act number.

## 2010 VETOED ACTS

1. PA 10-6, An Act Extending the Effective Date for Certain Interlocal Risk Management Pools (Insurance and Real Estate Committee)
2. PA 10-38, An Act Concerning Licensure of Master and Clinical Social Workers (Public Committee) (OVERRIDDEN)
3. PA 10-45, An Act Concerning the Preservation and Creation of Jobs in Connecticut (Finance, Revenue and Bonding Committee)
4. PA 10-49, An Act Concerning Independent Monitoring of the HUSKY Program (Human Services Committee)
5. PA 10-55, An Act Concerning the Development of the Creative Economy (Higher Education and Employment Advancement Committee)
6. PA 10-67, An Act Concerning the Selection of Tenant Commissioners (Housing Committee)
7. PA 10-97, An Act Reducing Electricity Costs and Promoting Renewable Energy (Energy and Technology Committee)
8. PA 10-106, An Act Concerning Long Island Sound, Coastal Permitting and Certain Group Fishing Licenses, and Permits for Solid Waste Facilities (Environment Committee) (OVERRIDDEN)
9. PA 10-125, An Act Mandating the Regionalization of Certain Public Safety Emergency Telecommunications Centers and a Study of Consolidation (Public Safety and Security Committee)
10. PA 10-128, An Act Concerning Additional Off-Track Betting Branch Facilities in New London, Manchester, and Windham (Public Safety and Security Committee) (OVERRIDDEN)
11. PA 10-129, An Act Establishing a Sentencing Commission (Judiciary Committee) (OVERRIDDEN)
12. PA 10-142, An Act Concerning Criminal Background Checks for Prospective State Employees (Labor and Public Employees Committee) (OVERRIDDEN)
13. PA 10-159, An Act Concerning the Master Transportation Plan, the Facilities Assessment Report, the Connecticut Pilot and Maritime Commissions, a Review of the State Traffic Commission and Changes to the State Traffic Commission and Changes to the Stamford Transportation Center, and Requiring New Crosswalks to Provide Time for the Safe Crossing of Pedestrians (Transportation Committee) (OVERRIDDEN)
14. PA 10-1, July Special Session, An Act Concerning Clean Elections (Emergency Certification) (OVERRIDDEN)

## TABLE ON PENALTIES

### *Crimes*

The law authorizes courts to impose fines, imprisonment, or both when sentencing a convicted criminal. They must specify the period of incarceration for anyone so sentenced. The prison terms below represent the range within which a judge must set the sentence. The judge also sets the exact amount of a fine, up to the limits listed below. Some crimes have a mandatory minimum sentence or a minimum sentence higher than the minimum term specified in the table. Repeated or persistent offenses may result in a higher maximum than specified here.

<i>Classification of Crime</i>	<i>Imprisonment</i>	<i>Fine</i>
Capital felony	execution or life	—
Class A felony (murder)	25 to 60 years	up to \$20,000
Class A felony	10 to 25 years	up to 20,000
Class B felony	1 to 20 years	up to 15,000
Class C felony	1 to 10 years	up to 10,000
Class D felony	1 to 5 years	up to 5,000
Class A misdemeanor	up to 1 year	up to 2,000
Class B misdemeanor	up to 6 months	up to 1,000
Class C misdemeanor	up to 3 months	up to 500

### *Violations*

CGS § 53a-43 authorizes the Superior Court to fix fines for violations up to a maximum of \$500 unless the amount of the fine is specified in the statute establishing the violation. CGS § 54-195 requires the court to impose a fine of up to \$100 on anyone convicted of violating any statute without a specified penalty.

A violation is not a crime. Most statutory violations are subject to Infractions Bureau procedures which allow the accused to pay the fine by mail without making a court appearance. As with an infraction, the bureau will enter a *nolo contendere* (no contest) plea on behalf of anyone who pays a fine in this way. The plea is inadmissible in any criminal or civil court proceeding against the accused.

### *Infractions*

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending upon the type of infraction. For example, certain motor vehicle infractions trigger a Transportation Fund surcharge of 50% of the fine. With the various additional charges the total amount due can be over \$300 but often is less than \$100.

An infraction is not a crime; and violators can pay the fine by mail without making a court appearance.

### *Larceny*

There are six different classifications of larceny, generally depending on the value of the property illegally obtained.

<i>Degree of Larceny</i>	<i>Amount of Property Involved</i>	<i>Classification</i>
First Degree	Over \$20,000	Class B felony
Second Degree	Over 10,000	Class C felony
Third Degree	Over 2,000	Class D felony
Fourth Degree	Over 1,000	Class A misdemeanor
Fifth Degree	Over 500	Class B misdemeanor
Sixth Degree	\$500 or less	Class C misdemeanor





**PA 10-17**—sHB 5278  
*Select Committee on Aging*  
*Government Administration and Elections Committee*

**AN ACT CONCERNING SENIOR CENTERS AND THE FREEDOM OF INFORMATION ACT**

**SUMMARY:** This act exempts from disclosure under the Freedom of Information Act the name, address, telephone number, and email address of anyone who is a member of, or enrolled in a program at, a senior center administered or sponsored by a public agency.  
EFFECTIVE DATE: October 1, 2010

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decision. The act exempts this kind of assistance from the prohibition against MRCs controlling or managing residents' financial affairs.

The act prohibits insurers and other entities that deliver, issue for delivery, renew, continue, or amend individual or group long-term care policies in Connecticut from refusing to accept or reimburse claims prepared or submitted by an MRC solely because of the MRC's assistance. And it requires them to give the MRC the information a resident directs them to provide and a copy of any claims decision.  
EFFECTIVE DATE: July 1, 2010

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**PA 10-126**—sHB 5109  
*Select Committee on Aging*  
*Human Services Committee*

**AN ACT CONCERNING NOTICE OF REDETERMINATION FROM THE DEPARTMENT OF SOCIAL SERVICES**

**SUMMARY:** This act requires the Department of Social Services (DSS), when it sends its annual eligibility redetermination form to a person participating in the Connecticut Home Care Program for Elders (CHCPE), to notify the access agency or area agency on aging (AAA) administering the program for that person.  
DSS contracts with three agencies in different areas of the state to provide coordination, assessment, and monitoring services for CHCPE: Connecticut Community Care, Inc., (the access agency), South Central AAA, and Southwestern AAA. Among other functions, they help people fill out the forms required for program participation.  
EFFECTIVE DATE: July 1, 2010

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**PA 10-127**—sHB 5113  
*Select Committee on Aging*  
*Insurance and Real Estate Committee*

**AN ACT CONCERNING BILLING FOR SERVICES COVERED BY LONG-TERM CARE INSURANCE BY MANAGED RESIDENTIAL COMMUNITIES**

**SUMMARY:** This act requires a managed residential community (MRC) to help a resident, at his or her request, prepare and submit claims on a long-term care insurance policy. The resident must direct the insurer in writing to provide to the MRC (1) information about the resident's eligibility for insurance benefits and payments and (2) a copy of the insurer's decision on a benefit claim when it informs the resident of its



**PA 10-1—HB 5015**  
*Emergency Certification*

**AN ACT CONCERNING STATE  
 CONTINUATION OF GROUP HEALTH  
 INSURANCE COVERAGE, APPOINTMENTS TO  
 LEGISLATIVE COMMISSIONS, PROPERTY  
 TAX EXEMPTIONS AND THE EFFECTIVE  
 DATES OF BONDS FOR ROAD RESURFACING**

**SUMMARY:** This act makes changes concerning continuation of health insurance coverage and moves up the effective dates of appointments to certain legislative commissions. It also (1) allows specified property taxpayers to take advantage of property tax exemptions for manufacturing machinery and equipment and manufacturing and service facilities located in targeted investment communities despite missing statutory filing deadlines and (2) moves up the effective date of a state bond authorization for road resurfacing.

EFFECTIVE DATE: Upon passage

**§ 1 – CONTINUATION OF HEALTH INSURANCE  
 COVERAGE**

The act specifies that the federal American Recovery and Reinvestment Act of 2009 (ARRA) (P. L. 111-5), as amended, governs premium assistance and notice requirements related to continuation of health insurance coverage for “assistance-eligible individuals” (i.e., certain laid-off workers). Thus, insurers, HMOs, and administrators of group health insurance policies subject to the state continuation law (“mini-COBRA”), including employers with fewer than 20 employees, must comply with ARRA’s subsidy and notice requirements for coverage available through the Consolidated Omnibus Budget Reconciliation Act (COBRA). The act specifies that it does not affect a person’s right to continue coverage as required by state law.

The act replaces related provisions included in PA 09-3 that have expired and is in response to federal action to extend the eligibility period and the duration of the COBRA subsidy available under ARRA. ARRA provides a 65% subsidy to assistance-eligible individuals to help them continue their previous employer-sponsored coverage through COBRA. Congress extended this subsidy through several subsequent acts.

Under the original ARRA law, only workers laid-off from September 1, 2008 to December 31, 2009 qualified for the subsidy. Under the extensions, people who are laid off from September 1, 2008 to May 31, 2010 can qualify. Additionally, a person’s subsidy can

last for up to 15, instead of up to nine, months. The extension requires group health plan administrators to send specified notices to affected individuals.

Under the act, if a person who is eligible for the ARRA subsidy elects to continue coverage under state law, then the insurer, when determining whether the person had maintained continuous coverage for purposes of applying state law regarding preexisting conditions, must disregard the period of time from when the person first became eligible for continued coverage and the date (on February 17, 2009 or later) when the person’s continued coverage began when determining if coverage was continuous (see BACKGROUND).

**§§ 2-7 – APPOINTMENTS TO LEGISLATIVE  
 COMMISSIONS**

The act makes the term of anyone who is appointed to the African-American Affairs Commission, Asian Pacific American Affairs Commission, Permanent Commission on the Status of Women, or Commission on Children between January 1, 2010 and June 30, 2010 effective upon appointment instead of July 1, 2010. It makes these terms expire on June 30, 2012 rather than two years after appointment. It makes the term of anyone appointed to the Commission on Aging between January 1, 2010 and August 14, 2010 effective upon appointment instead of on August 15, 2010 and makes these terms expire on August 14, 2012 rather than two years after appointment.

The act maintains the existing two-year terms for anyone appointed to any of the first four commissions on or after July 1, 2010 or to the Commission on Aging on or after August 15, 2010.

By law, appointees to the Latino and Puerto Rican Affairs Commission serve for two years beginning February 1 in their appointment year.

The act makes technical changes.

**§§ 8-18 – PROPERTY TAX EXEMPTION  
 DEADLINE WAIVERS**

The act allows certain taxpayers to receive the following property tax exemptions for particular grand list years even though they missed the statutory filing deadlines for the exemption:

1. machinery and equipment used for manufacturing, biotechnology, or recycling (CGS § 12-81 (72)) and
2. manufacturing and service facilities located in targeted investment communities or enterprise zones (CGS § 12-81 (59)).

By law, property owners must apply to local assessors for these exemptions by November 1 annually. The act waives the deadline for property owners in certain towns and for one or more of the above property

categories and the grand lists shown in Table 1, if the property owners apply within 30 days of the act’s passage and pay the statutory late fee.

In each case, the local assessor must (1) verify eligibility for and approve the exemption, (2) refund any taxes paid on the property, and (3) submit the request for a tax loss reimbursement to the Office of Policy and Management secretary. Subject to the secretary’s review and approval, the act requires the state to reimburse the town for the tax loss under the applicable statute.

**Table 1: Exemption Application Deadline Waivers**

§	Town	Grand List	Type of Property
8	New Britain	2006	Machinery and equipment
9	Newtown	2007	Machinery and equipment
10	Watertown	2007	Machinery and equipment
11	Suffield	2007	Machinery and equipment
12	Windsor	2007	Machinery and equipment
13	West Hartford	2008	Machinery and equipment
14	Hartford	2007	Machinery and equipment
15	New Haven	2007	Manufacturing or service facility
16	Torrington	2008	Manufacturing or service facility
17	Stonington	2008	Machinery and equipment
18	Bridgeport	2007	Manufacturing or service facility

§ 19 – CAPITAL ROAD RESURFACING PROJECTS

PA 09-2, September Special Session, authorized up to \$68.9 million in special tax obligation bonds for use by the Department of Transportation’s Bureau of Engineering and Highway Operations for capital projects involving resurfacing and related road reconstruction during the 2010 construction season. This act makes the authorization effective on passage instead of May 1, 2010, thus making the funds available sooner.

**BACKGROUND**

*COBRA and Mini-COBRA*

COBRA gives certain former employees, retirees, spouses, and dependent children the right to temporarily continue health coverage under the employer's group health plan after their coverage would otherwise end, so long as the insured pays the required premiums. It applies to employers with 20 or more employees. Connecticut has a “mini-COBRA” law that applies to employers regardless of size, including those with fewer than 20 employees (CGS §§ 38a-538, 546, and 554).

COBRA establishes the minimum time period for which coverage must continue for a qualified person. A plan may, however, provide longer periods of coverage. COBRA requires coverage for 18 months when a person would otherwise lose coverage because his or her employment ends or work hours are reduced. Other qualifying events, or a second qualifying event during

the initial period of coverage, may extend coverage up to 36 months. Longer periods may be available for a disabled person.

In the absence of the temporary federal subsidy, a person may be required to pay the full premium and administrative costs for the coverage, up to 102% of the full premium at the group rate.

*Required Coverage for Preexisting Conditions*

If a person's prior plan covered his or her preexisting condition, the succeeding plan must also cover the condition, provided (1) the prior coverage was continuous to a date not less than 120 days, or if the previous coverage was terminated due to an involuntary loss of employment, 150 days, before the new plan's effective date and (2) the person applies for the new coverage within 30 days of his initial eligibility (CGS § 38a-476(c)).

**PA 10-3—HB 5545**

*Emergency Certification*

**AN ACT CONCERNING DEFICIT MITIGATION FOR THE FISCAL YEAR ENDING JUNE 30, 2010**

**SUMMARY:** This act makes various statutory and budgetary changes to reduce projected General Fund deficits in FY 10 and FY 11 by:

1. reducing General Fund appropriations for state programs and purposes for FY 10 and FY 11 and appropriating additional funds for FY 11 from the General and Banking funds,
2. transferring money from various special funds and accounts to the General Fund for FY 10 and FY 11, and
3. reducing and adjusting benefits available under certain state medical assistance and other social service programs.

Among the changes the act makes in medical assistance programs are:

1. eliminating coverage for over-the-counter (OTC) drugs,
2. changing how “medically necessary” services are defined,
3. extending federally reimbursable Medicaid coverage to those enrolled in the State Administered General Assistance (SAGA) medical assistance program,
4. freezing premium assistance for the Charter Oak Health Plan, and
5. limiting medical billing and coverage for eyeglasses.

The act also (1) increases fines for various motor vehicle offenses; (2) decreases fees for resident and nonresident hunting, fishing, and other sportsman’s licenses; and (3) caps camping and state park fees. It establishes a nonlapsing General Fund maintenance, repair, and improvement account for state parks.

Finally, the act adjusts transfers between the (1) Budget Reserve (“rainy day”) Fund and the General Fund and (2) General Fund and Special Transportation Fund (STF).

EFFECTIVE DATE: Upon passage unless otherwise noted below.

§§ 1-3 — APPROPRIATIONS FOR FY 10 AND FY 11

The act reduces General Fund appropriations by \$77,597,665 for FY 10 and \$120,724,389 for FY 11.

For FY 11, it appropriates a total of \$450,000 from the General Fund to the Department of Social Services (DSS) for the following purposes: \$150,000 for Other Expenses and \$300,000 for Individualized Family Supports. Also for FY 11, it appropriates \$3,349,982 from the Banking Fund to the Judicial Department for the Foreclosure Mediation Program.

§§ 4, 6, 16, 17, 31, & 73 — TRANSFERS TO THE GENERAL FUND

The act transfers money from various special funds, accounts, and unspent appropriations to General Fund revenue for FY 10 and FY 11 as shown in Table 1. Provisions later amended by PA 10-179 are listed in the footnotes for Table 1.

**Table 1: Transfers to General Fund Revenue for FY 10 and FY 11**

\$	From	FY 10	FY 11
4 (a)	Tobacco and Health Trust Fund	\$5,000,000	0
4 (b)	Biomedical Research Fund	3,500,000	0
4 (c)	Citizens’ Election Fund	0	10,000,000 <sup>1</sup>
4 (d)	Public, Educational, and Governmental Programming and Education Technology Investment Account	2,300,000	0
4 (e)	Emissions Enterprise Fund	1,000,000	0
4 (f)	Conservation Fund, Environmental Quality Fund, & Clean Air Act Account	Any balances remaining after completing transfers required in the budget act and this act (see § 20)	0
4 (g)	Community Investment Account	5,000,000 (see below)	0

\$	From	FY 10	FY 11
4 (h)	Federal Emergency Management Administration (FEMA) Account administered by the Office of Policy and Management (OPM)	Balance remaining	0
4 (i)	Correction Commissaries Account	1,200,000	0
4 (j)	Commercial Recording Account	Unspent balance	0
6	Banking Fund	15,000,000	11,600,000
16 (1)	UConn operating fund	8,000,000 <sup>2</sup>	15,000,000 <sup>3</sup>
16 (2)	CT State University operating fund	1,000,000	2,000,000 <sup>4</sup>
17	Budget Reserve (“Rainy Day”) Fund	1,278,474,880 <sup>5</sup>	103,225,120 <sup>6</sup>
31	Small Business Incubator Account	850,000	0
73 (a)	Appropriation to the Department of Economic and Community Development (DECD) for Home CT	380,000	0
73 (b)	Appropriation to OPM for administering and funding the Housing Incentive Zone program	397,602	0

Notes:

<sup>1</sup>This transfer must occur on or after January 1, 2011. (PA 10-179 (§ 13 (a)) increases this transfer by an additional \$5 million.)

<sup>2</sup> Increased from \$3 million.

<sup>3</sup> Increased from \$5 million.

<sup>4</sup> PA 10-179 (§ 43) increases this amount to \$10 million.

<sup>5</sup> Increased from \$1,039,700,000.

<sup>6</sup> Reduced from \$342 million.

The Community Investment Account is funded by a \$40 fee for each document recorded in municipal land records. Municipalities retain \$4 of the fee and send the balance to the state for deposit in the account. Money from the account is distributed quarterly to the Commission on Culture and Tourism, Connecticut Housing Finance Authority, and departments of Environmental Protection (DEP) and Agriculture. They must use the funds for purposes specified in the law.

For the quarter ending June 30, 2010, the act requires \$5 million from the account to go to the General Fund before the remainder is distributed. (PA 10-179 (§ 13 (d)) transfers another \$5 million from the account to the General Fund for FY 11.)

§ 5 — OPERATION FUEL ENERGY ASSISTANCE PROGRAM

The act reduces, by \$1 million, an appropriation to OPM for an emergency energy assistance program for Connecticut households with incomes over 150% and not more than 200% of the federal poverty level (FPL) that cannot make timely payments on deliverable fuel, electricity, or natural gas bills. Under the program, Operation Fuel, Inc., a nonprofit organization, pays the assistance directly to the fuel vendor, electric or gas company, or municipal electric or gas utility.

### § 7 — RETIRED TEACHERS' HEALTH SERVICES

The act reduces an appropriation to the Teachers' Retirement Board for retired teachers' health services costs by \$179,228, from \$188,661 to \$9,433. The funds were appropriated to cover a deficiency for FY 09 and were carried over for expenditure for the same purpose in FY 10.

### § 8 — HUSKY B COST SHARING

The act requires the same co-payments under HUSKY B as those in effect for active state employees enrolled in a point of enrollment (POE) health care plan. Previously, in practice, HUSKY B enrollees paid \$5 co-payments for certain services, \$25 for nonemergency emergency room visits, and none for others (e.g., preventive care, hospital stays, and dental services).

Most co-payments under the state employees POE plan are \$10. Well-child visits and immunizations require no co-payments.

The act limits the combined co-payments and premiums to no more than the family's annual aggregate cost-sharing requirement in law, which is 5% of a family's gross income in both state and federal law.

Previously, families in HUSKY B, Band 2 (incomes between 236% and 300% of (FPL) paid a maximum of \$1,360 per year, regardless of where they were on the income continuum. This included \$760 for co-payments and \$600 for premiums. Families with incomes between 185% and 235% of the FPL paid only co-payments, with a maximum of \$760 annually.

### § 9 — ELIMINATION OF PAYMENT OF ATTORNEYS' FEES FOR SUPPLEMENTAL SECURITY INCOME (SSI) APPEALS

By law, SAGA cash assistance recipients and individuals receiving both the State Supplement to SSI and Social Security Disability Income (SSDI) can appeal a decision denying or proposing to deny SSI benefits. The DSS commissioner must advise SAGA recipients of their right to appeal and the availability of local legal counsel to help with the appeal. Previously, DSS reimbursed the attorneys' fees for both the SAGA recipients and Social Security benefit recipients, on a contingency basis, within limits DSS approved and the amount the Social Security Administration approved.

The act eliminates DSS' payment of attorneys' fees for legal representation that begins after the act's passage. It requires DSS to also notify Social Security beneficiaries of their right to appeal and the availability of legal counsel.

The payment of attorneys' fees for successful appeals can reduce the state's expenditures in the SAGA program since SSI replaces SAGA and is fully federally funded. SAGA is entirely state-funded.

### § 10 — CAPITATION PAYMENT DEADLINES

DSS pays the three MCOs serving HUSKY and Charter Oak recipients a per-member, per-month amount called a "capitation," which is supposed to cover all costs associated with providing medical care to program enrollees.

Under prior law, DSS had to pay, by July 30, 2011, all capitation claims under the HUSKY program that would otherwise be reimbursed to the managed care organizations (MCOs) in June 2011. The act instead provides that (1) payments due to the MCOs in May 2010 be paid by June 30, 2010 and (2) any subsequent payment the commissioner makes is due in the second month following the month to which the capitation applies.

### § 11 — CHARTER OAK HEALTH PLAN; FREEZE IN PREMIUM ASSISTANCE

For FY 10 and FY 11, the act limits premium assistance in the Charter Oak Health Plan to individuals enrolled in the program on April 30, 2010.

### § 12 — ELIMINATION OF COVERAGE FOR OTC DRUGS

The act overrides contrary state statutes to require DSS, beginning May 1, 2010, to stop paying for OTC drugs in any of its medical assistance programs, except for insulin, insulin syringes, and anything else federal law requires. Because federal Medicaid law requires states to pay for OTC drugs for children under age 21, HUSKY A children can still get these drugs.

Previously, DSS paid for selected OTC drugs in the Medicaid, HUSKY, SAGA, and Charter Oak Health Plan programs, but paid only for insulin and insulin syringes for ConnPACE recipients. The drugs had to be prescribed for a specific illness or condition by a licensed, authorized practitioner. (PA 10-1, June Special Session (§ 50) also requires DSS to pay for nutritional supplements for individuals who must be tube fed or cannot safely ingest nutrition in any other form.)

EFFECTIVE DATE: May 1, 2010

### § 13 — DSS AUTHORIZED TO IMPLEMENT PROGRAMS BEFORE ADOPTING REGULATIONS

The act permits DSS to implement policies and procedures necessary to administer various functions while in the process of adopting them in regulation. The DSS commissioner must print notice of intent to adopt the regulations in the *Connecticut Law Journal* within 20 days of implementing the provisions. The policies and procedures are valid until final regulations are adopted.

The act authorizes DSS to do this for the following functions:

1. contracting with federally qualified health centers to provide medical care for SAGA beneficiaries (it already has the authority the act provides);
2. advising SAGA beneficiaries that they can appeal SSI denials or a termination of SSI benefits (it already has the authority the act provides);
3. paying, by July 31, 1997, capitation claims that would otherwise have been reimbursed to managed care companies;
4. HUSKY B cost-sharing requirements (DSS has general authority to do this to implement HUSKY B, but not specific to cost-sharing);
5. premium assistance for Charter Oak Plan participants; and
6. eliminating most OTC drug coverage under the DSS pharmacy program.

#### § 14 — PURCHASING CONTRACTS

The act authorizes the Department of Administrative Services commissioner, on the state's behalf, to purchase equipment, supplies, materials, and services by joining existing purchasing contracts in other states, Connecticut political subdivisions, nonprofit organizations, or public consortia. The state is subject to the same contract terms and conditions as the other entities.

By law, the commissioner can already join with other government entities and nonprofit organizations to make cooperative purchases in the best interest of the state. But the commissioner lacks express authority to join an existing purchasing contract.

#### § 15 — GENERAL FUND TRANSFERS TO THE STF

The act reduces the required revenue transfers from the General Fund to the STF. It reduces the FY 10 transfer by \$10 million, from \$81.2 million to \$71.2 million, and the FY 11 and FY 12 transfers by \$1.95 million, from \$126 million to \$124.05 million. (PA 10-179 (§ 44) reduces the transfer for FY 11 by an additional \$16.5 million to \$107.55 million.)

#### § 18 — STATE POLICE MEAL ALLOWANCE

The act eliminates a statutory requirement that the state pay a meal allowance for state police personnel. It does not affect state meal allowances payable to personnel covered by a collective bargaining agreement requiring the allowance.

EFFECTIVE DATE: July 1, 2010

#### §§ 19 & 20 — ENVIRONMENTAL PROTECTION MAINTENANCE, REPAIR, AND IMPROVEMENT ACCOUNT

The act establishes a separate, nonlapsing General Fund maintenance, repair, and improvement account, with separate subaccounts for each state park. The DEP commissioner must use the funds in each subaccount to repair, improve, and maintain property at the state park for which the subaccount was established. The commissioner can also use the money to build new structures. The act transfers \$1 million from the Conservation Fund to the new account for FY 10.

Unless the commissioner makes a written agreement, signs an instrument, or issues a license stating otherwise, the act requires her to deposit into the park's subaccount any money she collects from park users to rent state property for a special, limited-duration event, such as a wedding or reception. It also allows the subaccounts to receive other private and public funds, including federal and municipal funds. The act does not prevent the commissioner from obtaining and using money from sources outside the maintenance, repair, and improvement account to maintain and improve state park property and buildings. But funds from the account must be used only to supplement and not to replace state appropriations for general park operations.

Starting by October 1, 2010, the act requires the commissioner to report twice each year to the Office of Fiscal Analysis and post on the DEP website information that includes the (1) amount received, itemized by subaccount; (2) amount spent from the account for each state park; and (3) projects funded.

#### § 21 — DEPARTMENT OF MOTOR VEHICLES (DMV) REORGANIZATION PLAN

The act requires the DMV commissioner to submit to the Transportation and Appropriations committees, by October 1, 2010, a report on DMV reorganization. The report must include recommendations to:

1. expand technological options for streamlining and decentralizing the delivery of DMV services,
2. increase public access to routine services,
3. merge DMV's administrative services with other state agencies,
4. maintain license security measures federal law requires, and
5. reduce DMV costs by other measures the commissioner proposes.

§§ 22 & 27 — MEDICAL NECESSITY FOR STATE  
MEDICAL ASSISTANCE

*New Definition*

The act statutorily establishes a definition of “medically necessary” and “medical necessity” in DSS’ medical assistance programs. The definition is:

Those health services required to prevent, identify, diagnose, treat, rehabilitate, or ameliorate an individual’s medical condition, including mental illness, or its effects, in order to attain or maintain the individual’s achievable health and independent functioning, provided such services are (1) consistent with generally accepted standards of medical practice that are defined as standards that are based on (a) credible scientific peer-reviewed medical literature that is generally recognized by the relevant medical community, (b) recommendations of a physician-specialty society, (c) the view of physicians practicing in relevant clinical areas, and (d) any other relevant factors; (2) clinically appropriate in terms of type, frequency, timing, site, extent, and duration and considered effective for the individual’s illness, injury, or disease; (3) not primarily for the convenience of the individual, the individual’s health care provider, or other health care providers; (4) not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the individual’s illness, injury, or disease; and (5) based on an assessment of the individual and his or her medical condition.

DSS previously used two medical necessity and medically necessary definitions in its medical assistance programs, neither of which was in statute. The SAGA medical assistance program regulations use the following definition:

Health services required to prevent, identify, diagnose, treat, rehabilitate, or ameliorate a health problem or its effects, or to maintain health and functioning, provided such services are:

1. consistent with generally accepted standards of medical practice;
2. clinically appropriate in terms of type, frequency, timing, site, and duration;

3. demonstrated through scientific evidence to be safe and effective and the least costly among similarly effective alternatives, where adequate scientific evidence exists; and
4. efficient in regard to the avoidance of waste and refraining from provision of services that, on the basis of the best available scientific evidence, are not likely to produce benefit.

DSS used the following definition of medical necessity (also “medically necessary”) in the Medicaid fee-for-service, HUSKY, and Charter Oak Health Plan:

Health care provided to correct or diminish the adverse effects of a medical condition or mental illness; to assist an individual in attaining or maintaining an optimal level of health; to diagnose a condition or prevent a medical condition or prevent a medical condition from occurring.

*Use of Clinical Guidelines*

Under the act, clinical and medical policies, clinical criteria, or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service may be used solely as a guideline and cannot be the basis for a final medical necessity determination.

*When Service is Denied Based on Medical Necessity*

The act provides that if a request for authorization of services is denied based on medical necessity, the individual must be notified that, upon request, DSS will provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition that DSS or any other entity acting for it considered when making a medical necessity determination.

*Repealing Existing Regulations and Implementing Change While in Process of Adopting New Regulations*

The act requires DSS to amend or repeal any regulatory definition of medical necessity, including the definitions of “medical appropriateness” and “medically appropriate,” used in administering the “medical assistance program” (presumably Medicaid, which is sometimes referred to as medical assistance in statute).

The act requires the commissioner to implement policies and procedures to carry out the definition change while in the process of adopting them in regulation. He must publish notice of intent to adopt the regulations in the *Connecticut Law Journal* within 20 days of implementation. These policies and procedures are valid until the final regulations are adopted.



The act eliminates language rendered obsolete by the above provisions.

#### *Medical Inefficiency Committee*

The act increases, from three to four, the number of members the governor must appoint to the Medical Inefficiency Committee. It also specifies that the House speaker and Senate president pro tempore must act jointly to select the committee chairpersons from among its members. By law, the committee must (1) advise DSS on the implementation of the amended definition of “medically necessary” and “medical necessity” and (2) provide feedback to DSS and the legislature on its impact.

#### § 23 — SAGA POPULATION COVERED BY MEDICAID

The act requires the DSS commissioner to submit a Medicaid state plan amendment to the federal Medicaid agency to extend Medicaid coverage to individuals enrolled in the state-funded SAGA medical assistance program. If the amendment is approved, the commissioner must implement the coverage expansion. (The commissioner submitted the plan amendment on April 6, 2010 and the federal agency approved it on June 21, 2010.)

The federal Patient Protection and Affordable Health Care Act requires states, by 2014, to extend Medicaid coverage to childless adults with incomes up to 133% of the FPL, which, for 2010, is \$14,403 per year for a single person. States may begin this coverage as early as April 1, 2010. The SAGA medical assistance program covers individuals with incomes up to about 70% of the FPL.

The act permits DSS to implement policies and procedures to administer these changes while in the process of adopting them in regulations and repeals language related to DSS obtaining a federal waiver to cover the SAGA population under Medicaid.

#### § 24 — LIMITS ON DSS PROVIDER BILLING

The act limits what a provider enrolled in any medical assistance program DSS administers can bill the department for goods and services. The limit is the lowest amount the provider routinely accepts from any individual, class, group, or entity for a similar good or service. (PA 10-179 (§ 17) limits this to pharmacy providers.)

#### § 25 — TUBERCULOSIS COVERAGE

The act requires the DSS commissioner to amend the state Medicaid plan to provide coverage for tuberculosis (TB) treatment to anyone eligible, to the

extent federal law permits. DPH’s state-funded program (1) provides anti-TB medications to clinicians; (2) reimburses clinicians for TB diagnostic treatment and prevention services for the uninsured, regardless of their income or assets; and (3) consults on TB case management and screening with local health departments, prisons, convalescent and nursing homes, schools, universities, and hospitals.

#### § 26 — CARRY FORWARD FOR COMMON LICENSING/PERMIT SERVICE

The act carries forward to FY 11 the unspent balance, minus \$37,857, of an appropriation to OPM for licensing and permit fees and transfers it to the Department of Information Technology to implement a common licensing/permit issuance service for state agencies during FY 11.

#### § 28 — EYEGLASS COVERAGE IN DSS MEDICAL ASSISTANCE PROGRAM

The act prohibits DSS, to the extent federal law allows, from paying for more than one pair of eyeglasses per year under any of its medical assistance programs. Medicaid regulations state that DSS will pay for glasses when prescribed by a medical provider (e.g., physician or optometrist), so clients who lose or break glasses can get another pair if they have a prescription. The act also requires DSS to use its best efforts to reduce optical device and service costs in these programs. (PA 10-179 (§ 49) applies this prohibition to the Medicaid program only and it requires instead that DSS administer the payment for eyeglasses and contact lenses as cost-effectively as possible.)

#### § 29 — NURSING PROGRAMS AT VOCATIONAL-TECHNICAL SCHOOLS

By January 1, 2011, the act requires the education commissioner and the vocational-technical school system superintendent to establish and administer licensed practical nurse programs at six vocational-technical schools. The school locations must be distributed on an equitable geographic basis throughout the state. The requirement applies unless the education commissioner notifies the Education Committee, by November 1, 2010, that he will not establish the programs and explains why.

If the appropriation for the programs does not cover the program costs, the act allows increased program tuition to cover the shortfall.

§ 30 — CARRY FORWARD FOR THE  
CONNECTICUT CENTER FOR ADVANCED  
TECHNOLOGY (CCAT)

The act carries over to FY 11 the unspent balance of an FY 10 appropriation to the DECD for CCAT-CT Manufacturing Supply Chain and requires the funds to be spent for the same purpose.

EFFECTIVE DATE: July 1, 2010

§ 32 — RIVERVIEW HOSPITAL PLAN

The act requires the Department of Children and Families, by April 15, 2011 and in consultation with the child advocate, to submit a plan to the Appropriations, Children's, and Human Services committees on the future of Riverview Hospital for Children and Youth.

§ 33 — VETERINARY MEDICINE GRANTS

The act requires the Department of Higher Education (DHE) to establish the Kirklyn M. Kerr program to provide grants for the study of veterinary medicine. To be eligible for a grant, a student must be (1) a Connecticut resident, (2) enrolled in an accredited veterinary graduate school, and (3) plan to practice veterinary medicine in Connecticut. The act authorizes DHE to award up to five four-year grants per student class.

The per-student grants have a maximum annual value of \$20,000 with an aggregate maximum of \$80,000 over four years. Recipients must repay the grants, including interest, if they do not practice veterinary medicine in Connecticut for at least five years. They must begin practicing in Connecticut within six months of graduation, but DHE may allow a recipient to begin at a later date it designates if the recipient intends to pursue additional training or education outside of Connecticut.

The percentage of the grant that must be repaid is determined by the number of years the student practices veterinary medicine in Connecticut:

1. 100% for less than one year,
2. 90% for one to less than two years,
3. 75% for two to less than three years,
4. 55% for three to less than four years, and
5. 35% for four to less than five years.

Students repaying a grant must (1) repay at least \$50 per month and (2) complete repayment within five years. If repayment presents a hardship for the recipient, the DHE commissioner may (1) extend the repayment period to a maximum of seven years or (2) grant a deferment. A deferment period is not included in the repayment period, and interest does not accrue during a deferment. The commissioner may also forgive the debt if (1) the recipient dies, (2) the recipient becomes disabled, or (3) the debt is deemed uncollectible in

accordance with generally accepted accounting principles.

PA 10-179 (§ 16) amended this act to require students to make a written commitment to practice veterinary medicine in Connecticut for at least five years. It removes the repayment criteria and instead (1) requires recipients to repay at least 20% of their award for every year in the five-year period that they do not practice in Connecticut and (2) the DHE commissioner to determine the manner of repayment. PA 10-179 also removes provisions concerning (1) the maximum length of repayment, (2) minimum monthly payment amount, (3) the commissioner's ability to grant deferments or forgive repayments, and (4) recipients' ability to delay repayment if they pursue additional veterinary training outside Connecticut.

§§ 34-49 & 64-72 & 74 — DEP FEES AND RELATED  
PROVISIONS

The act decreases several sportsman's fees and caps camping and state park fees. It also creates and allows for donations of at least \$2 to the Connecticut Migratory Bird Conservation account.

The act requires that revenue accruing from any permit, tag, or stamp fees, excluding the migratory bird conservation stamp fees paid by trappers and anglers, fund the programs and functions of the Bureau of Natural Resources within the DEP according to federal regulations. It also requires DEP to submit an annual report to the federal Fish and Wildlife Service detailing the funds raised, expenses, and spending purposes of sportsman's fees and stamps.

The act requires the DEP commissioner to establish (1) procedures and business processes for using the Internet and other means for communication to conduct transactions for licenses, permits, stamps, and tags and (2) a schedule of the parts of fees agents may retain.

The act also increases, from \$77 to \$87, the fee for any violation of the sportsman's statutes for which no other fee is specified.

*Connecticut Migratory Bird Conservation Stamp and  
Donation*

The act decreases, from \$15 to \$13, the fee for purchasing a Connecticut Migratory Bird Conservation Stamp, which a person must have to hunt waterfowl (CGS § 26-27b). It also eliminates the (1) requirement that the stamp have the hunter's signature written in ink across the stamp's face, (2) July 1 issuance date, and (3) town clerks' ability to retain a \$0.50 fee for stamp issuance, instead allowing the DEP commissioner to set the issuance fee. It requires the Citizens' Advisory Board for the Connecticut Migratory Bird Conservation Stamp to advise the commissioner on the expenditure of

funds generated from the sale of stamps and art products.

The act also creates and allows for additional donations of at least \$2 to be deposited into the Voluntary Migratory Bird Conservation Donation subaccount within the Connecticut Migratory Bird Conservation account. The account is a separate, nonlapsing account maintained by the state treasurer within the General Fund. Funds in the account must be used only for (1) developing, managing, preserving, conserving, acquiring, purchasing, and maintaining waterfowl habitat and wetlands or acquiring related recreational rights or interests or (2) designing, producing, promoting, procuring, and selling prints and related artwork.

*Decreased Sportsman's Fees and Supersport Licenses*

*Resident Sportsman's Licenses.* The act creates two new resident firearms supersport licenses: (1) an \$84 annual license that allows (a) fishing in all waters, (b) hunting deer on private land with a firearm, shotgun, or rifle, (c) hunting wild turkey in the spring on private land, and (d) hunting deer with a muzzleloader on private land and (2) a \$60 annual license that includes (a) fishing in all waters, (b) firearms hunting, (c) a migratory bird conservation stamp, and (d) a migratory bird harvest permit.

The act also decreases the resident sportsman's fees as shown in Table 2 (CGS § 26-28).

Table 2: Resident Sportsman's License Fees

<i>License</i>	<i>Prior Law</i>	<i>The Act</i>
Firearms hunting	\$28	\$19
Fishing	40	28
One-day marine fishing	15	5
All-waters fishing	50	32
Combination (inland waters fishing and firearms hunting)	56	38
Combination (marine water fishing and firearms hunting)	50	25
Combination (all-waters fishing and firearms hunting)	60	38
Combination (all-waters fishing and bow and arrow hunting)	84	65
Firearms supersport (all waters fishing, firearms hunting, and wild turkey in spring on private land)	116	80
Resident archery supersport (all waters fishing, bow and arrow hunting, and wild turkey on private land in spring)	104	82
Trapping	50	34

<i>License</i>	<i>Prior Law</i>	<i>The Act</i>
Junior trapping	15	11
Junior firearms hunting	15	11
Firearms permit	28	19
Bow and arrow hunting	60	41
Bow and arrow hunting (age 12-16)	26	19

*Nonresident Sportsman's Licenses.* The act decreases 11 nonresident sportsman's license fees as shown in Table 3 (CGS §§ 26-28 and 26-86a-c).

Table 3: Nonresident Sportsman's License Fees

<i>License</i>	<i>Prior Law</i>	<i>The Act</i>
Firearms hunting	\$ 134	\$ 91
Inland waters fishing	80	55
Inland waters fishing, 3-day	32	22
Marine fishing	60	15
Marine fishing, 3-day	24	8
All-waters fishing	100	63
Combination (firearms hunting and inlands fishing)	176	110
Combination (firearms hunting and all-waters fishing)	190	120
Combination (firearms hunting and marine fishing)	170	94
Firearms permit	100	68
Bow and arrow hunting	200	135

*Other Sportsman's Licenses.* The act decreases 17 other sportsman's license fees, as shown in Table 4.

Table 4: Other Sportsman's License Fees

<i>CGS §</i>	<i>License</i>	<i>Prior Law</i>	<i>The Act</i>
26-37	Duplicate license	\$15	\$11
26-39	Organized hound pack hunting	70	48
26-40	Wild game or wild game bird breeding	42	27
26-42	Fur buying (resident or non-resident)	84	55
26-42	Fur buying (authorized agent of licensed resident)	56	35
26-45	Bait dealer	100	63
26-48	Private shooting preserve	100	63
26-48a	Turkey stamp	28	19
26-48a	Migratory game bird	15	13

<i>CGS §</i>	<i>License</i>	<i>Prior Law</i>	<i>The Act</i>
26-48a	Salmon stamp	56	28
26-48a	Wild turkey permit	28	19
26-49b	Hunting dog training area	28	18
26-51	Field dog trial	15	9
26-52	Field dog trial (state land)	56	35
26-52	Field dog trial (private land)	28	18
26-58	Taxidermy	168	105
26-60	Scientific or educational collection of crustaceans	40	25

### *Camping and State Park Fees*

The act caps the fees for leasing state campsites and buildings and parking, admission, boat launching, and other uses of recreational facilities to no greater than (1) 135% of the fees charged on April 1, 2009 for residents and (2) 150% of the fees charged on April 1, 2009 for nonresidents. The DEP commissioner must set these fees by May 1, 2010.

### *Restoration*

By law, Connecticut has assented to two federal acts that provide federal funding for fish and wildlife restoration projects on the condition that no state funds from fishing and hunting license fees are diverted for any other purpose than the (1) protection, propagation, preservation, and investigation of fish and game and (2) administration of the functions of the related department. This act expands the diversion prohibition to include (1) revenue from trapping license and permit fees; (2) real or personal property acquired with fees from hunting, fishing, or trapping licenses, permits, tags, and stamps; and (3) interest, dividends, or other income earned from these fees. The act requires the fees to be used to fund the programs and functions of DEP's Bureau of Natural Resources in accordance with federal regulations.

The act requires the DEP to submit, by October 1, an annual report to the Wildlife and Sport Fish Restoration Program chief, within the Fish and Wildlife Service of the federal Department of the Interior. The report must include, for the year ending June 30, the (1) total license, permit, stamp, and tag fees paid by hunters, trappers, and anglers, excluding the Connecticut Migratory Bird Stamp, and any interest, dividends, and sale or lease payments from assets purchased with license, permit, stamp, and tag revenue; (2) amounts expended on fish and wildlife programs; and (3) purposes for which the funds were spent. The report must also include the total expenditures for:

1. protection, propagation, preservation, and investigation of fish and game;
2. operation, administration, and maintenance of fish and wildlife facilities;
3. operation and administration of wildlife management areas, fish and wildlife access areas, and angler and hunter education and outreach programs;
4. restoration and enhancement of fish and wildlife habitats; and
5. administration of fish and wildlife technical assistance programs.

EFFECTIVE DATE: Upon passage, except for the camping and state park provisions, which apply to fees collected after May 1, 2010.

### §§ 50-63 — INCREASES IN MOTOR VEHICLE FINES

The act (1) increases fines for various motor vehicle violations (see Table 5); (2) raises the minimum fine for any motor vehicle infraction, except parking tag violations, from \$35 to \$50; (3) institutes a \$100 fee for people with suspended licenses who apply for special work or education permits; and (4) makes a conforming change. By law, people who commit certain motor vehicles violations must pay surcharges in addition to the fine.

**Table 5: Motor Vehicle Fine Increases**

<i>The Act §</i>	<i>CGS §</i>	<i>Description</i>	<i>Prior Law</i>	<i>The Act</i>
50, 52	14-100a (c) and 51-164m (c)	Failure to wear seat belt	\$15	\$50
51	14-37a (a), 2010 CGS Supp.	Application fee for special work or education permits	0	100
52	51-164m (a), (c)	Minimum fine for speeding infractions	35	50
52	51-164m (e)	Fine for motor vehicle infractions for which no other fine is specified	35	50
52 & 53	51-164n(g) and 51-164m (c)	Minimum fine for any motor vehicle infractions, except for parking tag violations	35	50
54	14-13 (b)	Failure to carry registration or insurance card in vehicle	35, first offense; up to 50, subsequent offenses	50
55	14-17 (b)	Altering appearance of motor vehicle without changing registration	35	50
56	14-26 (c)	Failure to carry registration certificate of bus, taxi, school bus, or motor vehicle in livery on vehicle	35, first offense; 35 to 50, subsequent offenses	50
57	14-36a (e)	Operating a motor vehicle in violation of a person's driver's license classification, first offense	35 to 50	50
58	14- 40a (e)	Operating a motorcycle in violation of the motorcycle endorsement, first offense	35 to 50	50
59	14-81 (b), 2010 CGS Supp.	Trailer braking system violations	35 to 50	50
60	14-145 (c)	Improper storage fee charge on vehicles removed from private property, first offense	35 to 50	50
61	14-164c (n)	Emissions systems inspection violations, first offense	35	50
62	14-223 (a)	Failure to stop motor vehicle when signaled or disregarding signals of a uniformed officer	35, first offense; 35 to 50, subsequent offenses	50
63	14-285	Failure to equip non-motor vehicles with mirrors or reflectors when operated on highway	35 to 50	50

## § 75 – REPEALED PROVISION

*“Medically Necessary” Definition under Medicaid*

The act eliminates a requirement that DSS, by July 1, 2010, amend the definition of “medically necessary” services in its Medicaid regulations to reflect savings in the biennial budget that are to be achieved by reducing program administration inefficiencies while maintaining the quality of care provided to Medicaid beneficiaries.

It also eliminates a committee, established by PA 09-3, June Special Session (§ 81) to (1) advise DSS on the amended definition and its implementation; (2) provide comment to DSS and the legislature on its impact; and (3) report annually to the governor and the Public Health, Human Services, and Appropriations committees on its findings and recommendations for three years beginning by January 1, 2010. A separate committee with the same membership and functions remains in law (see §§ 22 and 27 above).

## BACKGROUND

*Federal Law Governing SSI Appeal Attorney Fees*

Federal law permits attorneys representing individuals appealing SSI denials to recoup their fees when the appeal is successful. The federal government must approve the fee amount, which is deducted from the client’s retroactive SSI award.

*Related Acts*

*Hunting and Fishing License Fees.* PA 10-99 requires the DEP commissioner to reserve a credit for anyone who purchased certain licenses, stamps, permits, or tags between October 1, 2009 and April 14, 2010. The credit is the difference between the amount paid for the license, permit, or tag purchased between October 1, 2009 and April 14, 2010 and the amount charged on or after October 1, 2010. It will be applied against the fee for any license, permit, or tag purchased on or after October 1, 2010.

*Seat Belts.* PA 10-110 requires drivers and front seat passengers to wear seat belts in any motor vehicle when it is being operated, rather than just those drivers and front seat passengers in vehicles with a gross vehicle weight rating of 10,000 pounds or less.

*Medical Assistance Programs.* PA 10-179 (1) requires the governor to appoint a third chairperson to the Medical Inefficiency Committee, (2) limits what pharmacy providers, instead of all medical assistance program providers, may bill DSS and (3) applies the DSS eyeglass coverage limits to the Medicaid program

only. PA 10-1, June Special Session, exempts certain nutritional supplements from the general bar on DSS reimbursement for OTC drugs.

**PA 10-22—sHB 5401***Appropriations Committee***AN ACT MAKING CLARIFYING CHANGES TO THE TEACHERS' RETIREMENT SYSTEM STATUTES**

**SUMMARY:** This act makes minor changes in the law governing the Teachers’ Retirement System (TRS). It specifies:

1. that a member who completes the 10 years of credited service needed for deferred vested retirement eligibility after turning age 60 may begin receiving benefits immediately instead of no sooner than age 65 and
2. how an employing board of education and a TRS member, as appropriate, must pay for additional TRS service credit purchased in connection with a retirement incentive plan.

EFFECTIVE DATE: Upon passage

## DEFERRED VESTED RETIREMENT

A former Connecticut public school teacher who has at least 10 years of Connecticut public school service credit is eligible for deferred vested retirement benefits from the TRS starting at age 60. The act eliminates a requirement that a member who completes the required 10 years of credited service after turning age 60 wait until age 65 to start receiving TRS benefits. It thus removes a discrepancy between deferred vested and proratable retirement, which allows a member who accumulates 10 years of credited service after age 60 to start receiving benefits immediately.

## PAYMENTS FOR ADDITIONAL SERVICE UNDER RETIREMENT INCENTIVE PLANS

The law allows local and regional school boards to establish retirement incentive plans for their teachers who are TRS members, under which boards pay a minimum of 50% of the cost of purchasing up to five years of additional TRS service credit for participating teachers. Under prior law, a board and a participating teacher could pay for the additional service in a lump sum or in equal annual installments over a period no longer than three times the number of years of additional service purchased. The act specifies that (1) a participating teacher sharing the cost of the additional service credit must pay his or her share in a lump sum within 30 days after the Teachers’ Retirement Board

notifies him or her of the amount owed and (2) only a school board may use the installment method to pay its share.

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**PA 10-57—HB 5402**

*Appropriations Committee*

**AN ACT CONCERNING EXPENSES FOR HEALTH BENEFIT PLANS UNDER THE TEACHERS' RETIREMENT FUND**

**SUMMARY:** This act allows the Teachers' Retirement Board (TRB) to pay professional consultant fees for administering TRB retiree health plans, up to \$150,000 per year, from the Retired Teachers' Health Insurance Premium Fund instead of the General Fund (see BACKGROUND).

It also requires TRB, when it determines that a member irrevocably retired based on a retirement benefit estimate issued on or after November 1, 2008 that contains a material error, to pay the member the benefits specified in the estimate. Under the act, a "material error" means that the estimate was off by 10% or more.

Finally, the act makes technical changes.

**EFFECTIVE DATE:** Upon passage for the provision concerning consultant fees and October 1, 2010 for the one relating to benefit estimates.

**ERROR IN BENEFIT ESTIMATE**

TRB must pay benefits specified in an erroneous benefit estimate if it determines that:

1. the error is material, that is, the difference between the estimated benefits and those to which the member would otherwise be entitled is 10% or more;
2. the member received the estimate on or after November 1, 2008;
3. the member could not reasonably be expected to detect the error; and
4. relying on the estimate, the member (a) irrevocably resigned from his or her job and (b) submitted a formal retirement application to TRB.

**BACKGROUND**

*Retired Teachers' Health Insurance Premium Fund*

The Retired Teachers' Health Insurance Premium Fund subsidizes state and local health insurance coverage for retired teachers. Money in the fund comes from contributions by the state (although the state has suspended its contributions for FY 10 and FY 11),

retired and active teachers, and the federal Medicare Part D (prescription drug benefit) subsidy.

*TRB Health Care Consultant*

The TRB's health care consultant provides services such as calculating premiums, preparing cost analyses for health plan changes, writing requests for proposals for health care vendor services, maintaining the health fund model used for forecasting financial needs for benefits, and training TRB staff.

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**PA 10-136—SB 354**

*Appropriations Committee*

*Public Health Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING BIOMEDICAL RESEARCH TRUST FUND RESEARCH GRANTS**

**SUMMARY:** This act expands the purposes for which the Department of Public Health (DPH) may make grants from the Biomedical Research Trust Fund to include Alzheimer's disease and diabetes research. DPH may already award grants from the fund for biomedical research in the fields of heart disease, cancer, and other tobacco-related diseases. By law, it may award the grants to: (1) nonprofit, tax-exempt colleges or universities or (2) hospitals that conduct biomedical research. The total amount of grants made during a fiscal year cannot exceed 50% of the total amount held in the fund on the date the grants are approved.

**EFFECTIVE DATE:** July 1, 2010

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**PA 10-143—HB 5392**

*Appropriations Committee*

**AN ACT CONCERNING NONAPPROPRIATED FUNDS AND PERSONNEL STATUS REPORTS BY QUASI-PUBLIC AGENCIES**

**SUMMARY:** This act expands reporting requirements for quasi-public agencies and establishes a new one. By law, the board of directors of each quasi-public agency must file a quarterly report with the Office of Fiscal Analysis (OFA) on the money it received or held during the preceding quarter. Beginning July 1, 2010, the act requires these reports to include (1) the beginning fiscal year balance, (2) all funds spent and revenue collected by the quarter's end, and (3) an estimate of total expenditures and revenues by the fiscal year's end. Under prior law, these reports had to include only an

accounting of money received or held during the quarter, including expenditures and revenues. The law does not specify when the reports are due.

Beginning July 1, 2010, the act requires quasi-public agencies to also submit to OFA quarterly personnel status reports. The status reports must include (1) total number of employees, (2) positions vacated and filled by the quarter's end, and (3) an estimate of positions that will be vacant and filled by the fiscal year's end.

The quasi-public agencies are the Connecticut Development Authority, Connecticut Innovations, Inc., Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority (CHFA), Connecticut Housing Authority, Connecticut Resources Recovery Authority, Capital City Economic Development Authority, and Connecticut Lottery Corporation. (The Connecticut Housing Authority has been succeeded by the State Housing Authority, a subsidiary of CHFA.)

The quarterly reports are in addition to the annual reports each quasi-public agency must submit to the governor, the Auditors of Public Accounts, and the Program Review and Investigations Committee. The annual reports must include information about each agency's bond issues, projects, financial assistance over \$5,000 to individuals, balance sheets, affirmative action policies and efforts, and planned activities for the year.

EFFECTIVE DATE: July 1, 2010

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**PA 10-155**—sHB 5163

*Appropriations Committee*

**AN ACT REQUIRING THE ESTABLISHMENT OF A SEARCHABLE DATABASE FOR STATE EXPENDITURES**

**SUMMARY:** By July 1, 2011, this act requires the Office of Fiscal Analysis (OFA) to establish and maintain searchable databases of state expenditures, including state grants and contracts. The databases must be posted on OFA's Internet website. To enable OFA to establish and maintain the databases, the act requires budgeted agencies to submit, in a timely manner, information that OFA requests. It states explicitly that its provisions do not require state agencies to (1) create unavailable financial or management data or a nonexistent information technology system or (2) disclose consumer, client, patient, or student information that is protected from disclosure under other laws.

Starting by November 1, 2010, OFA must report quarterly to the Appropriations Committee on the databases, including any recommendations for improving or expanding their operation or capacity. The Auditors of Public Accounts must review the procedures and security used to develop the databases and report any findings or recommendations to the Appropriations Committee.

EFFECTIVE DATE: Upon passage

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**PA 10-172**—HB 5391

*Appropriations Committee*

**AN ACT CONCERNING QUASI-PUBLIC AGENCY COMPLIANCE AUDITS**

**SUMMARY:** This act requires the auditors of public accounts to conduct quasi-public agency compliance audits biennially, rather than annually, covering the two preceding fiscal years, rather than the most recent fiscal year only.

By law, the audit must determine whether the quasi-public agency has complied with its regulations concerning (1) affirmative action; (2) personnel practices; (3) goods and services purchases; (4) surplus funds use; and (5) the distribution of loans, grants, and other financial assistance. The auditors submit their report to the governor and the Legislative Program Review and Investigations Committee, which assesses the report's compliance with this law.

EFFECTIVE DATE: July 1, 2010

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**PA 10-173**—HB 5393

*Appropriations Committee*

**AN ACT CONCERNING THE ESTABLISHMENT OF AN ACCOUNT TO FUND THE TWENTY-SEVENTH STATE PAYROLL PERIOD**

**SUMMARY:** This act establishes a separate nonlapsing account within the General Fund, called the "GAAP salary reserve account." The account must be used to set aside funds to help pay the 27<sup>th</sup> payroll that occurs every 11 years because of the state's biweekly pay schedule. Beginning in FY 13, the act annually appropriates to the account one-tenth of the projected amount needed to fund the next 27<sup>th</sup> payroll. In the fiscal year following fund disbursement for an extra payroll, the comptroller must report to the General Assembly on the projected amount needed to fund the following one.

EFFECTIVE DATE: Upon passage



**PA 10-179—SB 494***Emergency Certification***AN ACT MAKING ADJUSTMENTS TO STATE EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE 30, 2011**

**SUMMARY:** This act modifies FY 11 appropriations and revenue estimates adopted in the 2009 biennial budget act and subsequent acts to mitigate projected deficits in FY 10 and FY 11.

It authorizes the state to issue revenue bonds, to be repaid in eight years, backed by two charges on electric company bills to provide \$956 million to the General Fund. It also requires electric companies to collect an additional per-kilowatt-hour assessment on each customer between January 1, 2011 and June 30, 2011 to raise \$40 million for the General Fund.

The act:

1. transfers money between line item appropriations for FY 10 within the General and Special Transportation funds (§§ 1-12),
2. carries forward FY 10 appropriations to FY 11 instead of allowing them to lapse (§§ 14, 19, 33, & 51-55),
3. transfers money from special funds and accounts to the General Fund as FY 11 revenue and directs the Office of Policy and Management (OPM) secretary to identify a further \$5 million in nonappropriated General Fund accounts available for transfer to unrestricted General Fund revenue for FY 11 (§ 39),
4. reduces the required FY 11 transfer from the General Fund to the Special Transportation Fund by \$16.5 million (§ 44),
5. transfers up to \$140 million of the unappropriated FY 10 General Fund surplus to FY 11 as revenue (§ 45), and
6. transfers an additional \$8 million to the General Fund from the Connecticut State University (CSU) Operating Reserve Fund (§ 43).

The act makes many changes in human services programs, including:

1. converting the Department of Social Services' (DSS) medical assistance programs from a managed care organization (MCO) to an administrative service organization (ASO) model (§§ 20, 22, 46, 47, 61-70, & 72-78);
2. increasing monthly premiums for HUSKY B health coverage (§ 22);
3. reducing certain copayments for the Connecticut Home Care Program for Elders (CHCPE) (§ 21);

4. increasing the fee DSS pays to pharmacies for dispensing medicines to beneficiaries of its medical assistance programs (§ 23);
5. postponing establishment of a separate Department on Aging for one year (§ 24);
6. establishing a program to help homeless youths and youths at-risk of becoming homeless (§§ 28-30);
7. excluding payments received under the federal health reform law from being counted in determining eligibility for need-based state or state-funded local programs (§ 36); and
8. eliminating the HUSKY Plus Program, which provides supplemental health coverage for low-income children with intensive health needs (§§ 61, 63, & 160). (HUSKY Plus was subsequently reinstated by PA 10-1, June Special Session.)

The act also:

1. restricts the governor's unilateral authority to reduce appropriations for legislative and judicial branch agencies and requires her to include the Judicial Branch's expenditure estimates in her recommended budgets without change (§§ 31-32),
2. provides supplemental special education grants to most school districts for FY 10 and FY 11 (§ 27),
3. establishes a program to guarantee low-interest loans for energy conservation projects (§§ 135-137),
4. blocks any FY 11 funding for the State Contracting Standards Board (§ 148),
5. revamps the certificate of need (CON) process for health care facilities (§§ 83-124 & 161),
6. eliminates the correctional ombudsman (§ 158), and
7. expands an annual report from the Judicial Selection Commission to include demographic and other data on judicial candidates the commission screens (§ 149).

Finally, the act makes substantive and technical changes in 2010 acts, including the FY 10 deficit mitigation act (PA 10-3), the bond act (PA 10-44), and the UConn Health Network initiatives act (PA 10-104).

EFFECTIVE DATE: Various, see below.

**§§ 1-8 — FY 11 APPROPRIATIONS**

The act modifies FY 11 appropriations for state agency operations and programs in eight of the state's 10 appropriated funds as shown in Table 1.

Table 1: Adjustments to FY 11 Appropriations, by Fund

§	Fund	FY 11 Net Appropriation		
		Prior Law	The Act	Increase/ (Reduction)
1	General Fund	\$17,474,398,375	\$17,668,900,229	\$194,501,854
2	Special Transportation Fund	1,180,566,084	1,176,883,854	(3,682,230)
3	Soldiers', Sailors' and Marines' Fund	2,997,543	2,993,404	(4,139)
4	Regional Market Operation Fund	957,073	950,974	(6,099)
5	Banking Fund	23,923,068	24,019,683	96,615
6	Insurance Fund	26,617,652	26,295,406	(322,246)
7	Consumer Counsel and Public Utility Control Fund	23,957,386	24,499,419	542,033
8	Workers' Compensation Fund	23,072,391	22,227,678	(844,713)

EFFECTIVE DATE: July 1, 2010

§§ 9-12 — FY 10 TRANSFERS WITHIN THE GENERAL AND SPECIAL TRANSPORTATION FUNDS

The act transfers a total of \$75,184,730 in amounts appropriated for FY 10 within the General Fund as shown in Table 2.

Table 2: General Fund Transfers for FY 10

FY 10 APPROPRIATIONS REDUCED (§ 9)			FY 10 APPROPRIATIONS INCREASED (§ 11)		
Agency/Line	For	Reduction	Agency/Line	For	Increase
Debt Service – State Treasurer	Debt Service	\$26,000,000	Office of the Victim Advocate	Personal services	\$34,000
	UConn 2000 Debt Service	2,500,000	Department of Social Services	Medicaid	71,550,730
	CT Health and Education Facilities Authority Day Care Security	2,500,000	Department of Education	Magnet Schools	1,100,000
State Comptroller – Fringe Benefits	State Employees Retirement Contribution	33,330,000	Workers' Compensation Claims – Department of Administrative Services	Workers' Compensation Claims	2,500,000
	Employers Social Security Tax	10,854,730			
TOTAL		\$75,184,730			\$75,184,730

The act also transfers \$2 million within the Special Transportation Fund for FY 10 from the state treasurer's appropriation for debt service (§ 10) to the Department of Administrative Services' (DAS) appropriation for workers' compensation claims (§ 12).

EFFECTIVE DATE: Upon passage

§ 13 — TRANSFERS FROM SPECIAL FUNDS TO THE GENERAL FUND

The act transfers \$23 million from various special funds and accounts to General Fund revenue for FY 11 as shown in Table 3.

Table 3: Transfers to the General Fund for FY 11

<i>From</i>	<i>Amount</i>
Citizen's Election Fund (on or after January 1, 2011)	\$5,000,000
Workers' Compensation Fund	4,000,000
Banking Fund	9,000,000
Community Investment Account	5,000,000

EFFECTIVE DATE: July 1, 2010

§§ 14, 19, 33 & 51-55 — FUNDS CARRIED FORWARD

Rather than lapsing at the end of FY 10, the act carries forward to FY 11 various unspent balances appropriated for, or previously carried forward to, FY 10 (see Table 4).

Table 4: Funds Carried Forward to FY 11

<i>§</i>	<i>Agency</i>	<i>FY 10 Purpose</i>	<i>FY 11 Purpose</i>	<i>Amount</i>
14	Economic and Community Development	Home CT - grants to towns that choose to zone land for developing housing mainly where transit facilities, infrastructure, and complementary uses already exist or have been planned or proposed	Same	Unspent balance
19	Legislative Management	Redistricting	Same	Unspent balance
33	OPM	<ul style="list-style-type: none"> <li>Designing and implementing a comprehensive, statewide information technology system for sharing criminal justice information</li> <li>Costs related to the Criminal Justice Information System Governing Board</li> </ul>	Same	Unspent balance
51	OPM	Other Expenses to prevent potential base closures	Same	Up to \$178,828
52 (a)	OPM	Property tax relief for veterans	Litigation/settlement account	Up to \$183,228
52 (b)	OPM	Reimbursement for property tax – disability exemption	Litigation/settlement account	Up to \$39,298
52 (c)	OPM	Distressed municipalities	Litigation/settlement account	Up to \$534,708
52 (d)	OPM	Property tax relief – elderly freeze program	Litigation/settlement account	Up to \$75,503
53	Education	Other Expenses	Litigation costs associated with <i>Connecticut Coalition for Justice in Education Funding v. Rell</i> lawsuit	Up to \$500,000
54	Education	Other Expenses	Costs associated with meeting data assurances required for receipt of State Fiscal Stabilization funding	Up to \$1,500,000
55	Banking	Other Expenses	Upgrading software	Up to \$100,000

EFFECTIVE DATE: July 1, 2010, except for the Banking Department carryforward (§ 55), which takes effect on passage.

§ 15 — MEDICAL INEFFICIENCY COMMITTEE

The act requires the governor to appoint a third chairperson to the Medical Inefficiency Committee, which advises DSS on the amended definition of medical necessity enacted in PA 10-3. By law, the House speaker and Senate president pro tempore appoint the other two chairpersons.

EFFECTIVE DATE: Upon passage

## § 16 — VETERINARY MEDICINE GRANTS

The act makes changes in the Department of Higher Education's (DHE) Kirklyn M. Kerr program established by PA 10-3 (§ 33). DHE administers the program, which allows Connecticut residents to attend Iowa State University's College of Veterinary Medicine and pay in-state Iowa tuition. Each year, DHE determines the number of program participants and Iowa State reserved a certain number of seats specifically for Connecticut residents.

This act specifies that the program will provide "support" instead of grants to Connecticut residents who are enrolled in an accredited veterinary graduate school and plan to practice veterinary medicine. It requires students to make a written commitment to either work as veterinarians in Connecticut for five years following graduation or repay any support received. It eliminates a recipient's ability to delay repayment of the award if he or she pursues additional veterinary training outside Connecticut.

PA 10-3 requires a student who does not practice veterinary medicine in the state for at least five years to repay a fixed percentage of his or her award based on the number of years he or she practices in Connecticut. This act instead requires recipients to repay at least 20% of their awards for every year they fall short of the five-year commitment, and it requires the DHE commissioner to determine the manner of repayment. It also removes provisions concerning (1) the deadline for repayment, (2) minimum monthly repayment, and (3) the commissioner's ability to grant deferments or forgive repayments.

EFFECTIVE DATE: Upon passage

## § 17 — LIMITS ON WHAT PHARMACIES MAY BILL DSS

PA 10-3 (§ 24) limits what providers enrolled in any DSS-administered medical assistance program can bill the department for goods and services to the lowest amount they routinely accept from any individual, class, group, or entity for similar services or goods.

The act instead limits what pharmacy providers, instead of all enrolled providers, may bill DSS. It ties this limit to the lowest amount accepted, rather than routinely accepted, from any member of the general public who participates in the pharmacy's "savings or discount program." The act defines this as any program, club, or buying group that the pharmacy offers to any member of the general public in which that person pays less for goods and services than nonparticipants.

EFFECTIVE DATE: Upon passage

## § 18 — GRANTS FOR TWO INTERDISTRICT MAGNET SCHOOLS

The act reduces special, higher state per-student operating grants for two interdistrict magnet schools.

By law, most magnet schools run by regional educational service centers (RESCs) that (1) do not help implement the *Sheff v. O'Neill* desegregation settlement and (2) enroll 55% or more of their students from a single town receive a state grant of \$3,000 annually for each student from that town. However, two such schools receive more. One began operations in the 1998-99 school year and, for the 2008-09 school year, enrolled between 55% and 70% of its students from a single town, a description that applies only to the Wintergreen Interdistrict Magnet School in Hamden. The other began operations in the 2001-02 school year, and for the 2008-09 school year, enrolled between 55% and 80% of its students from a single town, a description that applies only to the Thomas Edison Magnet Middle School in Meriden.

For FY 11, this act reduces (1) Wintergreen's grant for each student from a district enrolling between 55% and 70% of the school's students (Hamden) from \$4,894 to \$4,263 and (2) Edison's grant for each student from a district enrolling between 55% and 80% of the school's students (Meriden) from \$4,250 to \$3,833.

Under the act, starting in FY 12, the school must receive the same \$3,000 grant for each Hamden or Meriden student as other non-*Sheff* RESC magnets receive for student from towns that make up 55% or more of their enrollments.

EFFECTIVE DATE: Upon passage

## §§ 20, 22, 46, 47, 61-70, &amp; 72-78 — CONVERSION FROM MANAGED CARE TO ASO MODEL; COUNCIL OVERSEEING HEALTH CARE DELIVERY

The act authorizes DSS to contract with one or more ASOs to provide a variety of nonmedical services for Medicaid, HUSKY A and B, and Charter Oak Health Plan enrollees. It removes references to managed care plans serving recipients of these programs and makes numerous technical and conforming changes.

The ASO contract must cover care coordination, utilization and disease management, customer service, and grievance review. It may cover network management, provider credentialing, copayment and premium monitoring, and other services the commissioner requires. Subject to approval by the federal Centers for Medicare and Medicaid Services, the act requires DSS to use the ASO's provider network and billing systems in administering the covered medical assistance programs.

DSS previously contracted with managed care organizations (MCOs) to perform most of these services, which they did as part of a risk-sharing capitation payment that covered medical services. ASOs perform the services for a set fee and do not share any risk for the provision of medical services.

The act changes the name of the Medicaid Managed Care Council to the Medicaid Care Management Oversight Council to reflect the act's conversion of DSS' managed care program from the MCO model to an ASO model.

The act also makes (1) conforming changes and (2) technical changes, including those that reflect the council's role in overseeing other DSS medical assistance programs, not just Medicaid.

EFFECTIVE DATE: July 1, 2010

#### § 21 — CHCPE

The act reduces, from 15% of the cost of care to 6%, the co-payment required from certain participants in the state-funded portion of CHCPE established in PA 09-5, September Special Session. Participants with incomes over 200% of the federal poverty level (FPL) must still pay an amount of applied income DSS determines, plus their 6% co-payment. By law, CHCPE participants who live in state-subsidized assisted living demonstration projects are exempt from the cost-sharing requirements.

EFFECTIVE DATE: July 1, 2010

#### § 22 — INCREASE IN HUSKY B PREMIUMS

The act increases the monthly premiums that families pay for children enrolled in the HUSKY B program, Band 2 (income between 235% and 300% of the FPL). For one child, the premium rises from \$30 to \$38. The family maximum premium (regardless of the number of children) rises from \$50 to \$60.

EFFECTIVE DATE: July 1, 2010

#### § 23 — INCREASE IN DSS PHARMACY ASSISTANCE DISPENSING FEE

The act increases, from \$2.65 to \$2.90, the fee DSS pays pharmacies for each drug they dispense to a beneficiary of any DSS' medical assistance program.

EFFECTIVE DATE: Upon passage

#### § 24 — DEPARTMENT ON AGING ESTABLISHMENT POSTPONED

The act postpones the establishment of the Department on Aging for one year, until July 1, 2011. It requires DSS to administer aging programs until an aging commissioner is appointed and administrative staff are hired. It permits the governor, with Finance

Advisory Committee approval, to transfer funds between DSS and the Aging Department in FY 12. It also specifies that any DSS or Commission on Aging order or regulation in effect on July 1, 2011 will remain so until amended, repealed, or superseded by law.

EFFECTIVE DATE: July 1, 2010

#### § 25 — MOTOR VEHICLE TRANSACTIONS AT AUTOMOBILE CLUB OFFICES

The law allows automobile clubs and associations to perform license renewals at their office locations and charge a convenience fee of up to \$2 for each transaction. The act allows them to also renew identity cards for non-drivers, conduct registration transactions, and charge a maximum \$2 convenience fee for these transactions.

EFFECTIVE DATE: July 1, 2010

#### § 26 — MOTOR VEHICLE REGISTRATION STICKER

Prior law required motorists to display on their rear number plates or elsewhere on their vehicles a sticker noting the date their vehicle registration expires. The act leaves issuance of these stickers and their placement on the vehicle to the motor vehicle commissioner's discretion. It requires motorists to place the sticker where the commissioner directs.

EFFECTIVE DATE: Upon passage

#### § 27 — SUPPLEMENTAL SPECIAL EDUCATION EXCESS COST GRANTS

The act allocates additional funds for FY 10 and FY 11 to supplement a state grant that reimburses school districts for certain costs of special education and related services. The supplemental grant provides additional reimbursement for costs that exceed (1) for children placed by state agencies, the district's average per-pupil educational cost for the previous school year and (2) for locally placed children, 4.5 times that average. The act provides the supplemental grants to most schools districts and lists the specific additional grant each must receive.

EFFECTIVE DATE: July 1, 2010 (PA 10-1, June Special Session, changes this effective date to upon passage.)

#### §§ 28-30 — PROGRAM FOR HOMELESS YOUTH

The act requires (1) the Department of Children and Families (DCF), within available appropriations, to establish a program for youths who are, or are at risk of becoming, homeless. The program may include some or all of the following: (1) public outreach, (2) respite housing, and (3) transitional living services. DCF can

contract with nonprofit organizations or towns to implement the program.

#### *Homeless Youth*

Under the act, a homeless youth is a person under age 21 without shelter where appropriate care and supervision are available and who lacks a fixed, regular, and adequate nighttime residence, including any youth under age 18 whose parent or legal guardian is unable or unwilling to provide shelter and appropriate care.

#### *Fixed, Regular, and Adequate Nighttime Residence*

The act defines “fixed, regular, and adequate nighttime residence” as a dwelling that adequately provides safe shelter and where a person resides on a regular basis. It excludes (a) a publicly or privately operated institutional shelter designed to provide temporary living accommodations; (2) transitional housing; (3) temporary lodging with a peer, friend, or family member who has not offered a permanent residence, residential lease, or temporary housing for more than 30 days; or (4) a public or private place not designed for or ordinarily used as a regular sleeping place by human beings.

#### *Public Outreach*

Under the act, a public outreach and drop-in component can be one that provides youth drop-in centers with walk-in access to crisis intervention and ongoing support services. Services include one-to-one case management on a self-referral basis and public outreach that locates, contacts, and provides information, referrals, and services to homeless youth and youth at risk of homelessness. This component may include information, referrals, and services for:

1. family reunification, conflict resolution, or mediation counseling;
2. respite housing;
3. case management aimed at obtaining food, clothing, and medical care or mental health counseling;
4. counseling regarding violence, prostitution, substance abuse, sexually transmitted diseases, HIV, and pregnancy and referrals to agencies for support services;
5. education, employment, and independent living skills;
6. specialized services for highly vulnerable homeless youth, including teen parents and those who have been sexually exploited or have mental illness or developmental disabilities; and

7. aftercare services, which are continued counseling, guidance, or support for up to six months following receipt of services.

#### *Respite Care*

If the program includes a respite component, it must provide homeless youths with referrals and walk-in access to short-term residential care on an emergency basis. This includes voluntary housing with private shower facilities, beds, and at least one meal a day. It also includes assistance with family reunification or a legal guardian when required or appropriate. Services provided at respite homes may include:

1. family reunification services or referral to safe housing;
2. individual, family, and group counseling;
3. assistance in obtaining clothing;
4. access to medical and dental care and mental health counseling;
5. access to education and employment services;
6. recreational activities;
7. case management, advocacy, and referrals;
8. independent living skills training and aftercare services; and
9. transportation.

#### *Transitional Living*

If the program offers transitional living, it must provide services that help homeless youth find and maintain safe housing, including rental assistance and related support services. It must include (1) help for homeless youth (but not those at risk of becoming homeless) in finding and keeping safe housing and (2) rental assistance and related supportive services.

It may include:

1. educational assessments and referrals to educational programs;
2. career planning, employment, job skills training, and independent living skills training;
3. job placement;
4. budgeting and money management training;
5. assistance in securing housing appropriate to the youth’s needs and income;
6. counseling regarding violence, prostitution, substance abuse, sexually transmitted diseases, and pregnancy;
7. referrals for medical services or chemical dependency treatment;
8. parenting skills, self-sufficiency support services, or life skills training; and
9. aftercare services.

*Parental Consent*

Public or private agencies serving children and youth may provide services to a homeless child or youth and must make all reasonable efforts to contact the parent or guardian for permission. They must refuse or curtail services if the parent or guardian does not give or withdraws consent. Agencies that act in good faith without negligence are immune from civil or criminal liability.

*Annual Reports*

Under the act, DCF must submit annual reports to the Children's Committee beginning February 1, 2012. Reports must include recommendations for any needed changes to the program to ensure that eligible youths are getting the best available services. They must also include key outcome indicators and measures and set benchmarks for evaluating progress in accomplishing the act's purposes.

EFFECTIVE DATE: October 1, 2010

#### §§ 31-32 — BUDGETS AND REDUCTIONS FOR THE BRANCHES OF GOVERNMENT

##### *Budget Acts with Statewide Unallocated Lapses and Initial Appropriation Allotments for the Legislative and Judicial Branches*

The act requires each state budget act making appropriations for the biennium or making changes to a previously adopted biennial budget that includes statewide budget reductions not allocated by budgeted agency to specify the amount to be achieved in each branch of government. Beginning with FY 11, it also requires that the initial allotment requisition for each line item appropriation to the legislative and judicial branches for a fiscal year be based on the amount appropriated to the line item for the fiscal year minus any budgeted reductions the branch must achieve in that year.

##### *Governor's Authority Over Legislative and Judicial Allotments*

The law allows the governor to reduce allotment requisitions or allotments in force up to certain amounts under certain circumstances (see BACKGROUND).

Under prior law, the governor could not reduce allotments for any budgeted agencies of the Legislative or Judicial branches but she could require an aggregate allotment reduction of a specified amount and the Legislative Management Committee or chief court administrator, as appropriate, had to achieve the reductions and submit them to the governor through the OPM secretary within 15 days.

The act instead allows the governor to propose rather than require such reductions under a new procedure. It:

1. requires the OPM secretary, within five days of the effective date of a proposed reduction, to give notice of the amount, effective date, and reasons for reductions to the (a) Senate president pro tempore and House Speaker, for changes affecting the Legislative Branch, and (b) chief justice, for changes affecting the Judicial Branch;
2. within three days of receiving notice, allows any of the notified officials to object to the reduction by providing written notice to the OPM secretary and Appropriations Committee chairpersons and ranking members;
3. allows the Appropriations Committee to hold a public hearing on the reductions;
4. makes the reductions effective unless the committee rejects them by a two-thirds vote within 15 days of receiving the objection notice;
5. if the committee rejects the reductions, requires the OPM secretary to present an alternative plan to achieve the reductions to the appropriate branch officials; and
6. if the reductions are not rejected, requires the Legislative Management Committee or chief justice, as appropriate, to achieve the reductions in a manner they determine and submit them to the governor through the OPM secretary within 10 days after the reductions take effect.

EFFECTIVE DATE: July 1, 2010

#### § 34 — SINGLE COST ACCOUNTING

By law, the DCF and education commissioners have jointly developed a single cost accounting system. The system may form the basis for paying reasonable expenses for room, board, and education by purchase-of-service agreements with private DCF-licensed residential treatment centers. This act specifies that this system cannot be used unless the center provides on-campus educational services.

The act also permits the DCF commissioner to establish a performance-based system for DCF-licensed child-care facilities that serve children in DCF's custody. The child-care facility must reinvest payments made under this system and use them to enhance the facility's programs and give direct care staff raises. The act specifies the payments are not considered part of the facilities' income for purposes of establishing payments under the single cost accounting system described above.

EFFECTIVE DATE: Upon passage

### § 35 — RENTAL ASSISTANCE CERTIFICATES

The act requires up to \$450,000 of DSS' FY 11 appropriation for Housing and Homeless Services to be made available to provide 50 Rental Assistance Program certificates. The certificates are for individuals and families who frequently use expensive state services.

The DSS commissioner must coordinate this expenditure with the mental health and addiction services and correction commissioners, the executive director of the Judicial Branch's Support Services Division, and a representative of the Supportive Housing Initiative.

EFFECTIVE DATE: July 1, 2010

### § 36 — EXCLUSION OF FEDERAL HEALTH REFORM ACT PAYMENTS FOR PURPOSES OF PROGRAM ELIGIBILITY AND BENEFITS

The act excludes any payment under the Patient Protection and Affordable Care Act (P.L. 111-148) from being counted as income for anyone applying for or receiving need-based benefits or services from any state or state-funded local program. Also, the payment cannot be counted as an asset for the month in which it is received and the following two months when determining eligibility or the amount of benefits or services.

The act also provides that such payments may not be counted as income for determining eligibility for, or benefit levels of, individuals under any state-funded (1) property tax exemption or credit or rental rebate program financed either partially or entirely with state funds or (2) property tax relief program that a municipality, at its option, offers.

EFFECTIVE DATE: Upon passage

### § 37 — PRIVATE RESIDENTIAL FACILITY RATES

PA 09-5, September Special Session, froze the FY 10 and FY 11 rates the state pays private residential facilities at their FY 09 level. The act permits a higher rate for facilities that made or will make capital improvements in FY 10 or FY 11 because the Department of Developmental Services requires them to do so for residents' health or safety.

EFFECTIVE DATE: July 1, 2010

### § 38 — FLEXIBLE HEALTH CARE SPENDING (FSA) ACCOUNT PROGRAM

The act provides a mechanism for the comptroller to fund the administration of an FSA program for state employees. By law, the comptroller must maintain such a program for state employees (see BACKGROUND). The act permits the comptroller to pay for the

administrative costs associated with this program by transferring actual or projected savings from the state's Social Security (withholding) tax account to a restrictive grant fund account. The annual amount transferred for administrative costs cannot exceed \$250,000.

The act also authorizes the comptroller to transfer from the Social Security tax account an amount equal to an employee's yearly contribution to the restrictive grant fund account as long as this amount is paid back to the tax account from the restrictive grant fund account not later than 18 months after such transfer.

When salary is put aside in an FSA program, the employer and the employee do not have to pay their respective shares of federal FICA (Social Security and Medicare) taxes on that amount. This tax avoidance can generate savings.

The act requires the comptroller to report annually, beginning March 30, 2012, on the status of the FSA program to the Appropriations Committee and the OPM secretary. Each such report must include:

1. the number of employees enrolled,
2. the program's administrative costs,
3. the amount of forfeitures in the program, and
4. how the permitted transfers affect the Social Security tax account.

EFFECTIVE DATE: July 1, 2010

### § 39 — TRANSFERS FROM NONAPPROPRIATED ACCOUNTS

The act requires the OPM secretary to identify \$5 million in nonappropriated General Fund accounts available for transfer into the unrestricted General Fund for FY 11. The secretary must submit a list of these funds to the House speaker and the Senate president pro tempore, who, within five days after receiving it, must submit the list to the Appropriations Committee. The committee has 30 days to advise the OPM secretary of its approval or disapproval of the recommended transfers. If the committee fails to act within 30 days, the recommended transfers are considered approved. Upon approval, the OPM secretary and comptroller must transfer the funds.

EFFECTIVE DATE: July 1, 2010

### § 40 — CERTIFIED MAILING CHANGES

The act specifies that statutory references to "certified mail, return receipt requested," cover all methods of receiving the return receipt, including mail, electronic, digital, and those identified by the U.S. Postal Service's Mailing Standards found in Chapter 500 of the Domestic Mail Manual or its successor.



It requires the Legislative Commissioners' Office to make any necessary grammatical or other changes during the statute codification process to carry out the purpose of this provision.

EFFECTIVE DATE: Upon passage

#### § 41 — BRADLEY ENTERPRISE FUND AND TROOP W FUNDING

The act requires the state auditors to conduct an annual audit of reimbursements made from the Bradley Enterprise Fund to the Department of Public Safety (DPS) to cover Troop W operations under the memorandum of understanding between DPS and the Department of Transportation (DOT). PA 09-7, September Special Session, required the departments to enter into the memorandum, by December 1, 2009, to use the fund to pay all associated costs incurred by the State Police to provide security at Bradley Airport. The troop is stationed at the airport.

EFFECTIVE DATE: July 1, 2010

#### § 42 — TASK FORCE ON ELECTRONIC LEGISLATIVE DOCUMENTS

The act establishes a 15-member task force to study converting legislative documents from paper to electronic form (PA 10-1, June Special Session, increases the membership to 17). The task force must:

1. examine the feasibility and available means of producing electronically, rather than in paper form, documents that the General Assembly produces and uses, including bills, amendments, and calendars;
2. consider the cost of electronic production and the need to make the documents easily available to legislators, their staff, state libraries, and the public (PA 10-1, June Special Session, requires the task force also to consider the need to protect the authenticity of, and preserve, the documents);
3. report its findings and recommendations to the Legislative Management Committee by December 1, 2010; and
4. terminate on the date it submits the report or January 1, 2011, whichever is later.

The task force consists of the following people or their designees:

1. the House and Senate clerks,
2. the state librarian,
3. Legislative Management Committee chairpersons, and
4. the legislative Office of Information Technology Services director.

The other members are:

1. four members of the Association of Connecticut Lobbyists, one appointed by the majority leader of each legislative caucus (PA 10-1, June Special Session, reduces this number to one, appointed by the Senate majority leader);
2. the three supervising committee administrators (PA 10-1, June Special Session, changes this to two staff people appointed by the Legislative Management Committee chairpersons); and
3. up to two agency liaisons appointed by the OPM secretary.

(PA 10-1, June Special Session adds a public member appointed by the House majority leader, and the following people or their designees: (1) the Senate and House minority leaders, (2) the Legislative Commissioners' Office director, (3) the secretary of the state, and (4) the Freedom of Information Commission executive director.)

Caucus leaders must make their appointments by June 1, 2010 (PA 10-1, June Special Session, extends this deadline to July 15, 2010) and fill any subsequent vacancy among those appointments. The Legislative Management chairpersons or their designees must chair the task force and schedule its first meeting by July 1, 2010. (PA 10-1, June Special Session, changes these provisions to (1) require the Legislative Management Committee chairpersons to select the task force chairpersons from among the committee's members and (2) extend the deadline for the first meeting to August 15, 2010.)

The Legislative Management Committee staff serves as the task force staff.

EFFECTIVE DATE: Upon passage

#### § 43 — TRANSFER FROM CSU OPERATING RESERVE FUND FOR FY 11

The act increases the required transfer from the CSU operating reserve account to the General Fund for FY 11 by \$8 million, from \$2 million to \$10 million.

EFFECTIVE DATE: July 1, 2010

#### § 44 — FY 11 GENERAL FUND TRANSFERS TO THE SPECIAL TRANSPORTATION FUND

For FY 11, the act reduces the required revenue transfer from the General Fund to the Special Transportation Fund by \$16.5 million, from \$124.05 million to \$107.55 million.

EFFECTIVE DATE: Upon passage

#### § 45 — UNAPPROPRIATED FY 10 SURPLUS

The act requires the comptroller to transfer up to \$140 million of the FY 10 General Fund unappropriated surplus to General Fund revenue for FY 11.

EFFECTIVE DATE: July 1, 2010

#### §§ 46, 70, 71, 77, & 80 — NAME CHANGE FOR COUNCIL OVERSEEING MEDICAID PROGRAM

The act changes the name of the Medicaid Managed Care Council, which oversees the HUSKY program and the Charter Oak Health Plan, to the Council on Medicaid Care Management Oversight.

It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage for the name change and July 1, 2010 for the technical and conforming changes.

#### § 48 — OVER-THE-COUNTER (OTC) DRUG COVERAGE IN DSS PROGRAMS

PA 10-3 eliminates coverage for most OTC drugs in DSS' medical assistance programs, effective May 1, 2010. This act delays the implementation until June 1, 2010. It also allows coverage for OTC drugs in the Connecticut AIDS Drug Assistance Program.

EFFECTIVE DATE: Upon passage

#### § 49 — EYEGLASS COVERAGE IN MEDICAID

PA 10-3 limits payment for eyeglasses in DSS medical assistance programs to one pair per year. This act applies the limit only to the Medicaid program. (DSS runs the HUSKY A (Medicaid for families), HUSKY B, State-Administered General Assistance, Charter Oak, and legal immigrant medical assistance programs.)

PA 10-3 requires DSS to use its best efforts to reduce costs for optical devices and services under its medical assistance programs. The act instead requires the department to administer the payment for eyeglasses and contact lenses as cost-effectively as possible.

EFFECTIVE DATE: Upon passage

#### § 50 — DSS AUTHORITY TO ESTABLISH RECEIVABLE ACCOUNT FOR ELECTRONIC TRANSACTIONS

For FY 10 and FY 11, the act permits DSS to establish a receivable account for the anticipated cost of implementing modifications to the Health Insurance Portability and Accountability Act electronic transaction standards. This must be done in compliance with an advanced planning document that the U.S. Department of Health and Human Services approves.

EFFECTIVE DATE: Upon passage

#### § 56 — REPORT ON RETIREMENT INCENTIVE PLAN SAVINGS

The act requires the OPM secretary, rather than the administrative services commissioner, in consultation with the state comptroller, to submit a required report on the savings the state realized from the 2009 retirement incentive program (RIP). By law, the report, which is due by June 15, 2011, must include the number of participants (union and nonunion), the savings achieved by each agency, and how the savings are offset by refilling positions vacated through the RIP. The law also required such a report by October 15, 2009.

EFFECTIVE DATE: Upon passage

#### § 57 — BOATING REGISTRATION FEES

The act allocates all boating registration fee revenue received between November 1 and October 31, which prior law divided between the boating account and municipalities, first to the Environmental Protection (DEP) and Motor Vehicle (DMV) departments for expenses incurred in administering the boating laws. It requires all remaining revenue to be distributed to towns as prorated payments according to their shares of property taxes paid on vessels according to the October 1, 1978 assessment list. DEP and DMV fringe benefit costs associated with administering the account must be paid from funds appropriated to the comptroller for that purpose.

Prior law first distributed revenue to municipalities, requiring (1) the towns to receive amounts according to their share of property taxes paid on vessels according to the October 1, 1978 assessment list in each town, and (2) that, if annual revenue was insufficient to pay the towns in full, the remainder be taken from unallocated boating account funds. The remaining revenue funded the DMV and DEP commissioners' expenses in administering and enforcing boating safety and water pollution laws and regulations.

EFFECTIVE DATE: July 1, 2011

#### § 58 — SUPPLEMENTAL MAGNET SCHOOL TRANSPORTATION GRANTS

The act allows the education commissioner to provide supplemental transportation grants for FY 10 to the Hartford school district and the Capitol Region Education Council (CREC) to transport students who live outside Hartford to interdistrict magnet schools they operate. The OPM secretary must approve the new grants. The supplemental grants are in addition to any other interdistrict magnet school transportation grants CREC and the Hartford school district may receive.

EFFECTIVE DATE: Upon passage

#### § 59 — OPEN ENROLLMENT PERIOD FOR CONNPACE

By law, ConnPACE applications are accepted only from November 15 through December 30. The act changes the deadline to December 31.

EFFECTIVE DATE: Upon passage

#### § 60 — DSS AUTHORIZED TO IMPLEMENT PROGRAMS BEFORE REGULATIONS ARE ADOPTED

The act permits DSS to implement policies and procedures necessary to administer its provisions (presumably those pertaining to DSS) while in the process of adopting them in regulation. The DSS commissioner must print a notice of intent to adopt the regulations in the *Connecticut Law Journal* within 20 days of implementing the provisions. The policies and procedures are valid until final regulations are adopted. (PA 10-2, June Special Session, limits the applicability of this authorization to policies and procedures related to limits on eyeglass coverage in the Medicaid program.)

EFFECTIVE DATE: July 1, 2010

#### §§ 61, 63, & 160 — ELIMINATION OF HUSKY PLUS

The act eliminates the HUSKY Plus program, which provides supplemental health care coverage for children eligible for HUSKY B who have intensive physical or mental health needs. In practice, children who have intensive behavioral health needs have been served by the Connecticut Behavioral Health Partnership and DSS pays the providers directly for services provided. Children with intensive physical health care needs are served by the Connecticut Children's Medical Center. DSS contracts with the hospital and pays for the services it provides to these children. (PA 10-1, June Special Session, restores the program.)

EFFECTIVE DATE: July 1, 2010

#### §§ 71 & 74 — BEHAVIORAL HEALTH PARTNERSHIP OVERSIGHT COUNCIL

Beginning July 1, 2010, the act transfers authority to select the Partnership Council's chairpersons from the Medicaid Managed Care Council's chairpersons to the Partnership Council's members. The act (1) eliminates Medicaid MCOs (nonvoting) representation on the Partnership Council and (2) adds a representative of each ASO as a nonvoting member, reflecting the elimination of MCOs in DSS' medical assistance programs. It eliminates a member overseeing Medicaid care management from the council, thus reducing the

number of appointments the Senate minority leader makes from two to one. (PA 10-1, June Special Session, reverses this change.) The act also eliminates, as an ex-officio, nonvoting member, a representative of the Office of Health Care Access, which was placed within DPH as a division in 2009.

EFFECTIVE DATE: July 1, 2010

#### § 73 — ELIMINATION OF REPORTING REQUIREMENT

The act eliminates a requirement that DSS report every two years to the re-named Medicaid Managed Care Council on its compliance with administrative processing requirements related to Medicaid presumptive eligibility for pregnant women.

EFFECTIVE DATE: July 1, 2010

#### §§ 79 & 80 — BIOMETRICS FOR PUBLIC ASSISTANCE RECIPIENTS

The act eliminates (1) the disqualification penalty for Temporary Family Assistance (TFA) applicants who do not cooperate with DSS' biometric "digital imaging" program, (2) DSS' authority to extend its contract with a biometrics company, and (3) obsolete related provisions.

It also specifies that any biometrics system that DSS uses be for programs that the DSS commissioner determines, rather than for TFA and other programs the commissioner determines. At present, DSS does not subject program applicants to biometrics requirements.

EFFECTIVE DATE: Upon passage

#### § 81—UConn HEALTH NETWORK INITIATIVES

The act changes bond authorizations for the UConn health network initiatives described in PA 10-104. It reserves \$5 million for a simulation and conference center at Hartford Hospital and specifies that the center will be run exclusively by Hartford Hospital. It also reserves \$5 million for a primary care institute at Saint Francis Hospital and Medical Center and a total of \$10 million for (1) an institute for clinical and translational science at the UConn Health Center, (2) a comprehensive cancer center, and (3) a UConn-sponsored health disparities institute.

PA 10-104 authorized a total of \$20 million for these five initiatives but did not specify the amount for each project. Under PA 10-104, unchanged by this act, the bonds cannot be issued unless \$100 million in federal, private, or other nonstate money is received by June 30, 2015.

EFFECTIVE DATE: Upon passage

§§ 82, 140-144, & 156-157 — BONDING CHANGES

The act makes several changes and additions to bond authorizations and cancellations in PA 10-44.

§ 82 — *Department of Public Health (DPH) Grants*

The act reserves \$3 million of a \$6 million bond authorization to (1) DPH for grants for hospital-based emergency service facilities and (2) community health centers and primary care organizations for equipment purchases and facility improvement and expansion, including land or building acquisition, for enhancements to the accessibility and efficiency of health care services in Hartford.

It bars the bond commission from allocating the funds until (1) the contribution of \$100 million in federal, private, or other nonstate money required by PA 10-104 is available and (2) the commission has allocated the bonds authorized in that act for UConn health center initiatives.

The act divides the \$3 million reserved amount as follows:

1. to Charter Oak Health Center, Inc. and Community Health Services, Inc., \$1 million each for the purchase of medical equipment to provide electronic medical records and develop access to remote treatment and training centers, and
2. to the Hispanic Health Council, \$1 million for renovation and repairs.

EFFECTIVE DATE: July 1, 2010

§ 140 — *Technical Correction*

The act corrects an internal reference in PA 10-44.

EFFECTIVE DATE: July 1, 2010

§§ 141, 143, & 156 — *Authorization for Hartford Economic Development Project*

PA 10-44 established three bond pools to fund specified projects in Bridgeport, Hartford, and New Haven to take the place of separate authorizations for the individual projects. This act eliminates a project for planning and design of streetscape improvements in the North Hartford area and along the Main Street corridor from Hartford's \$5.7 million pool authorization for economic development projects and restores a separate \$500,000 authorization for that project. It adjusts the appropriate supertotal section to reflect the \$500,000 add-back.

EFFECTIVE DATE: July 1, 2010, except for the restoration of the separate bond authorization for the project (§ 156), which is effective on passage.

§ 142 — *Department of Children and Families Grants*

The act reserves up to \$1 million of an existing \$3.7 million authorization to DCF for the Boys and Girls Club of Hartford for construction of a new building to be named after Ella Cromwell. The purpose of the existing authorization is to provide grants to private, nonprofit organizations, including the Boys and Girls Clubs of America, YMCAs, YWCAs, and community centers, for constructing and renovating community youth centers for neighborhood recreation or education.  
EFFECTIVE DATE: July 1, 2010

§§ 144 & 157 — *Authorization for Danbury Project*

The act restores a \$150,000 bond authorization for a grant to the Stanley L. Richter Association for the Arts in Danbury for roof repair, expansion, and Americans with Disabilities Act improvements. PA 10-44 cancelled the authorization. The act adjusts the appropriate supertotal to reflect the restoration.

EFFECTIVE DATE: July 1, 2010 for the supertotal section change; upon passage for the restoration of the project authorization.

§§ 83-124 & 161 — CERTIFICATE OF NEED PROCESS

The act makes several substantive changes to the certificate of need (CON) process administered by the Office of Health Care Access (OHCA) division of the DPH by (1) clearly identifying when CON authorization is and is not required, (2) updating the guidelines and criteria OHCA must consider when making CON decisions, (3) simplifying the administrative process for CON applications, and (4) requiring an inventory of health care facilities and services.

The act also makes numerous technical changes to reflect legislation enacted last session that merged OHCA into DPH (see BACKGROUND). (Throughout the summary, the terms "OHCA" and "office" are used when referring to the merged OHCA division in DPH.)

*Definitions*

Under prior law, a "health care facility" was any facility or institution engaged primarily in providing services for the prevention, diagnosis, or treatment of human health conditions. The definition listed several types of health care facilities, including some that were exempt from CON. The term also included any parent company, subsidiary, affiliate, or joint venture, or any combination of such facilities or institutions.

The act defines "health care facility" as DPH-licensed hospitals, specialty hospitals, freestanding emergency departments, outpatient surgical facilities, hospitals or other facilities eligible for reimbursement

under Medicare or Medicaid, central service facilities, mental health facilities, substance abuse treatment facilities, and any other facility for which a CON is required. The definition continues to include any parent company, subsidiary, affiliate, or joint venture.

The act defines “free clinic” as a private, nonprofit community-based organization that provides medical, dental, pharmaceutical, or mental health services at reduced or no cost to low-income, uninsured and underinsured individuals. “Nonhospital based” means located at a site other than the hospital’s main campus.

“Capital expenditure” is an expenditure that, under generally accepted accounting principles consistently applied, is not properly chargeable as an operating or maintenance expense. It includes acquisition by purchase, transfer, lease, or comparable arrangement or through donation, if it would have been considered a capital expenditure if it had been purchased.

#### *CON Guidelines and Criteria*

Previously, when considering a CON application, OHCA had to consider and make written findings concerning the following principles and guidelines:

1. the relationship of the proposal to the state health plan and the applicant’s long-range plan;
2. the proposal’s financial feasibility and its impact on the applicant’s rates and financial condition;
3. the proposal’s impact on consumers and payers of health care services;
4. its contribution to the quality, accessibility, and cost-effectiveness of health care delivery in the region;
5. whether there was a clear public need for the proposal;
6. whether the health care facility or institution was competent to provide efficient and adequate service to the public in that it was technically, financially, and managerially expert and efficient;
7. that rates were sufficient to allow the facility or institution to cover its reasonable capital and operating costs;
8. the relationship of any proposed change to the applicant’s current utilization statistics;
9. the applicant’s teaching and research responsibilities;
10. the special characteristics of the applicant’s patient-physician mix;
11. the applicant’s voluntary efforts to improve productivity and contain costs; and
12. any other factors OHCA considered relevant.

The act instead requires the office to consider and make written findings concerning:

1. whether the proposed project is consistent with any applicable policies and standards in OHCA regulations;
2. the relationship of the proposal to the statewide health care facilities and services plan;
3. whether there is a clear community need for the proposed health care facility or services;
4. whether the applicant has satisfactorily demonstrated how the proposal will affect the financial strength of the state’s health care system;
5. whether the applicant has satisfactorily demonstrated how the proposal will improve the quality, accessibility, and cost-effectiveness of healthcare delivery in the region;
6. the applicant’s past and proposed provision of health care services to relevant patient populations and payer mix;
7. whether the applicant has satisfactorily identified the population to be served by the proposed project and satisfactorily demonstrated that the identified population needs the proposed services;
8. the utilization of existing health care facilities and health care services in the applicant’s service area; and
9. whether the applicant has satisfactorily demonstrated that the proposed project will not result in an unnecessary duplication of existing or approved health care services or facilities.

The office, as it deems necessary, may revise or supplement these guidelines and principles through regulation.

#### *Activities Requiring a CON*

Under prior law, a health care facility, provider, or person needed a CON to (1) transfer its ownership or control; (2) introduce an additional function or service; (3) terminate a service; (4) substantially reduce its total bed capacity; (5) incur a capital expenditure exceeding \$3 million; (6) purchase, lease, or accept donation of major medical equipment requiring a capital expenditure of over \$3 million; or (7) acquire a CT scanner, PET scanner, PET/CT scanner, MRI scanner, linear accelerator, or other similar equipment or technology that was new or being introduced into the state.

Under the act, the following activities require a CON:

1. the establishment of a new health care facility;
2. a transfer of ownership of a health care facility;
3. the establishment of a free-standing emergency department;

4. termination by a short-term acute care general or children's hospital of inpatient and outpatient mental health and substance abuse services;
5. the establishment of an outpatient surgical facility by a short-term acute care general hospital or by an entity other than a hospital;
6. the termination of an emergency department by a short-term acute care general hospital;
7. the establishment of cardiac services, including inpatient and outpatient cardiac catheterization, interventional cardiology, and cardiovascular surgery;
8. the acquisition of imaging equipment, including CT, MRI, PET, and PET/CT scanners, by any person, physician, provider, short-term acute care general hospital, or children's hospital;
9. the acquisition of nonhospital-based linear accelerators;
10. an increase in a health care facility's licensed bed capacity;
11. the acquisition of equipment using technology that has not previously been used in the state; and
12. an increase of two or more operating rooms within any three-year period, beginning on and after October 1, 2010, by an outpatient surgical facility or a short-term acute care general hospital.

#### *CON Exemptions*

*Prior Law.* Previously, a number of activities and health care facilities and institutions were exempt from CON, including (1) facilities operated by a nonprofit educational institution solely for its students, faculty, and staff and their dependents and (2) Christian Science sanatoriums. Federally qualified health centers (FQHCs), community health centers, and school-based health centers were exempt for capital expenditures up to \$3 million.

Also exempt from CON under prior law were:

1. an outpatient clinic or program operated exclusively by, or contracted to be operated exclusively for, a municipality or municipal agency, a health district, or a board of education;
2. a licensed residential facility certified to participate in the Medicaid program as an intermediate care facility for the mentally retarded;
3. an outpatient rehabilitation service agency in operation on January 1, 1998 operated exclusively on an outpatient basis, and eligible for state reimbursement;
4. a clinical laboratory;
5. an assisted living services agency;
6. an outpatient service offering chronic dialysis;
7. an ambulatory services program established and conducted by a health maintenance organization;
8. a home health agency;
9. a clinic operated by AmeriCares;
10. a nursing or rest home, except when related to a facility that requires a CON; or
11. a DCF-licensed or -funded program, provided it was not a psychiatric residential treatment facility as defined by federal law.

Under prior law, these exempt facilities were required to register with OHCA.

Prior law also exempted health care facilities or providers for acquisition of imaging equipment before July 1, 2005 and in operation before July 1, 2006. Health care facilities were exempt for certain non-clinical capital expenditures like garages and boilers. Hospitals were exempt from CON for locating certain outpatient services that were already offered by the hospital at an alternative location. OHCA could exempt from CON any facility or institution proposing to purchase or operate an electronic medical records system on and after October 1, 2005 and (2) any nonprofit facility currently under contract with a state agency.

*Exemptions Under the Act.* Under the act, a CON is not required for:

1. health care facilities owned and operated by the federal government;
2. offices established by a licensed private practitioner, whether for individual or group practice, except when a CON is required with respect to the acquisition of imaging equipment or a nonhospital based linear accelerator: (see above "Activities Requiring a CON");
3. a health care facility operated by a religious group that relies for healing exclusively on spiritual means through prayer;
4. residential care, nursing, and rest homes;
5. assisted living services agencies;
6. home health agencies;
7. hospice services;
8. outpatient rehabilitation facilities;
9. outpatient chronic dialysis services;
10. transplant services;
11. free clinics;
12. school-based health centers, community health centers, FQHCs, and licensed not-for-profit outpatient clinics;
13. a program licensed or funded by the Department of Children and Families provided it is not a psychiatric residential treatment facility;

14. any nonprofit facility, institution or provider that has a contract with, or is certified or licensed to provide a service for, a state agency or department for a service that would otherwise require a CON. This does not apply to a short-term acute care general or children's hospital, or a hospital or other facility or institution operated by the state that provides services eligible for Medicare or Medicaid reimbursement;
15. a health care facility operated by a nonprofit educational institution exclusively for its students, faculty, and staff and their dependents;
16. an outpatient clinic or program operated exclusively by or contracted to be operated exclusively by a municipality, municipal agency, municipal board of education, or health district;
17. a licensed residential facility for the mentally retarded that is certified by Medicaid as an intermediate care facility for the mentally retarded;
18. replacement of existing imaging equipment acquired through CON approval or determination, provided a health care facility, provider, physician, or person notifies the office of the date on which the equipment is replaced and the disposition of the replaced equipment;
19. acquisition of cone-beam dental imaging equipment that is to be used exclusively by a licensed dentist;
20. the termination of inpatient or outpatient services offered by a hospital, except as provided below (see "Termination of Services");
21. the partial or total elimination of services provided by an outpatient surgical facility, except as provided below (see "Termination of Services"); and
22. the termination of services when DPH has asked the facility to relinquish its license.

#### *CON Process*

*Letter of Intent.* Under prior law, a CON applicant submitted a written request to OHCA known as a "letter of intent" (LOI). This described the project and the type of proposal, its cost, and location. Within 21 days after OHCA reviewed the LOI to ensure it was complete, it published notice of the LOI in a newspaper with substantial circulation in the area served by the applicant. The applicant could file its CON application within 60 to 120 days after the LOI was initially filed.

The applicant could ask for one 30-day extension of the LOI phase.

The act eliminates the LOI phase of the CON process.

*CON Application Phase.* Under prior law, OHCA had 10 days after receiving a CON application to determine whether it was complete. If determined incomplete, OHCA requested additional information from the applicant and the application was no longer considered to be before the office. This, in effect, tolled the review period for the CON. Once OHCA determined that the application was complete, it had 90 days to review the application and issue a decision. The review period could be extended for 30 days upon the applicant's request. If OHCA failed to act on the application by the end of the review period, it was deemed approved.

The act replaces this process with a new one. The CON application must address the (1) new CON guidelines and criteria listed above and (2) OHCA regulations. The applicant must also pay a \$500 nonrefundable application fee. (Prior law established a fee schedule in regulation that had to (1) contain a minimum filing fee for all applications, (2) a percentage of the requested authorization in addition to the filing fee, and (3) apply to new CON requests and requests for modifications of prior decisions if the modification request has a proposed additional cost of \$100,000 or more beyond the original authorization, or if the modification request together with any other prior requests totaled \$100,000 or more.)

Under the act, the applicant must publish notice of its proposal in a newspaper with substantial circulation in the project's service area for three consecutive days, no more than 20 days before submitting the application to OHCA. The notice must include a brief description of the project and its address. OHCA cannot accept the application unless the fee and notice requirements are met.

OHCA must publish notice of the application on its website and with the secretary of the state within five business days after receiving a properly filed application. Within 30 days after the application is filed, OHCA may request additional information necessary to complete the application. The applicant then has 60 days from the date of the request to submit the additional information. If the applicant fails to do so, the application is considered withdrawn.

Once it determines the application is complete, OHCA must notify the applicant and the public according to regulations adopted by the office. It must also post the notice on its website to begin the 90-day review period. The office must issue a CON decision before the end of the 90-day period and may extend the review period for up to 60 days upon request or for good cause. If extended, OHCA must issue a decision

on the CON application before the end of the extended period. If the office holds a public hearing on the application (see below), it must issue a decision within 60 days after the public hearing.

*Public Hearings.* Under prior law, OHCA had to hold a hearing on proposals (1) for capital expenditures exceeding \$20 million, (2) for the acquisition of major medical equipment exceeding \$3 million, (3) for equipment using technology that was new or being introduced to the state, and (4) when three individuals or an individual representing an entity with five or more people requested such a hearing in writing. OHCA had to receive such a request within 21 days after it deemed the application complete.

OHCA could hold a public hearing on any other CON application.

Under the act, OHCA must hold a public hearing on any type of properly filed and complete CON application if three or more people, or an individual representing an entity with five or more people, requests it in writing. The request must be made within 30 days following OHCA's determination that the application is complete.

The act authorizes OHCA to hold a public hearing on any CON application. OHCA must provide at least two weeks written notice to (1) the applicant and (2) the public through a newspaper with substantial circulation in area served by the facility or provider. It allows OHCA to hold a hearing on similar applications at the same time.

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. The commissioner must hold a public hearing before implementing the policies and procedures and print notice of intent to adopt regulations in the *Connecticut Law Journal* not later than 20 days after the date of implementation. Policies and procedures implemented are valid until the final regulations are adopted, which must be done by December 31, 2011.

#### *CON Validity Period; Extensions*

Under the act, a CON is valid only for (1) the project described in the application and (2) two years from the date it is issued. The CON holder must provide OHCA with any information it requests on the project's development during these two years and for 30 days after it expires.

If the CON holder asks, OHCA may extend the CON's duration for a period of time the office determines is necessary to expeditiously complete the project. OHCA must post such a request on its website within five business days of receiving it. Anyone wishing to comment on the extension must provide

written comments to OHCA within 30 days of the posting. OHCA must hold a public hearing on any extension request if three or more individuals or an individual representing an entity with five or more people submits a written request for a hearing.

OHCA may withdraw, revoke, or rescind the CON if it determines that (1) commencement, construction, or other preparation has not been substantially undertaken during a valid CON period or (2) the CON holder has not made a good-faith effort to complete the project as approved.

A CON is not transferable or assignable.

DPH can implement policies and procedures on these provisions while in the process of adopting them in regulation in the same manner described earlier.

#### *Termination of Services*

As noted above, existing law requires a CON when a health care facility or institution proposes to terminate a service. The act exempts from CON requirements the termination of (1) inpatient or outpatient services offered by a hospital except that a CON is required when a short-term acute care general hospital or children's hospital wants to terminate inpatient and outpatient behavioral health services, primary care clinics, or specialty clinics; and (2) some or all services provided by an outpatient surgical facility.

The act requires any health care facility proposing to terminate a service that was authorized by a CON to file a modification request with OHCA no later than 60 days before the proposed termination date. The office may request additional information from the facility to process the request. It must hold a public hearing on any request if three or more individuals or an individual representing an entity with five or more people requests it in writing.

A facility proposing to terminate all services it offers that were previously authorized by one or more CONs must notify the office at least 60 days before terminating the services and must surrender its CON at least 30 days before termination. A facility proposing to terminate the operation of a facility or service for which no CON was obtained must notify OHCA no later than 60 days prior to termination.

The DPH commissioner may implement policies and procedures to administer these provisions while adopting regulations, in the manner described earlier.

#### *Relocation of a Facility*

Under the act, a person, health care facility, or institution (1) proposing to relocate a facility or (2) unsure whether a CON is required, must send a letter to OHCA describing the project and asking the office to determine if a CON is required. The requestor must



provide OHCA with any information the office requires as part of its determination process. If proposing relocation, the facility's letter must demonstrate to OHCA's satisfaction that the population the facility serves and the payer mix will not substantially change as a result of the relocation. If the facility is unable to do this, it must apply for a CON in order to relocate.

DPH may adopt policies and procedures to administer these provisions in the manner described above.

#### *Penalties*

By law, DPH can impose a civil penalty of up to \$1,000 per day on any person, health care facility, or institution for failing to submit data the department requires on major medical and imaging equipment it owns, operates, or plans to acquire and any other information the law requires it to file. DPH must notify the party by first class mail or personal service of the violation for which a civil penalty is authorized. The person, facility, or institution has 15 business days from the mailing date to apply in writing for a (1) hearing to contest the penalty or (2) time extension to file the data. A final order assessing the civil penalty can be appealed under the Uniform Administrative Procedure Act (UAPA), with the appeal to the New Britain judicial district.

Under the act, any person, facility, or institution required to file a CON which willfully fails to seek CON approval or to file within prescribed time periods, is subject to a civil penalty of up to \$1,000 a day for each day the person or entity conducts activities requiring a CON. But a facility, provider, or institution failing to complete the inventory questionnaire (see below) is not subject to these civil penalties.

#### *Statewide Health Care Facility Utilization Study; Statewide Health Care Facilities and Services Plan; Inventory*

By law, OHCA must conduct an annual statewide health care facility utilization study which must address (1) current availability and utilization of acute hospital care, hospital emergency care, specialty hospital care, outpatient surgical care, and primary and clinic care; (2) geographic areas and subpopulations that may be underserved or have reduced access to specific types of health care services; and (3) other factors the office considers pertinent to facility utilization. The law also requires the office to create and maintain a statewide health care facilities plan which OHCA must consider along with DPH's state health plan in making CON decisions.

The act adds "services" to the statewide health facilities plan. It specifies that this plan is not considered part of the DPH state health plan for CON deliberation purposes. It requires OHCA, for purposes of conducting the statewide utilization study and the facilities and services plan, to establish and maintain an inventory of all health care facilities, equipment (imaging equipment and nonhospital-based linear accelerators), and services in the state, including facilities exempt from CON. The office must develop an inventory questionnaire that facilities and providers must complete biennially. Facilities and providers are not required to provide patient-specific data or financial data when completing the questionnaire. The questionnaire seeks the following information; (1) name, location, and type of facility; (2) hours of operation; (3) types of services provided at that location; and (4) the total number of clients, treatments, patient visits, and procedures or scans performed in a calendar year.

The act directs OHCA to promote effective health planning in the state. In carrying out its responsibilities, the office must promote quality health care in a way that ensures access for all state residents to cost-effective services that avoids duplication and improves the availability and financial stability of health care services throughout Connecticut.

#### §§ 125-134, 138, & 139 — SECURITIZATION OF ELECTRIC CHARGES FOR TRANSFER TO THE GENERAL FUND

The act requires the Department of Public Utility Control (DPUC), from January 1, 2011 through June 30, 2011, to have electric companies assess their customers a charge per kilowatt-hour of consumption that will raise \$40 million for transfer to the General Fund.

It authorizes the state to issue bonds backed by two charges imposed on electric company bills (the competitive transition assessment, or CTA, and the conservation charge) to provide \$956 million for transfer to the General Fund. Under prior law and at current rates of consumption, customers of Connecticut Light and Power would have stopped paying the CTA at the end of 2010 and customers of United Illuminating would have stopped paying it in 2013. The act instead extends the CTA through the term of the bonds. The maturity date for the bonds must be no more than eight years after they are authorized, unless a longer term is needed for economic reasons on the advice of the financing entity (the treasurer or other entity she authorizes to issue the bonds).

The act bars the extended CTA charge from being assessed before June 30, 2011 unless DPUC permits an earlier assessment pursuant to a financing order it must issue under the act. The act allows DPUC to provide

funding in the finance order from other sources, including an assessment on municipal electric utility customers.

The act requires each electric company to submit an application by September 1, 2010 for a financing order to DPUC, which must issue an order for each company by October 1, 2010.

Under the act, the bond proceeds must be used to provide revenue for the General Fund as well as cover the costs of bond issuance, credit enhancements, and other costs as the treasurer considers necessary or advisable.

The law already authorized the issuance of securitization bonds in connection with the electric companies' stranded costs arising out of the legislation that partially deregulated the electric industry. By law, the existing securitization bonds are not backed by any electric company assets other than those specified in the financing order. The act extends this provision to the assets of the financing authority (the treasurer), apparently with regard to both the existing bonds and those issued under the act.

#### *Prior Law on Electric Company Securitization*

By law, electric company customers pay the CTA to cover companies' "stranded" costs. The CTA is charged to customers, whether they buy power from the company or a competitive supplier. Under prior law, the CTA would have ended when the stranded costs are paid off, which is the end of 2010 for Connecticut Light and Power and in 2013 for United Illuminating.

The law allowed the use of securitization for certain stranded costs. Securitization is a process under which the state sells bonds backed by a future revenue stream in exchange for an immediate lump sum cash payment. By law, the right to the CTA used to cover the stranded costs eligible for securitization is called "transition property," which belongs to the electric company. The company or its affiliate can sell this interest to the financing entity to be used to back the securitization bonds.

The law allowed DPUC to issue a financing order authorizing the issuance of securitization bonds to facilitate the recovery and financing of stranded costs. DPUC cannot (1) revise the order, (2) revalue the stranded costs for ratemaking purposes, (3) determine that the CTA is unjust or unreasonable, or (4) do anything to reduce the value of the transition property.

The state treasurer or an entity she designates was allowed to issue securitization bonds after DPUC approved the financing order. The bond proceeds must be used for DPUC-approved purposes as specified in the financing order. The bonds and the financing order are not state debt, and the bonds must say this on their face. They do not count towards the state's debt limit. Neither

the state nor its municipalities bear any contingent liability for them. The state pledges that it will not alter the CTA, transition property, and financing orders until the bonds are paid off. The parties involved in the securitization process are exempt from taxes on the relevant property or revenue. The bonds are treated for state income tax purposes as though a public body had issued them.

#### *Securitization of CTA and Conservation Charge Revenue*

The act largely extends the above provisions to the new bonds it authorizes to raise revenue for transfer to the General Fund. Specifically, it allows the CTA to be used both to repay the bonds and for related finance costs. It makes conforming changes to the definitions of transition property, bond documents, and indentures, among other things. It extends to the new bonds the treasurer's ability under existing law to enter into trust indentures and interest rate swaps and take other steps regarding the bonds. The act requires part of the extended CTA to be equal to the decrease in the conservation charge.

#### *Use of Budget Surplus*

After the accounts for FY 10 are closed, if the comptroller determines there exists an unappropriated surplus in the General Fund, the act requires it to first be used to reduce the obligations incurred under these securitization provisions, e.g., pay off the new bonds. Any amount remaining beyond that must be used to reduce the state's obligations under a provision of PA 09-3 of the June Special Session, that required the state treasurer and the OPM secretary jointly to develop a financing plan to raise up to \$1.3 billion in net general state revenue for FY 11.

#### *Electric Company Plans and Transition Property*

The law allowed the electric companies to apply to DPUC for a financing order regarding their stranded costs. The act requires each company, by September 1, 2010, to submit a plan to DPUC for a financing order for funding the transfer to the General Fund through the issuance of the new bonds.

DPUC must hold a hearing for each company to determine the amount needed to fund the transfer and pay for the new bonds, the costs of bond issuance, credit enhancements, and operating costs for the bonds. The total of all of these costs as determined by DPUC constitutes transition property.

By law, the transition property associated with the electric companies' stranded costs belongs to the companies until they sell or transfer it. The act specifies that the electric companies have no right, title, or

interest in the transition property associated with the transfer to the General Fund. Instead, they merely serve as a collection agent for the financing entity. It specifies that transition property with respect to the transfer vests solely in the financing entity immediately upon the creation of the property.

#### *Allocation of Costs*

Under the act, DPUC must allocate the responsibility for funding the transfer and paying the expenses of the bonds equitably between the electric companies, after taking into account any remaining charges for stranded costs. The allocation may provide that each company's customers may start paying the charges on different dates and the charges may vary while the bonds and the related operating expenses are being paid. However, the charges must be equitably allocated to the customers of each company. DPUC must determine that, over the bond repayment period and taking into account the timing of charges, the charges on a kilowatt-hour basis assessed to each company's customers has substantially the same present value. Any hearing with respect to a financing order regarding the transfer and the issuance of the new bonds is not a contested case.

DPUC must issue a financing order for each company by October 1, 2010. DPUC may provide, in the financing order, that other revenue transferred to the trustee under the indenture and intended to pay off the bonds be taken into account in adjusting the CTA if the money is not coming from the General Fund and would not harm the bonds' tax status and credit rating. This other revenue can include charges on municipal electric utility customers.

In the financing order authorizing the new bonds, or other appropriate order, DPUC must reduce the conservation charge by 35%. The reduction becomes effective April 4, 2012, or on an earlier date set by DPUC in the financing order. An amount equal to this reduction constitutes part of the CTA in respect to the new bonds, but any failure to offset all or any part of the CTA does not affect the requirement to implement the full amount of the CTA as required by the act. All receipts from the remainder of the conservation charge must go to the existing Energy Conservation and Load Management Fund. The CTA in respect to the new bonds or the decrease in the conservation funding resulting from the issuance of or obligations under the new bonds must be included as rate adjustments on customer bills.

The financing order becomes effective on issuance. The act ends DPUC's authority to issue financing orders with respect to the new bonds as of December 31, 2012.

#### *Use of Bond Proceeds*

The proceeds of the new bonds must be used for the purposes approved by DPUC in the financing order. These include funding the \$956 million transfer to the General Fund. As under existing law, the proceeds may not be applied to purchase generation assets, purchase or redeem stock, or pay dividends to shareholders or operating expenses other than taxes resulting from the receipt of such proceeds.

#### *Adjusting the CTA*

By law, DPUC must adjust the CTA to ensure timely recovery of all stranded costs that are the subject of the pertinent financing order and related costs. The act additionally requires DPUC to adjust the CTA to ensure timely recovery of the costs of issuing, servicing, and retiring the new bonds issued to fund the transfer to the General Fund.

Once the CTA charged to customers has allowed full or partial recovery by the financing entity of any new bonds and full or partial recovery by the electric company of stranded costs not funded with the proceeds of these bonds, DPUC must ensure that the CTA charged to customers is adjusted to reflect (1) in the case of a partial recovery, the lower charge to be paid by customers and (2) in the case of a full recovery, the absence of such assessment. No electric company may bill any customer an amount for the CTA that is more than the amount needed to fund the new bonds or stranded costs.

#### *Allocation of Excess CTA Revenue*

Under prior law, any CTA revenue beyond that needed to pay the principal, premium, interest, and issuance expenses of the existing bonds had to be remitted to the financing entity. The financing entity could use this revenue to benefit electric company customers if it would not change the tax, accounting, and other intended characteristics of the financing order. The act instead requires that any excess revenue associated with bonds issued before January 1, 2002 be remitted to the financing entity. It must use this revenue to pay for the new bonds and credit them against the customers' payment obligation for these bonds.

The act requires that any CTA revenue beyond that needed to pay principal, premium, interest, and issuance expenses of bonds issued on or after May 1, 2010 be remitted to the financing entity, which must use it in the same way as provided under existing law. If no bonds are issued, the excess revenue must be transferred to the General Fund.

EFFECTIVE DATE: Upon passage

### §§ 135-137 — GREEN CONNECTICUT LOAN GUARANTY PROGRAM

Prior law authorized \$5 million in bonds annually, with the proceeds going to the Conservation and Load Management Fund for low-interest loans for energy conservation. The act reverses the provision of PA 10-44 that eliminates the annual authorizations for FY 09 and FY 10 and reduces the FY 08 authorization to \$2 million. It requires that the proceeds of the sale of bonds authorized but not allocated by the State Bond Commission as of the act's passage date, plus the additional \$5 million the act authorizes as of July 1, 2010 to be deposited in the Green Connecticut Loan Guaranty Fund it establishes.

The act requires the Connecticut Health and Educational Facilities Authority (CHEFA) to use this money for the Green Connecticut Loan Guaranty Fund Program the act establishes. Although the act allows the State Bond Commission to authorize deposit of additional amounts in the guaranty fund, it limits total deposits to no more than \$18 million dollars.

CHEFA must use the money in the fund to guarantee loans by participating lending institutions to eligible participants for energy conservation projects, including for two or more joint eligible energy conservation projects. The eligible participants are individuals, nonprofit organizations, and businesses employing up to 50 full-time employees. The institutions that can participate are state- and federally chartered banks, trust companies, savings and loan associations and credit unions, and any insurance company authorized to do business in Connecticut that participates in the Green Connecticut Loan Guaranty Fund. CHEFA can use all of its existing powers in administering the program.

Eligible participants can borrow money from a participating lending institution for any energy conservation project for which CHEFA provides guaranties. In connection with a guaranty, (1) the borrower must enter into any loan or other agreement and make such covenants, representations, and indemnities as the lending institution deems necessary or appropriate and (2) the lending institution must enter into a guaranty agreement with CHEFA under which CHEFA agrees to provide a first loss guaranty of an agreed percentage of the original principal amount of loans for eligible projects.

CHEFA, in consultation with OPM, must identify types of projects eligible for the program. These can include the purchase and installation of insulation, alternative energy devices, energy conservation material, replacement furnaces and boilers, and technologically advanced energy-conserving equipment. CHEFA, in consultation with OPM, must establish priorities for financing eligible projects based on need

and quality. CHEFA must adopt procedures to implement the program.

EFFECTIVE DATE: Upon passage

### § 145 — GOVERNOR'S BUDGET RECOMMENDATION FOR THE JUDICIAL BRANCH

The act requires the OPM secretary, when preparing the governor's budget recommendations for submission to the legislature, to include the expenditure estimates for the Judicial Branch submitted by the chief court administrator without making any adjustment in those estimates.

EFFECTIVE DATE: July 1, 2010

### §§ 146 & 147 — STATE INSURANCE RISK MANAGEMENT BOARD

The act transfers a total of \$16,671,989 of the funds appropriated to the Department of Administrative Services (DAS) for Other Expenses to the department's State Insurance Risk Management Board Operations account for FY 11.

EFFECTIVE DATE: July 1, 2010

### § 148—STATE CONTRACTING STANDARDS BOARD

The act bars any funding for the State Contracting Standards Board in FY 11.

EFFECTIVE DATE: July 1, 2010

### § 149 — JUDICIAL SELECTION COMMISSION ANNUAL REPORT

The act expands the information that the Judicial Selection Commission must include in its annual report to the Judiciary Committee.

1. For incumbent judges interviewed, recommended, or denied recommendation for reappointment to the same court or appointment to a higher court, the act requires the commission to submit data on their race, gender, national origin, religion, and years of experience as members of the bar. The law already requires the report to include this information for judicial appointment candidates, but not for sitting judges.
2. As of January 1 of the reporting year, the act requires the commission to report the number of candidates on the qualified candidates list it compiles and provide the same demographic data as listed above. The commission must also report the calendar year of the candidates' recommendation.

The act requires the report to be submitted on January 15, instead of during January each year, and specifies that the report covers the prior calendar year.

By law, the commission must also report on the number of interviewed, recommended, and denied (1) candidates for appointment as new nominees, (2) incumbent judges for reappointment to the same court, and (3) incumbent judges for appointment to a higher court.

EFFECTIVE DATE: Upon passage

§§ 150-155 — FY 11 REVENUE ESTIMATES

The act modifies previously adopted revenue estimates for FY 11 for six of the state’s 10 appropriated funds, as shown in Table 5.

Table 5: Modified FY 11 Revenue Estimates for Six State Funds

<i>Fund</i>	<i>Prior Law</i>	<i>The Act</i>
General Fund	\$17,596,800,000	\$17,669,100,000
Special Transportation Fund	1,181,7000,000	1,180,000,000
Banking Fund	20,600,000	28,900,000
Insurance Fund	26,700,000	26,300,000
Consumer Counsel and Public Utility Control Fund	25,200,000	24,5000,000
Workers’ Compensation Fund	23,100,000	22,300,000

EFFECTIVE DATE: Upon passage

§ 158 — CORRECTIONAL OMBUDSMAN ELIMINATED

The act eliminates the requirement that DAS contract for ombudsman services to receive and investigate complaints from inmates in Department of Correction custody. It also eliminates provisions on handling the complaints and communications with inmates.

EFFECTIVE DATE: Upon passage

§ 159 — CLEAN WATER FUND LOAN TO ANSONIA

The act repeals a provision in the 2009 bond act that extends the maturity date of a Clean Water Fund loan to Ansonia from a maximum of 20 to a maximum 30 years after project completion. The loan was issued to Ansonia to finance improvements to its sewage treatment plant. The act also repeals a requirement that the DEP commissioner and the city amend their project funding agreement to conform to the longer maturity date.

EFFECTIVE DATE: July 1, 2010

§ 160 — DSS STATUTES REPEALED

The act repeals the following DSS statutes:

1. authorization for DSS to contract with a pharmacy benefits manager to provide prescription drug coverage to Medicaid MCO enrollees (CGS § 17b-266a);
2. HUSKY Plus program (CGS § 17b-294) (restored by PA 10-2, June Special Session);
3. requirements for Medicaid MCO contracts with DSS (CGS § 17b-296);
4. the requirement that DSS adopt regulations establishing HUSKY B contract standards for Medicaid MCOs, sanction those that do not meet standards, and report quarterly and annually on HUSKY B enrollment (CGS § 17b-298); and
5. the requirement for DSS to develop a program plan for ongoing public involvement in HUSKY B planning (CGS § 17b-302).

EFFECTIVE DATE: July 1, 2010

BACKGROUND

*Governor’s Authority to Reduce Allotment Requisitions or Allotments in Force*

By law, the governor can reduce an allotment requisition or allotment in force due to changed circumstances after the budget’s adoption, after reporting to the Appropriations and Finance, Revenue and Bonding committees. If the comptroller’s cumulative monthly financial statement shows a General Fund deficit of more than 1% of total General Fund appropriations, the governor must file a report with these two committees within 30 days and implement the plan modifying allotments to prevent the deficit.

Modifications cannot reduce total appropriations from any fund by more than 3% or any appropriation by more than 5%, except in a time of war, invasion, or natural disaster emergency. If the governor’s plan calls for larger reductions, she can request approval by the Finance Advisory Committee, but any modification of more than 5% of total appropriations requires the General Assembly’s approval (CGS § 4-85).

*Flexible Spending Accounts (FSAs)*

The federal tax code permits employers to offer their employees a variety of nontaxable “qualified” benefits, including FSAs (IRC § 125).

A qualified benefit is one that is excludable from an employee’s gross income. Qualified benefits include health care, vision and dental care, group-term life

insurance, disability, adoption assistance, and certain other benefits (IRC §§ 125(a), 125(f), 79, 105, 106, 129, and 137).

FSA's permit employees to allocate a portion of their salaries pre-tax for certain incurred medical expenses not covered by their health insurance policies, including health care deductibles, coinsurances, and dependent care expenses. Employers may also contribute to the accounts, but are not required to do so. The code includes a "use-it-or-lose-it" rule that means employees forfeit any money left in the account at the end of the year.

By law, the comptroller must maintain an FSA account program for state employees in accordance with federal tax law (1986 IRC, §§ 105 & 125, as amended) and the related regulations. Under the program, once an employee makes a written request to the comptroller, the comptroller or her designee must establish and maintain a FSA for the employee.

The comptroller must reduce the employee's salary by the amount the employee requested. The amount is transferred to the employee's FSA and can be used to reimburse him or her for expenses incurred for care that is reimbursable under federal tax law. The comptroller may contract with a program administrator to manage the program (CGS § 5-264d).

#### *OHCA Merger into DPH*

PA 09-3, September Special Session, made a number of changes, primarily technical, to merge OHCA with DPH. It established an OHCA division in DPH under the direction of the DPH commissioner as a successor to the former, independent OHCA. OHCA no longer has its own commissioner.

The 2009 act established a deputy commissioner position to oversee the new OHCA division. It specified that the commissioner of the former OHCA serves as this new deputy commissioner and exercises independent decision-making authority over all CON-related matters, including determinations, orders, decisions, and agreed settlements. By January 1, 2010, this deputy commissioner, in consultation with the DPH commissioner, had to report to the governor and the Public Health Committee on recommendations for CON reform.

The 2009 act specified that any order, decision, agreed settlement, or regulation of OHCA in force as of that act's passage, remains so until amended, repealed, or superseded by law.

Hospitals are assessed to fund OHCA. Under the 2009 act, hospitals must make these payments to DPH instead of OHCA. By law, they are deposited in the General Fund.

OHCA's existing responsibilities, including health care facility utilization and planning, CON review,

hospital charges and payments, data filings, and adoption of regulations, continued under the 2009 act.

#### *Related Acts*

PA 10-3 makes various statutory and budgetary changes to mitigate projected General Fund deficits in FY 10 and FY 11, including changes in DSS medical assistance programs, funding transfers from special accounts to the General Fund, and many other areas also addressed in this act.

PA 10-44 cancels state general obligation (GO) bond authorizations; authorizes new state GO, special tax obligation, and Clean Water Fund revenue bonds; and makes adjustments in existing GO bond authorizations.

PA 10-104 provides funding, under certain conditions, for (1) the construction of a new bed tower and renovations of academic, clinical, and research space at UConn's John Dempsey Hospital (JDH) and (2) the development of regional health network initiatives.

PA 10-110 contains provisions similar to §§ 24 and 25 of this act concerning motor vehicle transactions at automobile clubs and motor vehicle registration stickers.

PA 10-151 extends to FY 10 the education commissioner's authority, within available appropriations, to provide supplemental grants to RESCs for interdistrict magnet school transportation. The commissioner already had the authority to provide such grants for FY 09.

PA 10-2, June Special Session, amends several provisions of this act, including those concerning DSS medical assistance programs, General and Special Transportation fund appropriations, and funding transfers from special funds and accounts to the General Fund.

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#### **PA 10-185—HB 5413**

*Appropriations Committee  
Human Services Committee*

#### **AN ACT CONCERNING TEMPORARY ASSISTANCE FOR NEEDY FAMILIES EMERGENCY CONTINGENCY FUNDS**

**SUMMARY:** This act specifies how the Department of Social Services (DSS) must spend money it receives from the Temporary Assistance for Needy Families (TANF) Emergency Contingency Fund, which was established by the federal American Recovery and Reinvestment Act of 2009 (ARRA). Under the act, the funds must be segregated, with those related to previous expenditures for needy families going into one General

Fund account, and those to help pay for future expenditures into another. The act requires the DSS commissioner to contract with a fiscal intermediary to administer the funds going to service providers.

EFFECTIVE DATE: Upon passage

## TANF EMERGENCY CONTINGENCY FUND

### *Previously Provided Services*

The act requires the DSS commissioner, beginning in FY 10, to disburse all federal funds DSS receives for benefits or services previously provided that qualify for reimbursement under the TANF Emergency Contingency Fund in the following way.

*Expenditures Not Originally Funded from General Fund.* The act requires reimbursements for such expenditures to be deposited into the General Fund and credited to a nonlapsing DSS account. It requires 80% of the first \$250,000 provided as reimbursement for benefits or services (1) previously provided by a service provider and (2) using funding sources other than the General Fund to be paid to each provider (presumably on a pro rata basis) for the purpose of providing additional benefits or services under TANF, as DSS approves. The remaining 20% must remain as General Fund revenue.

Reimbursements above \$250,000 must be shared equally between the service provider and the state. As it must for the first \$250,000, the service provider must use its additional share to provide additional TANF benefits and services that DSS approves, and the state's share remains in the General Fund as general revenue and can be used only for TANF-related purposes.

*Expenditures Originally Funded from the General Fund Through Contracts with Human Services Providers.* The act requires that these reimbursements be deposited into the General Fund and credited to a nonlapsing account in DSS. Thirty percent of funds that are reimbursements for benefits or services previously provided must be paid to each of the providers to enable them to provide additional TANF benefits and services that DSS approves. The remaining 70% must remain in the General Fund as revenue and may be used only for TANF-related purposes.

*Funds for Subsidized Employment.* Regardless of the above requirements, if DSS receives reimbursements for prior subsidized employment services provided under the Jobs First program (the state's welfare-to-work program), the reimbursements must be deposited into the General Fund and credited to a nonlapsing account in DSS. The commissioner must use these funds to pay for additional subsidized employment services under TANF.

### *TANF Emergency Contingency Fund—Advance Payments*

The act requires DSS, beginning in FY 10 and in each succeeding fiscal year, to deposit in the General Fund all federal funds it receives as an advance payment of the 80% federal share for benefits and services to be provided under the TANF Emergency Contingency Fund for non-General Fund expenditures. These funds must be credited to a nonlapsing DSS account. The funds must be used to pay for TANF benefits or services (1) operated by service providers who have provided the 20% nonfederal share of the benefit and service costs, (2) that qualify under the TANF law, and (3) that DSS approves.

The act requires DSS to deposit into the General Fund as revenue any federal funds it receives as advance payment for expenditures to be paid by the General Fund. The deposited funds may be used only for TANF-related purposes.

### *Fiscal Intermediary to Administer Funds*

The act requires the DSS commissioner to designate and contract with a fiscal intermediary to administer the funds to service providers. He must proportionately pay the contract costs from the advance payments, the service providers' 20% share, and other sources available to DSS.

## BACKGROUND

### *TANF Emergency Contingency Fund*

The ARRA appropriated \$5 billion for a new TANF Emergency Contingency Fund to help states address rising cash assistance caseloads and increased demand for services during the most recent recession. States are eligible for up to half of their annual TANF block grant which, in Connecticut, is \$133 million. These funds must be used for services that help individuals who are "TANF-eligible." States can apply for these funds by demonstrating that they have increased expenditures in a prior year's period in one of the following three areas:

1. basic assistance (cash assistance or Temporary Family Assistance in Connecticut),
2. subsidized employment, or
3. non-recurring, short-term benefits.

States must show either (1) an actual increase in quarterly spending during the ARRA period (over and above a corresponding base-year quarter) in one of these categories or (2) new spending in these categories. The first type of spending qualifies for an 80% reimbursement from the contingency fund. The second, which can either be state expenditures or third-party

spending and is new, is eligible for an 80% federal reimbursement (see below). This spending can either be from state budgets or from third-party entities, such as private service providers.

The federal government is allowing states to apply for advance funding, which is being called a “4:1” match. For example, if a state has \$1 million to spend on subsidized jobs, it can submit an application for contingency funds that states it will increase spending by \$5 million. It can then receive 80% of the \$5 million or \$4 million. When it spends the \$1 million and the \$4 million, it will have spent the full \$5 million, as promised in its contingency funds application.

#### *TANF Purposes*

The TANF law establishes three broad categories on which states are permitted to spend their TANF block grants. These include:

1. providing assistance to needy families so that children in them may be cared for in their own homes or in the homes of relatives;
  2. ending needy parents’ dependence on government benefits by promoting job preparation, work, and marriage;
  3. preventing and reducing the incidence of out-of-wedlock pregnancies and establishing annual numerical goals for doing this; and
  4. encouraging the formation and maintenance of two-parent families (42 USC § 601)
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**PA 10-141**—sHB 5114

*Banks Committee*

**AN ACT APPLYING THE PROVISIONS OF THE CONNECTICUT UNIFORM SECURITIES ACT TO THE REQUIREMENT THAT BROKER-DEALERS COMPLY WITH THE CURRENCY AND FOREIGN TRANSACTIONS REPORTING ACT**

**SUMMARY:** By law, securities broker-dealers must comply with the applicable provisions of the federal Currency and Foreign Transactions Reporting Act (CFTRA) and any regulations adopted under that act. The CFTRA, also known as the Bank Secrecy Act, is aimed at preventing money laundering.

This act applies various provisions of the state Uniform Securities Act to the requirement that broker-dealers comply with the CFTRA, extending the banking commissioner's enforcement authority against broker-dealers for lack of compliance with the federal law.

The act adds the CFTRA compliance requirement to the existing provisions under which the banking commissioner may deny, suspend, or revoke the registration of the broker-dealer or restrict or impose conditions on the securities or investment advisory activities upon a finding that (1) doing so is in the public interest and (2) the applicant or registrant (or certain affiliated persons) (a) willfully violated or failed to comply with the requirement or (b) willfully aided, abetted, counseled, commanded, induced, or procured such a violation. The act also allows the commissioner to summarily postpone or suspend registration, or require a registrant to take or not take certain actions in the interim in order to effectuate the law's purposes, pending proceedings for suspension, revocation, or refusal to renew a registration.

The act also adds the CFTRA compliance requirement to the existing provisions under which the banking commissioner may order a violator to pay restitution, disgorge illegal gains, or both, as well as a fine of up to \$100,000 per violation. Willful violators may face up to two years' imprisonment.

The act also provides that a real property securities dealer legally required to be licensed and to obtain a permit is exempt under state law from complying with CFTRA and any regulations adopted under that act.

The act makes various other minor related changes.

**EFFECTIVE DATE:** Upon passage

**PA 10-181**—sHB 5270

*Banks Committee*

*Appropriations Committee*

*Judiciary Committee*

**AN ACT CONCERNING FORECLOSURE MEDIATION**

**SUMMARY:** This act makes changes to the judicial foreclosure mediation program, the "cash for keys" law for tenants of foreclosed homes, and the homestead exemption.

The act extends the judicial foreclosure mediation program established under PA 08-176 until July 1, 2012. Under prior law, the program was set to terminate on July 1, 2010.

The act narrows the circumstances in which a mortgagee represented by counsel may be absent from a foreclosure mediation session. It provides that the mortgagee must be available by telephone, whereas prior law permitted the mortgagee to be absent if available by telephone or electronic means.

The act modifies the "cash for keys" provisions regarding the minimum amount that mortgagees or other successors in interest may offer to tenants to vacate a foreclosed residential property, establishing that the amount must be at least \$2,000, regardless of whether there is evidence of the amount of the tenant's security deposit.

The act specifies that for purposes of the homestead exemption for judgment debtors, "homestead" includes co-op properties.

**EFFECTIVE DATE:** October 1, 2010, except for the provisions concerning the foreclosure mediation program, which are effective upon passage.

**TENANTS OF FORECLOSED HOMES—"CASH FOR KEYS"**

Under the act, the minimum incentive that a mortgagee or other successor in interest may offer a tenant to vacate a foreclosed residential property must equal the greater of (1) double the security deposit and interest that would be legally due the tenant upon termination of the tenancy, (2) two months' rent, or (3) \$2,000.

Under prior law, the minimum incentive varied depending on whether there was evidence of the amount of the tenant's security deposit. If there was evidence, option (1) above applied. If there was no such evidence or if the tenant did not pay a security deposit, options (2) and (3) applied.

## BACKGROUND

### *Homestead Exemption*

By law, following a money judgment, certain property of the judgment debtor is exempt from execution or foreclosure. The homestead of a natural person is exempt to the value of \$75,000 or, in the case of a money judgment arising out of services provided at a hospital, to the value of \$125,000. The property's value is its fair market value minus the amount of any statutory or consensual lien that encumbers it.

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**PA 10-113**—sHB 5314

*Select Committee on Children  
Environment Committee  
General Law Committee*

### **AN ACT BANNING CADMIUM IN CHILDREN'S JEWELRY**

**SUMMARY:** Beginning July 1, 2014, this act prohibits children's jewelry containing more than .0075% (by weight) of elemental cadmium or its compounds or alloys from being sold, offered for sale, or distributed in Connecticut. Children's jewelry means jewelry designed or intended to be worn or used by children under age 13. It includes charms, bracelets, pendants, necklaces, earrings, or rings, and any component of these.

The consumer protection commissioner can enforce the act within available appropriations.

EFFECTIVE DATE: October 1, 2012

#### **BACKGROUND**

##### *Cadmium*

The U.S. Department of Health and Human Services has determined that cadmium and its compounds are human carcinogens. A few studies in animals indicate that the young absorb more cadmium than adults. Animal studies also indicate that the young are more susceptible than adults to a loss of bone and decreased bone strength from exposure to cadmium.

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**PA 10-115**—sSB 153

*Select Committee on Children  
Judiciary Committee*

### **AN ACT PROVIDING A SAFE HARBOR FOR EXPLOITED CHILDREN**

**SUMMARY:** This act creates a presumption (i.e., one that must be rebutted by the prosecution) that a 16- or 17-year-old charged with prostitution was coerced into committing the offense by another person in violation of the law against trafficking in persons (CGS § 53a-192a). Prior law allowed anyone accused of prostitution to assert that he or she was coerced by the use or threat of force as an affirmative defense.

The act increases the penalty for promoting prostitution using a person who is younger than 18 years old. It does so by making it a class B, rather than a class C, felony (see Table on Penalties). It also imposes a nine-month mandatory minimum prison sentence for promoting prostitution of someone under age 18.

In any prosecution for patronizing a prostitute or promoting or permitting prostitution, the act bars a

defendant from asserting that the person engaging or agreeing to engage in sexual conduct for a fee cannot be prosecuted for prostitution because of his or her age. It also makes technical changes.

EFFECTIVE DATE: October 1, 2010

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**PA 10-133** — sHB 5360

*Select Committee on Children  
Human Services Committee  
Appropriations Committee*

### **AN ACT CONCERNING CHILDREN IN THE RECESSION**

**SUMMARY:** This act creates new state agency responsibilities and reporting requirements intended to provide an emergency response to children affected by the recession (see BACKGROUND). The Department of Social Services (DSS) is the agency most affected, but the other state agencies to which the act gives new responsibilities are the departments of Children and Families (DCF), Education (SDE), Labor (DOL), and Public Health (DPH). The added responsibilities are all to be achieved within available appropriations.

Among other things, the act:

1. designates the state's Child Poverty and Prevention Council as the children in the recession leadership team to make recommendations for the state's emergency response to children affected by the recession;
2. requires DSS to develop a plan for comprehensive state services;
3. specifies how DSS can spend emergency funds received through the federal American Recovery and Reimbursement Act (ARRA);
4. makes attending a two- or four-year degree program an acceptable work activity for Temporary Assistance For Needy Families (TANF) participants when the unemployment rate is high;
5. prohibits DSS from changing eligibility criteria for the child care assistance program (Care4Kids) without 30 days advance notice;
6. increases state agency responsibilities for administering programs for the homeless and those at risk of homelessness;
7. calls for greater focus on reducing (a) the number of low birth-weight babies, (b) homeless children and families, and (c) food insecurity;
8. requires DSS, SDE, and DPH to submit reports to the Appropriations Committee that includes information on their progress in implementing the provisions of the act they have been assigned; and

9. immunizes state agencies and officials from civil liability for actions undertaken in complying with most of the act's requirements. The immunity does not apply to (1) non-negligent acts, (2) research efforts concerning the viability of establishing a children in the recession fund, (3) coordinating youth leadership information, and (4) complying with reporting requirements.

**EFFECTIVE DATE:** Upon passage, except the provisions on food outreach take effect July 1, 2010

#### § 1 — LEADERSHIP TEAM

The act designates the state's Child Poverty and Prevention Council as the state's children in the recession leadership team that "must make recommendations for the state's emergency response to children affected by the recession." It directs the team to work in consultation with government agencies to develop and promote, within available appropriations, policies, practices, and procedures that:

1. mitigate the long-term impact of the economic recession on children;
2. provide families with appropriate assistance and resources to minimize the number of children who enter poverty as a result of the recession; and
3. reduce human and fiscal costs of recessions, including foreclosures, child hunger, family violence, school failure, youth runaways, homelessness, and child abuse and neglect.

#### *Composition and Meetings*

The act permits the council to establish a subcommittee to act on its behalf with respect to the activities listed above. The council or subcommittee must meet quarterly if the state DOL reports that the unemployment rate has been 8% or greater for the prior three months.

#### *Accomplishing Its Goals*

To accomplish its goals, the act requires the council to use strategies to mitigate the impact of the recession on children, including:

1. resource information-sharing and strategic planning to address an emergency response to children in the recession;
2. training pertinent personnel on the availability of services, access points, and interventions across agencies, including child trauma treatment;
3. developing linkages between job training and education programs and services;

4. developing and implementing efforts to coordinate outreach and increase and improve access to services, including establishing multiple enrollment sites where feasible;
5. reducing current response times to clients for safety net programs, including the federal Supplemental Nutrition Assistance Program (SNAP); the federal Special Supplemental Nutrition Assistance Program for Women, Infants, and Children (WIC); the Temporary Family Assistance (TFA) program; subsidized child care; heating and rental assistance, eviction prevention; free and reduced preschool meal programs; and the National School Lunch and other federal school nutrition programs;
6. identifying appropriate revisions to regulations and procedures to increase program access;
7. maximizing availability of targeted case management and intervention services;
8. assessing the unique needs of children of soldiers serving in, or returning from, war or other military service; and
9. maximizing all federal funding opportunities.

#### *Reporting*

By January 1, 2011 the council must prepare a report on (1) its progress in implementing the act's provisions and (2) other governmental actions taken to reduce the recession's impact on children and families. The council must submit its report to the Appropriations, Children's, and Human Services committees.

#### § 2 — COMPREHENSIVE STATE SERVICES PLAN

The act requires DSS, in consultation with DCF, SDE, DOL, and DPH and within available appropriations, to promote efficiency, reduce costs and administrative error rates, and simplify application processes. To accomplish this, the department must, within available appropriations, develop a comprehensive plan that may include:

1. developing and promoting a single, simplified, on-line application and enrollment process for DSS-administered programs that serve children or families;
2. using the Internet to develop and increase access to on-line screening tools, benefit calculators, and on-line applications that facilitate prompt access to DSS-administered programs and benefit information; and
3. promoting access to direct assistance with application and enrollment processes through community based organizations.

DSS must submit the plan to the Children's and Human Services committees by January 31, 2011. It may consult with, and accept donations from, philanthropic organizations to finance and accomplish the plan's purposes.

*Client-Friendly Applications and Notices of Programmatic Changes*

The act also requires DSS to develop a client-friendly application process that will not require applications to be re-submitted if a family applies for services and, not more than 30 days after submission, (1) the family experiences a change in circumstances that makes it eligible for services or (2) a program with closed intake reopens. In those situations, the applicant need not submit a new application.

§ 7 — MAXIMIZING FEDERAL FUNDING IN TFA PROGRAM

Within available appropriations, the act directs DSS to assist families facing unemployment, housing crises, increasing debt, homelessness, or other hardship by maximizing federal funding opportunities from the TANF Emergency Fund created by the ARRA. That federal act creates both short-term benefits and subsidized employment funding categories.

The activities for which DSS can use the nonrecurrent, short-term benefit funds include:

1. mortgage assistance,
2. eviction relief,
3. car repairs,
4. work clothes,
5. domestic violence services,
6. home visitation services, and
7. on-the-job training.

Under the act, the emergency fund's subsidized employment category may be used for purposes including youth employment programs and the alleviation of specific labor and state worker shortages where the jobs created will help families apply for state services.

DSS must work with the private sector, including philanthropies, businesses, and nonprofit agencies, and consortia of such groups, for eligible purposes and as third party participants to qualify for, access, and maximize federal funding from the emergency fund through donations, in-kind contributions, and training of subsidized workers.

§ 8 — MODIFYING TFA WORK REQUIREMENTS

The act requires DSS, within 60 days of its passage and available appropriations, to the extent permitted by federal law, to establish and implement a procedure to modify the TFA program after the labor commissioner

determines that the state unemployment rate is 8% or more for the preceding three months. (The state unemployment rates for December 2009 and January and February of 2010 were 8.9, 9, and 9.1%, respectively.)

When this occurs, the act requires TFA's Jobs First program to allow and encourage poor parents to pursue higher education or training. The program must approve, as acceptable work activities, attendance at a two- or four-year higher degree program.

Under the act, the modification must remain in place for at least six months, even if the unemployment rate falls below 8% during that time. DSS may seek federal TANF emergency funds to pay for the modification.

§ 3 — CARE4KIDS

Under the act, DSS must give the public timely notice if it closes Care4kids intake or if program eligibility or status has been altered. No change, except opening the program or expanding eligibility, can be implemented before the public has had 30 days notice of the change.

§ 4 — IMPEDING HOMELESSNESS

The act requires DSS, in consultation with DCF and SDE and within available appropriations, to impede homelessness.

It must:

1. allocate existing funding and resources to ensure that homeless shelters accept intact families or help them find adequate alternative shelter that enables them to stay together;
2. review program eligibility requirements and policies to ensure that an unaccompanied homeless child (for example, a runaway) has access, to the fullest extent practicable, to critical services that he or she might otherwise have been prevented from receiving because of age or lack of a parent or guardian;
3. work, in accordance with state and federal law, to seek relief from income garnishment orders through the appropriate judicial authority if it is deemed to be in the best interest of children and families; and
4. require SDE, in collaboration with appropriate departments, to fully use the federal McKinney-Vento Homeless Act to protect homeless children from school failure and dropping out and improve their access to higher education opportunities;

## §§ 5 &amp; 6 — REDUCING HUNGER

*DSS*

The act requires DPH, DSS and SDE to collaborate to decrease recession-related hunger by, within available appropriations, coordinating statewide access, information, and outreach, and promoting (1) cross-referrals and co-location of entry points and (2) application processes for SNAP, child nutrition programs, and WIC to increase federal reimbursements.

*SDE*

The act requires SDE to administer, within available appropriations, a child nutrition outreach program to (1) increase participation in the federal School Breakfast, Summer Food Service, and Child and Adult Care Food programs and (2) secure federal reimbursement for these programs.

SDE's outreach program must:

1. encourage schools to participate in the federal School Breakfast program and use innovative ways to serve breakfast in classrooms or elsewhere after school starts, rather than only in the cafeteria before school;
2. apply for state grants from the state's existing in-classroom breakfast program;
3. encourage local and regional school districts to (a) sponsor Summer Food Service Program sites, (b) recruit others to sponsor sites, and (c) make grants to sponsors to help them increase children's participation;
4. encourage day care centers to participate in the Child and Adult Care Food Program; and
5. publicize the availability of federally-funded child nutrition programs throughout the state.

## § 9 — DPH

The act requires DPH, within available appropriations and in consultation with SDE and DSS, to try to reduce the incidence of low birth-weight infants resulting from the recession and the state's costs associated with unnecessary hospitalizations. It must do this by (1) maximizing WIC and Medicaid enrollment; (2) targeting tobacco cessation programs at pregnant women; and (3) promoting the use of the centering pregnancy model of prenatal care.

DPH may recover the costs of implementing these programs through funds available from the Tobacco and Health Trust Fund and the TANF emergency fund.

## § 10—RESEARCH

The act requires the Commission on Children to consult with the private sector to research the viability of enacting a state children and the recession fund that would provide funds and low-interest loans to families facing a short-term crisis in housing, utilities, hunger, and unemployment.

The commission must report its findings to the Appropriations Committee by January 12, 2011.

## § 11—YOUTH LEADERSHIP

The act requires the Commission on Children to coordinate information on youth leadership opportunities that keep youth engaged in the community. The commission must inform the legislature and public of such opportunities.

## § 13 — RESULTS-BASED ACCOUNTABILITY REPORTS

The act requires SDE, DPH, and DSS to each submit results-based accountability reports detailing the policies and interventions it promoted as required by the act's terms. The departments' reports must include key outcome indicators and measures and set benchmarks for evaluating progress.

The reports must be submitted to the Appropriations Committee by January 1, 2011.

## BACKGROUND

*Economic Recession*

Although there is no universal definition of economic recession, the widely accepted National Bureau of Economic Research definition is that a recession occurs when gross domestic product has dropped for three consecutive quarters. Under this definition, the United States is not currently in recession. But, high unemployment rates are also a strong indicator of a recession. According to the Bureau of Labor Statistics, Connecticut's unemployment rate stood at 9.1% in February 2010, up from 9% and 8.9%, respectively, in the two preceding months.

**PA 10-75**—sHB 5435  
*Commerce Committee*  
*Appropriations Committee*  
*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING THE  
 RECOMMENDATIONS OF THE MAJORITY  
 LEADERS' JOB GROWTH ROUNDTABLE**

**SUMMARY:** This act authorizes programs and policies for establishing or expanding businesses and creating jobs. It authorizes up to \$5 million in bonds for developing new business concepts (pre-seed financing). It also authorizes credits for investing in technology-based start-up businesses (angel investment tax credits) and expanding businesses, including those using green technologies (insurance reinvestment tax credits).

The act also authorizes funding and technical assistance for established businesses. It taps up to \$15 million in bonds from an existing authorization to provide loans and lines of credit for small businesses, provides technical assistance for all businesses seeking foreign markets for their goods and services, and authorizes financial incentives and technical assistance for businesses developing alternative energy technologies. It authorizes up to \$500,000 in bonds to fund the technical assistance. It creates a council to continuously assess the state’s strategic business clusters and recommend how to address their needs.

The act also addresses workforce needs. It authorizes tax credits for businesses hiring new employees, including those with disabilities. It provides loan reimbursements and grants to Connecticut students seeking jobs in alternative energy technology and other related fields funded by transferring \$3 million from the quasi-public Connecticut Health and Educational Facilities Authority to the General Fund. The act authorizes up to \$1 million in bonds for programs to train unemployed people and up to \$1.5 million bonds for the existing Mortgage Crisis Job Training Program.

Besides authorizing new policies and programs for developing businesses and creating jobs, the act addresses government operations. It establishes a task force to boost government efficiency and eliminate waste and requires the Office of Fiscal Analysis to inform the legislature about the resources needed to determine how bills affect the economy’s capacity to create and retain jobs.

Although the act authorizes several new tax credits, it sunsets those for (1) donating computers to public and private schools, (2) constructing new facilities housing financial institutions, and (3) paying Small Business Administration guaranty fees. It repeals these credits for income years beginning on or after January 1, 2014.

Lastly, the act makes technical changes.  
 EFFECTIVE DATE: Various, see below

§§ 12 & 13 — PRE-SEED FUNDING

The act provides investment capital for businesses in different stages of development. It requires Connecticut Innovations, Inc. (CII) to provide capital and support services to businesses developing new concepts. It authorizes \$5 million in general obligation (GO) bonds for these purposes and establishes a nonlapsing General Fund account to receive the bond proceeds.

A business qualifies for financing and technical support if it is principally located in Connecticut and at least 75% of its employees work here. It must also show that it received private investments that equal at least half the state funds it seeks. Under the act, the business qualifies for up to \$150,000, which it may use only to prove new concepts (pre-seed financing).

The act allows CII to run the program itself or through a nonprofit corporation providing services and resources to entrepreneurs and businesses. If CII chooses the latter, it must enter into a personal services agreement with the corporation.  
 EFFECTIVE DATE: July 1, 2010

§ 15 —CREDITS FOR ANGEL INVESTORS

*Tax Credit*

The act authorizes personal income tax credits for people who invest at least \$100,000 in start-up, technology-based businesses in Connecticut (angel investors). Each credit equals 25% of the cash investment, up to \$250,000. CII must administer the credits as the act provides. It may reserve no more than \$6 million in credits per year in FY 11 through FY 13 and no more than \$3 million in FY 14. CII may reserve no credits after July 1, 2014.

*Eligible Investors*

CII may allocate credits to qualified angel investors, who are individuals or groups that usually invest in a business where they can help foster its development, usually as a consultant or mentor. Under the act, an angel investor can be a person who qualifies as an “accredited investor” under Security and Exchange Commission (SEC) rules or a network of people. (Accredited investors are typically upper-income, high-net-worth individuals and entities.) But they do not include:

1. individuals who control 50% or more of the business receiving the investment;
2. venture capital companies; or
3. banks, bank and trust companies, insurance companies, trust companies, national banks, savings and loan associations, or building and loan associations for activities that are part of their normal business operations.

#### *Businesses Eligible for Angel Investments*

Under the act, a business qualifies for angel investments if it focuses on bioscience, advanced materials, photonics, information technology, clean technology, or an emerging technology, as determined by the Department of Economic and Community Development (DECD) commissioner. The business must also have its principal place of business in Connecticut and:

1. gross revenues under \$1 million in its most recent income year;
2. fewer than 25 employees, at least 75% of whom are Connecticut residents;
3. operated in Connecticut for less than seven consecutive years; and
4. received less than \$2 million in eligible investments from angel investors.

Lastly, the business' managers and their families must be the primary owners and, as described below, the business must have been identified by CII as eligible for angel investment.

#### *Applying for Investment Credits*

The act creates a mechanism connecting eligible businesses and potential angel investors. The mechanism is a list of such businesses CII must maintain and make available to angel investors. A business that wants to be placed on the list must apply to CII, which must determine if it qualifies. CII may add the business to the list if it provides:

1. its name and a copy of its organizational documents;
2. a plan describing the business and its management, product, market, and financial plans;
3. a description of its innovative and proprietary technology, product, or service;
4. a statement of its potential economic impact, including the number, types, and location of jobs it expects to create;
5. a description of the qualified securities it offers, their cost, and the amount of cash investment sought;

6. the amount, timing, and projected use of the proceeds from the sale of these securities; and
7. any other information CII requires.

CII's executive director must compile the list monthly, beginning by August 1, 2010. The list must categorize the businesses by the amount of cash investments sought and the type of qualified securities offered.

#### *Accessing the Credits*

An angel investor who wants tax credits for investing in a listed business must first apply to CII for them. In doing so, the investor must identify the business and the amount it proposes to invest. If the investor qualifies as an angel investor, CII may reserve credits for an amount based on the act's criteria (i.e., 25% of the cash investment, up to \$250,000).

The investor may claim the credit only for actual cash investments in the business' qualified securities, which can be any form of equity, including general or limited partnership interests, any type of common stock, or preferred stock with or without voting rights and without regard to seniority position that must be convertible into common stock.

#### *Claiming or Transferring Credits*

An angel investor can claim credits up to the total income tax it owes in a given year. And it must do so in the same year it invested the funds. It can carry forward unused credits for up to five succeeding years, but not transfer them to other taxpayers. Nor can it claim them against that portion of the wages an employer must withhold from an employee's wages for income taxes.

Although the credits apply only to personal income taxes, businesses qualifying as angel investors may still claim them if they are not liable for business taxes, such as the corporation business tax. Because people who own or invest in these businesses do not pay business taxes, they must pay personal income taxes on the income they derive from the business. These businesses are usually organized as S corporations, partnerships, or limited liability companies.

Under the act, the credits allocated to an S corporation may be claimed by the shareholders or partners. Those allocated to a single-member limited liability company disregarded as an entity separate from its owner, may be claimed only the owners.

#### *Credit Evaluation*

The act requires CII to review the credit's effectiveness but specifies no criteria for doing so. CII must complete the review by July 1, 2014 and report the findings to the Commerce Committee.



EFFECTIVE DATE: July 1, 2010 and applicable to tax years beginning on or after January 1, 2010.

#### § 14 — NEW INSURANCE REINVESTMENT FUND PROGRAM

##### *Leveraging Mechanism*

Just as the act uses tax credits to leverage private capital for start-up technology-based businesses, it also uses them to leverage private capital for established businesses. But it does so through a different mechanism. Instead of using CII to match investors and businesses, the act uses privately operated, state-certified investment funds to identify and market investment opportunities to business investors. The funds must be certified by DECD and meet performance standards.

The act models this mechanism on the existing Insurance Reinvestment Tax Credit Program, whose phase-out the act accelerates. The mechanism consists of (1) state-certified business investment funds, (2) businesses eligible to receive the funds' investments, and (3) business taxpayers that invest in the funds, for which they receive tax credits and returns on their investments.

The existing mechanism offers insurance premium, corporation business, and personal income tax credits to taxpayers that invest in insurance businesses through a state-certified fund. The taxpayers may claim the credits or transfer them to other investors. Either way, a portion of the credits may be claimed only over 10 years according to a statutory schedule. And those holding the credit may claim it only if the insurance business receiving the investment (1) developed a new facility, (2) occupies it over the 10-year period, and (3) employs at least 25% of its workforce in new jobs. The taxpayers must forfeit or repay the credits if the business fails to meet specific performance standards.

The new program has the same elements, but matches different investors and businesses. Because the act's tax credits apply only to the insurance premium tax, only insurance companies can invest in a state-certified fund and claim the credits. But the fund can invest in any Connecticut-based business, not just insurance companies, as under the existing program. The fund's insurance company investors qualify for credits if the fund invests in a business that:

1. employs fewer than 250 people when it received the investment;
2. netted no more than \$10 million in the previous year; and

3. conducts its principal operations in Connecticut, that is, at least 80% of its workers live here or 80% of its payroll goes to Connecticut residents (i.e., "Connecticut-based business").

The investors may carry forward unused portions of the credits, but cannot transfer them to other taxpayers.

While the existing program imposes performance standards on insurance companies receiving the investments, the new program imposes them on the investment fund. If a fund fails to meet the standards, investors risk forfeiting unclaimed credits. The act imposes a \$40 million annual cap and a \$200 million aggregate cap on the amount of credits investors can claim under the new program.

##### *Eligible Funds*

The act uses insurance premium tax credits to leverage private investments in Connecticut-based businesses. But insurers can access the credits only through state-certified "insurance reinvestment funds." A fund qualifies for certification if it is a Connecticut partnership, corporation, trust, or limited liability company. It can be organized on a for-profit or nonprofit basis, but must be managed by at least two principals or people each of whom has at least four years of experience managing venture capital or private equity funds with at least \$50 million invested by people unaffiliated with the fund's manager.

The fund must obtain capital from other investors besides the insurance companies. It meets this requirement under the act if the equity from other investors comprises at least 5% of the capital invested by the insurers. The fund must be closed to additional investments and investors after it applies to the DECD commissioner for certification as an insurance reinvestment fund.

The fund must operate independently of its insurance company investors. The investors cannot control the fund, which would happen under the act if each company invests over \$40 million and can vote over half of the fund's equity interest. But they can take interim control if the fund breaches any payment obligation or contractual agreement affecting their ability to claim credits.

##### *Eligible Investors and Investments*

As noted above, only taxpayers liable for insurance premium taxes qualify for the act's credits. A taxpayer qualifies for them only if it invests cash in an approved insurance reinvestment fund (i.e., credit-eligible capital). The cash investment must fully pay for an equity interest in the fund or an eligible debt instrument, at par or at a premium, the fund issued.

A fund's debt instrument cannot:

1. mature less than five years after it is issued;
2. repay the debt faster than paying the principal in equal installments over five years; or
3. base interest, distribution, or other payments on the fund's profitability or investment success.

The company's ability to claim the credits depends on how the fund invests the company's dollars. The fund may invest these dollars only in eligible, Connecticut-based businesses. And, it may invest no more than 15% of the credit-eligible capital in one business without the commissioner's prior approval. The fund may invest this capital in bank deposits, certificates of deposit, or other fixed income securities. (Presumably, a fund would do so until it is ready to invest the capital in an eligible business. The act does not specify how the fund must account for the interest income these investments earn.)

#### *Fund Certification*

Insurance companies qualify for credits only if they invested in a certified insurance reinvestment fund. To be certified, the fund must submit an application to DECD that:

1. indicates the amount of capital the fund will raise,
2. includes an affidavit from each investor committing investments to the fund,
3. includes a nonrefundable \$7,500 application fee,
4. contains evidence that the fund qualifies as an insurance reinvestment fund,
5. commits the fund to invest at least 25% of the credit-eligible capital in "green technology businesses," and
6. commits the fund to invest at least 3% of the credit-eligible capital in pre-seed investments within three years after the fund was fully capitalized by insurance companies seeking credits.

The act specifies criteria for determining green technology businesses and requirements for making pre-seed investments. Under the act, a green technology business is one in which at least 25% of the jobs use or develop "green technology," which the act does not define. These jobs may include those corresponding to green technology occupational codes devised by DECD and the Labor Department. The act also requires funds to make their pre-seed investments in consultation with CII's pre-seed financing program, which the act requires CII to establish (see §§ 10-11, above).

The application must also include a plan describing how the fund intends to invest the credit-eligible capital. The plan must:

1. estimate the share of credit-eligible capital the fund plans to invest by third, fifth, seventh and ninth years following the date on which it was fully capitalized by the credit-eligible capital;
2. identify the types of businesses targeted for investment and their respective share of the taxpayers' investment dollars;
3. estimate the share of credit-eligible capital going to businesses engaged in research and development or manufacturing, processing, or assembling technology-based products;
4. specify the number of jobs the fund expects to create or retain after the fund has invested all of the credit-eligible capital; and
5. show that the credit-eligible capital will generate tax revenue that equals or exceeds the credits' value ("revenue estimate").

The fund may prepare the revenue estimate unless the commissioner requires a third party to do so.

As discussed below, the fund must comply with its investment plan or risk decertification, which could jeopardize its investors' unclaimed credits. But it can, with the commissioner's approval, change its plan because of unavoidable or reasonably unexpected changes, including economic changes; technological advances; high employment; and opportunities for revenue growth. The commissioner cannot unreasonably withhold approval. The DECD commissioner must begin accepting applications by July 1, 2010.

#### *Credit Allocation*

The act requires DECD to approve applications, including credit allocation plans, on a first-come, first-served basis. If DECD receives several applications on the same day, it must approve them simultaneously.

When applying for certification, the fund must also ask DECD to reserve tax credits for an amount equal to the credit-eligible capital. If the commissioner reserves the requested amount, she does so contingent on the fund's investors actually investing the amounts indicated in the application. The investors have five days from the fund's certification to invest the amounts, and the fund manager must confirm that investment on a form the commissioner provides.

The fund must also notify the commissioner by overnight common carrier delivery service if any investor fails to invest the committed amount. In such case, the investor forfeits its credit allocation, which the commissioner must reallocate to the other insurance company investors. The investor and the fund must each pay a \$25,000 administrative penalty.

#### *Continuing Certification*

As noted above, insurance company investors may

claim the credits over 10 years according to the act's schedule. Their right to do so depends on whether the fund meets its annual investment goals. The act provides a mechanism for determining if it did. The mechanism consists of performance standards the fund must meet, annual performance reports and DECD reviews, and, depending on the outcome of those reviews, fund decertification, and credit forfeiture.

*Performance Standards.* The act's performance standards address the rate at which a fund invests its credit-eligible capital, the share of capital it must invest in certain types of businesses, and the state revenue its investment generates. The fund must meet its own investment schedule, as specified in the business plan it included in its application for certification. It must also show that its business investments generate tax revenue that at least equals the credits' value.

In addition, the fund must invest at least:

1. 60% of its credit-eligible capital in eligible businesses within four years after DECD approves its credit allocation and
2. 100% of the funds within 10 years of that date.

It must also invest in certain types of businesses. By the tenth year, it must invest at least 25% of the credit-eligible capital in green technology businesses.

*Annual Performance Reports and Commissioner Reviews.* By every January 31, each fund must submit a performance report to the commissioner showing:

1. the year-end balance for credit-eligible funds;
2. each business receiving investments in the prior year, including its location and industry classification code;
3. the percentage of credit-eligible funds invested in green technology businesses; and
4. distributions or payouts the fund made during the previous year.

The annual reports for the third, fifth, seventh, and ninth year must also show if the fund (1) is investing credit-eligible capital at the rate it projected in its business plan and (2) generating tax revenues that at least equal the credits' value. Besides these reports, each fund must also submit its annual audited financial statements to the commissioner.

*Decertification.* The commissioner must review the annual reports to determine if a fund is complying with its investment targets and the act's distribution rules. She may decertify a fund if it fails to submit the reports, meet its targets, or comply with the distribution rules. Before doing so, the commissioner must notify the fund's officers in writing that she can decertify the fund after 120 days unless she waives the deficiencies or the fund corrects them.

*Forfeiting Credits.* The act specifies when decertification triggers forfeiture. A fund's insurance company investors must automatically forfeit future

unclaimed credits if:

1. the commissioner decertifies the fund within four years after she reserved the credits and
2. the fund invested less than 60% of the eligible capital by the fourth year after the reservation date.

When these conditions trigger forfeiture, the commissioner must notify each investor in writing that it must forfeit or recapture the credits. It is not clear if the commissioner can order recapture because the act does not authorize it. Recapture requires taxpayers that claimed credits to repay some or all of them. The law allows recapture under the existing Insurance Reinvestment Act program.

### *Distributions*

A fund cannot begin paying investors returns on investment (i.e., distribution payments) until it meets specific requirements. The fund must have invested all of the credit-eligible capital in eligible businesses, with at least 25% of the amount invested in green technology businesses. The businesses receiving the investments must still be primarily operating in Connecticut when the fund distributes the dollars. But the act specifies conditions under which the fund may distribute funds before it meets these standards.

1. The fund may do so if the way it is owned, managed, or operated affects its earnings or other tax liabilities to the point where the equity owners must pay additional federal or state taxes, including interest and penalties.
2. The fund may also distribute funds to make principal and interest payments on its debt. But, if it does so, the total value of the fund's cash and other marketable securities plus its cumulative investment in eligible businesses must equal at least 60% of its credit-eligible capital.
3. Lastly, the fund may distribute funds to cover the reasonable costs and expenses of forming, syndicating, managing, and operating the fund as long as it does not distribute or pay funds directly or indirectly to an insurance company investor.

Reasonable costs and expenses for organizing and operating the fund include accounting, legal, and other related professional services and annual management fees up to 2.5% of the fund's credit-eligible capital.

Although the fund receives no state investment dollars, the act specifies conditions under which it must include the state in a distribution. The fund must include the state whenever it:

1. distributes funds to credit-eligible investors for reasons other than those cited above and
2. failed to create or retain at least 80% of the

number of jobs specified in its business plan.

The money the state must receive depends on the extent to which the fund missed the job goals. The state must receive:

1. 10% of any distribution if the number of jobs that were actually created or retained falls between 80% and 60% of the planned totals and
2. 20% when the number is 60% or less of those totals.

These requirements do not apply when the fund distributes returns to those investors who do not qualify for tax credits.

#### *Insurance Premium Tax Credits*

The credits under the new component apply only to the insurance premium tax and equal 100% of an insurance company's investment in a fund. The company must claim the credits over 10 years, beginning in the fourth year after it invested in the fund. It can claim up to 10% of the credit per year in years four through seven, inclusive, and 20% per year in the last three years. As under the existing program, the company may carry unused credits forward for up to five years.

Companies may claim the credits under the same rules that apply under the existing program. These address how companies submitting a combined return may claim the credits.

Lastly, companies claiming credits under the act cannot claim the other credits the law allows for same investment.

EFFECTIVE DATE: July 1, 2010

#### § 14 — CHANGES TO EXISTING INSURANCE REINVESTMENT ACT PROGRAM

The act pushes up the deadline for allocating credits under the existing program and limits investors' ability to claim allocated ones. As noted above, the program provides business and personal income tax credits for investing in an insurance business. Investors may obtain these credits only through a DECD-registered insurance reinvestment fund. Further, they may claim only a specified portion of the credit total over 10 years and may do so only if the business develops a new facility; creates new jobs; and, during the 10-year period, continues to occupy the facility and retain those jobs. The business must annually certify to DECD that it meets these requirements.

Under prior law, DECD's authority to allocate credits expired on July 1, 2015. The act pushes up the expiration date to June 30, 2010 by prohibiting DECD from issuing new eligibility certificates after that date. Presumably, DECD may continue issuing certificates of

continued eligibility to businesses that received their initial certificates before that date.

The act temporarily lifts the ban on allocating credits to funds formed after July 1, 2000 until June 30, 2010, the date on which DECD's authority to issue eligibility certificates expires. But it also ties an investor's ability to claim the credits to the fund's investment rate. In doing so, the act implicitly distinguishes between established funds that have received DECD's certificates of continued eligibility from newly formed ones that have not. Investors accessing credits through established funds may claim them only if the fund invested at least \$1 million by July 1, 2011.

Newly formed funds must also meet this investment threshold and prove that they did so. A fund must provide the proof by June 30, 2011; otherwise, the commissioner must revoke its eligibility certificate. The proof may include canceled checks, wire transfers, investment agreements, or other documentation that satisfies the commissioner.

The act tightens the eligibility criteria an insurance business must meet to qualify for credit-eligible investments. It specifies that Connecticut residents must hold the new jobs the business creates and retains. Under prior law, a business met the job requirement if it employed at least 25% of its workforce in new jobs, which by law must be one that did not exist in the business when it applied for its initial certification. The jobs must be held by new employees, excluding those the business reassigned from another facility.

Lastly, the act specifies that investors who received credits before January 1, 2010 may carry them forward as the law allows. This provision applies to investors and taxpayers to whom they transferred the credits.

EFFECTIVE DATE: July 1, 2010.

#### BUSINESS DEVELOPMENT

The act also provides different types of financial and technical assistance to established businesses and provides forums for identifying and addressing the state's strategic business needs.

#### *§§ 6, 7, & 31 — Small Business Loans*

The act establishes a revolving loan program for small businesses and nonprofit organizations (the Connecticut Credit Consortium) and funds it by tapping up to \$15 million in previously authorized bonds for the Manufacturing Assistance Act (MAA) program. The DECD commissioner must administer the consortium, under which she may provide up to \$500,000 in direct loans and lines of credit to businesses and nonprofit organizations employing fewer than 50 people. She must establish guidelines and eligibility criteria. The

act imposes a \$15 million cap on the total amount of loans and lines of credit the commissioner can provide.

The act establishes a separate, nonlapsing General Fund account and requires the bond proceeds to be deposited there. Although the act funds the program with bonds issued under the MAA statutes, it exempts the loans and lines of credit from (1) MAA eligibility criteria and procedural requirements and (2) the law imposing penalties on businesses receiving state economic development dollars that leave the state before repaying them. The act also requires loan fees and principal and interest payments to be credited to the fund and used for additional loans and lines of credit.

DECD must report on the program's performance in its comprehensive annual report to the legislature. It must specify the number of applications it received and approved, the size of the applicants, the amount of assistance it provided, and the amount repaid.

EFFECTIVE DATE: July 1, 2010

#### § 18 — *Manufacturing Assistance Act (MAA) Expansion*

The act authorizes the DECD commissioner to use MAA funds to support exporting. Prior law allowed her to use these funds to create and support organizations that provide technical and engineering services to businesses. The act allows her to create and support activities, as well as organizations, that leverage federal resources that provide export services.

The act specifically allows the commissioner to use MAA funds to promote exporting, including sponsoring export support programs, helping companies access U. S. Department of Commerce export assistance services, and providing export-related marketing materials and website improvements. Lastly, the act makes export assistance eligible for MAA funding. The act's changes also allow the commissioner to use regional economic development infrastructure funds to support exporting (CGS § 32-327 (4)).

EFFECTIVE DATE: July 1, 2010.

#### § 17 — *DECD Commissioner Business Development Powers and Duties*

The act directs the commissioner to take specific actions in certain policy areas.

*Exports, Manufacturing, Clusters, and Regulatory Assistance.* The act requires her to take more steps to promote exports and manufacturing by assigning enough available staff to (1) provide technical assistance to businesses regarding exporting and manufacturing, (2) help groups of businesses in the same industry implement policies designed to improve their overall competitiveness (i.e., cluster-based initiatives), and (3) help businesses understand regulatory requirements. She must do these things by

reallocating funds from other DECD accounts and programs.

*Marketing and Technology Development.* The act requires the commissioner to develop a marketing campaign that promotes Connecticut as a place of innovation. It also requires her to implement a 2000 agreement with Massachusetts to promote the biomedical device industry in the Connecticut River Valley region between Hartford and Springfield (i.e., the New England Knowledge Corridor). The commissioner must complete both tasks by reallocating funds from other DECD accounts and programs.

*Applying for Federal Funds.* Lastly, the act requires, rather than allows, the commissioner to apply and qualify for and accept, federal funds related to economic development. It also requires her to describe what she did to secure these funds in her comprehensive annual report to the legislature.

EFFECTIVE DATE: July 1, 2010

#### § 11 — *Renewable Energy Sales and Use Tax Exemption*

The act exempts from the sales and use tax items sold, stored, used or consumed in the renewable and clean energy technology industries. These industries produce, improve, or develop solar energy electricity generating systems, passive or active solar water or space heating systems, and wind power electric generation systems and related equipment. The exemption applies to machines, equipment, tools, materials, supplies, and fuel sold, stored, used, or consumed in these industries.

The law already exempts the sale and use solar energy electricity generation, passive or active solar water or space heating, and geothermal resource systems, including related equipment and their installation.

EFFECTIVE DATE: July 1, 2010 and applicable to sales occurring on or after that date.

#### §§ 29-30 — *Green Manufacturing Pilot Program*

The act authorizes \$500,000 in bonds with up to 20-year terms for a pilot program to help manufacturers convert their facilities into green operations or implement energy efficiency measures by using lean manufacturing strategies. Manufacturers qualify for assistance if they are principally located in Connecticut and have fewer than 250 employees, at least 75% of whom work here.

DECD must implement the program. It may contract with a third party to provide services to eligible manufacturers. The services may include increasing

operational efficiencies, reducing wasteful practices and processes, and engaging managers and workers in practices that improve service delivery.

EFFECTIVE DATE: July 1, 2010

§§ 19 & 20 — *Connecticut Competitiveness Council*

*Organization.* The act establishes a 21-member council to promote the state's industry clusters. The members include specified state officials and representatives of different sectors appointed by the governor and legislative leaders. The state officials are the governor and the six legislative leaders or their designees; the labor, transportation, developmental services, and higher education commissioners; and the Office of Workforce Competitiveness executive director. The governor appoints the chairperson.

As Table 1 shows, the governor and legislative leaders must appoint representatives of specific sectors.

**Table 1: Appointed Members of Connecticut Competitiveness Council**

<i>Sector</i>	<i>Total Number of Representatives</i>	<i>Appointing Authorities and Number of Appointments</i>
Business	5	Governor: 3 House minority leader: 1 Senate minority leader: 1
Organized Labor	2	House speaker: 1 Senate president pro tempore: 1
Academic Institutions	2	House majority leader: 1 Senate majority leader: 1

The council's business representatives must be chief executive officers or chief operating officers or people holding an equivalent position. They must come from key industry clusters and large and small firms.

*Terms and Vacancies.* The appointed members serve four-year terms, except for five of the initial members, who serve only two-year terms. Those serving initial two-year terms are the members appointed by the governor and the House majority and minority leaders. Each appointing authority must fill any vacancy, and the person filling the vacancy must serve for the balance of the term. The members serve without compensation, but are reimbursed for necessary expenses while performing their duties. The council must meet at least quarterly. A majority of the members constitutes a quorum.

*Purpose.* The council's major purpose is to promote the formation of industry clusters—groups of businesses providing the same products or services, using similar processes and techniques, having similar workforce needs, and buying mostly the same types of supplies and support services. (DECD has designated nine clusters: aerospace components manufacturing, agriculture, bioscience, insurance and financial services, maritime, metal manufacturing, plastics and plastics

manufacturing, software and information technology, and tourism.)

The council must help businesses form clusters and use them to address their strategic needs and monitor, assess, and evaluate their activities. The council must also help state officials develop and implement policies supporting clusters. Specifically, it must:

1. recommend how clusters should be defined;
2. advise and assist legislators and executive branch officials, as well as businesspeople, on economic competitiveness, industry clusters, and economic development; and
3. develop medium- and long-term strategies for enhancing clusters' development and economic competitiveness.

To perform these tasks, the act authorizes the council to obtain any assistance and data it needs from any state entity. It also authorizes the council to obtain funds from any source and other resources needed to fulfill its mission, which it must do in compliance with the rules governing these funds and resources. Lastly, the council can do other things needed to fulfill its statutory purposes and objectives.

*Report.* The council must report annually to the governor, the DECD commissioner, and the Commerce Committee on the competitiveness of the state's industry and economy, beginning January 1, 2011.

*Innovation Network Task Force.* The act substitutes its Connecticut Competitiveness Council for the Governor's Competitiveness Council as advisors to a 2005 interagency group formed to recommend a plan and budget for establishing an innovation network. Governor Rowland's 1998 Executive Order 13 created The Governor's Competitiveness Council to promote, among other things, the development of industry clusters. Governor Rell's 2009 Executive Order 24 eliminated the council along with several other advisory bodies.

EFFECTIVE DATE: July 1, 2010

## WORKFORCE DEVELOPMENT

The act authorizes several programs to create jobs and ensure that the workers have the skills needed to fill them. These include tax credits for creating jobs, incentives for students majoring in specific fields, authorization for creating short-term training programs, and funds for an existing job training program.

§§ 8 & 10 — *Small Business Job Creation Tax Credit*

*Applicable Taxes.* The act authorizes insurance premium, corporation business, and personal income tax credits for small businesses (fewer than 50 employees in Connecticut) creating new full-time jobs. Businesses qualify for the credits only for jobs they create between May 6, 2010 and December 31, 2012. The act imposes a combined \$11-million-per-year cap on these credits, the vocational rehabilitation job creation credits it creates (§ 9), and those authorized under the existing job incentive tax credit program (CGS § 12-217ii).

*Credit Amount.* The act authorizes three-year credits for small businesses that create new, full-time jobs filled by new employees who reside in Connecticut. The maximum credit is \$200 per month per new employee.

Businesses can apply the credits against the insurance premium, corporation business, or personal income tax, but not the withholding tax. The existing job creation tax credit applies only to the insurance premium and corporation business tax. Depending on how they are organized, some businesses do not pay business taxes, but their owners pay personal income taxes on the income they received from the business. The act allows these taxpayers to claim credits against the income tax, but specifies that the value of the credits cannot exceed the tax owed.

Businesses claiming the act's credits for hiring new employees cannot count these employees toward other credits the law allows, including those authorized under the job incentive and the enterprise zone (CGS § 12-217) programs.

*Qualifying For the Credit.* Businesses qualify for a credit if they create a new job and hire a new employee who lives in Connecticut to fill it. The job and the employee must meet specific criteria. The job must require the new employee to work at least 35 hours per week on a regular, full-time basis for at least 48 weeks per calendar year. New temporary or seasonal jobs do not count toward the credit.

Under the act, a business cannot count as a new employee someone who:

1. owns the business or is a member or partner in it,
2. worked in Connecticut for a related business during the previous 12 months, and
3. no longer works for the business at the end of its income year.

An employee worked for a related business if:

1. it controlled the business that subsequently hired him,
2. the business that hired him controlled the business that previously employed him,

3. the business that employed him is part of a larger business entity that also controls the business that hired him, or
4. both businesses belong to the same group of controlled businesses.

The act specifies criteria for determining if a business controls the business applying for the tax credits. The criteria reflect how the controlling business is organized (i.e., corporation, partnership, etc.).

As noted above, a business qualifies for the credit only for jobs it creates between January 1, 2010 and December 31, 2012. The business must claim the credit for the income year in which it created the job and hired a new employee to fill it. It may also claim the credit for each of the two subsequent years if the employee held the job for the full year. Unused credits expire and cannot be refunded.

*Accessing the Credit.* To claim the credits, businesses must apply to the DECD commissioner for a certification letter. The business must use a DECD form and provide enough information for DECD to determine its eligibility. The information must describe the business' activities, indicate its North American Industrial Classification System code, specify the number of people employed as of the application date, and identify the new hire's name and job title or classification.

The commissioner must act on the application within 30 days of receiving it. She must issue the certification letter if she approves the application. In doing so, she must state that the business may claim the credit if it meets the act's requirements. The commissioner must annually give the revenue services commissioner a list of the businesses that she approved for credits and the credit amounts.

If the business is an S corporation or partnership, the credit may be claimed by its shareholders or partners. If the business is a single-member limited liability company that is disregarded as an entity separate from its owner, only the owner may claim the credit.

EFFECTIVE DATE: Upon passage and applicable to income years beginning on or after January 1, 2010.

§§ 9 & 10 — *Vocational Rehabilitation Job Creation Tax Credit*

*Applicable Taxes.* The act authorizes insurance premium, corporation business, and personal income tax credits for businesses hiring Connecticut residents with disabilities under terms and conditions similar to those governing its small business job creation credits. A business cannot apply the credit against its payroll withholding taxes. The act imposes a combined \$11-million-per-year cap on these credits, the job creation

credits described above, and the credits authorized under the existing job incentive tax credit program (CGS § 12-217ii).

*Credit Amount.* The act authorizes three-year credits for businesses that hire people with disabilities who meet the act's criteria. The maximum credit is \$200 per month for each new employee. Businesses claiming the act's credits for hiring new employees cannot count these employees toward other credits the law allows. These credits include those authorized under the job incentive and the enterprise zone (CGS § 12-217) programs.

*Eligible Employees.* A business can claim the credit if it hires new employees who live in Connecticut and who have a physical or mental impairment that makes it hard for them to find work. (PA 10-1, JSS expands the range of new employees that qualify businesses for the credits include people with blindness. The business qualifies for credits only for employees hired after May 6, 2010 for the income years beginning on or after January 1, 2010. The employee must work at least 20 hours per week for at least 48 weeks per calendar year. He or she must also be on the payroll at the close of the business' income year.

As under the act's small business job creation tax credit program, the employee must be someone who did not work for a related business during the previous 12 months.

*Accessing the Credit.* The application requirements and process is the same as the one for accessing the small business job creation tax credits. So is the requirement regarding reports to the revenue services commissioner.

The business must claim the credit for the income year in which it created the job and hired a new employee to fill it. It may claim the credit for each of the two subsequent years if the employee held the job for the full year. Unused credits expire and cannot be refunded.

The act allows shareholders and partners of S corporations and partnerships to claim the credit against the personal income tax. With respect to single-member limited liability companies that are disregarded as entities separate from their owners, only the company's owner may claim the credit.

EFFECTIVE DATE: Upon passage and applicable to income years beginning on or after January 1, 2010.

### §§ 1-3 — Student Loan Reimbursements

*Eligible Fields.* The act authorizes reimbursements for student loans and training grants for Connecticut residents with educational backgrounds and jobs related to green technology, life science, or health information technology and holding jobs related to these fields. The

Board of Governors of Higher Education may adopt regulations for providing these loans and grants.

Under the act, green technologies are those that promote clean, renewable, or energy efficiency; reduce greenhouse gases or carbon emissions; or apply chemical products and processes to eliminate the use and generation of hazardous substances. Green technology jobs include those classified as such by the U.S. Bureau of Labor Statistics and the codes DECD and the Labor Department use to identify green jobs.

Educational backgrounds and jobs in life sciences involve studying genes, cells, tissues, and the chemical and physical structures of living organisms. Those in health information technology involve creating, executing, or implementing electronic data systems for recording or transmitting medical or health information.

*Eligible Residents.* The eligibility criteria for the loan reimbursements vary depending on whether a resident holds a degree or certificate. A resident holding a bachelor or associate degree qualifies for reimbursement if his or her expected family contribution, as determined by the federal Free Application for Federal Student Aid, falls below \$35,000 for the most recent full academic year. (Family income is one of the factors that affects family contribution.) The resident must also:

1. graduate from any Connecticut institution of higher education on or after May 1, 2010 with a degree related to one of the fields mentioned above and
2. work for at least two years in Connecticut after graduation in a job related to one of these fields.

A resident receiving a training certificate qualifies for a grant if he or she:

1. is unemployed, received a layoff notice, or earns less than \$40,000 per year;
2. is 18 years or older;
3. graduated from high school before July 1, 2008; and
4. was not enrolled as a full-time student at any institution of higher education before July 1, 2010.

*Loan Reimbursement and Grant Amounts.* The reimbursements apply to federal and state student loans. (No state loans are currently available.) The amount depends on a resident's degree. A resident with a bachelor's degree qualifies for reimbursements of up to \$2,500 per year or 5% of the loan amounts, whichever is less, for up to four years. A resident with an associate's degree qualifies for the same amount, but only for up to two years. The act caps the total value of reimbursements a resident can receive under the act and any other state program. The cap is \$10,000 for residents holding a bachelor's degree and \$5,000 for those holding an associate's degree.



Residents with certificates qualify for a grant equal to the cost of their training certificate, up to \$250.

*Funding Source.* The act funds the reimbursements by transferring \$3 million from the quasi-public Connecticut Health and Educational Facilities Authority to the General Fund specifically for reimbursing students.

EFFECTIVE DATE: Upon passage, except for the provision transferring funds to the General Fund, which takes effect January 1, 2012.

*§§ 4 & 5—Short-Term, Non-Credit Workforce Development Initiative*

The act authorizes \$1 million in bonds for addressing the training needs of unemployed Connecticut residents. It requires the Community-Technical Colleges (CTC) Board of Trustees to develop short-term, noncredit programs providing job-related skills and workforce credentials. It must also establish an advisory committee consisting of the DECD, Labor Department, Workforce Investment Board, Connecticut Center for Advanced Technology, Connecticut Business and Industry Association, and labor representatives.

The committee must identify workforce needs and recommend how to address them. It must identify the types of education, training, support services, and partnerships needed to fill jobs (1) in regions with persistently high unemployment and (2) in occupational fields with job openings.

The act specifically requires the committee to examine the use of individual educational training accounts as a way to help unemployed people pay for training and services. In doing so, the committee must recommend eligibility requirements for establishing these accounts that include methods for verifying unemployment and demonstrating financial need. It must also consider establishing pilot programs based on available funding. The committee must report its recommendations to the CTC board by November 1, 2010.

The board must weigh the costs of modifying existing programs or developing new ones focused on high-need, high-growth fields. The costs it must consider include tuition, fees, books, materials, and academics.

The act requires the colleges to use the dollars it provides to sustain and expand individual educational training grants throughout the community-technical college system. It requires them to do so by using the dollars to leverage federal funds under the Student Aid and Fiscal Responsibility Act, the college access challenge grant program, and other educational and career training grants.

EFFECTIVE DATE: July 1, 2010

*§ 21 — Bonds for the Mortgage Crisis Job Training Program*

The act authorizes \$1.3 million in bonds for the Mortgage Crisis Job Training Program, which provides rapid, customized employment services, job training, repair training, and job placement assistance to borrowers who are unemployed, underemployed, or in need of a second job (CGS § 31-3nn).

EFFECTIVE DATE: July 1, 2010

GOVERNMENT OPERATIONS

The act authorizes several initiatives aimed at reducing the cost of running government and determining the resources needed to assess how bills affect businesses and jobs.

*§ 16 — Waste Reduction Task Force*

The act establishes an 12-member task force to determine how state agencies and departments can reduce or eliminate duplicative procedures and paper usage. The task force must determine how technology can help agencies and departments achieve these goals.

The task force consists of state officials and corporate executives, economists, and information technology experts. It includes the administrative services commissioner, the Office of Policy and Management secretary, and the Information Technology Department's chief information officer, or their designees. The other members are appointed by the governor and legislative leaders. The House speaker and Senate president pro tempore each appoint two, and the governor and the other four leaders each appoint one. (PA 10-1, JSS allows one of the House speaker's two appointees to be a legislator.) They must make their appointments by July 30, 2010. Members must serve without compensation.

The speaker and president pro tempore select the task force's cochairpersons from among the members. The chairpersons must convene the task force's first meeting by August 29, 2010. The Government Administration and Elections Committee's administrative staff must provide administrative support. The task force must submit its findings and recommendations to the Commerce and Government Administration and Elections committees by February 1, 2011.

EFFECTIVE DATE: July 1, 2010

*§ 32—Job Impact Analysis*

The act requires the Office of Fiscal Analysis (OFA) to determine the resources it needs to determine how bills affect public and private sector jobs. Resources include equipment, software, expertise, and

personnel. OFA must report its results to the Office of Legislative Management by December 1, 2010.

EFFECTIVE DATE: Upon passage

#### §§ 25-28 — SUNSET OF EXISTING TAX CREDIT PROGRAMS

The act eliminates granting corporation tax credits for the following purposes for the income years beginning on or after January 1, 2014:

1. 50% credit for donating new or used computers to public or private schools (CGS § 10-228b);
2. 10-year, 50% credit for financial institutions developing facilities and creating jobs and a 25% credit for an additional five years (CGS § 12-217u (b) and (f)); and
3. 100% credit for Small Business Administration guaranty fees (CGS § 12-217cc).

EFFECTIVE DATE: July 1, 2011

#### PA 10-98—sSB 107

*Commerce Committee*

*Transportation Committee*

*Finance, Revenue and Bonding Committee*

#### AN ACT ESTABLISHING A BRADLEY DEVELOPMENT ZONE

**SUMMARY:** This act creates a development zone around Bradley International Airport and extends enterprise zone property tax exemptions and corporation business tax credits to manufacturers and other specified businesses that develop or acquire property in the zone. The zone, called the Bradley Airport Development Zone (BADZ), encompasses specified contiguous census tract blocks in Windsor Locks, Suffield, East Granby, and Windsor.

The act also designates these blocks “distressed municipalities,” thus qualifying projects in the BADZ for state funds under different programs.

EFFECTIVE DATE: October 1, 2011 and (1) the property tax exemptions apply to assessment years beginning on or after October 1, 2012 and (2) the corporation business tax credit applies to income years beginning on or after January 1, 2013.

#### ZONE DESIGNATION

The act designates the BADZ based on census blocks, which it delineates. But it also specifies that the blocks must be those designated as of October 1, 2011, a date which falls after the 2010 census and the possible reconfiguration or consolidation of the delineated blocks.

#### ELIGIBLE BUSINESS FACILITIES

The act extends the existing enterprise zone property tax exemptions and corporation business tax credits to the BADZ, but for a narrower range of businesses. As under the enterprise zone program, a business qualifies for these tax incentives based on the facility’s condition and use. The business must have:

1. constructed, substantially renovated, or expanded the facility or
2. acquired it after it was idle for at least one year from an unrelated seller.

The business qualifies for the exemption if it uses the improved or acquired facility for manufacturing, warehousing and motor freight distribution, and specified business services. As under the enterprise zone program, manufacturing includes:

1. manufacturing, processing, or assembling raw materials, parts, and manufactured products;
2. performing manufacturing related research and development; and
3. significantly servicing, overhauling, or rebuilding machinery and equipment for industrial uses.

Warehousing and motor freight distribution facilities qualify for the exemption, but only if they handle goods shipped by air. Those facilities located in the enterprise zone also qualify for the exemption without qualification.

Facilities housing business services, including information technology, also qualify for the incentives if the commissioner determines they depend upon or are directly related to the airport. The act specifically excludes facilities housing car dealerships and retailers. Facilities in the enterprise zones that house a wide range of services qualify for the incentives. These include financial and health services, and telemarketing or engineering, accounting, research, management, and related services.

#### TAX INCENTIVES

##### *Property Tax Exemptions*

The act extends the enterprise zone tax exemptions for real and personal property to eligible businesses in the BADZ. Businesses that construct, renovate, or expand a facility qualify for an exemption based on the facility’s value. The exemption equals 80% of the improvement’s assessed value, and it is generally good for five years. Businesses acquiring facilities also qualify for the same five-year exemption, which is based on the assessed value of the acquired facility.

As under the enterprise zone program, non-manufacturing businesses developing or acquiring a facility in the BADZ also qualify for a five-year, 80%

exemption on the assessed value of machinery and equipment they install in the facility as part of its development or acquisition. (The law exempts all manufacturers from paying property taxes on new and existing machinery and equipment.)

The exemptions represent property tax revenues the municipalities forgo. As under the enterprise zone law, the act requires the state to reimburse the BADZ municipalities for half of the forgone revenue.

The act uses the enterprise zone program's administrative processes to administer the BADZ's property tax exemptions and the state reimbursements. Thus, a business must apply to the Department of Economic and Community Development (DECD) for a certificate certifying that the facility qualifies for the exemption. It must annually file for the exemption by November 1 with the municipality's tax assessor. It waives its right to do so if it misses this deadline, unless it requested an extension as the law allows.

The municipality must submit its reimbursement claims to the Office of Policy and Management (OPM) secretary by August 1 annually as the law provides. The secretary must certify the claim to the comptroller by December 15. The comptroller has five business days to issue the order directing the treasurer to pay the claim. The treasurer has until December 31 to do so.

#### *Corporation Business Tax Credits*

The act extends the enterprise zone's corporation business tax credits to the BADZ. Under the enterprise zone program, businesses that qualify for the property tax exemptions also qualify for a 10-year corporation business tax credit equal to the portion of the tax attributable to the facility. (The law specifies how businesses must calculate that amount.) The credit equals 25% of the tax.

Businesses in the BADZ qualify for the credit under similar terms and conditions as businesses in the enterprise zone. The provisions authorizing the credit take effect October 1, 2011 and apply to income years beginning January 1, 2013. But the act also specifies that businesses may begin claiming the credits on or after January 1, 2012.

#### **DISTRESSED MUNICIPALITY BENEFITS**

The act automatically designates those sections of Windsor Locks, Suffield, East Granby, and Windsor in the BADZ "distressed municipalities." By law, DECD annually designates distressed municipalities based on demographic and economic criteria. It scores and ranks each municipality and designates the top 25 as distressed.

The designation qualifies the four towns for grants

to acquire and preserve open spaces in the zone (CGS § 7-131g) and plan and develop municipal development projects there (CGS §§ 8-190 and 8-195). It also qualifies them and other entities for Urban Act funds, which can be used for community conservation and development projects in the zone (CGS § 4-66c(c)).

But the designation also disqualifies projects in the zone for Small Town Economic Assistance Program (STEAP) funds. Non-distressed municipalities qualify for STEAP funds if they do not have an urban center or qualify as a public investment community. But they may choose to remain eligible for STEAP funds in lieu of Urban Act funds if their legislative bodies (or boards of selectmen if the legislative body is a town meeting) vote to do so and notify the OPM secretary to that effect (CGS § 4-66c (g)). A BADZ town may choose to remain eligible for STEAP in that part of the town that is in the BADZ.

The designation allows DECD to spend funds in the zone on cleaning up environmentally contaminated sites (CGS § 22a-133m). It also allows housing development corporations to set higher income levels for state-funded projects in the zone. (Most of these projects are limited to people earning no more than 80% of the area median income (AMI). But corporations can set the limit at 250% of AMI in distressed municipalities (CGS § 8-218)).

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#### **PA 10-107—sSB 176**

*Commerce Committee*

*Finance, Revenue and Bonding Committee*

#### **AN ACT CONCERNING THE FILM TAX CREDIT**

**SUMMARY:** This act modifies the criteria for accessing the corporation business and insurance premium tax credits for producing films and developing infrastructure in Connecticut.

A company producing film or digital media qualifies for credits based on the money and time it spends here. By law, the company must spend at least \$100,000 producing the film or media in Connecticut. The act retains this threshold but narrows the range of eligible expenses by excluding the money spent in Connecticut on developing the idea for the film or media and limiting compensation to base salaries and wages.

The law also requires the company to spend a certain amount of time or money in Connecticut on specific production tasks. Under prior law, the company had to conduct at least 50% of its principal photography days or incur at least 50% of the post-production costs in the state. The act reduces the minimum share of principal photography days in Connecticut to 25%. It

also makes it easier for the company to qualify based on postproduction costs. Under the act, the company qualifies if it incurs at least 50% or \$1 million of those costs here.

Lastly, the act tightens the criteria for determining eligible production and infrastructure costs. It also makes a conforming technical change.

EFFECTIVE DATE: July 1, 2010 and applicable to income years beginning on or after January 1, 2010.

## FILM PRODUCTION CREDITS

### *Production Expenses*

By excluding expenses and costs incurred in Connecticut to develop an idea for a film, the act limits the range of eligible expenses and costs to those incurred in planning (preproduction), filming (production), and editing (postproduction) a film.

The act also narrows the type of compensation that counts toward eligible production costs. By law, those costs include compensation under \$20 million paid to people or entities for representing star talent. The act limits these costs to base salaries or wages and excludes bonus pay, stock options, restricted stock units, or similar arrangements.

## INFRASTRUCTURE CREDITS

Besides authorizing film production credits, the law authorizes corporation business and insurance premium credits for developing the buildings, facilities, and installations needed to produce films here. A developer qualifies for the credit regardless of whether he or she intends to construct and sell the infrastructure or lease it under any type of lease agreement. With respect to leased facilities, the act limits the credits to those leased under a capital lease. Capital leases generally have longer terms, higher lease payments, and provisions for transferring the property to the lessee when the lease term ends.

## BACKGROUND

### *Credit Amounts*

Film and digital media production credits range from 10% to 30% depending on the total production expenses over \$100,000 that a company incurs in Connecticut. The credit equals 10% for expenses between \$100,000 and \$500,000, 15% for expenses over \$500,000 but less than \$1 million, and 30% for expenses over the latter amount.

The film infrastructure tax credit equals 20% of the

cost of developing buildings, facilities, and installations film and digital media production companies need to operate in Connecticut. A company qualifies for the credit if it spends at least \$3 million developing this infrastructure.

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## PA 10-135—sHB 5436

*Commerce Committee*

*Planning and Development Committee*

*Environment Committee*

## AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY

**SUMMARY:** This act expands the scope of several brownfield clean-up programs, establishes a working group to study brownfield issues, and makes a technical correction (§ 4).

The act qualifies municipal and nonprofit development agencies for directors' and officers' liability and general liability insurance under an existing brownfield clean-up program. And it allows the Department of Economic and Community Development (DECD) commissioner to use the funds for an established brownfield program for two newer brownfield programs opened to municipalities and private developers.

The act allows municipalities to (1) fix the assessment on contaminated property before the owner begins to remediate it and (2) to forgive back taxes on a contaminated property if a developer proposes to remediate it under a state-approved plan.

The act sets narrow conditions under which a regulated activity must be permitted on municipally owned sites undergoing remediation in aquifer protection areas.

Lastly, the act establishes an 11-member working group to examine brownfield issues and requires it to report its findings and recommendations to the Commerce Committee by January 15, 2011. It requires the governor and legislative leaders to appoint the members and designates three state officials as ex-officio members.

EFFECTIVE DATE: July 1, 2010, except for the provisions establishing the working group, which are effective upon passage; the provisions concerning the Urban Site Remediation Fund, which are effective October 1, 2010; and the provisions for fixing property tax assessments, which are effective July 1, 2010 and applicable to assessment years beginning on or after October 1, 2010.

## PROGRAM EXPANSIONS

### §§ 1 & 5 — *Brownfield Clean-up Programs*

The act expands the range of activities that qualify for funds under the Urban Sites Remediation Program and the Special Contaminated Property Remediation and Insurance Fund. It allows the Department of Environmental Protection (DEP) commissioner to use the former to reimburse municipal and nonprofit development agencies for directors' and officers' liability insurance and general liability insurance. Under prior law, she could use the program only to acquire, assess, and remediate contaminated sites acquired by DECD or a regional economic development agency.

Municipal economic development agencies and those formed specifically to plan and implement redevelopment and municipal development projects qualify for reimbursement. Nonprofit organizations qualify if they were formed to promote a municipality's economic development and receive funds or in-kind services in part from the municipality, its economic development or redevelopment agencies, or a nonstock corporation or limited liability company the municipality established or controls.

The act also allows the DECD commissioner to tap the Special Contaminated Property Remediation and Insurance Fund for brownfield projects approved under the existing Remedial Action and Redevelopment Municipal Grant Program and the Targeted Brownfield Development Loan Program. The former provides grants to municipal and nonprofit agencies for assessing and remediating contaminated property. The latter provides up to \$2 million in financing to municipal, nonprofit, and for-profit developers for investigating and remediating brownfields.

### § 3 — *Property Tax Incentive*

The law specifies conditions under which municipalities can abate or forgive property taxes on contaminated property being cleaned up and redeveloped. The act also allows them to fix the assessment on this property as of the last assessment date before the clean-up activities begin. The assessment is that portion of the property's fair market value subject to taxation. Connecticut law requires all municipalities to assess property at 70% of its fair market value. Fixing the assessment on contaminated property freezes its value, thus allowing the owner to improve it without paying taxes on the improvement's value.

A municipality may fix the assessment for up to seven years if (1) its finance board, legislative body, or the board of selectmen, as applicable, approves it and (2) the DEP commissioner or a licensed environmental

professional approved the plan for cleaning up the property. The municipality must notify the DEP and DECD commissioners and the Office of Policy and Management (OPM) secretary within 30 days after it fixes the assessment. The law already requires it to notify these officials when it forgives back taxes, as discussed below.

The act also expands the circumstances under which municipalities can forgive some or all of the back taxes plus interest on a contaminated property. Prior law allowed them to do so only when a property was up for sale. A municipality could forgive some or all of the taxes if the parties to the sale assessed the property's environmental condition and cleaned up the contamination according to a plan approved by DEP or a licensed environmental professional.

The act extends this option to any abandoned or underutilized property, regardless of whether it is up for sale, if its condition discourages developers from redeveloping it (i.e., brownfields). As under prior law, the municipality's board of finance, legislative body, or board of selectmen, as applicable, must approve the tax forgiveness and notify the DEP and DECD commissioners and the OPM secretary within 30 days after forgiving the taxes.

### § 6 — REGULATED ACTIVITIES IN AQUIFER PROTECTION AREAS

The act sets narrow conditions under which a regulated activity must be permitted in an aquifer protection area. By law, a regulated activity is any action, process, or condition that the DEP commissioner determines involves the production, handling, use, storage, or disposal of material that may pose a threat to groundwater in an aquifer protection area, including structures and appurtenances used in conjunction with the activity (CGS § 22a-354h).

Under the act, the activity must be permitted if:

1. it is conducted on a municipally owned site where the process of cleaning up hazardous waste began when the area was designated on a municipal zoning or inland wetland map;
2. the regulated activity did not substantially begin, or actively operate for five years, before the area was designated on these maps; and
3. anyone conducting the activity for 10 years, starting on the designation date, registers the activity on a DEP form, as its regulations require.

### WORKING GROUP

The act establishes an 11-member working group to examine how brownfields are being cleaned up and developed in Connecticut and how permits and liability

affect these activities. It requires the governor to appoint two members and the legislative leaders to appoint one each. The members must be experts in environmental law, engineering, finance, consulting, insurance, development, or other relevant fields. They must be appointed within 30 days after the act takes effect. The governor and leaders must fill any vacancies to their appointments. The act also designates the OPM secretary and the DEP and DECD commissioners, or their designees, as ex-officio members.

The members must appoint the group's chairpersons who must call the first meeting within 60 days after the act takes effect.

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**PA 10-145—HB 5500**

*Commerce Committee*

**AN ACT CONCERNING THE OFFICE OF  
SMALL BUSINESS AFFAIRS AND  
ESTABLISHING THE SMALL BUSINESS  
ADVISORY BOARD**

**SUMMARY:** This act expands the duties of the Department of Economic and Community Development's (DECD) Small Business Affairs Office, which under prior law included only running a small business development center and administering any business management program the commissioner established. The act additionally requires the office to:

1. provide a single contact point for small businesses seeking financial and technical assistance from state and quasi-public agencies,
2. coordinate all state small business revolving loan funds, and
3. establish an informational webpage listing all small business resources with appropriate links.

The act also requires the DECD commissioner to appoint and convene a Small Business Advisory Board to advise the department about resources available to small businesses. At a minimum, the board must include seven members: the DECD commissioner and representatives of a manufacturing association, a business association, a chamber of commerce, an economic development entity, the Connecticut Economic Resource Center, and Connecticut Center for Advanced Technology, Inc. The board members each serve five-year terms. They must meet by December 31, 2010 and at least annually after that.

The office must establish the webpage with the commissioner's cooperation and within available appropriations. It must also post the resources and links in a conspicuous place on DECD's website and update the information quarterly.

Beginning February 1, 2011, the act requires the office to summarize all available small business programs and activities and include the summary in DECD's comprehensive annual report.

Lastly, the act makes a technical correction to the law specifying the Small Business Affairs Office's duties. Prior law assumed that DECD ran the Small Business Development Center program and required the office to administer it. In practice, the federal Small Business Administration administers the program, which funds regional centers that provide comprehensive technical assistance to new and existing small businesses. The program currently funds five centers in Connecticut, including one housed in DECD.

The act changes the statute to reflect this arrangement by specifying that the office must administer at least one regional center housed within DECD. It also requires the office to coordinate with the center's director the flow of information within the program.

**EFFECTIVE DATE:** Upon passage, except for the provision establishing the advisory board, which is effective July 1, 2010.

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**PA 10-147—sSB 108**

*Commerce Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING THE CONNECTICUT  
DEVELOPMENT AUTHORITY'S  
PARTICIPATION IN CERTAIN FEDERAL LOAN  
AND GRANT PROGRAMS**

**SUMMARY:** This act allows the Connecticut Development Authority (CDA) to join federal agencies in undertaking economic development projects. Existing law allows CDA to enter into agreements with individuals and different types of organizations to develop projects, provide funds to banks, create a secondary market for their mortgages and other obligations, and purchase loans made by regional economic development corporations. The act allows CDA to enter into agreements with federal agencies to do these things.

Existing law allows CDA to lend money to businesses or guarantee loans banks and other lenders make to them. It also allows CDA to provide credit extensions, equity investments, loans and bond insurance, and other forms of credit by itself or in conjunction with lenders, investors, banks, municipal and nonprofit economic development agencies, and other specified entities. The act allows CDA to extend credit to projects receiving loans, loan guarantees, or other forms of financing from any federal economic or project development program as long as the project and

the financing are consistent with and further CDA's statutory purposes. The act correspondingly authorizes CDA to execute agreements with the federal agencies administering the programs.

Lastly, the act allows CDA to accept federal loan guarantees. Prior law limited CDA to accepting federal grants and loans.

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *CDA Financing Programs*

The act allows CDA to join federal agencies in financing projects by expanding the range of entities with which it can finance projects under several programs:

1. the Connecticut Works Fund, which provides up to \$25 million in financing for research, manufacturing, industrial, and warehouse and distribution projects (CGS § 32-23ii);
2. the Connecticut Works Guarantee Fund, which provides up to \$10 million in guarantees for bank loans financing projects that create jobs, develop new products or services, maintain or diversify industry, or improve the tax base (CGS § 32-261); and
3. the High Technology Infrastructure Fund, which provides financing for smart buildings, incubator facilities, high speed communications, and other information technology projects (CGS § 32-23yy).

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**PA 10-158**—sHB 5208

*Commerce Committee*

*Planning and Development Committee*

*Appropriations Committee*

**AN ACT CONCERNING THE PERMIT AND REGULATORY AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ESTABLISHING AN OFFICE OF THE PERMIT OMBUDSMAN WITHIN THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

**SUMMARY:** This act makes several changes to the process and practice for issuing regulatory permits and adopting regulatory requirements and standards. It requires expedited permitting for economic development projects that need environmental, public health, and transportation permits and the creation of a permit ombudsman office to coordinate the expedited permitting process.

The act sets timeframes for completing specific tasks in the environmental permitting process and requires the Department of Environmental Protection (DEP) commissioner to account for instances when those timeframes are not met. It also requires her to review timeframes for completing all processing tasks and report her findings and recommendations to the governor and the legislature by September 30, 2010.

The act authorizes various forms of regulatory relief. It allows the DEP commissioner to extend the expiration dates for general permits. It provides a procedure for canceling public hearing requests regarding environmental permit applications and requires the DEP commissioner to streamline the process for conducting public hearings. The act also authorizes DEP to establish a service advising people and entities about how to comply with environmental laws.

The act authorizes regulatory relief in other areas besides environmental protection. It requires all agencies to adopt and use the alternative regulatory methods they identified in the regulatory flexibility analysis that accompanies proposed regulations submitted to the Regulations Review Committee. The act also establishes a task force to develop a way for state agencies to identify and explain the difference between a proposed regulation and a comparable federal one.

Lastly, the act requires DEP to adopt water quality standards through the regulation review process instead of the statutory procedure provided under prior law. And it requires, instead of allows, the commissioner to adopt regulations allowing certain water discharge systems to operate without first submitting plans and specifications to her for approval.

EFFECTIVE DATE: Upon passage, except for the provisions governing the ombudsman, general permit extensions, water discharges, and alternative regulatory methods, which take effect October 1, 2010 and the requirement that DEP adopt water quality standards through regulations, which takes effect March 1, 2011.

### §§ 3 & 12 — OFFICE OF PERMIT OMBUDSMAN

#### *Eligible Projects*

The act requires the Department of Economic and Community Development (DECD) commissioner to establish an office for expeditiously reviewing applications for state licenses and permits. The office, called the Office of the Permit Ombudsman, must do this for economic development projects that also require an environmental, transportation, or public health license or permit. The office must have the application for these licenses and permits expeditiously reviewed if the project:

1. creates at least 50 permanent, full-time equivalent non-construction jobs in any of the state's 17 enterprise zones or at least 100 such jobs elsewhere in the state;
2. cleans up and develops abandoned or underused property (i.e., brownfields);
3. is compatible with the state's responsible growth initiatives;
4. develops a mix of different but compatible uses near transportation facilities and infrastructure (i.e., transit-oriented development); or
5. develops green technology businesses (i.e., a business that employs at least 25% of its workers in jobs that use or develop green technology or fall into DECD's or the Labor Department's occupation codes for green jobs).

The commissioner may provide expedited reviews for other types of projects based on their "economic impact factors." These include:

1. the project's proposed wage and skill levels compared to those in the surrounding area,
2. the extent to which the project will diversify and strengthen the local and state economy,
3. the project's total capital investment, and
4. the extent to which the project complements the municipality's and the state's strategic economic development priorities, as determined by the commissioner in consultation with the transportation, public health, and environmental protection commissioners.

The act explicitly excludes permit applications for specific types of projects from expedited review unless the commissioner decides they qualify based on economic impact factors. These projects are those whose primary purpose is to:

1. dispose of solid, biomedical, or hazardous wastes;
2. produce electricity, unless the production is incidental and not the project's primary function;
3. extract natural resources;
4. produce oil; or
5. construct, maintain, or operate an oil, petroleum, natural gas, or sewerage pipeline.

Projects that do not qualify for expedited review may still apply for permits under the regular permitting process.

#### *Interagency Expedited Review Process*

The act contemplates an interagency expedited review process involving the ombudsman office and the departments of Environmental Protection, Public Health, and Transportation. These departments must each designate at least one staff member to serve as a

business ombudsman and liaison with DECD's permit ombudsman. They must do this with existing and available resources. DECD's ombudsman, at the commissioner's behest, may request help from any state department, board, commission, or other agency needed to implement expedited reviews. And these entities must make reasonable efforts to provide that help.

#### *Memorandum of Understanding (MOU)*

The act does not specify the process for expedited reviews, but instead requires the permit ombudsman office and the three departments to do so in a MOU, which they must prepare and execute. The MOU must specify each agency's role in the process and allow the public, where appropriate, to participate in it. The MOU must also allow the agencies to consolidate proceedings and hearings they usually hold separately and conduct them in one location. It must allow them to do so only to the extent feasible.

The MOU may allow the agencies to waive or modify procedural rules governing forms, fees, procedures, or time limits for reviewing or processing the permit applications. But it limits their authority to waive or modify rules when they issue permits under federal rules. In these cases, the waivers and modifications must be allowed under those rules or be consistent with them. In no case can the MOU allow the agencies to waive statutory or regulatory environmental requirements. Nor can the MOU allow agencies to modify, qualify, or otherwise alter existing nonprocedural standards unless the law explicitly allows it.

#### *Expedited Permitting Guidelines*

Subject to the DECD commissioner's approval, the permit ombudsman must prepare guidelines for implementing an interagency expedited review process. At a minimum, the guidelines must provide:

1. agency contacts for filing applications and obtaining information about permit requirements;
2. names of the official(s) responsible for expediting permit applications;
3. single, coordinated project description forms and checklists;
4. an interagency agreement to reduce duplicative information requirements;
5. a fee structure for expedited permits; and
6. mandatory pre-application reviews.

The pre-application reviews must be designed to reduce conflict by providing applicants with information regarding:



1. the permits they need from each agency;
2. specifications for determining a site's suitability and limitations, planning and developing the site, and designing facilities; and
3. steps the applicant can take to expedite the process for obtaining permits and local comprehensive plan amendments.

When preparing the guidelines the permit ombudsman may ask for and receive help from private groups, including a statewide business association, the Office of Responsible Growth, and a small business association.

#### *Annual Report*

DECD must include the ombudsman's activities in its comprehensive annual report to the legislature. It must:

1. name the parties whose applications were expeditiously reviewed;
2. the date each party requested this review;
3. the reasons why they claimed they were eligible for expedited review;
4. the agencies that participated in the review;
5. the date for granting or denying the permit or deciding that the application did not qualify for expedited review; and
6. if applicable, the reasons why the applicant did not qualify for expedited review.

## ENVIRONMENTAL PERMITTING

### *§ 1(b) — Increased Certainty*

By law, DEP must adopt regulations specifying schedules for completing different tasks in the environmental permitting process. The act specifies goals for completing some of these tasks. By law, DEP must review each application and notify the applicant in writing about any deficiencies. The act requires DEP to make reasonable efforts to complete these tasks within 60 days after receiving the application.

When DEP notifies the applicant about deficiencies, by law it may ask the applicant for additional information that addresses those deficiencies. If the applicant responds, DEP must issue a tentative determination to grant or deny the permit. The act requires DEP to make reasonable efforts to issue that determination within 180 days after it determined the materials were sufficient. But it specifies that the 180-day period does not include the time the applicant is compiling the information.

### *§ 1(c) — Accountability*

The act requires the DEP commissioner to account for each instance when DEP did not meet the act's goals for processing an application. She must annually compile information about instances in which the schedules were not met and report it on DEP's website. In doing so, she must sort the information by type of permit and explain why DEP did not meet the schedule.

### *§ 1(a) — Comprehensive Review and Pilot Expedited Permitting Process*

The act requires the commissioner to review the timeframes for processing individual permits, which DEP requires for activities that could affect the environment.

The commissioner must begin reviewing the timeframes within seven days after the act takes effect and report her findings to the governor and the Environment Committee by September 30, 2010.

The report must:

1. propose a plan for a pilot expedited permitting process for at least 200 typical manufacturing or industrial facilities;
2. prescribe changes to DEP's schedules for reviewing individual permit applications; and
3. identify the additional resources, staff, and programmatic changes needed to implement these changes.

Proposed changes to the review schedule may include the time allotted for notifying applicants about problems with their applications and the likelihood that DEP will approve a revised application.

## REGULATORY RELIEF

### *§ 5 — Extending Expiration Date for General Permits*

The act allows the DEP commissioner to extend the expiration dates for general permits by one year. But she must first notify the public that she intends to do so by renewing the permit. When the commissioner renews a permit, the act requires her to publish a notice to that effect at least 180 days before the permit's expiration date. She may charge a fee for extending the expiration date, but not for more than the amount of the permit's current fee.

A permit renewed under the act remains in effect until the commissioner decides whether to renew it as the law allows. But she must decide whether to do so on or before the 12<sup>th</sup> month after the expiration date. The permit automatically expires if the commissioner makes no decision by that time. The commissioner's authority to extend general permit expiration dates does not relieve people and organizations from applying for permits as the law requires.

### § 7 — *Withdrawing Public Hearing Request*

Several statutes and regulations require the commissioner to hold a public hearing before acting on a permit application. Most require her to do so if at least 25 people sign a petition requesting a hearing. The act provides a procedure for canceling a scheduled hearing or ending one that was started and continued. The procedure starts with the parties petitioning for a hearing. Under the act, they may designate in the petition a person authorized to discuss the application and, depending on the outcome of those discussions, withdraw the petition.

If the designated person withdraws the petition, he or she and the commissioner must notify different parties to this action. The designated person must notify the commissioner in writing and serve a copy of that notice to all interested parties and intervenors. The withdrawal notice ends the hearing process unless the commissioner received other petitions to hear the application. In that case, the process ends only if all the other petitions are withdrawn.

The commissioner must notify the public that she is canceling or terminating the hearing. She must do so by publishing a notice or having one published at least once in a newspaper serving the affected area. The notice must indicate that the hearing is being canceled or terminated because the petition has been withdrawn. The commissioner must publish the notice at the permit applicant's expense.

Although the act allows the petitioners to withdraw the petition, the commissioner may still conduct, continue, or complete the hearing if she determines it serves the public interest.

### § 10 — *Regulatory Flexibility Analysis*

The act changes the scope of the regulatory flexibility analysis all agencies must prepare before adopting a proposed regulation. When agencies prepared the analysis under prior law, they had to identify and consider using other methods to achieve the regulation's goal while minimizing the adverse impact the regulation could have on small businesses. The act, instead, requires agencies to use these other methods to the extent it is appropriate.

### § 8 — *Consulting Service Program*

The act requires the DEP commissioner to establish a consulting service that is substantially similar to the one run by the Labor Department's Division of Occupational Safety and Health. That service helps businesses and state and local agencies comply with occupational safety and health standards without risking citations or penalties. It has no enforcement powers and does not exchange information with the staff that does.

The DEP service must neither impose civil penalties on its clients nor issue violation notices to them for minor violations as long as they are making reasonable efforts to comply with environmental laws and regulations.

The commissioner must establish the service in conjunction with the U.S. Environmental Protection Agency (EPA). The act requires her to begin negotiating with EPA about creating the service by September 1, 2010. It also requires her to reallocate existing resources and adjust current policies needed to run the service by October 31, 2010.

If EPA's requirements are incompatible with delivering the service, the commissioner must consult with representatives of the regulated entities about other ways to help businesses and municipalities comply with environmental laws and regulations. The alternatives may include training sessions, materials available on DEP's website, best management practices manuals, and other forms of compliance assistance.

### § 11 — *Implementing Federal Standards and Procedures*

The act establishes a task force concerning the kind of information state agencies must provide when proposing regulations for an activity subject to federal standards and procedures. When DEP proposes such regulations under existing law, it must identify and explain how they differ from the federal ones and include this information in the record it submits to the Regulations Review Committee. The task force must study how to impose similar requirements on all state agencies.

The task force must consist of the banking, transportation, social services, public health, and children and families commissioners or their designees. The governor must appoint the chairperson within 30 days after the act's effective date. The task force must report its findings and recommendations to the governor and the Regulations Review Committee by October 1, 2010. The findings must address how the additional disclosure requirements would affect state agencies. The task force terminates when it submits the report.

### § 2(a) — *Streamlining Environmental Permitting Process*

The act requires the DEP commissioner to study the environmental permitting process and recommend how to streamline it, and to do so in coordination with people representing municipalities, the business community, and environmental groups.

The study must focus on the process for issuing general permits and how the Connecticut Environmental Protection Act (CEPA) affects businesses, the permitting process, and the environment. CEPA requires

all state agencies to consider how a proposed action could affect the environment without mandating a particular outcome (CGS §§ 22a-1a through 22a-1h). The study must assess how CEPA affects the:

1. business community,
2. time it takes to process a permit,
3. degree to which the permit processing time and its outcome are known, and
4. permitting process' ability to protect and preserve the environment.

The study must also recommend ways to improve the permitting process and reduce the time it takes to make a final decision about a permit application. The commissioner must develop these recommendations in consultation with the groups mentioned above.

The commissioner must report her findings, recommendations, and proposed statutory changes to the governor and the Environment Committee by September 30, 2010

#### § 2(b) — *Streamlining the Public Hearing Process*

The act requires the commissioner to improve DEP's process for conducting public hearings. Within 30 days after the act takes effect, she must implement procedures that:

1. increase the use of settlement conferences,
2. enforce the submission of prehearing evidence, and
3. require the filing of prehearing written testimony.

The act also requires her to analyze how DEP's Office of Adjudications conducts hearings. In doing so, the commissioner must consider appropriate ways for the public to participate in the process. For water permits, she must also consider appropriate ways to comply with the federal Clean Water Act's public hearing requirements. The act imposes no deadline for completing or submitting the analysis.

#### WATER STANDARDS

##### § 9 — *Regulatory Standards*

The act requires the DEP commissioner to adopt water quality standards in regulations instead of through the statutory procedure specified under prior law. The prior procedure required agencies to notify the public at least 30 days before proposing to adopt a regulation. The act requires DEP to notify the public at least 90 days before proposing a regulation adopting, amending, or repealing a water quality standard. The notice must specify that the public may inspect the documents upon which DEP based the proposed standards.

##### § 6 — *Regulations for Exempting Discharge Systems*

The act requires rather that allows the DEP commissioner to adopt regulations exempting businesses and other private entities from submitting plans and specifications for certain water discharge systems.

The law, unchanged by the act, allows the commissioner to exempt people, organizations, and municipalities from this requirement without adopting regulations if the discharge:

1. comes from a new system that is substantially the same as the current one as long as the current one is operated in compliance with a DEP permit,
2. is described in a general permit,
3. comes from a system the commissioner determines was not designed to treat toxic or hazardous substances, or
4. is one the commissioner determined by regulation is not likely to cause substantial pollution (see CGS §22a-430(b)).

Prior law also allowed her to exempt systems for other types of discharges. But it did so by allowing her to adopt regulations exempting these discharges. The act requires her to adopt such regulations by June 30, 2011. By law, these regulations may (1) set minimum standards for designing and operating a discharge treatment system and (2) impose reporting requirements on the system's operator.

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#### PA 10-162—sSB 175

*Commerce Committee*

*Government Administration and Elections Committee*

#### **AN ACT TRIGGERING CERTAIN ECONOMIC DEVELOPMENT PROGRAMS AND EXTENDING THE DEADLINE FOR CERTAIN TAX EXEMPTIONS**

**SUMMARY:** The law provides some business tax incentives, state funding programs, and other benefits in state-designated economically distressed areas, such as enterprise zones and targeted investment communities. It also provides a mechanism for extending this assistance to undesignated areas hurt by cutbacks in prime defense contracts. This act similarly extends the assistance to municipalities hurt by a major aerospace or defense plant closing affecting at least 800 or more employees.

The act also allows taxpayers in Seymour to receive the statutory five-year property tax exemption for manufacturing facilities on the 2009 grand list even if they missed the filing deadline. (SA 10-8 allows taxpayers in Seymour who missed the deadline to claim

the exemption for facilities and machinery and equipment installed in them. PA 10-1, June Special Session, eliminates this act's narrower provision, thus allowing taxpayers to qualify for the real and personal property tax exemption under SA 10-8.)

EFFECTIVE DATE: Upon passage

#### MECHANISM FOR EXTENDING BENEFITS

The act provides a way to extend tax incentives and other benefits to municipalities hurt by aerospace and defense plant closings. The incentives are those the law provides to businesses in enterprise zones and other designated areas. The other benefits are those the law provides to state-designated distressed municipalities.

The process for extending the incentives and the benefits is similar to the process for extending them to businesses and municipalities severely affected by cuts in prime defense contracts. Under the act, the commissioner must determine if:

1. one or more businesses closed a major aerospace or defense plant in the municipality that affects at least 800 employees,
2. the closing has or will cause job losses in the municipality, and
3. the closing severely affects the municipality.

But she cannot extend the assistance until after she holds a public hearing on her findings, during which she must present supporting information.

The determination lasts for two years, during which businesses and the municipality qualify for assistance otherwise limited to the designated areas. The commissioner may renew the determination for additional two-year periods by following the process described above.

As with municipalities hurt by defense cuts, the act sets narrow conditions under which the commissioner must approve a determination for more than two years. The law requires her to do so only with respect to a municipality severely affected by defense cuts if the Defense Department (DOD) plans to convey to the municipality a closed facility that formerly produced engines for military vehicles. Under prior law the determination lasted until DOD conveyed the facility and the site was remediated, but the commissioner could extend the determination for up to two years.

The act extends this initial determination period to when the conveyed and remediated facility is reoccupied by another business. It also extends this longer determination period to municipalities the commissioner determines are severely affected by aerospace and defense plant closings. As under existing law the commissioner may renew the determination for up to two years.

#### BENEFITS

The commissioner's determination extends two types of benefits to the municipality. It extends enterprise zone tax incentives to businesses that improve property, acquire new machinery and equipment, and create jobs. It does so as long as the improvement does not depend on prime defense contracts or related subcontracts, the same condition that applies to improvements in municipalities hurt by prime defense contracts. The act also specifies that the benefits are available to eligible businesses that occupy a facility that was vacant on July 1, 1998 and formerly used as a major aerospace or defense plant.

The commissioner's determination also extends funding under programs limited to state-designated distressed municipalities to different types of projects in the municipality.

##### *Property Tax Exemptions*

The property tax exemption is for manufacturers and specified service businesses that construct, renovate, or expand facilities in the municipality. It equals 80% of the new or improved property's assessed value and is good for five years. Businesses that acquire a facility also qualify for the five-year exemption if the facility was idle for at least one year before the acquisition and the business is unrelated to the seller. In this case, the exemption is based on only the assessed value of the acquired section.

Service firms also qualify for an 80%, five-year exemption on newly acquired machinery and equipment they install in the facility. (By law, manufacturers pay no property taxes on manufacturing machinery and equipment.)

As under the enterprise zone program, the state reimburses the municipality for half of the property tax revenue it forgoes because of the exemption.

The process for claiming the exemptions and the reimbursements is the same as the one for the enterprise zone program. Generally, a business seeking an exemption must apply to the Department of Economic and Community Development (DECD) for a certificate indicating that the facility and the newly acquired machinery and equipment qualify for the exemption. The business must submit the certificate to the municipality's tax assessor, who then adjusts the facility's assessment. The municipality must submit reimbursement claims to the Office of Policy and Management secretary as the law provides.

##### *Corporation Business Tax Credits*

By law, businesses that qualify for the property tax exemptions also qualify for a corporation business tax credit equal to 25% of that portion of the tax attributable

to the facility. (The law specifies how businesses must calculate that amount.)

#### *Distressed Municipality Benefits*

The act extends benefits under several existing programs to a municipality the commissioner determines to be severely affected by aerospace and defense plant closings. Existing law already does so for municipalities she determines to be severely affected by cuts in prime defense contracts. The act and the law do so by automatically designating the municipality a “distressed municipality.” By law, DECD annually designates these municipalities based on demographic and economic criteria. It scores and ranks each municipality and designates the top 25 as distressed.

The designation qualifies the municipality for grants to acquire open space and restore and protect their natural features or habitats (CGS § 7-131g). It also qualifies the municipality for up to 100% grants to plan municipal development projects (CGS § 8-190) and up to 65% grants to implement them (CGS § 8-195). Municipalities and other entities undertaking community conservation and development projects qualify for Urban Act funds (CGS § 4-66c(c)).

The designation allows DECD to spend funds in the municipality on cleaning up environmentally contaminated sites.

Lastly, the designation allows housing development corporations to set higher income levels for state-funded projects in the municipality. (Most of these projects are limited to people earning no more than 80% of the area median income (AMI)). But corporations can set the limits at 250% of AMI in distressed municipalities (CGS § 8-218).

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**PA 10-190**—sHB 5498

*Commerce Committee  
Appropriations Committee*

**AN ACT CONCERNING STATE CONTRACTS FOR MICRO BUSINESSES, UTILITY DEPOSITS FOR CONNECTICUT BUSINESSES, THE SET ASIDE OF DEPARTMENT OF TRANSPORTATION CONTRACTS FOR SMALL BUSINESSES, GRANTS FOR REGIONAL REVOLVING LOAN PROGRAMS FOR MICROENTERPRISES, AND THE ISSUANCE OF ELIGIBILITY CERTIFICATES FOR CERTAIN ECONOMIC DEVELOPMENT PROGRAMS**

**SUMMARY:** This act provides several forms of assistance to smaller businesses. It:

1. requires Public Works Department (DPW) selection panels to consider whether a

consulting business has annual gross revenues under \$3 million in deciding which consultants are pre-qualified to work on projects;

2. prohibits a utility company, other than a telephone company, from requiring nonresidential customers to pay a deposit greater than the amount the company charges for 1.5 months of service;
3. requires the Public Utility Control Department (DPUC) to study utilities’ use of service deposits from nonresidential customers;
4. permits the Transportation Department (DOT) to set aside contracts or portions of contracts for very small businesses;
5. opens participation in the microloan program to regional revolving loan funds; and
6. allows the Department of Economic and Community Development (DECD) commissioner to use the North American Industrial Classification Code designations in place of those in the older Standard Industrial Classification Code when issuing eligibility certificates for tax credits and exemptions and grants under the Job Incentive Grant and Urban, Enterprise Zone, and Industrial Site Reinvestment programs.

EFFECTIVE DATE: July 1, 2010, except for the provisions related to utilities, the microloan program, and the North American Industrial Classification Code, which take effect on passage.

#### DPW CONSULTANT SELECTION

By law, the DPW commissioner can establish a selection panel to review and recommend the most qualified consultants to provide services on certain state construction and Connecticut Health and Education Facilities Authority projects. Consultants are architects, professional engineers, landscape architects, surveyors, accountants, interior designers, environmental professionals, construction administrators, planners, and financial specialists.

The act requires the selection panel to consider whether a business is a “micro business,” that is, a business that had less than \$3 million in gross revenues in the most recently completed fiscal year. The panel must already consider a consultant’s knowledge of state building and fire codes.

#### UTILITY DEPOSITS

The act prohibits a utility company, other than a telephone company, from requiring a nonresidential customer to pay a deposit that is more than the amount the company charges for 1.5 months of service. It does not define “public service company.” Under the utility

statutes, these include electric, gas, and water companies, but not competitive gas and electric suppliers.

The act requires DPUC to open a proceeding to look at utility company deposit collection from nonresidential customers. DPUC must examine, at a minimum, (1) criteria for determining these customers' creditworthiness, (2) criteria for returning deposits plus interest, and (3) provisions for collecting deposits from customers that move within the same service area of the same company. The act requires DPUC to report to the Energy and Technology Committee by January 1, 2011.

#### DOT SET-ASIDE

The act permits DOT to set aside contracts or parts of contracts for contractors or subcontractors that had less than \$3 million dollars in gross revenues in the most recently completed fiscal year. It also permits DOT to require general or trade contractors or other entities DOT authorizes to award contracts to do this.

By law, each state agency must set aside at least 25% of the value of its contracts each year for small contractors and minority-owned businesses. Under this law (CGS § 4a-60g), a small contractor is one that, among other criteria, had less than \$15 million in gross revenues in the most recently completed fiscal year. The act that specifies its provision are not to be construed to diminish the total value of contracts that DOT must set aside under this law.

#### MICROLOAN PROGRAM

The law authorizes DECD to make a grant to the Connecticut Economic Development Fund (CEDF), which must disperse the funds to organizations that help microenterprises (those with 10 or fewer employees and less than \$500,000 in annual revenues) prepare business plans and complete loan applications, among other activities. The act permits DECD to make such grants to regional revolving loan programs and requires these programs, as the law already requires CEDF to do, to work with other agencies and organizations to help micro businesses.

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**PA 10-62**—sSB 456  
*Education Committee*  
*Public Health Committee*

**AN ACT CONCERNING STUDENT ATHLETES AND CONCUSSIONS**

**SUMMARY:** This act requires anyone who has a coaching permit issued by the State Board of Education (SBE) and who coaches intramural or interscholastic athletics to be periodically trained in how to recognize and respond to head injuries and concussions. It also requires such a coach to take a student athlete out of any interscholastic or intramural game or practice if the athlete (1) shows signs of having suffered a concussion after an observed or suspected blow to the head or body or (2) is diagnosed with a concussion. The coach must keep the athlete out of any game or practice until the athlete has received written clearance to return to the game or practice from a licensed medical professional.

SBE must develop or approve initial and refresher concussion training courses and annually review materials in consultation with (1) the governing authority for intramural and interscholastic athletics, which is the Connecticut Interscholastic Athletic Conference (CIAC), and (2) organizations representing licensed athletic trainers and county medical associations. SBE must develop or approve the initial course by July 1, 2010, the review materials annually starting by July 1, 2011, and the refresher course by January 1, 2014.

Under the act, SBE may revoke the coaching permit of any coach who violates its requirements.

**EFFECTIVE DATE:** Upon passage for the training requirements; July 1, 2010 for the requirement to remove students from games or practices until they receive medical clearance.

**TRAINING FOR COACHES**

*Training Requirements*

The act establishes a program to train those with coaching permits about head injuries and concussions. It requires coaches who already have a permit or who are first issued one for the 2010-11 school year to complete an initial training course before starting to coach for the season in the 2010-11 school year. It requires SBE to consider that a coach has met this requirement if, between January 1, 2010 and the date SBE approves the initial course, the coach successfully completes a course offered by CIAC, and SBE determines the CIAC course and the approved initial training course are substantially similar. New coaches must take the initial course in subsequent years.

Starting with the 2015-16 school year, coaches must complete a refresher course on concussions and head injuries every five years. Starting July 1, 2011, in any year they are not taking a refresher course, coaches who have already completed the initial course must, before they begin their coaching assignment for the year, review current and relevant information on concussions and head injuries. The act makes both the annual reviews and the periodic refresher courses a condition for reissuing a coaching permit (see **BACKGROUND**).

*Training Content*

The initial course must, at a minimum, include training in (1) how to recognize the symptoms of a concussion or head injury, (2) how to obtain proper medical treatment for an athlete suspected of having such an injury, and (3) the nature and risk of such injuries. The course must cover the danger of continuing to play and the proper method of allowing an athlete to return to play after he or she sustains a concussion or head injury. The refresher course must include (1) an overview of key recognition and safety practices, (2) updates of research on and prevention of concussions, and (3) updates on relevant new laws and regulations.

**REMOVAL FROM GAMES AND PRACTICES**

The act requires a coach to immediately take an athlete out of any interscholastic or intramural game, competition, practice, or other athletic activity if the athlete (1) shows signs of a concussion after an observed or suspected head or body blow or (2) is diagnosed with a concussion regardless of when the injury occurred. The coach must keep the athlete out and not allow a return to supervised team activities involving physical exertion until the athlete has received written clearance from a licensed physician, physician assistant, advanced practice registered nurse, or athletic trainer trained to evaluate and manage concussions.

Following medical clearance, a coach must restrict the athlete's participation until he or she (1) no longer shows signs of a concussion at rest or with exertion and (2) receives written medical clearance to fully participate in supervised team activities involving physical contact or exertion.

**BACKGROUND***Coaching Permit*

SBE regulations require every intramural and interscholastic athletic coach working in a public elementary, middle, or high school to have either an SBE-issued coaching permit, renewable every five years, or a temporary emergency coaching permit, valid for one year and renewable once. A coaching permit holder must meet the following requirements:

1. be at least age 18;
2. have a high school diploma or its equivalent;
3. successfully complete a standard first aid course within three years before applying for a permit and every three years after receiving the permit;
4. continuously maintain CPR certification; and
5. either (a) hold a regular teaching certificate or (b) complete at least three semester hours or 45 clock hours of instruction approved by the State Department of Education (SDE) and offered by a board of education or CIAC on the medical, legal, and safety aspects, and the principles and practices, of coaching children and adolescents and child and adolescent sports psychology.

A coaching permit is renewable every five years, provided the holder completes at least 15 clock hours of SDE-approved professional development that provides information on safe and healthy coaching practices and understanding child and adolescent development (Conn. Agency Regs. § 10-145d-423 (b)).

*Temporary Emergency Coaching Permit*

A temporary emergency coaching permit allows the holder to coach intramural or interscholastic athletics in a public school for one year. A school board must apply for such a permit and provide evidence that the holder:

1. is at least age 18;
2. has a high school diploma or equivalent; and
3. no earlier than one year before the application, completed a standard first aid course and CPR certification.

At a school board's request, SBE may renew a temporary emergency coaching permit for a second year if the local board provides evidence that the applicant has enrolled in or completed at least two credits or 30 clock hours of instruction toward the requirements for a coaching permit (see above) (Conn. Agency Regs. § 10-145d-424 and 425).

**PA 10-71—sSB 275***Education Committee*

**AN ACT CONCERNING THE  
RECOMMENDATIONS BY THE LEGISLATIVE  
COMMISSIONERS FOR TECHNICAL  
REVISIONS TO THE EDUCATION STATUTES**

**SUMMARY:** This act makes technical changes to the education statutes.

**EFFECTIVE DATE:** Upon passage

**PA 10-76—sSB 379***Education Committee**Finance, Revenue and Bonding Committee  
Appropriations Committee*

**AN ACT CONCERNING VOCATIONAL-  
TECHNICAL SCHOOLS**

**SUMMARY:** This act makes a number of changes to the laws affecting state vocational-technical (V-T) schools. It changes what the State Board of Education (SBE) must do to close or suspend operation of a V-T school, including requiring a public hearing and a vote on the matter.

It expands the membership of the SBE starting July 1, 2010, from 11 to 13 members and requires at least two of the members to have V-T school or manufacturing experience. Starting April 1, 2011 it requires one board member to have agriculture or regional agricultural science and technology education center experience. It also eliminates the V-T advisory committee and instead requires an annual meeting to consider workforce needs and V-T curriculum.

It requires the State Bond Commission to vote on authorized but unallocated V-T bond funds when the balance of these bonds reaches a certain threshold.

The act also requires:

1. the state to replace any V-T school bus that is 12 years old or older or that has been ordered out of service by the Department of Motor Vehicles (DMV) for two years in a row for the same problem;
2. the SBE to arrange for V-T school buses to be inspected by DMV by July 15, 2010 and annually thereafter; and
3. starting with FY 11, the V-T system to be a budgeted agency separate from the State Department of Education (SDE).

The act also makes other changes regarding reporting to legislative committees.

**EFFECTIVE DATE:** July 1, 2010 except the provision regarding annual inspection of buses is effective on passage.



### § 1 — REQUIRED STEPS BEFORE CLOSING OR SUSPENDING A VOCATIONAL-TECHNICAL SCHOOL

The act requires the SBE to take a vote at a duly called meeting in order to close or suspend operations at a V-T school for more than six months. The act requires SBE to (1) hold a public hearing at the school after school hours at least 30 days before taking the vote and (2) develop a comprehensive plan addressing a number of issues related to closure or suspension before the hearing and mail the plan to all school parents and employees. Prior law set no procedure for closing or suspending a school.

#### *Comprehensive Plan*

The plan must include:

1. the reasons for the school closure or suspension, including a cost-benefit analysis;
2. the length of the closure or suspension;
3. the financial plan for the school during the closure or suspension, including the costs of the closure or suspension;
4. a description of the transition to the closure or suspension and to reopening the school;
5. an explanation of what will happen to students enrolled at the school during the closure or suspension, including available regional V-T schools for students to attend and transportation to them;
6. an explanation of what will happen to school personnel during the closure or suspension, including employment at other schools; and
7. an explanation of how the school building and property will be used during the closure or suspension.

The SBE must (1) mail the comprehensive plan to parents and guardians of students enrolled at the school and to school employees and (2) post the plan on the school's web site at least 14 days before the public hearing.

#### *Closure or Suspension Beyond the Planned Period*

Under the act, if the closure or suspension extends beyond the period set in the required plan, the board must (1) hold another public hearing at a location in the town in which the school is located, after normal school hours and at least 30 days prior to the board vote; (2) develop and make available a new comprehensive plan for the school in accordance with development and distribution requirements required for the original plan; and (3) hold a board vote at a duly called meeting.

### *Student Transportation After Closure or Suspension*

The act makes SBE responsible both for transporting students of the closed or suspended school to other V-T schools and the transportation costs.

### § 2 — EXPANDING SBE MEMBERSHIP AND ADDING V-T SCHOOL REPRESENTATIVES

The act expands the number of SBE members as of July 1, 2010 from 11 to 13. Starting that date, the act requires the board to include at least two members who (1) have experience in manufacturing or in a trade taught in the V-T system or (2) are alumni of, or have taught at, a V-T school. It also requires one of these members to chair the SBE's vocational-technical school subcommittee. (PA 10-1, JSS, changes this to require a member with experience in manufacturing or in a V-T school trade to chair the subcommittee).

Starting April 1, 2011, it requires at least one board member to either have agriculture experience or be an alumnus of, or have taught at, a regional agricultural science and technology education center. It requires this member to chair the V-T school subcommittee.

Under prior law, there was no requirement for any board member to have V-T school-related or manufacturing or agricultural experience.

### § 3 — ANNUAL MEETING TO CONSIDER V-T CURRICULUM AND WORKFORCE NEEDS

The act requires the Education, Higher Education and Employment Advancement, and Labor committees to meet annually, by November 30, with the V-T superintendent, the Office of Workforce Competitiveness (OWC) director, the labor commissioner, and other appropriate people to consider information each official must submit to the committees by November 15 annually.

The OWC director and labor commissioner must submit information on:

1. general economic trends in the state;
2. occupational movements in the public and private sectors; and
3. emerging state, regional, and national workforce needs for the next 30 years.

The V-T superintendent must submit information on:

1. workforce skills that will be needed over the next 30 years, as identified by OWC and the Labor Department, and how to ensure that the V-T school curriculum is incorporating those skills;

2. the employment status of V-T school graduates;
3. the adequacy of resources available to the V-T system; and
4. recommendations to SBE for V-T school changes relating to any of these items.

The act eliminates the existing statewide V-T school system advisory council that is charged with considering many of these same issues. The council has 19 members, 10 appointed by the governor and legislative leaders and who represent businesses of various sizes; the commissioners of education, labor, economic and community development or their designees; an OWC representative; the SBE chairperson or designee; and the Education Committee's co-chairs and ranking members. Although prior law required the council to meet at least twice a year to assess specific issues, it had not met for some time.

#### § 4 — ACTION ON UNALLOCATED V-T SCHOOL BONDS

The act requires that, when there is enough of an aggregate balance of bonds authorized but unallocated for general maintenance and capital and trade equipment for any V-T school, the State Bond Commission vote at its August and February meetings annually on whether to allocate at least \$2 million from those authorizations. If there is no meeting held in those months, the commission must vote at its next regularly scheduled meetings.

If, at the time of the commission's August and February meetings, pending general maintenance and trade and capital equipment transactions exceed \$2 million, the act allows the V-T system superintendent to ask for, and requires the bond commission to vote on, whether to allocate more than \$2 million. If the unallocated balance is less than \$2 million, the commission must vote on whether to allocate the remaining unallocated balance.

#### § 6 — BUS REPLACEMENT

Starting July 1, 2010, the act requires the SBE to replace any V-T school bus that is 12 years old or older or any bus that has been ordered out of service by DMV for two years in a row for the same problem. The provision on replacing buses that DMV has ordered out of service for two years in a row for the same problem does not specify that it applies only to V-T buses, but SBE does not buy buses for any district other than the statewide V-T school district.

It requires the V-T system superintendent to report annually, starting by July 1, 2011, to the Office of Policy and Management (OPM) secretary and the Education and Finance committees on V-T bus

replacements, including the number of buses replaced in the previous school year and the number to be replaced in the coming school year.

#### § 8 — BUDGET AND EXPENSES REPORTING

The act requires the V-T system superintendent, twice a year, to submit the operating budget and expenses for each V-T school to the OPM secretary, the Office of Fiscal Analysis director, and the Education Committee. It also requires the superintendent to post the operating budget of each school for the current year on the V-T system website and the school's website.

#### § 9 – DEFINING SCHOOL REGIONS FOR ATTENDANCE

The act requires the SBE, by July 1, 2011, to develop recommendations defining regions across the state for purposes of student attendance in the regional V-T school system. The board must submit the recommendations to the Education Committee.

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#### PA 10-91—HB 5315 *Education Committee*

#### AN ACT CONCERNING EDUCATION AND THE REDUCTION OF DOMESTIC VIOLENCE

**SUMMARY:** This act requires local and regional school boards, as part of the in-service training they must offer to certified employees, to include information on preventing teen dating violence and domestic violence as part of the health and mental health risk reduction education information they must provide.

It also requires the State Board of Education (SBE) to help and encourage the boards to include domestic violence and teen dating violence as a separate topic in their in-service training programs for certified professional employees. The SBE must provide the help and encouragement within available appropriations and using available material.

Finally, the act expressly allows boards to permit paraprofessionals and other noncertified employees to participate voluntarily in the in-service training programs for certified personnel.

EFFECTIVE DATE: July 1, 2010

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**PA 10-108**—sSB 376

*Education Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS, MUNICIPAL ACCOUNTS FOR SURPLUS EDUCATION FUNDS AND REVISIONS TO CERTAIN LIBRARY STATUTES**

**SUMMARY:** This act authorizes \$416.6 million in grant commitments for 29 new local school construction and interdistrict magnet school projects. It also reauthorizes and increases grant commitments for four previously authorized projects with significant changes in cost and scope. Two are being reauthorized for the first time and two for the second. (By law, districts are limited to two reauthorizations.) The total increase in grant commitments for the reauthorizations is \$10.82 million.

The act authorizes \$4.6 million in additional general obligation bonds to the State Department of Education (SDE) for capital start-up cost grants for new interdistrict magnet schools needed to help the state meet the goals of the 2008 *Sheff v. O’Neill* school desegregation settlement.

It overrides contrary statutes, special acts, local charters, and ordinances to allow a town board of finance, board of selectmen in a town with no board of

finance, or other appropriating authority for a school district to retain and deposit in a nonlapsing account any unspent funds from the town’s total budgeted appropriations for education for the prior fiscal year. The amount deposited in the account in any year is limited to 1% of the school district’s total budgeted appropriation for that year (§ 32).

The act allows all municipalities to establish and fund public libraries either by action of their legislative bodies or by a petition of at least 50 voters followed by referendum approval. Under prior law, cities could establish libraries only by city council action and towns and boroughs could do so only by a petition and referendum.

Finally, the act waives statutory and regulatory requirements to make specified school construction projects eligible for state grants under certain conditions (“notwithstanding” provisions).

**EFFECTIVE DATE:** Upon passage, except for the library provisions, which are effective June 1, 2010, and the provisions concerning bonding for *Sheff* magnet schools and the municipal nonlapsing account, which are effective July 1, 2010.

**§ 1 — SCHOOL PROJECTS**

*New Authorizations*

Table 1 lists the 29 new projects authorized.

**Table 1: New School Construction Projects Authorized**

<i>District</i>	<i>School</i>	<i>Project</i>	<i>Estimated Cost</i>	<i>Estimated Grant</i>	<i>State Reimbursement</i>
Bolton	Bolton High School	Extension & alteration/roof replacement	\$25,412,359	\$13,885,313	54.64%
Bolton	Central Administration (BHS)	Board of education, central administration facility, extension & alteration	830,141	226,795	27.20%
Capitol Region Education Council (CREC)	Reggio Magnet School of the Arts	New construction/ Interdistrict magnet school	30,069,500	28,566,025	95.0%
CREC	CREC Medical Profession & Teacher Prep.	New construction/ Interdistrict magnet school	52,115,425	49,509,654	95.0%
CREC	Greater Hartford Public Safety Academy	New construction/ Interdistrict magnet school	66,486,125	63,161,818	95.0%
CREC	International Magnet School for Global Citizenship	New construction/ Interdistrict magnet school	26,264,305	24,951,090	95.0%
Clinton	The Morgan School	Energy conservation	630,700	274,796	43.57%
Connecticut Science Center	Connecticut Science Center	Alteration/energy conservation/ interdistrict magnet school	2,930,000	2,783,500	95.0%
East Granby	R. Dudley Seymour School	Extension & alteration/roof replacement	10,307,000	4,638,150	45.0%
East Granby	Allgrove School	Alteration/energy conservation	1,384,524	623,036	45.0%
East Granby	Central Administration	Board of education, central administration facility, alteration & energy conservation	58,482	13,158	22.5%
East Haven	Joseph Melillo Middle School	Alteration/energy conservation	900,000	610,740	67.86%
East Haven	Momauguin School	Alteration/energy conservation	300,000	203,580	67.86%
East Haven	Deer Run School	Alteration/energy conservation	400,000	271,440	67.86%
East Haven	Overbrook School	Alteration/energy conservation	300,000	203,580	67.86%

District	School	Project	Estimated Cost	Estimated Grant	State Reimbursement
Fairfield	Stratfield School	Extension & alteration	17,565,000	4,515,962	25.71%
Hartford	Bellizzi Middle School	Extension & alteration/roof replacement	13,000,000	10,400,000	80.0%
Hartford	M.D. Fox Elementary School	Alteration/energy conservation	54,337,500	43,470,000	80.0%
Hartford	Bulkeley High School	Alteration	700,000	560,000	80.0%
Manchester	Martin School	Alteration/roof replacement	532,500	346,125	65.0%
Meriden	Hanover School	Extension & alteration	7,290,700	5,624,046	77.14%
New Fairfield	Meeting House Hill School	Extension & alteration/roof replacement	27,612,208	9,763,677	35.36%
Region 18	Lyme-Old Lyme High School	Extension & alteration/roof replacement	47,790,000	17,065,809	35.71%
Seymour	Paul Chatfield School	Extension & alteration/roof replacement	32,500,000	19,617,000	60.36%
Stratford	Honeyspot House (Stratford Academy)	New construction	13,850,654	7,815,924	56.43%
Waterford	Waterford High School	Extension & alteration	68,362,787	23,680,869	34.64%
West Haven	West Haven High School	Extension & alteration	109,279,000	82,352,654	75.36%
West Haven	Central Administration (Main Street)	Board of education central administration facility/alteration	3,500,000	1,318,000	37.68%
Winchester	Pearson Middle School	Alteration	250,000	175,900	70.36%

### Reauthorized Projects

Table 2 lists the four projects proposed for reauthorization because of significant change in cost or scope.

Table 2: Reauthorization of Previously Authorized Projects

District	School	Project	Previous Grant Authorization	New Grant Authorization	Increase
<b>FIRST REAUTHORIZATION</b>					
Montville	Central Administration	Board of education central administration facility/alteration	\$137,844	\$174,480	\$36,636
Stamford	Environmental Studies Magnet	New construction/inter-district magnet school	55,100,000	57,793,215	2,693,215
<b>SECOND REAUTHORIZATION</b>					
Montville	Montville High School	Extension/alteration	14,040,980	16,147,168	2,106,188
Waterbury	Duggan School	Renovation/extension	24,722,500	30,738,413	6,015,913

### § 2 — SHEFF MAGNET SCHOOL START-UP COSTS

The \$4.6 million in state bond funding for *Sheff*-related interdistrict magnet schools may be used to purchase buildings or portable classrooms; lease space; and buy equipment, including computers and classroom furniture, for such schools.

### §§ 33-35 — PROCEDURE FOR ESTABLISHING A PUBLIC LIBRARY

Under prior law, a city could establish and fund a public library only if the mayor, with the city council's approval, appointed a board of nine library trustees. The trustees were required to adopt bylaws and rules and regulations for, and to operate, the library. The law also gave the trustees control over library funds, requiring them to be spent only on duly authenticated vouchers from the board. Under prior law, the only way for a town or borough to establish a public library was for at least 50 of its voters to petition asking for an annual tax of up to 3 mills to fund a library and for the issue to be approved by a majority of the voters at the next regular municipal election.

The act allows all municipalities to use either of these procedures to establish and fund a public library. It extends to boroughs and towns the requirement that any money collected through a municipal library tax be (1) kept in a library fund separate from other municipal funds and (2) withdrawn only on duly authenticated vouchers from the library trustees.

The act also makes technical and conforming changes.

§§ 3-31 & 36 — WAIVERS FOR CERTAIN SCHOOL CONSTRUCTION PROJECTS (“NOTWITHSTANDING” PROVISIONS)

The act waives certain statutory and regulatory requirements to make specified school construction projects eligible for state grants under certain conditions as shown in Table 3. These waivers are referred to as “notwithstanding” provisions.

Table 3: Notwithstanding Provisions for Local School Projects

<i>§</i>	<i>District</i>	<i>School</i>	<i>Project</i>	<i>Requirement(s) Waived</i>	<i>Conditions</i>
3	Bridgeport	Multi-Magnet High School	New school	Begin construction within two years after the General Assembly authorizes a grant commitment for the project	Begin construction by June 30, 2012
4	East Haven	Overbrook Early Learning Center	Roof replacement	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
5	East Haven	Momauguin Elementary School	Roof replacement	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
6	East Haven	Deer Run Elementary School	Roof replacement	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
7	East Haven	Joseph Melillo Middle School	Roof replacement	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
8	Granby	Kelly Lane Intermediate School	Renovation and expansion	Competitive bidding for orders and contracts	Applicable to Change Order # 5 and 6
9	Manchester	Highland Park School	Extension and alteration/ roof replacement	Requirement that description of project type be established at time of application and definition of a renovation project	Town may change project description to a renovation project and qualify as a renovation
10	New Haven	Fair Haven Middle School	Extension and alteration	Requirement that description of project type be established at time of application and definition of a renovation project	<ul style="list-style-type: none"> <li>Town may change project description to a renovation project and qualify as a renovation</li> <li>Education commissioner may not modify standard space specifications for the project</li> </ul>
11	New Haven	Troup Middle School	Extension and alteration	Requirement that description of project type be established at time of application and definition of a renovation project	<ul style="list-style-type: none"> <li>Town may change project description to a renovation project and qualify as a renovation</li> <li>Education commissioner is barred from modifying standard space specifications for the project</li> <li>The increase in the state grant commitment attributable to the change to a renovation project is limited to \$5.8 million</li> </ul>
13	Plainville	Linden Street School	Expansion and alteration	Projected enrollment calculation formula and standard space specifications	<ul style="list-style-type: none"> <li>Use 553 as projected enrollment</li> <li>Accept at least 24 out-of-district students under the Open Choice interdistrict attendance program starting in the 2011-12 school year</li> <li>Meet all other requirements of</li> </ul>

<i>§</i>	<i>District</i>	<i>School</i>	<i>Project</i>	<i>Requirement(s) Waived</i>	<i>Conditions</i>
					school construction law and regulations
14	Plainville	Louis Toffolon School	Extension and alteration/roof replacement	Requirement that project scope be established at time of application	Expand scope to include an installation of a solar panel system
15	Plainville	Louis Toffolon School	Extension and alteration/roof replacement	Competitive bidding for orders and contracts	<ul style="list-style-type: none"> <li>• Applicable to the portion of the project for installation of a solar panel system</li> <li>• Bureau approval of plans and specifications</li> </ul>
16	Plainville	Louis Toffolon School	Extension and alteration/roof replacement	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
17	Ridgefield	Ridgefield High School	Extension and alteration/roof replacement	Projected enrollment calculation formula and standard space specifications	<ul style="list-style-type: none"> <li>• Use 1,798 as projected enrollment</li> <li>• Meet all other requirements of school construction law and regulations</li> </ul>
18	Ridgefield	Ridgefield High School	Expansion and alteration/roof replacement	Square footage limits	Use 314,317 square feet as maximum square footage
19	Ridgefield	Ridgefield High School	Extension and alteration/roof replacement	Competitive bidding for orders and contracts	Applicable to the portion of the project for expansion and alteration at Ridgefield High
20	Tolland	Unspecified	Purchase of site and new construction project	Projected enrollment and eligible costs	<ul style="list-style-type: none"> <li>• Tolland not responsible for returning any portion of grant already paid prior to the act's passage based on enrollment figure of 1,200</li> <li>• SDE not responsible for making any more grant payments based on that figure</li> </ul>
21	Waterbury	Carrington School	Extension and alteration changed to new construction	Requirement that projects that have changed in scope be included on annual priority list and submitted to the General Assembly	Bureau approval of plans and specifications
22	West Hartford	Norfeltd Elementary School	Partial roof replacement	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
23	Windham	Windham Interdistrict Magnet School	Off-site connection to sanitary sewer and public water service utilities	Ineligible costs	<p>Windham must:</p> <ul style="list-style-type: none"> <li>• show that the off-site connection costs less than an on-site well and sewer, and</li> <li>• ensure that no one other than the school will connect to the off-site connection</li> </ul>
24	Region 18	Lyme-Old Lyme High School	Extension and alteration/roof replacement changed to renovation	Requirement that (1) a description of project type be established at time of application and (2) at least 75% of a building to be renovated be at least 30 years old	Town may change project description to a renovation project and qualify as a renovation
25	Region 18	Lyme-Old Lyme High School	Extension and alteration/roof replacement changed to renovation	Requirement that a renovation project to an existing facility cost less than building a new facility	Town may proceed with renovation project without submitting a cost analysis of the project prepared by an independent licensed architect prior to final plan approval

<i>§</i>	<i>District</i>	<i>School</i>	<i>Project</i>	<i>Requirement(s) Waived</i>	<i>Conditions</i>
26	Bethel	Frank A. Berry Elementary School	Renovation and expansion	Projected enrollment calculation formula and standard space specifications	<ul style="list-style-type: none"> <li>• Use 597 as projected enrollment</li> <li>• Meet all other requirements of school construction law and regulations</li> </ul>
27	Bethel	Frank A. Berry Elementary School	Renovation and expansion	Square footage limits	Use 71,640 square feet as maximum square footage for the project
28	Middletown	Middletown High School	New school	Requirement that project scope be established at time of application	Expand scope to include construction of an emergency access to Cynthia Lane
29	Middletown	Middletown High School	New school	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
30	Bristol	Jennings School	Roof replacement	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
31	Brookfield	Center Elementary School	Asbestos removal	Timing of bid and plan approval by SDE's Bureau of School Facilities	Bureau approval of plans and specifications
36	Shelton	Shelton Intermediate School	New school	Statutes and regulations concerning site acquisition costs	None. The state must reimburse Shelton for site acquisition costs.

*§ 12 — Grant Repayment Exemption for Norwich*

By law, a town that takes a public school building project that received a state school construction grant out of service or redirects it to a nonschool use within 20 years after the building received a school construction grant of \$2 million or more or 10 years for a smaller grant, must refund the unamortized grant balance to the state. The act exempts Norwich from the requirement to repay unamortized balances totaling up to \$250,000 if it redirects one or more schools before June 30, 2010. Norwich must notify SDE by June 30, 2010 which school buildings it will redirect.

**BACKGROUND**

*School Construction Grants*

The state reimburses school districts for between 20% and 80% of the eligible costs of local school construction projects. The reimbursement rate depends mostly on town wealth but districts may receive a higher reimbursement for certain types of projects, such as those involving space for school-readiness programs or full-day kindergartens. In addition, certain types of interdistrict projects (vocational agricultural centers, regional special education facilities, and interdistrict magnet schools) are reimbursed at the rate of 95% of eligible costs. Districts also receive a 10-percentage-point bonus for projects undertaken in cooperation with one or more other districts. Board of education central administration facility projects are reimbursed at half the district's otherwise applicable rate. Grants are paid from state general obligation bond funds.

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**PA 10-111—sSB 438**

*Education Committee  
Appropriations Committee*

**AN ACT CONCERNING EDUCATION REFORM  
IN CONNECTICUT**

**SUMMARY:** This act raises school academic standards by, among other things, increasing the minimum credits for high school graduation from 20 to 25, starting with the graduating class of 2018. It requires school districts to offer student support and alternative ways to meet the new requirements, sets minimum standards for online courses, requires districts with dropout rates of 8% or higher to provide online credit recovery courses, and requires high schools to offer advanced placement (AP) courses.

The act takes steps to improve student performance in low-achieving schools and school districts. It:

1. requires school boards with low-achieving schools to create school governance councils made up mostly of students' parents or guardians that are empowered to, among other things, advise the principal on the school budget before it is submitted to the superintendent, interview candidates to fill principal vacancies, and vote to reconstitute low-achieving schools using models included in the act;
2. enhances the State Board of Education's (SBE) authority to replace a local or regional board of education for a district that, after being designated as a low-achieving district, fails for two consecutive years to make adequate progress;
3. permits the school board of a priority school district to convert an existing school or establish a new school as an "innovation school" through agreements with the school's teacher and administrator unions and for the purpose of improving school performance and student achievement;
4. requires school districts to hold two, rather than one, parent-teacher conferences a year; and
5. establishes an achievement gap task force.

The act revamps teacher and school administrator evaluations to require that, starting by July 1, 2013, evaluations be based partly on measures of student academic growth. It requires the State Department of Education (SDE) to expand the public school information system to track and report to school boards data on performance growth by students, teachers, schools, and school districts. It provides incentives for teachers and retired teachers to work in priority districts and allows retired teachers to work longer before their Teachers' Retirement System (TRS) benefits are reduced. It specifies the minimum criteria for SDE to review and approve proposals for school administrator alternate route to certification (ARC) programs and gives the education commissioner additional criteria for waiving the requirement that a school superintendent hold a superintendent certificate issued by the SBE.

The act eliminates certain statutory restrictions on enrollment in high-achieving state charter schools; imposes regulatory restrictions on charter schools' relationships with charter management organizations; requires qualifying charter school teachers to participate in the TRS; and allows charter schools to continue to receive state facility grants, subject to available bond authorizations.

Finally, with certain conditions, the act allows school officials to consider a student's previous disciplinary problems when deciding whether to impose an out-of-school suspension.



EFFECTIVE DATE: July 1, 2010, except for the teachers' retirement and charter school construction grant provisions, which are effective upon passage.

§§ 16-19, 28, & 31 — SECONDARY SCHOOL REFORM

The act increases high school graduation requirements starting with the class of 2018 and requires school districts to provide students who are unable to satisfactorily complete the new requirements with support and remedial services that are an alternative to meeting the new requirements. It requires SDE to provide grants, within available appropriations, to school districts to assist with implementing the new standards and support services.

The act requires local boards of education to give a status report on implementing the higher standards to SDE by November 1, 2012, and biennially thereafter, and requires SDE to give a status report to the legislature by February 1, 2013, and biennially thereafter.

It also authorizes SDE to create a board examination series pilot program to allow students in grades 9 through 12 to graduate from high school by passing a series of exams instead of meeting the regular high school graduation requirements.

It permits school boards to award credit toward graduation requirements for the successful completion of online coursework if the board has adopted an online course policy that meets standards the act sets.

*High School Credit Requirements and End-of-Year Examinations*

Under the act, students must earn more credits and pass five end-of-year examinations to graduate from high school. The act raises, from 20 to 25, the number of credits required to graduate and changes course requirements. The new requirements apply starting with the high school graduating class of 2018.

The old and new minimum high school graduation requirements are shown in Tables 1 and 2 below.

Table 1: Minimum Graduation Requirements through the Class of 2017

<i>Subject Area</i>	<i>Required Credits</i>
English	4
Mathematics	3
Social Studies	3 (including a half credit in civics and American Government)
Science	2
Arts or Vocational Education	1
Physical Education	1

Table 2: Minimum Graduation Requirements Starting with the Class of 2018

<i>Subject Area</i>	<i>Required Credits</i>
<b><i>Humanities – 9 credits</i></b>	
English	4, including composition
Social Studies	3, including 1 credit in American history and a half credit in civics and American Government
Fine Arts	1
Humanities Elective	1
<b><i>Science, Technology, Engineering, and Mathematics – 8 credits</i></b>	
Mathematics	4, including algebra I, geometry, and either algebra II or probability and statistics
Science	3, including 1 in life science, 1 in physical science
Science, Technology, Engineering, and Math Elective	1
<b><i>Career and Life Skills – 3.5 credits</i></b>	
Physical Education	1
Comprehensive health education	0.5
Career and life skills electives, such as career and technical education, English as a second language, community service, personal finance, public speaking, and nutrition and physical activity	2
<b><i>Other – 3 credits</i></b>	
World Languages (see below)	2
Senior demonstration project or its SBE-approved equivalent	1

The act specifies that a world language course successfully completed in grade six, seven, or eight or online can count towards the high school graduation requirement. The law already allows world language classes taken through a private nonprofit provider to count toward the graduation requirements. The act requires these classes to be completed successfully, but does not define “successful.”

The act requires students, starting with the class of 2018, to pass end-of-year examinations for the following courses in order to graduate: (1) algebra I, (2) geometry, (3) biology, (4) American history, and (5) 10<sup>th</sup> grade English. It requires SDE, by July 1, 2012, to begin developing or approving the end-of-year exams. The exams must be developed or approved by July 1, 2014.

### *Student Support Services and Alternative Means of Completing Graduation Requirements*

Beginning with 7<sup>th</sup> graders in the 2012-13 school year (the graduating class of 2018), local boards must provide adequate support and remedial services for students. For those unable to successfully complete any of the required courses or exams, the services must provide an alternate way for a student to meet the requirements.

The support and remedial services must at least include allowing students to:

1. retake courses in summer school or through an online course;
2. enroll in a class offered at a community college, state college, or university accredited regionally or by the Department of Higher Education (DHE) (a three-credit semester course at these institutions equals one-half credit for purposes of meeting graduation requirements);
3. take an alternate form of the examination if they received a failing score, as determined by the education commissioner, on an end-of-the-school-year examination; and
4. demonstrate competency on any of the five core courses through success on an alternate assessment if their individualized education plans state that they are eligible to use an alternate assessment.

For the school year starting July 1, 2012 and each following year, the act also requires local boards to collect information for each public school student, starting in 6<sup>th</sup> grade, that includes the student's career and academic choices in grades 6 through 12, inclusive.

### *Board Examination Pilot for Graduation*

The act permits SDE to establish a board examination series pilot program that allows boards of education to permit students in grades 9 through 12 to graduate from high school by passing a series of examinations instead of meeting the regular high school graduation requirements.

The SBE must issue a board examination certificate to any student who has successfully completed the pilot program. The examination certificate will be considered the same as a high school diploma for purposes of student eligibility for enrollment at a public higher education institution in Connecticut.

For the school year starting July 1, 2011, and each following year, a local or regional board of education must permit a student to graduate from high school upon the successful completion of the pilot program created in the act in lieu of the regular credit and examination requirements under the law or this act.

### *Online Course Credit and Policy*

The act allows local boards to award credit toward graduation for the successful completion of online coursework if the board has adopted an online course policy that meets the standards set in the act. The policy must, at a minimum, ensure the:

1. workload required by the online course is equivalent to that of a similar course taught in a traditional classroom setting;
2. content is rigorous and aligned with SBE-approved curriculum guidelines where appropriate;
3. course engages students and has interactive components, such as required interactions between students and teachers, participation in online demonstrations, discussion boards, or virtual labs;
4. online coursework program is planned, ongoing, and systematic; and
5. courses are (a) taught by teachers certified by any state who have received training on teaching in an online environment or (b) offered by higher education institutions that are regionally or DHE-accredited.

### *Online Credit Recovery Program*

The act requires a board of education for a school district with a dropout rate of 8% or greater in the previous school year, to establish an online credit recovery program for students identified as being in danger of failing to graduate. These students, once identified by certified personnel, must be allowed to complete online, district-approved coursework toward meeting high school graduation requirements. Each school in the district must designate, from among existing staff, an online learning coordinator to administer and coordinate the online credit recovery program.

### *Grants to School Districts and Status Reports on the New Requirements*

Under the act, SDE must provide grants, within available appropriations, for FY 13 to FY 18, inclusive, to school districts specifically to assist with implementing the new standards and student support services the act requires.

Each local board seeking SDE grant assistance must give the department, by November 1, 2012, and biennially thereafter, (1) a status report on implementing the higher standards and support services and (2) an explanation of why funds are necessary for the next biennium to implement the new standards and services.

The act requires SDE to report biennially to the Education Committee, starting by February 1, 2013, on how school boards are implementing the new standards and support services. The report must include (1) an explanation of available state and federal funds, (2) recommendations on the need for additional state funds for local districts, and (3) recommendations for any statutory changes that would help school boards implement the new standards and related support services.

*Advanced Placement Courses*

Starting July 1, 2011, the act requires local and regional boards of education to provide high school level courses for which an advanced placement (AP) examination is available through the College Board. It also requires the SBE to develop guidelines to help school districts train teachers to teach AP courses to a diverse student body.

§§ 6-7, 21-27, & 29-30 — LOW-ACHIEVING SCHOOLS AND PARENT INVOLVEMENT

*School Governance Councils*

The act requires, starting July 1, 2010, any board of education that has a low-achieving school as defined in state law (see BACKGROUND) because the school did not make adequate yearly progress in mathematics and reading at the whole school level to establish a school governance council for the school. If the failure to make adequate yearly progress in mathematics and reading at the whole school level was before July 1, 2010 and the school is among the lowest 5% of Connecticut schools based on achievement, the council must be established by January 15, 2011. If the school is not among the lowest 5% of Connecticut schools based on achievement, the council must be established by November 1, 2011.

The act authorizes a school board to establish a council for a school identified as in need of improvement. (Low-achieving schools are a subset of the in-need-of-improvement group.) It states that a council is considered a component of parental involvement for purposes of federal funding under the No Child Left Behind (NCLB) Act.

*Membership, Voting Rights, and Terms.* The school governance councils consist of 14 voting members plus nonvoting members (see Table 3 below).

Table 3: Governance Council Membership and Selection Process

<i>Member</i>	<i>Number</i>	<i>Selection/Election Process</i>
Parents or guardians of students at the school	7	Elected by the parents or guardians of students attending the school, with each household with a student attending the school having one vote
Community leaders within the school district	2	Elected by the governance council's parent or guardian and teacher members
Teachers at the school	5	Elected by the teachers of the school
School principal or designee (nonvoting)	1	Principal may name a designee
Student members, high school councils only (nonvoting)	2	Elected by the school's student body

Voting members have two-year terms, and no member can serve more than two terms on a council. Nonvoting student members serve up to two one-year terms.

*Council Responsibilities.* School governance councils are responsible for:

1. analyzing school achievement data and school needs as they relate to the school's improvement plan prepared according to the act;
2. reviewing the fiscal objectives of the school's draft budget and advising the principal before the budget is submitted to the superintendent;
3. participating in the hiring of the school principal or other administrators by conducting candidate interviews and reporting on them to the superintendent and the local and regional board of education;
4. assisting the principal in making programmatic and operational changes to improve the school's achievement, including program changes, adjusting school hours and days of operation, and enrollment goals;
5. working with school administrators in developing and approving a school compact for parents, legal guardians, and students that outlines the criteria and responsibilities for enrollment and school membership consistent with the school's goals and academic focus and the ways that parents and school personnel can build a partnership to improve student learning;

6. developing and approving a written school parent involvement policy that outlines the role of parents and guardians;
7. using records relating to information about parents and guardians maintained by the local or regional board of education for the sole purpose of council election; and
8. determining whether to reorganize the school in accordance with the act.

*Reconstituting Schools.* A governance council can vote to reconstitute a school under the act's provisions during the third year after the council is established. A council may not vote to reconstitute if (1) the school was already reconstituted as a result of receiving federal education grants that were contingent on reconstitution (§ 1003(g) of Title I of the Elementary and Secondary Education Act, 20 U.S.C. 6301 *et seq.*) or (2) a reconstitution was initiated by another source.

A vote to reconstitute must recommend one of the following models for reconstitution:

1. turnaround;
2. restart;
3. transformation;
4. CommPACT school, pursuant to Connecticut statute (see BACKGROUND for details of models 1-4);
5. an innovation school, (see below); and
6. any other model developed later under NCLB.

No later than 10 days after the council informs the local or regional board of education of its vote to reorganize, the board must hold a public hearing to discuss the vote. At the board's next regularly scheduled meeting or 10 days after the public hearing, whichever is later, it must vote on whether to (1) accept the model recommended by the council, (2) select an alternative model described in the act, or (3) maintain the existing school status. If the board selects an alternative model, it must meet with the council within 10 days of its vote to discuss which alternative to adopt.

If the board and council cannot agree, the education commissioner must decide, no later than 45 days after the last meeting between the board and the council, which of the alternatives to implement. If the board votes to maintain the existing school status, no later than 45 days after the vote the commissioner must decide whether to implement the council's recommended model or maintain the existing school status.

*Reorganization Implementation.* If the final decision is adoption of a model, the board must implement the model during the subsequent school year in conformance with (1) state law and applicable regulations, (2) federal regulations and guidelines for school restructuring under NCLB, or (3) any other applicable federal laws or regulations.

*Additional Powers of a Governance Council.* In addition to its responsibilities, the act authorizes a council:

1. in those schools that require an improvement plan, to review the annual draft report detailing the goals in the state accountability plan prepared under existing law for low-achieving schools and advise the principal before the report is submitted to the superintendent of schools;
2. in those schools where an improvement plan becomes required under state accountability law for low-achieving schools, to assist the principal in developing the plan before it is submitted to the superintendent of schools;
3. to work with the principal to develop, conduct, and report the results of an annual survey of parents, guardians, and teachers on issues related to the school climate and conditions; and
4. to advise the principal on any other major policy matters affecting the school, except matters relating to collective bargaining agreements between the teachers and the board of education.

The act requires boards of education to provide appropriate training and instruction to governance council members to help them carry out their duties.

*Annual Statewide Limits on Reconstitutions.* The SBE cannot allow more than 25 schools per school year to be reconstituted under the act's provisions. The SBE must notify school districts and governance councils when this limit is reached. A reconstitution counts toward this limit when the school board notifies the SBE of its final decision to do so.

*Evaluating School Governance Councils.* The education commissioner must evaluate those councils that are established on or before January 15, 2011 based on the act's criteria for monitoring reconstituted schools (see below) and report to the Education Committee on the evaluation by October 1, 2014. The report must include recommendations on whether to continue to allow school governance councils to recommend reconstitution.

#### *Innovation Schools*

The act permits a board of education for a priority school district to convert an existing school or establish a new school as an "innovation school" through agreements with the teacher and administrator unions for the purpose of improving school performance and student achievement.

*Innovation Plans.* An "innovation school" operates under an innovation plan that articulates areas of autonomy and flexibility in curriculum, budget, school

schedule and calendar, school district policies and procedures, professional development, and staffing policies and procedures, including waivers from or modifications to union contracts. Changes to union contracts must be approved by a two-thirds vote of the bargaining unit's members employed or to be employed at the school. The innovation plan must include measurable goals regarding school performance and student success.

The act requires these schools to operate under an innovation plan developed by either the faculty and district leadership or an external partner as determined by the local or regional board of education. Either group selected, faculty and district leadership or external partner, must develop the plan through an innovation plan committee, which the act outlines (see below).

Under the act, when faculty and district leadership are responsible for developing the innovation plan, school administrators are responsible for meeting the plan's terms. Likewise, when an external partner, such as a public or private college or university, is responsible for developing the plan, the external partner is responsible for meeting the plan's terms. The act does not define the ongoing involvement of the external partner.

*External Partners Defined.* An external partner may be (1) a public or private college or university; (2) a nonprofit charter school operator; (3) an educational collaborative; or (4) a consortium authorized by the education commissioner that can include public or private colleges or universities, parents, teachers or administrator unions, or superintendents' organizations.

*Plan Committee.* The innovation plan committee must include between nine and 11 members. Under either the faculty and district leadership option or the external partner option, a committee must include the following members, selected by the local or regional board of education:

1. the district superintendent, or his or her designee;
2. a local or regional board of education member, or his or her designee;
3. two parents who have one or more children enrolled in the school, or in the case of a new school, from the district; and
4. the principal of the school, or in the case of a new school where the principal has not yet been hired, a principal from the school district where the new school is located.

The committee must also include two certified teachers at the school, appointed by the teachers' union, or in the case of a new school where no teachers have yet been hired, two teachers appointed by the teachers' union of that district.

In the case of a plan being developed by the faculty and district leadership, the committee may not have more than four additional members who the board deems appropriate. In the case of a plan being developed by an external partner, the committee must have two representatives of the external partner, selected by the board of education, and up to two additional members who the board of education deems appropriate.

A majority vote of the committee is required to approve the innovation plan.

*Plan Elements.* The innovation plan must include a:

1. curriculum plan including a detailed description of the curriculum and related programs and how the curriculum is expected to improve school performance and student achievement;
2. budget plan including a detailed description of how the school will use funds differently than other district public schools to support school performance and student achievement;
3. school schedule plan including a detailed description of the ways the program or calendar of the proposed school will be enhanced or expanded;
4. staffing plan that includes any proposed waivers or modifications of union agreements, subject to existing collective bargaining law and the act's provision requiring a two-third affirmative vote to modify agreements;
5. policies and procedures plan including a detailed description of the unique operational policies and procedures to be used and how the procedures will support school performance and student achievement; and
6. professional development plan including a detailed description of how the school may provide professional development to its administrators, teachers, and other staff.

In order for the school superintendent to assess the innovation school across multiple measures of school performance and student success (see below), the plan must include measurable annual goals related to:

1. student attendance;
2. student safety and discipline;
3. student promotion and graduation and dropout rates;
4. student performance on statewide mastery examinations;
5. progress in academic underperformance areas;
6. progress among student subgroups, including low-income, limited English-proficient, and special education students; and
7. progress in reducing achievement gaps among different groups of students.

*Union and Employee Agreement.* The act provides that it does not alter union agreements with administrators, teachers, and staff. Union agreements are considered in operation at an innovation school unless provisions are waived or modified in the innovation plan and agreed to by a two-thirds vote of the members of the bargaining unit employed or to be employed at the school.

*School Evaluation and Superintendent Intervention.* The superintendent must annually evaluate innovation schools in his or her district and submit the evaluation to the board of education and the education commissioner. The evaluation determines whether the school has met the annual goals outlined in the innovation plan and assesses the plan's implementation. The superintendent can amend or suspend one or more components of the plan after one year, if he or she determines that changes in the school district, after the plan was established, need to be addressed by changing one or more components.

If the superintendent determines that the school has substantially failed to meet the goals, the local or regional school board may (1) amend or suspend one or more components of the plan or (2) terminate the school's authorization. The act prohibits a board of education from amending or suspending one or more components before the end of the second full year of the school's operation and prohibits plan termination before completion of the third full year of operation.

An amendment to, or suspension of, any component of the innovation plan that changes the union contract for any teacher at the school must be approved by a two-thirds vote of the teachers union before it can be implemented.

*Students at Converted Innovation Schools.* The act requires boards of education to allow a student enrolled in a school when it is established as an innovation school to remain at the school if the student and his or her parents so choose.

#### *Schools Identified for Reconstitution*

By law, the education commissioner must identify low-achieving schools for reconstitution. The act adds innovation schools to the specific reconstitution models the commissioner may choose for such schools. The law already allows the commissioner to choose among any of the following reconstitution options: (1) transformation to a state or local charter school, COMMPact school, or school based on other improvement models or (2) management by an entity other than the board of education for the school district where the school is located. As under prior law, the act allows the commissioner to phase in a school's reconstitution to an innovation school.

The act requires that, if the commissioner's required reconstitution affects working conditions, it be carried out in accordance with the Teacher Negotiation Act. This requirement already applies to several of the commissioner's other powers over schools and districts identified as low-achieving, namely:

1. providing incentives to attract highly qualified teachers and principals;
2. directing teacher and principal transfers and assignments;
3. requiring additional training for parents and guardians of children attending the school and for the teachers, principals, and central office administrators a district hires;
4. directing the establishment of learning academies within schools that require teacher groups to continuously monitor student performance; and
5. implementing a plan developed by the district's board of education to address deficits in achievement and the learning environment recommended in an instructional audit.

#### *State Reconstitution of Local or Regional Board of Education*

The act enhances the SBE's authority to replace the board of education for a local or regional school district that, after being designated as a low-achieving district, fails for two consecutive years to make adequate progress toward meeting the requirements of the state accountability law and NCLB. It establishes conditions for the SBE and the commissioner to exercise this authority. By law, the SBE, after consulting with the governor and the district's chief elected official, can also ask the General Assembly to enact legislation allowing it to shift control of a low-achieving district to the SBE or another authorized entity.

The act overrides state statutes, special acts, and local charters and ordinances to allow the SBE, subject to certain conditions, to authorize the education commissioner to terminate the existing local or regional board of education for a low-achieving school district and appoint new members. It also requires that, before any reconstitution, the SBE have mandated that the existing board members undergo training to improve their operational efficiency and effectiveness as leaders of their district's improvement plans.

Under the act, the SBE may implement the reconstituted board for no more than five years. Once the SBE gives the commissioner the authority, the commissioner must terminate the district's existing board and appoint new members for three-year terms. The newly appointed board may include members of the terminated board. The act requires SDE to offer training to the new board's members.

The new board must annually report to the commissioner on the district's progress in meeting the SBE's benchmarks for progress and the adequate yearly progress requirements of NCLB. If, after three years, the district does not show adequate improvement, the act authorizes the commissioner to reappoint the board members or appoint new members for two-year terms.

The act makes a conforming change in the statute requiring board of education members to be elected, unless otherwise provided by special act or local charter.

#### *State Monitoring and Reporting*

The act requires SDE, within available appropriations, to monitor schools for two years after reconstitution for progress based on:

1. the reconstitution model adopted;
2. the length of school day and year;
3. the number and type of disciplinary incidents;
4. student attendance and dropout rates and the number of truants;
5. average state mastery test scale scores;
6. for high schools, the number and percentage of students completing advance placement courses;
7. teacher attendance rate; and
8. the existence and size of the parent-teacher organizations.

By January 1, 2012, the department must report to the Education Committee on the number of school governance councils established under the act, the number of reconstituted schools, and the reconstitution models adopted. By January 1, 2013, the department must report to the committee on (1) the results of the school monitoring, (2) recommended changes in the available reconstitution models, (3) whether school governance councils should continue to recommend reconstitution, (4) a comparison of the models adopted, and (5) the progress of the schools adopting each model based on the above-listed indicators.

The act requires SDE, within available appropriations, to report to the Education Committee (1) the number of school governance councils that initiate school reconstitutions under the act, (2) a comparison of the councils that have initiated reconstitutions with those that have not, and (3) whether there is increased parental involvement at schools with governance councils.

The act requires the department to start the reporting by July 1, 2011. Because it includes two conflicting reporting schedules, it is unclear whether SDE must submit the report every year or every two years.

#### *Parent Trust Fund Transferred*

The act transfers the Parent Trust Fund from the Department of Social Services (DSS) to SDE. It does not change the fund's purpose. The education commissioner must use the fund for programs aimed at improving children's health, safety, and education through parents' community involvement. The programs must (1) train parents in civic leadership skills and (2) support increased, sustained parental engagement in community affairs.

In addition to allowing the fund, as under prior law, to receive private and federal funds, the act also allows it to receive state funds. It transfers the unspent balance of the existing fund under DSS to the fund under SDE. It also eliminates the Parent Trust Fund's explicit authority to receive money through the Children's Trust Fund and makes other conforming changes. (PA 10-2, June Special Session, appropriates \$500,000 to SDE for FY 11 for the fund.)

#### *Parent-Teacher Conferences*

By law, each local and regional board of education must have written policies to encourage parent-teacher communication. Under the act, starting with the 2010-11 school year, those policies must require school districts to hold two flexible parent-teacher conferences per year.

#### *Achievement Gap Task Force*

The act establishes a nine-member task force to study, monitor, and consider effective ways to close the achievement gap between racial and socioeconomic groups in Connecticut. The task force must consider (1) systematic education planning, (2) best practices in public education, (3) teacher professional development, and (4) parental involvement in public education. It must report its findings and recommendations to the Education Committee by January 1, 2011.

The task force consists of the education commissioner or his designee and eight members appointed by legislative leaders as follows: two each by the House speaker and Senate president pro tempore and one each by the House and Senate majority and minority leaders. (PA 10-1, June Special Session, adds a 10<sup>th</sup> member appointed by the governor.) Appointments must be made by August 1, 2010. Appointees must reflect the state's geographical and cultural diversity and have experience in business, education, and philanthropic organizations. Legislative leaders' appointees may be legislators.

The House speaker and Senate president pro tempore select the task force chairpersons, who must schedule the first meeting by September 1, 2010. The task force is staffed by the Education Committee's

administrative staff. It terminates when it submits its report or on January 1, 2011, whichever is later.

### § 3 — EXPANDED PUBLIC SCHOOL INFORMATION SYSTEM

State law already requires SDE to develop and implement a public school information system under which the department assigns a unique identifier to each student to allow for tracking individual student performance on statewide mastery tests. By July 1, 2013, the act requires SDE to expand the system to:

1. track and report to local and regional school boards, data on performance growth by students, teachers, schools, and school districts;
2. collect available data on enrollment in, and graduation from, higher education institutions, for students who have a unique student identifier in the system; and
3. develop a way to access and share data with the data systems of Connecticut public higher education institutions.

#### *Student, Teacher, School, and District Data*

Local districts must use the data on students, teachers, schools, and districts to evaluate students' and teachers' educational performance growth. The act requires information in the system to be collected or calculated from information received from boards of education and other relevant sources and requires school districts to report the information.

*Student Data.* In addition to mastery test performance, the data relating to students must include the (1) primary language spoken in the student's home; (2) student transcripts; (3) student attendance and mobility; and (4) for each student enrolling in public school at the kindergarten level, reliable, valid assessments of his or her readiness for kindergarten.

*Teacher Data.* The system's teacher data must include:

1. credentials, such as master's degrees, teacher preparation programs completed, and certification levels and endorsements;
2. assessments, such as whether a teacher is considered highly qualified under NCLB or meets any other designations established by federal law or regulations to measure the equitable distribution of instructional staff;
3. the presence of substitute teachers and a teacher's aide;
4. the absenteeism rate in the teacher's classroom; and
5. class size.

Under the act, a "teacher" is any certified professional below the rank of superintendent employed by a board of education for at least 90 days in a position requiring an SBE certificate. A "teacher preparation program" is one provided by a higher education institution or other SDE-approved program, including an alternative route to certification (ARC) program, that is designed to prepare people for professional educator certification.

The act requires SDE to assign each teacher a unique identifier before collecting the data.

*School and School District Data.* The school and school district data must include:

1. school population;
2. annual graduation rates;
3. annual teacher retention rates;
4. school disciplinary records, such as data on suspensions, expulsions, and other disciplinary actions;
5. the percentage of students whose primary language is not English;
6. the number and professional credentials of support personnel; and
7. information on instructional technology, such as computer access.

#### *Education Commissioner's Annual Report*

The education commissioner must report annually to the Education Committee, starting July 1, 2011 and continuing until July 1, 2013, on SDE's progress in expanding the data system, including the data elements in the system at the time of each report and those that will be added by July 1, 2013.

### §§ 1, 2, 4, 5, 8, & 9 — TEACHERS, RETIRED TEACHERS, AND SCHOOL ADMINISTRATORS

#### *Teacher Evaluation Requirements*

By law, a school superintendent must continuously evaluate his or her school district's professional employees below the rank of superintendent or cause them to be evaluated. Evaluations must at least address a teacher's strengths, areas needing improvement, and improvement strategies. The act adds a requirement that evaluations also address the academic growth of the teacher's students.

#### *SBE Model Teacher Evaluation Program Guidelines*

The act requires the SBE, by July 1, 2013 and in consultation with the Performance Evaluation Advisory Council (see below), to develop model teacher evaluation program guidelines that give guidance on using multiple indicators of student academic growth in evaluations. The guidelines must include:



1. ways to measure student academic growth;
2. consideration of “control” factors tracked by the expanded public school data system that could influence teacher performance, such as student characteristics, attendance, and mobility; and
3. minimum requirements for evaluation instruments and procedures.

*Evaluation Programs Developed by Local and Regional School Boards*

By law, school boards must implement evaluation programs that are consistent with SBE guidelines and with any other guidelines established by mutual agreement between a local or regional board of education and the appropriate teachers union. Boards must develop the evaluation programs with the advice and assistance of collective bargaining representatives of the teachers and school administrators. This act also requires the local evaluation programs to be consistent with its new guidelines.

*Performance Evaluation Advisory Council*

The act creates a Performance Evaluation Advisory Council within SDE to help the SBE develop and implement the model teacher evaluation program and the supporting data system. The council must meet at least quarterly.

The council members are:

1. the education and higher education commissioners, or their designees;
2. one representative each from the following organizations chosen by the organization: (a) the Connecticut Association of Boards of Education, (b) the Connecticut Association of Public School Superintendents, (c) the Connecticut Federation of School Administrators, (d) the Connecticut Education Association, and (e) the American Federation of Teachers- Connecticut; and
3. an unspecified number of appropriate people selected by the education commissioner, who must include teachers and experts in performance evaluation processes and procedures.

*Alternate Route to Certification (ARC) Program for School Administrators*

*Entities Eligible to Offer Administrator ARC Programs.* The act requires SDE to review and approve proposals for school administrator ARC programs according to criteria the act specifies and any other criteria the department requires. It appears to override

another law, which requires the Department of Higher Education (DHE), in consultation with SDE, to develop an ARC program for school administrators and superintendents that includes mentored apprenticeships and criteria for program admission (CGS § 10-155d (c)).

To be approved under the act, administrators’ ARC programs must be provided by:

1. public or private higher education institutions;
2. local and regional boards of education;
3. regional educational service centers; or
4. SBE-approved private, nonprofit teacher or administrator training organizations.

*Admission Criteria.* The act establishes minimum admission criteria for administrator ARC programs by requiring SDE to approve only programs that require applicants to have at least:

1. a bachelor’s degree from an institution accredited regionally or by the higher education Board of Governors;
2. 40 months of teaching experience in Connecticut or another state, at least 10 of which must be in a public school position requiring certification; and
3. the recommendation of their immediate supervisor or district administrator, based on performance.

*One-Year Residency or Other Experience.* Under the act, an SDE-approved program must require a participant to complete a one-year residency in a full-time, 10-month, local or regional school board position requiring an intermediate administrator or supervisor endorsement. During the residency, the participant must be under the supervision of a certified administrator and a supervisor from an institution or organization offering the ARC program. The one-year residency requirement does not apply to anyone who has 10 school months of experience as an administrator in a public or private school in another state approved by that state’s appropriate SBE.

*Qualifications for Initial Administrator Certificate.* The act requires SBE to issue an initial certificate with an administration and supervision endorsement, good for three years, to a successful graduate of an administrators’ ARC program who passes, or meets the requirements for an exemption from or a waiver of, Connecticut’s educator testing requirements.

Starting July 1, 2010, SBE must issue an initial certificate to a qualifying administrator ARC program graduate even if the applicant does not meet a statutory requirement that all applicants for initial and provisional educator certificates complete a minimum 36-hour course in understanding the growth and development of exceptional children, including handicapped and gifted and talented children and children who may require special education.

*Master's Degree Requirement.* The act requires anyone who receives an initial administrator certificate after completing an administrator ARC program to obtain a master's degree within five years of receiving the initial certificate. It thus exempts ARC program graduates from SDE regulations requiring a master's degree, plus 18 hours of additional graduate credit among other qualifications, in order to receive an initial certificate in intermediate administration and supervision (Conn. Agency Regs. §10-145d-574).

Under the act, an administrator ARC program graduate who fails to obtain a master's degree in the required time is ineligible for a professional-level administrator certificate.

#### *Superintendent Certification Waiver*

The act gives the education commissioner additional authority to waive the requirement that a school superintendent hold a superintendent certificate issued by the SBE, if a waiver is requested by the superintendent's employing board of education.

By law, the commissioner may already waive certification for a person the commissioner considers exceptionally qualified to be a school superintendent based on specified criteria. The act bars the commissioner from issuing such a waiver except at the request of an employing board of education.

In addition, the act allows the commissioner to waive certification at the employing board's request for a person who has at least three years of successful experience in a public school in another state in the 10 years prior to the waiver application date. The experience must be as a certified administrator with a superintendent certificate issued by another state.

#### *Reemployment of Retired Teachers*

The act expands opportunities for a school district to reemploy retired teachers who are collecting pensions from the TRS.

Under prior law, a retired teacher could return to work for a school district without any reduction in his or her TRS pension benefits if he or she (1) received a salary of no more than 45% of the maximum for the assigned position and (2) worked for less than a school year. This act eliminates the second of these conditions, allowing a retired teacher to work for any amount of time at 45% of the maximum pay for the assigned position. It eliminates a requirement that a school district notify the Teachers' Retirement Board (TRB) of such a retiree's employment twice a year, on January 31 and June 30. Instead, it requires the school district and the retired teacher to notify TRB when the person is hired and, as under prior law, at the end of each assignment.

Under prior law, if a retired teacher taught in a subject shortage area, he or she could be reemployed by a school district or a higher education constituent unit at full salary and with no reduction in TRS benefits for up to one full school year, with a possible extension to a second year. The act extends this full-salary option to retired teachers who are reemployed (1) to teach any subject in a priority school district or (2) by the SBE in a subject shortage area.

As under prior law, TRB must approve the extension after receiving a written application from the local school board or constituent unit that (1) certifies that no qualified candidates are available for the position and (2) indicates the type and expected duration of the retired teacher's assignment and the anticipated rehire date. Such a retired teacher and his or her employer must notify TRB at the beginning and end of the assignment.

#### *Tenure in Priority School Districts*

The act allows any certified teacher or administrator who (1) is employed by a local or regional board of education in a priority school district and (2) previously had tenure with another board of education in this or another state to attain tenure after 10 months of employment in the priority school district rather than the previously required 20 months. The 20-month service requirement continues to apply to such teachers employed in nonpriority districts.

#### *Teacher Professional Development, Technical Assistance, and Evaluation*

The act expands the entities eligible for state funding to provide professional development services, technical assistance, and evaluation activities to local and regional boards of education, state charter schools, vocational-technical schools, school readiness providers, and other educational entities, as the education commissioner determines. Under prior law, only regional educational service centers could receive funding to provide these services. The act also allows funding to go to other state education organizations, such as those representing school superintendents, boards of education, and elementary and secondary schools.

#### §§ 11-15 — CHARTER SCHOOLS

##### *State Board of Education Authority to Issue Charters*

By law, the SBE must review and approve applications for state and local charter schools before the schools may begin operating. The act eliminates a requirement that, when the SBE issues charters for state and local charter schools, it do so only within available

appropriations. It does not change the charter school funding mechanisms or the state per-student grant.

#### *Charter School Enrollment Limits*

The act eliminates enrollment caps on high-achieving state charter schools. By law, enrollment in a state charter school is restricted to either (1) 250 or, in the case of a K-8 school, 300 students or (2) 25% of the enrollment of the school district where the charter school is located, whichever is less. Under prior law, if a school applied and demonstrated a record of achievement, the SBE could waive these overall limits, but the school's enrollment was still limited to no more than 85 students per grade. This act (1) eliminates the 85-student-per-grade limit and (2) requires, rather than allows, the SBE to waive the overall enrollment limits for high-achieving charter schools that apply for such waivers.

#### *Charter School Facility Grants*

The act makes the charter school facility grant program permanent. Under prior law, it was available only for FY 08 and FY 09. Grants remain subject to available bond authorizations.

The facility grants help charter schools:

1. renovate, build, buy, extend, replace, or carry out major alterations in their facilities;
2. (a) replace windows, doors, boilers, and other heating and ventilation system components, internal communication systems, lockers, and ceilings; (b) upgrade restrooms; (c) replace and upgrade lighting; or (d) install security equipment; and
3. repay debt incurred for school building projects.

#### *Participation in the Teachers' Retirement System*

The act requires, rather than allows, otherwise qualified charter school professionals first employed by any charter school on or after July 1, 2010 to participate in the TRS. The act continues voluntary participation for those hired before July 1, 2010.

#### *Charter Management Organization*

The act requires the SBE to adopt regulations, by July 1, 2011, concerning "charter management organizations" (CMOs), which the act defines as any entity with which a charter school contracts for (1) educational design; (2) implementation; or (3) financial, business, operational, and administrative functions. The regulations must:

1. prohibit a charter school and its operating CMO from sharing board members with other charter schools and their CMOs;
2. require any sharing of management personnel to be disclosed;
3. prohibit unsecured, noninterest bearing transfers of state and federal funds between charter schools or CMOs;
4. define allowable direct and indirect costs and the method CMOs must use to calculate per-pupil service fees charged to charter schools; and
5. permit CMOs to collect private donations to distribute to charter schools.

#### § 20 — IN-SCHOOL SUSPENSIONS

The act gives school officials express authority to use a student's past disciplinary problems that have led to the student being suspended or expelled as a criterion for determining whether an out-of-school suspension is warranted in a particular case. Before determining that an out-of-school suspension is appropriate, the school must have tried to address the problem through means other than an out-of-school suspension or expulsion, including through "positive behavioral support" strategies. The act does not define this term but it is generally considered to mean using research-based strategies to increase quality of life and decrease problem behavior by teaching a person new skills and changing his or her environment.

By law, starting July 1, 2010, student suspensions must be in-school suspensions unless the school administration, at the required hearing on any suspension, determines that a student poses enough of a danger to school property or is such a disruption to the educational process that he or she must be excluded from school during the suspension. The act also requires school authorities to determine at the hearing whether the student's past disciplinary problems warrant an out-of-school suspension.

#### BACKGROUND

##### *Low-Achieving Schools/Districts*

Under the state accountability law (CGS § 10-223e) and the federal NCLB Act (P.L. 107-110), the state must identify all schools and districts in need of improvement. If these schools also require corrective action under NCLB, they are designated as low-achieving and are subject to intensified SBE supervision.

### *School Reorganization Models*

The turnaround, restart, and transformation models are all detailed in the NCLB law. They are each intended to restructure low-achieving schools.

The turnaround model includes, among other actions, replacing the principal and at least 50% of the school's staff, adopting a new governance structure, and implementing a new or revised instructional program with increased learning time. It includes continuous use of data to inform and differentiate instruction.

In the restart model, a school district converts a school or closes a school and reopens it under the management of a charter school operator, a charter management organization, or an educational management organization that has been selected through a rigorous review process. This model is anticipated to mean that much of the school staff will not return under the new management, although that is not stated explicitly.

The transformation model includes, among other things, replacing the principal; implementing a new evaluation system that uses student academic growth as a significant factor; and identifying, supporting, and rewarding staff who are increasing student outcomes and removing staff who are not. It includes continuous use of data to inform and differentiate instruction.

### *Charter Schools*

Connecticut law defines a charter school as a nonsectarian public school organized as a nonprofit corporation and operated independently of a local or regional board of education. The SBE grants and renews the charters, usually for five years and, as part of the charter, may waive certain statutory requirements applicable to other public schools. A charter school may enroll students in pre-kindergarten through grade 12 in accordance with its charter.

Charter schools are open to all students, including special education students, though they may limit the geographic areas from which students may attend. If a school has more applicants than spaces, it must admit students through a lottery.

**PA 10-151—sHB 5490**

*Education Committee*

*Appropriations Committee*

### **AN ACT CONCERNING THE MINIMUM BUDGET REQUIREMENT AND VARIOUS EDUCATION GRANTS**

**SUMMARY:** This act:

1. allows towns whose school districts had fewer

students enrolled in the 2009-10 school year than in 2008-09 to reduce their minimum budgeted education appropriations for FY 10 to reflect the drop in enrollment;

2. extends to FY 10 the education commissioner's authority, within available appropriations, to provide supplemental transportation grants to regional educational service centers (RESCs) for interdistrict magnet school transportation; and
3. entitles East Hartford to an Education Cost Sharing (ECS) grant at least equal to its fixed grant entitlement for FY 09. (A "fixed entitlement" is a town's full ECS formula grant, excluding prior year adjustments.)

The act allows certain towns that no longer meet the qualifications for school readiness grants to continue to receive the grants. Under prior law, districts that no longer qualify receive phase-out grants for three years.

Lastly, if the funds appropriated for school readiness grants are not expended, the act authorizes the education commissioner to deposit them in a new competitive district grant account the act establishes and to use the funds under the act's provisions.

EFFECTIVE DATE: Upon passage, except the school readiness provisions are effective July 1, 2010.

### MINIMUM BUDGET REQUIREMENT (MBR)

Under prior law, each town receiving an ECS grant had to budget at least the same amount for education in FY 10 and FY 11 as it budgeted in FY 09, minus any amount it subtracted from its FY 09 local education budget to offset federal funds its local or regional board of education received directly from the 2009 federal stimulus act.

This act allows any town that had fewer students enrolled in its schools in the 2009-10 school year than it did in the 2008-09 school year to reduce its MBR for FY 10 by \$3,000 times the difference in the two enrollments. Thus, for example, if a district had 800 students enrolled in 2008 and 750 students in 2009, it could budget \$150,000 less ( $\$3,000 \times 50$ ) in FY 10 than it did in FY 09 and still meet its MBR for FY 10.

By law, a town that fails to meet its MBR must forfeit double the amount of the shortfall from its ECS grant for the fiscal year two years after the failure.

### SUPPLEMENTAL INTERDISTRICT MAGNET SCHOOL TRANSPORTATION GRANTS

By law, magnet school operators that transport students to interdistrict magnet schools in a town other than the town where the students live are eligible to receive a grant for the cost of transporting them. The law caps the grant at \$1,300 per student for most such

transportation. But for districts helping to meet the goals of *Sheff v. O'Neill*, as determined by the education commissioner, the limits are \$1,400 for FY 10 and \$2,000 for FY 11.

For FY 09 only, prior law also allowed the commissioner, within available appropriations, to provide supplemental transportation grants to RESCs for interdistrict magnet school transportation. This act allows the commissioner to also provide such supplemental grants for FY 10. As under prior law, in order to provide the grant, the commissioner must review and approve the RESC's total interdistrict magnet school transportation budget, including all revenue and expenditure estimates.

#### SCHOOL READINESS GRANT PHASE-OUTS

Under prior law, a town that no longer meets the statutory requirements for a school readiness grant can receive a phase-out grant for three fiscal years following the last year it met eligibility requirements. The act changes this for a certain group of towns. It allows towns that are not priority school district towns, but are on the list of the 50 poorest towns (considering adjusted equalized net grand list, student population, and total population), to continue to receive the grant even if they no longer meet the requirements. This begins for FY 11 and each year after and applies to towns that were eligible for the grant and received one in FY 10.

The phase-out provision remains in place for priority school districts. The phase-out continues for districts from towns on the list of 50 poorest (excluding priority district towns) if the phase-out began in FY 09.

#### SCHOOL READINESS GRANT COMPETITIVE DISTRICT ACCOUNT

The act establishes a competitive district grant account as a separate, nonlapsing account within the General Fund. It must contain any funds the law requires be deposited in the account. The education commissioner must spend account funds to provide grants to competitive school districts to make slots available in preschool school readiness programs. The act requires the commissioner to deposit in this account any school readiness funds for priority school districts that are not expended and to use the funds as the act requires.

The act defines "competitive school district" as a district with more than 9,000 students that is also a priority school district or a district in a town on the list of 50 poorest in the state when considering adjusted equalized grand net list, student population, and population. Districts are eligible for phase-out grants if they no longer meet the requirements for school readiness grants.

**PA 10-174**—HB 5424

*Education Committee*

*Insurance and Real Estate Committee*

#### **AN ACT CONCERNING AGREEMENTS BETWEEN MUNICIPALITIES AND BOARDS OF EDUCATION FOR THE JOINT PURCHASE OF EMPLOYEE HEALTH INSURANCE AND THE DISCLOSURE OF CERTAIN INFORMATION REGARDING COMPENSATION FOR SERVICES PROVIDED BY INSURANCE PRODUCERS**

**SUMMARY:** This act permits two or more municipalities or local or regional boards of education, or any combination of these, to enter into a written agreement to act as a single entity to provide employee medical or health care benefits under certain conditions. Existing law already permits municipalities to jointly perform any function that each has authority to perform separately.

The agreement is subject to the conditions of any union contract the municipality or board has with its employees. The act also requires the legislative body of a municipality to approve the agreement when certain conditions exist between the municipality and board of education.

The agreement must establish:

1. the group's membership,
2. the benefit plan duration,
3. payment requirements for the benefits,
4. procedures for a municipality or board of education to withdraw from the agreement, and
5. procedures for the group to terminate the benefit plan.

The act specifies that a group formed under its provisions is not (1) a multiple employer welfare arrangement (MEWA) as defined under the federal Employee Retirement Income Security Act of 1974 (ERISA) (see BACKGROUND) or (2) a "fictitious group." (Insurance law prohibits a fictitious group organized for insurance rating purposes where differences in rates are based solely on membership in the group. But the prohibition does not apply to health insurance.)

The act requires that any insurance producer who sells, solicits, or negotiates insurance, on an insurer's behalf, with a municipality or a board of education to, at the municipality's or board's request, fully disclose in writing any fees or compensation the producer receives from the insurer for services under (1) the written memorandum required by existing law or (2) the 1940 Federal Investment Advisors Act.

EFFECTIVE DATE: October 1, 2010

## MUNICIPAL LEGISLATIVE BODY APPROVAL

Before a municipality or a local or regional board of education may enter into an agreement, the act requires the municipal legislative body to approve it if:

1. there is an existing arrangement between a municipality and the board of education serving the municipality to provide medical or health care benefits to the employees of both, or
2. a municipality and the board serving the municipality have separate medical or health care benefit plans for their respective employees and both benefit plans are paid for by the municipality's general fund.

## BACKGROUND

### *Joint Municipal Activities*

By law, municipalities may jointly perform any function that each can perform separately under any law or special act, charter, or home rule ordinance (CGS § 7-148cc). Each participating municipality must approve a joint agreement in the same manner as it approves an ordinance or, if it does not approve ordinances, the budget. Any such agreement must establish a withdrawal process and require the body that approved it to review the agreement at least once every five years.

### *ERISA*

ERISA is a federal law that sets standards, including fiduciary responsibilities, for most voluntary private-sector retirement plans and employer-sponsored health plans.

### *MEWA*

An employer that self-insures a health benefit plan for its employees is generally not subject to state insurance laws because of federal preemption under ERISA. But a multiple employer plan may not have the same exemption.

ERISA defines "multiple employer welfare arrangement" as an employee welfare benefit plan, or any other arrangement that is established or maintained for the purpose of offering or providing benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries. It does not include a plan or arrangement established or maintained by a collective bargaining agreement, rural electrical cooperative, or rural telephone cooperative association (29 U.S.C. § 1002(40)).

Congress amended ERISA in 1983 to provide an exception to ERISA's preemption provisions for the regulation of MEWAs under state insurance laws (P.L. 97-473). As a result, if an ERISA-covered employee welfare benefit plan is a MEWA, states may apply and enforce state insurance laws with respect to it.

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### **PA 10-175—sHB 5425**

*Education Committee*

*Appropriations Committee*

## AN ACT CONCERNING SPECIAL EDUCATION

**SUMMARY:** Starting July 1, 2012, this act requires school districts to use only behavior analysts licensed or certified in accordance with its requirements to provide applied behavior analysis for students with autism spectrum disorders who require the services (1) according to a special education individualized education program (IEP) or (2) under an educational plan established under section 504 of the federal Rehabilitation Act of 1973. It establishes standards for people who may provide applied behavioral analysis services if the education commissioner finds there are not enough licensed or certified personnel available.

The act also revamps the Advisory Council for Special Education by:

1. reducing its statutorily specified membership from 37 to 30 and updating those members' qualifications (PA 10-1, June Special Session increased the new membership to 31);
2. requiring appointees to reflect the ethnic and racial diversity and types of disabilities found in the state;
3. requiring the terms of all current council members to expire on June 30, 2010; and
4. requiring that, for terms starting July 1, 2010, the appointees of the commissioners of education, developmental services, and children and families serve initial terms of three years and thereafter serve the same two-year terms as the other appointees.

**EFFECTIVE DATE:** Upon passage for the changes in the advisory council and July 1, 2010 for the applied behavior analysis provisions.

## BEHAVIOR ANALYSIS SERVICES

### *Special Education and Section 504 Plans*

Both Connecticut and federal law require each child eligible for special education, including children with autism, to receive an individualized educational program (IEP) appropriate for his or her needs (20 U.S.C. 1400 *et seq.*; CGS §§ 10-76a-10-76i). A child

with a disability who is not eligible for special education may be covered by § 504 of the federal Rehabilitation Act of 1973, a law that protects the rights of people with disabilities in programs, such as public education, that receive federal financial assistance.

School districts must have plans to address the special educational needs of students who qualify under these federal laws. Starting July 1, 2012, this act requires that, if a student with autism spectrum disorder has a plan that requires him or her to receive applied behavioral analysis, the school district responsible must use a licensed or certified behavior analyst to provide the services. It specifies that it cannot be construed to require that applied behavior analysis be included in IEPs or 504 plans.

The act expressly permits teachers or paraprofessionals to implement behavior analysis services required under an IEP or 504 plan, if they are supervised by a person licensed or certified as the act requires.

The act defines “applied behavior analysis” as designing, implementing, and evaluating modifications in the student’s environment to produce a socially significant improvement in his or her behavior. Applied behavior analysis uses behavioral stimuli and consequences, including direct observation, measuring, and functional analysis of the relationship between environment and behavior.

#### *Certified Behavior Analysts*

Under the act, to qualify to provide these services on and after July 1, 2012, a person must be either (1) licensed by the Department of Public Health or certified by the State Department of Education (SDE) and the services must be within the scope of the license or certificate or (2) certified by the Behavior Analyst Certification Board as a behavior analyst or assistant behavior analyst. Assistant behavior analysts must work under a behavior analyst’s supervision.

If the education commissioner determines that there are not enough certified or licensed behavior analysts to provide the required services, the act allows the commissioner to authorize people with the following qualifications to provide them, if they are supervised by a board-certified behavior analyst:

1. a bachelor’s degree in a related field and
2. at least (a) nine credit hours of course work in a course sequence approved by the Behavior Analyst Certification Board or (b) course work meeting the requirements to sit for the behavior analyst certification exam.

#### ADVISORY COUNCIL FOR SPECIAL EDUCATION MEMBERSHIP

The act revises the membership of and appointments to the Advisory Council for Special Education (see BACKGROUND). Table 1 shows the old and new council membership. In addition to the specified members, both prior law and the act also require the council to include any other members the federal special education law requires.

Table 1: Special Education Advisory Council Membership

Appointing Authority	Prior Law		The Act	
	Members	Qualifications	Members	Qualifications
Education commissioner	2	<ul style="list-style-type: none"> <li>1 State Department of Education (SDE) official</li> <li>1 representing a higher education institution with a teacher preparation program</li> </ul>	8 (PA 10-1, June Special Session, increased this to 9.)	<ul style="list-style-type: none"> <li>6 parents of children with disabilities under age 27 or people with disabilities</li> <li>1 SDE official</li> <li>1 state or local official responsible for carrying out requirements of federal law concerning education of homeless children</li> <li>(PA 10-1, June Special Session, also requires the commissioner to appoint a representative of a higher education institution with a teacher preparation program.)</li> </ul>
Department of Developmental Services (DDS) commissioner	2	<ul style="list-style-type: none"> <li>1 DDS official</li> <li>1 person with disabilities or parent of such a person</li> </ul>	1	DDS official
Department of Children and Families (DCF) commissioner	2	<ul style="list-style-type: none"> <li>1 DCF official</li> <li>1 person with disabilities or parent or foster parent of such a person</li> </ul>	1	DCF official
Department of Correction (DOC) commissioner	1	None	1	DOC official
House speaker, House majority and minority leaders, and Senate president pro tempore and minority leader	4	Legislators as voting members (no appointment by House Speaker)	5	Legislators as nonvoting members (House speaker appointment added)
Senate president pro tempore	3	<ul style="list-style-type: none"> <li>1 CT Assn of Boards of Education</li> <li>1 CT Speech-Language-Hearing Assn</li> <li>1 person with disabilities or parent</li> </ul>	1	Representing higher education institution preparing special education and related services personnel  (PA 10-1, June Special Session, instead requires this appointee to be a member of the CT Speech-Language-Hearing Assn.)
Senate majority leader	2	<ul style="list-style-type: none"> <li>1 person with disabilities or parent</li> <li>1 regular education teacher</li> </ul>	1	Public school teacher
Senate minority leader	4	<ul style="list-style-type: none"> <li>1 representing a vocational, community, or business organization providing transitional services to children with disabilities</li> <li>1 member of CT Assn of Private Special Education facilities</li> <li>2 people with disabilities or parents</li> </ul>	1	Representing a vocational, community, or business organization providing transitional services to children with disabilities
House speaker	3	<ul style="list-style-type: none"> <li>1 local education official who is a member of the CT Assn of School Administrators</li> <li>1 person with disabilities or parent</li> <li>1 member of the literacy coalition and either a person with disabilities or parent</li> </ul>	1	A person who is both a Council of Special Education Administrators member and a local education official
House majority leader	2	<ul style="list-style-type: none"> <li>1 person working in the field of special education related services</li> <li>1 person with disabilities or parent</li> </ul>	1	Charter school representative
House minority leader	4	<ul style="list-style-type: none"> <li>2 people with disabilities or parents</li> <li>1 member of the CT Assn of Pupil Personnel Administrators who is an administrator of a program for children requiring special education</li> </ul>	1	Member of CT Assn of Private Special Education Facilities



<i>Appointing Authority</i>	<i>Prior Law</i>		<i>The Act</i>	
	<i>Members</i>	<i>Qualifications</i>	<i>Members</i>	<i>Qualifications</i>
Governor	8	<ul style="list-style-type: none"> <li>• 1 special education teacher</li> </ul> Persons with disabilities or parents with one who is also associated with a charter school	7	Persons with disabilities or parents of such persons under age 27
Chief Court Administrator	0	NA	1	Judicial Department official responsible for providing services to adjudicated children and youth

**BACKGROUND**

*Advisory Council for Special Education*

The council’s duties are to:

1. advise SDE on unmet needs of children with disabilities and administration of the SDE’s surrogate parent program;
2. periodically review special education laws, regulations, and guidelines and recommend necessary changes to the State Board of Education (SBE) and the General Assembly;
3. comment on new or revised regulations, standards, or guidelines before they are issued;
4. participate with SBE to develop state eligibility documents for providing special education;
5. comment on procedures necessary for distributing federal special education funds;
6. help SDE in developing and reporting data and evaluations required by the federal law; and
7. report annually to the General Assembly on recommended changes in special education laws and carry out other duties required under the federal special education law.



**PA 10-97—SB 493 (VETOED)***Emergency Certification***AN ACT REDUCING ELECTRICITY COSTS  
AND PROMOTING RENEWABLE ENERGY**

**SUMMARY:** This act establishes several programs to promote solar energy, including ones that (1) provide incentives for people to install photovoltaic (PV) systems on their homes, (2) require electric companies to enter into long-term contracts with developers of large-scale PV systems and provide payments that are based on the energy produced by such systems, and (3) require the Department of Public Utility Control (DPUC) to study the feasibility of installing PV systems on state facilities. The act also promotes other renewable energy systems, including fuel cells, wind, and hydropower.

The act requires DPUC to establish a pilot program to provide loans for installing combined heat and power (cogeneration) systems and energy-efficient replacement furnaces and related equipment. DPUC must arrange with an electric or gas company to allow borrowers to pay a loan made under the program for furnaces and related equipment on their monthly electric or gas bill, as applicable.

The act allows municipalities to establish loan programs for residents and local businesses to make energy efficiency and renewable energy improvements to their property. It allows participating municipalities to issue bonds for these programs that are backed by an assessment on the participant's property that is treated like a property tax.

The act establishes a program for energy conservation and load management projects for customers in municipalities with enterprise zones. The program must provide funding at a level equal to at least 3% of the total collected for (1) the Energy Efficiency Fund and (2) the Clean Energy Fund. The money must (1) be used for programs directly benefiting residential or small business electric customers in municipalities with enterprise zones and (2) include a job training component for existing or potential minority business enterprises.

The act establishes energy efficiency standards for compact audio players, televisions, DVD players, and DVD recorders. The standards go into effect January 1, 2013.

By law, electric companies must provide standard service to small- and medium-size electric customers who do not choose a competitive supplier. The electric companies procure the power to provide this service. The act requires DPUC to review the companies' performance in providing standard service every two years and allows DPUC to transfer this responsibility to

another entity. It changes the rules that govern procuring power for this service.

The act establishes a code of conduct for competitive suppliers and related entities. Among other things, the code regulates when and how they can conduct door-to-door sales. It also limits the fee suppliers can charge a residential customer for termination or early cancellation of a contract.

The act establishes a new division within DPUC that is responsible for power procurement, conservation and renewable energy, and research. It creates a working group to develop plans to implement organizational and structural changes in state government related to the establishment of the new division.

**EFFECTIVE DATE:** July 1, 2010, except the (1) provisions (a) establishing the working group, (b) requiring DPUC to analyze the wholesale electric market, and (c) modifying the 2010 integrated resources plans are effective on passage; (2) authorization for a condominium renewable energy program is effective October 1, 2010; and (3) provisions establishing the new DPUC division are effective July 1, 2011.

**RENEWABLE ENERGY***§§ 19-26 — Solar Programs*

*Residential.* Under the act, the Clean Energy Fund board must offer financial incentives to buy or lease PV systems for residential buildings that have one to four units. The incentive can be paid out on either a per kilowatt-hour basis or as a one-time upfront incentive based on expected system performance. Funding for these incentives must come from the renewable energy surcharge on electric bills, but this program may not use more than one-third of this revenue, plus any federal funding that becomes available.

*Large Systems.* Starting January 1, 2011 and ending December 31, 2021, each electric company must solicit and file with DPUC, for its approval, one or more long-term (at least 15 years) power purchase contracts with owners or developers of PV generation projects located in the state of less than 2,000 kilowatts (2 megawatts or MW) capacity. These systems must be located on the customer side of the meter and serve the electric company's distribution system. Developers cannot participate in both this program and the feed-in tariff program described below.

Solicitations conducted by a company must be for the purchase of solar renewable energy credits (solar RECs) produced by eligible projects or the actual power produced by these projects. (Owners of renewable generation facilities can sell the power they produce on the wholesale electric market as "green power," or they

can sell the RECs associated with this power separately from the power.)

The electric companies must procure a total of at least 4.35 million solar RECs. The production of a megawatt hour of electricity from a solar energy source placed in service on or after July 1, 2010 creates one solar REC. These credits count against the companies' obligations under the renewable portfolio standard (RPS), under which electric companies and competitive suppliers must get part of their power from renewable resources.

Electric companies are not required to enter into a contract that provides a payment of more than \$650 per megawatt-hour (65 cents per kilowatt-hour) in its initial year. The costs of the electric companies and DPUC in implementing these provisions are recovered in electric rates.

*Feed-in Tariff.* The act requires each electric company, by July 1, 2011, to file with DPUC, for its approval, a tariff for production-based payments to owners or operators of in-state, grid-connected solar projects that are one megawatt or larger. The tariffs must provide production-based payments for at least 15 years from the project's in-service date.

The tariffs must include an aggregate eligibility cap of 50 MWs, apportioned among each electric company in proportion to its distribution load. The costs of the tariff can be included in any subsequent rates, so long as they are for projects that begin operating on or after July 1, 2010.

Starting July 1, 2011, electric companies may build, own, and operate solar electric generating facilities up to one-third of their proportional share of the 50 MW cap. These projects must be located on brownfields or other locations in municipalities with enterprise zones. DPUC must authorize the electric company to recover in rates its costs to construct, own, and operate the facilities, including a return on its investment capped at 8%.

The amount of renewable energy produced from energy sources receiving tariff payments or included in utility rates counts against the electric company's RPS.

*Solar on State Buildings.* The act requires DPUC, by July 1, 2011, to complete, or have private vendors complete, a comprehensive solar feasibility survey of facilities owned or operated by the state with a load of 50 kilowatts or more. DPUC must issue one or more requests for proposals (RFP) for deploying PV systems at state facilities. In the RFPs, DPUC may seek the services of an entity to finance, design, construct, own, or maintain PV systems under a long-term solar services agreement.

*Solar Thermal Technologies.* The act requires DPUC, in consultation with the Clean Energy and Energy Efficiency funds, to develop coordinated programs to create a self-sustaining market for solar

thermal systems (e.g., solar hot water systems) for electricity, natural gas, and fuel oil customers.

*Added Incentives for Using Connecticut Components.* The act requires DPUC to increase the incentive provided under the residential solar and solar thermal programs by up to 5% if the solar system uses major components that are manufactured or assembled in Connecticut, and another 5% if they are manufactured or assembled in a distressed municipality in the state or a municipality with an enterprise zone.

*Funding Cap on Solar Programs.* The act establishes a funding cap for all of the solar programs described above. From January 1, 2011 to June 30, 2013, the aggregate net annual cost recovered from electric ratepayers cannot exceed 0.5% of total retail electricity sales revenues of each electric company. Between July 1, 2013 and June 30, 2015, the cap is 0.75% of these revenues, and for each 12-month period starting July 1, 2015 and each July 1 thereafter for the duration of the programs established under the act, the cap is 1% of these revenues.

If DPUC projects that the annual cost cap is within 20% of being exceeded, it must report to the Energy and Technology Committee and take specified steps to ensure that the cap is not exceeded.

By January 1, 2014, DPUC must report to the committee on the cost and charges involved in implementing this program (apparently all of the programs subject to the cap), including a cost-benefit analysis

#### §§ 13(j) & 27 — Other Renewable Energy Programs

The act requires the Clean Energy Fund board to establish a pilot program to install fuel cells in state buildings using \$5 million from the renewable energy surcharge on electric bills. As part of the program, the board must (1) identify state buildings where installing fuel cells would provide the greatest public benefit and cause the greatest reduction in total energy consumption and (2) consider a fuel cell's reliability and environmental characteristics. The board must require state buildings to undergo energy efficiency upgrades before receiving fuel cells under this program.

By December 31, 2012, the board and the Connecticut Center for Advanced Technology must jointly report to the Energy and Technology Committee on whether the program reduced the cost of producing fuel cells by 25% and the total cost of energy from fuel cells compared to other Class I renewable resources. The board must also (1) report on whether the projects reduced the state's cost of power and (2) provide recommendations on whether providing an additional \$5 million in funding would make fuel cells competitive with other Class I resources.

By law, the electric companies must enter into long-term contracts with renewable energy generators that meet certain criteria. Under prior law, they had to sign contracts for at least 150 MW of generating capacity. The act requires the companies to file contracts with DPUC, by July 1, 2011, for 25 MW of capacity from wind projects, 15 MW from low-head hydropower, and five MW from other class I renewable resources located in Connecticut that receive funding from the Clean Energy Fund. The act eliminates a requirement that projects have a generating capacity of at least one MW to be eligible for the program. It also changes one of the pricing options available to generators who participate in the program.

DPUC, in consultation with the Clean Energy Fund board, must solicit offers, apparently from developers eligible under prior law and the act, by October 1, 2010. The act allows the existing target to be exceeded only if the newly eligible projects and the projects for which contracts had been signed as of July 1, 2010 exceed 150 MW.

## LOAN PROGRAMS

### §§ 31-33 — DPUC Program

The act requires DPUC to establish a pilot program to provide loans for installing combined heat and power (CHP) systems; energy efficient heating oil burners, boilers, and furnaces; and natural gas boilers and furnaces by eligible entities. Among the individuals and entities who may participate in the program are residential, commercial, institutional, or industrial electric or gas company customers who use or install an eligible in-state energy savings technology. In addition to the costs of the tangible equipment, the following can be covered by the program: installation, labor, engineering costs, permits, application fees, and other reasonable costs incurred by eligible entities for operating eligible technologies. DPUC must arrange with an electric or gas company to provide for paying a loan made under the program for furnaces and related equipment through the borrower's monthly electric or gas bill, as applicable.

By law, gas companies must develop conservation plans that are funded by any growth in the utility company gross receipts tax from the time that the revenue estimate is adopted for a fiscal year until the end of that fiscal year. The act requires, for FYs 11, 12, and 13, that half this funding be used for the loan program for gas projects.

By law, the Electric Efficiency Partners Program provides electric ratepayer funding for various efficiency projects. The act reduces, from 2 to 1 to 1.5 to 1, the minimum payback ratio that a project must achieve to be eligible for funding under the program. It

requires, for FYs 11, 12, and 13, that \$5 million of the funding for the partners program be used for CHP projects and \$5 million be used for the other projects funded under the loan program.

### § 12 — Municipal Program

The act allows any municipality to establish a loan program for financing energy improvements to real property located within the municipality. Under the act, the energy improvements are (1) any renovation or retrofitting of qualifying real property to reduce energy consumption or (2) installation of a renewable energy system to serve the property. Qualifying real properties are single- or multi-family residential dwellings or commercial or industrial buildings that a municipality determines can benefit from energy improvements.

A municipality that establishes a loan program may issue bonds to (1) offer loans to participating property owners to finance energy improvements, (2) conduct related energy audits, and (3) conduct renewable energy system feasibility studies and verify the installation of any improvements. The bonds and financing must be backed by special assessments on the benefitted property, which are treated like property taxes.

Program participants must meet various requirements, including undergoing an energy audit or renewable system feasibility study, before getting a loan. The assessment on the benefitted property can not run longer than the time needed to pay for the cost of the improvement through energy savings.

### § 11 — ELECTRIC DISCOUNTS FOR LOW-INCOME CUSTOMERS

The act requires DPUC to conduct a proceeding, by June 30, 2011, to develop discounted rates for electric company customers whose household income is up to 60% of the state median. The discounts must be funded by transferring money from existing programs that serve low-income customers and from other resources.

By July 1, 2012, DPUC must report to the Energy and Technology Committee on the benefits and costs of the discounted rates and any recommended modifications. If the low-income rate is not at least 10% below the standard service rate, DPUC must include steps to reach this goal in the report.

### § 34 — Energy Efficiency in Poorer Municipalities

Under the act, DPUC must require the Energy Conservation Management Board, the Clean Energy Fund board, and electric companies to establish a program for energy conservation and load management projects for customers in municipalities with enterprise zones. The program must provide funding at a level

equal to at least 3% of the total collected for the (1) Energy Efficiency Fund and (2) Clean Energy Fund. This money must be derived initially from funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, if available, and then from state funds. The money must be used for programs directly benefiting residential or small business electric customers in municipalities with enterprise zones. The program must include a job training component for existing or potential minority business enterprises.

## § 5 — ENERGY EFFICIENCY STANDARDS

### *TVs and Other Consumer Electronics*

The act establishes energy efficiency standards for compact audio players, televisions, DVD players, and DVD recorders. The standards go into effect January 1, 2013. Under the act, starting January 1, 2013, compact audio players, DVD players, and DVD recorders must meet the requirements of regulations adopted in California in November 2009. As of January 1, 2013, televisions manufactured on or after July 1, 2010 and those manufactured on or after January 1, 2013 must meet additional requirements specified in the same regulations.

By law, energy efficiency standards do not apply to (1) new products manufactured in the state and sold elsewhere, (2) new products manufactured outside the state and sold at wholesale here for final retail sale and installation outside the state, (3) products installed in mobile manufactured homes at the time of construction, or (4) products designed expressly for installation and use in recreational vehicles.

### *Other Products*

By law, the Office of Policy and Management (OPM) must adopt regulations establishing energy efficiency standards for products not covered by the statutes if it determines that (1) such standards would promote energy conservation in the state, (2) they would be cost-effective for consumers who purchase and use the new products, and (3) multiple products are available that meet such standards. These standards may not become effective until one year after OPM adopts them.

The act additionally requires OPM, in consultation with the Multi-State Appliance Standards Collaborative, to identify additional appliance and equipment efficiency standards. Within six months after a cooperative member state (California, New York, Oregon, Rhode Island, or Washington) adopts an efficiency standard for a product that is not subject to an equivalent Connecticut or federal standard, OPM must

adopt regulations adopting this efficiency standard unless it specifically finds that the standard does not meet the three criteria listed above.

## § 13(c) — PROCURING POWER FOR STANDARD SERVICE

By law, the electric companies must provide standard service to small- and medium-size electric customers who do not choose a competitive supplier. The electric companies procure the power to provide this service.

The act requires, by July 1, 2012, and every two years thereafter, DPUC to conduct an uncontested proceeding including a public hearing to review the companies' performance in providing standard service. If it determines that it is in the best interest of standard service customers to seek an alternative to the companies' procurement of electricity, DPUC must conduct a request for proposals for the procurement services. Any contract for these services must be for two years or less.

The act eliminates existing rules governing how the companies procure power for this service. Among other things, prior law generally required that the purchased power contracts be for at least six months and they overlap in time. The act establishes rules for the electric company or procurement entity that vary somewhat by the length of the proposed contract. The goal of the new rules is to reduce the average cost of standard service over time, compared to current costs, while seeking to limit cost volatility.

## § 17 — CODE OF CONDUCT FOR ELECTRIC SUPPLIERS

The act imposes rules, starting July 1, 2010, governing sales and solicitation of generation services to customers having a demand of up to 100 kilowatts by a supplier, aggregator, or its agent that are conducted and consummated entirely by mail, door-to-door sales, or certain other means. Among other things, these sales must be conducted in accordance with any municipal ordinances regarding door-to-door solicitations and may not be conducted before 10 a.m. or after 6 p.m. The act prohibits anyone who sells any electric generation services for a supplier from engaging in any deceptive acts or practices in the marketing, sale, or solicitation of these services. It imposes additional disclosure requirements on "green" suppliers that claim they get more power from renewable resources than the law requires.

The act requires each supplier to provide customers with a demand of less than 100 kilowatts with a written contract and specifies the contents of these contracts. Under the act, a supplier may not make a material

change in the terms or duration of any contract without the customer's express consent. The act bars suppliers from charging a residential customer a fee for termination or early cancellation of a contract of more than (1) \$100 or (2) twice the estimated bill for energy services for an average month, whichever is less. The supplier must provide a residential customer an estimate of the customer's average monthly bill when it offers a contract.

The act allows DPUC to impose the following sanctions for any violation or failure to comply with existing law's consumer protection provisions, as expanded by the act: (1) civil penalties of up to \$10,000; (2) suspension or revocation of a supplier's or aggregator's license; or (3) a prohibition, following a contested case hearing, on accepting new customers.

#### §§ 1-4 — DPUC REORGANIZATION

The act renames DPUC as the Connecticut Energy and Technology Authority (CETA). It creates two divisions within CETA: (1) the Division of Research, Energy and Technology (DRET) consisting of three bureaus: power procurement, conservation and renewable energy, and research and (2) the Division of Public Utility Control (essentially DPUC's existing staff).

The act requires DRET to:

1. increase the state's energy independence and security by promoting conservation and efficiency and the use of diverse indigenous and regional electric resources;
2. encourage the use of renewable resources and new electric technologies, particularly those supporting economic development and environmental sustainability;
3. minimize costs of electric services to state consumers while maintaining reliable service;
4. discourage undue electric service price volatility; and
5. encourage competition, if in the interests of state consumers.

DRET must do these things in accordance with the integrated resources plan, under which electric companies use savings from conservation programs and other resources to meet their customers' needs. The act also specifies the duties of the procurement and conservation and renewables bureaus and sets up a study to plan the operation of the research bureau.

The act establishes a working group consisting of the OPM secretary, consumer counsel, DPUC chairperson, attorney general, executive director of Connecticut Innovations, Incorporated, or their designees, and the chairpersons and ranking members of the Energy and Technology Committee.

The group must develop plans to implement organizational and structural changes in state government related to the establishment of CETA and the two divisions and to provide recommendations for the most efficient and effective way to meet the act's goals. By January 1, 2011, the group must issue a report of its findings, including draft legislation needed for this implementation.

#### OTHER PROVISIONS

##### §§ 9-10 — *Integrated Resources Plan*

By law, the electric companies must develop an integrated resources plan that meets customers' needs by a mix of savings from conservation and electric generation. The act specifically requires the plan to include options for reducing the price of electricity. It also requires that the plan to be adopted in 2010 indicate options to reduce the price of electricity by at least 15% less than the current price by July 1, 2012, and maintain at least this decrease for another five years. The options may include procuring new sources of generation.

In reviewing new sources of generation, the plan must determine whether the private wholesale market can supply such additional sources or whether state financial assistance, long-term purchasing of electricity contracts, or other interventions are needed to achieve the goal. If, starting July 1, 2010, the 2010 plan contains an option to procure new sources of generation, DPUC must pursue the most cost-effective approach. If DPUC seeks new sources of generation, it must issue a notice of interest for generation without any financial assistance, such as long-term contract financing or ratepayer guarantees. If DPUC fails to receive any responsive proposal, it must issue a request for proposals that may include such financial assistance.

##### § 39 — *Review of Wholesale Market*

By August 1, 2010, the act requires DPUC to initiate a proceeding to identify the impact on Connecticut ratepayers and the New England and state wholesale electric power market of the operation of the Independent System Operation-New England and the rules it uses to set wholesale prices. By January 1, 2011, the DPUC must report to the Energy and Technology Committee.

##### § 40 — *Energy Performance-based Contracting*

The act explicitly allows municipalities to enter into performance-based energy contracts. Typically, under these contracts a private firm installs energy efficiency measures at its own cost in exchange for part of the resulting energy cost savings.

### *§ 13(k) Referral Program*

By law, suppliers can participate in a program where electric companies must provide (1) information regarding the suppliers when customers begin service with an electric company and at other times and (2) other services for suppliers. The act requires DPUC to determine the cost of billing, collections, and other services provided by the electric companies or DPUC that solely benefit suppliers and aggregators and equitably allocate these costs on such suppliers and aggregators. DPUC must also determine costs that electric companies incur solely for the benefit of customers to whom they sell power and provide for the equitable recovery of these costs from these customers.

### *§ 16 — Direct Billing by Suppliers and Information on Bills*

Under prior law, competitive suppliers could provide billing and collection services for their customers that have at least 100 kilowatts of demand. The act requires suppliers, starting October 1, 2010, to provide these services or obtain these services from the electric company, paying their pro rata share of these costs. A customer who is directly billed by a supplier who paid the electric company the cost of billing and other services must receive a credit on his or her monthly bill.

Prior law required DPUC to adopt regulations specifying the billing format for electric companies and suppliers that directly bill their customers. The regulations had to provide guidelines for determining the billing relationship between the companies and suppliers, addressing such things as allocation of partial bill payments. The act terminates these guidelines as of October 1, 2010.

The act also modifies the information that must be provided on electric company and competitive suppliers' bills.

### *§§ 18 & 28 — Time of Use Rates*

The act requires suppliers, as a condition of maintaining their licenses, to offer a time of use rate that reduces rates for non-peak use and charges at least five times the non-peak rate for peak use. The peak period must be no more than four hours per day. The supplier can offer other time of use rates.

Under the act, DPUC must require electric companies to notify their customers on the availability of time of use meters, if applicable.

### *§§ 8 & 29 — Condominium Program*

The act allows the Clean Energy Fund board, in consultation with DPUC, to establish a program within available funds to provide grants to residential condominium associations and owners to buy renewable energy sources, including solar energy, geothermal, fuel cell, and other hydrogen-fueled systems. It requires that the board's annual report to DPUC cover this program.

### *§ 35 — Bilateral Contract with Generator*

The act requires DPUC, by September 1, 2010, to initiate a request for proposals to award one bilateral purchasing contract for electricity from an existing generator. The contract must be for a term of five to 15 years and (1) provide electricity at lower rates for Connecticut consumers or (2) based on the DPUC's determination, be used in combination with other initiatives to lower or stabilize electric rates. The contract must reduce rates by pricing electricity on a cost-of-service basis.

### *§ 36 — Transmission Lines*

Also by September 1, 2010, DPUC must review any proposed commercial transmission line project (1) in which a Connecticut electric company may have a financial interest or (2) that may be constructed in whole or in part in this state to determine whether to obtain electricity from these lines at a rate that will lower electricity rates for Connecticut consumers.

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**PA 10-20**—HB 5320  
*Environment Committee*

**AN ACT CONCERNING THE ENFORCEMENT OF PROHIBITED ACTIONS CONCERNING CERTAIN INVASIVE PLANTS**

**SUMMARY:** This act authorizes conservation officers, special conservation officers, and patrolmen appointed by the environmental protection commissioner to enforce the law against growing, distributing, or buying invasive plants. The penalty for violating the law is a fine of up to \$100 per plant. By law, full-time conservation officers have the same powers as police officers or constables have in their jurisdictions to (1) enforce the laws and (2) make lawful arrests in connection with criminal matters.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*Invasive Plants Ban*

The law bars people from importing, moving, selling, buying, transplanting, cultivating, or distributing any of 80 listed invasive plants, with exceptions for (1) moving plants for research, eradication, or educational purposes and (2) cultivation only for research. The ban also applies to any of the reproductive portions of a listed invasive plant, including seeds, flowers, roots, and tubers. By law, violators are subject to a fine of up to \$100 per plant and violations are treated as infractions.

*Related Law*

By law, the agriculture commissioner and the Connecticut Agricultural Experiment Station director may prohibit or regulate the transport of plants and plant material liable to carry dangerous pests and enforce other provisions of the law concerning plant and insect disease and infestation. The director may inspect nurseries, nursery stock, and pet stores for violations of the invasive plant laws at a reasonable time.

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**PA 10-25**—sSB 127  
*Environment Committee*  
*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING THE ACCOUNTING SYSTEM FOR REDEEMED BEVERAGE CONTAINERS**

**SUMMARY:** This act makes the Department of Revenue Services (DRS), instead of the Department of Environmental Protection (DEP), commissioner the primary administrator for bottle deposit initiators. (A

“deposit initiator” is the first distributor to collect the deposit on a beverage container sold to a person in the state.) It requires (1) holding bottle bill deposits in a special trust fund for the state; (2) quarterly reporting on account balances, credits, and withdrawals; and (3) initiators to pay outstanding balances quarterly. The act also eliminates the state treasurer’s right to examine records and allows both DEP and DRS to file a complaint with the attorney general to institute action.

The act also requires that the reimbursement of refund values for redeemed bottles be computed using the Internal Revenue Service (IRS) cash receipts and disbursements accounting method. It allows the DRS commissioner to accept an alternate accounting method if a deposit initiator petitions for one. The act treats any required payments as a tax for the purpose of specified sections.

EFFECTIVE DATE: July 1, 2010

**REGULATIONS**

The act eliminates the DEP commissioner’s sole authority to adopt regulations governing deposit initiators. Instead, it allows the DRS commissioner, in consultation with the DEP commissioner, to adopt such regulations.

**SPECIAL TRUST FUND AND ACCOUNTING METHODS**

The act requires holding bottle bill deposits in a special trust fund for the state. It eliminates the requirement that the DEP commissioner adopt written accounting policies and procedures for reimbursement of refund values for redeemed bottles and instead requires that such reimbursements be computed using the IRS cash receipts and disbursements accounting method. It also allows deposit initiators to petition the DRS commissioner for an alternate accounting method. The petitioner must file his or her return with (1) a statement of objections and (2) the proposed alternative accounting method, with supporting details and proof, that the petitioner believes is proper and equitable. The DRS commissioner must promptly notify the petitioner whether the alternative method is accepted as reasonable and equitable and, if so, adjust the return and pay any necessary reimbursements.

**QUARTERLY REPORTING**

The act also requires deposit initiators to submit, beginning October 31, 2010, a quarterly report for the immediately preceding calendar quarter to the DRS commissioner. Reports must be filed electronically by the last day of the month after the quarter closes. The report, on a DRS-prescribed form, must include:

1. the special account balance at the beginning of the quarter for which the report is prepared;
2. all deposits credited during that quarter, including refund values paid;
3. all interest, dividends, or returns received;
4. all withdrawals, service charges, and overdraft charges; and
5. the balance at the close of the quarter.

#### OUTSTANDING BALANCE PAYMENT AND PENALTIES

Beginning October 31, 2010, a deposit initiator must electronically transfer the outstanding balance in the special account attributable to the previous calendar quarter to the DRS commissioner for deposit in the General Fund. If the required payment is not paid by the due date, the deposit initiator will be fined the greater of 10% of the amount due or \$50. The amount due and unpaid bears interest at 1% per month from the due date. Penalties or interest cannot be paid with funds in the special account.

#### RIGHT TO EXAMINE RECORDS AND FILE COMPLAINTS

The act transfers the state treasurer's right to examine accounts and records of deposit initiators to the DRS commissioner. It allows both the DEP and DRS commissioners to file a complaint with the attorney general to institute action. Under current law, only the DEP commissioner can do so. The act applies provisions of the law relating to inspection of records, deficiency assessments, penalties, refunds, hearings, and appeals to these provisions.

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#### PA 10-64—sSB 118

*Environment Committee*

*Commerce Committee*

*Finance, Revenue and Bonding Committee*

#### AN ACT CONCERNING CONNECTICUT QUALIFIED BIODIESEL PRODUCER GRANTS

**SUMMARY:** This act qualifies entities intending to actively produce or store and distribute biodiesel fuel for grants from the Connecticut Qualified Biodiesel Producer Incentive Account, which is administered by the Department of Economic and Community Development (DECD). Prior law limited the grants to entities actively producing or storing and distributing this fuel.

The grants for producers are based on the amount of fuel produced according to a statutory schedule. The act substitutes a reduced grant schedule when funds fall below specified amounts.

Finally, the act requires the Department of Environmental Protection (DEP) commissioner to sell carbon dioxide allowances from a separately established account to combined heat and power (CHP) generators that meet specific conditions and sets the price of these allowances.

EFFECTIVE DATE: Upon passage

#### BIODIESEL PRODUCER GRANTS

##### *Production Grants*

By law, the grants are (1) 30 cents per gallon for the first five million gallons produced, (2) 20 cents per gallon for the second five million gallons, and (3) 10 cents per gallon for the third five million gallons. There are no grants for production over 15 million gallons. Under the act, if the available funds are (1) \$200,000 or less, the grant limit is 20 cents per gallon and (2) \$100,000 or less, the grant limit is 10 cents per gallon.

##### *One-time Grants*

Prior law also provided one-time grants to biodiesel fuel producers to buy equipment and construct, modify, or retrofit a facility. The grants were up to \$3 million or 25% of the equipment or construction cost, regardless of the number of facilities the producer owned. The act limits these grants to entities not yet actively producing biodiesel; applies them specifically to the initial purchase of equipment or the construction, modification, or retrofitting of production facilities; and removes the 25% cap. It also specifies that DECD cannot administer grants as a reimbursement program.

DECD, in consultation with the person or entity selected to implement the grant, must award the grant to such a qualified biodiesel producer if it has a contract or an approved application pending with the department, person, firm, corporation, or entity as of the act's passage.

##### *Documenting Compliance for Grant Funding*

By law, the DECD commissioner must determine monthly grants based on production, which she or the entity selected to administer the grants must certify. The act requires biodiesel producers to provide the DECD commissioner with a certificate of analysis documenting compliance with the specifications of the American Society for Testing and Materials (ASTM) designation D6751 (see BACKGROUND), including Tier II fuel quality protocol accepted by the consumer protection commissioner.

### *Connecticut Qualified Biodiesel Producer Incentive Account*

The incentive account is a separate, non-lapsing General Fund account. DECD must use money from the account to (1) provide grants to qualified Connecticut biodiesel producers and distributors and (2) administer the grant program.

The act also allows the account to contain money from any state agency or federal department or agency. It prohibits termination of the account for lack of funds.

#### *Grant Application Requirements*

The act specifies the criteria for fulfilling certain grant application requirements. By law, applicants must provide satisfactory documentation that the biodiesel has a net carbon energy benefit when compared to the fuel it will replace, and any other information DECD deems necessary to ensure that grants are made only to qualified biodiesel producers. The act requires producers to meet these requirements by providing the DECD commissioner with a certificate of analysis documenting compliance with the specifications of ASTM designation D6751, including Tier II fuel quality protocol accepted by the consumer protection commissioner.

### SALE OF CARBON DIOXIDE ALLOWANCES

Connecticut participates in the Regional Greenhouse Gas Initiative, which restricts the amount of carbon dioxide (CO<sub>2</sub>) that electric generators in northeastern states produce. Under the initiative, generators comply with this cap by buying and selling allowances to emit CO<sub>2</sub>. The majority of CO<sub>2</sub> allowances issued by each participating state are distributed through quarterly auctions. DEP has set aside some of Connecticut's allowances in a separate account for combined heat and power (CHP or cogeneration) units that sell their power under long-term agreements.

The act requires the DEP commissioner to sell allowances from this account to CHP generators that meet specific conditions and sets the price of these allowances. It requires that she sell the allowances to CHP generators covered by the initiative that operate under long-term purchase power agreements executed before January 1, 2001 under which the generator (1) cannot pass along the additional operating costs resulting from implementing DEP regulations governing CO<sub>2</sub> emissions to the party that buys the electricity and (2) certifies that it cannot recover the costs of CO<sub>2</sub> allowances by participating in electricity markets.

Under the act, DEP must sell the allowances by June 1 in 2012, 2013, and 2014. The price of each allowance must be \$2.02 adjusted for inflation using an August 2008 base.

### BACKGROUND

#### *Producer Grant Application Requirements*

Applicants for grants must apply no later than 15 days after the last day of the month for which the grant is sought. The application must include:

1. the producer's location,
2. the number of Connecticut citizens the producer employed in the preceding month,
3. the number of gallons of biodiesel produced during the month for which the grant is sought,
4. a copy of the producer's Connecticut registration,
5. satisfactory documentation that the biodiesel has a net carbon energy benefit when compared to the fuel it will replace, and
6. any other information DECD deems necessary to ensure that grants are made only to qualified biodiesel producers.

#### *Distributor Grants*

By law, distributors qualify for grants up to \$50,000 for each distribution site. These grants may be for the actual monthly costs of creating biodiesel storage and distribution capacity, but cannot be used to buy equipment or build, modify, or retrofit facilities. DECD, in consultation with the entity it selects to implement the grant, must create an application process and adopt guidelines to administer this grant.

#### *ASTM Designation D6751*

ASTM is an international voluntary standards development organization. Designation D6751 covers certain biodiesel fuel blend stock for use as a blend component with middle distillate fuels. The biodiesel must be mono-alkyl esters of long chain fatty acids derived from vegetable oils and animal fats. The product must undergo chemical analysis for various substances.

#### *Related Act*

PA 10-74 (1) reduces the maximum allowable sulfur content in heating oil and (2) establishes biodiesel blending requirements for such oil. It reduces the heating oil sulfur standard from 3,000 parts per million (ppm) to 50 ppm beginning July 1, 2011, and to 15 ppm

beginning July 1, 2014. The act defines “heating oil” as heating fuel meeting ASTM standard D396 or ASTM standard D6751.

The biodiesel blending requirements begin at 2% in 2011, increasing in steps to 20% by 2020, if certain conditions are met. The act provides for a waiver from these requirements.

The maximum allowable sulfur content and the biodiesel blending provisions do not take effect until Massachusetts, New York, and Rhode Island each have adopted substantially similar requirements.

The act establishes a Distillate Advisory Board within the Department of Consumer Protection (DCP), with members appointed by the DCP commissioner.

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**PA 10-74**—sSB 382

*Environment Committee  
Appropriations Committee*

**AN ACT REQUIRING BIODIESEL BLENDED HEATING OIL AND LOWERING THE SULFUR CONTENT OF HEATING OIL SOLD IN THE STATE**

**SUMMARY:** This act (1) reduces the maximum allowable sulfur content in heating oil and (2) establishes biodiesel blending requirements for such oil. It reduces the heating oil sulfur standard from 3,000 parts per million (ppm) to 50 ppm beginning July 1, 2011, and to 15 ppm beginning July 1, 2014. The act defines “heating oil” as heating fuel meeting the American Society of Testing Materials (ASTM) standard D396 or ASTM standard D6751 (see BACKGROUND).

The biodiesel blending requirements begin at 2% in 2011, increasing in steps to 20% by 2020, if certain conditions are met. The act provides for a waiver from these requirements.

The maximum allowable sulfur content and the biodiesel blending provisions do not take effect until Massachusetts, New York, and Rhode Island each have adopted substantially similar requirements.

The act establishes a Distillate Advisory Board within the Department of Consumer Protection (DCP), with members appointed by the DCP commissioner. The board must advise the commissioner on progress in meeting the act’s requirements. The act also establishes reporting requirements.

**EFFECTIVE DATE:** July 1, 2011 for the heating oil sulfur provision; October 1, 2010 for the biodiesel provisions.

**BIODIESEL**

*Biodiesel Blend Requirements*

The act requires that all heating oil sold in the state be a biodiesel blend with a certain percentage of biodiesel that increases over time. “Biodiesel blend” means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats that meets the most recent version of ASTM International designation D6751.

The biodiesel blend requirements are not less than (1) 2% biodiesel by July 1, 2011; (2) 5% by July 1, 2012; (3) 10% by July 1, 2015; (4) 15% by July 1, 2017; and (5) 20% by July 1, 2020.

*Production Standards*

Unless the DCP commissioner issues a waiver (see below), any biodiesel blended with heating oil must be produced according to industry-accepted quality control standards. Marketers or producers of such biodiesel must provide a certificate of analysis verifying conformity with the critical specifications of designation D6751 of ASTM international as defined by the National Biodiesel Accreditation Program prior to the blending of the biodiesel with heating oil. DCP, within available appropriations, must verify that the biodiesel offered for sale in the state conforms to the critical specifications cited above and to the biodiesel fuel quality compliance protocol accepted by DCP.

*Distillate Advisory Board*

The act establishes a six-member Distillate Advisory Board in DCP. The DCP commissioner appoints all members, who must be present in Connecticut, as follows: two representatives each of biodiesel producers or suppliers, the retail heating oil industry, and the wholesale distillate supply industry. The board is not funded and members serve without compensation and at the commissioner’s pleasure. The board must advise the commissioner on industry and market progress in meeting and enabling compliance with the act.

*Sufficient In-State Production*

By April 1, 2011 and April 1, 2012, DCP, in consultation with the Distillate Advisory Board, must, within available appropriations, determine if there is sufficient in-state biodiesel production to comply with the act’s requirements. The act defines “sufficient in-state production of biodiesel” as 50% of the annual mandated volume of biodiesel, as determined by the most recent data from the Energy Information Administration of the U.S. Department of Energy, that

is available from in-state producers based on the combined nameplate capacity of such producers.

If the DCP commissioner determines production is not sufficient, he can, in consultation with the board, delay implementation until July 1, 2012 or earlier, and July 1, 2013 or earlier, respectively. The commissioner must (1) post a notice specifying the length of the delay on the department's website within three business days after making the production insufficiency determination and (2) within 30 days of the posting, report to the Environment, General Law, and Energy and Technology committees on the reasons for the delay.

#### *Temporary Waivers of Biodiesel Requirements*

DCP, after receiving a petition from the board, must temporarily waive the biodiesel blend requirements when (1) the U.S. Department of Energy authorizes a release from the Northeast Heating Oil Reserve, (2) there is an inadequate supply of low sulfur distillate products, or (3) there is an inadequate supply of biodiesel blending stocks or an operational problem affecting supply of biodiesel blending stocks.

The waiver is for between 30 and 45 days and can be renewed. A waiver petition from the board must include:

1. a statement of the immediate threat to the health and safety of the state's citizens posed by the inadequate supply or operational problems as described above;
2. the cause, nature, and expected duration of the inadequacy or operational problem; and
3. as applicable, a description of any alternative distillate supply temporarily needed to take the place of the applicable supply required.

DCP must grant the waiver within three days of receiving the petition.

#### *Reports*

By February 1, 2012 and annually thereafter, the DCP commissioner, in consultation with the Distillate Advisory Board, must report to the Energy and Technology and Environment committees on the progress made in meeting the act's requirements and their effect on the price or supply of heating oil in the state.

#### BACKGROUND

##### *ASTM Designation D6751, D396*

ASTM is an international voluntary standards development organization. Designation D6751 covers certain biodiesel fuel blend stock for use as a blend component with middle distillate fuels. The biodiesel must be mono-alkyl esters of long chain fatty acids

derived from vegetable oils and animal fats. The product must undergo chemical analysis for various substances.

Designation D396 covers grades of fuel oil intended for use in various types of fuel oil burning equipment under various climatic and operating conditions.

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#### **PA 10-78—HB 5131**

*Environment Committee*

*Education Committee*

#### **AN ACT CONCERNING VOCATIONAL AGRICULTURE SCIENCE AND TECHNOLOGY AQUACULTURE CENTER SHELLFISH BEDS**

**SUMMARY:** This act allows the Department of Agriculture (DoAg) commissioner to designate shellfish areas that are necessary for conducting educational activities to regional agricultural science and technology education centers (RASTECs). The shellfish areas are those (1) owned by the state, (2) placed under state jurisdiction by the town of West Haven, or (3) within the state's exclusive jurisdiction but undesignated. The designated areas must (1) be no greater than 50 acres each of restricted relay grow-out beds and approved harvest beds and (2) not be in production at time of designation.

The educational activities that may be conducted include grow-out activities related to commercial scale aquaculture in the state's waters.

Existing law allows the DoAg commissioner to lease the beds for shellfish planting and cultivating to the highest responsible bidder, at a minimum of \$4 per acre, for 10-year terms. The act appears to exempt RASTECs from the acreage fee and 10-year term.

EFFECTIVE DATE: October 1, 2010

#### BACKGROUND

##### *RASTEC*

The law allows local school boards to make agreements to establish a RASTEC for their students in conjunction with their regular public school system. Local school boards that do not offer agricultural science and technology training must designate a school that their students interested in such training may attend (CGS § 10-65).

##### *Restricted Relay Classifications*

By law, DoAg may prohibit the taking or harvesting of shellfish from designated areas in tidal flats, shores, and coastal waters whenever it finds (1) that those areas are contaminated or polluted to the

extent that the waters do not meet standards of purity it established, in conjunction with the Department of Public Health, or (2) that shellfish obtained from such areas may be unfit for food or dangerous to the public health.

DoAg must classify the coastal waters, shores, and tidal flats for shellfish taking. The classifications are: approved, conditional (conditional-open and -closed), restricted, conditionally restricted, and prohibited. Any person aggrieved by a classification decision may appeal as the law provides.

An area may be classified as prohibited for taking or harvesting shellfish if it fails to conform to the standards established by the department for classifications other than prohibited. The department may specify the activities that may occur within each classified area. The activities must be listed on a shellfish license the department issues (CGS § 26-192e).

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**PA 10-85**—sHB 5117

*Environment Committee*

*Planning and Development Committee*

*Judiciary Committee*

**AN ACT CONCERNING CONSERVATION AND PRESERVATION RESTRICTIONS HELD BY THE STATE**

**SUMMARY:** By law, anyone seeking a permit from state or local land use agencies, local building officials, or health directors generally must notify holders of conservation or preservation restrictions on the affected property before filing an application, other than for permits for interior or exterior work not expanding or altering the building's footprint. This act specifies that it does not prohibit filing a permit application or requiring written notice when the activity that is the subject of the application will take place on a portion of property not restricted under the terms of the conservation or preservation restriction.

Where a state agency holds the restriction, the act increases, from 15 to 30 days, the amount of time the state agency has to appeal the granted permit.

By law, the permitting authority must reverse its permit approval if it finds that the requested land use violates the restriction. The act additionally requires the permitting authority to immediately reverse its approval if the state agency commissioner holding a restriction certifies that the land use activity authorized by the permit violates the restriction.

The act creates a civil penalty of up to \$5,000 for anyone who files a permit application without proof of having provided written notice to the state agency holding the restriction, as well as a fine of \$1,000 per day for violations continuing beyond the initial penalty.

The act specifies that it applies only to property subject to a restriction.

The act requires a municipality to record certain information in the land records whenever it (1) acquires real property with the intent to place a conservation, preservation, or other restriction on its use or (2) intends to permanently protect municipal property by dedicating it as a park or open space land. It authorizes the attorney general to bring an action in Superior Court to enforce these provisions

EFFECTIVE DATE: October 1, 2010, except that the municipal land records provisions take effect upon passage.

**MUNICIPALITIES, CONSERVATION AND PRESERVATION RESTRICTIONS, AND OPEN SPACE DEDICATION**

The act requires a municipality to record in the land records a description of a restriction and its source whenever it acquires any real property and intends to place a conservation, preservation, or other restriction on the property's use. This includes property acquired with funds specifically allocated for a conservation or preservation purpose. The municipality must also include in its recording the (1) date of the referendum or local legislative body action that authorized the acquisition contingent on certain land use restrictions and (2) funding source for acquiring the property if the funding restricted its use.

Under the act, whenever a municipality intends to permanently protect any municipal property by dedicating it as a park or open space land, it must record in the land records a property description, the date of dedication, and the local legislative action authorizing the dedication.

The act specifies that a municipality's failure to comply with the above provisions is not evidence of the lack of a conservation or preservation restriction, or open space land dedication. It also specifies that it should not be construed as amending or altering any other municipal legal right or obligation concerning open space or park land.

The act authorizes the attorney general to bring an action in Superior Court to enforce the public interest if a municipality fails to comply with a dedication of open space land or a conservation or preservation restriction.

**BACKGROUND**

*State and Local Land Use Agency*

Under the law, "state or local land use agency" includes a (1) municipal (a) planning commission, (b) zoning commission, (c) combined planning and zoning commission, (d) zoning board of appeals, (e) inland wetlands agency, (f) historic district commission, or (2)

any state agency that issues permits for the construction or improvement of real property.

#### *Conservation and Preservation Restrictions*

The law prohibits people from filing permit applications relating to property subject to a conservation or preservation restriction unless they show that they provided written notice of the application to the restriction holder at least 60 days before applying. Notice must be sent by certified mail, return receipt requested. In place of the notice, an applicant may submit a letter from the restriction holder, or the holder's authorized agent, verifying that the application complies with the restriction terms. The filing requirements do not apply to permits for (1) interior work in an existing building or (2) exterior work that does not expand or alter the footprint of an existing building.

If the applicant has provided written notice, the restriction holder may provide proof to the state, local land use agency, local building official, or health director that granting the permit will violate the restriction's terms. The agency, official, or director cannot grant the permit when the restriction holder provides such proof.

Under farm and open space preservation programs, a restriction or an easement is placed in the town land record where the property is located and serves to notify any potential buyer that the land can be developed only for agricultural purposes or permanently held in its natural condition.

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#### **PA 10-86**—sHB 5119

*Environment Committee*

*Finance, Revenue and Bonding Committee*

#### **AN ACT CONCERNING THE REMEDIATION ACCOUNT FOR DRY CLEANING ESTABLISHMENTS AND REGULATED ACTIVITY ON CERTAIN SITES UNDERGOING REMEDIAL ACTION**

**SUMMARY:** This act allows a regulated activity (see BACKGROUND) to be conducted in an aquifer protection area on a site where hazardous waste is being cleaned up at the time the area is designated on a municipal zoning or inland wetland map, as long as (1) the regulated activity did not substantially begin, or actively operate, for five years before the area was designated on such a map and (2) anyone conducting the regulated activity for 10 years, starting on the date of the designation, registers it on a Department of Environmental Protection (DEP) form according to DEP regulations.

The act also makes the owner of a site formerly occupied by a dry cleaning establishment eligible for grants from the dry cleaning establishment remediation account. It applies to former dry cleaning establishment sites the criteria that, under existing law, operating establishments must demonstrate to the economic and community development commissioner when approved for grants. The criteria include demonstrating that the establishment (1) used, or accepted clothing to be cleaned by another establishment using, tetrachlorethylene, Stoddard solvent, or other chemicals; (2) did business at the site for at least one year before the grant application was submitted or approved; and (3) is not in arrears on any state or local tax or the dry cleaning surcharge.

The act also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

#### **BACKGROUND**

##### *Regulated Activity*

By law, a regulated activity is any action, process, or condition that the DEP commissioner determines involves the production, handling, use, storage, or disposal of material that may pose a threat to groundwater in an aquifer protection area, including structures and appurtenances used in conjunction with the activity (CGS § 22a-354h).

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#### **PA 10-87**—sHB 5120

*Environment Committee*

*Planning and Development Committee*

#### **AN ACT CONCERNING PRIVATE AND MUNICIPAL RECYCLING, ZONING ORDINANCES AND SOLID WASTE COLLECTION CONTRACTS**

**SUMMARY:** This act:

1. expands the types of items that must be recycled (see BACKGROUND);
2. requires solid waste collectors and most municipalities to offer curbside or backyard recycling to those to whom they offer curbside or backyard waste removal;
3. requires recycling receptacles at common gathering venues that already have solid waste collection and that generate designated recyclable items;
4. prohibits zoning regulations from barring recycling receptacles, requiring receptacles to conform to most bulk or lot area regulations (see BACKGROUND), or unreasonably

restricting size of or access to recycling receptacles;

5. requires contracts between solid waste contractors and their commercial customers to address how the customers' recycling will be handled;
6. modifies and adds to the contents of the annual recycling reports municipalities submit to the Department of Environmental Protection (DEP);
7. requires the DEP to report on composting facilities and, in consultation with the Connecticut Academy of Science and Engineering (CASE), submit a study on the beneficial uses of ash residue;
8. creates new reporting requirements for solid waste and recycling collectors; and
9. makes technical changes.

EFFECTIVE DATE: Various, see below.

## § 2 — MUNICIPAL REPORTING REQUIREMENTS

Prior law required each municipality to file an annual recycling report with the DEP by August 31 and required the DEP commissioner to provide a form for these reports by June 1, 1991. The act instead requires annual submission beginning September 30, 2010 and requires the commissioner to provide the report form by July 1, 2010.

The act changes the required report contents. Under existing law, they must include (1) a description of efforts to promote recycling and ensure separation requirement compliance; (2) the amount of each type of recyclable item contained in its solid waste stream delivered to a recycling facility, as reported by the recycling facility or a scrap metal processor; and (3) the amount of solid waste generated by the municipality and delivered to a resources recovery or solid waste facility for disposal, as reported by the facility.

The act retains the first reporting requirement, but eliminates the second and third. Instead, it requires municipalities to (1) identify the first destination for solid waste and recyclable materials generated within the municipality and (2) report the actual or estimated amounts of solid waste and recyclable material that has been delivered to a first destination out of state or a Connecticut end user. If the amounts of solid waste are unknown, the municipality must give DEP contact information for the collector, which the act defines as any person who holds himself or herself out for hire to collect solid waste on a regular basis from residential, business, commercial, or other establishments (§ 11).

EFFECTIVE DATE: Upon passage

## § 3 — EXPANDED RECYCLING LIST

By law, the DEP commissioner designates through regulations certain items that must be recycled. The act defines these items as “designated recyclable items.” It requires the DEP commissioner to amend the regulations, by October 1, 2011, to expand the list of designated recyclable items to include (1) containers of three gallons or less made of polyethylene terephthalate plastic and high-density polyethylene plastic; (2) boxboard; and (3) additional types of paper, including magazines, residential high-grade white paper, and colored ledger paper. The act also includes grass clippings and consumer products in the list of designated recyclable items. Current regulations require the recycling of grass clippings.

The act defines (1) “boxboard” as a lightweight paperboard made from a variety of recovered fibers having sufficient folding properties and thickness to be used to manufacture folding or set-up boxes and (2) “designated recyclable item” as an item the DEP commissioner has designated for recycling.

The act gives municipalities more time to recycle designated items. A municipality must recycle the designated items within six months of the availability of service by a regional processing center or local processing system. Prior law required a municipality to recycle the items within three months of the establishment of service by a center or system.

The law requires (1) people generating waste from a residential property to separate designated items from their solid waste for recycling and (2) nonresidential solid waste generators to make provision for recycling. The act specifies that people generating waste from nonresidential properties must use separate collection containers for recycling. It also allows containers previously used for solid waste collection to be converted and used for recyclable item collection by labeling or otherwise identifying them as such.

These requirements apply to existing designated recyclable items effective October 1, 2010 and to the additional designated recyclable items effective July 1, 2012.

The act prohibits anyone from knowingly combining previously segregated items designated for recycling with solid waste.

EFFECTIVE DATE: October 1, 2010

## § 4 — MUNICIPAL ZONING REGULATIONS

The act prohibits municipal zoning regulations from disallowing receptacles for storing items that must be recycled. Zoning regulations also cannot (1) require the receptacles to comply with bulk or lot area provisions, except those for side, rear, and front yards or (2) unreasonably restrict the size of or access to



receptacles, given the nature of the business and volume of recyclables the business produces in its normal course of business. The act does not prohibit regulations requiring screening or buffering receptacles for aesthetic reasons.

EFFECTIVE DATE: October 1, 2010

#### § 5 — CURBSIDE AND BACKYARD RECYCLING

The act requires municipalities, by July 1, 2011, to offer curbside or backyard collection of designated recyclable items to all residents and businesses for which they provide municipal curbside or backyard solid waste collection as of October 1, 2010. It exempts any municipality whose percentage of solid waste recycling over a three-year period the DEP commissioner determines exceeds the statewide average for the amount of municipal solid waste recycled during that period.

The act requires each solid waste collector offering curbside or backyard residential solid waste collection in a municipality to offer curbside or backyard collection of designated recyclable items to its customers. It requires this recyclable collection to be included in the charge for solid waste collection. But it does not prohibit collectors from adjusting fees for combined curbside collection services. It exempts collectors serving a municipality that the DEP commissioner determines exceeds the statewide average percentage of solid waste recycling over a three-year period.

The act defines “curbside or backyard collection” as the collection, by either municipal or private collectors, of presorted designated recyclable items or solid waste that residents and businesses leave for collection in the front or rear of their property.

EFFECTIVE DATE: October 1, 2010

#### § 6 — COMMON GATHERING VENUE RECYCLING

The act creates a new recycling requirement for common gathering venues (1) where designated recyclable items may be generated during a public gathering and (2) that provide for solid waste collection. Under the act, these venues must provide recycling receptacles to collect designated recyclable items that are sold or given away there. However, the act does not require a venue’s owner or operator or the municipality where the venue is located to provide recycling receptacles if someone else provides them pursuant to a contract.

The act defines “common gathering venue” as any area or building, or portion of it, that is open to the public, including any:

1. building that provides facilities or shelter for public assembly;
2. inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment providing services or retailing merchandise; or
3. museum, hospital, auditorium, movie theater, or university building.

The act requires recycling receptacles to be as accessible to the public and at the same locations as trash receptacles. It allows existing trash receptacles to be converted to recycling receptacles by labeling or other means appropriate to identify that they are for the collection of designated recyclable items.

EFFECTIVE DATE: October 1, 2011

#### § 7 — COMMERCIAL CONTRACTS

The act establishes requirements for commercial contracts between solid waste collectors and their business customers. Specifically, it requires each commercial contract for solid waste collection to provide for designated recyclable item collection, either by the same collector or someone identified by the customer as contractor for recyclable collection. It does not require businesses to contract exclusively with one collector for both designated recyclable items and solid waste. If the business chooses a separate recyclable collector, the contract must identify the collector.

The act specifies that each collector must provide each business with clear written or pictorial instructions on how to separate designated recyclable items.

EFFECTIVE DATE: July 1, 2012

#### § 8-9 — REPORTS AND STUDIES

The act requires the DEP commissioner to submit to the Environment Committee, by June 1, 2011, a report on the costs and benefits to the state, municipalities, and waste generators of removing food from the waste stream. The report must also identify incentives and guidance the state could give to develop composting facilities. The act defines these facilities as land, appurtenances, structures, or equipment where organic materials originating from another process or location that have been separated at the point or source of generation from nonorganic material are recovered using a process of accelerated biological decomposition of organic material under controlled aerobic or anaerobic conditions.

The act also requires the DEP commissioner, in consultation with CASE, to study and submit to the Environment Committee, by January 1, 2011, a report on the potential beneficial use of ash residue.

EFFECTIVE DATE: Upon passage

## §§ 10-12 — REGISTRATION AND REPORTING REQUIREMENTS FOR COLLECTORS

The act expands registration and reporting requirements for collectors and establishes new ones. It limits the collectors covered to those who hold themselves out for hire to collect solid waste on a regular basis. Existing law requires solid waste collectors to (1) register with any municipality in which he or she hauls waste generated by residential, business, commercial, or other establishments and (2) disclose the name of any other municipality in which he or she hauls waste.

The act extends these requirements to collectors hauling recyclables generated within a municipality. It also requires both types of collectors to disclose in their registration (1) the collector and collection company owner's names and addresses; (2) whether the hauling done is residential, commercial, or "other;" (3) the type of waste hauled; (4) the anticipated disposal facility or end user location for recyclable solid waste; and (5) any information the municipality requires to ensure resident health and safety.

The act requires collectors, by July 31, 2011, to report annually to municipalities, on a form prescribed by the DEP commissioner, (1) the types of solid waste and recyclables generated within the municipality and collected by the collector; (2) the name, location, and contact information for the first destination where waste and recyclables were delivered the previous fiscal year; and (3) the types and actual or estimated amount of waste and recyclables delivered out of state or to a Connecticut end user or manufacturer. The recyclables upon which collectors must report include (1) cardboard, (2) glass, metal, and plastic food and beverage containers, (3) leaves, (4) newspapers, (5) storage batteries, (6) waste oil, and (7) office paper. The reports must include information for the preceding state fiscal year and any other information the commissioner deems necessary.

The act also requires collectors hauling solid waste in the state from, or to, an in-state entity other than a permitted resources recovery facility to report annually beginning by July 31, 2011 on the (1) types of solid waste and recyclables collected; (2) for municipal waste, the municipalities of origin; (3) the amount delivered by weight, volume, or other measure acceptable to the DEP commissioner, including recyclables; and (4) the name, address, and contact information of the recipient of the waste or recyclables.

Finally, the act requires collectors hauling municipal solid waste generated in the state and delivering it, including recyclables, to a permitted resources recovery facility, to identify in their report (1) the originating regional facility; (2) the originating municipality, if the waste did not pass through a

regional facility; or (3) the original regional facility or state if the waste originated outside the state. Collectors must estimate the amount of waste per municipality if the solid waste load comes from more than one municipality. But since this requirement appears to apply only to collectors hauling municipal solid waste generated in the state, it is unclear how it applies to waste originated outside the state (i.e., #3, above).

EFFECTIVE DATE: July 1, 2010

## BACKGROUND

### *Items Required To Be Recycled*

By law, the following must be recycled:

1. glass and metal food and beverage containers,
2. corrugated cardboard,
3. newspaper,
4. white office paper,
5. scrap metal,
6. Ni-Cd rechargeable batteries (from electronics),
7. used crankcase oil,
8. lead acid batteries (from vehicles),
9. leaves, and
10. grass (clippings should be left on the lawn or, if necessary, composted, according to DEP) (Conn. Agencies Reg. § 22a-241b-2).

### *Bulk Area Regulations*

By law, a municipal zoning commission may create regulations concerning (1) the height, number of stories, and size of buildings and other structures; (2) the percentage of a lot's area that may be occupied; (3) yard, court, and open space size; (4) population density and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, including water dependent uses; and (5) advertising signs' and billboards' height, size, and location. These types of regulation are sometimes referred to as "bulk" regulations (CGS § 8-2(a)).

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## PA 10-99—sSB 207

*Environment Committee*

*Finance, Revenue and Bonding Committee*

## **AN ACT AUTHORIZING THE HUNTING OF DEER BY REVOLVER AND ESTABLISHING CERTAIN CREDITS TOWARD THE PURCHASE OF HUNTING AND FISHING LICENSES**

**SUMMARY:** This act requires the Department of Environmental Protection (DEP) commissioner to issue permits allowing hunters to use guns that (1) fire

cartridges of at least .357 caliber and (2) have a barrel length less than 12 inches (revolvers) to hunt deer on private land annually between November 1 and December 31. The fee is \$5.

The land must consist of at least 10 acres and either be owned by the hunter or by someone who consents to the hunter using it for that purpose. The hunter must be a state resident.

The hunting is subject to the private land deer permit bag limit established by the commissioner.

The act also requires the DEP commissioner to reserve a credit for anyone who purchased certain licenses, stamps, permits, or tags between October 1, 2009 and April 14, 2010. The credit is the difference between the amount paid for the license purchased between October 1, 2009 and April 14, 2010 and the amount charged on or after October 1, 2010, and will be applied against the fee for any license, permit, or tag purchased on or after October 1, 2010. It appears that the credit may be used any time after October 1, 2010.

PA 09-3, June Special Session, increased these fees as of October 1, 2009. PA 10-3 decreased the fees as of its effective date (April 14, 2010).

EFFECTIVE DATE: Upon passage

**FEE CREDITS**

**Table 1: Sportsman’s Fees, Difference to be Credited**

<i>License</i>	<i>October 1, 2009- April 14, 2010 Fee</i>	<i>Current Fee</i>
Connecticut Migratory Bird Conservation Stamp	\$15	\$13
Resident firearms hunting	28	19
Resident fishing	40	28
One-day resident marine fishing	15	5
Resident all-waters fishing	50	32
Resident combination (inland waters fishing and firearms hunting)	56	38
Resident combination (marine water fishing and firearms hunting)	50	25
Resident combination (all waters fishing and firearms hunting)	60	38
Resident combination (all waters fishing and bow and arrow hunting)	84	65
Resident firearms supersport (all waters fishing, firearms hunting, and wild turkey in spring on private land)	116	80
Resident archery supersport (all waters fishing, bow and arrow hunting, and wild turkey on private land in spring)	104	82
Resident trapping	50	34
Resident junior trapping	15	11
Junior firearms hunting	15	11
Firearms permit	28	19
Resident bow and arrow hunting	60	41

<i>License</i>	<i>October 1, 2009- April 14, 2010 Fee</i>	<i>Current Fee</i>
Bow and arrow hunting (age 12-16)	26	19
Non-resident firearms hunting	134	91
Non-resident inland waters fishing	80	55
Non-resident inland waters fishing, 3-day	32	22
Non-resident marine fishing	60	15
Non-resident marine fishing, 3-day	24	8
Non-resident all waters fishing	100	63
Non-resident combination (firearms hunting and inland fishing)	176	110
Non-resident combination (firearms hunting and all waters fishing)	190	120
Non-resident combination (firearms hunting and marine fishing)	170	94
Non-resident firearms permit	100	68
Non-resident bow and arrow hunting	200	135
Duplicate license	15	11
Organized hound pack hunting	70	48
Wild game or wild game bird breeding	42	27
Fur buying (non-resident)	84	55
Fur buying (authorized agent of resident)	56	35
Bait dealer	100	63
Private shooting preserve	100	63
Turkey stamp	28	19
Migratory game bird	15	13
Salmon stamp	56	28
Wild turkey permit	28	19
Hunting dog training area	28	18
Field dog trial	15	9
Field dog trial (state land)	56	35
Field dog trial (private land)	28	18
Taxidermy	168	105
Scientific or educational collection of crustaceans	40	25

**PA 10-100—sSB 274**

*Environment Committee*

*Judiciary Committee*

*Planning and Development Committee*

**AN ACT PROHIBITING THE UNREASONABLE CONFINEMENT AND TETHERING OF DOGS**

**SUMMARY:** Existing law prohibits confining or tethering a dog for an unreasonable period of time. This act, with some exceptions, prohibits tethering a dog to a stationary object or mobile device under certain conditions and in some situations. It changes the fines and penalties for such actions. The act does not affect other protections for dogs in state or local law, ordinance, or regulation.

The act also makes changes to the law on certificates of origin for dogs sold by pet shops.

EFFECTIVE DATE: October 1, 2010

**PROHIBITED TETHERING**

The act prohibits anyone from tethering a dog to a stationary object or to a mobile device, such as a trolley or pulley, by using a tether that (1) does not allow the dog to walk at least eight feet, excluding the length of the dog as measured from the tip of its nose to the base of the tail, in any one direction; (2) does not have swivels on both ends to prevent twisting and tangling, unless the owner or keeper is in the dog’s presence; (3) has weights attached or contains metal chain links more than one-quarter inch thick; or (4) allows the dog to reach an object such as a window sill, pool edge, fence, porch, or terrace railing that poses a substantial risk of injuring or strangling the dog if it jumps over the object, unless the owner or keeper is on the premises. The act also prohibits tethering to a stationary object or mobile device by using a coat hanger; choke collar; prong-type collar; head halter; or any other collar, halter, or device not specifically designed or properly fitted for restraining the dog.

The restrictions in (1) and (2) above do not apply to (a) any licensed veterinary practice that tethers a dog in the course of the practice; (b) any exhibition, show, contest, or other temporary event in which the dog’s skill, breeding, or stamina is judged or examined; (c) any exhibition, class, training session, or other temporary event where the dog is used lawfully to hunt wildlife during the hunting season for that wildlife species or when the dog receives lawful training in hunting such wildlife; (d) the temporary tethering at any camping or recreation area as expressly authorized by the environmental protection commissioner; or (e) the temporary tethering at a grooming facility in the course of grooming the dog.

*Offenses*

Existing law imposes fines for confining or tethering a dog for an unreasonable period of time. The act changes the amount of the fines for first and second offenses and imposes them for violations of existing law and the provisions above.

**Table 1: Penalties**

	<i>Existing Law</i>	<i>The Act</i>
First Offense	Up to \$100	\$100
Second Offense	Between \$100 and \$250	\$200
Subsequent Offenses	Between \$250 and \$500	Between \$250 and \$500

**CERTIFICATES OF ORIGIN**

By law, any dog that a pet shop sells or offers for sale must come with a certificate of origin that identifies the name and address of the (1) person, firm, or corporation that bred the dog and (2) anyone who sold the dog to a pet shop licensee. The information in the certificate must be posted in a conspicuous manner no more than 10 feet from where the dog is displayed for sale. The licensee must (1) give the consumer a copy of the certificate when it sells the dog and (2) file a copy with the Department of Agriculture no later than two days after the sale. The law requires pet shops to display the place of a dog’s birth and other information.

The act, instead, requires (1) the certificate to be in a form prescribed by the agriculture commissioner; (2) the licensee to file a copy of the certificate with the department no later than seven, rather than two days after the sale; and (3) pet shops to post the information in the certificate on the sign they must already post on the cage of each dog offered for sale that is visible to customers.

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**PA 10-103**—sHB 5419  
*Environment Committee*  
*Appropriations Committee*

**AN ACT CONCERNING FARMS, FOOD AND JOBS**

**SUMMARY:** This act (1) allows the preparation and sale of acidified foods on residential farms under certain conditions; (2) makes the agriculture commissioner responsible for inspecting certain poultry producers and processors and designates processors meeting certain criteria as approved food sources for certain consumers and entities; (3) specifies that money collected by the Connecticut Milk Promotion Board is not considered state funds and that the board is within the agriculture department for administrative purposes only; and (4) expands the definition of a farmer’s market.

EFFECTIVE DATE: Upon passage, except that the acidified food product provision takes effect January 1, 2011.

**ACIDIFIED FOODS**

Existing law allows the sale of jams, jellies, or preserves on a residential farm if they were prepared (1) with fruit grown on the farm and (2) in a room on the farm that is used as living quarters. It exempts their preparation from any state or local agency inspection.

The law requires each jam, jelly, or preserves container offered for sale on the farm to have on its label, in ten-point type: “Not prepared in a government

inspected kitchen.” The act adds “acidified foods” to this exemption and labeling requirement. It establishes the following specific preparation criteria acidified food must meet for the exemption:

1. the farm’s water supply must come from a public water supply system or a private well that is tested annually, and tests negative, for coliform bacteria; if the local health department or Department of Public Health (DPH) has reason to believe that a private well may be contaminated with coliform bacteria, the department can require well retesting;
2. a laboratory performs a pH test of the food product after the product recipe is completed;
3. use of the kitchen where the acidified food is prepared is restricted from non-processing individuals, pets, children or any other potential contaminants during preparation;
4. the food preparer has documentation showing successful completion of (a) an examination on safe food handling techniques administered by an organization approved by DPH for qualified food operators documentation or (b) an approved course on safe food processing techniques administered by a Department of Consumer Protection (DCP)-approved organization. Such documentation must be made available to the local health department or DCP upon request.

The act defines “acidified food product” as a food item with a pH value of 4.6 or less upon completion of the recipe making the product, including pickles, salsa, and hot sauce, produced on the premises of a residential farm. The food product must not include food consisting in whole or in part of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacean ingredients, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

The act redefines jam, jelly, and preserves to include products made with vegetables.

## POULTRY

The act makes the Department of Agriculture (DoAg) commissioner the state official in charge of inspecting any poultry producer and any producer that also operates as a poultry processing facility. Any inspection must be consistent with the requirements of the federal Poultry Products Inspection Act and any applicable federal regulations, including health, sanitary, and safety provisions. Under the act, processing facilities (1) meeting the applicable criteria for federal Food Safety and Inspection Service exemptions and (2) passing DoAg facility inspections

must be designated as approved sources for household consumers, restaurants, hotels, and boarding houses.

“Poultry” means any species of domestic fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, and game birds raised for food production, breeding, exhibition, or sale. “Producer” means any person, firm or corporation engaged in breeding, raising, or keeping poultry of not more than 5,000 turkeys or 20,000 poultry of all species in a calendar year for purposes of food production.

## CONNECTICUT MILK PROMOTION BOARD

By law, there is a nine-member Connecticut Milk Promotion Board within DoAg. It develops, coordinates, and implements promotional, research, and other programs designed to promote Connecticut dairy farms and milk consumption. It also prepares an annual report for the legislature. The board may use funding available from federal, state, or other sources and enter into contracts to carry out its purposes.

The act specifies that the board is within DoAg for administrative purposes only. It specifies that any money collected by the board must (1) not be deemed state funds and (2) be deposited with the approval of the state treasurer and comptroller in a qualified public depository in Connecticut. Under the act, the funds can be spent by the board to administer the board’s recommended budget.

## FARMER’S MARKET

The act expands the definition of a farmer’s market to include a cooperative or nonprofit enterprise or association that (1) occupies a given site for any given day or event; (2) operates principally as a common marketplace for a group of farmers, with at least two of them selling Connecticut-grown fresh produce; and (3) sells such products in conformance with applicable regulations and solely to secure household income. Under existing law, a farmer’s market must meet these criteria and consistently occupy a given site throughout the season.

**PA 10-106—sSB 124 (VETOED; OVERRIDDEN)***Environment Committee**Planning and Development Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING LONG ISLAND SOUND, COASTAL PERMITTING AND CERTAIN GROUP FISHING LICENSES AND PERMITS FOR SOLID WASTE FACILITIES**

**SUMMARY:** This act requires anyone receiving a wetlands regulated activity permit, dredging permit, certificate of permission for routine maintenance, or emergency authorization for corrective action on or after October 1, 2010, to file a certified copy of the document on the land records of the municipality where the property is located within 30 days of issuance (see BACKGROUND). It requires a property owner transferring land for which such a document is issued to record the document in the land records before the transfer (§ 1).

The act establishes a fee for retaining structures (1) built without the required building or dredging permit and (2) ineligible for a certificate of permission. The fee is four times the fee for a permit to build the structure, although the DEP commissioner may lower it upon a finding of significant extenuating circumstances, including whether the applicant acquired his or her interest in the site after the unauthorized activity occurred, is not otherwise liable, and did not have reason to know about the unauthorized activity. By law, permit fees depend on the size of the project. The act permits the commissioner to, through regulation, establish a simplified schedule and vary the statutory permit fees and cost of publishing notice. The schedule must promote expedited approval for applications consistent with all applicable standards and criteria (§ 8).

The act eliminates a provision allowing the placement, maintenance, or removal of aquaculture structures and marking buoys without a permit while a permit is pending (§ 9).

By law, the commissioner may issue a certificate of permission for certain activities in state tidal, coastal, or navigable waters, including maintenance and repair of existing structures. The act expands the activities eligible for a certificate of permission (§ 10).

It expands the list of notices and permits that may be submitted electronically.

The act adds to those individuals who may petition for a hearing on a regulated activity permit. It also eliminates the deadline for holding wetlands hearings.

The act makes changes to the statutes governing waste discharge. It replaces the state-designated “no discharge” areas within Long Island Sound with the Environmental Protection Agency’s (EPA) designated

areas (see BACKGROUND). For the purposes of the section, the act amends the definition of sewage to (1) include only human body wastes, toilet wastes, and waste from other receptacles for body waste; and (2) exclude animal, domestic, and manufacturing wastes (§ 2).

The act eliminates (1) coastal management grants to municipalities and (2) the estuarine embayment improvement program (§ 16). It also eliminates a requirement that the DEP submit to the General Assembly and governor an annual report concerning the development and implementation of the Coastal Management Act (§ 6).

The act also creates a group fishing license for any tax-exempt organization for the purpose of conducting a group fishing event for certain individuals. The license fee is \$250 (§§ 12, 13, 14).

The act prohibits the DEP commissioner from making a determination of need or approving any permit application that is pending or filed as of the act’s passage for a new solid waste facility or the expansion of an existing facility located within 1,000 feet of a primary or secondary aquifer, until the need for additional capacity is determined by the Solid Waste Management Plan (§ 15).

Finally, the act makes technical and conforming changes.

**EFFECTIVE DATE:** October 1, 2010, except for the repeal of coastal management grants and the estuarine environment improvement program, the group fishing license, and the provisions affecting solid waste facilities, which are effective on passage.

**CERTIFICATES OF PERMISSION**

The act expands the activities eligible for a certificate of permission to include tidal wetland restoration; resource restoration or enhancement; and substantial maintenance or repair of structures, fill, obstructions, or encroachments placed landward of the mean high waterline and waterward of the high tide line, completed before October 1, 1987, and continuously maintained and serviceable since.

The act further expands the activities eligible for a certificate of permission by allowing the DEP commissioner to issue a certificate of permission for activities completed before January 1, 1995 without the necessary permit, certificate, or authorization, provided the applicant demonstrates that the activity complies with all applicable standards and criteria. Prior law applied only to activities completed before January 1, 1980, and required the applicant to demonstrate that the activity did not (1) interfere with littoral or riparian rights or navigation and (2) adversely affect coastal resources (§ 10) (see BACKGROUND).

Under existing law, the commissioner may permit maintenance to the unauthorized activities; the act allows the commissioner to permit minor alterations to them as well (§ 10).

#### ELECTRONIC TRANSMITTAL

The act authorizes electronic transmittal of (1) wetlands regulated activity permit applications from the DEP commissioner to the chief administrative officer of any town in which proposed work is located, (2) notice of hearing for the permits, (3) notice of application for dredging permits, and (4) notice of the commissioner's decision regarding the dredging permit (§§ 3 and 8).

#### PERMIT HEARINGS

Under existing law, the commissioner must hold a hearing on a regulated activity permit request when 25 people petition her to do so. The act allows a permit applicant to also request a hearing on the application (§ 3; see BACKGROUND).

The act eliminates the requirement that the hearing occur between 30 and 60 days after the receipt of a wetlands activity permit application (§ 3).

#### GROUP FISHING LICENSE

Under the act, the DEP commissioner may issue a group fishing license to any tax-exempt organization for the purpose of conducting a group fishing event for individuals:

1. with a service-related or other disability who receive services at a U.S. Department of Veterans Affairs Connecticut Healthcare System facility;
2. who receive mental health or addiction services from the Department of Mental Health and Addiction Services (DMHAS), DMHAS-funded programs or facilities, or psychiatric hospitals operated at least in part by DMHAS;
3. with autism or mental retardation who receive services from the Department of Developmental Services (DDS) or a DDS-licensed facility; or
4. receiving care from the Department of Children and Families (DCF), in receiving homes, or certain DCF-licensed child care facilities or programs.

Tax-exempt groups seeking a permit must apply annually, on a form prescribed by the commissioner. The license fee is \$250.

Tax-exempt groups receiving a license may hold up to 50 events per year, including inland and marine water events. Each event is limited to 50 people. The events must be supervised by organization staff or volunteers,

who must possess the group license at the event site. In addition, each staff member or volunteer must have his or her own fishing license. The groups may not charge a fee to participate and the events may not be used as a fundraiser.

Within 10 days after a group fishing event, the group must, on forms provided by the commissioner, report the number of (1) participants, (2) hours fished, (3) each species caught, and (4) each species not released.

Under the act, a fishing license is not required for any individual participating in a group fishing event conducted by an organization with a group license. Any such participant is subject to other state laws related to fishing.

#### BACKGROUND

##### *Routine Maintenance*

By law, a person must obtain permission from the commissioner or municipal inland wetlands commission to conduct certain activities, such as removing or depositing material, in a wetlands or watercourse.

##### *Emergency Authorizations*

Emergency authorizations may be issued if the DEP commissioner finds they are necessary to deal with imminent threats to human health or the environment and are limited by any conditions the commissioner deems necessary. Emergency authorizations under the coastal structures and dredging program are for a specific time, after which a regular permit application must be filed.

##### *Regulated Activity*

By law, regulated activities are any operations within or use of a wetland or watercourse involving (1) removal or deposition of wetland or watercourse material or (2) obstruction, construction, alteration, or pollution of the wetland or watercourse (CGS § 22a-38). But regulated activities do not include "as of right" operations and uses (CGS § 22a-40) such as:

1. certain agricultural uses;
2. uses incidental to the enjoyment and maintenance of residential property, such as landscaping that does not remove or deposit significant amounts of material from or into the wetland or watercourse or divert or alter a watercourse; or
3. the construction of a residential home under very limited circumstances.

*No Discharge Area*

In July 2007, the governor declared all state waters in Long Island Sound to be a “No Discharge Area,” making it illegal for boaters to discharge sewage from vessels anywhere on the Connecticut coastline. The state received the No Discharge Area designation from EPA after demonstrating that sufficient pump-out facilities were available to boaters. Connecticut became the third state (after Rhode Island and New Hampshire) to designate its entire coastline a No Discharge Area.

*Littoral Zone*

The littoral zone extends from the high water mark to shoreline areas that are permanently submerged.

**PA 10-114—SB 121***Environment Committee***AN ACT CONCERNING DEPOSIT REFUNDS ON CERTAIN BEVERAGE CONTAINERS DONATED TO CHARITY**

**SUMMARY:** This act requires the Department of Environmental Protection (DEP) or its successor to create, by July 1, 2010, a procedure for deposit initiators to take a credit against any quarterly payment made to the DEP commissioner in the amount of deposits refunded on beverage containers that the deposit initiator donated for a charitable purpose.

The state’s bottle deposit law requires a distributor or manufacturer that sells beverage containers and collects deposits on them (“deposit initiators”) to place the refund value of the containers in a separate, interest-bearing account.

EFFECTIVE DATE: Upon passage

**BACKGROUND***Related Act*

PA 10-25 makes the Department of Revenue Services (DRS), instead of the DEP, commissioner the primary administrator for bottle deposit initiators. It requires (1) holding bottle deposits in a special trust fund for the state; (2) quarterly reporting on account balances, credits, and withdrawals; and (3) initiators to pay outstanding balances quarterly. The act also eliminates the state treasurer’s right to examine records and allows both DEP and DRS to file a complaint with the attorney general to institute action.

The act also requires that the reimbursement of refund values for redeemed bottles be computed using the Internal Revenue Service cash receipts and disbursements accounting method. It allows the DRS

commissioner to accept an alternate accounting method if a deposit initiator petitions for one. The act treats any required payments as a tax for the purpose of specified sections.

**PA 10-124—SB 272***Environment Committee**Judiciary Committee**Public Safety and Security Committee***AN ACT CONCERNING DRUNK BOATING AND CERTAIN VESSELS REGISTERED WITH MARINE DEALER REGISTRATION NUMBERS**

**SUMMARY:** This act eliminates the two-hour timeframe in which a blood alcohol test or analysis must be performed for it to be used as evidence (1) for a peace officer to revoke a safe boating certificate for 24 hours or (2) in a hearing contesting boating certificate suspension before the Department of Environmental Protection (DEP) Commissioner. The act also requires expert testimony to establish the reliability of a blood alcohol test performed more than two hours after the operation of the vessel for it to be used in any criminal prosecution for operating a vessel under the influence or carrying a firearm under the influence. Under prior law, evidence had to show that the test was administered within two hours of operating a vessel.

The act also requires that certain individuals be permitted, for the two years following passage of the act, to operate a vessel with a marine dealer’s registration number. The individuals must (1) hold a current U.S. Coast Guard passenger-for-hire license; (2) hold a current DEP-issued charter boat registration; and (3) have operated, for at least five of the 10 years preceding the act’s passage, a recreational charter fishing guide service using a vessel registered with the marine dealer’s registration number in connection with the guide service. The act prohibits the DEP from revoking a marine dealer’s registration number for vessels used in the above circumstance.

EFFECTIVE DATE: Upon passage

**BACKGROUND***Marine Dealer Registration Numbers*

The law allows marine dealers to operate, or direct their bona fide full-time employees to operate, a vessel with a marine dealer’s registration number when:

1. a potential purchaser or customer is aboard;
2. running a new vessel from an import terminal to the dealer’s place of business;
3. test running a new vessel after receiving it from the manufacturer;



4. delivering a sold vessel to the new owner;
5. running a trade-in vessel from a buyer;
6. test running a trade-in vessel before it is made available for sale;
7. running a vessel to, and using a vessel in, a fishing tournament;
8. test-running a vessel after repairs, maintenance, or winter storage;
9. in connection with the business of the marine dealer;
10. running the vessel to obtain or deliver parts for the repair of the vessel or another vessel; and
11. for the marine dealer's personal use.

**PA 10-164**—sHB 5126

*Environment Committee*

*Higher Education and Employment Advancement Committee*  
*Appropriations Committee*

**AN ACT ESTABLISHING A CHEMICAL INNOVATIONS INSTITUTE AT THE UNIVERSITY OF CONNECTICUT**

**SUMMARY:** The act creates a Chemical Innovations Institute within the University of Connecticut Health Center (UHC) and specifies the composition of its board of directors. The institute must (1) foster green job growth and safer workplaces through clean technology and green chemistry and (2) assist businesses, state agencies, and nonprofit organizations seeking to use alternatives to harmful chemicals.

The institute and UHC must seek administrative funding from federal entities. Both may seek funding from nongovernmental foundations, including health access foundations, private citizens, corporations, and governmental entities.

The act does not require UHC to develop, implement, and promote the institute if there is, in aggregate, insufficient federal, state, and private funding to pay for the initial and continuing expenses of the institute.

EFFECTIVE DATE: Upon passage

**INSTITUTE'S DUTIES**

The institute's duties include:

1. working with businesses, state agencies, nonprofit organizations, workers, and community groups as a resource for information about chemicals of concern to public health and the environment, safe alternatives, and emerging state and federal regulations;

2. providing research and technical assistance about chemicals of environmental and public health concern and alternatives;
3. coordinating and sharing information with other states' institutes and an interstate chemicals clearinghouse concerning alternative chemicals and their impact on public health and the environment;
4. researching and identifying chemicals important to the state economy;
5. offering businesses training on chemical regulations and alternative chemicals; and
6. assisting businesses in identifying funding to implement sustainable chemical processes.

If the board of directors determines that adequate funding exists, the institute may establish technical assistance grants to businesses and nonprofit organizations to assist them in switching to the use of safer chemical alternatives.

**BOARD OF DIRECTORS MEMBERSHIP**

The institute is overseen by an eight-member board of directors. Its executive director, appointed by the UHC, is an ex-officio board member. The remaining seven members are:

1. one representative of a large Connecticut manufacturer that participates in the international marketplace and has implemented, or is implementing, green chemistry in its manufacturing, appointed by the governor;
2. one representative of a small Connecticut manufacturer, appointed by the Senate president pro tempore;
3. one representative of a statewide occupational health and safety organization or union health and safety committee, appointed by the House speaker;
4. one individual with expertise in implementing sustainable business practices, appointed by the Senate majority leader;
5. one representative of a statewide nonprofit environmental health organization, appointed by the House majority leader;
6. one health professional or scientist with expertise in the effects of prenatal exposure to chemicals or occupational environmental health, appointed by the Senate minority leader; and
7. one individual with green chemistry training and expertise, appointed by the House minority leader.

Members must be appointed by August 15, 2010. If an appointing authority fails to appoint an initial board member by August 31, 2010, the act requires the Senate president pro tempore and House speaker to jointly appoint a qualified board member to serve the full term.

The board must appoint two of its members to serve as co-chairpersons.

#### MEETING REQUIREMENTS

The board meets at the discretion of the chairpersons, but at least once per year. A quorum of four members is required to conduct business.

#### MEMBERSHIP TERM

Initial appointees serve staggered terms: (1) the governor's appointee has a two-year term, (2) the appointees of the Senate president pro tempore and House speaker serve three-year terms, and (3) the appointees of the Senate and House majority and minority leaders serve four-year terms. After the initial appointments, all members serve four years.

#### REPORTING

The board must review the institute's progress in meeting its stated duties and work to identify potential funding sources. By January 15 annually, it must submit a report to the Environment Committee on the activities of the previous year, including funding option recommendations.

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**PA 10-44**—sSB 25

*Finance, Revenue and Bonding Committee*

**AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS, TRANSPORTATION AND OTHER PURPOSES**

**SUMMARY:** This act cancels \$480.6 million in general obligation (GO) bond authorizations for state and local capital projects and state grants and loans, including to municipalities and nonprofit entities. It authorizes up to \$58.6 million in new state GO bonds and divides the money into three pools for specified projects in Bridgeport, Hartford, and New Haven as designated by the State Bond Commission. All but two of the specified projects had separate bond authorizations. The act cancels the unspent parts of these separate authorizations.

The act also:

1. authorizes an additional \$40 million in Clean Water revenue bonds for FY 11, increasing the total FY 11 authorization from \$80 million to \$120 million (§ 25);
2. authorizes \$7.325 million in special tax obligation (STO) bonds for transportation-related projects (§§ 40 & 41);
3. shifts \$5 million in GO bond authorizations between two projects in the Connecticut State University System (CSUS) 2020 plan (§ 28); and
4. reserves funds from certain existing authorizations for specific projects and purposes (§§ 26, 39, 345, & 346).

**EFFECTIVE DATE:** July 1, 2010

**BOND AUTHORIZATION POOLS FOR BRIDGEPORT, HARTFORD, AND NEW HAVEN**

The act authorizes up to \$58.6 million in new GO bonds. It (1) divides the authorizations into three bond pools to fund specified projects in Bridgeport, Hartford, and New Haven; (2) adds two new Bridgeport projects to one of the pools; and (3) cancels all unspent parts of earlier, separate bond authorizations for the other projects. The pool authorizations are about 15% less than the aggregate cancelled authorizations for the same projects.

The pools are divided among the following types of projects: (1) economic and community development; (2) infrastructure and other specified programs; and (3) culture, tourism, and entertainment projects. The two newly authorized Bridgeport projects are included in the pool for infrastructure and other programs (Pool 2). They are (1) improvements to the bus and transportation center and (2) restoration, new construction, or property acquisition for expansion and improvement for Greater Bridgeport Transit (§ 10 (b) (11) & (12)).

Under the act, the State Bond Commission allocates amounts for the authorized projects, up to the overall pool limit, to the appropriate agency specified in the act. (PA 10-1, June Special Session, instead requires the commission to allocate all the funds to the Office of Policy and Management.) Table 1 shows the new authorization by city and by pool. Table 2 shows the cancelled projects included in each pool, their previous authorizations, and the amounts cancelled.

**Table 1: Bond Authorization Pools**

<b>Pool 1</b> Economic and community development programs \$12.9 million (§§ 1-8)		<b>Pool 2</b> Infrastructure and other specified programs \$45.1 million (§§ 9-16)		<b>Pool 3</b> Culture, tourism, and entertainment projects and programs \$600,000 (§§ 17-24)	
Bridgeport	\$7,200,000	Bridgeport	\$27,700,000	Bridgeport	\$600,000
Hartford	5,700,000	Hartford	10,600,000	Hartford	0
New Haven	0	New Haven	6,800,000	New Haven	0

**Table 2: Pooled Projects – Individual Authorizations Cancelled**

<b>\$</b>	<b>For</b>	<b>Prior Authorization</b>	<b>Amount Cancelled</b>	<b>Project Moved to</b>
<b>BRIDGEPORT</b>				
274	Planning and implementation of the Upper Reservoir Avenue Corridor Revitalization Initiative Project	\$250,000	\$250,000	Pool 1
281	Black Rock Gateway project	1,000,000	1,000,000	Pool 1
337	Black Rock Gateway project	1,000,000	1,000,000	Pool 1
198	Revitalization of the Hollow Neighborhood	500,000	500,000	Pool 1
201	Feasibility study for the Congress Street Plaza urban renewal area	250,000	250,000	Pool 1
246	Purchase of development rights at Veterans' Memorial Park	3,000,000	3,000,000	Pool 1
279	Madison Avenue Gateway Revitalization streetscape project	2,500,000	2,500,000	Pool 1
45	Design and construction of a flood control project in the northeast corner of the city	1,150,000	995,000	Pool 2
58	Island Brook Flood Control project	4,597,583	1,950,183	Pool 2
101	Remediation of the waterfront including any predevelopment costs	10,000,000	10,000,000	Pool 2
145	Design and construction of the Congress Street Bridge	10,000,000	10,000,000	Pool 2
284	Design and construction of the Congress Street Bridge	5,000,000	5,000,000	Pool 2
161	Day care, a community room, and a playground at West End School	350,000	350,000	Pool 2
171	Purchase and installation of a public safety video surveillance system	300,000	300,000	Pool 2
275	Fairfield County Housing Partnership: Land acquisition, design, development and construction of an independent living facility	750,000	750,000	Pool 2
283	Purchase of a water taxi, construction of docks, and construction of the Pleasure Beach retractable pedestrian bridge	3,000,000	3,000,000	Pool 2
285	Bridgeport Port Authority: Improvements to the Derecktor Shipyard, including remediation, dredging, bulkheading, and construction of Phase 2 of the Derecktor Shipyard Economic Development Plan	1,750,000	1,750,000	Pool 2
289	Repair and improvements on State Road 59 between the North Avenue and Capitol Avenue intersections, including median and sidewalk renovations	1,000,000	1,000,000	Pool 2
199	Improvements to the Palace Theater	250,000	250,000	Pool 3
286	Improvements to Bluefish Stadium	400,000	400,000	Pool 3
<b>HARTFORD</b>				
150	Purchase of a building and necessary alterations and renovation for the John E. Rogers African American Cultural Center of Hartford	50,000	50,000	Pool 1
278	Park Street streetscape project	1,700,000	1,700,000	Pool 1
336	Park Street streetscape project	3,000,000	3,000,000	Pool 1
287	Hartford Economic Development Corporation: North Hartford community revolving loan fund	900,000	900,000	Pool 1
288	Planning and design of streetscape improvements in the North Hartford area and along the Main Street corridor <sup>1</sup>	500,000 <sup>1</sup>	500,000 <sup>1</sup>	Pool 1
290	Façade improvements along Wethersfield Avenue	500,000	500,000	Pool 1
38	Hartford downtown parking projects	15,000,000	3,000,000	Pool 2
180	Revitalization of Pope Park	1,000,000	1,000,000	Pool 2
236	Public safety complex and regional emergency management center	1,000,000	1,000,000	Pool 2
241	Improvements to the flood control system	12,000,000	7,000,000	Pool 2
280	Bridge over the Park River	500,000	500,000	Pool 2
<b>NEW HAVEN</b>				
90	Renovations and improvements to Tweed New Haven Airport	5,000,000	5,000,000	Pool 2
251	Improvements to the Morris Cove storm water drainage system	1,000,000	1,000,000	Pool 2
252	Grants-in-aid to homeowners in the Westville section of New Haven and homeowners in Woodbridge for structurally damaged homes due to subsidence located in the immediate vicinity of the West River	2,000,000	2,000,000	Pool 2

<sup>1</sup>This cancellation was later reversed and the project was removed from Pool 1 (PA 10-179, §§ 141, 143, & 156).

§ 28 — REALLOCATION OF FUNDS WITHIN THE CSUS 2020 INFRASTRUCTURE IMPROVEMENT PROGRAM

The act transfers \$5 million in GO bond authorizations between two projects enumerated in Phase I of the CSUS 2020 plan, a system-wide capital improvement program for the Connecticut State University System. It does so by increasing the authorization for telecommunications infrastructure upgrades by \$5 million and reducing the authorization for land and property acquisition by the same amount. This shift allows CSUS to undertake additional information technology projects, such as a Voice-over Internet Protocol communications system.

By law, the following types of revisions in the CSUS 2020 plan require both the formal approval of the CSUS Board of Trustees and passage of a public or special act: (1) the addition or deletion of a project or (2) an increase or decrease in the original project cost by 10% or more for projects estimated to cost \$1 million or less, or 5% or more for projects estimated to cost more than \$1 million, unless the change in cost is due solely to changes in material costs (CGS § 10a-91d(c)).

§§ 40 & 41 — SPECIAL TAX OBLIGATION (STO) BOND AUTHORIZATIONS

§ 40 — *Highway Service Plaza Improvements*

The act authorizes up to \$4.825 million in STO bonds to the Department of Transportation (DOT) for environmental clean-up at service plazas along Interstate 95, the Merritt and Wilbur Cross parkways, and Interstate 395. The bonds are subject to regular STO bond requirements and issuance procedures.

§ 41 — *Fix-It-First Program for At-Grade Rail Crossings*

The act authorizes up to \$2.5 million in STO bonds to DOT for establishing a Fix-It-First Program to repair, upgrade, or eliminate at-grade railroad crossings in Connecticut. The bonds are subject to regular STO bond requirements and issuance procedures.

RESERVED AMOUNTS FROM EXISTING AUTHORIZATIONS

§ 26 — *Urban Act*

The act cancels \$13 million in Urban Act bond authorizations (see Table 4 below). It also reserves \$3.75 million of Urban Act authorizations to the Office of Policy and Management (OPM) for economic and community development projects for the following grants:

1. \$3 million for land acquisition and commercial or retail property development in New Haven and
2. \$750,000 for repairs to and replacement of the fishing pier at Cummings Park in Stamford.

§ 39 — *Manufacturing Assistance Act*

The act reserves \$2 million in previously authorized Manufacturing Assistance Act bond funds for a Department of Economic and Community Development (DECD) grant to companies adversely affected by Quinnipiac Bridge construction. It allows the companies to use the grants to offset the increased costs for commercial overland transport of goods or materials brought by ships or vessels to the port of New Haven.

§ 345 — *Department of Public Health (DPH) Grants*

The act cancels \$1 million of a \$7 million bond authorization to DPH for grants (1) for hospital-based emergency service facilities and (2) to community health centers and primary care organizations for equipment purchases and facility improvement and expansion, including land or building acquisition (see Table 4 below). It also reserves up to \$1 million of the remaining authorization for a grant to Community Health Center, Inc. for renovations and improvements at the New London facility and cancels a separate \$1 million authorization for that purpose (§ 295 – see Table 5 below).

§ 346 — *Housing Development and Rehabilitation*

Of a previously authorized \$21 million to DECD for housing development and rehabilitation, the act allows \$15 million to be made available for the Pinnacle Heights and Corbin Heights Extension housing development projects in New Britain. It also makes the previously reserved amounts in the authorization discretionary rather than mandatory.

MODIFICATIONS IN AUTHORIZATION LANGUAGE

§ 216 — *Department of Information Technology Data Center*

The act eliminates planning for the development of an alternate data center from the purposes for which the Department of Information Technology may use an authorization of up to \$2.5 million. Instead, it requires the department to use the funds for planning and design of a data center.

§ 347 — Grant to Danbury to Buy the Terre Haute Property

The act alters a \$2 million authorization to Danbury for acquisition of the Terre Haute property for open space. The act changes the town where the property is located from Bethel to Danbury.

CANCELLATIONS

In addition to the cancellations listed in Table 2 above, the act also cancels the GO bond authorizations listed in Tables 3, 4, and 5 below.

State Agency Capital Projects

The act cancels all or part of bond authorizations for the state agency capital projects shown in Table 3. Authorizations are listed alphabetically by agency.

**Table 3: State Agency Project Authorizations Cancelled**

§	For	Prior Authorization	Amount Cancelled
<b>CHILDREN AND FAMILIES</b>			
52	Facilities alterations and improvements to comply with the Americans with Disabilities Act (ADA)	\$1,300,000	\$189,866
128	At Riverview Hospital: Buildings 7 and 8 roof replacement	2,500,000	2,282,500
230	Alterations, renovations, and improvements to buildings and grounds	1,785,600	1,353,889
231	At High Meadows: Alterations, renovations, and improvements to buildings and grounds, including the construction of a new dormitory and activity center	7,000,000	7,000,000
<b>CONNECTICUT INNOVATIONS, INC.</b>			
33	Renewable energy and combined heat and power projects in state buildings	30,000,000	20,000,000
313	Recapitalize CII's programs, including up to \$1.5 million for capital expenses associated with the BioBus	12,000,000	3,500,000
340	Recapitalize CII's programs described in Chapter 581 of the general statutes	12,000,000	2,000,000
<b>CONNECTICUT STATE UNIVERSITY</b>			
228	Feasibility study for establishment of an education center in the city of Bridgeport	250,000	250,000
<b>COMMUNITY TECHNICAL COLLEGES</b>			
127	Housatonic Community College: Planning and design for a center for urban programs	2,500,000	2,500,000
<b>CORRECTION</b>			
77	Renovations and improvements to existing state-owned buildings for inmate housing, programming and staff training space, and additional inmate capacity, including support facilities and off-site improvements	10,000,000	18,491
82	Renovations and improvements to existing state-owned buildings for inmate housing, programming and staff training space, and additional inmate capacity, including support facilities and off-site improvements	15,000,000	1,493,804
85	Renovations and improvements to existing state-owned buildings for inmate housing, programming and staff training space, and additional inmate capacity, including support facilities and off-site improvements, technology improvements, or acquiring land and associated costs to develop a community justice center	50,000,000	4,491,407
229	Planning for inmate housing	1,000,000	1,000,000
<b>CULTURE AND TOURISM</b>			
112	Renovations and restoration at state-owned historic museums	3,000,000	2,301,942
125	Renovations and restoration at state-owned historic museums	1,750,000	1,750,000
167	Renovations and restoration at state-owned historic museums	1,750,000	750,000
<b>ECONOMIC AND COMMUNITY DEVELOPMENT</b>			
114	Development of a congregate housing facility in Waterbury	2,500,000	2,500,000
115	Development of supportive housing for families with medically complex children	3,000,000	3,000,000
<b>EDUCATION</b>			
126	Alterations and improvements to buildings and grounds, including new and replacement equipment, tools and supplies necessary to update curricula, vehicles, and technology upgrades at all Connecticut Technical High Schools	8,000,000	6,757
<b>EMERGENCY MANAGEMENT AND HOMELAND SECURITY</b>			
222	Alterations, renovations, and improvements to buildings and grounds	250,000	250,000
<b>ENVIRONMENTAL PROTECTION</b>			
124	Alterations, renovations, and new construction at state parks and other recreation facilities, including ADA improvements (The act also cancels \$2.5 million reserved for Silver Sands State Park in Milford.)	15,000,000	12,562,690
165	Recreation and natural heritage trust program for recreation, open space, resource protection, and resource management	5,000,000	5,000,000

<i>§</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
166	Property acquisition for West Rock Ridge State Park	500,000	500,000
223	Recreation and Natural Heritage Trust Program for recreation, open space, resource protection, and resource management	7,500,000	3,000,000
224	Drainage study on all state roads in East Hartford	250,000	250,000
225	Extension of a boardwalk from Walnut Beach to Silver Sands State Park and creation of handicapped access to Walnut Beach	125,000	125,000
317	Property acquisition and improvements to West Rock Ridge State Park	900,000	900,000
<b>JUDICIAL</b>			
129	Alterations, renovations, and improvements to buildings and grounds at state-owned and -maintained facilities	5,000,000	465,000
130	Study of need for capital improvements at the Milford Courthouse	650,000	650,000
232	Development and land acquisition for a courthouse annex and parking proximate to the Milford judicial district and geographical area courthouse	2,000,000	1,750,000
<b>LEGISLATIVE MANAGEMENT</b>			
212	Additional funding for the completion and installation of the statue of the Genius of Connecticut	360,000	360,000
213	Renovation and expansion of the Legislative Office Building	5,000,000	5,000,000
214	Alterations, renovations, and improvements to the Old State House in Hartford	1,450,000	1,450,000
<b>MENTAL HEALTH AND ADDICTION SERVICES</b>			
68	Design and installation of sprinkler systems in direct patient care buildings, including related fire safety improvements	4,000,000	3,511,390
94	Fire, safety, and environmental improvements, including improvements in compliance with current codes, site improvements, repair and replacement of roofs, and other exterior and interior building renovations	1,000,000	3,728
227	Fire, safety, and environmental improvements to regional facilities for client and staff needs, including improvements in compliance with current codes, including intermediate care facilities and site improvements, handicapped access improvements, utilities, repair or replacement of roofs, air conditioning, and other interior and exterior building renovations and additions at all state-owned facilities	6,000,000	3,675,000
<b>MILITARY</b>			
61	Alterations, renovations, and improvements to buildings and grounds at the Camp Rell Military Complex including Stones Ranch Military Reservation and the East Haven Rifle Range, including utilities, mechanical systems, energy conservation, infrastructure, environmental and ADA compliance, and new construction	6,500,000	4,870
123	Alterations and improvements to buildings and grounds, including utilities, mechanical systems, and energy conservation	500,000	400,000
<b>MOTOR VEHICLES</b>			
54	Planning, design, land or building acquisition, construction, or improvements to DMV facilities	1,407,506	859,354
<b>OFFICE OF POLICY AND MANAGEMENT</b>			
27	Capital Equipment Purchase Fund	366,550,000	2,350,000
<b>PUBLIC HEALTH</b>			
226	Development of a new public health laboratory and related costs	38,285,900	5,500,000
<b>PUBLIC SAFETY</b>			
51	Emergency services facility, including canine training and vehicle impound area	1,780,000	1,127,850
76	Emergency services facility, including canine training and vehicle impound area, in Cheshire	1,000,000	1,000,000
109	Alterations, renovations, and improvements including equipment for urban search and rescue	2,400,000	1,200,000
110	Addition to the forensic laboratory in Meriden	7,850,000	276,320
220	Addition to the forensic laboratory in Meriden	1,680,000	1,680,000
221	Emergency services facility, including canine training and vehicle impound area	1,688,000	1,688,000
<b>PUBLIC WORKS</b>			
31	Energy services projects in state buildings	30,000,000	17,000,000
84	Infrastructure repairs and improvements, including fire, safety, and compliance with ADA and OSHA, including renovations or expansions of state-owned buildings, and improvements to state-owned buildings and grounds, including energy conservation and preservation of unoccupied buildings, and for development of state office facilities, or for additional parking, provided not more than \$200,000 shall be used to conduct a study of the facilities of the Regional Fire Schools	12,000,000	34,993
93	Infrastructure repairs and improvements, including fire, safety, and compliance with ADA and OSHA, including renovations or expansions of state-owned buildings, and improvements to state-owned buildings and grounds, including energy conservation and preservation of unoccupied buildings, and for development of state office facilities, or for additional parking	8,000,000	283,260
103	Infrastructure repairs and improvements, including fire, safety, and compliance with ADA and OSHA, renovations or expansions of state-owned buildings, improvements to state-owned buildings and grounds,	2,000,000	310,625

<i>§</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
	energy conservation, preservation of unoccupied buildings, and for development of state office facilities, or for additional parking		
108	Infrastructure repairs and improvements, including fire, safety, and ADA compliance, improvements to state-owned buildings and grounds, including energy conservation and off-site improvements, and preservation of unoccupied buildings and grounds, including office development, acquisition and renovations for additional parking	4,000,000	259,864
164	Infrastructure repairs and improvements, including fire, safety, and compliance with ADA, improvements to state-owned buildings and grounds, including energy conservation and off-site improvements, and preservation of unoccupied buildings and grounds, including office development, acquisition, renovations for additional parking, and security improvements	7,500,000	167,555
218	Capital construction, improvements, repairs, renovations, and land acquisition at fire training schools	10,000,000	2,000,000
219	Development and implementation of a plan to reduce the number of state-owned and -leased surface parking lots in Hartford	200,000	200,000
316	Infrastructure repairs and improvements, including fire, safety, and ADA compliance improvements, improvements to state-owned buildings and grounds, including energy conservation and off-site improvements, and preservation of unoccupied buildings and grounds, including office development, acquisition, renovations for additional parking, and security improvements	6,000,000	1,000,000
<b>SPECIAL REVENUE</b>			
215	Upgrades to the electrical system, Newington	220,000	160,000
<b>STATE COMPTROLLER</b>			
315	Development and implementation of a CORE financial systems project	1,115,000	135,000
<b>UCONN</b>			
341	Laboratory improvements to the Connecticut Transportation Institute	500,000	500,000
<b>VETERANS' AFFAIRS</b>			
107	Alterations and improvements to buildings and grounds in accordance with current codes	201,500	91,300
122	Alterations and improvements to buildings and grounds in accordance with current codes	1,000,000	14,298
217	Study of the cost and feasibility of future uses for the existing health care facility at the Rocky Hill Veterans' Home	250,000	250,000

### Grant and Loan Programs

The act cancels all or part of the bond authorizations for state grant and loan programs as shown in Table 4. Programs are listed alphabetically by agency.

**Table 4: State Grant and Loan Program Authorizations Cancelled**

<i>§</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
<b>AGRICULTURE</b>			
238	Matching grants to farmers for environmental compliance, including waste management facilities, compost, soil and erosion control, pesticide reduction, storage and disposal	\$2,000,000	\$1,000,000
239	For the Biofuel Crops Program for grants to farmers, agricultural nonprofit organizations, and agricultural cooperatives for the cultivation and production of crops used to generate biofuels	1,000,000	1,000,000
321	For the Biofuel Crops Program for grants to farmers, agricultural nonprofit organizations, and agricultural cooperatives for the cultivation and production of crops used to generate biofuels	2,500,000	1,500,000
<b>CHILDREN &amp; FAMILIES</b>			
144	Grants to private, nonprofit organizations, including the Boys and Girls Clubs of America, YMCAs, YWCAs, and community centers for construction and renovation of community youth centers for neighborhood recreation or education purposes, with (1) up to \$1,000,000 to the Bridgeport Police Athletic League to build and renovate a new gym and youth center and (2) up to \$750,000 to Bridgeport for the Burroughs Community Center	5,000,000	1,300,000
192	Grants for construction, alterations, repairs, and improvements to residential facilities, group homes, shelters, and permanent family residences	2,500,000	1,000,000
193	Grants to private, nonprofit organizations, including the Boys and Girls Clubs of America, YMCAs, YWCAs, and community centers for construction and renovation of community youth centers for neighborhood recreation or education purposes. The act makes the following reserved amounts discretionary rather than mandatory: (1) up to \$439,020 for the Windham-Tolland 4-H Camp in Pomfret Center; (2) up to \$2,450,000 for the Cardinal Shehan Center in Bridgeport for renovations to a youth center; (3) up to \$878,050 for the	6,317,070	1,615,070



<i>§</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
	Regional YMCA of Western Connecticut in Brookfield for capital improvements, including an indoor pool; (4) up to \$150,000 for the Milford/Orange YMCA for a new addition and ADA compliance projects; (5) up to \$1,000,000 for the Connecticut Alliance of Boys and Girls Clubs to develop and construct a new facility in Milford; (6) up to \$250,000 for the Boys and Girls Village, Inc. for acquisition or rehabilitation of program facilities in Bridgeport; (7) up to \$150,000 for the Ralphola Taylor Community Center YMCA in Bridgeport; (8) up to \$1,000,000 for the Soundview Family YMCA in Branford for construction of a swimming pool complex; and (9) up to \$1,500,000 for construction of a new YMCA on Albany Avenue in Hartford		
<b>CONNECTICUT INNOVATIONS, INC.</b>			
30	Municipal grant program for renewable energy and energy efficiency projects	50,000,000	32,000,000
98	Financial aid for biotechnology and other high technology laboratories, facilities, and equipment	5,000,000	3,000,000
105	Financial aid for biotechnology and other high technology laboratories, facilities, and equipment	1,000,000	1,000,000
<b>CULTURE &amp; TOURISM</b>			
117	Grants for the Connecticut Arts Endowment Fund for tax-exempt nonprofit organizations to be matched with private contributions	1,000,000	1,000,000
118	Grants for restoration and preservation of historic structures and landmarks, with not more than \$50,000 available to the Hebron Historical Society for restoration of Old Hebron Town Hall	600,000	237,000
140	Grants for restoration and preservation of historic structures and landmarks	300,000	300,000
190	Grants for restoration and preservation of historic structures and landmarks	300,000	300,000
139	Funding for a capital grant pool to provide grants to cultural organizations	500,000	490,000
141	For the Connecticut Arts Endowment Fund to provide grants to be matched with private contributions for tax-exempt organizations	500,000	500,000
<b>ECONOMIC AND COMMUNITY DEVELOPMENT</b>			
37	Grant for Hartford riverfront infrastructure and improvement project	25,000,000	5,120,000
89	Grants to municipalities and nonprofit tax-exempt organizations for cultural and entertainment-related economic development projects, including museums	5,000,000	950,000
119	Grants to municipalities and tax-exempt nonprofit organizations for cultural and entertainment-related economic development projects, including museums, with not more than \$3,000,000 for a parking facility for the Goodspeed Opera House in East Haddam, not more than \$2,000,000 for renovation of the Palace Theater in Stamford, and not more than \$1,000,000 for renovation of the Lyman Allen Museum in New London	8,500,000	5,000,000
146	Grants to municipalities and tax-exempt organizations for cultural and entertainment-related economic development projects, including projects at museums with (1) \$1,000,000 made available for the Bridgeport Downtown Cabaret, (2) \$50,000 for capital improvements to the Augustus Curtis Cultural Center in Meriden, and (3) \$625,000 to the town of Norwalk for the Norwalk Maritime Museum	6,000,000	2,000,000
210	Energy Conservation Loan Fund (The prior authorization was \$5 million annually. The act cancels \$3 million of the FY 08 authorization and the \$5 million authorizations for FY 09 and FY 10.) <sup>1</sup>	5,000,000 annually	13,000,000
271	Biofuel Production Facility Incentive Program	1,100,000	1,100,000
331	Biofuel Production Facility Incentive Program	4,000,000	500,000
272	Fuel diversification grant program	2,500,000	1,000,000
273	Loans for installation of new alternative vehicle fuel pumps or converting gas or diesel pumps to dispense alternative fuels	1,000,000	1,000,000
330	Grants to municipalities for the brownfield pilot program established in CGS § 32-9cc	4,500,000	1,500,000
332	Loans for installation of new alternative fuel pumps or converting gas or diesel pumps to dispense alternative fuels	2,000,000	2,000,000
344	Loans for installation of new alternative vehicle fuel pumps or converting gas or diesel pumps to dispense alternative fuels	2,000,000	2,000,000
<b>EDUCATION</b>			
191	Grants to municipalities, regional school districts, and regional education service centers for the costs of wiring school buildings	5,000,000	5,000,000
305	Grants to municipalities, regional school districts, and regional education service centers for the costs of wiring school buildings	2,000,000	2,000,000
306	Grants for minor capital improvements and wiring for technology for school readiness programs	1,500,000	1,500,000
309	Grants to municipalities, regional school districts, and regional education service centers for the purchase and installation of security infrastructure, including surveillance cameras, entry door buzzer systems, scan cards, and panic alarms	5,000,000	2,000,000
342	<i>Sheff</i> magnet school start-up grants	7,000,000	21,200

<i>§</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
<b>ENVIRONMENTAL PROTECTION</b>			
35	Clean Water Fund project grants. (The act also eliminates a provision making \$40 million of the total authorization effective in FY 11.)	1,066,030,000	25,004,024
36	Connecticut bikeway and greenway grant program	6,000,000	4,000,000
56	Grants to municipalities to provide potable water	3,000,000	272,726
63	Grants to municipalities to provide potable water	1,000,000	1,000,000
66	Grants to municipalities to provide potable water	2,000,000	2,000,000
242	Grants to municipalities to provide potable water	2,500,000	2,500,000
59	Special Contaminated Property Remediation and Insurance Fund	6,000,000	1,000,000
65	Grants to state agencies, regional planning agencies, and municipalities for water pollution control projects	4,000,000	568,380
70	Lakes Restoration Program grants	500,000	240,600
79	Lakes Restoration Program grants	500,000	500,000
88	Lakes Restoration Program grants	250,000	250,000
97	Lakes Restoration Program grants	250,000	250,000
71	Grants for identification, investigation, containment, removal, or mitigation of contaminated industrial sites in urban areas	5,000,000	1,400,000
80	Grants for identification, investigation, containment, removal, or mitigation of contaminated industrial sites in urban areas	5,000,000	1,000,000
72	Municipal grants for improvements to incinerators and landfills, with up to \$439,025 for Plymouth	8,426,830	1,526,830
87	Grants and loans to municipalities to acquire land for public parks, recreational and water quality improvements, water mains, and water pollution control facilities, including sewer projects, with the following reserved amounts discretionary rather than mandatory: (1) not more than \$5,000,000 used to abate pollution from combined sewer and storm water runoff overflows to the Connecticut River; (2) \$2,000,000 for environmental remediation at a school in Southington, including any expenses incurred after July 1, 2000; (3) not more than \$1,500,000 for environmental remediation at a school in Hamden, including any expenses incurred after July 1, 2000; (4) not more than \$500,000 to provide potable water for a school in Vernon; (5) not more than \$750,000 for asbestos clean-up and removal in schools located in Brookfield, including any expenses incurred after July 1, 2002; (6) not more than \$1,700,000 for pollution remediation for the location of temporary classrooms at Veteran's Field in New London; (7) not more than \$500,000 for clean-up and preservation of an estuary located in Cove Island; (8) not more than \$137,000 to Montville for the connection of a water line to Mohegan Elementary School; and (9) not more than \$750,000 to the town of Plainville for asbestos removal in a school auditorium	20,000,000	2,477
96	Grants and loans to municipalities to acquire land for public parks, recreational and water quality improvements, water mains, and water pollution control facilities, including sewer projects, provided not more than \$5,000,000 must be used to abate pollution from combined sewer and storm water runoff overflows to the Connecticut River	6,000,000	1,000,000
135	Grants or loans to municipalities for acquisition of land for public parks, recreational and water quality improvements, water mains and water pollution control facilities, including sewer projects, with (1) \$100,000 for improvements and renovations to Sage Park Football Field and Complex in Berlin and (2) \$150,000 to Groton Parks Foundation, Inc., for Copp Park	2,000,000	955,000
240	Grants to towns for acquisition of open space for conservation or recreation purposes	7,500,000	5,750,000
<b>MENTAL HEALTH AND ADDICTION SERVICES</b>			
74	Grants to private, nonprofit organizations for alterations and improvements to various facilities	750,000	7,653
120	Grants to private, nonprofit organizations for community-based residential and outpatient facilities for purchases, repairs, alterations, and improvements, with up to \$1,300,000 for the renovations to the Alliance Treatment Center in New Britain	5,000,000	2,015,476
<b>MENTAL RETARDATION (DEVELOPMENTAL SERVICES)</b>			
142	Grants to private, nonprofit organizations for alterations and improvements to nonresidential facilities	2,000,000	315,626
<b>OFFICE OF POLICY AND MANAGEMENT</b>			
26	Economic and community development project grants (Urban Act)	1,057,800,000	13,000,000
162	Grants to municipalities for development of a computer-assisted mass appraisal system in accordance with CGS § 12-62f	748,500	379,000
169	Grants-in-aid to municipalities for development of a computer-assisted mass appraisal system in accordance with CGS § 12-62f	748,500	748,500
234	For enhanced geospatial information systems data collection, use, and mapping, including grants-in-aid to regional planning organizations	400,000	400,000
319	Grants-in-aid to municipalities for preparation and revision of municipal plans of conservation and development	500,000	200,000

<i>§</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
320	For the Responsible Growth Incentive Fund, provided up to \$5,000,000 shall be used for grants of up to \$1,000,000 each to participating municipalities or regional planning organizations for implementation of transit-oriented plans and strategies in designated pilot program areas	10,000,000	10,000,000
<b>PUBLIC HEALTH</b>			
91	Grants to community health centers, primary care organizations, and municipalities for school-based health clinics, for renovations, improvements, expansion of facilities, and for the purchase and installation of dental equipment, including the purchase of mobile dental health clinics	2,500,000	280,576
99	Grants to community health centers, primary care organizations, and to municipalities for school based health clinics for renovations, improvements, expansion of facilities, and for the purchase and installation of dental equipment, including the purchase of mobile dental health clinics	1,000,000	1,000,000
345	Grants (1) for hospital-based emergency service facilities; (2) to community health centers and primary care organizations for equipment purchases and facility improvement and expansion, including land or building acquisition; and (3) up to \$1 million to Community Health Center, Inc. for renovations and improvements at the New London facility	7,000,000	1,000,000
<b>PUBLIC SAFETY</b>			
132	Grants to American Red Cross chapters state-wide, for purchase of vehicles, trailers, and telecommunications and computer equipment	300,000	300,000
<b>PUBLIC UTILITY CONTROL</b>			
32	Grant program for distributed (on-site) generation projects in state- and business-owned buildings (Clean and Distributive Generation Grant Program)	50,000,000	30,000,000
<b>TRANSPORTATION</b>			
29	Matching grants for commercial rail freight lines	10,000,000	2,500,000
<b>SOCIAL SERVICES</b>			
34	Grants to nonprofit organizations to provide housing for homeless people with AIDS, including planning; acquiring property; and repairing, rehabilitating, or building housing	8,100,000	588,720
153	Grants to municipalities and tax-exempt organizations for facility improvements and minor capital repairs to licensed school readiness programs and state-funded day care centers operated by such municipalities and organizations	3,000,000	3,000,000
203	Grants for neighborhood facilities, child day care projects, elderly centers, multipurpose human resource centers, shelter facilities for victims of domestic violence and food distribution centers	4,500,000	100,000

<sup>1</sup> PA 10-179 (§ 137) restores the \$5 million annual authorization. It also transfers the unallocated balance and the \$5 million authorization for FY 11 to the Connecticut Health and Educational Facilities Authority for the Green Connecticut Loan Guaranty Fund.

*Grants to Specified Municipalities and Organizations*

In addition to authorizations for projects in Bridgeport, Hartford, and New Haven that the act cancels and moves to the bond pools (see Table 2), the act also cancels all or part of the authorizations for the local projects shown in Table 5. Projects are listed alphabetically by town or organization.

**Table 5: Local Grant Authorizations Cancelled**

<i>§</i>	<i>Grantee</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
152	Bloomfield	Facade improvement program	\$500,000	\$250,000
159	Bloomfield: 4-H Center at Auer Farm	Building improvements, including classrooms and facilities for animals and handicapped accessibility	1,200,000	200,000
134	Boundless Playgrounds, Inc.	Fully accessible playgrounds and physical challenge courses	1,000,000	1,000,000
173	Boundless Playgrounds, Inc.	Fully accessible playgrounds and physical challenge courses	1,000,000	1,000,000
170	Branford	Construction of a training tower for the Branford Fire Department	130,000	130,000
157	Branford: Connecticut Hospice, Inc. and the John D. Thompson Hospice Institute for Education, Training and Research, Inc.	Acquisition and renovation of a hospice facility in Branford	1,250,000	250,000
206	Branford: Connecticut Hospice, Inc. and the John D. Thompson Hospice Institute for Education, Training and Research, Inc.	Acquisition and renovation of a hospice facility in Branford	1,250,000	250,000
258	Bridgeport: Discovery Museum	Infrastructure renewal and expansion projects	800,000	300,000

<i>§</i>	<i>Grantee</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
298	Bridgeport: Action for Bridgeport Community, Inc.	Acquisition and renovation of property for an early learning center	1,200,000	200,000
265	Bridgeport: Barnum Museum Foundation, Inc.	Renovations at the Barnum Museum in Bridgeport	1,250,000	250,000
270	Bridgeport: Connecticut Zoological Society	Planning and development of the Andes Adventure Exhibit at the Beardsley Zoo	800,000	300,000
188	Bristol	Rehabilitation and renovation of Rockwell Park	4,000,000	1,000,000
297	Bristol Community Organization, Inc.	Purchase of a building for expansion of the Head Start program	373,170	83,170
307	Challenger Learning Center of Southeastern Connecticut	Construction of a building	850,000	850,000
172	Clinton	Renovations to the police station	250,000	250,000
312	Connecticut Public Broadcasting, Inc.	Purchase and upgrade of transmission, broadcast, production, and information technology equipment	2,500,000	500,000
269	Coventry: Antiquarian & Landmarks Foundation	Grant for the Nathan Hale Museum and Family Homestead Development Plan	1,000,000	250,000
253	Cromwell	Sewer repairs	500,000	500,000
329	Danbury: Stanley L. Richter Association for the Arts	Roof repair, expansion, and ADA improvements	150,000	150,000 <sup>1</sup>
260	Darien Arts Center	Infrastructure renewal projects	50,000	50,000
195	Derby	Downtown development	250,000	250,000
49	East Hartford	Road and infrastructure and improvements associated with the Rentschler Field project	4,500,000	1,325,000
73	East Hartford	Road and infrastructure and improvements associated with the Rentschler Field project	2,500,000	2,500,000
183	East Hartford	Improvements to Yanner Park	100,000	100,000
154	East Hartford: Community Renewal Team, Inc.	Purchase a building for the East Hartford Shelter	650,000	650,000
338	East Hartford: Goodwin College	Expansion or relocation of Goodwin College	6,000,000	6,000,000
187	Enfield	Lead abatement and painting at Old Town Hall	102,000	102,000
247	Enfield	Soil remediation project at Enrico Fermi High School	3,300,000	500,000
47	Fairfield	Rooster River flood control project – completion of Phase II	3,000,000	2,862,914
282	Fairfield	Repair and improvements on State Road 59 between the North Avenue and Capitol Avenue intersections, including median and sidewalk renovations	1,000,000	850,000
133	Farmers Cow, LLC	Grant for business development	300,000	300,000
185	Farmington	Reconstruction of the outdoor track at Farmington High School	200,000	200,000
208	Farmington	Renovations to the Farmington Youth Center	50,000	50,000
261	Granby: Holcomb Farm	Restoration and renovation of buildings	100,000	50,000
254	Greenwich	Renovation of existing, or construction of new, exhibition areas, teaching spaces, and the science gallery at the Bruce Museum	1,500,000	500,000
174	Guilford	Costs associated with the dredging of Lake Quonnipaug	75,000	75,000
245	Guilford	Preservation of the East River Preserve	1,000,000	1,000,000
177	Haddam	Planning and development of recreational fields	150,000	150,000
263	Hamden	Restoration of the Eli Whitney 1816 Barn	390,000	240,000
299	Hamden: Interfaith Cooperative Ministries of New Haven	Aging at home pilot program in Hamden	100,000	100,000
137	Hartford	Installation of a sprinkler playscape at DeLucca Park	90,000	90,000
138	Hartford	Making the playground at SAND Apartments handicapped accessible	50,000	50,000
266	Hartford: Artists' Collective, Inc.	Infrastructure repairs and improvements to the existing structure	800,000	200,000
291	Hartford: Neighborhoods of Hartford, Inc.	Grant for the Hartford Rising Star Blocks and Pride Blocks programs	500,000	500,000

<i>§</i>	<i>Grantee</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
322	Hartford: Connecticut Resources Recovery Authority	Costs associated with closure of the Hartford landfill	10,000,000	5,000,000
302	Hartford: Mi Casa	Renovations and acquisition of equipment for a wellness center	350,000	50,000
257	Lyme Art Association	Renovations to gallery building in Old Lyme	100,000	100,000
249	Manchester	Development and construction of the Manchester-to-Bolton segment of the East Coast Greenway	790,240	290,240
209	Mansfield	Installation of air conditioning at Mansfield Community Center	50,000	50,000
43	Meriden	Flood management activity	200,000	185,000
184	Meriden	Flood control project	1,000,000	1,000,000
200	Meriden	Streetscape project	250,000	250,000
277	Meriden	West Main Street streetscape project	2,500,000	500,000
300	Meriden/Wallingford branch of the American Red Cross	Building renovations, including alterations to ventilation, plumbing, and wiring systems	50,000	50,000
296	Meriden: Rushford Behavioral Health Services	Renovations and roof replacement	800,000	72,222
175	Milford	Design of Eisenhower Park	100,000	100,000
194	Milford	Devon Borough Revitalization Project	2,500,000	2,500,000
250	Milford	Beach replenishment	500,000	500,000
276	Milford	Streetscape improvements on Silver Sands Parkway, including lights in front of Jagoe Court	500,000	500,000
294	Milford	Design and construction of a new community health center in the Westshore area	150,000	150,000
262	Milford Historical Society	Restoration and renovation of historic property	50,000	50,000
325	Mystic	Improve transportation access at the north gate at the Museum of America and the Sea at Mystic Seaport	1,000,000	250,000
243	New Britain	Replacement of the Brooklawn Street Bridge on Willow Brook	440,000	140,000
334	New Britain	Property acquisition, design, development, and construction of a downtown redevelopment plan	400,000	400,000
155	New Britain YWCA	Improvements	100,000	50,000
310	New Britain: Pathways-Senderos Teen Pregnancy Prevention Center	Acquisition of a new facility	1,200,000	375,000
304	New Britain: Polish American Foundation	Renovations at the Sloper Wesoly House in New Britain	100,000	25,000
333	New Haven	River Street development project	2,500,000	250,000
268	New Haven Museum and Historical Society	Restoration and reconstruction of the Pardee Morris House	500,000	150,000
197	New Haven: University of New Haven	Establishment and construction of the Henry Lee Institute	2,000,000	500,000
311	New Haven: Youth Continuum	Renovations and code improvements	500,000	150,000
244	New London	Repairs at Ocean Beach Park	1,350,000	675,000
295	New London: Community Health Center, Inc.	Renovations and improvements at the New London facility	1,000,000	1,000,000
292	Newington	Grant for the community center	1,000,000	250,000
186	North Branford	Development and improvements to Swajchuk and Highland Parks	500,000	500,000
323	Norwalk	Harbor dredging	1,000,000	1,000,000
259	Norwalk Seaport Association	Infrastructure renewal projects	500,000	250,000
326	Norwalk: Lockwood-Mathews Mansion Museum	Infrastructure renewal projects	1,000,000	1,000,000
255	Norwalk: Stepping Stones Museum for Children	Expansion of the facility	400,000	400,000
143	Norwich: Easter Seals	Purchase building for adult clients	2,600,000	1,200,000
148	Norwich	Harbor district project	250,000	250,000
196	Norwich	Harbor district project	1,250,000	250,000
301	Norwich: Hospice Southeastern Connecticut	New building in Norwich	800,000	200,000

<i>§</i>	<i>Grantee</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
158	Norwich: Martin House	Expand facility	700,000	200,000
339	Norwich: Martin House	Construction of efficiency apartment units	1,000,000	250,000
178	Old Lyme	Improvements to the Lyme-Old Lyme recreational fields	150,000	150,000
151	Portland	Grant for sidewalk repairs and aesthetic improvements to Main Street	125,000	125,000
324	Simsbury	Open space acquisition at the Ethel Walker School	1,000,000	1,000,000
235	Somers	Two fire substations	439,025	439,025
147	Southington	Redevelop drive-in theater property	215,000	15,000
176	Stamford	Park restoration and infrastructure improvements	500,000	500,000
179	Stamford	Holly Pond Tidal Restoration project	750,000	250,000
189	Stamford	Improvements to the playgrounds and athletic fields at Springdale School	100,000	100,000
202	Stamford	Purchase by the Stamford Health Department of a mobile medical unit for the uninsured and elderly	250,000	250,000
207	Stamford	Architectural, engineering, and other site preparation services and costs for the Hunt Center for Pre-K Education	500,000	500,000
248	Stonington	Soil remediation in the vicinity of Pawcatuck Dock	150,000	6,500
149	Stratford	Barnum Avenue streetscape project	500,000	150,000
204	Stratford	Planning and construction of the South End Community Center	1,000,000	250,000
293	Stratford	Streetscape improvements	450,000	200,000
308	Stratford	New boilers at Stratford High School	500,000	500,000
335	Vernon	Grant for conversion of Roosevelt Mill to apartments and retail	500,000	500,000
327	Torrington	Development and construction of the Warner Theater Stage House	1,000,000	250,000
181	Waterbury	Improvements to the Waterville Recreation Center	250,000	250,000
182	Waterbury	Improvements to Lakewood Park	250,000	250,000
303	Waterbury	The act cancels \$500,000 of an existing \$3 million authorization for a grant to Casa Bienvenida for property acquisition in Waterbury. It also eliminates the grant to Casa Bienvenida. Instead, it requires DSS to use the remaining \$2.5 million for grants to nonprofit organizations in Waterbury for facility alterations, renovations, and improvements, including new construction, with up to (1) \$2 million for the St. Margaret Willow Plaza Neighborhood Revitalization Zone Association, Inc. and (2) \$500,000 for the Hispanic Coalition of Greater Waterbury.	3,000,000	500,000
111	West Hartford: American School for the Deaf	Purchase of amplification systems	896,607	26,060
264	West Haven	Restoration of a historic property for use as a military museum	750,000	750,000
328	West Haven	Restoration of a historic property for use as a military museum	1,000,000	1,000,000
237	West Haven: Allingtown Fire District	Land acquisition and construction of a new fire and police substation	2,000,000	2,000,000
256	Westport Historical Society	Retirement of outstanding debt	600,000	600,000
160	Windham Community Memorial Hospital	Emergency room improvements and addition of a heliport	1,000,000	1,000,000
205	Windham County 4-H Foundation, Inc.	Building additions and renovations	500,000	500,000
156	Windham Regional Community Council, Inc.	Acquisition and improvements to a central office building in Willimantic	814,500	814,500

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<i>§</i>	<i>Grantee</i>	<i>For</i>	<i>Prior Authorization</i>	<i>Amount Cancelled</i>
267	Windsor Locks: New England Air Museum	Construction of a swing space storage building and an education building	3,250,000	1,250,000
136	Wolcott	Improvements to the Wolcott youth football and soccer fields	250,000	250,000

<sup>1</sup>PA 10-179 (§§ 144 and 157) reverses this cancellation.

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**PA 10-45—sSB 1 (VETOED)***Finance, Revenue and Bonding Committee***AN ACT CONCERNING THE PRESERVATION AND CREATION OF JOBS IN CONNECTICUT****SUMMARY:** This act:

1. exempts certain businesses with annual net incomes of \$50,000 or less from the \$250 business entity tax for two years and
2. imposes an 8.97% tax in lieu of regular state income tax on certain bonuses of \$500,000 or more paid or awarded to Connecticut taxpayers by companies that received direct funding from the federal Troubled Asset Relief Program (TARP) or certain of their affiliates.

**EFFECTIVE DATE:** Upon passage and applicable to tax years starting on or after January 1, 2010.

**BUSINESS ENTITY TAX EXEMPTION**

The annual \$250 business entity tax applies to foreign and domestic S corporations, limited liability companies, limited liability partnerships, and limited partnerships that file annual reports with the secretary of the state. The act exempts certain of these businesses from the tax for the 2010 and 2011 tax years.

The exemption applies to any business that, for the applicable tax year, (1) reports \$50,000 or less in net income on its annual informational income return filed with the Department of Revenue Services (see **BACKGROUND**) and (2) employs at least one full-time person in Connecticut for at least eight consecutive months during the year. For purposes of the exemption, “full-time” means that an employee or member of, or partner in, the business is paid to work at least 35 hours per week.

**TARP BONUS TAX**

The act imposes an 8.97% tax on any bonus totaling \$500,000 or more paid or awarded to a Connecticut taxpayer during the 2010 and 2011 tax years by a “TARP recipient.” Under the act, a TARP recipient is (1) any entity that received funds directly from the federal TARP; (2) an entity that, for federal tax purposes, is considered part of the same affiliated group as an entity that received TARP funds (see **BACKGROUND**); or (3) a partnership that is more than 50% owned, directly or indirectly, by one or more of these entities.

The 8.97% tax is in lieu of the state income tax otherwise due on the taxable TARP bonus income. The 8.97% rate applies to the entire covered bonus and is in addition to state income tax due on a taxpayer’s other taxable income, if any. Regular state income tax rates and provisions apply to other taxable income.

The TARP bonus tax covers retention or incentive payments or other bonuses over and above a taxpayer’s regular periodic pay rate that are either paid in the 2010 or 2011 tax year or paid in the future for work performed during those years. Covered bonuses can be cash or noncash payments, loans, or arrangements for future payments. In addition, any reimbursement a TARP recipient makes to a taxpayer for the bonus tax is considered part of the bonus and is also subject to the bonus tax.

The bonus tax does not apply (1) to commissions, welfare or fringe benefits, or expense reimbursements or (2) when a taxpayer, without receiving any other benefit from the TARP recipient in return, irrevocably waives his or her right to the bonus payment or returns it before December 31 of the applicable tax year.

The tax applies regardless of whether the TARP recipient has repaid the federal government any or all funds it received from the TARP.

Under the act, TARP recipients that pay or award TARP bonuses of \$1 million or more during the 2010 or 2011 tax year must comply with applicable state income tax withholding requirements on those payments.

**BACKGROUND***Informational Return for Pass-Through Businesses*

By law, each pass-through business that has income derived from or connected to Connecticut sources must file an annual return with the Department of Revenue Services containing information about its finances, including its income, and its resident and nonresident partners or members. The requirement applies to S corporations; general, limited, and limited liability partnerships; limited liability companies treated as partnerships under federal tax laws; and trusts and estates (CGS § 12-726).

*Affiliated Group*

For purposes of identifying TARP recipients, the act incorporates by reference the federal definition of an “affiliated group.” Under federal tax law, an “affiliated group” is a group of corporations or corporate chains connected to the same parent corporation in which (1) one or more of the corporations included in the group directly owns at least 80% of the voting power and 80% of the total value of the common stock of each of the other included corporations and (2) their common parent directly owns at least 80% of the voting power and 80% of the total value of the common stock of at least one of the included corporations (IRC § 1504).



**PA 10-95**—sHB 5535*Finance, Revenue and Bonding Committee***AN ACT CONCERNING A MONTHLY REPORT FROM THE STATE TREASURER REGARDING THE STATE'S CASH BALANCE**

**SUMMARY:** This act requires the state treasurer to report monthly on the state's cash balance to the chairpersons and ranking members of the Finance, Revenue and Bonding and Appropriations committees and to the Office of Fiscal Analysis. Each report must cover the month that was two months before the report submission date (for example, the report submitted in March must cover January) and include:

1. a weekly cash balance listing, with the amount and percentage of such sources as the common cash pool and bond and Special Transportation Fund investments, and accompanying footnotes;
2. an ongoing, year-to-date total of authorized but unissued bonds, as well as assumptions about bond issuance and any monthly changes in the assumptions;
3. information on any other debt or commercial paper issued and their types and amounts, with accompanying footnotes; and
4. amounts in the common cash fund, with the amount of each component, such as bank and different investment accounts, listed separately.

The treasurer must start submitting the reports on October 1, 2010 and make them publicly available in both paper and electronic form.

EFFECTIVE DATE: July 1, 2010

**PA 10-146**—sHB 5529*Finance, Revenue and Bonding Committee***AN ACT CONCERNING AN EXEMPTION FROM THE ADMISSIONS TAX AT RENTSCHLER FIELD**

**SUMMARY:** This act exempts admission charges for interscholastic athletic events held at Rentschler Field from the 10% admissions tax. By law, charges for events benefiting federally tax-exempt organizations, such as schools, are exempt from the tax but, except for those specified in this act, charges for such events held at Rentschler Field are taxable.

EFFECTIVE DATE: July 1, 2010 and applicable to admission charges imposed on or after that date.

**PA 10-150**—SB 431*Finance, Revenue and Bonding Committee***AN ACT CONCERNING COLLATERAL FOR SECURITIES LENDING BY THE STATE TREASURER**

**SUMMARY:** This act allows the state treasurer to accept securities guaranteed by certain foreign countries as collateral for loans and repurchase agreements involving securities owned by the state's trust funds, including the state employees', teachers', and municipal employees' retirement funds. To be acceptable, the foreign securities must be (1) guaranteed by a sovereign country that participates in the so-called "G 10" and (2) rated AA or better by at least one nationally recognized statistical rating organization. Prior law allowed the treasurer to accept only cash or securities guaranteed by the U. S. government or one of its agencies.

The act maintains requirements that (1) when the loan or repurchase agreement is executed, the collateral equal 100% of the market value of the securities sold or lent and (2) during the term of the loan or agreement, the value of the collateral not fall below 95% of, and \$100,000 less than, the value of the securities sold or lent.

EFFECTIVE DATE: July 1, 2010

**BACKGROUND***Repurchase Agreement*

A repurchase agreement or "repo" is a contract under which a seller of securities agrees to buy them back at a specified time and price. A repo is similar to a secured loan, in which the buyer provides funds to the seller and holds the security as collateral to protect against default.

*"G 10" Countries*

Eleven countries currently participate in the General Agreements to Borrow or G 10: Belgium, Canada, France, Germany, Italy, Japan, the Netherlands, Sweden, Switzerland, the United Kingdom, and the United States. The countries consult and cooperate on economic, monetary, and financial matters.

**PA 10-188**—sHB 5494

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING VARIOUS CHANGES  
TO TITLE 12 AND TO THE TAX CREDIT  
PROGRAM FOR REHABILITATION OF  
CERTIFIED HISTORIC STRUCTURES**

**SUMMARY:** This act:

1. eliminates a state corporation tax deduction for federally deductible dividends companies receive from “captive” real estate investment trusts (REITs) unless the captive REIT is also subject to the Connecticut corporation tax;
2. modifies and expands requirements for filing amended corporation and income tax returns when a taxpayer files an amended federal corporation tax return or an amended income tax return with another state or the District of Columbia;
3. requires inactive sellers to surrender their state sales tax permits and changes the notice and hearing requirements before the Department of Revenue Services (DRS) may cancel an inactive seller’s permit;
4. standardizes motor carrier tax report filing deadlines and eliminates all reporting for carriers that operate only within Connecticut and buy all their fuel here;
5. eliminates municipalities’ role in approving individual Neighborhood Assistance Act tax credit applications (municipalities must still approve the credit-eligible programs); and
6. allows the DRS commissioner to require more taxpayers and employers to electronically file tax returns and transfer tax payments and withholding taxes.

The act also allows property owners eligible for business tax credits for projects that rehabilitate historic structures for mixed commercial and residential use to receive tax credit vouchers for completing and placing in service a portion of the project that does not include residential uses. Under prior law, owners completing a project in phases could obtain credit vouchers only for individual residential units that are an identifiable portion of the building.

Finally, the act eliminates two obsolete tax commissions and an annual report to the legislature on DRS’ annual cigarette tax enforcement activities. It also makes technical and conforming changes (§§ 4, 8, 14, and 16).

**EFFECTIVE DATE:** Various, see below.

**§§ 1-3 — DISALLOWANCE OF CORPORATION  
TAX DEDUCTION FOR CAPTIVE REAL ESTATE  
INVESTMENT TRUST (REIT) DIVIDENDS**

In calculating net income for Connecticut corporation tax purposes, the law requires companies to count dividends they receive from certain real estate investment trusts (REITs). This act expands this provision to require companies to include dividends paid from “captive” REITs in their taxable net income unless the captive REIT is also subject to the Connecticut corporation tax.

The act defines a “captive REIT” as one that (1) for any taxable year, qualifies for special federal tax treatment (see BACKGROUND); (2) is not regularly traded on an established securities market; (3) has more than 50% of its shares directly or constructively owned or controlled by a single-entity corporation; and (4) is not a “qualified” REIT. State law defines a “qualified REIT” as one that (1) was formed and had at least \$500 million in real estate assets contributed to it before April 1, 1997 and (2) elected before April 1, 1998 to be treated as a REIT for federal tax purposes. Deductions for intercompany dividends from nonqualified REITs are already disallowed for Connecticut corporation tax purposes under CGS § 12-217(a) (3).

Under the act, a REIT is not considered a “captive REIT” if more than 50% of its beneficial or voting shares are owned by a single-entity corporation controlled by an entity that:

1. for any taxable year, qualifies for special federal tax treatment as a REIT;
2. is exempt from federal taxes;
3. is a foreign REIT organized in a country that has a tax treaty with the U.S. that addresses the tax treatment of REITs; or
4. is a REIT that (a) will become regularly traded in an established securities market, (b) has at least 100 shareholders, and (c) is not closely held.

Under the act, REIT shares are considered to be “constructively owned” by someone if they are owned by (1) the person’s spouse or his natural or adopted children, parents, or grandparents; (2) a partnership, S corporation, or trust in proportion to the person’s ownership share in the entity; or (3) a corporation in proportion to the person’s ownership share, provided the person owns at least 10% of the corporate shares (IRC § 318 (a) as modified by IRC § 856 (d)(5)).

**EFFECTIVE DATE:** Upon passage and applicable to income years starting on or after January 1, 2010.

### §§ 5, 12 & 13 — AMENDED TAX RETURNS

A corporation that files an amended federal corporate tax return has 90 days to file an amended state corporation tax return. The act delays the start of this 90-day filing period from the date the taxpayer files its amended federal return to the date of the final federal determination on the amended return. It also makes the requirement to file an amended state return apply when the taxpayer files an amended return with any federal official or agency, not just the IRS.

The act makes similar changes in the statutes concerning (1) amended income tax returns filed with other states, other states' political subdivisions, or the District of Columbia that change the amount of taxes the person must pay to the other jurisdiction from that for which he or she received a credit on his or her Connecticut income tax return and (2) amended Connecticut informational income tax returns required from partnerships, limited liability companies, and S corporations that file amended federal returns.

The act requires DRS to treat any such amended state return requiring a tax refund as having been filed in "processable form" (for a corporation tax return) or as having "sufficient required information" (for an income tax return) once the taxpayer submits proof of the final determination from the federal government or other jurisdiction, as applicable. By law, the state must pay interest of 0.66% per month if it fails to pay a tax refund within 90 days after a final tax filing deadline or the date the return was filed, whichever is later. The 90-day period starts when the return is filed in a processible form or is determined to contain sufficient required information.

EFFECTIVE DATE: Upon passage and applicable to income years or tax years, as appropriate, starting on or after January 1, 2010.

### § 6 — SALES TAX PERMITS HELD BY INACTIVE SELLERS

By law, those engaged in the business of selling in Connecticut must hold a DRS-issued sales tax permit for each place of business. This act allows only those who are actively conducting business as sellers to hold such permits and requires inactive sellers to surrender their permits for cancellation.

Prior law already allowed the DRS commissioner, after notice and hearing, to revoke a permit when a seller has filed four successive monthly or quarterly sales tax returns showing no sales. The act:

1. changes the commissioner's action from a permit revocation to a cancellation;
2. allows the commissioner to also cancel a permit if a seller's returns show no sales for two successive annual periods;

3. extends the commissioner's required written notice of a permit cancellation hearing from 10 to 30 days before the hearing; and
4. eliminates a requirement that, if the commissioner gives notice of the hearing by mail, it be by registered or certified mail.

The act bars the commissioner from issuing a new permit to replace a canceled one unless the commissioner is satisfied that the seller will make taxable sales.

EFFECTIVE DATE: July 1, 2010

### § 7 — MOTOR CARRIER ROAD TAX REPORTS

The act eliminates the DRS commissioner's authority to adopt alternate motor carrier road tax report filing schedules and deadlines by regulation. It thus requires all carriers required to file reports to file them quarterly on the last days of January, April, July, and October.

Under prior law, the commissioner could exempt carriers that either (1) operate only in Connecticut or (2) buy all their fuel in the state, from quarterly reporting and instead require them to file annual reports. The act requires the commissioner to exempt motor carriers that both operate and buy all their fuel only in Connecticut from all reporting. It requires all other carriers to file quarterly reports and eliminates the annual reports.

EFFECTIVE DATE: July 1, 2010 and applicable to quarters beginning on or after January 1, 2011.

### §§ 8-10 — NEIGHBORHOOD ASSISTANCE ACT TAX CREDITS

The Neighborhood Assistance Act (NAA) provides business tax credits to companies that invest in certain municipally approved community activities and programs.

The act eliminates municipalities' role in approving tax credit proposals from individual businesses. Under prior law, the DRS commissioner had to refer each such proposal to the municipal agency in charge of overseeing the credit-eligible program. The agency had 30 days to approve or disapprove the application. Failure to act constituted disapproval. The act also eliminates municipal approval or disapproval as a factor in the DRS commissioner's decision to approve a tax credit application. Instead, it requires the commissioner to decide based on whether the application was (1) submitted on time (i.e., between September 15<sup>th</sup> and October 1) and (2) complies with the NAA's requirements.

Finally, the act increases the NAA credit for business investments in community-based alcoholism prevention or treatment programs from 40% to 60% of the investment, thus making it match the 60% credits

generally applicable to most other NAA activities.

The act also makes a technical change.

EFFECTIVE DATES: July 1, 2010 for the provision eliminating the municipal approval requirement and upon passage for the other provisions. The technical change applies to income years starting on or after January 1, 2010.

#### § 11 — ELECTRONIC FUNDS TRANSFER AND ELECTRONIC FILING REQUIREMENTS

The act expands the DRS commissioner's authority to require taxpayers and employers to pay taxes or transfer withholding taxes electronically.

Under prior law, the commissioner could require electronic payment from those whose annual tax liability or employer withholding tax payment requirements are more than \$10,000. The act reduces the thresholds to (1) \$4,000 or more in annual tax liability and (2) more than \$2,000 in annual withholding tax payments.

It also requires any taxpayer that, by DRS regulation, is required to file tax returns, statements, and other documents electronically to also pay the applicable taxes electronically. The payment requirement does not apply to tax return preparers.

EFFECTIVE DATE: July 1, 2010

#### §§ 15 & 16 – HISTORIC STRUCTURES TAX CREDIT

##### *Projects Completed in Phases*

Property owners who rehabilitate historic structures for mixed commercial and residential use are eligible for business tax credits. Those completing projects in phases can receive tax credit vouchers for completing work on, and placing in service, an identifiable part of the building. Under prior law, the only project phases eligible for credit vouchers were individual residential units. This act allows an owner to receive a voucher for a substantial rehabilitation of an identifiable part of a building even if the completed portion includes no residential units.

By law, before beginning any work, an owner must apply for a credit to the Commission on Culture and Tourism (CCCT). He or she must submit a rehabilitation plan, expenditure estimates, and other information to CCCT for its review and approval. This act requires any owner who plans to complete the rehabilitation in phases to also provide a full description of each phase, with anticipated completion schedules. The plan must include a description of the residential uses and schedule for completing them.

The owner must notify CCCT when he or she has completed and placed in service an identifiable portion of the building, document the work performed on that portion, and submit a cost certification. After reviewing the rehabilitation phase and verifying that it complies with the plan, CCCT must issue a tax credit voucher.

##### *Credit Voucher Recapture*

If the property owner fails to complete the residential portion of the project within the schedule specified in the plan, the owner must repay ("recapture") 100% of the credit voucher amount on his or her tax return for the income year following the year of the failure. The act allows CCCT to extend the completion deadline for the residential portion for a maximum of three years.

EFFECTIVE DATE: July 1, 2010. The voucher provision applies to income years starting on or after January 1, 2010.

#### §§ 14 & 17 — REPEALED PROVISIONS

##### *Commissions Eliminated*

The act eliminates the Small- and Medium-Sized Business Users' Committee and the State Tax Review Commission.

The former was established to advise and make recommendations to the DRS commissioner on how to improve the department's "user friendliness." It was composed of the DRS commissioner and the chairs and ranking members of the Commerce and Finance Committees or their designees, two members appointed by the governor, and 10 members with specific qualifications appointed by the legislative leaders. The State Tax Review Commission, established in 1991, was originally charged with evaluating the state's tax system and making a single report by December 15, 1992. In 1993, the legislature expanded its charge and required it to make reports every year by December 15. The commission filed reports in December 1992 and January 1994, but then fell into inactivity.

##### *Report on Cigarette Tax Enforcement*

The act eliminates a requirement that the DRS commissioner report annually on the department's cigarette sales enforcement activities to the Public Health and Children's committees and the state agency the governor designates as responsible for reducing smoking by minors. The first report was due January 1, 1998. The Legislative Library has no record of any reports being submitted.

EFFECTIVE DATE: Upon passage

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## BACKGROUND

### *Real Estate Investment Trust (REIT)*

A REIT pools resources from investors to own either real properties, such as apartments, shopping malls, or office buildings, or mortgages. Under federal law, certain REITs receive special tax treatment. To qualify, a REIT must:

1. be managed by one or more trustees or directors;
  2. signify ownership in the form of either transferable shares or transferable certificates of beneficial interest;
  3. be an entity that would otherwise be subject to federal corporation tax;
  4. not be either a financial institution or an insurance company;
  5. have at least 100 shareholders;
  6. not be closely held;
  7. derive at least 95% of its gross income from dividends, interest, rents, and other transactions involving real property, with at least 75% from real property transactions; and
  8. hold at least 75% of the total value of its assets in the form of real property and no more than 25% in securities (IRC § 856).
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PA 10-9—sHB 5138  
General Law Committee

**AN ACT MAKING MINOR AND TECHNICAL REVISIONS TO DEPARTMENT OF CONSUMER PROTECTION STATUTES**

**SUMMARY:** This act makes minor and technical changes to consumer protection statutes concerning (1) food labeling, (2) seal requirements for well-drillers, (3) Home Improvement Guarantee Fund payment requests, (4) license renewals, (5) Automotive Glass Work and Flat Glass Work Board members, (6) proof of workers' compensation insurance, (7) Department of Consumer Protection (DCP) exam requirements, and (8) charitable organizations.

EFFECTIVE DATE: Upon passage

**§§ 1, 2, 4 — COMPLIANCE WITH FEDERAL FOOD LABELING LAWS**

The act conforms, by reference, specified food labeling statutes to the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301, *et seq.*), as amended by the federal Nutrition Labeling and Education Act (21 U.S.C. § 343, *et seq.*). The federal act preempts all state and local labeling laws that do not impose identical standards for most food products.

**§ 3 — LABELING REQUIREMENTS FOR BREAD**

The act eliminates (1) weight labeling requirements for retail sale of loaves of bread weighing less than one pound and (2) the ban on bakeries producing loaves of bread that, within 12 hours of baking, vary by more than one ounce per pound below the standard one pound or marked weight.

**§ 5 — SEAL FOR REGISTERED WELL-DRILLERS**

The act eliminates the requirement that (1) DCP issue a seal indicating the year it issued or renewed a registered well-driller's registration certificate and (2) drillers affix them to their equipment.

**§ 6 — CERTIFIED COPIES FOR HOME IMPROVEMENT GUARANTEE FUND**

The act eliminates the requirement that the copy of court judgments consumers provide DCP when applying for payment from the Home Improvement Guarantee Fund be certified. By law, consumers may apply for payments when a court order against a contractor does not cover all of the actual damages and costs a consumer suffered.

**§ 7 — LICENSE, PERMIT, CERTIFICATE, AND REGISTRATION RENEWAL DEADLINE**

The act specifies that parties needing to renew a license, permit, certificate, or registration must do so no later than the expiration date or be subject to a DCP fine.

**§ 8 — AUTOMOTIVE GLASS WORK AND FLAT GLASS WORK BOARD**

The act reduces the Automotive Glass Work and Flat Glass Work Board from nine to eight members by eliminating the position assigned to an unlimited journeyman licensed to perform automotive glass work.

**§ 9 — EVIDENCE OF WORKERS' COMPENSATION INSURANCE**

The act gives those applying for an initial DCP license or permit the option of providing the name of the insurer, insurance policy number, effective dates of coverage, and a certification that the information is truthful and accurate to prove they have workers compensation insurance. Under prior law, only renewal applicants could use this method. By law, they can also provide one of three different physical certificates showing they have the required insurance.

**§ 10 — REAL ESTATE LICENSE EXAMS**

The act allows applicants for a real estate broker's or salesperson's license to take the exam as many times as it is offered. Prior law limited applicants to four exams a year.

**§ 11 — EXAM REQUIREMENTS**

The act allows DCP to determine how many times a year to offer license exams for electricians; plumbers; solar heating, piping, and cooling contractors and journeymen; elevator and fire protection sprinkler craftsmen; and irrigation contractors and journeymen. Prior law required DCP to offer these exams at least four times a year.

The act eliminates the limitation on the number of exams an applicant can take in a year and the requirement that an applicant wait a year after failing the exam for the third time in a one-year period. It also eliminates the board's ability to keep the application fee if the applicant does not appear for three consecutive exams for which written notice was sent.

§§ 12-18 — CHARITABLE ORGANIZATIONS

The act makes numerous minor and technical changes to the charitable organization statutes, including allowing these organizations to receive and submit information electronically.

PA 10-27—sSB 133

General Law Committee

Labor and Public Employees Committee

AN ACT CONCERNING APPRENTICE TO JOURNEYMEN AND CONTRACTOR RATIOS

SUMMARY: This act reduces, by two, the hiring ratio of construction trade journeypersons and contractors required for every apprentice in the following trades: plumbing; heating, piping, and cooling; sprinkler fitter; and sheet metal work. It retains the requirement for one journeyperson or contractor to be on-site for one apprentice. It requires the consumer protection commissioner to amend regulations to specify the allowable hiring ratios.

EFFECTIVE DATE: Upon passage

HIRING OF APPRENTICES

Department of Consumer Protection (DCP) regulations (1) require apprentices to work only in the presence, under the direct supervision, and within sight or hearing of a licensed contractor or journeyperson and (2) limit the number of apprentices certain contractors may employ (Conn Agencies Reg. § 20-332-15a). The act reduces the number of journeypersons and contractors required to hire two or more apprentices as follows:

Apprentices	Journeypersons or Contractors	
	Current Regulations	The Act
1	1	1
2	4	2
3	7	5

Under the regulations and the act, an additional three contractors or journeypersons are required in order to hire each additional apprentice over two. The act's ratios are the same as those that already apply to electricians.

BACKGROUND

Occupational Licensing System

Each trade has three different levels of expertise: apprentice, journeyman, and contractor. Contractors may offer their services to the public; apprentices and journeymen must work for contractors. Workers must meet education, training, and experience requirements to qualify for each level. Licensing boards may create limited licenses authorizing their holders to work in a specific area of a trade. They establish less extensive requirements for workers attempting to qualify for a limited license. The DCP duties to the boards include receiving complaints; carrying out investigations; and performing administrative tasks, such as physically issuing licenses and renewals.

PA 10-48—SB 132

General Law Committee

AN ACT CONCERNING LANDSCAPE ARCHITECTS

SUMMARY: This act allows landscape architects to form professional practices with architects, professional engineers, and land surveyors.

By law, any combination of licensed architects, professional engineers, and land surveyors may form a corporation or limited liability company (LLC) to jointly practice their professions. The act adds licensed landscape architects to the group, allowing them to jointly practice with any combination of those professions.

EFFECTIVE DATE: July 1, 2010

LANDSCAPE ARCHITECTS

The act requires:

1. the personnel in charge of the landscape architecture for the corporation or LLC to be licensed landscape architects;
2. the corporation or LLC to obtain a joint Department of Consumer Protection (DCP) registration certificate at the direction of the State Board of Landscape Architects (SBLA) and other appropriate boards;
3. the corporation or LLC to provide, at the request of the SBLA and other appropriate boards, information about the business organization;
4. applicants to pay an initial \$565 registration and a \$375 annual renewal fee;
5. the corporation or LLC to comply with the landscape architect statutes;



6. all fees collected to be paid to the state treasurer for deposit in the General Fund; and
7. the DCP commissioner to adopt regulations with the advice of the SBLA.

The act subjects landscape architects to the existing requirement that each professional member in the joint venture own at least 20% of the corporation's or LLC's voting stock or interests and requires one or more licensees to own at least two-thirds of its voting stock or interests.

The act does not relieve the corporation or LLC, or anyone working for it, from liability for services performed. Additionally, no individual is relieved of his or her responsibility for services performed because of his or her employment or relationship with such a corporation or LLC.

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**PA 10-52**—sSB 187

*General Law Committee  
Judiciary Committee*

**AN ACT INCREASING PENALTIES FOR VIOLATIONS OF THE NO SALES SOLICITATION CALLS ACT**

**SUMMARY:** This act adds a penalty of up to \$11,000 for each violation of the law prohibiting solicitors from making unsolicited telephone calls to people who have registered on the state “Do Not Call” registry. By law, a violation is an unfair trade practice.

The act also prohibits anyone not registered with the Department of Consumer Protection (DCP) as an interior designer or architect from using the title “registered interior designer.” It eliminates an exception allowing a person to use the title of “interior designer” if he or she used or was identified by the title for at least one year immediately preceding October 1, 1983.

**EFFECTIVE DATE:** January 1, 2011 for the “Do Not Call” provision; upon passage for the interior designer provision.

**BACKGROUND**

*Do Not Call Registry*

State law allows any individual to register a telephone number with the “Do Not Call” registry, and prohibits telephone solicitors from making unsolicited telephone calls to anyone on it. The law applies to calls made to (1) engage in a marketing or sales solicitation, (2) solicit a credit extension for such goods or services, or (3) obtain information to use in the solicitation of a sale or credit extension.

The law does not apply to calls made or sent (1) with the consumer's prior express written or verbal permission or in response to a consumer's visit to a seller's establishment; (2) by a tax-exempt nonprofit organization; (3) primarily in connection with an existing debt or contract that has not been paid or performed; or (4) to an existing customer, unless the customer has informed the solicitor that he or she no longer wishes to receive the solicitor's calls (CGS § 42-288a).

*Connecticut Unfair Trade Practices Act (CUTPA)*

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

*Related Case: Registered Interior Designer*

In *Roberts et al. v. Farrell*, 630 F. Supp. 2d 242 (D. Conn. 2009), the court ruled the interior designer statute (CGS § 20-3771) violated the plaintiff's First and Fourteenth Amendment rights by restricting their ability to be called an “interior designer.” The court suggested clarifying the statute by using “registered interior designer” rather than simply “interior designer.”

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**PA 10-80**—sHB 5225

*General Law Committee  
Energy and Technology Committee*

**AN ACT CONCERNING SOLAR WORK**

**SUMMARY:** This act requires the administrator of a solar photovoltaic rebate program funded by the Renewable Energy Investment Fund, also known as the Clean Energy Fund, to allow E-1 and E-2 electrical licensees to be eligible photovoltaic rebate program contractors if they are qualified by experience or training in photovoltaic system siting, design, and electrical services. It specifies that such electricians are not exempt from a rebate program's insurance or inspection requirements.

A license holder is qualified by experience or training if he or she:

1. (a) has completed a photovoltaic installation training course or (b) received manufacturer certification regarding the photovoltaic products to be installed; and
2. has (a) completed as a lead installer or as a subcontractor one or more photovoltaic installations that may be grid-tied photovoltaic systems installed at the license holder's residence or business, (b) been the on-site supervisor for one or more photovoltaic system installations, or (c) completed seven or more photovoltaic system installations as an apprentice.

EFFECTIVE DATE: Upon passage

#### BACKGROUND

##### *Clean Energy Fund*

The Clean Energy Fund (Renewable Energy Investment Fund) is funded by a charge on electricity sold in the state. Connecticut Innovations, Inc. must use the fund to promote investments in renewable energy technologies including solar photovoltaic energy, wind, ocean thermal energy, wave or tidal energy, fuel cells, landfill gas, certain biomass technologies, and new technologies that have significant potential for commercialization.

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#### PA 10-148—SB 131

*General Law Committee*

#### AN ACT CONCERNING RETAINAGE

**SUMMARY:** This act lowers the maximum retainage allowed in commercial construction contracts from 7.5% to 5%. "Retainage" is the amount withheld from progress payments conditioned on substantial or final completion of all work in accordance with a construction contract. It does not include amounts withheld for failure to comply with construction plans or specifications.

EFFECTIVE DATE: October 1, 2010

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#### PA 10-149—sSB 188

*General Law Committee*

*Government Administration and Elections Committee*

#### AN ACT ESTABLISHING UNIFORM PROCEDURES REGARDING NEW HOME CONSTRUCTION CONTRACTOR AND HOME IMPROVEMENT CONTRACTOR AND SALESMAN-RELATED COMPLAINTS

**SUMMARY:** This act allows anyone to file a written complaint with the Department of Consumer Protection (DCP) concerning the work or practices of a person (1) registered as a new home construction contractor or a home improvement contractor or salesman or (2) who is not registered, but has performed work or acted in a manner that requires registration with DCP.

It requires the DCP commissioner to study measures to improve the department's complaint process and to submit a report with the department's findings to the General Law Committee by December 31, 2010.

EFFECTIVE DATE: Upon passage

#### COMPLAINT PROCESS STUDY

The act requires the commissioner to study measures to improve DCP's process for accepting, processing, and reporting to the public complaints it receives about home construction or home improvement. The measures may include:

1. creating a closed complaint subset for contractors or individuals with serious violations of law or regulations, or patterns of other complaints;
  2. determining which closed complaint subsets are available to the public through DCP's website;
  3. determining how long complaints remain posted on the website;
  4. creating improved notices to the public on how to search for contractors and interpret complaints on the website;
  5. adding information to the complaint database to better explain to the public complaints received, contractors' responses to such complaint's, and complaints resolutions; and
  6. any other changes to the complaint handling and disclosure procedures the commissioner thinks appropriate.
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**PA 10-176**—sHB 5220  
*General Law Committee*  
*Judiciary Committee*

## **AN ACT CONCERNING COMPETITION IN THE MOTOR FUEL INDUSTRY**

**SUMMARY:** This act requires any person conducting business in the motor fuel industry that files merger, acquisition, or any other information regarding market concentration in this state with the Federal Trade Commission (FTC) or the U.S. Department of Justice (US DOJ) to simultaneously provide the same information to the state attorney general in compliance with the federal Hart-Scott-Rodino Antitrust Improvements Act (HSR Act, see BACKGROUND).

It authorizes the attorney general to measure the market concentration due to mergers or acquisitions with the Herfindahl-Hirschman Index (HHI, see BACKGROUND). If the attorney general decides to measure market concentration, he or she must use the HHI. Additionally, if the HHI score raises market concentration concerns, the attorney general can request more information, which must remain confidential.

Failure to provide merger, acquisition, or other market concentration documents to the attorney general or failing to comply with his or her investigation could result in civil penalties or court orders for compliance.

The act requires the state to cooperate in the attorney general's investigation with the federal government and other states, including sharing information and evidence it obtains. It prescribes acceptable methods of serving the legal documents.

It also sets conditions on gasoline sales during abnormal market disruptions created by weather conditions, emergencies, and other adverse conditions.

EFFECTIVE DATE: July 1, 2010

### **HHI**

Under the bill, if the HHI score is (1) between 1,000 and 1,800 and increases by more than 100 points or (2) equal to or greater than 1,800 and increases by more than 50 points, the attorney general may ask for more information.

If, in the future, the FTC or US DOJ uses different HHI scores to measure market concentration and its changes, the attorney general must use the new scores to determine whether to investigate.

### **ATTORNEY GENERAL INVESTIGATION**

The attorney general may subpoena documentary material that includes written, recorded, or electronic information. The subpoena demand must state: (1) the nature of the investigation; (2) the types of documentary material to be reproduced, specific enough to allow the

material to be accurately identified; and (3) a date that allows reasonable time to assemble materials for compliance. The attorney general cannot require any information that would be privileged or precluded from disclosure if demanded in a grand jury investigation.

The material submitted to the attorney general, whether by subpoena or voluntarily, must be held in the attorney general's custody and not be disclosed to the public. The material must be returned when the investigation ends or on the final determination of an action or proceeding.

Under the act, during an antitrust investigation, the attorney general may subpoena individuals to testify in matters relevant to the scope of the alleged violations. Their appearance must be under oath, with a written transcript made. The transcript must be furnished to the person testifying, but not be publically disclosed. The attorney general may also issue written interrogatories with a reasonable time for response. These interrogatories must also be answered under oath and not made public.

If a person fails to provide merger, acquisition, or other market concentration documents or does not comply with the investigation, the attorney general may apply to Hartford Superior Court for an order (1) requiring compliance or (2) imposing a civil penalty of up to \$2,000. The court may order compliance upon notifying, and serving the order on, the person. It may impose the penalty after giving notice and conducting a hearing.

Subpoenas, notices of deposition, and written interrogatories may be served (1) on the person or at his usual residence or (2) by registered or certified mail, return receipt requested, with a copy addressed to the person to be served at his or her (a) principal place of business in Connecticut, (b) principal office, or (c) home.

### **ABNORMAL MARKET DISRUPTION**

The act requires the attorney general to post a notice on the office's website announcing the beginning and end of any abnormal market disruption or a reasonably anticipated imminent abnormal market disruption.

By law, an "abnormal market disruption" refers to any stress to an energy resource market resulting from weather conditions, acts of nature, failure or shortage of an energy source, strike, civil disorder, war, national or local emergency, oil spill, or other extraordinary adverse circumstance.

By law, sellers may not sell gasoline for an unconscionably excessive price during a period of abnormal market disruption or reasonably anticipated period of abnormal disruption. Prima facie evidence that a price is unconscionably excessive exists when the

price is grossly disparate to the price charged in the usual course of business immediately before the disruption or anticipated disruption, and the price increase is not attributable to the seller's costs related to sale of the product.

Under the act, a seller may sell gasoline during an abnormal market disruption or when an abnormal market disruption is reasonably anticipated if his average margin during the longer of either (1) the abnormal market disruption or imminent disruption or (2) 30 days following the attorney general's notice date, is no greater than the seller's maximum margin during the 90 days prior to the abnormal disruption or imminent disruption.

The act defines "margin" to mean, for each grade of product sold, the percentage calculated by the following formula: 100 multiplied by a fraction, the numerator of which is the difference between the sales price per gallon and the product price per gallon and the denominator of which is the product price per gallon. Product price per gallon includes all applicable taxes.

## BACKGROUND

### *HHI*

The HHI is a commonly accepted measure of market concentration. It takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases, with a maximum score of 10,000, which is a pure monopoly (U.S. Department of Justice and the Federal Trade Commission, *Horizontal Merger Guidelines* § 1.151 (1997)).

Markets in which the HHI is between 1,000 and 1,800 points are considered moderately concentrated, and those in which the HHI is in excess of 1,800 are considered concentrated. Transactions that increase the HHI by more than 100 points in moderately concentrated markets and 50 points in concentrated markets raise antitrust concerns.

### *HSR Act*

The HSR Act provides that before certain mergers and acquisitions can close, parties must file forms with the FTC and the US DOJ (15 U.S.C. § 18a). The filing requirement is triggered if the transaction value exceeds certain monetary thresholds, which are adjusted over time.

**PA 10-177**—sHB 5223

*General Law Committee*  
*Judiciary Committee*

## **AN ACT CONCERNING ORGANIZED RETAIL THEFT**

**SUMMARY:** This act establishes two new crimes, organized retail theft and accessory to organized retail theft. A person commits organized retail theft when, for financial gain, he or she works with at least one other person to shoplift retail property that has an aggregate value of more than \$2,000 and (1) does it during a 180-day period or (2) sells, delivers, or otherwise transfers it to a retail property fence.

A person commits accessory to organized theft if he or she receives, possesses, conceals, stores, barter, sells, or otherwise disposes of the stolen property intending to (1) distribute the proceeds or (2) promote, manage, carry on, or facilitate organized retail theft. A claim that the property was not stolen is not a defense if the property was explicitly represented as being obtained through the commission of organized retail theft.

The act defines "retail property fence" as a person who buys retail property that he or she knows or should know is stolen with the intent to (1) unlawfully distribute or (2) promote, manage, carry on, or facilitate the crime of organized retail theft. Retail property is any new article, product, commodity, item, or component intended to be sold in retail commerce.

The penalty is the same for both crimes. Violators are guilty of a class C felony if the financial benefit is \$10,000 or more and a class D felony if the benefit is less than \$10,000 (see Table on Penalties).

EFFECTIVE DATE: October 1, 2010

## BACKGROUND

### *Shoplifting*

By law, shoplifting is a type of larceny which a person commits by intentionally taking any goods, wares, or merchandise offered or exposed for sale by a mercantile establishment without paying for it. The penalty for shoplifting depends on the value of the property taken. Second-degree larceny, a class C felony, is the taking of property or services over \$10,000. Third-degree larceny, a class D felony, is the taking of property or services over \$2,000.

PA 10-2—HB 5544

*Emergency Certification*

**AN ACT CONCERNING THE CITIZENS' ELECTION FUND**

**SUMMARY:** PA 05-5, October 25 Special Session (OSS) established the Citizens' Election Program (CEP) as a voluntary public campaign financing system, changed contribution limits, and banned contributions from certain contractors and lobbyists, among other things.

This act changes the circumstances under which (1) PA 05-5, OSS and any amendments to it become inoperative pursuant to a court ruling and (2) campaign finance laws revert to those in effect prior to that act's passage. It does this by postponing for at least 30, rather than seven, days the reversion provisions that are effective when a court injunction occurs during a state election year. It similarly postpones for 15, rather than seven, days the reversion provisions that are effective when an injunction occurs before or after an August primary. This gives the General Assembly additional time to amend the CEP to address a court ruling. With respect to special elections, the timeframe remains the same as under existing law.

EFFECTIVE DATE: Upon passage

**SEVERABILITY AND REVERSION**

Under prior law, if a court prohibited or limited, or continued to prohibit or limit, the expenditure of funds from the Citizens' Election Fund (CEF) for seven days or more (1) on or after April 15 in a general election year or (2) on or after the 45<sup>th</sup> day before a special election for a General Assembly vacancy, then PA 05-5, OSS and any amendments to it became inoperative with respect to any race subject to the court order until December 31 of that year. Thus, if the injunction was in effect for seven days or more relative to April 15 in a general election year or such a special election, campaign finance law would revert to the law in effect prior to the passage of PA 05-5, OSS.

Under the act, if the court prohibits or limits, or continues to prohibit or limit, the expenditure of funds from the CEF for seven days or more between the 45<sup>th</sup> day before a special election scheduled to fill a General Assembly vacancy and the day after the special election (1) the CEP and (2) the remainder of PA 05-5, OSS and any amendments to it become inoperative with respect to any race subject to the court order until the day after the special election.

If the court takes these steps for 30 days or more on or after April 15 during a state election year, or, for 15 days on or after the August primary during a state election year, or if the primary occurs during a period of

15 days or more in which the court continues to prohibit or limit expenditures, after the 30- or 15-day period (1) the CEP and (2) the remainder of PA 05-5, OSS and any amendments to it become inoperative until December 31 of that year.

In the first case, the campaign finance provisions in effect before PA 05-5, OSS, become effective until the day after the special election with respect to any race in the special election subject to the court order.

In the second and third cases, campaign finance law reverts to the law in effect prior to PA 05-5, OSS until December 31 of that year. If the injunction is still in effect on April 15 of the second year succeeding the original prohibition, campaign finance law reverts to prior law without time limitation.

The law, unchanged by the act, allows candidates who receive funds pursuant to the CEP to spend them, unless the court prohibits them from doing so.

**BACKGROUND**

*Green Party of Connecticut v. Garfield*

In August 2009, the federal district court for the District of Connecticut ruled in *Green Party of Connecticut, et al. v. Garfield, et al.*, 648 F. Supp. 2d 298 (D. Conn. 2009) that Connecticut's public financing program is unconstitutional. The court stated that (1) the CEP unconstitutionally burdens minor party candidates' rights to political opportunity and (2) the CEP's independent and excess expenditure provisions unconstitutionally burden the First Amendment speech rights of non-candidates, nonparticipating candidates, and their supporters (i.e., advocacy groups). However, the court issued a stay, allowing the program to remain operative while the parties appealed the ruling.

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PA 10-58—sHB 5404

*Government Administration and Elections Committee*

**AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING CERTAIN EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT**

**SUMMARY:** This act exempts from disclosure under the Freedom of Information Act (FOIA) personnel, medical, or similar files about current or former employees of the (1) Department of Correction (DOC), including members and employees of the Board of Pardons and Paroles, and (2) Department of Mental Health and Addiction Services (DMHAS) to people in DOC custody or supervision or confined in a facility of the Whiting Forensic Division of Connecticut Valley Hospital. The exemption includes records of (1) the

departments' security investigations of such employees and (2) investigations of discrimination complaints by or against the employees. The act does not define a "similar file."

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *FOIA Requests by Inmates to Other Agencies*

A public agency that receives an FOIA request from someone confined in a DOC or Whiting Forensic Division facility must notify the DOC or DMHAS commissioner before complying with the request. The appropriate commissioner can withhold the record if he or she believes that the requested record is exempt from disclosure under FOIA as a safety risk, including the risk of harm to someone, escape, or disorder in a facility.

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## PA 10-187—sHB 5471

*Government Administration and Elections Committee*

## AN ACT CONCERNING INDEPENDENT EXPENDITURES

**SUMMARY:** This act removes the prohibition on independent (political) expenditures made by businesses and organizations (e.g., labor unions) and authorizes them to make unlimited independent expenditures. By removing the prohibition, it conforms state law to the U.S. Supreme Court decision in *Citizens United v. Federal Election Commission* (see BACKGROUND).

The act establishes reporting and attribution requirements for independent expenditures made by businesses and organizations similar to those under existing law for independent expenditures made by individuals. It also establishes new requirements. Principally, (1) independent expenditure reports promoting or opposing a statewide office or legislative candidate must be filed electronically with the State Elections Enforcement Commission (SEEC) within 90, rather than 20, days before a primary or election and (2) advertisements by 501(c) and 527 organizations must list their top five contributors.

The act removes a requirement that groups of two or more individuals register as a political committee (known as a PAC) upon receiving any funds or making or incurring any expenditures to promote or oppose a candidate, political party, or referendum question. Instead, it requires them to register upon receiving or raising \$1,000.

Finally, the act makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

## CAMPAIGN FINANCE DEFINITIONS

State campaign finance laws regulate campaign contributions and expenditures, including who can make and accept contributions and when. By law, a "business entity" is a stock corporation; bank; insurance company; business association; bankers' association; insurance association; trade or professional association that receives funds from membership dues and other sources; partnership; joint venture; private foundation; trust or estate; cooperative; or any other profit-making association, organization, or entity, whether organized in or outside of this state. It does not include professional service corporations owned by a single individual; non-stock corporations that are not engaged in business or profit-making activity; organizations (defined below); or candidate committees, party committees, or PACs.

An "organization" is a labor organization; employee organization; bargaining representative organization for teachers; any local, state, or national organization to which a labor organization pays membership or per capita fees based upon its affiliation or membership; or a trade or professional association that receives its funds exclusively from membership dues, whether organized in or outside of this state. It does not include a candidate committee, party committee, or PAC.

Under the act, entities may include organizations and certain business entities. Specifically, the act defines "entity" as an organization, corporation, cooperative association, limited partnership, professional association, limited liability company, or limited liability partnership, whether organized in this or another state.

By law, "committee" means a party committee, a PAC (formed by two or more individuals, a labor organization, or a business), or candidate committee organized for a single primary, election, or referendum, or for ongoing political activities, to promote or oppose a political party, a candidate for public office or town committee member, or a referendum question.

By law, an "individual" is a human being; proprietor; or professional service organization owned by a single human being. A "person" is an individual, committee, firm, partnership, organization, association, syndicate, company trust, corporation, limited liability company, or any other legal entity other than the state or one of its political or administrative subdivisions. The act expands the meaning of "agent" to include a person who acts at the discretion of another person, not only at the discretion of an individual, as under prior law.

Finally, the act changes the definition of "expenditure" to include expenditures for "express advocacy" advertisements made during the 90 days preceding a primary, not only the 90 days preceding the

election. Thus, it requires these expenditures to be reported to SEEC during this 90-day window. These advertisements (1) refer to one or more clearly identified candidates; (2) are broadcast on radio or television, other than on a public access channel, or appear in a newspaper, magazine, or on a billboard; and (3) are broadcast or appear during the 90-day period.

### INDEPENDENT EXPENDITURES

The act removes the prohibition on independent expenditures by organizations and certain business entities. It thus treats them the same as individuals by allowing unlimited independent expenditures. Existing law does not limit expenditures by committees that are not coordinated with a candidate.

The act also (1) broadens the definition of independent expenditure; (2) eliminates the term “coordinated expenditure” and partially redefines contribution; and (3) establishes a rebuttable presumption that certain expenditures are not independent expenditures.

Under the act, “independent expenditure” means an expenditure that is made without the consent, coordination, or consultation of a (1) candidate or candidate’s agent, (2) candidate committee, (3) PAC, or (4) party committee. The definition under prior law included expenditures made without the consent, participation, or consultation of a candidate or candidate committee’s agent and explicitly excluded all items defined as coordinated expenditures.

The act redefines “contribution,” in part, as an expenditure that is not an independent expenditure. Under prior law, it meant an expenditure made in cooperation with, or at the request of, a candidate or his or her committee or agent, including a coordinated expenditure.

#### *Rebuttable Presumption*

The act eliminates coordinated expenditures (considered contributions under prior law). Instead, it creates a rebuttable presumption that certain expenditures are not independent expenditures and thus are considered contributions for campaign finance purposes. It also specifies that the State Elections Enforcement Commission (SEEC) evaluates expenditures to determine whether they are independent expenditures.

Under the rebuttable presumption, the expenditures that are considered contributions are generally the same as coordinated expenditures under prior law, with two exceptions. The act specifies that the following also are not independent expenditures:

1. one made by a person whose officer, director, member, employee, fundraiser, consultant, or other agent serving the person in an executive or policymaking position also serves as or has served in the same election cycle as the candidate, campaign chairperson, campaign treasurer, or deputy treasurer of a candidate committee, PAC, or party committee benefiting from the expenditure, or in any other executive or policymaking position in the candidate committee, PAC, or party committee; or
2. one made by a person or entity for consultant or creative services, including services related to communications, design, or campaign strategy, that is used to promote or oppose a candidate if the service provider also provides consultant or creative services to (a) the candidate, (b) his or her candidate committee, (c) any candidate he or she opposes in a primary or the general election, or (d) an opposing candidate’s candidate committee.

The act specifies that “communications strategy” does not include printing costs or costs “for the use of a medium for the purpose of communications.”

#### *Reporting Requirements*

The act subjects entities and committees that make independent expenditures to the same reporting requirements as existing law establishes for individuals who make these expenditures. It also sets new ones.

Existing law requires any individual who makes or obligates to make an independent expenditure or expenditures exceeding \$1,000 in the aggregate to promote the success or defeat of a statewide office or legislative candidate to file a report with the SEEC. The act extends this requirement to entities and committees and to independent expenditures made for any purpose (e.g., a referendum), not only to promote the success or defeat of a candidate.

The law, unchanged by the act, requires the report to include a statement identifying any candidate the expenditure promotes or opposes. It is filed under penalty of false statement, which is a class A misdemeanor (see Table on Penalties). Anyone can file a complaint with the SEEC alleging a false report or statement, or that a report was not filed at all. The SEEC must promptly decide the complaint.

The act requires these reports to additionally (1) affirm under penalty of false statement that the expenditure is an independent expenditure and (2) provide any information the SEEC needs to facilitate compliance with campaign finance laws and the Citizens' Election Program. It also establishes an electronic filing requirement for independent expenditure reports when the expenditure promotes or opposes a statewide office or legislative candidate.

The act changes the deadlines for filing reports promoting or opposing a statewide office or legislative candidate. The individual, entity, or committee must file the report within 48 hours of any independent expenditure made more than 90, rather than 20, days before the primary or general election. If the expenditure is made 90, rather than 20, days or less before the primary or general election, the report must be filed within 24 hours.

As under prior law, failure to file a report for an independent expenditure promoting or opposing such a candidate (1) made more than 90 days before the primary or general election carries a civil penalty of up

to \$5,000 and (2) made 90 days or less before the primary or general election carries a civil penalty of up to \$10,000. A knowing and willful failure to file is punishable by an additional fine of up to \$5,000, up to five years in prison, or both.

#### *Attribution Requirements*

By law, printed, video, and audio political communications paid for by people or committees must generally include an attribution. The act expands the attribution law to cover political communications paid for by entities, including businesses and organizations, making independent expenditures to (1) promote the success or defeat of any candidate, (2) promote or oppose any political party, or (3) solicit funds to benefit any political party or committee. The attribution requirements are similar to those that the law establishes for candidates, candidate committees, and other committees. Table 1 shows the act's attribution requirements.



Table 1: Attribution Requirements for Communications Made Using Independent Expenditures

<i>Type of Political Communication</i>	<i>Requirement</i>
Written communication, including one that is typed, printed, or web-based	<p>The material must bear upon its face:</p> <ul style="list-style-type: none"> <li>• “Paid for by” and the name of the entity, the chief executive officer (CEO) or equivalent, and the principal business address;</li> <li>• “This message was made independent of any candidate or political party;” and</li> <li>• In the case of a 501(c) or a 527 tax-exempt organization, “Top Five Contributors,” followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months.</li> </ul>
Television or Internet video advertising	<p>The end of the advertisement must show, for at least four seconds:</p> <ul style="list-style-type: none"> <li>• a clearly identifiable image of the entity’s CEO or equivalent;</li> <li>• a simultaneous, personal audio message, stating “I am (name of entity’s CEO or equivalent), (title) of (entity). This message was made independent of any candidate or political party, and I approved its content;” and</li> <li>• In the case of a 501(c) or a 527 tax-exempt organization, “The top five contributors to the organization responsible for this advertisement,” followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months.</li> </ul>
Radio or Internet audio advertising	<p>The communication must end with a personal audio statement by the CEO or equivalent:</p> <ul style="list-style-type: none"> <li>• identifying the entity paying for the expenditure;</li> <li>• indicating that the message was made independent of any candidate or political party, using the following form: “I am (name of entity’s CEO or equivalent), (title) of (entity). This message was made independent of any candidate or political party, and I approved its content;” and</li> <li>• In the case of a 501(c) or a 527 tax-exempt organization (1) “The top five contributors to the organization responsible for this advertisement,” followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months or (2) an audio message providing a website that lists the same if the advertisement is 30 seconds or less.</li> </ul>
“Robo Calls” (i.e., automated telephone calls)	<ul style="list-style-type: none"> <li>• The narrative of the telephone call must identify the entity and its CEO or equivalent.</li> <li>• In the case of a 501(c) or a 527 organization, the narrative must also include a message stating, “The top five contributors to the organization responsible for this telephone call are,” followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months.</li> </ul>

If a 501(c) or a 527 organization runs a radio or Internet audio advertisement that is 30 seconds or less, it must establish and maintain a website listing its top five contributors for the duration of the advertisement.

The act also changes the standard for determining when communications paid for by individuals must include an attribution. Under prior law, the requirement applied to communications paid for by individuals (1) cooperating with, (2) at the request or suggestion of, or (3) acting in consultation with, a candidate or his or her agent or committee to promote or defeat a candidate. Under the act, it applies to individuals (1) acting with the consent of, (2) coordinating with, or (3) acting in consultation with, a candidate or his or her agent or committee to promote or defeat a candidate.

Finally, the act extends to a group of two or more individuals who make expenditures under \$1,000 the attribution requirements for written, typed, printed, or written web-based communications. The group must state its name and the name and address of its agent in the attribution.

#### *Illegal Practices*

The act makes a conforming change by making it illegal to make an expenditure other than an independent expenditure for a candidate without his or her knowledge. As under existing law, a candidate is not liable for any such expenditure.

#### GROUPS OF TWO OR MORE INDIVIDUALS

The act removes the requirement that a group of two or more individuals acting together that spends up to \$1,000 to support or oppose a candidate or a referendum question must designate a campaign treasurer and depository institution or file a certification that the group's expenditures will not exceed \$1,000. It also eliminates the requirement that a group of two or more individuals that spends \$1,000 or less in support or opposition to a referendum must file a certification with the SEEC or town clerk, whichever is applicable.

#### BACKGROUND

##### *Related Case*

On January 21, 2010, the U.S. Supreme Court ruled in *Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010), that corporations and unions have the same political speech rights as individuals under the First Amendment. It found no compelling governmental interest for prohibiting corporations and unions from using their general treasury funds to make election-related independent expenditures. Thus, it struck down a federal law banning this practice and also overruled two of its prior decisions. Additionally the Court ruled that

the disclaimer and disclosure requirements associated with electioneering communications are constitutional.

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#### **PA 10-189—HB 5516**

*Government Administration and Elections Committee*

#### **AN ACT CONCERNING A PILOT PROGRAM OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES**

**SUMMARY:** This act extends, from four to seven years, the duration of the Department of Administrative Services (DAS) pilot program to create and expand janitorial work opportunities for people with disabilities and disadvantages.

It also specifies that if DAS awards an exclusive contract during the pilot's term under the state's preference purchasing law for people with disabilities, including one for janitorial services, the contract must remain in effect with no change in the fair market value formula used by DAS for determining whether a vendor should be awarded the contract. Under prior law, this requirement applied to any new contract, not just an exclusive one.

EFFECTIVE DATE: Upon passage

#### BACKGROUND

##### *Pilot Program*

The pilot program consists of four janitorial work projects in state agencies that together must (1) create at least 60 full-time jobs or the equivalent at standard wages for people with disabilities, except blindness, or a disadvantage and (2) have a total market value of at least \$3 million. To qualify for the latter category, an individual must either (1) have income up to 200% of the federal poverty level for a family of four or (2) be eligible for employment services under the federal Workforce Investment Act as the Labor Department determines.

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**PA 10-8—HB 5024**

*Higher Education and Employment Advancement Committee  
Public Health Committee  
Appropriations Committee*

**AN ACT CONCERNING AN EDUCATION  
DOCTORAL DEGREE PROGRAM IN NURSING  
EDUCATION**

**SUMMARY:** This act specifically authorizes the Connecticut State University System (CSUS) to award doctoral degrees in nursing education. It does this by expanding CSUS's degree-granting authority, which, by law, already includes doctoral degrees in education; masters degrees and other graduate study in education; and liberal arts and career programs at the bachelors, masters, and sixth year level.

EFFECTIVE DATE: Upon passage

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**PA 10-55—sHB 5028 (VETOED)**

*Higher Education and Employment Advancement Committee  
Commerce Committee*

**AN ACT CONCERNING THE DEVELOPMENT  
OF THE CREATIVE ECONOMY**

**SUMMARY:** This act establishes a 22-member task force to study the creative economy in the state and, for five years beginning by February 1, 2011, annually report its findings and recommendations. It also requires the Department of Economic and Community Development (DECD) to identify and analyze "creative clusters" in both its annual report and the state's economic strategic plan, which is submitted every five years. Lastly, it specifies that representatives from creative clusters are to make recommendations for certain curricular changes in the state's vocational-technical (V-T) schools and the community-technical colleges (CTC).

EFFECTIVE DATE: October 1, 2010, except the formation of the task force is effective upon passage.

**CREATIVE ECONOMY DEFINED**

Under the act, the "creative economy" includes the cultural goods and services produced and distributed by artists, cultural nonprofit organizations, and creative individuals and businesses that impact the economy by generating jobs and revenue and improving the quality of life. The creative economy includes a creative (1) cluster, (2) workforce, and (3) community.

The act defines "creative cluster" as a grouping of creative, cultural, and innovative individuals or enterprises that directly or indirectly produce or provide cultural ideas, works, or services. It defines "creative

workforce" as the individuals trained in specific cultural and artistic skills that drive the success of leading industries, including arts and culture. "Creative community" means a geographic area with a concentration of creative workers, businesses, and organizations.

*Task Force Membership*

The six legislative leaders each must appoint one task force member. The remaining members are:

1. the higher education and DECD commissioners, or their designees;
2. the Connecticut Commission on Culture and Tourism (CCCT) executive director, or a designee;
3. an administrator or faculty member from the arts departments at (a) UConn, (b) the Connecticut State University System, (c) the community colleges, and (d) three independent colleges and universities, appointed by the higher education commissioner for a total of six members;
4. five representatives from the regional arts councils in the state, selected by the councils;
5. a representative from the Office of Workforce Competitiveness (OWC), appointed by the governor; and
6. a designee of the labor commissioner who has experience in labor market information.

The appointing authorities must make their appointments within 30 days after the act's passage and fill any vacancies. The DECD commissioner and another individual, whom the House speaker and the Senate president pro tempore select from among the task force members, must chair the task force. They must schedule its first meeting within 60 days after the act takes effect.

*Reporting Requirements*

The task force must:

1. perform an economic analysis of the state's cultural industries and workforce,
2. examine the economic force of the state's cultural sector,
3. analyze how to brand the state as a leader in the creative economy,
4. foster and demonstrate the cultural sector and its ability to attract economic activity to the state,
5. develop education and career paths for creative industries, and
6. explore methods for expanding the creative workforce and creative economy in order to create more jobs in the state.

It must annually report its findings and recommendations to the Higher Education and Employment Advancement and Commerce committees. DECD is the lead agency for purposes of conducting the study and must use existing appropriations to fulfill its responsibilities. The act requires DECD and OWC to provide administrative staff for the task force and to reallocate funds from other agency accounts or programs for this purpose. The task force terminates on the date it submits its report (presumably its last report), or by February 1, 2016, whichever is later.

#### RECOMMENDATIONS FOR CURRICULAR IMPROVEMENTS

The act requires the OWC and various officials to consult with one industry member from each creative cluster in (1) reviewing, evaluating, and recommending improvements for certificate and degree programs at the V-T schools and the CTC to make sure they meet business and industry's employment needs and (2) developing ways to strengthen ties between skill standards for education and training and business and industry's employment needs.

The officials are the (1) commissioners of Labor, DECD, Education, and Social Services; (2) secretary of the Office of Policy and Management; and (3) CTC chancellor. Under existing law, they and the OWC must consult with the superintendent of the V-T school system and with one member of industry from each "economic cluster." They must report annually to various legislative committees on (1) the CTCs' and V-T schools' implementation of any recommended programs or strategies to strengthen the linkage between their certificate and degree programs and business and industry's employment needs and (2) any V-T school or CTC certificate or degree program that does not meet current industry standards.

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#### PA 10-101—sSB 330

*Higher Education and Employment Advancement Committee  
Government Administration and Elections Committee  
Labor and Public Employees Committee*

#### AN ACT CONCERNING STUDENT EMPLOYEES, THE STATE ETHICS CODE AND WORKFORCE COMPETITIVENESS

**SUMMARY:** This act exempts student employees at public institutions of higher education from certain provisions of the State Code of Ethics. The exemptions cover students whose employment is derived from their status as students at those institutions but not to regular employees at a college or university who take classes on a part-time basis.

Specifically, the act exempts student employees from:

1. restrictions on expense-paid travel by allowing them to receive travel expenses, lodging, food, beverage, and other benefits customarily provided by a prospective employer in connection with bona fide employment discussions;
2. post-employment restrictions that require state officials and employees to wait one year after leaving state employment before (a) representing, for compensation, anyone besides themselves before their former office and (b) accepting employment with a party to a (i) contract or agreement with the state valued at \$50,000 or more or (ii) written agreement for an automatic payroll deduction for a product or service if the student participated substantially in or supervised the negotiation of the award; and
3. provisions of the code concerning prohibited activities, disclosure, or use of confidential information, and conflicts of interest.

The latter exemption is only valid if the student's institution has (1) adopted written policies and procedures regulating student employees and conflicts of interest and (2) the policies and procedures have been approved by the Citizens Ethics Advisory Board. The act requires institutions to submit (1) their policies and procedures to the board triennially and (2) any significant revisions within 30 days of their adoption.

With several exceptions, existing law prohibits public officials, candidates for public office, and state employees from accepting gifts (generally anything of value over \$10) from lobbyists. It also prohibits public officials and state employees from accepting gifts from people doing, or seeking to do, business with their agency; people engaged in activities regulated by their agency; or prequalified state contractors. The law also prohibits these people from giving gifts to public officials and employees.

EFFECTIVE DATE: October 1, 2010

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#### PA 10-104—sHB 5027

*Higher Education and Employment Advancement Committee  
Finance, Revenue and Bonding Committee*

#### AN ACT ESTABLISHING THE UNIVERSITY OF CONNECTICUT HEALTH NETWORK AND CONNECTICUT BIOSCIENCE INITIATIVE

**SUMMARY:** This act provides funding, under certain conditions, for (1) the construction of a new bed tower and renovations of academic, clinical, and research space at UConn's John Dempsey Hospital (JDH) and

(2) the development of regional health network initiatives.

The total cost is \$362 million. The act authorizes the issuance of \$237 million in new state bonds of which \$207 million will be issued under the UConn 2000 infrastructure improvement program, which the act extends from 2016 to 2018. It also reallocates \$25 million in existing UConn 2000 funds to pay for planning and design costs of the new JDH bed tower and requires a contribution of \$100 million in federal, private, or other nonstate money. The act prohibits the \$237 million in new bonds from being issued and construction of the bed tower from commencing until the \$100 million is received. It establishes June 30, 2015 as the deadline for receiving the \$100 million.

The act also establishes provisions for transferring, from JDH to Connecticut Children’s Medical Center (CCMC), licensure and control of 40 neonatal intensive care unit (NICU) beds. It confers the benefits of an enterprise zone on certain businesses in Hartford and parts of Farmington, New Britain, and Bristol, and it requires UConn to report biennially on the progress of the health network initiative and the JDH construction and renovation.

EFFECTIVE DATE: Upon passage, except for the section on enterprise zones, which is effective July 1, 2010.

**COSTS AND FUNDING SOURCES**

Table 1 summarizes the cost of each project in the act, the sources of funds, and the conditions for their use.

Table 1: Costs, Funding Sources, and Conditions on Use

<i>Project</i>	<i>Amount (in millions)</i>	<i>Description of funds</i>	<i>Conditions</i>
Planning and Design	\$25	Funds shifted from an existing UConn 2000 project	None
New Construction and Renovation at UConn Health Center	207	New UConn 2000 bonds	May not be issued unless \$100 million in nonstate money is received.
	100	Federal, private, or other nonstate money	Must be received by June 30, 2015
UConn health network initiative	30	State GO bonds, outside of UConn 2000	May not be issued unless \$100 million in nonstate money is received.
<b>TOTAL</b>	<b>\$362</b>	<b>\$237 million in new state bonding</b>	

**RENOVATIONS AND NEW BED TOWER AT JDH**

Under the act, “University of Connecticut Health Center (UCHC) new construction and renovation” means the planning, design, development, financing, construction, renovation, furnishing, equipping, and completion of clinical, academic, and research space at JDH. It specifically includes the construction of a new bed tower, increasing the number of licensed beds from 224 to a maximum of 234, including newborn bassinets.

The act adds the UCHC construction and renovation to the list of enumerated UConn 2000 infrastructure improvement projects and authorizes \$207 million in new bonding. The issuance of these bonds is contingent on the receipt of \$100 million in nonstate money.

The act also reallocates \$25 million from existing UConn 2000 authorizations for main building renovations for the planning and design costs associated with the JDH construction and renovation. This reallocation is not contingent on the receipt of the \$100 million in nonstate money.

**UCONN HEALTH NETWORK INITIATIVE**

The act authorizes the issuance of up to \$30 million in state general obligation (GO) bonds to fund the UConn health network initiatives (see Table 2). The issuance of these bonds is contingent on the receipt of the \$100 million in nonstate money.

Under the act, the UConn health network initiatives include:

1. a simulation and conference center on the Hartford Hospital campus that uses new technologies and simulated care settings to educate and train healthcare professionals;
2. a Connecticut Institute for Primary Care at the Saint Francis Hospital and Medical Center campus that is intended to increase the number of primary care providers in the state;
3. an institute for clinical and translational science (for the translation of scientific discoveries into practical applications) at UCHC;
4. a comprehensive cancer center to expand clinical trials and advance patient care in the Hartford region;
5. a UConn-sponsored health disparities institute intended to enhance research and the delivery of care to minority and medically underserved people;

6. the Connecticut Institute for Nursing Excellence at the UConn School of Nursing that will explore ways to enhance the recruitment, education, and retention of nurses and nursing faculty;
7. improvements at the Hospital of Central Connecticut, to include (a) the planning, design, land acquisition, development, and construction of a cancer treatment center constructed by, or in partnership with, the hospital and located entirely within the city of New Britain, (b) renovations and upgrades to the hospital's oncology unit, and (c) a permanent regional phase one clinical trials unit at the hospital, provided that a certificate of need is approved for this purpose; and
8. patient room renovations at Bristol Hospital.

The act also requires the Hospital of Central Connecticut to repay its share of the proceeds from the bond sale in the event the cancer treatment center is built in whole or in part outside the legal boundaries of the city of New Britain. Further, PA 10-179 specifies that the simulation and conference center is to be run exclusively by Hartford Hospital.

**Table 2: UConn Health Network Initiative Projects**

<i>Project</i>	<i>Location</i>	<i>Bond Authorization (in millions)</i>
Simulation and conference center	Hartford Hospital	\$20
Primary care institute	Saint Francis Hospital and Medical Center	
Institute for clinical and translational science	UCHC	
Comprehensive cancer center	Hartford region	
Health disparities institute	Not specified	
Hospital of Central Connecticut	New Britain	\$5
Institute for nursing excellence	UConn School of Nursing	\$3
Bristol Hospital	Bristol	\$2
<b>TOTAL</b>		<b>\$30</b>

Twenty million dollars of the \$30 million bond authorizations were revised by PA 10-179, which authorized \$5 million apiece for the simulation and conference center and the primary care institute and \$10 million to be shared among the (1) institute for clinical and translational science, (2) comprehensive cancer center, and (3) health disparities institute. It left unchanged the authorizations for the Hospital of Central

Connecticut, institute for nursing excellence, and Bristol Hospital.

*Institute for Primary Care Innovation*

The act establishes the Connecticut Institute for Primary Care Innovation as a collaborative enterprise between the UConn School of Medicine and Saint Francis Hospital and Medical Center. The institute will be located on the St. Francis campus and focus on research and training relevant to primary care. The act prohibits the institute from engaging in or managing the delivery of healthcare services, and it requires the UConn School of Medicine and St. Francis to enter into an affiliation agreement under which the institute will not be constrained by the Ethical and Religious Directives for Catholic Health Care Services with regard to (1) research and training pertaining to primary care or (2) any report or recommendation generated from such research.

The act also requires the institute to (1) operate in accordance with the requirements and policies of the UConn School of Medicine, the Liaison Committee on Medical Education, and the Accreditation Council for Graduate Medical Education, and (2) disclose any research findings or results concerning medically accepted best practices.

*Connecticut Institute for Nursing Excellence*

The act establishes the Connecticut Institute for Nursing Excellence at the UConn School of Nursing. The institute's oversight board is chaired by a representative from the UConn School of Nursing, who is appointed by the school's dean. The board also comprises one representative each from:

1. UCHC, appointed by its board of directors;
2. Saint Joseph College, appointed by its president;
3. Yale University School of Nursing, appointed by its dean;
4. Yale-New Haven Hospital, appointed by its president;
5. the regional community-technical college system, appointed by its board of trustees;
6. Connecticut Hospital Association (CHA), appointed by its board of trustees;
7. Hartford Hospital, appointed by its president;
8. Saint Francis Hospital and Medical Center, appointed by its president;
9. a nursing student, appointed by the governor; and
10. a member of the public, appointed by the governor.



The board members must be appointed within 30 days of the issuance of the GO bonds for the institute, and the chairperson may appoint additional members as needed. Board members serve four-year terms, with the exception that the initial terms of the nursing student, member of the public, and the representatives from CHA, Hartford Hospital, and Saint Francis Hospital and Medical Center are two years. Members may not serve more than two consecutive four-year terms.

The act requires the institute to:

1. evaluate and formulate strategies for increasing the retention of nurses and enhancing the education, recruitment, and retention of nursing faculty in Connecticut;
2. help hospitals establish and evaluate a pilot nursing residency program to provide mentoring to first-year, hospital-based nurses;
3. establish and promote master's- and doctorate-level programs to prepare nurses to serve as educators in nursing schools, including providing (a) eligibility for loan forgiveness programs for those nurses who successfully complete such master's-level programs and have been members of a nursing faculty in this state for at least four years, and (b) methods to increase compensation for nurse educators, including scholarships for service;
4. establish an evidence-based research center that reflects the current best science, experiential learning, and clinical knowledge development; and
5. pursue grant funding and philanthropic support for nursing projects.

**BONDING**

The act (1) authorizes \$207 million in new bonding under UConn 2000, (2) extends the bonding for UConn 2000 from 2016 to 2018 and adjusts the annual caps, and (3) extends UConn's control of UConn 2000 projects from June 30, 2016 until June 30, 2018 or until the program is completed, whichever is later.

The act cancels UConn's bond authorization for FY 10, reduces the cap for FY 11, increases the caps for FY 12 through FY 16, and extends the program through 2018 as shown in Table 3. Under existing law and the act, any difference between the amount actually issued in any year and the cap can be carried forward to any succeeding fiscal year. Financing transaction costs can be added to the caps.

Table 3: Annual Bond Limits for UConn 2000

<i>FY</i>	<i>Prior Limit (in millions)</i>	<i>New Limit (in millions)</i>	<i>Change (in millions)</i>
2010	\$140.5	\$0.0	(\$140.5)
11	146.5	138.8	(7.7)
12	123.1	157.2	34.1
13	114.5	143.0	28.5
14	111.5	140.0	28.5
15	100.0	128.5	28.5
16	90.9	119.5	28.6
17	N. A.	116.0	116.0
18	N. A.	91.0	91.0
<b>Total</b>	827.0	1034.0	207.0

*Bonding Conditions*

The issuance of the \$237 million in new state bonding is contingent on securing \$100 million in nonstate money. The act requires the UConn president and the governor's designee, by June 30, 2011, to notify the Office of Policy and Management (OPM) secretary of the status of the \$100 million, and it prohibits any construction on the hospital until that money is received.

The act sets June 30, 2015 as the deadline for receiving the \$100 million in nonstate money. If the money is not obtained by that date, all projects under the act terminate, and the UConn 2000 bonding caps revert to their previous totals.

**NICU TRANSFER**

The act defines the NICU transfer as the transfer, from JDH to CCMC, of the licensure and control of 40 NICU beds, which remain at JDH. It increases CCMC's licensed bed capacity by 40 while leaving JDH's licensed bed capacity unchanged.

By December 31, 2010, CCMC and JDH must notify the OPM secretary (1) jointly, of their intent to proceed with the NICU transfer or (2) jointly or individually, that they will not pursue it.

By law, the NICU transfer and JDH bed capacity expansion require the issuance of a certificate of need (CON) from the Office of Healthcare Access (OHCA). The act requires OHCA to (1) expedite the CON application process for the NICU transfer, UCHC new construction and renovation, and UConn health network initiatives, specifically by prohibiting any extensions to its 90-day review period for completed CON applications; and (2) treat the NICU transfer and JDH bed capacity expansion as a single project for CON purposes, thus prohibiting the NICU transfer from

occurring unless JDH's expansion plans are also approved. Unlike other aspects of the act, the NICU transfer is not contingent on the receipt of \$100 million in nonstate money.

The act also maintains the ability of state employees who provide (1) services in the NICU and (2) transport services to JDH to continue to negotiate wages, hours, and other conditions of employment through their bargaining agents. It prohibits any change in the licensure and ownership of the transport services as a result of the NICU transfer.

The act requires the NICU transfer and bed capacity increase to be treated as one project, but if the NICU transfer does not occur, the act appears to allow UConn to file a CON application solely for the UCHC construction and renovation. In the event this new CON is approved and the \$100 million in nonstate money is secured, it appears UConn could proceed with the construction and renovation without undertaking the NICU transfer.

#### ENTERPRISE ZONE

The act extends the benefits of an enterprise zone to certain businesses and commercial properties in (1) Hartford; (2) certain census blocks and block groups in Farmington; (3) certain census blocks, block groups, and tracts in New Britain; and (4) certain census tracts in Bristol. Generally, these areas are located near JDH, the Hospital of Central Connecticut, or Bristol Hospital. It appears that these blocks, block groups, and tracts are based on the 2000 Census and could change if the boundaries are redrawn after the 2010 Census.

By law, enterprise zone benefits include property tax exemptions, business tax credits, and sales tax exemptions. Under prior law, an eligible business is one that has had fewer than 300 employees at all times during the previous 12 months and is engaged in biotechnology, pharmaceutical, or photonics research, development, or production in the state. The act extends this definition to include businesses engaged in bioscience, which it defines as the study of genes, cells, tissues, and chemical and physical structures of living organisms.

An eligible commercial property is one that an eligible business has owned or leased and used at all times during the preceding 12 months or real property that the Department of Economic and Community Development commissioner or Connecticut Innovations, Incorporated has certified as newly constructed or substantially renovated and expanded primarily for occupancy by one or more eligible businesses.

The act also extends enterprise zone benefits to eligible businesses and commercial properties in any municipality that has a major research university with a bioscience program. Under existing law these benefits apply if the university has programs in biotechnology, pharmaceuticals, or photonics.

#### REPORTING

The act requires UConn, beginning January 1, 2011 and until the health network initiatives and UCHC construction and renovation are completed, to submit a biennial progress report on these projects. The report must be submitted to the Higher Education, Public Health, Finance, and Appropriations committees.

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**PA 10-56**—sHB 5372

*Housing Committee*

*Public Safety and Security Committee*

*Planning and Development Committee*

### AN ACT CONCERNING VISITABLE HOUSING

**SUMMARY:** This act authorizes the Department of Economic and Community Development (DECD), in consultation with the Connecticut Housing Finance Authority, to establish a program that encourages Connecticut developers to build residential homes that are easy for people with disabilities to visit (commonly known as visitable housing). It defines “visitable housing” as one-to-four family residential housing with “visitable features,” which are (1) interior doorways that provide a minimum 32-inch wide clear opening, (2) at least one accessible means of egress, and (3) at least one full or half bathroom on the first floor that complies with the Americans with Disabilities Act of 1990, as amended.

The act exempts developers from a requirement to obtain a State Building Code variance or exemption to construct visitable homes. And it authorizes municipal legislative bodies to adopt ordinances giving these developers a property tax abatement.

Within available appropriations, the act requires DECD to establish an informational webpage in a conspicuous place on its website that provides links to available visitable housing resources.

**EFFECTIVE DATE:** October 1, 2010, and the property tax abatement provision is applicable to assessment years beginning on and after that date.

### VISITABLE HOUSING PROGRAM

The act permits DECD to establish a program to encourage visitable housing development. The program must (1) provide a single point of contact for any person seeking state financial or technical assistance to construct visitable housing, (2) identify financial incentives for developers constructing such housing, and (3) include public education.

If DECD establishes the program, it must submit a report on its status to the Housing Committee by October 1, 2012.

### BACKGROUND

*State Building Code*

The State Building Code applies to building construction in all towns, cities, and boroughs in Connecticut (CGS § 29-253). It contains provisions concerning accessibility to, and use of, buildings and structures by people with disabilities, but no visitability provision. A developer must apply for a variation or

exemption if a building design conflicts with accessibility requirements in the State Building Code. The State Building Inspector and the Office of Protection and Advocacy director may approve a variation of, or exemption from, any standard or specification when they jointly determine that it would not be feasible or would unreasonably complicate the construction in question (CGS § 29-269).

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**PA 10-67**—sSB 320 (VETOED)

*Housing Committee*

*Planning and Development Committee*

### AN ACT CONCERNING THE SELECTION OF TENANT COMMISSIONERS

**SUMMARY:** This act adds methods for selecting tenant commissioners for a public housing authority’s board of directors and expands the definition of “tenants” who are eligible to participate in the selection of and serve on the board. By law, the municipality’s chief executive officer or governing body appoints housing authority commissioners, including the tenant commissioners. In doing so, they must consider for appointment tenant commissioners suggested by any tenant organization. The act establishes a process for recognizing tenant organizations that may elect or designate tenants to the board according to the organization’s bylaws.

The act also provides a mechanism for tenants to petition for an election if no recognized organization exists. Whether an election is required or petitioned for by the tenants, the housing authority must use its best efforts (in agreement with the tenant organization, to the extent practicable) to arrange for a neutral third-party organization to administer the election.

If the act’s provisions for electing the tenant commissioner or selecting one under a tenant organization’s bylaws are not utilized, then the appointing authority must select the appointee by considering tenants the organization suggests, as under prior law.

Finally, the act removes a requirement under which tenants qualified for commissioner only if they currently or previously lived in authority housing and had done so for at least one year. It also removes the prohibition against tenant commissioners voting to establish or revise rents.

**EFFECTIVE DATE:** October 1, 2010

## TENANT COMMISSIONER SELECTION

### *Recognized Tenant Organization*

The act formalizes the process for recognizing tenant organizations with the power to recommend or designate tenants for the governing board. By law, any tenant organization can (1) indicate its interest in receiving notice of a pending housing authority appointment and (2) suggest candidates for the position of tenant commissioner.

The act gives tenants the explicit authority to establish a tenant organization, which must elect a governing board and may request that the housing authority recognize it as representing all the authority's tenants. The authority must recognize the organization as official if it determines that the governing board's election was conducted fairly and with sufficient notice to all tenants.

A recognized organization then has the power to recommend or designate the tenant representative for appointment to the housing authority.

### *Official Tenant Organization*

When an official tenant organization has been recognized, the commissioner appointee must be selected (1) in an election by all tenants who have received sufficient notice of the election or (2) by another means specified in the organization's bylaws. An alternative means can include selection by the organization's governing board.

### *No Official Tenant Organization*

When no official organization has been recognized, 10% of the tenants or 75 tenants, whichever is less, can petition the authority for an election to select the tenant commissioner. In that case, all tenants must receive notice of the election and the tenant commissioner is selected by a vote of all the tenants.

## TENANT COMMISSIONER QUALIFICATIONS AND AUTHORITY

By law, the commission that oversees a local housing authority must include at least one member who is a tenant of the authority. The number of tenant commissioners depends on the commission's size. Those with five members must include at least one tenant member; those with more than five must have at least two. The act reduces the criteria a tenant must meet to serve as commissioner.

Prior law allowed only current or former housing authority tenants to qualify for tenant commissioner. It also set a length-of-residency requirement. Specifically, a tenant was eligible only if, for at least one year, he or

she currently or previously resided in authority-owned or -managed housing. A tenant who previously resided in such housing had to be currently receiving housing assistance in a program that the authority administered (for example, individuals residing in privately-owned units but whose rents the authority subsidizes).

The act (1) extends eligibility to individuals who receive housing assistance from the authority but have never lived in authority-owned or -managed housing and (2) eliminates the length-of-residency requirement.

The act also removes the provision in prior law that barred a tenant commissioner from voting on establishing or revising rents the authority charges.

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**PA 10-134**—sHB 5371

*Housing Committee*

*Planning and Development Committee*

## **AN ACT CONCERNING AFFORDABLE HOUSING REPLACEMENT**

**SUMMARY:** This act exempts the King Court housing development in East Hartford from the requirement that housing authorities that receive state financial assistance replace, on a one-for-one basis, low and moderate income housing units that they sell, lease, transfer, or destroy.

EFFECTIVE DATE: October 1, 2010

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**PA 10-26**—SB 137

*Human Services Committee*

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE HUMAN SERVICES STATUTES**

**SUMMARY:** This act makes several technical changes in various human services statutes.

EFFECTIVE DATE: Upon passage

**PA 10-49**—sSB 139 (VETOED)

*Human Services Committee*

*Appropriations Committee*

**AN ACT CONCERNING INDEPENDENT MONITORING OF THE HUSKY PROGRAM**

**SUMMARY:** This act requires the Department of Social Services (DSS), by July 1, 2010 and on an ongoing basis, to contract with a nonprofit organization to independently monitor the performance of the HUSKY A and HUSKY B programs.

The selected organization must (1) have experience that demonstrates its ability to independently monitor performance; (2) collaborate with DSS' Medical Care Administration Division; and (3) report to DSS on enrollment trends, care access, service utilization, and health outcomes.

The act requires DSS to provide the organization with any information it needs to do the monitoring, including data on HUSKY enrollment and encounters, Medicaid birth and other claims, and Medicaid eligibility.

DSS has provided funding for independent HUSKY monitoring since managed care organizations (MCO) began serving program recipients.

EFFECTIVE DATE: Upon passage

**BACKGROUND**

*HUSKY Performance Monitoring*

Since the Medicaid for children program (HUSKY A since 1997) was changed from a fee-for-service to a managed care model of service delivery in 1995, DSS has contracted with the Hartford Foundation for Public Giving, a nonprofit organization, to independently monitor the MCOs with which the agency contracts to serve clients in HUSKY A, HUSKY B, and the Charter Oak Health Plan.

The foundation has received state monitoring grants, and for the last six years, it has subcontracted with Voices for Children (a nonprofit organization based in New Haven that provides research-based, public education and advocacy) to conduct independent performance monitoring. Some of Voices' activities include evaluating HUSKY outreach, health care utilization among newly-enrolled HUSKY recipients, and the use of emergency rooms for nonemergency care.

According to DSS, the department separately contracts with Mercer Consulting Services, Inc. to conduct independent evaluation and monitoring of HUSKY program performance. Mercer also has provided actuarial services to help DSS set the capitation rates paid to MCOs.

DSS also requires that MCOs adopt their own comprehensive set of performance measures that are independently audited and certified. These measures (Healthcare Effectiveness and Data Information Set, HEDIS) allow MCOs to be compared with each other by providing both state Medicaid programs and the programs' clients with information, such as childhood immunization rates and children's access to primary care providers.

*Federal Requirements for Independent Monitoring*

Federal Medicaid law requires that every Medicaid managed care contract that states have with MCOs provide for an annual (as appropriate) external independent review, conducted by a qualified independent entity, of the quality, outcomes, and timeliness of, and access to, the items and services for which the organization is responsible under the contract (42 USC § 1396u-2(c)(2)(A)(i)). In Connecticut, this entity is Mercer.

**PA 10-61**—sSB 391

*Human Services Committee*

**AN ACT CONCERNING CHILD CARE SUBSIDIES UNDER THE CARE 4 KIDS PROGRAM**

**SUMMARY:** This act makes two changes in the administration of the Care4Kids program, which provides child care subsidies to low-income working families. First, it requires the Department of Social Services (DSS) commissioner to (1) redetermine program eligibility every eight months instead of every six months and (2) report whether this extension causes more benefit overpayments. In practice, DSS contracts with the United Way of Connecticut to administer the program, including eligibility determinations.

Second, the act requires DSS to post notices on its website and send written notices to child care providers and recipients whenever it intends to make program changes, including those related to eligibility and access.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2010

## REDETERMINATIONS

### *Frequency*

Under the act, beginning no later than January 1, 2011, any applicant determined to be eligible for Care4Kids benefits remains eligible for at least eight months from the date eligibility is determined, provided the applicant's circumstances do not change in a way that would render him or her ineligible. The act explicitly prohibits the commissioner from making an eligibility redetermination more than once every eight months.

Beginning October 15, 2011, the act allows the commissioner to redetermine eligibility every six months if, after January 1, 2011, the department's overpayment of program subsidies (presumably those between January 1, 2011 and October 15, 2011) is greater than for the one-year period beginning January 1, 2010 because of the less frequent redeterminations.

Current program regulations specify that eligibility is approved for up to a maximum of six months from the month of application, and require the program administrator (United Way of Connecticut) to schedule redeterminations within six months.

The regulations also require parents to report changes in household circumstances within 10 days of the change (some of which could render the family ineligible for continued assistance).

### *Report*

The act requires the DSS commissioner to report by October 15, 2011 to the Human Services and Appropriations committees on the new, longer program eligibility period. The report must include an analysis of benefit overpayments (child care subsidy provided to an ineligible person) and administrative costs DSS incurs as a result of the less frequent redeterminations.

## NOTICES

The act requires DSS to post notices on its website and provide written notice to child care providers and subsidy recipients whenever it proposes to (1) close the subsidy program to new applications or (2) change eligibility requirements or program benefits. It must provide the notice at least 30 days before the proposed action is effective. DSS does not have to provide notice when it expands program eligibility.

## PA 10-72—SB 281

### *Human Services Committee*

## AN ACT CONCERNING PUBLIC PARTICIPATION IN MEETINGS OF THE PHARMACEUTICAL AND THERAPEUTICS COMMITTEE

**SUMMARY:** This act requires the Pharmaceutical and Therapeutics (P & T) Committee, which establishes and monitors the Department of Social Services' (DSS) preferred drug list, to ensure that its meetings include an opportunity for public comment.

By law, the committee (1) must provide notice of all of its meetings and (2) may seek public participation in its deliberations on an ad hoc basis. In practice, the committee's guidelines allow for public comment during the first half-hour of the committee's meetings.

EFFECTIVE DATE: July 1, 2010

## BACKGROUND

### *P & T Committee Guidelines for Public Comment*

The P & T Committee has published guidelines for public comment on the DSS' Medical Assistance Program website. They (1) allow members of the public to submit clinical and other relevant information to the committee and request an opportunity to speak at a meeting and (2) require speakers to submit a written document, no longer than 10 pages, at least two weeks before the meeting, outlining the subject to be covered.

At least one week before the meeting, the committee must notify the person who will be permitted to speak and give him or her an approximate time to appear before the committee.

At the chairperson's discretion, (1) speakers have a limit of five minutes and (2) committee members may question them.

**PA 10-73—sSB 370**

*Human Services Committee  
Appropriations Committee*

**AN ACT CONCERNING MEDICAID LONG-TERM CARE COVERAGE FOR MARRIED COUPLES**

**SUMMARY:** This act makes two changes in the way the Department of Social Services (DSS) determines eligibility for Medicaid long-term care services. First, it requires the DSS commissioner to amend the Medicaid state plan to require that the spouse of someone in an institution (i.e., nursing home) who remains in the community be allowed to receive the maximum amount of assets allowed by federal law. Previously, the spouse could keep one-half of the couple's combined assets, up to that maximum.

The act also requires the commissioner to amend the plan to require that funds from reverse annuity mortgages not be treated as income or assets for purposes of Medicaid eligibility in certain circumstances.

The commissioner must adopt regulations to carry out both changes.

EFFECTIVE DATE: Upon passage

**COMMUNITY SPOUSE PROTECTED ASSETS**

Federal law generally prescribes the rules states use when determining Medicaid eligibility. The spousal impoverishment provisions in the law allow the spouse of someone who applies for Medicaid in a nursing home to keep a portion of the couple's assets in order not to impoverish him or herself and end up also requiring institutional care.

Currently, DSS adds the counted assets of both spouses as of the date the institutionalized spouse begins a continuous period of institutionalization which lasts 30 or more days and divides the amount in half to establish a "spousal share." This amount is then compared to the Community Spouse Protected Amount (CSPA), which is the amount of assets the community spouse may keep when the institutionalized spouse is eligible for Medicaid.

Under current DSS regulations (based on federal law), the CSPA is the greater of:

1. \$21,912;
2. the lesser of (a) the spousal share or (b) \$109,560;
3. the amount established through a fair hearing decision; or
4. the amount a court order establishes.

The CSPA maximum and minimum amounts are set by federal law, and the state must update them yearly.

Under the act, the community spouse must be allowed to keep the maximum CSPA (see 2(b) above). An example will help illustrate. If the couple has \$150,000 in counted assets, under current DSS regulations, DSS would divide this in half and the community spouse would keep \$75,000 and the institutionalized spouse would get the other \$75,000, most of which would have to be spent on his or her nursing home care. Under the act, the community spouse would get to keep the full CSPA or \$109,560, and the remaining \$40,440 would go to the institutionalized spouse towards his or her care costs.

**REVERSE ANNUITY MORTGAGES (RAM)**

The act requires DSS to amend the Medicaid state plan to require that funds derived from RAMs or other home equity conversion loans not to be treated as income or assets for purposes of Medicaid eligibility. But they are excluded only if (1) they are held in an account that does not contain any other funds and (2) the Medicaid recipient does not transfer these funds to another person for less than fair market value.

Under current DSS regulations, the loan proceeds, including those from RAMs, are excluded as income in the first month that they are received. After that, if the money is not spent, it counts as an asset unless the money is kept in a separate account.

**BACKGROUND**

*Transfers of Assets*

Federal Medicaid law generally presumes that someone who is applying for Medicaid long-term care and transfers assets for less than fair market value within five years of applying has done so to qualify for assistance. The presumption can be rebutted. If a state determines that the transfer was made to qualify and cannot be successfully rebutted, the person transferring the funds is subject to a period of Medicaid ineligibility based on the value of the asset (42 USC § 1396p).

*RAMs*

A RAM is a home equity loan that allows certain seniors (generally age 62 and older) to convert some of the equity in their homes to cash and still retain ownership. Generally, the homeowner (or the homeowner's estate) repays the lender the loan amount plus interest when he or she dies, sells, or moves out of the home. The loan proceeds are tax-free, and there are no minimum income requirements for most RAMs.

**PA 10-116—SB 283**

*Human Services Committee  
Judiciary Committee*

**AN ACT CONCERNING AUDITS BY THE DEPARTMENT OF SOCIAL SERVICES**

**SUMMARY:** This act makes changes in the law governing audits of providers that bill the Department of Social Services (DSS) for services rendered to clients enrolled in DSS programs. It:

1. requires the reviewer of an audit report that a provider contests to issue a final decision after the review,
2. gives the provider the right to appeal final audit decisions to the Superior Court, and
3. requires (a) DSS to adopt regulations to carry out the auditing statute and (b) DSS or the entity it contracts with to perform the audits to provide a copy of these regulations when notifying a provider that it will be audited.

EFFECTIVE DATE: July 1, 2010

**AUDIT APPEALS**

By law, a provider aggrieved by a decision contained in the final audit report can request a review, which is presided over by an impartial designee of the commissioner who is not an employee of DSS' Office of Quality Assurance or an entity with whom the DSS commissioner contracts to conduct the audits. The act requires the reviewer to issue a final decision after reviewing the items the provider disputes.

The act also gives the provider the right to appeal the final decision to the Superior Court.

**REGULATIONS**

The act requires DSS to adopt regulations to carry out the auditing statute. The regulations must ensure the fairness of the audit process, including the sampling methodologies associated with it.

By law, DSS or its contracted auditor must notify providers, in writing, that they intend to audit them at least 30 days before beginning the audit. But the commissioner or auditor can bypass the notification if either one, in good faith, determines that (1) the health or safety of someone receiving the provider's services is at risk or (2) the provider is engaging in vendor fraud. The act requires a copy of the regulations to be attached to the notice.

**BACKGROUND***Audits*

DSS audits providers who bill it for providing services to individuals enrolled in its welfare programs, including the Medicaid, HUSKY B, and ConnPACE programs. The audit law also applies to the department's cash assistance programs.

DSS uses an extrapolation process when performing the audits. Extrapolation is the practice of (1) dividing the total number of payment errors found in a sample of documents by the sample size to arrive at average errors per sample or an "error rate" and (2) multiplying this rate by the total number of claims to arrive at a presumed, extrapolated number of payment errors for all payments to the provider during the audited time period. The provider must repay DSS based on these extrapolated errors.

The law prohibits basing a finding of over- or underpayment to a provider on extrapolation unless (1) there is a sustained or high level of payment error involving the provider, (2) documented educational intervention has failed to correct the error, or (3) the value of the claims in the aggregate is more than \$150,000.

**PA 10-137—sHB 5246**

*Human Services Committee  
Judiciary Committee  
Appropriations Committee*

**AN ACT CONCERNING THE PROTECTION OF, AND SERVICES FOR, VICTIMS OF DOMESTIC VIOLENCE**

**SUMMARY:** This act makes it easier for tenants who are victims of family violence to move by allowing them to terminate their rental agreements without penalty if they give the landlord at least 30 days' notice. It applies to tenants who enter into or renew rental agreements after December 31, 2010. (PA 10-161 makes several substantive and technical changes to the act, see BACKGROUND).

The act requires the Department of Public Health (DPH) commissioner, by June 30, 2012 and within available appropriations, to develop and issue a televised public service announcement (PSA) to prevent teen dating violence and family violence. The commissioner can apply for public or private grants for this purpose.

The act mandates a schedule for the Department of Social Services (DSS) and DPH to make payments from the marriage license surcharge fund to organizations providing shelter services for domestic violence and rape victims.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2010, except for the marriage license surcharge funds and PSA requirements, which are effective on July 1, 2010.

#### ABILITY TO TERMINATE RENTAL AGREEMENTS

For rental agreements entered into after December 31, 2010, the act allows tenants who (1) are victims of family violence and (2) reasonably believe they must vacate their dwelling for fear of their or their children's safety to terminate the rental agreement for the dwelling unit they occupy at the time they are being victimized. The tenants are not subject to penalty or liability for the remaining term of the rental agreement. Tenants must provide the landlord at least 30 calendar days' written notice.

The notice must include:

1. a statement that the tenant is a victim of family violence;
2. a statement that he or she intends to terminate the rental agreement and the date of the intended termination; and
3. a copy of a police or court record related to the violence or a signed written statement that the tenant or tenant's child is a victim of family violence.

The written statement in (3) above must be from a victim services organization employee or agent, an employee of the Judicial Department's Office of Victim Services or of the Office of the Victim Advocate, or of a medical or other licensed professional from whom the tenant or tenant's child sought assistance.

The law defines family violence as an incident resulting in physical harm, bodily injury, or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury, or assault between family or household members.

The tenant's termination of the rental agreement does not relieve him or her from liability to the landlord for any (1) rent arrearage incurred before he or she terminated the rental agreement or (2) property damage that he or she causes.

The act permits the landlord to bring an action for injunctive relief in Superior Court to prevent the rental agreement's termination if the act's requirements have not been satisfied.

#### MARRIAGE LICENSE SURCHARGE

The act requires the DSS and DPH commissioners to distribute funds from the nonlapsing account holding the proceeds from the \$20 marriage license surcharge to the recipient organizations by October 15 of each year. By law, the Office of Policy and Management (OPM) allocates these funds, in consultation with DSS (which uses them for shelter services for victims of household abuse) and DPH (which uses them for rape crisis services).

The act prohibits OPM and the DSS and DPH commissioners from retaining any of the funds for administrative purposes.

#### BACKGROUND

##### *Related Act*

PA 10-161 makes several changes to the rental agreement termination provisions of this act. Specifically, it:

1. uses the standard of a tenant's fear of his or her imminent harm instead of safety;
2. requires that the notice's signed statement attesting to the family violence be made under oath, and requires the statement to indicate that the tenant has vacated the premises and removed his or her belongings, intends to do so before the rental agreement termination date, or has abandoned the personal property;
3. requires the police or court record to be dated no more than 90 days before the tenant's notice date, and requires the advocate notice to be dated no more than 30 days before the tenant's notice date;
4. removes the ability of medical or other professionals to attest to the violence for purposes of the act;
5. extends the liability for earlier arrearages and damages to other tenants, not just the one seeking to terminate the agreement; and
6. requires the tenants who terminate the agreements, along with any other occupants of the dwelling, to vacate the dwelling by the rental agreement termination date and allows landlords to bring eviction actions when they do not.

PA 10-161 also makes technical changes.

**PA 10-157**—sHB 5196  
*Human Services Committee*  
*Appropriations Committee*

**AN ACT CONCERNING CREDIT PROTECTION  
 FOR YOUTH IN FOSTER CARE**

**SUMMARY:** This act requires the Department of Children and Families (DCF) to obtain a free credit report for every foster child age 16 and older and review it for evidence of identity theft. If DCF finds any evidence, it must, within five days of receiving the credit report, (1) report this to the chief state's attorney and (2) advise the affected youth and his or her foster parent, caseworker, and legal representative, if any, about this finding at the youth's next biennial treatment plan meeting.

Under the act, DCF must ask for a free credit report within 15 days after a foster child turns age 16. For a youth age 16 or older already in foster care on July 1, 2010, DCF must order the first report by July 31, 2010.

The act also requires DCF to report to the Human Services and Appropriations committees by July 1, 2011 about its findings of identity theft found through the credit reports.

EFFECTIVE DATE: July 1, 2010, except for the reporting requirement, which is effective on passage.

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**PA 10-160**—sSB 31  
*Human Services Committee*  
*Appropriations Committee*  
*Education Committee*

**AN ACT IMPLEMENTING THE BUDGET  
 RECOMMENDATIONS OF THE GOVERNOR  
 CONCERNING THE EDUCATIONAL  
 PLACEMENT OF CHILDREN IN THE CARE  
 AND CUSTODY OF THE DEPARTMENT OF  
 CHILDREN AND FAMILIES**

**SUMMARY:** This act creates a presumption that it is in the best interest of a child the Department of Children and Families (DCF) places in out-of-home care under an emergency, temporary custody, or commitment order to continue to attend the school he or she attended before the placement. The act applies to (1) school-age children, (2) three- to five-year olds determined eligible for special education, and (3) children between 27 months and six years old referred for special education determination. It provides mechanisms for parents to challenge DCF decisions. And it makes DCF responsible for some costs of transporting a child from a placement to school and makes a school ineligible to receive state special education excess cost grants for a child placed in another community who continues to

attend his or her original school.  
 EFFECTIVE DATE: July 1, 2010

**SCHOOL PLACEMENT FOR CHILDREN PLACED  
 OUT OF HOME**

*Determining School Placement*

The act requires DCF, when it places a child in out-of-home care, such as a relative's or foster parent's home, or changes such a placement, to determine immediately whether it is in the child's best interest to remain in the school he or she had been attending (the "school of origin"). In making a decision about an out-of-home placement or a change in an existing placement, the act also requires DCF to consider the appropriateness of the school setting and the proximity to the school of origin.

The act requires DCF to notify all parties (i.e., the child or child's attorney and the parents or their attorney) of its decision and the reasons for it, in writing, within three business days after making the decision. Any party can object to the decision within three business days of receiving this notice. The act requires disagreements to be resolved "expeditiously" and places the burden of proof on DCF to show that its decision is in the child's best interest. The child must be transported to the school of origin until the three days have passed or the disagreement is resolved.

The act permits the school placement decision to be revisited at any time while the child is in out-of-home care, if circumstances change, to ensure the placement remains in his or her best interest. Notice of a decision in such a review must be given as described above. A party may challenge such a decision by using the dispute resolution process for a DCF treatment plan. DCF policy permits a parent or child aggrieved by a treatment plan provision to ask for an administrative hearing and, if still aggrieved after the hearing decision, to appeal to Superior Court.

If DCF determines it is not in the child's best interest to remain in his or her school of origin, the act requires the agency to work with that school's board of education and the board of the school that DCF decides the child should attend (the "receiving school"). This collaboration must ensure the child's immediate and appropriate enrollment in the receiving school. (For a child requiring special education, the law requires DCF to notify the school board responsible for the child's education (in most cases, the board where the child lived before being removed from home) (1) orally within one day of the removal and (2) in writing within two days.)



The act requires the school of origin to provide the receiving school with the child's educational records in accordance with federal law. It requires the school of origin, within one day of receiving notice from DCF, to send all essential educational records, including any individualized education or behavioral intervention plan, and all documents the receiving school needs to determine an appropriate class placement and provide educational services. It must transfer nonessential records within 10 days.

#### *Removing a Child from School Placement*

The act permits DCF to immediately remove the child from the school of origin if it determines that remaining there jeopardizes his or her immediate physical safety. If it does so, it must notify the child's parents, attorney, guardian ad litem, and surrogate parent (if the child has one) by phone or fax on the day it removes the child. Any party (it is not clear whether this includes the guardian ad litem or surrogate parent or just those parties to the original removal from home) may object to the change in placement. It must do so within three business days of receiving the notice, and DCF must hold an administrative hearing within three business days of receiving the objection.

#### *Paying for School Placement*

The act specifies that any child placed in another town who continues in his or her school of origin remains that district's educational and fiscal responsibility. The act makes the district of origin ineligible for state excess cost grants for special education for such a child's education, including tuition and transportation costs (see BACKGROUND).

By law, when DCF places a child receiving regular education in another town and the child attends school there, the receiving town must provide and pay for the child's education. When DCF places a child requiring special education in another town and the child attends school there, the town of origin retains educational and fiscal responsibility for the child.

The act requires DCF, if it determines a child should remain in his or her original school, to collaborate with that school board on a transportation plan for the student. They must consider cost-effective, reliable, and safe transportation options.

The act makes DCF responsible for any additional or extraordinary cost of transportation beyond that to which the child would otherwise have access. It does not specify what costs are additional or extraordinary. The act requires DCF to maximize any reimbursements for the transportation costs available for eligible foster children under the federal Social Security Act.

## BACKGROUND

### *Federal Law*

P.L. 110-351, the 2008 Fostering Connections to Success and Increasing Adoptions Act, requires a foster child's case plan to:

1. assure that the child's foster care placement takes account of his or her current educational setting and proximity to the school,
2. assure that the state agency has coordinated with local educational agencies to ensure the child remains in school,
3. assure that the state and local agencies will provide immediate enrollment and transfer the child's records to a new school if remaining in the current school is not in the child's best interest, and
4. consider reasonable travel to allow the child to remain in his or her current school.

Connecticut must implement the federal law by July 1, 2010.

### *Excess Cost Grants*

The state provides a categorical grant to towns for special education based on their costs. This grant is called the "excess cost" grant. The grant reimburses districts (1) a portion of the reasonable costs of special education for a student who lives in the district and (2) 100% of the cost of special education for any student placed in the district by a state agency who has no identifiable home district in the state. Reimbursable costs include special education personnel, equipment, materials, tuition, transportation, and consultant services.

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## PA 10-161—sSB 218

*Human Services Committee*

*Judiciary Committee*

## **AN ACT CONCERNING SAFE HAVEN CASES AND THE TERMINATION OF RENTAL AGREEMENTS BY VICTIMS OF FAMILY VIOLENCE**

**SUMMARY:** This act specifies a process, under the safe haven law, that permits a new mother to use the Department of Children and Families' (DCF) Safe Haven Program to surrender her infant without having to leave the hospital. It also provides for reporting information about the birth to the Department of Public Health (DPH); weakens the law's confidentiality provisions; and requires DCF to notify any parent of a surrendered infant, if it knows his or her identity, of any

legal proceedings it initiates, such as termination of parental rights.

The act permits DCF to approve an applicant as a foster family or prospective adoptive family even if a natural, adopted, or adoptable child of the applicant has died less than a year before the application date.

The act also makes changes in PA 10-137, which makes it easier for family violence victims to terminate rental agreements.

EFFECTIVE DATE: July 1, 2010, except the approval of foster or adoptive parents provision is effective upon passage and the family violence provisions are effective on October 1, 2010

## SAFE HAVEN REVISIONS

### *Surrendering a Child Born in a Hospital*

The safe haven law requires hospitals to designate a place in their emergency room (ER) where a parent or a parent's legal agent can surrender an infant up to 30 days old without facing arrest for abandonment. Hospitals must designate their ER staff to take custody of these babies and have a designated employee on duty at all times.

The act sets up a process for a mother who gives birth in a hospital to surrender the baby without having to go to the ER.

It permits the mother to give written notice to any DPH-licensed health care provider who provides health care services on the hospital's behalf that she wishes to surrender custody of the baby voluntarily. The notice must be on a DCF-prescribed form. The act specifies that an "employee" who receives such a notice must notify the designated ER employee, who must immediately take custody of the infant. The act prohibits the "employee" from disclosing the contents of the notice, including the mother's name, to DCF or any person or organization without the mother's permission. (The act specifies that only a licensed health care provider who provides services on the hospital's behalf can receive the notice but more narrowly provides that this provider must be a hospital employee.)

The act requires the hospital to retain the notice in a file separate from the mother's medical records.

### *Birth Information*

The act adds to the information the designated ER employee may ask the parent or agent to provide when the baby is surrendered. If the birth has been registered in the state's vital records system before the surrender, the act allows the employee to ask the infant's name and birth date. (Presumably, the employee can also ask whether the birth has been registered.) Under prior law, the employee could ask only for the parents' or agent's

name and the infant's and parents' medical history. By law, the parent or agent need not provide this information.

The act requires the ER employee to give this information to DPH for the sole purpose of sealing the infant's original birth record. It specifies that the infant's name and birth date cannot be disclosed on the report DCF (as the agency taking custody of the baby) must, by law, make about the baby to the registrar of vital statistics of the town where the baby was surrendered.

### *Confidentiality*

Prior law made any information about the infant, parents, or legal agent confidential, except for any medical history a parent provides, which had to be disclosed to DCF. The act instead prohibits the hospital's designated employee from disclosing any information, but only if the parent or agent requests this. And it does not limit disclosure by parties, such as DCF or DPH (see below), that may obtain information from the designated employee.

### *Legal Proceedings after Surrender*

The law requires DCF to take any lawful action to achieve safety and permanency for an infant surrendered under the safe haven law. The act specifies that these actions include starting proceedings to terminate parental rights and establish guardianship. It also requires DCF to notify any parent of a surrendered infant of the proceedings, if it knows her or his identity.

## DOMESTIC VIOLENCE PROVISIONS

PA 10-137 makes it easier for tenants and their dependents to terminate their rental agreements when they are victims of family violence. This act makes substantive and technical changes in that law.

### *Fear of Imminent Harm Related to the Family Violence*

One of the conditions under which a tenant may terminate a rental agreement without penalty under PA 10-137 is if the tenant believes he or she or a dependent must vacate the dwelling out of fear for their safety because of family violence. This act instead requires a fear of imminent harm.

### *Notice and Supporting Statements*

PA 10-137 requires that the tenant give at least 30 days' written notice to the landlord if he or she intends to terminate the rental agreement due to family violence. This act requires at least 30 days notice before the date the tenant intends to terminate the rental

agreement. PA 10-137 requires the notice to contain certain signed statements supporting the claim of domestic violence, including a statement that the tenant intends to terminate the rental agreement. This act requires that statement to be made under oath or affirmation.

This act requires this statement to also indicate that the tenant (1) has vacated the premises and removed all of his or her possessions and personal effects; (2) will do so before the termination date; or (3) if the possessions and effects have not been removed by the termination date, has abandoned them.

Under PA 10-137, the tenant's notice must also include a copy of a police or court record related to the family violence or a written statement attesting to the violence provided by an employee or agent of a victim services organization, an employee of the Judicial Department's Office of Victim Services or the Office of the Victim Advocate, or a medical or other licensed professional from whom the tenant or tenant's child has sought assistance with respect to the violence.

This act requires the police or court record to detail an act of family violence against the tenant or dependent that is dated no more than 90 days before the tenant's notice date. Statements from advocates must also detail the act of family violence, and they must be dated no more than 30 days before the tenant's notice date. The act removes statements from medical or other licensed professionals as allowable supporting documents.

#### *Continued Liability for Rent Arrearages or Damage*

PA 10-137 provides that a tenant's termination of a rental agreement under its provisions does not relieve the tenant of any liability to the landlord for rent arrearage or damage. This act extends this provision to any other tenant.

#### *Need to Vacate*

Under the act, if the tenant terminates the rental agreement, any occupant without the right or privilege to occupy the dwelling unit must vacate it before the rental agreement termination date. If the tenant or any other occupant fails to vacate the premises as of that date, the landlord can bring an eviction action.

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**PA 10-166**—sHB 5297

*Human Services Committee*

### **AN ACT CONCERNING EXPANSION OF THE PRIMARY CARE CASE MANAGEMENT PILOT PROGRAM**

**SUMMARY:** This act requires the Department of

Social Services (DSS) to expand the HUSKY Primary Care pilot program to include primary care providers in Putnam (by July 1, 2010) and Torrington (by October 1, 2010). It permits the DSS commissioner to seek a federal waiver to make these expansions. HUSKY Primary Care is the state's primary care case management program, which is an alternative care model available to HUSKY A enrollees.

The commissioner must report on the program's expansion to the Human Services and Appropriations committees by July 1, 2011.

The act also removes obsolete language and makes technical changes.

EFFECTIVE DATE: Upon passage

#### **BACKGROUND**

##### *HUSKY Primary Care*

Since early 2009, certain HUSKY A families have had the option of enrolling in HUSKY Primary Care. The family is matched with a primary care provider (PCP) or providers who provide primary care services and also manage the family's care, including making referrals to specialists. The PCPs are paid a monthly fee for managing the HUSKY recipient's care in addition to any reimbursement they receive for providing medical services. The pilot serves as an alternative to the managed care organizations, which also serve the HUSKY A population.

The pilot program serves four cities—Hartford, New Haven, Waterbury, and Windham (geographic areas) and the towns contiguous to them. The program has not operated in Fairfield, Litchfield, and Middlesex counties. Torrington is part of Litchfield County and Putnam is in Windham County.

DSS operates its HUSKY A program under a federal Medicaid waiver. A 2009 amendment to the waiver calls for extending the program after July 15, 2010 to additional areas that the DSS commissioner approves provided (1) an independent evaluation finds that primary care case management contains costs and improves quality and access to health care and (2) an adequate number of PCPs for both children and adults have applied to participate in the program.

As of May 2010, there were 388 HUSKY A recipients enrolled in the program and 239 providers participating.

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**PA 10-170**—sHB 5244  
*Human Services Committee*  
*Public Health Committee*

**AN ACT CONCERNING THE ISSUANCE OF EMERGENCY CERTIFICATES BY CERTAIN STAFF OF THE EMERGENCY MOBILE PSYCHIATRIC SERVICES PROGRAM**

**SUMMARY:** This act permits certain licensed clinical social workers, professional counselors, and advanced practice registered nurses (APRNs) to issue an emergency certificate, under certain conditions, to hospitalize a child for medical and psychiatric evaluation. Under prior law, only physicians could issue such certificates.

The act permits social workers, counselors, and APRNs to issue an emergency certificate if they:

1. have received at least eight hours of specialized training in conducting direct evaluations as a member of a Department of Children and Families (DCF) emergency mobile psychiatric services team and
2. reasonably believe, based on their direct evaluation, that the child (a) has a psychiatric disability; (b) is a danger to himself, herself, or others or is gravely disabled; and (c) needs immediate care and treatment.

The act requires the child to be evaluated within 24 hours after the emergency certificate is issued. The law requires a psychiatrist to conduct the evaluation. The act prohibits a hospital from holding a child hospitalized by a social worker, counselor, or APRN for more than 72 hours unless a court orders the child's commitment.

When a physician issues an emergency certificate, the law permits the child to be hospitalized for up to 15 days. And, if a commitment proceeding is begun during those 15 days, hospitalization can continue for 15 days longer (25 if the proceeding is transferred from probate to Superior Court) or until the proceeding is finished, whichever occurs first.

The act gives children hospitalized by social workers, counselors, and APRNs the same rights as existing law gives those hospitalized by physicians. These include the right to consult with and be represented by an attorney and the right to a hearing.

Finally, the act requires DCF to collect data pertaining to certificates social workers, counselors, and APRNs issue.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*DCF Emergency Mobile Psychiatric Service (EMPS) Teams*

EMPS teams provide mobile response; psychiatric assessment; medication consultation, assessment, and short-term medication management; behavioral management; and substance abuse screening and referral services for families with a child in crisis.

**PA 10-183**—sHB 5399  
*Human Services Committee*

**AN ACT CONCERNING NOTICE BY THE DEPARTMENT OF SOCIAL SERVICES REGARDING REPAYMENT FOR SERVICES**

**SUMMARY:** This act requires the Department of Social Services (DSS) commissioner to notify (1) applicants for aid from DSS' major public assistance programs and (2) other people who DSS knows may be liable to repay such aid, under the state's public assistance recoveries law, that they may be liable to make repayments.

The commissioner must give the notice to (1) the applicant at the time of the application and (2) liable party at the time of the application or within 30 days after the applicant is determined eligible for assistance. The notice must be (1) written in plain language; (2) easy to read and understand; and (3) in the applicant's or other liable party's first language, when possible. The act applies to the State Supplement, medical assistance (Medicaid), Temporary Family Assistance (TFA), and State-Administered General Assistance (SAGA) programs.

DSS' existing application for its major public assistance programs includes a page notifying applicants of their liability for repaying the state from their property, financial windfalls, or estates when they die.

The act also makes a technical change.

EFFECTIVE DATE: July 1, 2010

**BACKGROUND**

*Repayment Law and DSS Notification*

By law, the state's claim takes precedence over all other claims when someone age 18 or older who received public assistance acquires property of any kind, including windfalls. The claim is a lien against the windfall amount from a lawsuit or inheritance that generally equals the lesser of the amount of assistance paid or 50% of the windfall proceeds. For other windfalls, such as the lottery and property acquisitions, the state claim is 100% of the proceeds or amount of

assistance provided. Certain windfall payments are exempt, such as proceeds of discrimination suits.

The state also has a claim against the estates of (1) the parents of a child who has received aid from TFA, Aid to Families with Dependent Children (predecessor to TFA), or SAGA and (2) any adult who received this aid, Medicaid, or State Supplement benefits. The claim is for the entire amount of assistance, provided (1) the state has not been reimbursed for it and (2) a surviving spouse, parent, or dependent child of the deceased does not need the estate proceeds for support (CGS § 17b-93, *et. seq.*).

DSS' uniform application for public assistance programs includes a page that specifies the state's repayment law.

#### *Legally Liable Relative Law*

Another state law makes the parents of a child under age 18 who receives public assistance (but not a parent whose financial liability for a child is determined by DSS' Bureau of Child Support Enforcement) liable for the assistance. But DSS may waive this liability if it will cause significant financial hardship (CGS § 4a-12).

The regulations provide that the liability can be as high as the full amount of assistance provided (*Conn. Agency Regs.*, § 4a-12-1, *et. seq.*).

State law also requires the DSS commissioner to investigate the financial condition of each legally liable relative and determine his or her ability to contribute toward the support, as required above. The commissioner must notify the relative in writing. This liability starts from the date of the notice retroactive to the date assistance is granted and continues until a court determines otherwise (CGS § 17b-81).

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PA 10-4—sHB 5002

*Insurance and Real Estate Committee*

**AN ACT CONCERNING PREMIUM QUOTES  
AND INFORMATION FOR SMALL EMPLOYER  
HEALTH INSURANCE COVERAGE**

**SUMMARY:** This act establishes the Connecticut Clearinghouse, from which individuals and small employers (i.e., employers with 50 and fewer employees) may obtain information about health insurance policies and health care available in Connecticut. It requires the Health Reinsurance Association to administer the clearinghouse within available appropriations.

The act makes changes in the laws related to small employer health insurance plans. It redefines “small employer” and “eligible employee.” By doing so, it broadens the scope of certain laws by including part-time employees working at least 20 hours a week and limits the laws by excluding seasonal employees. For the purposes of determining if an employer is a small employer, the act prohibits the employer from counting a person working fewer than 30 hours a week as an eligible employee.

The act requires an insurer or producer marketing small employer group health insurance plans to offer a small employer, upon its request, a premium quote for covering employees working at least (1) 30 hours a week or (2) 20 hours a week.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2010 for the Connecticut Clearinghouse and January 1, 2011 for the small employer provisions.

**CONNECTICUT CLEARINGHOUSE**

The act establishes the Connecticut Clearinghouse, from which people and small employers may get information about health insurance policies and health care plans available in Connecticut. These include Medicaid, HUSKY, state-administered general assistance (SAGA), Charter Oak, the Municipal Employee Health Insurance Plan (MEHIP), and any individual or small employer health insurance policies or health care plans an insurer, HMO, or other entity chooses to list with the clearinghouse.

It requires the Health Reinsurance Association (HRA) to (1) administer the clearinghouse and (2) in consultation with the insurance commissioner and healthcare advocate and within available appropriations, develop an interactive web site, telephone number, or other method for giving information on available plans that, based on a consumer’s responses, may be appropriate for his or her circumstances (see

**BACKGROUND**

The act requires the commissioner to establish procedures for HRA to confirm with the Insurance Department that (1) a policy or plan listed with the clearinghouse is approved for sale in Connecticut and (2) the entity offering it is authorized to do business here. The procedures must require updating the list at least every 90 days.

**SMALL EMPLOYER HEALTH INSURANCE**

*Small Employer*

The act changes how an employer counts its employees to determine if it is a small employer for purposes of laws applying to small employer insurance plans.

By law, a “small employer” is any person, firm, corporation, limited liability company, partnership, or association that:

1. is actively engaged in business or self-employed for at least three consecutive months and
2. on at least 50% of its working days during the preceding 12 months, employed no more than 50 “eligible employees,” the majority of whom were employed within Connecticut (see BACKGROUND).

When counting eligible employees to determine if an employer is a small employer, companies affiliated or eligible to file a combined tax return are considered one employer. The act prohibits an employer from counting a person who works fewer than 30 hours a week when determining if it is a small employer. By law, an employer already cannot count an employee:

1. covered through the employer by a health insurance plan issued to, or in accordance with, a trust established under collective bargaining or
2. not actively at work but covered under the employer’s health insurance plan under workers’ compensation, continuation of benefits requirements, or other applicable laws.

*Eligible Employee*

Certain laws apply to a small employer’s eligible employees. The act redefines “eligible employee” as an employee working a normal work week of at least 20 hours a week, including a part-time employee, but excluding a seasonal employee. Prior law included only full-time employees working at least 30 hours a week.

By law, and unchanged by the act, an eligible employee cannot be a temporary or substitute employee; but may be a sole proprietor, partner, or independent

contractor, provided he or she is included as an employee under a small employer's health care plan; or a person not actively at work but covered under the employer's health insurance plan through workers' compensation, continuation of benefits requirements, or other applicable law.

The act broadens the scope of certain laws by including part-time employees working at least 20 hours a week and limits the laws by excluding seasonal employees. These laws include guaranteed renewability, coverage eligibility requirements, the Connecticut Small Employer Health Reinsurance Pool, and special health care plans (see BACKGROUND).

#### *Premium Quote*

The act requires an insurer or producer marketing small employer group health insurance plans to offer a small employer, upon its request, a premium quote for covering employees working at least (1) 30 hours a week or (2) 20 hours a week.

It specifies that a small employer that requests a premium quote for employees working fewer than 30 hours a week is not required to accept the quote or purchase coverage in lieu of premium quotes or coverage for employees working 30 or more hours a week. It also specifies that a small employer that offers coverage to employees working 30 or more hours a week is not required to offer coverage to those working fewer than 30 hours a week.

### BACKGROUND

#### *Health Reinsurance Association*

By law, HRA provides comprehensive health insurance to people who cannot obtain insurance from commercial insurers (i.e., the high risk pool). By law, all Connecticut health insurers and HMOs are (1) HRA members and (2) assessed for its losses.

HRA also serves as the state's acceptable alternative mechanism for complying with the guaranteed issue option in the individual market required under federal law (the Health Insurance Portability and Accountability Act). The law requires HRA to offer special health care plans to low-income individuals and certain small employers.

#### *Small Employer*

The law specifies that a "small employer" does not include a:

1. municipality, association of personal care assistants, or community action agency purchasing health insurance through MEHIP;
2. nonprofit organization purchasing health insurance through MEHIP, unless the Office of

Policy and Management and the state comptroller ask the insurance commissioner in writing to deem the organization a small employer for purposes of the health insurance statutes; or

3. private school in Connecticut obtaining health insurance through a health insurance plan or an insurance arrangement that an association of private schools sponsors.

By law, an HMO may refuse coverage to a small employer if the HMO's provider network is proven, to the insurance commissioner's satisfaction, inadequate to serve the small employer due to the HMO's obligations to existing customers. If an HMO refuses coverage for this reason, the law prohibits it from offering coverage, for 90 days from the refusal, to a new employer group with more than 25 eligible employees (CGS § 38a-568(c)).

#### *Guaranteed Renewable Coverage*

By law, a health insurance plan issued to a small employer is "guaranteed renewable" with respect to eligible employees and their dependents. This means that coverage for the eligible employees and their dependents is renewable at the small employer's option, with some exceptions (CGS § 38a-567(1)).

#### *Coverage Eligibility*

Except for a late enrollee who failed to provide evidence of insurability satisfactory to the insurer, a health insurance plan may not exclude an eligible employee or dependent based on an actual or expected health condition. And it may not exclude an eligible employee or dependent who, on the day before the initial effective date of the plan, was covered under the small employer's previous health insurance plan through workers' compensation, COBRA, or other applicable laws as long as the employee or dependent requests coverage under the new plan on a timely basis (CGS § 38a-567(2)).

#### *Connecticut Small Employer Health Reinsurance Pool*

By law, all health insurers must be members of the Connecticut Small Employer Health Reinsurance Pool (CSEHRP). Members may purchase reinsurance coverage for an entire small group or for certain eligible employees or dependents in a group, generally those the insurer believes are high risk (i.e., likely to have high claim costs) (CGS § 38a-569).

#### *Special Health Care Plans for Small Employers*

A "special health care plan" is a health insurance plan for previously uninsured small employers. The law



requires the CSEHRP board of directors to develop these plans as a lower-cost health insurance coverage option for uninsured small employers and submit them to the insurance commissioner for approval (CGS § 38a-565(a)(1)).

A small employer can purchase a special health care plan if it did not maintain health insurance coverage for its employees at any time during the one-year period before applying for the plan. A small employer cannot purchase a special health care plan for more than three years (CGS § 38a-565(2)).

The law permits HRA to issue special health care plans to small employers with 10 or fewer eligible employees, the majority of whom are low-income eligible employees (CGS § 38a-570).

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**PA 10-5—HB 5006**

*Insurance and Real Estate Committee  
Transportation Committee  
Judiciary Committee*

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS AND MINOR CHANGES TO THE INSURANCE AND RELATED STATUTES**

**SUMMARY:** This act makes changes in various insurance and transportation statutes. It:

1. broadens the applicability of several health insurance benefits;
2. specifies penalties for, and expands the Department of Motor Vehicles (DMV) commissioner's authority regarding, violations of the motor vehicle repair shop notice requirements;
3. makes the insurance commissioner the agent to receive legal service of process for captive insurance companies domiciled in Connecticut if a registered agent cannot be found with reasonable diligence at the registered office;
4. requires all Connecticut-domiciled captive insurers, not just those formed as a corporation, to file a certificate of general good and articles of incorporation, if applicable, with the secretary of the state;
5. resolves a statutory conflict within the license expiration and renewal requirements for life settlement producers and brokers; and
6. makes other minor, technical, and conforming changes.

**EFFECTIVE DATE:** Upon passage, except for the provisions extending the applicability of certain insurance benefit requirements, which are effective January 1, 2011.

§§ 20-21, 23-24, 27-29, & 31-32 — HEALTH INSURANCE BENEFITS

The act broadens the applicability of several health insurance benefits required by law, as described below. (Due to federal law (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.)

*General Anesthesia Relating to Dental Services (§§ 20 & 27)*

The act requires individual and group health insurance policies amended in Connecticut on or after January 1, 2011 to cover medically necessary general anesthesia, nursing, and related hospital services provided to patients with (1) complex dental conditions that require procedures to be performed in a hospital or (2) developmental disabilities that place them at serious risk. The law already requires policies delivered, issued, renewed, or continued in Connecticut to cover these services.

Both the act and existing law apply to policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage under an HMO plan.

*Ostomy Appliances and Supplies (§§ 21 & 28)*

The act requires individual and group health insurance policies amended in Connecticut on or after January 1, 2011 to cover medically necessary ostomy appliances and supplies, including collection devices, irrigation equipment and supplies, and skin barriers and protectors, up to \$1,000 annually. The law already requires policies delivered, issued, renewed, or continued in Connecticut to cover ostomy-related supplies.

Both the act and existing law apply to policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage under an HMO plan.

*Bodily Injury (§§ 23 & 29)*

The act prohibits individual and group health insurance policies continued in Connecticut on or after January 1, 2011 from excluding coverage for a bodily injury solely because it was caused by a work-related accident to a person who is not covered by the workers' compensation law. The law already applies to policies delivered, issued, amended, or renewed in Connecticut.

Both the act and existing law apply to (1) individual or group health insurance policies that cover (a) basic hospital expenses; (b) basic medical-surgical expenses; (c) major medical expenses; (d) accident only coverage;

or (e) hospital or medical services, including coverage under an HMO plan, and (2) individual health insurance policies that provide limited benefit health coverage.

*Treatment of Tumors and Leukemia and Related Benefits (§§ 24 & 31)*

The act requires individual and group health insurance policies renewed, amended, or continued in Connecticut on or after January 1, 2011 to provide certain benefits for the treatment of tumors and leukemia, reconstructive surgery, nondental prosthesis, chemotherapy, and wigs for chemotherapy patients. The law already requires policies issued or delivered in Connecticut to provide these benefits.

Coverage must be subject to the same terms and conditions applicable to other policy benefits. But the policy must provide at least a yearly benefit of \$500 for the surgical removal of tumors; \$500 for reconstructive surgery; \$500 for outpatient chemotherapy; \$350 for a wig; and \$300 for a nondental prosthesis, unless the prosthesis is due to the surgical removal of breasts because of tumors, in which case the yearly benefit must be at least \$300 for each breast.

Both the act and existing law apply to (1) individual or group health insurance policies that cover (a) basic hospital expenses; (b) basic medical-surgical expenses; (c) major medical expenses; or (d) hospital or medical services, including coverage under an HMO plan, and (2) individual health insurance policies that provide limited benefit health coverage.

*Continuation of Coverage (§ 32)*

The act requires group health insurance policies amended in Connecticut on or after January 1, 2011, regardless of the number of insureds, to contain state continuation of coverage (“mini-COBRA”) provisions. The law already requires policies delivered, issued, renewed, or continued in Connecticut to contain those provisions.

Both the act and existing law apply to group health insurance policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) hospital confinement indemnity coverage; (4) major medical expenses; or (5) hospital or medical services, including coverage under an HMO plan

**§§ 48-50 — MOTOR VEHICLE REPAIR SHOP NOTICE REQUIREMENT**

The act allows the DMV commissioner to impose penalties for violations of the motor vehicle repair shop notice requirements under PA 08-146 (see BACKGROUND). It authorizes the commissioner to suspend or revoke a repair shop’s license, fine the shop up to \$1,000 for each violation, or both. In addition to,

or in lieu of these penalties, the commissioner may order the licensee to make restitution to an aggrieved customer. By law, the commissioner may impose these penalties for violations of other repair shop laws.

By law, a repair shop customer may waive, in writing, his or her right to a repair estimate. The act prohibits a repair shop from using waivers to evade its repair shop notice requirements. The law already prohibits waivers to evade duties under other repair shop laws.

The act authorizes the DMV commissioner to conduct investigations and hearings regarding a repair shop’s compliance with the notice requirements. He currently has this authority with respect to other motor vehicle dealer and repairer laws. The act also allows the attorney general, at the commissioner’s request, to seek a restraining order requiring a repair shop to cease violating PA 08-146, a power he has with respect to other repair shop laws.

**§§ 2, 5, & 6 — CAPTIVE INSURERS**

The act names the insurance commissioner the agent to receive legal service of process for captive insurance companies domiciled in Connecticut if a registered agent cannot be found with reasonable diligence at the captive’s registered office. By law, the commissioner is already the agent for captive insurers domiciled outside of Connecticut that do business here.

The act requires a captive insurance company formed as a reciprocal insurer or limited liability company to give the secretary of the state, along with any required filing fee, a certificate of general good from the insurance commissioner and the insurer’s articles of incorporation, if applicable. By law, a captive formed as a corporation must already do this.

The act also makes technical and conforming changes in the captive laws.

**§§ 13 & 15 — LIFE SETTLEMENT STATUTES**

The act resolves a statutory conflict within the license expiration and renewal requirements for life settlement producers and brokers. PA 08-175 both retained the prior law’s requirements and added new, conflicting ones. This act retains the prior law, specifying that provider and broker licenses expire on March 31 in each year, but may be renewed annually. If a provider or broker fails to pay the renewal fee on time, the commissioner must revoke his or her license, unless he or she pays within five days after the commissioner sends a written notice of nonrenewal, by first class mail, after March 31.

The act deletes the following provisions: (1) the term of a (a) producer license is equal to that of a domestic stock life insurance company (annual renewal)

and (b) broker license is equal to that of an insurance producer (if an individual, renewal is every other year on the person's birth date, and if an entity, February 1 of even-numbered years) and (2) licenses must be renewed on their anniversary dates and failure to pay the renewal fee by that date results in license expiration.

The act deletes another provision from PA 08-175. The provision specified that if a broker verifies the existence of a life insurance policy, then a life settlement provider is deemed to have fulfilled the law's extensive disclosure requirements.

By law, a life settlement provider, within 20 days after a life insurance policy owner executes a life settlement contract, must give the insurer that issued the policy written notice that the policy has become subject to a life settlement contract. The act requires the provider to send the notice with a copy of the insured's (1) required medical records release form and (2) application for the life settlement contract, instead of with optional disclosure documents.

#### § 26 — PREMIUM PAYMENTS FOR TERMINATED EMPLOYEES

PA 09-126 allows an employer, with certain exceptions, to elect to stop paying group health insurance premiums for an employee and his or her dependents as of 72 hours after the employee quits or is terminated for any reason except layoff. This act adds another exception: relocation or closing of a "covered establishment" (i.e., an industrial, commercial, or business facility that employs, or has employed in the preceding 12 months, 100 or more people).

The act specifies that an employee's or dependent's right to continue coverage after a covered establishment relocates or closes is not affected by PA 09-126. By law, when a covered establishment relocates or closes, the employer must pay for continued insurance coverage for affected employees and dependents for 120 days or until the employee becomes eligible for other coverage (CGS § 31-51o).

#### § 52 — NOTICE TO COURTS AND POLICE DEPARTMENTS

The act eliminates the class D felony penalty (see Table on Penalties) for the insurance commissioner's failure to provide courts and police departments a list of surety bail bond agents or changes to the list.

## BACKGROUND

*Repair Shop Notice and Acknowledgment (PA 08-146, as amended by PA 09-237)*

The law requires automobile physical damage appraisals or estimates written on an insurer's or a motor vehicle repair shop's behalf to include the following notice in at least 10-point boldface type: **NOTICE: YOU HAVE THE RIGHT TO CHOOSE THE LICENSED REPAIR SHOP WHERE THE DAMAGE TO YOUR MOTOR VEHICLE WILL BE REPAIRED (CGS § 14-65l).**

The law prohibits a motor vehicle repair shop from repairing a vehicle unless the claimant (i.e., person whose insured vehicle needs repairs) acknowledges in writing that he or she is aware of the right to have the vehicle repaired at a shop he or she chooses (CGS § 14-65f). The acknowledgement may be (1) included in the repair authorization, which a customer signs before repairs are made, or in a separate document and (2) faxed or e-mailed. The acknowledgement must state: "I am aware of my right to choose the licensed repair shop where the motor vehicle will be repaired."

By law, a "motor vehicle repair shop" means a new car dealer, a used car dealer, a repairer, or a limited repairer (CGS § 14-65e). No one may operate such a shop without a DMV-issued new car dealer's, used car dealer's, repairer's, or limited repairer's license (CGS § 14-52).

*Captive Insurance Company (PA 08-127)*

Effective January 1, 2009, the law permits a captive insurance company to be licensed and domiciled in Connecticut to transact life insurance, annuity, health insurance, and commercial risk insurance business. A captive insurance company is, in its simplest form, an insurance company that is a wholly-owned subsidiary whose primary function is to insure all or part of the risks of its parent company.

The law enumerates requirements for a Connecticut-domiciled captive's formation, capital and surplus, local office presence, ability to meet policy obligations, payment of certain fees and premium taxes, and annual reporting, among other things.

A captive domiciled outside of Connecticut may conduct business in Connecticut, subject to conditions specified in federal and state laws. A company's domicile is the jurisdiction under whose laws the company is organized and in which it has its principal place of business.

**PA 10-6—HB 5011 (VETOED)**

*Insurance and Real Estate Committee  
Planning and Development Committee*

**AN ACT EXTENDING THE EFFECTIVE DATE  
FOR CERTAIN INTERLOCAL RISK  
MANAGEMENT POOLS**

**SUMMARY:** This act postpones, by six years, the dates by which certain interlocal risk management pools must comply with contingency reserve requirements specified by law.

It also requires an interlocal risk management agency, beginning October 1, 2013, to report annually to the insurance commissioner any interlocal risk management pool's surplus or deficit for the preceding fiscal year. If there is a deficit of \$8 million or more, the agency must assess the pool members to eliminate the deficit within three years from the preceding June 30. The agency determines how to implement the assessment.

The law permits two or more municipalities to form an interlocal risk management agency (known as a "MIRMA") to pool risks and jointly purchase insurance for (1) public liability, automobile, and property; (2) workers' compensation; and (3) excess risk.

**EFFECTIVE DATE:** Upon passage

**CONTINGENCY RESERVE REQUIREMENTS**

By law, a workers' compensation or excess risk pool must maintain at least \$100,000 for contingencies for each fiscal year it operates, but the pool does not need to have more than a total of \$500,000. A public liability, automobile, and property risk pool must maintain at least \$500,000 for contingencies for its first fiscal year of operation and increase it by 5% of total member contributions for each subsequent year until the contributions-to-fund ratio is no more than three to one.

The act allows an interlocal risk management pool, at its option, to postpone complying with these contingency reserve requirements until July 1, 2016 under certain conditions. Prior law let it postpone compliance until July 1, 2010.

A pool that wants to postpone compliance with the contingency reserve requirements must, by July 1, 2005, have been organized for less than 10 years. It must also, by that date, have established a contingency reserve of (1) \$100,000 for each fiscal year of operation, if the pool is for workers' compensation or excess risk pool, or (2) \$500,000 for the first fiscal year of operation, increased by 5% of total member contributions for each subsequent year, if the pool is for public liability, automobile, and property risk.

Beginning July 1, 2016, instead of 2010, the act requires a workers' compensation or excess risk pool that postponed compliance to maintain at least \$100,000 for contingencies for each fiscal year it operates, but the pool does not have to have more than \$500,000 total.

Beginning July 1, 2016, instead of 2010, the act requires a public liability, automobile, and property risk pool that postponed compliance to maintain a fund of at least:

1. \$100,000 plus 1% of total member contributions for the prior year as of June 30, 2017, instead of 2011;
2. \$200,000 plus 2% of total member contributions for the prior year as of June 30, 2018, instead of 2012;
3. \$300,000 plus 3% of total member contributions for the prior year as of June 30, 2019, instead of 2013;
4. \$400,000 plus 4% of total member contributions for the prior year as of June 30, 2020, instead of 2014; and
5. \$500,000 plus 5% of total member contributions for the prior year as of June 30, 2021, instead of 2015.

As of July 1, 2021, instead of 2015, the act reinstates the former law for all pools. Thus, a workers' compensation or excess risk pool must maintain at least \$100,000 for contingencies for each fiscal year it operates, but the pool does not need to have more than \$500,000 total. A public liability, automobile, and property risk pool must maintain at least \$500,000 for contingencies for its first fiscal year of operation and increase it by 5% of total member contributions for each subsequent year until the contributions-to-fund ratio is no more than three to one.

**BACKGROUND**

*Interlocal Risk Management Pool*

By law, an interlocal risk management pool is not an insurance company. But each pool operating under the law's requirements must submit reports relating to reserves to the insurance commissioner as he requires.

The law applies certain insurance statutes to interlocal risk management pools, including financial examinations the Insurance Department conducts, financial reporting requirements, and the receivership process if the pool is insolvent or a hazard to policyholders or creditors.

*Contingency Reserve*

A contingency reserve is unassigned money held above and beyond other pool liability reserves. Members advance funds to the pool. An advance is repaid only when a repayment does not reduce the fund below its required minimum.

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**PA 10-7**—sHB 5014

*Insurance and Real Estate Committee*

**AN ACT CONCERNING AUTOMOBILE AND PERSONAL RISK INSURANCE**

**SUMMARY:** This act codifies and amends the Insurance Department’s guidelines on how insurers can use a person’s credit history when underwriting or rating a personal risk insurance policy (e.g., homeowners or private passenger nonfleet automobile (auto)). It also makes numerous changes in laws relating to auto insurance. Specifically, the act:

1. requires an auto insurer to allocate certain expenses on a “flat dollar basis” when determining policy rates;
2. requires auto insurance rating plans that use territorial classifications to assign a weight of 75% to individual loss-costs and 25% to state wide average loss-costs, as currently required by Insurance Department guidelines;
3. requires the insurance commissioner to adopt regulations regarding underwriting and rating auto insurance policies;
4. requires an insurer that cancels an auto insurance policy in accordance with law to give written cancellation notice to any lienholder listed in the insurer’s records as having a legal interest in the motor vehicle (§ 5);
5. requires a person whose vehicle has been impounded for not having the required registration to present a valid registration and current auto insurance identification card to regain possession of the vehicle (§ 6);
6. allows an auto insurer to use any publicly available auto industry source approved by the commissioner to determine a totaled vehicle’s retail value;
7. requires an auto insurer to give a claimant details on how it calculated a totaled vehicle’s loss value, including how to dispute the settlement through the Insurance Department; and

8. increases, from 10% to 15% per year, the interest an arbitrator the Insurance Department uses to resolve a settlement dispute between an auto insurer and claimant must award when the decision favors the consumer (§ 8).

EFFECTIVE DATE: January 1, 2011, except for the financial history measurement program requirements, which are effective July 1, 2011, and provisions regarding impounded vehicles and notices to lienholders of auto policy cancellations, which are effective October 1, 2010.

§§ 2-4 — FINANCIAL HISTORY MEASUREMENT PROGRAM AND USE OF CREDIT HISTORY

The act permits an insurer to use a “financial history measurement program” only when underwriting or developing rates for new personal risk insurance policies. It prohibits an insurer from using credit history when renewing a policy, unless (1) the policyholder asks or (2) using the program reduces the insured’s premium under the insurer’s filed rates and rules.

The act defines “financial history measurement program” as a program that uses an insurance applicant’s credit history to measure his or her risk of loss (i.e., filing claims). It defines “credit history” as credit-related information (1) derived from or found in a credit report or credit-scoring program or (2) provided in an application for personal risk insurance.

*Program Filing Requirements*

The act requires an insurer using a financial history measurement program to underwrite or rate policies to file the program with the insurance commissioner. The filing must:

1. include the program’s description, rules, and procedures;
2. identify the characteristics the program uses from which the insurer derives a measurement; and
3. explain the impact of credit information and public records on insurance rates over time.

The act prohibits the program from (1) unfairly discriminating among applicants or (2) producing rates that are excessive for the risk assumed. This filing is considered a trade secret and thus is exempt from disclosure under the Freedom of Information Act.

The act requires an insurer using a financial history measurement program to also give the commissioner documentation demonstrating (1) the correlation between the program and the expected risk of loss and (2) how the program affects consumers (a) in urban versus nonurban territories and (b) of different ages.

The act authorizes the commissioner to request that an insurer provide a financial history measurement for a set of test examples reflecting various characteristics.

#### *Disclosure to Insurance Applicant*

When anyone applies for a policy, the act requires an insurer to disclose to the person that the company may use his or her credit history in the underwriting or rating process. The insurer must also disclose, at the same time, that the applicant may request, in writing, that the insurer consider an extraordinary life circumstance during this process or during a review of a rate quote requested by such applicant, if the applicant's credit history has been harmed by such a circumstance that occurred within three years before the application. The insurer must make these disclosures in writing, by e-mail or telephone, or orally.

The insurer also must give each policy purchaser a written disclosure, by the date the policy is issued, that:

1. lists the insurer's name, address, telephone number, and toll-free telephone number, if any;
2. includes a detailed statement that explains how the insurer will use credit information to underwrite or rate the policy; and
3. summarizes consumer protections regarding the use of credit, in a form determined by the commissioner.

The disclosure must be printed in reasonably conspicuous type and be provided electronically, by mail, or by hand delivery.

#### *Prohibited Practices*

The act prohibits insurers from using the following characteristics of an applicant or an insured in its financial history measurement program:

1. the number of credit inquiries in a credit report or credit history;
2. the use of a particular type of credit, debit, or charge card;
3. the total available line of credit;
4. any disputed credit information being reviewed by a credit reporting company, so long as the information is identified as being disputed in the report or history;
5. debt the applicant incurred from financing hospital or medical expenses; and
6. the lack of credit history, unless the insurer treats the applicant or insured as if he or she had neutral credit information as defined by the insurer.

A financial history measurement program must give the same weight to an applicant's or insured's purchase or financing of a specific item regardless of the type of item purchased or financed.

#### *Extraordinary Life Circumstances*

The act requires an insurer to consider during its underwriting or rating process or during a review requested by an applicant, an applicant's extraordinary life circumstance. The insurer must do this on an applicant's written request if a circumstance occurred within three years before the application date. If the insurer determines that the applicant's credit history has been adversely impacted by an extraordinary life circumstance, it must grant a reasonable exception to its rates, rating classifications, or underwriting rules for the applicant.

The act defines an "extraordinary life circumstance" as:

1. a catastrophic illness or injury;
2. a divorce;
3. the death of a spouse, child, or parent;
4. the involuntary loss of employment for more than three consecutive months;
5. identity theft;
6. total or other loss that makes a home uninhabitable;
7. other circumstances the commissioner identifies in regulations adopted in accordance with law; or
8. any other circumstance the insurer chooses to recognize.

The act permits an insurer to require the applicant to provide reasonable, independently verifiable documentation of the extraordinary circumstance and its effect on the applicant's credit report or credit history. It requires an insurer to keep confidential any documentation or information it obtains.

If the insurer grants an exception, it must (1) consider only credit information not affected by the extraordinary circumstance or (2) treat the applicant as if he or she had neutral or better-than-neutral credit information, as defined by the insurer.

An insurer may not be deemed to be out of compliance with any provision of the statutes or regulations concerning underwriting, rating, or rate filing solely based on granting an exception.

#### *Adverse Actions Due to Credit History*

The act requires an insurer that takes an adverse action due in part to an insured's or applicant's credit report to disclose this to the person and tell him or her about (1) the right to obtain a free credit report, and how to do so; (2) the types of extraordinary life circumstances described above; and (3) how an applicant may inform the insurer of an extraordinary life circumstance and submit any required documentation in order to seek an exception.

Under the act, an “adverse action” includes:

1. denying coverage or offering restricted coverage,
2. offering a higher rate,
3. assigning a person to a higher rate tier or higher-priced company within an insurer group, or
4. any other action that adversely impacts an insured or applicant due to the insurer’s financial history measurement program.

#### *Cannot Deny Insurance Solely Due to Credit History*

The act prohibits an insurer from denying, cancelling, or not renewing a personal risk insurance policy based solely on a person’s (1) credit history or rating or (2) lack of credit history. The act specifies that it does not deem an insurer to have declined, cancelled, or not renewed a policy if coverage is available to the person through an affiliated insurer.

#### *Report to Commissioner*

The act allows the commissioner to require an insurer to report to him, once the insurer’s financial history measurement program has been in effect for two years. The report must include information demonstrating that the program results in rates that are supported by the data and not unfairly discriminatory. It must also include an analysis of consumer complaints the insurer received because it used a financial history measurement program. The analysis must identify the basis for the complaints and any action the insurer took as a result.

#### § 1 — RATING PLANS

##### *Allocating Expenses on a Flat-Dollar Basis*

The act requires an auto insurer to allocate certain expenses on a “flat-dollar basis” to a policy’s base rate. It requires an insurer to add a flat-dollar amount to the base rate for (1) at least 90% of general expenses, including administration and overhead costs; (2) at least 90% of acquisition costs for marketing and agent field offices, which may be allocated over the expected life of the insurer’s policies; and (3) miscellaneous taxes, licenses, and fees. It requires adding the flat-dollar amount after the insurer has applied any classification factors to the base rate.

It prohibits insurers from allocating as flat-dollar amounts to the base rate (1) producer commissions, (2) premium taxes, (3) underwriting profits, and (4) contingencies.

By law, an insurer may group risks by classifications and modify base rates for a person’s individual characteristics as described in the rating plan it files with the commissioner.

#### *Territorial Rating*

The term “territorial rating” refers to an insurer’s practice of factoring in, when setting auto insurance rates, the principal place where a driver garages his or her vehicle. The Insurance Department, through administrative guidelines, currently requires a 75%/25% weighting of territory to statewide experience. This means that the base rate for an auto insurance policy must give 75% weight to the territory’s loss-cost data and 25% weight to the statewide average loss-cost data.

The act codifies these guidelines by requiring that auto insurance rating plans using territorial classifications assign a weight of 75% to individual territorial loss-cost indication and 25% to the state-wide average loss-cost indication.

#### *Regulations*

Prior law authorized the commissioner to adopt regulations concerning rating plans and the underwriting, classification, or rating of risks for auto insurance in Connecticut. The act instead requires him, by January 1, 2012, to adopt by regulation the Insurance Department’s “most current guidelines and bulletins” regarding the underwriting, classification, or rating of auto insurance risks in Connecticut, including those regarding territorial rating.

#### § 7 — SETTLEMENT AMOUNT ON TOTALED VEHICLE

By law, a vehicle is a “constructive total loss” if the cost to repair or salvage it, or both, equals or exceeds the vehicle’s total value at the time of loss. Previously, when an insurer declared a covered, damaged vehicle a constructive total loss, the insurer had to calculate the vehicle’s value for determining the settlement amount by using at least the average of the retail values given by (1) the National Automobile Dealers Association (NADA) used car guide and (2) one other automobile industry source that the insurance commissioner approved for such use. The act allows the insurer to use any other publicly available automobile industry source the commissioner approves for such use rather than the NADA guide as one of the two sources for determining the vehicle’s average retail value.

The act also requires the insurer to give the claimant, by the time it pays the settlement amount:

1. a detailed copy of its calculation of the vehicle's constructive total loss value;
2. if applicable, a copy of any valuation report provided to the insurer by any automobile industry source that is not publicly available; and
3. a written notice disclosing that the claimant may dispute the settlement by contacting the Insurance Department.

The insurer's written notice must include in its final paragraph in at least 12-point type the following statement: "If you do not agree with this valuation, you may contact the Consumer Affairs Division within the Insurance Department." The notice must give the division's address and toll-free phone number and the department's Internet address.

## BACKGROUND

### *Personal Insurance Rating Plans*

The law (1) prohibits insurance rates from being excessive, inadequate, or unfairly discriminatory; (2) requires an insurer to file with the commissioner its underwriting rules, rates, supplementary rate information, and any supporting information used for the rates; and (3) requires certain premium discounts under certain conditions (e.g., completing driver training, senior citizen accident prevention, and motorcycle training courses). The law also permits insurers to group risks by classification, measuring differences in risks that can be demonstrated to have a probable effect upon losses or expenses.

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**PA 10-13**—sHB 5219

*Insurance and Real Estate Committee*

## **AN ACT EXTENDING STATE CONTINUATION OF HEALTH INSURANCE COVERAGE**

**SUMMARY:** This act extends the period for which certain people and their dependents may continue group health insurance under the state's "mini-COBRA" law from 18 to 30 months. To qualify for the continued coverage, the person must have experienced a specified qualifying event, including a layoff, reduced hours, leave of absence, or termination of employment for other than death or gross misconduct.

The act's extended coverage provision applies to people who are already continuing coverage due to those qualifying events and people who elect to do so on and after the act's passage (i.e., May 5, 2010). By law, unchanged by the act, spouses and dependents who are

continuing coverage for any other reason (e.g., death of employee or divorce) are permitted to continue coverage for 36 months under federal COBRA.

The act requires each insurer and HMO that has issued a group health insurance policy subject to the continuation requirements, in conjunction with their group policyholders, to provide notice of the extended coverage period to affected people within 60 days of the act's passage (i.e., notice must be sent by July 4, 2010). Group policyholders include those with fewer than 20 employees.

The act also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *COBRA and Mini-COBRA*

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) and state "mini-COBRA" provide certain former employees, retirees, spouses, and children with the right to temporarily continue coverage under an employer's group health plan after their coverage would otherwise end, so long as the covered person pays the required premiums. A person may be required to pay the full premium and administrative costs, up to 102% of the full group rate premium. Federal COBRA applies to employer groups with 20 or more employees. Connecticut law applies to all groups regardless of size (CGS §§ 38a-538, 546, and 554). The federal government currently offers a 65% premium subsidy to certain people who have recently lost employment.

Federal COBRA establishes the time period for which coverage must continue for a qualified person, but a plan or state may provide longer periods. Federal COBRA requires coverage to extend for 18 months when a person would otherwise lose coverage because of job loss or reduced work hours. Other qualifying events, or a second qualifying event during the initial period of coverage, may extend coverage up to 36 months. Longer periods may be available for a disabled person.

In addition, state law permits an employee and covered dependents to continue coverage until midnight of the day preceding the employee's eligibility for Medicare if the employee's reduced hours, leave of absence, or termination of employment results from his or her eligibility for Social Security.

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**PA 10-19**—sHB 5303

*Insurance and Real Estate Committee*

**AN ACT REQUIRING REPORTING OF CERTAIN HEALTH INSURANCE CLAIMS DENIAL DATA**

**SUMMARY:** This act adds claims denial data for the prior calendar year to the information that managed care organizations (MCOs) must report to the insurance commissioner annually by May 1. (MCOs include insurers, HMOs, hospital or medical service corporations, or other organizations issuing managed care plans in Connecticut.) By law, an MCO that fails to file data on time must pay a late fee of \$100 per day for each day late (CGS § 38a-478b).

The act requires the commissioner to post the claims denial information on the Insurance Department's website and include it in the Consumer Report Card on Health Insurance Carriers in Connecticut, which the department publishes annually by October 15.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2010, except the consumer report card provision is effective January 1, 2011.

**CLAIMS DENIAL DATA REPORTING**

The act requires MCOs to report claims denial data to the insurance commissioner annually by May 1, in a format the commissioner prescribes. The data is for the prior calendar year and must relate to Connecticut residents covered by managed care plans.

The data must include the number of (1) claims received, (2) claims denied, (3) denials that were appealed, and (4) denials that were reversed on appeal. The data must also include (1) the reasons for the denials, including "not a covered benefit," "not medically necessary," and "not an eligible enrollee"; (2) the number and percentage of times each reason was used; and (3) other information the commissioner deems necessary.

**PA 10-24**—sHB 5235

*Insurance and Real Estate Committee*

**AN ACT REQUIRING THE PROVIDING OF CERTAIN INFORMATION UPON CERTAIN DENIALS OF HEALTH INSURANCE COVERAGE**

**SUMMARY:** This act requires certain health insurers who deny coverage of a requested service because it is not (1) medically necessary or (2) a covered benefit to

notify the insured of his or her ability to contact the Office of the Healthcare Advocate if the insured believes he or she has been given erroneous information. Insurers must also provide the insured with contact information for the healthcare advocate's office.

The act applies to each insurer, health care center, hospital or medical service corporation, or other entity that delivers, issues, renews, amends, or continues in Connecticut individual or group health insurance policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage under an HMO plan.

Due to federal law (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

The act also imposes a 45-day coverage determination and notice requirement on any of the above entities that continue an individual or group health insurance policy in Connecticut. The law already requires this for individual and group policies that are delivered, issued, amended, or renewed in the state.

EFFECTIVE DATE: January 1, 2011

**BACKGROUND**

*Medically Necessary*

The law requires policies to include the following definition of "medically necessary." Medically necessary services are health care services that a physician, exercising prudent clinical judgment, would provide to a patient to prevent, evaluate, diagnose, or treat an illness, injury, disease, or its symptoms, and that are:

1. in accordance with generally accepted standards of medical practice;
2. clinically appropriate, in terms of type, frequency, extent, site, and duration and considered effective for the patient's illness, injury, or disease;
3. not primarily for the convenience of the patient, physician, or other health care provider; and
4. not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results.

"Generally accepted standards of medical practice" means standards that are (1) based on credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community or (2) otherwise consistent with the standards set forth in policy issues involving clinical judgment (CGS §§ 38a-482a and 38a-513c).

**PA 10-53—SB 190**

*Insurance and Real Estate Committee  
Transportation Committee  
Appropriations Committee*

**AN ACT CONCERNING A FOUR-HOUR  
ACCIDENT PREVENTION COURSE FOR  
OLDER DRIVERS**

**SUMMARY:** By law, a driver age 60 or older is eligible for an automobile insurance premium discount for successfully completing an accident-prevention course approved by the Department of Motor Vehicles (DMV). This act requires the course to be four hours long.

Prior law required the DMV commissioner to adopt regulations about the course, including the number of hours of classroom instruction required. The act removes his authority to regulate the length of the course.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*Auto Insurance Premium Discount*

The premium discount, which is effective at the policy's next renewal, must be at least 5% and apply for at least 24 months. The driver must complete the DMV-approved course within the year before he or she applies for an initial discount. For any future discount, the driver must complete a course within one year before the current discount expires.

**PA 10-59—sSB 17**

*Insurance and Real Estate Committee  
Public Health Committee*

**AN ACT CONCERNING HEALTH CARE  
PROVIDER RENTAL NETWORK CONTRACT  
ARRANGEMENTS**

**SUMMARY:** The law allows entities that contract with health care providers (i.e., “contracting entities”) to give third parties (i.e., “covered entities”) access to the providers’ services, rates, or fees under certain conditions (CGS § 42-490, *et seq.*). This act makes a violation of the law an unfair or deceptive insurance practice and authorizes the insurance commissioner to adopt regulations. It also (1) requires a contracting entity to update routinely and at least every 90 days its list of covered entities, which must be available to providers by law; (2) establishes requirements for a covered entity that subsequently gives others access to a provider’s services, rates, or fees; and (3) permits a

health care provider to file legal actions against contracting and covered entities.

EFFECTIVE DATE: October 1, 2010

**CONTRACTING ENTITY**

By law, each contracting entity that sells, leases, rents, assigns, or grants access to a health care provider’s services, rates, or fees must:

1. give a provider who requests it, when first contracting with him or her, a list of all known covered entities to which it may give access to the provider’s services, rates, or fees and
2. maintain a website or toll-free number through which a provider can obtain a listing of covered entities having access to his or her services, rates, or fees.

The act requires a contracting entity to update its list of covered entities routinely and at least every 90 days.

**COVERED ENTITY**

The act establishes requirements for a covered entity that subsequently sells, leases, rents, assigns, or grants access to a provider’s services, rates, or fees to another third party. Specifically, such a covered entity must:

1. maintain a website or toll-free number through which a provider can obtain a listing of entities having access to his or her services, rates, or fees and
2. when giving access, inform the contracting entity and its directly-contracted providers of its website address or toll-free number.

The act requires a covered entity to update the list of entities to which it has granted access to providers’ services, rates, or fees routinely and at least every 90 days.

**BACKGROUND**

*Connecticut Unfair Insurance Practice Act (CUIPA)*

The law prohibits engaging in unfair or deceptive insurance acts or practices. CUIPA authorizes the insurance commissioner to issue regulations, conduct investigations and hearings, issue cease and desist orders, ask the attorney general to seek injunctive relief in Superior Court, impose fines, revoke or suspend licenses, and order restitution.

Fines may be up to (1) \$5,000 per violation to a \$50,000 maximum or (2) \$25,000 per violation to a \$250,000 maximum in any six-month period if knowingly committed. The law also imposes a fine of

up to \$50,000, in addition to or in lieu of a license suspension or revocation, for violating a cease and desist order (CGS § 38a-817).

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**PA 10-63**—sSB 50

*Insurance and Real Estate Committee  
Appropriations Committee*

**AN ACT CONCERNING ORAL  
CHEMOTHERAPY TREATMENTS**

**SUMMARY:** This act requires certain health insurance policies that cover intravenously and orally administered anticancer medications prescribed by a licensed practitioner with prescribing authority to cover the orally administered medication on at least as favorable a basis as the intravenously administered medication. It prohibits insurers, HMOs, medical and hospital service corporations, and fraternal benefit societies from reclassifying anticancer medications or increasing the patient's out-of-pocket costs for the medications as a way to comply.

The act also broadens the applicability of several health insurance benefits required by law, including treatment of tumors and leukemia, reconstructive surgery, nondental prosthesis, chemotherapy, and wigs for chemotherapy patients. It does this by requiring all policies renewed, amended, or continued in Connecticut to include the benefits. Policies delivered or issued here already must include them.

EFFECTIVE DATE: January 1, 2011

**EXPANDED APPLICABILITY OF REQUIREMENTS**

The act requires health insurance policies renewed, amended, or continued in Connecticut to provide coverage for:

1. the surgical removal of tumors and related outpatient chemotherapy;
2. treatment of leukemia, including outpatient chemotherapy;
3. reconstructive surgery, including on a breast on which a mastectomy was performed and a nondiseased breast for symmetry (such as augmentation or reduction mammoplasty and mastopexy);
4. nondental prosthesis, including any maxillo-facial prosthesis used to replace anatomic structures lost during treatment for head and neck tumors or additional appliances essential for the support of such a prosthesis;
5. an oncologist-prescribed wig for a patient with hair loss resulting from chemotherapy; and

6. if a group health insurance policy, medically necessary removal of breast implants that were implanted before July 2, 1994.

Coverage must be subject to the same terms and conditions applicable to other benefits under the policy. But the policy must provide at least a yearly benefit of: (1) \$500 each for the surgical removal of tumors, reconstructive surgery, and outpatient chemotherapy; (2) \$350 for a wig; (3) \$300 for a nondental prosthesis, unless the prosthesis is due to the surgical removal of breasts because of tumors, in which case the yearly benefit must be at least \$300 for each breast; and (4) if a group policy, \$1,000 for a breast implant removal. Coverage must be provided for the reasonable cost of reconstructive breast surgery.

By law, policies issued or delivered in Connecticut already must include these benefits.

**APPLICABILITY OF THE ACT**

The act applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage under an HMO plan. It also applies to individual health insurance policies that provide limited benefit health coverage.

Due to federal law, state insurance benefit mandates do not apply to self-insured benefit plans.

**BACKGROUND**

*Related Act*

PA 10-5 includes the same expanded applicability requirements found in this act.

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**PA 10-65**—sSB 141

*Insurance and Real Estate Committee*

**AN ACT REQUIRING DISCLOSURE OF  
OFFSETS IN GROUP LONG-TERM DISABILITY  
INSURANCE POLICIES**

**SUMMARY:** Group long-term disability (LTD) policies usually include a "benefit offset." State law prohibits an insurer that issues, delivers, renews, or amends a group LTD policy in Connecticut from including an "offset proviso." A "benefit offset" is a policy provision that reduces the amount of benefits available under the policy if benefits are also available from other sources (e.g., Social Security). An "offset proviso" is a policy provision that allows the insurer to reduce its liability by any increase in benefits available from the other sources that occurs after a claim begins

under the policy. This act specifies that the increase in other benefits is limited to cost of living increases.

The act requires an insurer, for each group LTD policy that contains a benefit offset, to disclose specified information to the policyholder. The act requires each policyholder to provide the disclosed information to each individual eligible for LTD benefits.

The act also extends its provisions to group LTD policies continued in Connecticut and makes technical changes.

EFFECTIVE DATE: January 1, 2011

#### REQUIRED DISCLOSURE

For each group LTD policy with an offset, the insurer must disclose, in a conspicuous manner in at least 14-point bold face type in a separate document:

1. that the policy contains an offset;
2. that the offset functions to limit payments to a person insured under the policy, taking into account benefits the person may receive from other sources, including Social Security disability benefits;
3. what other categories of benefits the policy offsets;
4. the income percentage the policy covers and any maximum dollar limit;
5. at least one example of how the offset works; and
6. that an eligible individual who does not want an offset may contact an insurance agent or company for an individual policy.

**PA 10-77**—sSB 13

*Insurance and Real Estate Committee  
Judiciary Committee*

#### AN ACT CONCERNING REAL ESTATE APPRAISAL MANAGEMENT COMPANIES

**SUMMARY:** This act requires appraisal management companies to register with the Department of Consumer Protection (DCP) and pay a \$1,000 application fee before doing business in Connecticut. It sets out requirements for such companies and authorizes the DCP commissioner to adopt implementing regulations. It also authorizes the commissioner to investigate the companies and impose penalties for violations.

EFFECTIVE DATE: October 1, 2010

#### § 1 — APPRAISAL MANAGEMENT COMPANY

The act defines an “appraisal management company” as any person, partnership, association, limited liability company, or corporation that performs appraisal management services. It excludes:

1. an appraiser who enters into a written or oral agreement with another appraiser to conduct an appraisal, which must be signed by both appraisers upon completion;
2. an appraisal management company that is wholly owned by a state or federally regulated financial institution (e.g., bank) or a department of such an institution that only receives appraisal requests from its employee; or
3. any local, state, or federal agency or department.

“Appraisal management services” means:

1. administering an appraiser panel;
2. recruiting certified or licensed appraisers to be part of an appraiser panel, including negotiating fees to be paid to, and services to be provided by, such appraisers; or
3. receiving an appraisal request or order and delivering it to an appraiser panel.

An “appraiser panel” is a network of certified or licensed appraisers who are independent contractors of an appraisal management company and who have:

1. responded to an invitation, request, or solicitation from an appraisal management company to perform appraisals (a) requested or ordered through the company or (b) directly for the company on a periodic basis as assigned by the company and
2. been selected and approved by the company.

#### §§ 2 & 4 — REGISTRATION PROCESS

The act requires an appraisal management company to register with DCP before doing business in Connecticut, including:

1. engaging or attempting to engage in business,
2. performing or attempting to perform appraisal management services, or
3. advertising or holding itself out as engaging in business.

Under the act, an appraisal management company applying for a certificate of registration cannot:

1. be more than 10% owned by a person who has had an appraiser license or certificate denied, refused to be renewed, suspended, or revoked in any state;
2. be owned by any partnership, association, limited liability company, or corporation that is more than 10% owned by such a person;

3. employ any person to order, prepare, perform, or review appraisals who has had an appraiser license or certificate denied, refused to be renewed, suspended, or revoked; or
4. enter into any contract, agreement, or other business arrangement, written or oral, to procure appraisal services in Connecticut with (a) anyone who has had an appraiser license or certificate denied, refused to be renewed, suspended, or revoked or (b) any partnership, association, limited liability company, or corporation that employs or has entered into a contract, agreement, or other business arrangement, in any form, with someone who has had an appraiser license or certificate denied, refused to be renewed, suspended, or revoked.

The registration application must be in writing on a form the commissioner prescribes, be accompanied by a \$1,000 fee, and include:

1. the company's name, business address, and telephone number;
2. for an out-of-state company, the name, address, and telephone number of its agent for service of process in Connecticut and a completed Uniform Consent to Service of Process form;
3. the name, address, and telephone number of (a) any person or business entity owning 10% or more of an equity interest, or the equivalent, of the company, (b) the company's controlling person who will serve as the main contact for communications between the commissioner and the company, and (c) the company's compliance manager;
4. a certification that no 10% owner has had an appraiser license or certificate denied, refused to be renewed, suspended, or revoked in any state; and
5. any other information the commissioner may require.

Before issuing or renewing a certificate of registration, the act authorizes the commissioner to:

1. certify that the company has procedures in place to (a) verify that a person being added to the company's appraiser panel holds a license in good standing, (b) maintain detailed records of each appraisal request or order it receives and of the appraiser who performs each appraisal, and (c) review periodically the work of all appraisers to ensure that appraisals are being conducted in accordance with the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP);

2. determine to his or her satisfaction that each 10% owner is of good moral character and has submitted to a background investigation, as deemed necessary by the commissioner; and
3. determine to the commissioner's satisfaction that the controlling person (a) has never had an appraiser license or certificate denied, refused to be renewed, suspended, or revoked in any state, (b) is of good moral character, and (c) has submitted to a background investigation, as deemed necessary by the commissioner.

### *Certificates of Registration*

Certificates of registration are valid for two years and are renewable for a \$1,000 fee. The act requires the commissioner to (1) issue a registration number to each appraisal management company registered in Connecticut and (2) publish annually a list of those registered.

### §§ 3 & 4 — COMPANY REQUIREMENTS

#### *Annual Certification*

The act requires each appraisal management company to certify annually to the commissioner that it maintains a detailed record of each appraisal request or order it receives and of the appraiser who performs each appraisal.

#### *Audits*

The act allows an appraisal management company to audit completed appraisals performed by its appraiser panel members to ensure that they were performed according to the USPAP.

#### *Compensation Disclosure*

The act requires each appraisal management company to disclose to a client before providing, or along with, the appraisal report the (1) appraiser's total compensation for performing the appraisal and (2) total amount the company will retain.

An appraisal management company cannot prohibit or attempt to prohibit an appraiser from including or referencing in an appraisal report the appraisal fee, the name of the appraisal management company, or the client or lender's name or identity.

#### *Employees or Contractors*

The act requires any employee or contractor of an appraisal management company involved in performing appraisals in Connecticut or reviewing and analyzing

completed appraisals to be licensed or certified and in good standing. But it does not prohibit an unlicensed or uncertified person from:

1. examining an appraisal or an appraisal report for grammatical, typographical, or clerical errors and
2. doing work that does not involve formulating opinions or comments about (a) the appraiser's data collection, analyses, opinions, conclusions, or valuation or (b) the appraisal's compliance with the USPAP.

#### *Paying Appraisers*

Except in cases of breach of contract or substandard performance of services or where the parties have mutually agreed upon an alternate payment schedule in writing, each appraisal management company operating in Connecticut must pay an appraiser for completing an appraisal or valuation assignment within 60 days after the date the appraiser transmits or otherwise provides the completed appraisal or valuation study to the company or its assignee.

#### *No Intentional Influence to Misrepresent a Property's Value*

The act prohibits an appraisal management company's employee, owner, controlling person, director, officer, or agent from intentionally influencing, coercing, or encouraging or attempting to influence, coerce, or encourage, an appraiser to misstate or misrepresent a property's value by any means, including:

1. withholding or threatening to withhold timely payment for an appraisal;
2. withholding business from, or demoting or terminating, an appraiser, or threatening to do so;
3. expressly or implicitly promising future business, promotion, or increased compensation to an appraiser;
4. conditioning an appraisal request or payment of a fee, salary, or bonus on the appraiser's opinion, preliminary estimate, conclusion, or valuation;
5. requesting that an appraiser provide a predetermined or desired valuation in an appraisal report or estimated values or comparable sales at any time before completing an appraisal;
6. providing an appraiser an anticipated, estimated, encouraged, or desired value for a property or a proposed or target amount to be loaned to the borrower, except that a copy of the contract to purchase may be provided;

7. providing or offering to provide stock or other financial or nonfinancial benefits to an appraiser or any person or entity related to the appraiser;
8. removing an appraiser from an appraiser panel without prior written notice (see below);
9. obtaining, using, or paying for a subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction, unless (a) there is a reasonable basis to believe that the initial appraisal was flawed or tainted and the basis is clearly noted in the transaction file or (b) the subsequent appraisal or automated valuation model is performed following a bona fide pre- or post-funding appraisal review, loan underwriting, or quality control process; or
10. performing any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

The act specifies that it does not prohibit an appraisal management company from asking an appraiser to (1) provide additional information about the basis for a valuation or (2) correct objective factual errors in an appraisal report.

#### § 5 — REMOVING APPRAISER FROM APPRAISAL PANEL

The act prohibits an appraisal management company from removing an appraiser from its appraisal panel, or refusing to assign appraisals to him or her after 30 days from when the appraiser is initially added to the panel without:

1. notifying the appraiser in writing of (a) the reasons for the removal and (b) any alleged illegal conduct, USPAP violation, or violation of state licensing standards and
2. providing the appraiser with an opportunity to respond to such notice.

#### *Complaint Process*

An appraiser removed from an appraiser panel for alleged illegal conduct or violation of the USPAP or state licensing standards may file a complaint with the DCP commissioner and request a review of the removal decision.

The commissioner must notify the company within 10 days after any complaint is filed and render a decision within 180 days thereafter. He may hold a hearing before making his decision. If he determines that the appraiser did not engage in illegal conduct or violate the USPAP or state licensing standards, he must order the appraiser to be reinstated.

Once the appraiser is reinstated, the company cannot penalize, refuse to assign requests or orders for appraisals, or reduce the number of assignments to him or her.

#### § 6 — DCP INVESTIGATIONS AND PENALTIES

The act authorizes the DCP commissioner to investigate an appraisal management company upon the verified written complaint of any person alleging a violation of the act.

If the commissioner determines that a company made any materially false, fictitious, or fraudulent statement or violated the act, he may, after giving notice and an opportunity for hearing, (1) deny, refuse to renew, suspend, or revoke a certificate of registration and (2) impose a civil penalty of up to \$25,000. Any hearing held must conform to the Uniform Administrative Procedures Act. Aggrieved individuals may appeal to Superior Court.

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#### PA 10-79—sHB 5141

*Insurance and Real Estate Committee*

#### AN ACT CONCERNING THE HANDLING OF PROPERTY CLAIMS BY PUBLIC ADJUSTERS

**SUMMARY:** This act redefines a “public adjuster” to specify the range of services one is allowed to perform.

Prior law defined a “public adjuster” as any person or company that adjusts loss or damage caused by fire or other hazards under an insurance policy on behalf of the insured person. The act, instead, defines it as a person or company that, on behalf of an insured person and for compensation or anything of value, (1) prepares, documents, and submits a first-party property claim to an insurance company for loss or damage covered under a personal or commercial risk insurance policy or (2) negotiates, adjusts, or effects a claim settlement. As under existing law, the act also includes in the definition any person or company that (1) advertises or solicits business as a public adjuster or (2) holds himself or itself out to the public as engaging in adjusting activities.

The act prohibits a public adjuster from soliciting an insured person between 8:00 p.m. and 8:00 a.m. This restriction is in current regulation.

By law, anyone who acts as a public adjuster without a license issued by the insurance commissioner is subject to a \$10,000 fine, up to three months in prison, or both (CGS § 38a-725).

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2010

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#### PA 10-131—HB 5295

*Insurance and Real Estate Committee*

#### AN ACT CONCERNING THE PURCHASING OF PRESCRIPTION DRUGS BY NONSTATE PUBLIC EMPLOYERS

**SUMMARY:** This act requires the comptroller to (1) offer nonstate public employers the option to purchase prescription drugs through the state’s bulk purchasing authority under PA 09-206 and (2) establish procedures for doing this. The prescription drugs must be purchased for the employers’ employees, employees’ dependents, or retirees. The act defines “nonstate public employer” as (1) a municipality or other state political subdivision, including a board of education, quasi-public agency, or public library and (2) the Teachers’ Retirement Board.

In making the offer, the act requires the comptroller to offer nonstate public employers the option of purchasing prescription drugs through the State Employees’ Bargaining Agent Coalition (SEBAC) collective bargaining agreement with the state, but only if the Health Care Cost Containment Committee (HCCCC) gives the comptroller written notice that doing so is consistent with that agreement. (HCCCC is a state labor and management committee that exists under agreement with SEBAC.) The act permits the comptroller to proceed without the written notice if she establishes a prescription drug purchasing program for nonstate public employers that is separate from the program for state employees.

The act requires nonstate public employers to pay the full cost of their own claims and prescription drugs.

The act authorizes the comptroller to offer a nonstate public employer participating in the prescription drug purchasing program the option of purchasing stop-loss coverage from an insurer at a rate she negotiates.

Lastly, the act permits two or more nonstate public employers to join together to purchase prescription drugs for their employees, employees’ dependents, and retirees. It specifies that such an arrangement does not constitute a multiple employer welfare arrangement (MEWA) as defined under federal law.

EFFECTIVE DATE: Upon passage

## PROCEDURES TO BE ESTABLISHED

The act requires the comptroller to establish procedures for allowing nonstate public employers to purchase prescription drugs through the state's bulk purchasing program. The procedures must include:

1. eligibility requirements,
2. the enrollment process,
3. duration of participation,
4. payment requirements,
5. withdrawal from the arrangement, and
6. termination of the program.

## BACKGROUND

### *PA 09-206*

PA 09-206, as amended by PA 09-232, § 28, requires the social services and administrative services commissioners and the comptroller, in consultation with the public health commissioner, to develop a plan concerning the bulk purchasing of pharmaceuticals. Specifically, the plan must implement and maintain a prescription drug purchasing program and procedures to aggregate or negotiate pharmaceutical purchases for HUSKY Part B, State Administered General Assistance, Charter Oak Plan and ConnPACE recipients, Department of Correction inmates, and people eligible for insurance under the state employee and municipal employee health insurance plans.

### *Stop Loss*

A stop-loss policy is also known as an excess reimbursement or excess coverage policy. It insures the plan issuer, which is usually an employer operating a self-insured benefit plan in accordance with the federal Employee Retirement Income Security Act of 1974 (ERISA). The policy is intended to protect the employer from catastrophic claims.

### *MEWA*

An employer that self-insures a health benefit plan for its employees is generally not subject to state insurance laws because of federal pre-emption under ERISA. But a multiple employer plan may not have the same exemption.

ERISA defines "multiple employer welfare arrangement" as an employee welfare benefit plan, or any other arrangement that is established or maintained for the purpose of offering or providing benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that it does not include a plan or arrangement established or maintained by a collective bargaining agreement, rural electrical cooperative, or

rural telephone cooperative association (29 U.S.C. § 1002(40)).

Congress amended ERISA in 1983 to provide an exception to ERISA's preemption provisions for the regulation of MEWAs under state insurance laws (P.L. 97-473). As a result, if an ERISA-covered employee welfare benefit plan is a MEWA, states may apply and enforce state insurance laws with respect to it.

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### **PA 10-163—sHB 5004**

*Insurance and Real Estate Committee*

*Judiciary Committee*

*Government Administration and Elections Committee*

## **AN ACT CONCERNING TRANSPARENCY IN HEALTH INSURANCE CLAIMS DATA**

**SUMMARY:** This act requires an insurer or similar entity to disclose to a municipal employer certain information about its group insurance policy. It defines "employer" as a town; city; borough; or school, taxing, or fire district that has more than 50 employees. The information relates to services used, claims paid, premiums paid, and the number of people covered under the policy.

The act requires the insurer or entity to provide the information (1) at the employer's request, (2) for the shorter of the most recent 36 months or entire coverage period ending within 60 days before making the request, and (3) in a specified format. It specifies that the insurer does not have to provide information more than once in a 12-month period. The bill makes information disclosed to an employer exempt from disclosure under the Freedom of Information Act.

The act requires an employer to use the information it receives only for the purposes of obtaining competitive quotes for group insurance or to promote wellness initiatives for employees.

EFFECTIVE DATE: Upon passage

### **APPLICABILITY OF ACT**

The act applies to each insurer, health care center (i.e., HMO), hospital or medical service corporation, or other entity that delivers, issues, renews, amends, or continues any group health insurance policy in Connecticut that covers (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage under an HMO plan.



## INFORMATION AN INSURER MUST DISCLOSE

The act requires the insurer or entity to disclose, at an employer's request:

1. complete and accurate medical, dental, and pharmaceutical utilization data, as applicable;
2. total claims paid and claims paid by year, practice type, and service category, for in-network and out-of-network providers;
3. premiums the employer paid by month; and
4. the number of people insured under the policy by month and coverage tier, including single, two-person, and family.

The act requires the insurer or entity to disclose only information that (1) cannot be used to identify an individual and (2) is disclosable under the federal Health Insurance Portability and Accountability Act (HIPAA) or its regulations.

### *Utilization Data*

The act defines "utilization data" as the aggregate number of (1) procedures performed for the employer's covered employees, by practice type and service category, and (2) prescriptions filled for those employees, by prescription drug name.

### *Claims Paid*

The act defines "claims paid" as the amounts paid for the employer's covered employees' medical services and supplies and prescriptions. It excludes expenses for stop-loss coverage, reinsurance, enrollee educational programs, other cost containment programs or features, administrative costs, and profit.

## REQUIRED FORMAT

The insurer or other entity must provide the information (1) in a written report, (2) electronically in a secure e-mail or through a file transfer protocol site, or (3) through a secure website or website portal the employer can access.

## CONFIDENTIALITY

The act makes information disclosed to an employer exempt from disclosure under the Freedom of Information Act. But it allows the employer to provide claim information to a collective bargaining unit to fulfill its statutory duties.

## SUBPOENA OR SIMILAR DEMAND

If the information disclosed to an employer is the subject of a subpoena or similar demand as part of a court proceeding, the act requires the employer to

immediately notify the entity that disclosed the information (e.g., the insurer or HMO). The act grants the entity standing to file an application or motion with the court to quash or modify the subpoena. If the entity does so, the act requires the court to stay the subpoena without penalty to the parties until a hearing can be held and the court enters an order.

## BACKGROUND

### *Federal Privacy Requirements*

HIPAA limits an insurer's release of protected health information (PHI). PHI includes medical information that contains information that could identify a person, including name; Social Security, telephone and medical record numbers; and ZIP code. Federal regulations protect this information regardless of how it is stored or transmitted.

### *State Insurance Information and Privacy Protection Act*

State law generally prohibits an insurer, agent, or support organization from disclosing any personal or privileged information about a person that was collected or received in connection with an insurance transaction, but specifies numerous instances when disclosure is permissible. For example, disclosure of personal information is permissible if it is made to a group policyholder for the purpose of (1) reporting claims experience or (2) conducting an audit of the insurer's or agent's operations or services, provided the information disclosed is reasonably necessary for the policyholder to conduct the audit. Disclosure is also permissible if otherwise permitted or required by law (CGS § 38a-988).

The law defines "personal information" as any individually identifiable information, including a person's name, address, and medical record information, collected in connection with an insurance transaction from which judgments can be made about the person's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. "Privileged information" is individually identifiable information relating to an insurance claim or a civil or criminal proceeding involving the person.

The law subjects a person who violates it (1) negligently, to a fine of up to \$2,000 for each violation, not to exceed \$20,000 and (2) intentionally, to a fine of up to \$5,000 for each violation not to exceed \$50,000 (CGS § 38a-993).



**PA 10-14—HB 5250**  
*Judiciary Committee*

**AN ACT CONCERNING THE BOARD OF PARDONS AND PAROLES**

**SUMMARY:** Beginning July 1, 2010, this act increases (1) from 18 to 20, the membership on the Board of Pardons and Paroles and (2) from five to seven, the number of board members who must serve exclusively on the panels that grant pardons.  
EFFECTIVE DATE: Upon passage

**BACKGROUND**

*The Board of Pardons and Paroles*

By law, the board has independent authority to grant or deny parole, establish conditions of parole or special parole supervision, rescind or revoke parole or special parole, grant releases, or commute punishment (CGS § 54-124a(f)).

Board members appointed on or after February 1, 2008 must be qualified by education, experience, or training in the administration of community corrections, parole or pardons, criminal justice, criminology, the evaluation or supervision of offenders, or the provision of mental health services to offenders.

The chairperson of the board serves full time, as do five of the members who serve on parole panels. The remaining board members serve part time.

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**PA 10-28—sHB 5247**  
*Judiciary Committee*

**AN ACT CONCERNING COMPETENCY TO STAND TRIAL**

**SUMMARY:** Among other actions, the law permits a court to place a criminal defendant it finds incompetent to stand trial in the custody of the Department of Mental Health and Addiction Services (DMHAS) commissioner with instructions that DMHAS apply for civil commitment. This act expands courts' authority to order periodic re-examinations of incompetent defendants who it either (1) releases or (2) places in the commissioner's custody.

The expansion covers defendants charged with serious sex offenses and specified crimes that resulted in physical injury. The law already allows for periodic re-examinations of defendants charged with crimes that resulted in death or serious physical injury but does not state the frequency of re-examinations. The act specifies that all examinations under these circumstances must be made at least every six months.

The act requires DMHAS to notify the court if it releases the defendant before the statute of limitations for prosecuting him or her has expired, if the court's commitment order indicates when this occurs.  
EFFECTIVE DATE: October 1, 2010

**PERIODIC EXAMINATIONS**

The act adds defendants charged with the following crimes:

1. risk of injury involving sexual contact with a child under age 16;
2. 2<sup>nd</sup> degree assault with a deadly or dangerous instrument, other than a firearm, that causes physical injury;
3. 2<sup>nd</sup> degree assault with a firearm;
4. 1<sup>st</sup> degree sexual assault (rape);
5. aggravated 1<sup>st</sup> degree sexual assault;
6. spousal rape;
7. 2<sup>nd</sup> degree sexual assault;
8. 3<sup>rd</sup> degree sexual assault; and
9. 3<sup>rd</sup> degree sexual assault with a firearm.

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**PA 10-29—sHB 5249**  
*Judiciary Committee*

*Government Administration and Elections Committee*

**AN ACT CONCERNING THE CONFIDENTIALITY OF CERTAIN DOCUMENTS AND RECORDS IN PSYCHIATRIC SECURITY REVIEW BOARD PROCEEDINGS**

**SUMMARY:** This act makes public certain mental health information about people under the supervision of the Psychiatric Security Review Board (PSRB) after they are acquitted of a crime due to a mental disease or defect (acquittees). It applies to otherwise-confidential psychological or psychiatric information that either the acquittee or PSRB uses as evidence in a public hearing concerning the acquittee's release, conditional release, temporary leave, or confinement. Under prior law, such information was protected by the psychologist- or psychiatrist-patient privilege (confidentiality) rules. There was no provision in prior statute concerning temporary leaves.

The act also makes the same change for disclosure rules that mental status examinations acquittees must undergo while conditionally released into the community.

Finally, the act requires PSRB to hold a hearing before granting requests for a temporary leave. Previously, hearings were required only for decisions to discharge, conditionally discharge, or continue the acquittee's confinement.

EFFECTIVE DATE: October 1, 2010

**PA 10-30—HB 5252***Judiciary Committee***AN ACT CONCERNING THE PRETRIAL ALCOHOL EDUCATION PROGRAM AND THE PRETRIAL DRUG EDUCATION PROGRAM**

**SUMMARY:** This act requires the Court Support Services Division (CSSD) to keep a record of a person's participation in the pretrial alcohol education program for 10, rather than seven, years. CSSD is already required to keep records for 10 years for participants in the pretrial drug education program. For both programs, the act requires that the 10-year period start on the date the court grants the application for participation, rather than from the date of application.

For both programs, the act makes several minor changes regarding program costs and fees. The act specifies that the court can waive all or part of the alcohol intervention program fee if it finds that a person is indigent or unable to pay.

Similarly, for the pretrial drug education program, the act specifies that the substance abuse treatment program costs must be paid from the pretrial account if the court finds that a person is indigent or unable to pay. The law already allows (1) for costs to be paid from this account when treatment is ordered as part of the pretrial alcohol education program and (2) the court to waive all or part of the fees for intervention programs in the pretrial drug education program. Additionally, the act specifies that a person cannot be excluded from the substance abuse treatment program based on his or her inability to pay costs. Also, by law, for both programs, if a person is unable to attend a program in Connecticut, he or she can attend in another state if the appropriate fees are paid. The act requires that costs be paid as well.

The act clarifies that CSSD, rather than the Department of Mental Health and Addiction Services, must require participation in the community service labor program as a condition of participation in the drug education program.

Finally the act makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2010

**PA 10-31—HB 5281***Judiciary Committee***AN ACT CONCERNING AMENDMENTS TO THE CONNECTICUT UNIFORM PRINCIPAL AND INCOME ACT**

**SUMMARY:** This act makes changes to trustee decisions under the Connecticut Principal and Income Act relating to (1) estate tax marital deductions from

deferred compensation, annuities, and similar payments and (2) income tax payments.

EFFECTIVE DATE: October 1, 2010

**ESTATE TAX MARITAL DEDUCTIONS**

The act changes the rules that apply to payments from a private or commercial annuity; individual retirement account; or pension, profit-sharing, stock-bonus, or stock ownership plan, which it names "separate funds."

Under prior law, if a trustee had to allocate more of a payment to income than the law otherwise provided to obtain an estate tax marital deduction, the trustee had to make that allocation. The act eliminates this requirement and instead states that the general allocation of payment rules do not apply to allocate a payment from a "separate fund" to a trust:

1. to which an election to qualify for a marital deduction would be allowed under federal law with respect to a life estate for a surviving spouse (26 U.S.C. § 2056(b)(7)) or
2. that qualifies for the marital deduction under federal law for a life estate with power of appointment in the surviving spouse (26 U.S.C. § 2056(b)(5)).

*Rules That Apply*

The act instead applies the following rules.

1. A trustee must determine the internal income of each "separate fund" for the accounting period as if it were a trust. If the surviving spouse requests it, the trustee must demand the person administering the "separate fund" distribute the internal income to the trust. The trustee must allocate a payment from the "separate fund" to income to the extent of the fund's internal income and distribute it to the surviving spouse. The trustee must allocate the balance of the payment to principal. If the surviving spouse requests it, the trustee must allocate principal to income to the extent the fund's internal income exceeds payments made from the fund to the trust during the accounting period.
2. If the trustee cannot determine the "separate fund's" internal income but can determine its value, the internal income is deemed to equal 4% of the value according to the most recent statement of value preceding the beginning of the accounting period. If the trustee cannot determine the internal income of the fund or the fund's value, the internal income is the product of the interest rate and present value of the expected future payment as determined by federal law (26 U.S.C. § 7520) for the month

preceding the account period for which the computation is made.

The act's provisions apply to these trusts on or after the date of the decedent's death if the trust is (1) not funded by October 1, 2010 or (2) initially funded in calendar year 2010. Otherwise, it applies to a trust starting on January 1, 2010.

#### *Exception*

Under the act, these new rules do not apply if and to the extent the series of payments would otherwise qualify for the marital deduction under federal law as a survivor annuity (U.S.C. 26 § 2056(b)(7)(C)).

#### INCOME TAXES

Under prior law, a tax a trustee had to pay on the trust's share of an entity's taxable income was paid proportionately from (1) income, to the extent receipts from the entity are allocated to income and (2) principal, to the extent receipts are allocated to principal and the trust's share of taxable income exceeds the total receipts allocated to income or principal.

The act instead requires payments in these cases be paid (1) from income, to the extent the receipts are allocated only to income; (2) from principal, to the extent the receipts are allocated only to principal; (3) proportionately from principal and income, to the extent the receipts are allocated to both principal and income; and (4) from principal, to the extent the tax exceeds total receipts.

#### BACKGROUND

##### *Connecticut Principal and Income Act*

The Connecticut Principal and Income Act (CPIA) establishes rules for fiduciaries administering trusts. The rules relate to allocating property between principal and income and between income and remainder beneficiaries (income beneficiaries generally receive funds during the life of a trust and remainder beneficiaries receive the remainder of a trust's funds when it terminates). CPIA gives fiduciaries certain discretionary powers including the power to adjust between principal and income under certain circumstances.

#### **PA 10-32—sHB 5376**

*Judiciary Committee*

#### **AN ACT CONCERNING THE REVISOR'S TECHNICAL CORRECTIONS TO THE GENERAL STATUTES**

**SUMMARY:** This act makes technical changes to the general statutes.

**EFFECTIVE DATE:** Upon passage, except changes to probate provisions taking effect on January 5, 2011 are effective on that date.

#### **PA 10-33—HB 5377**

*Judiciary Committee*

#### **AN ACT ADOPTING THE UNIFORM UNSWORN FOREIGN DECLARATIONS ACT**

**SUMMARY:** This act specifies how someone located outside the boundaries of the United States can make an unsworn declaration that will be given the same effect as a sworn declaration required or permitted by state law. It also expands the crime of perjury to include false statements in unsworn declarations made under the act's provisions.

Under the act, an "unsworn declaration" is a declaration in a signed record that is not under oath but is given subject to the state penalty for perjury. A "sworn declaration" is a declaration in a signed record under oath and includes a sworn statement, verification, certificate, or affidavit.

**EFFECTIVE DATE:** October 1, 2010

#### **LOCATION FOR MAKING AN UNSWORN DECLARATION**

The act applies to an unsworn declaration made by someone physically outside the boundaries of the United States. It defines the "boundaries of the United States" as the geographic boundaries of the United States, Puerto Rico, the U.S. Virgin Islands, and any territory or insular possession subject to U.S. jurisdiction.

The act applies regardless of whether the location is subject to United States jurisdiction. But it does not apply to someone physically located on property within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.

## FORM OF UNSWORN DECLARATION

The act requires the unsworn declaration to be signed and dated and read substantially as follows:

“I declare under penalty of perjury under the law of Connecticut that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.”

If a state law requires a sworn declaration in a particular medium, the act requires the unsworn declaration to be in the same medium.

## PERJURY

The act expands the crime of perjury to include intentionally making a false statement or swearing, affirming, or testifying falsely to a material statement the person does not believe to be true in an unsworn declaration made under the act’s provisions. By law, perjury is a class D felony (see Table on Penalties).

## DEFINITIONS

Under the act, a “record” is information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form. “Sign” means, with present intent to authenticate or adopt a record, to (1) execute or adopt a tangible symbol or (2) attach to or logically associate with the record an electronic symbol, sound, or process.

“Law” includes the federal or state constitutions and statutes; judicial decisions or orders; rules of court; executive orders; and administrative rules, regulations, and orders.

A “state “ means any U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and any territory or insular possession subject to U.S. jurisdiction.

## FEDERAL LAW

The act specifies that it modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 *et seq.*). But the act also specifies that it does not modify, limit, or supersede consumer protections specified in federal law (15 U.S.C. § 7001(c)), nor does it authorize electronic delivery of the notices described in 15 U.S.C. § 7003(b) (see BACKGROUND).

## PROMOTING UNIFORMITY

The act provides that in applying and construing its provisions, consideration must be given to the need to promote uniformity of the law on its subject matter among states that enact these uniform provisions.

## BACKGROUND

### *Electronic Signatures in Global and National Commerce Act*

On June 30, 2000, Congress enacted the Electronic Signatures in Global and National Commerce Act to facilitate the use of electronic records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically (15 U.S.C. § 7001 *et seq.*).

This law allows a state statute to modify, limit, or supersede it only if the state law:

1. constitutes an enactment or adoption of the Uniform Electronic Transactions Act or
2. specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability when they satisfy certain standards and the state law makes specific reference to this act.

### *Consumer Protections in 15 U.S.C. § 7001(c)*

If a statute, regulation, or other rule requires that information relating to any transaction in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that the information be in writing if the following conditions, among others, are satisfied:

1. the consumer has affirmatively consented to the use and has not withdrawn that consent;
2. the consumer, before consenting, is provided with a clear and conspicuous statement that satisfies certain requirements, and is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and
3. the consumer consents or confirms consent electronically, in a way that reasonably demonstrates that he or she can access information in the electronic form that will be used to provide the information that is the subject of the consent.

*Notices Listed in 15 U.S.C. § 7003(b)*

This federal law specifies the following types of notices:

1. court notices, required to be executed in connection with court proceedings;
2. notices about the cancellation or termination of utility services;
3. default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or rental agreement for, an individual's primary residence;
4. the cancellation or termination of health or life insurance benefits; and
5. the recall or material failure of a product that risks health or safety.

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**PA 10-34**—sHB 5406  
*Judiciary Committee*

**AN ACT CONCERNING THE COURTS OF PROBATE**

**SUMMARY:** This act:

1. allows the probate court administrator to make, and requires him to enforce, regulations governing record maintenance and eliminates the requirement that he follow Uniform Administrative Procedure Act (UAPA) rules in regulating some other areas, and
2. allows towns assigned to the same probate district to agree on how to share costs associated with court operations.

It also allows probate judges to conduct business in any location in Connecticut to facilitate a party's attendance. Prior law limited their jurisdiction to towns in their districts.

The act also makes technical and conforming changes.

**EFFECTIVE DATE:** October 1, 2010, except conforming provisions concerning insurance and definitions are effective January 5, 2011.

**PROBATE COURT REGULATIONS**

The act allows the probate court administrator to adopt regulations governing records retention. He must regularly review the procedures. The act follows existing law regarding submission of proposed regulations to the executive committee of the Probate Court Assembly and the Judiciary Committee for approval.

The act eliminates the requirement that the probate court administrator's proposed regulations concerning the availability of judges, court facilities, personnel,

records, and telephone services be adopted in conformity with the UAPA. Among other things, this change permits probate regulations to be enacted without public hearings or approval by the legislature's Regulations Review Committee.

**MULTI-TOWN DISTRICT COST-SHARING**

The act allows towns in the same probate district to agree on how they will pay the district's expenses, including costs associated with providing suitable court facilities, records, and supplies. If they cannot agree, financial responsibilities will be allocated in proportion to their most recent grand lists. Prior law did not permit cost sharing agreements.

If a town fails to contribute, existing law requires the probate court administrator to submit a report to the Judiciary Committee; previously the report could include a recommendation that the non-contributing probate district be merged with a neighboring district. The act eliminates this authority. By law, the administrator can file a Superior Court action to enforce the requirements for provision of suitable court facilities.

**BACKGROUND**

*Related Acts*

PA 10-41 makes a number of changes in probate court operations.

PA 10-121 adds Union to the probate district containing Enfield, Somers and Strafford.

PA 10-184 changes the formula for calculating fees.

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**PA 10-35**—HB 5530  
*Judiciary Committee*

**AN ACT CONCERNING THE CONNECTICUT BUSINESS CORPORATION ACT**

**SUMMARY:** This act makes changes to the laws governing business corporations. It requires written notices sent to a corporation to be addressed to its secretary. The act allows corporations to provide equivalent financial information to shareholders exercising appraisal rights when the appropriate financial statement is unavailable. It also requires financial information to be provided to shareholders before they exercise their appraisal rights (i.e., with the notices of corporate action that trigger those rights.)

It allows the board of directors to authorize one or more of its officers to make certain decisions regarding the recipients of the corporation's rights, options, or warrants for the purchase of shares or other securities.

The act also allows a corporation to agree to submit a matter to a vote of its shareholders even if the board of directors, after approving the matter, determines it no longer recommends it. It makes conforming changes to effect this change.

The act allows, rather than requires, the director of a corporation to consider certain factors in determining what he or she reasonably believes to be in the corporation's best interests.

EFFECTIVE DATE: October 1, 2010

## FINANCIAL STATEMENTS

### *Accompanying Payments*

By law, a corporation must pay shareholders exercising their appraisal rights the estimated fair value of their shares, plus interest. Under prior law, the payment had to be accompanied by a financial statement consisting of (1) a balance sheet as of the end of the fiscal year ending no more than 16 months before the date of the payment, (2) an income statement for that year, (3) a statement of changes in shareholders' equity for that year, and (4) the latest available interim financial statements, if any. The act instead requires a corporation to provide its annual financial statement to shareholders covering the fiscal year ending within the 16-month period before payment. The statement must comply with the existing law on financial statements for shareholders, which generally require the same components as prior law, except they do not require the interim statements. However, the act requires the corporation to furnish its latest available quarterly financial statements, if any. If the annual financial statements are not reasonably available, the act requires corporations to provide reasonably equivalent financial information.

The act also requires a financial statement to comply with the existing law on documents accompanying financial statements. If a public accountant reports a statement, that report must accompany the statements. If there is no public accountant report, the statements must be accompanied by a statement of the president or the person responsible for the corporation's accounting records (1) stating his or her reasonable belief as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation and (2) describing any ways in which the statements were not prepared on a basis of accounting consistent with the preceding year's statements.

### *Notices of Certain Corporate Actions*

When a merger is effected or the types of mergers, share exchanges, disposition of assets, or certificate of incorporation amendments that trigger shareholder appraisal rights are proposed, the act requires the requisite notice to be accompanied by a financial statement that complies with the requirements for financial statements accompanying payment described above. However, the act allows the shareholder to waive the requirement in writing, before or after the applicable corporate action.

## ISSUANCE OF RIGHTS, OPTIONS, WARRANTS, OR OTHER EQUITY COMPENSATION AWARDS

By law, a corporation may issue rights, options, or warrants for the purchase of its shares or other securities, and the board of directors determines the terms of issuance. The act allows the board to authorize one or more officers to (1) designate the recipients of rights, options, warrants, or other equity compensation awards that involve the issuance of shares and (2) determine, within an amount and subject to any other limitations established by the board and, if applicable, the shareholders, the number and terms of such rights, options, warrants, or other equity compensation awards to be received. However, an officer cannot use this authority to designate himself or herself, or any other people the board may specify, as a recipient.

## BEST INTERESTS OF THE CORPORATION

The act allows, rather than requires as under prior law, the director of a corporation with a class of voting stock registered under the Securities Exchange Act of 1934 to consider the following factors in determining what he or she reasonably believes to be in the best interests of the corporation:

1. the long- and short-term interests of the corporation;
2. the long- and short-term interests of the shareholders, including the possibility that those interests may be best served by the continued independence of the corporation;
3. the interests of the corporation's employees, customers, creditors, and suppliers; and
4. community and societal considerations, including those of any community in which any corporate office or facility is located.



PA 10-36—HB 5542

Judiciary Committee

**AN ACT MAKING MINOR, TECHNICAL AND CONFORMING CHANGES TO CERTAIN STATUTES CONCERNING CRIMINAL AND CIVIL LAW AND PROCEDURE**

**SUMMARY:** This act makes a number of unrelated minor, technical, and conforming changes.

1. The act codifies a recent Connecticut Supreme Court ruling that the statute banning all gambling wagers and wagering contracts does not apply to wagers or contracts otherwise authorized by law (see BACKGROUND).
2. The criminal laws on illegal gambling do not apply to advertising, operating, or participating in state conducted off-track betting. The act also excludes the off-track betting system operated by an authorized licensee. The law authorizes the Division of Special Revenue to transfer ownership of the off-track betting system.
3. The act changes sentencing for two crimes. By law, 2<sup>nd</sup> degree kidnapping with a firearm is a class B felony (see Table on Penalties) with a three-year mandatory minimum sentence. The act eliminates a requirement that the court impose a five-year prison sentence, which the court could suspend down to the three-year mandatory minimum. By law, 2<sup>nd</sup> degree manslaughter with a firearm is a class C felony with a one-year mandatory minimum sentence. The act eliminates a requirement that the court impose a three-year prison sentence, which the court could suspend down to the one-year mandatory minimum.
4. By law, a cause of action is not lost by missing a statute of limitations if the process to be served is personally delivered to a state marshal and the process is served within 30 days of delivery. The act extends this provision to service of process by constables and other proper officers. These officers are also authorized by statute to serve process. The act also codifies a recent Connecticut Supreme Court ruling by specifying that these officers must receive the process before the statute of limitation expires (see BACKGROUND).
5. PA 07-123 split the offense of violating the conditions of release by someone released pending trial into 1<sup>st</sup> and 2<sup>nd</sup> degree crimes. The act makes a conforming change to another statute that imposes a penalty for conviction of an offense while released pending trial. That statute excluded violations under the conditions

of release statute. The act makes a conforming change to exclude both the 1<sup>st</sup> degree and 2<sup>nd</sup> degree crimes.

6. By law, a person convicted or found not guilty by reason of mental disease or defect of certain crimes must submit to the taking of a DNA sample. The law allows someone whose DNA profile has been included in the data bank to request its expungement if his or her criminal conviction is reversed and the case dismissed. The act extends this provision to cases in which a finding of not guilty by reason of mental disease or defect is reversed and the case dismissed.
7. Under prior law, a foreign statutory trust's agent for service of process filed a signed statement in duplicate with the secretary of the state when the agent changed its address, and the secretary filed one copy and mailed the other to the foreign statutory trust. The act clarifies that the agent files (a) notice of the change of address with the secretary and (b) a signed statement in duplicate when resigning. By law, a resignation takes effect 30 days after mailing notice.
8. The act eliminates a definition of "wire communication" in the provisions on criminal investigation of sex offender registrants using the Internet because it is not used in those provisions.

**EFFECTIVE DATE:** July 1, 2010, except a technical change eliminating a statutory reference is effective October 1, 2010 to match the date the referenced statute is repealed.

**BACKGROUND**

*Related Case — Wagers and Wagering Contracts*

The Connecticut Supreme Court recently ruled that the statute banning gambling wagers and wagering contracts does not apply to wagers or contracts otherwise authorized by law. The court ruled that this statute was "irreconcilable" with the state's "various forms of legalized wagering" such as the lottery, off-track betting, pari-mutuel betting, jai alai, and Indian casinos through tribal-state compacts. The court also looked at the statutes criminalizing gambling and found that they exclude gambling authorized by law. The court ruled that it would be consistent for all of these statutes to be construed to apply to illegal gambling (*Sokaitis v. Bakaysa*, 293 Conn. 17 (2009)).

*Related Cases — Service of Process*

A Superior Court judge interpreted the statute that preserves lawsuits if the process is delivered to a state

marshal to file the action. The judge noted that the statute was amended as part of a large bill to reform the sheriffs system and it was one of many statutes amended to give state marshals, instead of sheriffs, the power to serve process. This particular statute was amended to replace the broader term “officer,” which would have included constables and other officers who are authorized to serve process, with “state marshal.” The judge concluded that the amendment was not intended to exclude process served by constables and a proper interpretation of the statute allowed it to apply to process given to a constable (*Abitz v. Fierer*, 44 CLR 820 (January 15, 2008)).

In another case under this statute, the Connecticut Supreme Court ruled that the process must be delivered to the state marshal before the statute of limitations expires, even though this requirement was not expressly stated in the statute. The court found that prior to the sheriffs’ reform act, the statute included this requirement and the legislative history did not show any intention of changing this provision. The court found that to rule otherwise would produce an absurd result and allow a party to bring an action at any time by delivering process for a state marshal to serve within 30 days. The court stated that such an interpretation would be contrary to the intent behind the statute and frustrate the purpose of the statutes of limitation (*Tayco Corp. v. Planning and Zoning Commission*, 294 Conn. 673 (2010)).

#### *Related Act*

PA 10-178 contains the same provision on preserving lawsuits when process is delivered within the required time frame to a proper officer.

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**PA 10-41**—sHB 5408  
*Judiciary Committee*

### **AN ACT CONCERNING PROBATE COURT OPERATIONS**

**SUMMARY:** This act:

1. specifies that Probate Court judges do not get extra compensation for acting as (a) an administrative judge for a regional children’s court, (b) a member of a three-judge panel, (c) a special assignment judge, or (d) the probate court administrator and
2. conforms statute to reflect the centralized accounting and new pay formula that go into effect on January 5, 2011.

**EFFECTIVE DATE:** January 5, 2011, except the payroll deduction and financial reporting provisions are effective January 1, 2011 and the provisions relating to

(1) the chief court administrator’s pay, (2) financial reporting, (3) pro rata salary payments, and (4) work-in-process payments are effective upon passage.

### **CENTRALIZED ACCOUNTING**

#### *Payroll Deductions*

PA 09-114 centralized Probate Court accounting and payroll functions and placed them in the Office of the Probate Court Administrator effective January 5, 2011, the start of the next probate term. The act makes conforming changes by authorizing the probate court administrator to (1) deduct statutory retirement contributions from paychecks of judges and court staff and (2) transfer those funds to the Probate Court Retirement Fund. Under prior law, individual probate judges forwarded funds to the treasurer for deposit in the fund.

#### *Financial Reporting*

The act also eliminates the following financial reporting requirements, effective January 1, 2011:

1. actual gross receipts and itemized costs of the judge’s office and net income for the calendar year,
2. with respect to a judge who dies in office, the same information filed by the judge’s personal representative,
3. estimates of annual net income, and
4. at the end of each calendar year, the information listed in item (1) above plus the difference between the amount paid to the state and the amount actually due.

Instead of relying on these reports, under the act and PA 09-114, the chief court administrator will receive equivalent financial information in the normal course of business.

### **COMPENSATION**

#### *Pro Rata Pay for January 1 Through January 4, 2011*

The act requires that compensation for January 1 through January 4, 2011 be calculated on a pro rata basis (e.g., 4/365), rather than using the current law’s income-based formula. Under PA 09-114, a simplified calculation formula, based on population and a court’s workload goes into effect on January 5, 2011.

#### *Judges Who Leave or Die in Office*

*Accounts Receivable.* Under prior law, when a judge left office, his or her successor made installment payments that reflected the portion of the office’s accounts receivable for costs, charges, and fees assessed

on the estates that accrued due to the former judge’s work. The law also factors in payment amounts for a former judge’s work-in-process—work the judge performed which had not concluded when he or she left office.

Under the act, the period in which a former judge or his or her estate receives these payments is capped at December 31 of the second calendar year following the year the judge left office.

Under the act, beginning January 5, 2011, former judges will receive only a sum representing accounts receivable for costs, charges, and fees assessed on estates of decedents arising in a town within the judge’s district as of January 4, 2011. Payments are made in yearly installments, which are to be paid on or before April 1 of the year after the receivables were collected. The probate court administrator may deduct (1) assessments, penalties, or interest due to the state treasurer; (2) collection costs; and (3) expenses attributable to the outgoing or deceased judge’s term in office.

*Work-In-Process Payments.* The act eliminates work-in-process payments for judges who have left office. These compensate the former judge for estates on which he or she worked before leaving office that had not yet paid the probate fees. The new compensation formula keeps a judge’s compensation current, thus making work-in-process payments unnecessary.

*Judges Affected.* These provisions do not apply to a judge elected to a term that begins on or after January 5, 2011. The law makes them inapplicable to newly elected judges and judges who return to office after a break in service on or after January 5, 2011.

**BACKGROUND**

*Related Acts*

PA 10-34 makes several changes to Probate Court rules and regulations; PA 10-184 changes the method for calculating fees and requires probate proceedings that would otherwise not be recorded to be recorded upon a party’s request; and PA 10-121 adds Union to the probate district containing Enfield, Somers, and Stafford.

**PA 10-43—sHB 5539**  
*Judiciary Committee*

**AN ACT CONCERNING JUDICIAL BRANCH POWERS AND PROCEDURES**

**SUMMARY:** This act makes numerous changes in court operations and powers. It:

1. changes Supreme and Appellate Court procedures, including scheduling and rehearing cases;
2. requires a certification be attached to certain election complaints showing that a copy of the complaint was given to the State Elections Enforcement Commission;
3. authorizes the chief justice and chief court administrator to take certain actions when there is a disaster or emergency;
4. allows the (a) Social Services (DSS) and Children and Families (DCF) departments to include children, adolescents, and families served by the Judicial Branch’s Court Support Services Division (CSSD) in the Behavioral Health Partnership and (b) chief court administrator to appoint someone to represent CSSD as a non-voting, ex-officio member of the Behavioral Health Partnership Oversight Council;
5. makes family relations counselors, family counselor trainees, and family services supervisors employed by the Judicial Branch mandated reporters of child abuse and neglect;
6. changes the name of “housing specialists” in landlord tenant matters to “housing mediators” (§ 14);
7. allows any licensed health care provider, instead of just licensed physicians, to send the jury administrator a letter stating that someone summoned for jury duty has a disability that prevents him or her from satisfactorily performing jury service;
8. makes a change to bond postings in civil actions;
9. requires a \$10 fee payable to the Superior Court clerk for issuing a certificate that an attorney is in good standing (§ 17);
10. waives the fee for certified copies of criminal records for employees of the U.S. Probation Office acting in the performance of their duties (§ 18);
11. specifies when a probation progress report must be filed when someone is serving more than one probation sentence; allows probation officers to detain people with outstanding warrants, seize contraband, and act as ad hoc fugitive task force members; and broadens notification provisions when a probation officer believes a probationer violated probation;
12. eliminates the pilot zero-tolerance drug supervision program for probation violators or people sentenced to probation or released on bail (§§ 20, 22, 24-26, and 43);

13. directs the chief court administrator to develop policies and procedures for entering arrest warrants into the central computer system, expands the system to include other criminal process, and allows the Judicial Branch to make disclosable information available electronically to the public through the Internet according to the chief court administrator's guidelines;
14. allows CSSD to exclude from Internet posting certain information on outstanding warrants for probation violations;
15. conforms law to practice by deleting references to victim advocates as appointed by the court, since they are Judicial Branch employees (§§ 30-34, and 43);
16. allows the Criminal Injuries Compensation Fund to receive and spend money (a) recovered from responsible parties or (b) reimbursed by applicants;
17. eliminates a specific option for the Office of Victim Services or a victim compensation commissioner to provide low-interest loans to certain victims;
18. makes minor changes to the process for making emergency awards to victims;
19. authorizes the court in certain hearings on temporary custody or a neglected, uncared for, or dependent child or youth to ask the mother under oath about the identity and address of anyone who might be the father and makes the mother's statement admissible in the proceeding;
20. extends to certain children accused in a delinquency proceeding, the court's authority to order testing for venereal diseases, AIDS, and HIV; and
21. eliminates a provision that someone presiding in an arbitration or civil proceeding has a deciding vote (§ 43).

The act makes other minor and technical changes (§§ 7 and 23).

EFFECTIVE DATE: October 1, 2010, except (1) the Behavioral Health Partnership provisions and a technical change (§ 23) are effective upon passage, (2) the provision allowing CSSD to exclude certain information on outstanding warrants from Internet posting and changing the quarterly report on warrants is effective July 1, 2010, and (3) a change regarding admissibility of statements made by a mother under oath is effective July 1, 2012 (an identical change takes effect October 1, 2010 and the July 1, 2012 change is a conforming change).

## §§ 1-4 AND 43 — SUPREME AND APPELLATE COURT PROCEDURES

### §§ 1 and 43 — *Supreme Court Terms*

The act eliminates requirements that the Connecticut Supreme Court's terms be held on the first Tuesday of each month except July, August, and September and that a term continues until the court disposes of the business that was ready when the term began. The act instead requires the Judicial Branch to post the specific dates of the court's terms on its website.

The act eliminates provisions that (1) judicial marshals can adjourn a Supreme Court term or session when there is no judge present on written order of the chief justice or the senior associate justice in the chief justice's absence or inability to act and (2) a judge or judges who are present can order adjournment for up to one month.

### § 2 — *Assigning Supreme and Appellate Court Cases for Hearing*

The law requires the Supreme Court chief clerk to assign cases for hearing under the direction of the chief justice or an associate justice she designates. The act no longer requires this to (1) take place at the Supreme Court room in Hartford and (2) occur by the Thursday before a term begins with the day and hour set by court rule. Similarly, the act no longer requires the assignment of Appellate Court cases at a day and hour set by court rule.

Under prior law, counsel could make a personal appearance at the time set for assigning cases or communicate earlier with the clerk to present a stipulation or any reason why cases should not be assigned in the order they are on the docket. The act instead allows counsel to request a change in the order in writing as provided by Supreme or Appellate Court rules.

Under court rules, assignment of cases for oral argument is ordinarily made in the order they become ready for argument. A request for a variation must be made by letter to the appellate clerk (the chief clerk for the Supreme and Appellate Courts), who must receive it at least two working days before assignments are made (P.B. Rule 69-3).

### § 3 — *Supreme Court Panels*

Prior law gave parties before the Supreme Court a right to be heard by a full court consisting of (1) five associate justices or the chief justice and four associate justices or (2) on order of the chief justice, six associate justices or the chief justice and five or six associate justices. The act renames this a "panel" rather than a

“full court” and eliminates the second option. It eliminates a provision specifying that the chief justice, or the most senior associate justice acting in her place, can summon the chief court administrator, if she is also a Supreme Court associate judge, to constitute a full court subject to the administrator’s discharge of her duties.

Under court rules, (1) before a case is assigned for oral argument, the chief justice or chief judge can order a case be heard en banc on the motion of a party or on the court’s own motion; (2) after argument but before decision, the entire court can order a case be considered en banc with or without further oral argument or briefs and justices or judges who did not hear the argument must have tapes or transcripts of it available before participating; and (3) after a decision, the entire court can order that reargument be heard en banc on a party’s or the court’s motion (P.B. Rule 70-7).

#### §§ 4 and 43 — *Cases Where the Opinion is Evenly Split*

Under prior law, when a case was argued before an even number of judges and the court was evenly divided, the case was reargued before a full panel. The act instead provides that if the Supreme Court is evenly divided on a result, it must reconsider the case with an odd number of judges and, at its option, require oral argument. If the court does not require oral argument again, the act requires a judge who did not hear the earlier oral argument or a member of a panel who was not present for it to have an electronic recording or transcript of it before he or she participates in the decision.

The act eliminates a provision giving the chief justice or presiding judge of a court, when opinion is divided equally among the court’s judges, including the chief justice or presiding judge, a casting (deciding) vote unless otherwise provided by law.

Under court rules, an evenly divided court must reconsider the case with or without oral argument with an odd number of justices or judges (P.B. Rule 70-6).

#### § 43 — *Quorum*

The act eliminates provisions that (1) three Supreme Court judges are a quorum; (2) if more than two are disqualified, disabled, or decline to act in a matter before the court, the remaining judges may call enough Superior Court judges for a quorum to hear and decide the matter; (3) if all Supreme Court judges are disqualified, disabled, or decline to hear a pending action, it can be heard by three Superior Court judges designated by the Supreme Court chief justice or presiding judge.

#### §§ 5-6 — ELECTIONS AND PRIMARY COMPLAINTS

By law, an elector or candidate alleging certain violations can file a complaint with a (1) Supreme Court judge regarding an election for U.S. president, Senate, or Congress or (2) Superior Court judge regarding any type of primary. The law requires the person to send a copy of the complaint by first-class mail or deliver a copy by hand to the State Elections Enforcement Commission. The act requires a certification that a copy was sent or delivered to the commission to be attached to the complaint sent to the judge.

#### §§ 8-9 — HANDLING DISASTERS

The act authorizes the Supreme Court chief justice and chief court administrator to take necessary action in the event of a major disaster; emergency; or civil preparedness, disaster, or public health emergency. They must ensure the continued and efficient operation of the state courts, the prompt disposition of cases, and the proper administration of judicial business. Permissible actions include:

1. establishing alternative locations to conduct judicial business if one or more courts cannot be used,
2. suspending non-essential judicial business, and
3. taking other appropriate action necessary to ensure that the courts can effectively handle essential business.

#### §§ 10-11 — BEHAVIORAL HEALTH PARTNERSHIP

The law requires DSS and DCF to implement a Behavioral Health Partnership, which is an integrated behavioral health service system for HUSKY Part A and B members and children enrolled in DCF’s voluntary services program. The law allows the agencies to include other children, adolescents, and families served by DCF. The act allows the agencies to include children, adolescents, and families served by CSSD.

It also allows the chief court administrator to appoint someone to represent CSSD as a non-voting, ex-officio member of the Behavioral Health Partnership Oversight Council, which advises DCF and DSS on the partnership.

By law, the partnership’s charge is to increase access to quality behavioral health services by (1) expanding individualized, family-centered, community-based services and reducing unnecessary institutional and residential service use; (2) maximizing federal revenue and capturing and reinvesting any derived from reducing residential, and increasing community-based, services; (3) improving administrative oversight and

efficiency; and (4) monitoring individual outcomes and overall and provider performance.

#### §§ 12-13 — FAMILY RELATIONS COUNSELORS AS MANDATED REPORTERS

The act makes Judicial Branch family relations counselors and trainees and family services supervisors mandated reporters of child abuse and neglect. By law, mandated reporters must notify DCF when they reasonably believe a child has been the victim of abuse or neglect. Other mandated reporters include licensed counselors, psychologists, and teachers.

The act requires family relations counselors and trainees and family services supervisors to disclose information which would otherwise be confidential to fulfill their duties as mandated reporters.

#### § 15 – DISABILITY EXEMPTION FROM JURY DUTY

The act allows any licensed health care provider, instead of just licensed physicians, to send the jury administrator a letter stating that someone summoned cannot satisfactorily perform jury service due to a disability.

The act does not define the term “licensed health care provider” but health care providers who must be licensed include physicians, chiropractors, podiatrists, athletic trainers, physical or occupational therapists, alcohol and drug counselors, midwives, nurses, dentists, dental hygienists, optometrists, opticians, respiratory care practitioners, pharmacists, psychologists, marital and family therapists, clinical social workers, professional counselors, veterinarians, massage therapists, acupuncturists, and emergency medical technicians.

#### § 16 — BOND FOR CIVIL ACTIONS

The act authorizes the court to order a bond for prosecution of a civil action before trial on its own or on the motion of the defendant, instead of when it finds a bond is insufficient or the plaintiff has not given a bond and is unable to pay. By law, a sufficient bond is determined by considering taxable costs the plaintiff may be responsible for, other than expert witness fees or charges. The act eliminates these provisions for appeals.

#### § 19 — PROBATION PROGRESS REPORTS

For sentences imposed starting October 1, 2008, the law requires a probation officer to submit a progress report to the sentencing court at least 60 days before the (1) two-year mark in the probation term of someone sentenced to more than two years of probation for a class C or D felony or an unclassified felony or (2) one-

year mark in the probation term of someone sentenced to more than one year of probation for a class A or B misdemeanor. After receiving the report, the court must continue or terminate the person’s probation.

The act provides that if a person is serving more than one period of probation at the same time, the requirement to submit the report is tied to the longer probation period and all the person’s probation cases are presented to the court at the same time.

#### §§ 20 AND 29 — PROBATION OFFICER POWERS

The act expands the authority of probation officers to:

1. detain for a reasonable time, until a police officer arrives, someone who (a) has one or more unexecuted state or federal arrest warrants against him or her or (b) is subject to the probation officer’s arrest powers, when the officer reasonably believes the probationer has violated a condition of probation;
2. seize contraband discovered in the course of official duties, so long as the officer promptly processes the contraband according to law; and
3. act as a member of a state or federal ad hoc fugitive task force seeking out and arresting people with unexecuted state or federal warrants.

Under the act, probation officers carrying out task force duties are acting as state employees and entitled to qualified immunity for negligent acts, so long as the acts are not wanton, reckless, or malicious.

The act also gives officers authority to notify police that someone has violated a condition of probation and the police can arrest the probationer. Previously, this authority only extended to sex offenders who failed to notify probation of an address change.

#### §§ 21 AND 28 — DATA BASE FOR WARRANTS AND CRIMINAL PROCESS

The law (1) allows courts to enter arrest warrants into a central computer system, (2) considers entry in the system evidence of the warrant’s issuance, and (3) authorizes any person named on the warrant to be arrested and given a copy of the warrant.

The act directs the chief court administrator to develop policies and procedures for entering warrants into the system and expands the system to include other criminal process. It allows the Judicial Branch to make disclosable information from this system available to the public electronically through the Internet according to the chief court administrator’s guidelines.

The law already allows this for disclosable information in its criminal and motor vehicle information systems.

## § 27 — ARREST WARRANTS FOR PROBATION VIOLATORS

The law requires CSSD to post information on outstanding arrest warrants for probation violations on the Internet, including the person's name, address, and photo. The act excludes information from Internet posting if (1) there is reason to believe it would endanger the safety of the probationer or someone else or (2) the probationer is a youthful offender.

The law also requires CSSD to post quarterly reports, by court, of arrest warrants issued for violations of probation, including information on the probationer's name and address and the date of issuance. The act requires a report on all, rather than just outstanding, warrants but allows the report to exclude the information listed above.

## §§ 35-37 — VICTIMS

### § 35 — *Criminal Injuries Compensation Fund*

By law, the Criminal Injuries Compensation Fund provides compensation and restitution to crime victims. Under prior law, the fund could spend only what was appropriated to it. The act also allows the fund to receive and spend any (1) money recovered from responsible parties or (2) reimbursements received by the Office of Victim Services (OVS) from applicants (victims who receive compensation must reimburse the office for part of the award if they later recover damages from the responsible party).

### § 36 — *Low-Interest Loans Eliminated*

By law, the OVS or a victim compensation commissioner can pay compensation to the spouse or dependent of a deceased victim if the family qualifies for compensation due to murder or manslaughter of the victim. The act eliminates the specific option of providing loans of up to \$100,000 at up to 1% interest with repayment starting five years after awarding the loan for (1) essential living expenses directly resulting from the loss of income provided by the victim or (2) preexisting financial obligations that are not otherwise forgiven or excused.

### § 37 — *Emergency Awards to Victims*

The law allows the OVS to make an emergency award to a claimant before taking action on the claim and pending a final determination. The act specifies that the decision to make an emergency award is based on reviewing all the information available to the office. It also specifies that payment is expedited rather than immediate.

By law, an emergency award can be up to \$2,000, the amount is deducted from the final award, and any amount that is above the amount of the final award must be repaid.

## §§ 38-40 — IDENTIFYING FATHERS

By law, a court must do a number of things at a preliminary hearing on a temporary custody order, order to appear, or the first hearing on a petition regarding a neglected, uncared for, or dependent child or youth. The court can take steps to determine the father's identity, including ordering genetic testing.

The act authorizes the court to ask the mother under oath about the identity and address of anyone who might be the father.

Generally, the law makes a parent's statements after the filing of a petition inadmissible in any proceeding on the petition against the person unless he or she was advised (1) about the right to counsel and to refuse to make statements and (2) that statements may be used as evidence. Under the act, statements by a mother, when asked by the court under oath about the identity of a person who might be the father are not barred in the proceeding for failure to advise her of these rights.

## §§ 41-42 — VENEREAL DISEASE, AIDS, AND HIV TESTING

The law allows the court, before final disposition of a criminal case, to order the accused to submit to examination for (1) venereal disease if the case involves a sexual assault or prostitution crime and (2) AIDS or HIV if the case involves risk of injury to a minor or a sexual assault or prostitution crime that involved a sexual act. The act extends this authority to a child accused in a delinquency proceeding involving one of these crimes.

The law also requires the court to order AIDS or HIV testing at the victim's request when a person is convicted or a child is convicted as a delinquent of certain sexual assault crimes or risk of injury to a minor involving a sexual act. Under existing law, the test is performed by or at the direction of the Department of Correction in consultation with the Department of Public Health (DPH). For a child convicted as a delinquent, the act requires testing at the direction of CSSD or DCF, in consultation with DPH.

**PA 10-94—HB 5526***Judiciary Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING STANDARDS FOR THE SELECTION, RETENTION AND PROMOTION OF JUDICIAL MARSHALS**

**SUMMARY:** Beginning October 1, 2011, this act requires the Judicial Branch to provide on its website a written summary of employment standards for judicial marshals that must include standards for their selection, continued employment, and promotion. The law requires the chief court administrator to establish the employment standards that are to be summarized for the website and appropriate training programs.

By law, the Judicial Branch employs judicial marshals for courthouse security and prisoner custody and transportation.

EFFECTIVE DATE: October 1, 2010

**PA 10-96—sHB 5543***Judiciary Committee**Environment Committee***AN ACT CONCERNING PATENTS, TRADEMARKS OR LICENSING AGREEMENTS FOR INVENTIONS AND DISCOVERIES OF EMPLOYEES OF THE CONNECTICUT AGRICULTURAL EXPERIMENT STATION**

**SUMMARY:** This act permits the Connecticut Agricultural Experiment Station's Control Board to seek and obtain patents, trademarks, and licensing agreements relating to inventions and discoveries by station employees. Under the act, the station is entitled to own the entire right, title, and interest in any employee's invention or discovery that (1) is conceived in the course of the employee's performing customary or assigned duties, (2) emerges from any research, development, or other station program; or (3) is conceived or developed wholly or partly at the station's expense, or with the aid of its equipment, facilities, or personnel.

The act requires employees to cooperate in getting their inventions or discoveries licensed or patented and in assigning them as the station director requests. Depending on the circumstances, inventors may share in the proceeds of their work. The act also establishes dispute resolution procedures.

EFFECTIVE DATE: October 1, 2010

**EMPLOYEE RESPONSIBILITIES**

Under the act, employee inventors or discoverers are deemed to be obligated by their employment to:

1. disclose their inventions fully and promptly to the station director;
2. assign to the station the entire right, title, and interest in each invention and discovery and execute instruments of assignment to that effect; and
3. execute a patent or license application or other instrument of assignment for their invention or discovery as the director requests, and give all reasonable aid in pursuit of the application or assignment and procurement of the patent, license, or assignment.

Unless the invention or discovery is subject to federal grant restrictions, the act gives the station the entire beneficial ownership of it, including all proceeds, property, and rights of any character, tangible and intangible. The proceeds must be deposited with the station and used in scientific inquiries and experiments under the complete control of the board.

**EMPLOYEE SHARE**

Under the act, an employee is entitled to at least a 20% share of the net proceeds of his or her sole invention or discovery, as long as he or she adequately carried out the responsibilities described above. The board can increase the amount of the employee share. Net proceeds must be computed reasonably promptly by the board or with the board's approval by deducting costs and expenses reasonably allocated to the invention or discovery, including those associated with seeking and obtaining any patent, trademark, or licensing agreement; maintenance or litigation costs; and the costs of evaluating the invention or discovery's commercial potential.

The act specifies that if two or more station employees jointly are responsible for the invention or discovery, each is entitled to a share of at least the 20% net proceeds that is proportionate to their roles as determined by the board.

**DISPUTES**

The act provides that disagreements about (1) how the invention or discovery is allocated, (2) parties' obligations or how they carried them out, or (3) whether any employee is entitled to a share of the net proceeds must be settled by:

1. voluntary arbitration, if the disputants agree to be bound by the arbitrator's decision;
2. compulsory arbitration, if provided in any contract between the disputants; or
3. a Connecticut court, if arbitration is rejected.



The act allows the board to establish and regulate, equitably and in the public interest, arbitration rules it deems appropriate. It may also make contracts for compulsory arbitration in the station's name.

## REGULATIONS

The act permits the control board to adopt regulations using the Uniform Administrative Procedure Act to govern the handling of matters concerning the station's inventions and discoveries.

## BACKGROUND

### *Connecticut Agricultural Experiment Station (CAES)*

Through research for Connecticut and the nation, CAES:

1. develops, advances, and disseminates scientific knowledge;
2. improves agricultural productivity and environmental quality;
3. protects plants; and
4. enhances human health and well-being.

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### PA 10-102—HB 5251

*Judiciary Committee*

#### **AN ACT CONCERNING PAYMENT OF THE COSTS OF FORENSIC SEXUAL ASSAULT EVIDENCE EXAMINATIONS AND THE COLLECTION OF DNA SAMPLES**

**SUMMARY:** This act requires health care facilities in the state to charge the Office of Victim Services, instead of the Division of Criminal Justice, for sexual assault victim examinations conducted to gather evidence in accordance with state guidelines. By law, these costs cannot be charged to the victim.

By law, a person found guilty of certain crimes, or not guilty by reason of mental disease or defect, must provide a DNA sample before being released or discharged from custody or at a specified time after sentencing. The act makes the Judicial Department's Court Support Services Division (CSSD) responsible for setting the time and place of the DNA sample and the Judicial Department responsible for taking the required DNA when the person is not sentenced to a term of confinement. Under prior law, the sentencing court set the time and place of the testing and the Department of Public Safety (DPS) was responsible for the testing. If a person refuses to submit to the taking of the sample within five business days of the time specified by CSSD, the act allows him or her to be arrested pursuant to a bench warrant. The law requires DNA testing when the crime is (1) a criminal offense against a victim who

is a minor, (2) a nonviolent sexual offense, (3) a sexually violent offense, or (4) a felony.

The act increases the penalty for refusing to give a required sample in the various situations from a class A misdemeanor to a class D felony (see Table on Penalties).

The act also specifies that only collection kits approved by the DPS Division of Scientific Services can be used to collect the required biological samples by buccal (cheek) swabs.

Finally, the act adds the CSSD executive director or his designee to the DNA Data Bank Oversight Panel, which already includes the chief state's attorney, the attorney general, and the public safety and correction commissioners, or their designees.

**EFFECTIVE DATE:** Upon passage, except the provisions regarding DNA testing and the oversight panel are effective October 1, 2010.

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### PA 10-112—HB 5030

*Judiciary Committee*

*Public Safety and Security Committee*

#### **AN ACT CONCERNING THE FORFEITURE OF MONEY AND PROPERTY RELATED TO CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING, THE POSSESSION OF CHILD PORNOGRAPHY AND THE SITING OF RESIDENTIAL SEXUAL OFFENDER TREATMENT FACILITIES**

**SUMMARY:** This act establishes a civil forfeiture procedure to seize tainted funds and property (i.e., money and property used or obtained from crimes involving sexual offenses). It also expands what constitutes 1<sup>st</sup> degree possessing child pornography. The act also requires police basic training and review training programs to include a course on sexual assault investigations. They already must teach courses on rape crisis intervention.

The law requires both the Department of Correction (DOC) and Judicial Branch's Court Support Services Division (CSSD) to each contract for 12 staff-secure beds for sex offenders returning to the community. The act requires (1) people and entities responding to requests for proposals to identify and provide descriptions of at least five proposed sites and (2) DOC and CSSD to establish proposal evaluation criteria.

**EFFECTIVE DATE:** October 1, 2010, except the siting provision is effective on passage

#### **CIVIL FORFEITURE**

Under the act, the crimes that trigger forfeiture of tainted funds and property are:

1. that portion of the risk of injury to a minor statute involving sale of a child under age 16;
2. 1<sup>st</sup> or 2<sup>nd</sup> degree promoting prostitution;
3. enticing a minor using an interactive computer;
4. voyeurism, disseminating voyeuristic material, and employing or promoting a minor in an obscene performance;
5. human trafficking; and
6. importing child pornography.

The funds and property subject to forfeiture are:

1. all money used or intended for use in violation of the laws listed above;
2. all property constituting the proceeds obtained, directly or indirectly, from a violation of those laws;
3. all property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from those criminal violations; and
4. all property used or intended for use, in any manner or part, to commit or facilitate the violation of those laws for pecuniary gain.

#### *Procedure*

Under the act, the chief or deputy chief state's attorney, state's attorney, or assistant or deputy state's attorney can file a petition for forfeiture. This must occur no later than 90 days after the money or property was seized.

The court must identify the money or property owner and anyone else who appears to have an interest in it and must order the state to give them notice by certified or registered mail. The crime victim is also entitled to receive notice in the same manner. Under the act, the court must promptly hold a hearing at least two weeks after sending notice, and the state must prove its case by clear and convincing evidence. (If it were prosecuting a defendant for one of the listed sex offenses, the state would have to prove its case under the tougher "beyond a reasonable doubt" standard.)

#### *Inadmissibility of Evidence*

The act specifies that testimony and evidence the owner or other interested party produces or that is discovered at the hearing cannot be used against them in any proceeding, but that they are subject to prosecution for perjury or contempt committed while testifying or producing evidence. The court must hear evidence at the hearing and make findings of fact and conclusions of law. It must issue a final decree.

Under the act, no money or property can be forfeited:

1. to the extent of the interest of an owner or lien holder if he or she did not know and could not

have reasonably known that such money or property was being used or was intended to be used in, or was derived from, another person's criminal activity or

2. if the owner used or intends to use the property or money to pay legitimate attorney's fees for his or her defense in a criminal prosecution.

The commissioner of administrative services, or a designee, must sell forfeited property at public auction. The sale proceeds and any forfeited money must be applied to pay (1) the balance due on any lien the court preserved; (2) any costs incurred for the storage, maintenance, security, and forfeiture of the property; or (3) court costs. Any remainder goes into the General Fund.

#### FIRST-DEGREE POSSESSING CHILD PORNOGRAPHY

Currently, a person commits the crime of 1<sup>st</sup> degree possessing child pornography by knowingly possessing 50 or more visual depictions of child pornography. The act also makes it 1<sup>st</sup> degree possession to knowingly possess one or more visual depictions of child pornography that depicts the infliction or threatened infliction of serious physical injury to that child.

First-degree possessing child pornography is a class B felony (see Table on Penalties). The crime carries a five-year mandatory minimum sentence.

#### SITING RESIDENTIAL SEX OFFENDER FACILITIES

Under the act, before DOC or CSSD can consider responses to its requests for proposals for housing sex offenders in the community, the respondents must have identified at least five proposed sites from around the state and described their physical locations, including:

1. local and state roads;
2. the nature, function, and number of properties within one mile of the proposed site, including the number of properties serving commercial, industrial, agricultural, recreational, religious, or residential uses;
3. the number of schools;
4. day care facilities;
5. properties with liquor licenses;
6. senior centers;
7. casinos; and
8. the facility's proximity to transportation facilities and employment, educational, housing, and counseling opportunities.

DOC and CSSD must establish site evaluation criteria, including the proposed site's distance from:

1. town parks;
2. recreational facilities;

3. public or private K-12 schools;
4. commercial, industrial, or residential property;
5. establishments licensed to sell liquor;
6. property used for religious purposes,
7. licensed child care family and group homes and facilities;
8. youth service facilities and senior centers;
9. casinos; and
10. local and state roads.

## BACKGROUND

### *Child Pornography*

Child pornography means any visual depiction, including any photograph, film, videotape, picture, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where the production of such visual depiction involves the use of a person under age 16 engaging in sexually explicit conduct, provided whether the subject of a visual depiction was a person under age 16 is a question to be decided by the trier of fact.

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### **PA 10-121**—sSB 426

*Judiciary Committee*

## **AN ACT CONCERNING PROBATE DISTRICTS**

**SUMMARY:** PA 09-1, September Special Session, replaces the existing 117 probate districts with 54 probate districts on January 5, 2011. When the new districts take effect, this act makes Union part of a district including Enfield, Somers, and Stafford instead of the district including Ashford, Brooklyn, Eastford, Pomfret, Putnam, Thompson, and Woodstock.  
EFFECTIVE DATE: January 5, 2011

### *Related Acts*

PA 10-34 allows (1) the probate court administrator to make, and requires him to enforce, regulations governing record maintenance and eliminates his authority to use the Uniform Administrative Procedure Act to regulate some other areas; (2) towns in the same probate district to agree on how to share costs associated with court operations; and (3) probate judges to conduct business in any location in Connecticut to facilitate a party's attendance.

PA 10-41 (1) specifies that a probate court judge does not get extra compensation for acting as an administrative judge for a regional children's court, a member of a three-judge panel, a special assignment judge, or the probate court administrator and (2)

conforms statute to reflect the centralized accounting and new pay formula that go into effect on January 5, 2011.

PA 10-184 makes several changes regarding probate court fees and related matters.

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### **PA 10-129**—sHB 5248 (**VETOED; OVERRIDDEN**)

*Judiciary Committee*

*Appropriations Committee*

## **AN ACT ESTABLISHING A SENTENCING COMMISSION**

**SUMMARY:** This act creates, within existing budgetary resources, a 23-member Connecticut Sentencing Commission to review the existing criminal sentencing structure and any proposed changes to it, including existing statutes, proposed legislation, and existing and proposed sentencing policies and practices. It puts the commission within the Office of Policy and Management (OPM) for administrative purposes only.

The act sets out a guiding principle for the commission's work and the purposes of sentencing, lists specific duties for the commission, and authorizes the commission to access information held by state and municipal agencies.

The act requires the commission to meet at least once each quarter and at other times the chairperson deems necessary. It must make recommendations to the governor, legislature, and criminal justice agencies and begin submitting annual reports to the governor, legislature, and Supreme Court chief justice by January 15, 2012.

The act authorizes the commission to accept federal grants or private funds for purposes consistent with its duties.

EFFECTIVE DATE: February 1, 2011

## COMMISSION MEMBERS

### *Ex-Officio Members*

The act makes the following officials commission members with terms coterminous with their term of office:

1. Board of Pardons and Paroles chairperson;
2. chief public defender;
3. chief state's attorney;
4. correction, mental health and addiction services, and public safety commissioners;
5. OPM's Criminal Justice Policy and Planning Division undersecretary; and
6. victim advocate.

### Appointed Members

The act requires various authorities to appoint additional members. Table 1 displays the appointing authority, criteria for member appointment, and the term for each member.

**Table 1: Members Appointed To The Commission**

<i>Appointing Authority</i>	<i>Criteria for Member</i>	<i>Term</i>
Supreme Court chief justice	Judge	One year
	Judge	Three years
	Representative of the Judicial Branch's Court Support Services Division	Two years
	Active or retired judge	Four years
	None specified	Four years
Chief state's attorney	State's attorney	Three years
Connecticut Criminal Defense Lawyers Association president	Member of the criminal defense bar	Three years
Connecticut Police Chiefs Association president	Municipal police chief	Two years
Governor	None specified	Four years
Senate president pro tempore	None specified	Four years
Senate majority leader	None specified	Four years
Senate minority	None specified	Four years

<i>Appointing Authority</i>	<i>Criteria for Member</i>	<i>Term</i>
leader		
House speaker	None specified	Four years
House majority leader	None specified	Four years
House minority leader	None specified	Four years

### Reappointments and Vacancies

Under the act, appointed members may be reappointed and any vacancy is filled by the appointing authority for the unexpired portion of the term.

### Chairperson and Vice-Chairperson

The act makes the active or retired judge appointed by the Supreme Court chief justice for a four-year term the commission's chairperson. The commission must elect one of its members as vice-chairperson.

### GUIDING PRINCIPLE AND PURPOSE OF SENTENCING

The act sets a general principle that the commission must consider in its work: sentencing's primary purpose is to enhance public safety while holding the offender accountable to the community. In addition, sentencing should:

1. reflect the seriousness of the offense;
2. be proportional to the harm to victims and the community;
3. use the most appropriate sanctions available, including prison, community punishment, and supervision;
4. have an overriding goal of reducing criminal activity, imposing just punishment, and providing meaningful and effective rehabilitation and reintegration of the offender; and
5. be fair, just, and equitable while promoting respect for the law.

### COMMISSION'S DUTIES

The act requires the commission to:

1. facilitate development and maintenance of a statewide sentencing database in collaboration with existing state and local agencies, use existing state databases or resources where

- appropriate, and, when the database is completed, review criminal justice legislation on request, within resources;
2. evaluate current sentencing statutes, policies, and practices and conduct a cost-benefit analysis;
  3. analyze and study sentencing trends and prepare offender profiles;
  4. provide training on sentencing and related issues, policies, and practices;
  5. act as a policy resource for the state;
  6. preserve judicial discretion and provide for individualized sentencing;
  7. evaluate the impact of pre-trial, sentencing diversion, incarceration, and post-release supervision programs;
  8. perform fiscal impact analyses on selected proposed criminal justice legislation;
  9. identify potential areas of sentencing disparity relevant to racial, ethnic, gender, and socioeconomic status; and
  10. make recommendations for criminal justice legislation to the Judiciary Committee, which must hold a hearing on them.

#### INFORMATION

The act requires the commission to have access to confidential information received by sentencing courts and the Board of Pardons and Paroles that includes arrest data, criminal history records, medical records, and other non-conviction information.

It requires the commission to obtain full and complete information on state programs, activities, and operations relating to the state's criminal sentencing structure. The act allows the commission to ask any state or municipal subdivision office, department, board, commission, or agency to provide records, information, and assistance needed or appropriate to carry out the commission's duties. It authorizes and directs the officers and employees of those entities to cooperate with the commission and to furnish requested records, information, and assistance.

The act provides that any record or information given to the commission that is confidential under the statutes remains confidential while in the commission's custody and cannot be disclosed. Any penalty that applies to the officials, employees, and authorized representatives that give the records to the commission also applies in the same way to the commission's members, staff, and authorized representatives.

The act makes the commission a "criminal justice agency" for purposes of access to criminal history record information of state agencies and subjects the commission to the same security and privacy provisions as the other criminal justice agencies.

#### BACKGROUND

##### *Sentencing Task Force*

PA 06-193 created a Connecticut Sentencing Task Force to review the state's criminal justice and sentencing policies and laws to create a more just, effective, and efficient system of sentencing. PA 08-143 required the task force to recommend whether to establish a permanent sentencing commission and, if so, the permanent commission's mission, duties, membership, and procedures. The task force's January 7, 2009 report recommended creation of a permanent sentencing commission.

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##### **PA 10-144—sHB 5497**

*Judiciary Committee*

*Appropriations Committee*

#### **AN ACT CONCERNING THE RECOMMENDATIONS OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES' TASK FORCE ON DOMESTIC VIOLENCE**

**SUMMARY:** This act makes a number of changes to the laws concerning family violence. It:

1. allows the court to consider relevant public court documents in making orders relevant to a petition for relief from physical abuse and eliminates the requirement that copies of the order provided to the applicant be certified (§§ 1 & 2);
2. expands information and disclosure requirements for family violence intervention units, courts, and the Department of Children and Families (DCF);
3. allows the Judicial Branch to establish a pilot program for electronic monitoring of family violence offenders and requires the chief court administrator to apply for federal grants to fund the program;
4. changes the name of standing criminal restraining orders to standing criminal protective orders to distinguish them from civil restraining orders;
5. (a) requires the court to specify a time limit when issuing standing criminal protective orders, (b) allows the court to issue a protective order for the probation period, and (c) makes other minor changes regarding these types of orders;
6. expands the persistent offender law for crimes involving assault, trespass, threatening, harassment, and violation of a restraining or protective order by eliminating the limitation

on the look-back period and allowing the court to consider convictions for essentially the same crimes in other states;

7. allows the chief court administrator to establish a domestic violence docket in three geographical areas; and
8. enhances existing, and creates additional, employment protections for family violence victims, including allowing the use of leave time to deal with family violence issues.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2010, except for the electronic monitoring funding provision, which is effective on passage.

#### DISCLOSURE/SHARING OF INFORMATION

##### § 3 — *By Family Violence Intervention Units*

By law, each geographical area of the Superior Court must have a local family violence intervention unit that among other things, must accept case referrals, prepare case reports, and provide or arrange for services for victims and offenders. All information provided to a family relations officer is confidential and used only for preparing the report and forms for each case and recommending services. However, if a victim indicates that the defendant has a gun permit or possesses a gun, the family violence officer must disclose it to the court and the prosecutor.

The act changes family relations officers to counselors and imposes the confidentiality provisions that apply to them to counselor trainees and family service supervisors employed by the Judicial Branch.

It also adds exceptions to the confidentiality rule, allowing disclosure of information:

1. that indicates that a defendant poses a danger or threat to a child or a parent of the child, to a DCF employee;
2. pursuant to guidelines adopted by the chief court administrator, to another family relations counselor, counselor trainee, or family services supervisor;
3. regarding a defendant who is on or is being considered for pretrial release, to a bail commissioner employed by the Judicial Branch;
4. that indicates that a defendant poses a danger or threat to another person, to a law enforcement agency; and
5. after disposition of a family violence case, (a) regarding a defendant who has been convicted and sentenced to a period of probation in a family violence case, to a probation officer or a juvenile probation officer, for purposes of determining service needs and supervision

levels and (b) regarding defendants who are the clients of organizations under contract with the Judicial Branch to provide family violence programs and services, for purposes of determining program and service needs.

##### § 4 — *By the Court*

By law, the chief court administrator must establish and maintain a registry of protective orders and adopt policies and procedures for its operation. The act requires her specifically to adopt policies and procedures governing the disclosure of information in the registry to Superior Court judges and Judicial Department employees.

##### § 16 — *By DCF*

Generally, by law, records maintained by DCF must be confidential and cannot be disclosed unless it receives consent from the person named in the record or the person's parent or authorized representative. The act adds as an exception to this rule disclosure of records concerning family violence. It requires DCF to make disclosures with respect to a child or parent of a child to a Superior Court judge and all necessary parties in a family violence proceeding.

#### §§ 3 & 17 — ELECTRONIC MONITORING OF FAMILY VIOLENCE OFFENDERS

The act allows, within available appropriations, the Judicial Branch to establish an electronic monitoring pilot program for family violence offenders in three judicial districts. The pilot program must be conducted in at least one judicial district that contains an urban area and at least one that does not. Under the program, the court can order that any person who is charged with violating a restraining or protective order and who has been determined to be a high-risk offender by the family violence intervention unit be subject to electronic monitoring if the court finds it necessary to protect the victim. The person who is subject to the electronic monitoring must pay the cost for it, subject to the chief court administrator's guidelines.

The monitoring is designed to warn law enforcement agencies, a statewide information collection center, and the victim when the person is within a specified distance of the victim. If the court orders that a person be subject to electronic monitoring, the court clerk must send a copy of the order, or the information contained in the order, to the law enforcement agency or agencies for the town in which the person resides.

The act requires the chief court administrator to apply for, receive, allocate, disburse, and account for

federal grants to fund the program, including funds available under the 1994 federal Violence Against Women Act. The act requires the Judicial Branch to end any pilot program it establishes by March 31, 2011, unless resources to continue the program are available.

#### PROTECTIVE ORDERS AND STANDING CRIMINAL RESTRAINING/PROTECTIVE ORDERS

##### §§ 5, 6, 10 & 11 — *Standing Criminal Restraining/Protective Orders*

By law, protective orders in family violence cases generally terminate when the underlying criminal case concludes. However, under certain conditions, courts can issue a standing criminal restraining order, in addition to any sentence of incarceration, against people convicted of certain family violence crimes. These orders stay in effect until modified or revoked by the court for good cause.

The act changes the name of the orders to standing criminal protective orders. It also requires them to stay in effect for a court-specified time period and eliminates the reference to modification or revocation on the notice accompanying the order.

##### §§ 7 & 8 — *Protective Orders*

By law, courts can generally issue a protective order when a person has been arrested for sexual assault, risk of injury to a minor impairing the morals of a minor, assault, stalking, or harassment. The act eliminates the requirement that the victim's copy of the protective order be certified and allows the court clerk to send the information contained in the order, rather than the order itself. It requires the order, or information contained in it, to be provided to the law enforcement agency for the town where the victim lives, the town where the defendant lives, and the town where the victim works. Prior law only required the information or order be provided to the appropriate law enforcement agency.

It also allows the court, when sentencing a person subject to a protective order to probation, to issue a protective order that is effective during the probation period.

#### § 12 — PERSISTENT OFFENDERS

The law subjects a person who has been convicted of assault, trespass, threatening, harassment, criminal violation of a protective order, or criminal violation of a restraining order to an enhanced penalty if he or she has also, within the previous five years, been convicted of or released from prison for committing:

1. a capital or class A felony;

2. a class B felony, except promoting prostitution in the first degree;
3. first-degree larceny;
4. a class C felony, except second-degree promoting prostitution and bribing jurors;
5. second- or third-degree assault or criminal trespass, third-degree burglary or robbery, third-degree sexual assault, second-degree stalking or harassment; or
6. threatening, unlawful restraint, criminal use of a firearm, reckless burning, or violating a protective order.

The act (1) eliminates the five-year look-back period, thus requiring the court to consider any prior convictions of the specified crimes and (2) subjects to the persistent offender laws anyone who has previously been convicted of a crime with substantially similar essential elements to the specified crimes in another state. The enhanced penalty is the sentence for the next more serious degree of the crime.

#### § 13 — DOMESTIC VIOLENCE DOCKET

The act requires the chief court administrator, by December 31, 2010, to identify geographical areas that do not have a domestic violence docket and designate three of those areas for the establishment of new domestic violence dockets. The act allows her, by June 30, 2011, to establish a domestic violence docket in each of the designated areas, within available resources. If she establishes the dockets, she must examine the effectiveness of existing domestic violence dockets before doing so and incorporate, within available resources, the operational elements of the existing dockets that she deems beneficial to family violence victims. If the chief court administrator does not establish the dockets by June 30, 2011, she must submit a report to the Judiciary Committee explaining why.

The act defines a domestic violence docket as a docket in a geographical area separate and apart from other criminal matters for the hearing of family violence matters.

#### §§ 14 & 15 — EMPLOYMENT PROTECTIONS IN FAMILY VIOLENCE SITUATIONS

##### *Employment Protections for Crime Victims*

The act prohibits an employer from terminating, penalizing, threatening, or otherwise coercing an employee with respect to his or her employment because the employee (1) is a family violence victim or (2) attends or participates in a civil court proceeding related to a case in which he or she is a family violence victim. The law already prohibits employers from taking such action in a number of other situations, including when the employee (1) has been subpoenaed in a

criminal case, (2) is a crime victim participating in a criminal case, or (3) has a protective or restraining order issued on his or her behalf.

The act doubles, from 90 to 180 days, the time an employee has to bring a civil action against an employer who takes any of these actions.

#### *Use of Leave Time*

The act requires employers to allow family violence victims to take paid or unpaid leave (including compensatory time, vacation time, personal days, or other time off) during any calendar year in which the leave is reasonably necessary to:

1. seek medical care or counseling for physical or psychological injury or disability,
2. obtain services from a victim services organization,
3. relocate due to the family violence, or
4. participate in any civil or criminal proceeding related to or resulting from such family violence.

The act allows an employer to limit unpaid leave taken under the act's provisions to 12 days per calendar year. However, it specifies that this leave does not affect any other leave provided under state or federal law.

The act defines an employer as a person engaged in business, including the state and any political subdivision of the state, who has at least three employees. It allows employers to require no more than seven days notice when the need to use leave is foreseeable and notice as soon as practicable when it is not.

The act requires an employee who takes this leave, on request, to provide the employer with a signed written statement certifying that the leave is for a purpose authorized under the act. It also allows the employer to request that the employee provide a (1) police or court record related to the family violence or (2) signed written statement that the employee is a victim of family violence from the employee or an agent of a victim services organization, an attorney, an employee of the Judicial Branch's Office of Victim Services or the Office of the Victim Advocate, licensed medical professional, or other licensed professional from whom the employee has sought assistance with respect to the family violence. The act requires the employer to keep any such written statement or police or court record confidential. The employer cannot further disclose the information except as required by law or as necessary to protect the employee's safety in the workplace, but in these situations the employee must be given notice before the disclosure.

The act specifies that it does not:

1. prevent employers from providing more leave than it requires,
2. diminish any rights provided to any employee under the terms of the employee's employment or a collective bargaining agreement, or
3. preempt or override the terms of any collective bargaining agreement in effect on October 1, 2010.

Additionally, the act specifies that it cannot be construed to require an employer to provide paid leave if (1) the employee is not entitled to paid leave pursuant to the terms and conditions of his or her employment or (2) the paid leave exceeds the maximum amount of leave due the employee during any calendar year. However, the act requires the employer to provide unpaid leave if paid leave is exhausted or not provided.

The act imposes the same penalty for violations as exists for violations of the laws protecting crime victims. That is, the employee has 180 days from the occurrence to bring a civil action for damages and an order requiring the employee's reinstatement or otherwise rescinding such action. If the employee prevails, the employee must be allowed a reasonable attorney's fee set by the court.

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#### **PA 10-178—HB 5527**

##### *Judiciary Committee*

#### **AN ACT CONCERNING STATE MARSHALS**

**SUMMARY:** This act makes a number of changes regarding service of process. It:

1. adds an additional means of serving process on a limited liability company (LLC);
2. (a) allows an officer of any precinct to serve process on the secretary of the state or Department of Motor Vehicles (DMV) commissioner when service on that official is permitted by any law, rather than just under specific laws; (b) allows an officer of any precinct to serve the attorney general or insurance commissioner with any process permitted by law to be served on them; and (c) makes service on any of these state officials the start of service in the officer's precinct and the officer can then complete service outside his or her precinct as allowed by law;
3. allows a state marshal of any precinct to serve anyone confined in a state correctional institution or community correctional center;
4. requires a lawsuit against a state marshal for neglect or default of office or duty to be brought within two years after the right of action accrues (other statutes provide general



statutes of limitations such as two years for negligence and three years for an oral contract); and

5. provides that a cause of action is not lost by missing a statute of limitations if the process to be served is personally delivered to a constable or other proper officer within the required time frame and the process is served within 30 days of delivery.

The act also requires a party other than the state who summons a witness to testify in any action or proceeding to pay the witness on the day he or she attends.

EFFECTIVE DATE: October 1, 2010

### § 1 — SERVICE OF PROCESS ON LLC

The law allows a proper officer or anyone empowered to make service to serve process on an LLC by serving (1) its statutory agent or (2) the secretary of the state's office and mailing a copy to the LLC's principal office, if the secretary's records show that there is no statutory agent or the agent cannot be found with reasonable diligence at the address in the records.

The act also allows service on any manager or member vested with management of an LLC. Service can be made by leaving a copy with the person, at the member's usual place of abode in the state, or at the manager's usual place of abode in the state if the manager is a natural person.

### § 2 — SERVICE OUTSIDE OF PRECINCT AND SERVICE ON CERTAIN STATE OFFICIALS

Generally, the law allows state marshals and other proper officers to serve process in their precincts (a state marshal's precinct is the county for which he or she is appointed). But they may serve process outside their precincts in certain circumstances, such as when an action involves more than one defendant and the officer begins by serving process on a defendant who resides in his or her precinct.

The law allows an officer of any precinct to serve process on the secretary of the state or DMV commissioner when those officials can be served on behalf of a:

1. voluntary association when no officers are state residents or partnership when no partners are state residents;
2. nonresident individual, foreign partnership, foreign voluntary association, or executor or administrator for one of them under certain circumstances that allow the courts to exercise jurisdiction;
3. nonresident in an action for negligent operation of a motor vehicle; or

4. motor vehicle operator or owner in an action for negligently operating a motor vehicle if the person cannot be found after making diligent effort.

The act allows an officer of any precinct to serve the secretary or DMV commissioner as permitted by any other law as well. It also allows an officer of any precinct to serve any process permitted by law to be served on the attorney general or insurance commissioner.

The act makes service on one of these officials the start of service within the officer's precinct and the officer can then complete service outside his or her precinct as allowed by law.

### § 3 — LAWSUITS AGAINST STATE MARSHALS

The act requires a lawsuit against a state marshal for neglect or default of his or her office or duty to be brought within two years after the right of action accrues. Under prior law, this applied to sheriffs, deputy sheriffs, and constables. The act repeals the provision for deputy sheriffs. The positions of sheriff and deputy sheriff were eliminated in 2000 and state marshals took over their service of process functions.

### § 4 — STATUTE OF LIMITATIONS AND SERVICE OF PROCESS

By law, a cause of action is not lost by missing a statute of limitations if the process is personally delivered to a state marshal and the process is served within 30 days of delivery. The act extends this provision to service of process by constables and other proper officers. These officers are also authorized by statute to serve process. The act also codifies a recent Connecticut Supreme Court ruling by specifying that these officers must receive the process within the required statute of limitations (see BACKGROUND).

### BACKGROUND

#### *Witness Fees*

By law, witnesses receive the following fees:

1. 50 cents per day for attending court and the same per-mile rate for travel to the place of trial as is paid to state employees for travel;
2. \$100 plus mileage (taxable as part of costs) for police officers and firefighters summoned in a criminal or civil proceeding if they are not compensated by their employers for the time;
3. an extra \$2 for each day that a material witness in a pending criminal proceeding is confined;
4. a reasonable fee determined by the court (taxable as costs) for practitioners of the healing arts, dentists, registered nurses,

advanced practice nurses, licensed practical nurses, psychologists, and real estate appraisers who give expert testimony, including by deposition; and

5. a reasonable fee determined by the court and paid by a party who subpoenas a licensed public accountant to testify in any action or proceeding.

*Related Cases—Statute of Limitations and Service of Process*

In 2008, a Superior Court judge noted that the statute that preserves lawsuits if the process is delivered to a state marshal within the required time frame to file the action was one of many statutes amended to give state marshals, instead of sheriffs, the power to serve process. This particular statute was amended to replace the broader term “officer,” which would have included constables and other proper officers authorized to serve process, with “state marshal.” The judge concluded that the amendment was not intended to exclude process served by constables and a proper interpretation of the statute allowed it to apply to process given to a constable (*Abitz v. Fierer*, 44 CLR 820 (January 15, 2008)).

In another case under this statute, the Connecticut Supreme Court ruled that the process must be delivered to the state marshal before the statute of limitations expires, even though this requirement was not expressly stated in the statute. The court found that to rule otherwise would produce an absurd result and allow a party to bring an action at any time by delivering process for a state marshal to serve within 30 days. The court stated that such an interpretation would be contrary to the intent behind the statute and frustrate the purpose of the statutes of limitation (*Tayco Corp. v. Planning and Zoning Commission*, 294 Conn. 673 (2010)).

*Related Act*

PA 10-36 contains the same provision on preserving lawsuits when process is delivered within the required time frame to a proper officer.

**PA 10-180—sHB 5253**

*Judiciary Committee*

*Appropriations Committee*

**AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM**

**SUMMARY:** This act:

1. eliminates the five-year statute of limitation for a prosecution for (a) 1<sup>st</sup> or 2<sup>nd</sup> degree hindering prosecution if the person rendered criminal assistance to someone who committed a crime for which there is no statute of limitation (capital felony, class A felony, arson murder, or 1<sup>st</sup> degree escape) and (b) perjury committed during a proceeding that results in the conviction of someone who is later determined to be innocent;
2. adds coercion as an affirmative defense to perjury;
3. expands the circumstances under which a person on probation is guilty of failure to appear;
4. potentially increases the penalty for failure to appear for jury duty;
5. expands the crime of forgery to punish someone who falsely makes, completes, or alters a written instrument by signing his or her own name to it to falsely and fraudulently represent that he or she has authority to sign the document; and
6. makes confidential youthful offender records available to law enforcement and prosecutorial officials conducting legitimate criminal investigations.

**EFFECTIVE DATE:** October 1, 2010 except the (1) perjury affirmative defense provision is effective upon passage and (2) statute of limitations changes are effective upon passage and apply to offenses committed (a) on or after that date or (b) before that date if the statute of limitations in effect at the time the offense was committed had not expired.

**§§ 1-2 — FAILURE TO APPEAR**

The act expands the circumstances under which a person on probation for a felony or misdemeanor conviction or motor vehicle violation is guilty of failure to appear. Under prior law, the person was guilty if he or she willfully missed a legally called probation violation hearing. Under the act, a person is guilty if he or she willfully misses any legally called court hearing related to a probation violation.

Failure to appear at a hearing on a felony violation is a class D felony (see Table on Penalties) and failure to appear for a hearing on a misdemeanor or motor vehicle violation is a class A misdemeanor.

### § 3 — FAILURE TO APPEAR FOR JURY DUTY

The act subjects jurors who fail to appear for jury duty to a civil penalty in an amount that the Superior Court judges must establish. Under prior law, the jurors were guilty of an infraction. The act requires the attorney general, within available appropriations, to enforce the provision.

### § 4 — FORGERY

The act expands the crime of forgery to punish someone who falsely makes, completes, or alters a written instrument by signing his or her own name to it to falsely and fraudulently represent that he or she has authority to sign the document.

By law, a person commits forgery by (1) falsely making, completing, or altering a written instrument with intent to defraud, deceive, or injure someone or (2) possessing a forged written instrument. The penalty ranges from a class B misdemeanor to a class C felony depending on the type of document forged.

### § 5 — YOUTHFUL OFFENDER RECORDS

The act makes confidential youthful offender records available to law enforcement and prosecutorial officials conducting legitimate criminal investigations. By law, records of youthful offenders are confidential unless they involve certain crimes. The law also allows disclosure of confidential records:

1. between certain agencies and individuals directly providing services to the youth,
2. to the youth and the youth's parents or guardian until the youth reaches age 18 or is emancipated,
3. to the youth's attorney if the records are relevant to a proceeding, and
4. to Board of Pardons and Paroles and correction employees who need them to perform certain duties.

By law, records disclosed under these provisions cannot be further disclosed.

### § 7 — COERCION AS AFFIRMATIVE DEFENSE TO PERJURY

The act adds as an affirmative defense to perjury that the person was coerced into committing perjury by another. A person commits the crime of coercion by compelling or inducing another to engage in or abstain from conduct by instilling fear that if a demand is not

complied with, someone will (1) commit a crime; (2) accuse someone of a crime; (3) expose a secret tending to subject someone to hatred, contempt, or ridicule or impair someone's credit or business reputation; or (4) take or withhold action as an official or cause an official to do so. A defendant has the burden of proving an affirmative defense by the preponderance of the evidence.

By law, a defendant can raise a defense of duress if he or she was coerced by use or threatened imminent use of physical force on him or her or another and a person of reasonable firmness in this situation would have been unable to resist. This does not apply if the person intentionally or recklessly placed himself or herself in a situation where it was probable that he or she would be subjected to duress (CGS § 53a-14). The state must disprove a defense beyond a reasonable doubt.

### BACKGROUND

#### *1<sup>st</sup> and 2<sup>nd</sup> Degree Hindering Prosecution*

A person commits 1<sup>st</sup> degree hindering prosecution by rendering criminal assistance to someone who, with intent to intimidate or coerce civilians or a government unit, committed a class A or B felony or an unclassified felony that is subject to a maximum prison sentence of more than 10 years. This is a class C felony with a five-year mandatory minimum sentence.

A person commits 2<sup>nd</sup> degree hindering prosecution by rendering criminal assistance to someone who committed a class A or B felony or an unclassified felony that is subject to a maximum prison sentence of more than 10 years. This is class C felony.

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#### **PA 10-184—sHB 5407**

#### *Judiciary Committee*

#### *Finance, Revenue and Bonding Committee*

### **AN ACT CONCERNING PROBATE FEES AND THE RECORDING OF PROBATE PROCEEDINGS**

**SUMMARY:** This act makes several changes regarding probate court fees and related matters.

For probate proceedings to settle a decedent's estate begun on or after January 1, 2011, the act (1) excludes out-of-state property from the definition of the gross estate for estate tax purposes that is used to compute the basis for probate costs and (2) eliminates the 0.1% fee for jointly owned real estate for estates that are not required to file a succession tax return (gross taxable estates of less than \$600,000). For those who die on or after January 1, 2011, the act imposes interest on unpaid

costs for settling a person's estate. The interest requirement does not apply if the basis for costs for the estate does not exceed (1) \$40,000 or (2) \$500,000 and any portion of the property included in the cost basis passes to a surviving spouse. The act allows an extension for paying estate settlement costs, including interest, under certain conditions (§ 1).

In addition, the act:

1. when a court determines that someone is due a refund of probate court costs, fees, charges, or expenses, requires the probate court administrator to issue a refund from the Probate Court Administration Fund upon receiving certification of the overpayment by the probate court that issued the related invoice (§ 3);
2. repeals the requirement that parties appealing a probate court decision pay a \$50 fee to the probate court (by law, appeals must be filed in the Superior Court, not the probate court) (§§ 1, 5, 6);
3. specifies that a transferee who files an estate tax return, if there is no executor or administrator in connection with an estate settlement, must pay any costs, fees, expenses, and other charges due for the settlement proceedings (§ 2);
4. allows payment of probate court fees by credit card (§ 4);
5. provides, upon the written request of a party or his or her attorney, for the recording of probate proceedings not required by law to be recorded (§ 7); and
6. makes minor and technical changes.

**EFFECTIVE DATE:** January 1, 2011, except for the provisions eliminating the fee for appeals (other than specifically related to settlement of a decedent's estate) and specifying that costs must be paid by a transferee who files an estate tax return, which are effective upon passage, and the provision regarding recording of probate proceedings, which is effective October 1, 2010.

#### § 1 — MODIFICATION OF GROSS ESTATE COMPUTATION

By law, part of the calculation for determining the basis for settlement costs for a decedent's estate is his or her gross estate for estate tax purposes (see **BACKGROUND**). The act changes the definition of "gross estate for estate tax purposes" for probate proceedings to settle a decedent's estate begun on or after January 1, 2011. For someone who died while domiciled in Connecticut, the act excludes the fair market value of the person's real or tangible personal property located outside of Connecticut. For someone who died while not domiciled in Connecticut, but who

owned real or tangible personal property in Connecticut at his or her death, the act includes only the fair market value of such property; any property located outside Connecticut is excluded from the computation.

#### § 1 — INTEREST ON UNPAID COSTS

For those who die on or after January 1, 2011, the act applies interest at the rate of 0.5% per month or portion of a month for estate settlement costs not paid within 30 days of the probate court's invoice. If a required estate tax return or copy was not filed with the probate court by the due date or by the date an extension expires, the act applies the same interest rate to any costs that would have been due had the return or copy been timely filed, starting 30 days after the due date or extension expiration date, whichever is later. The act specifies that if the return or copy is filed with the probate court by its due date or extension expiration date, whichever is later, the assessed costs will bear interest as provided by the act.

The act authorizes a probate court to extend the time for paying any costs, including interest, for matters related to estate settlement if it determines that requiring payment by the estate tax return's due date or expiration date would cause undue hardship. During such an extension, additional interest does not accrue. Other than providing an extension, a probate court cannot waive the required interest.

#### § 4 — CREDIT CARD PAYMENTS

The act allows people to pay probate court costs, fees, charges, or expenses by credit card. It permits the probate court administrator to (1) prescribe conditions concerning when cards can be used and (2) impose a service fee as long as it does not exceed any credit card issuer charge, including any discount.

#### § 7 — RECORDING OF PROBATE COURT PROCEEDINGS

The act requires a probate judge to record probate proceedings not required by law to be recorded, upon the written request of a party or attorney. It provides that a proceeding recorded pursuant to such a request is not deemed to be an on-the-record hearing or matter for purposes of the statutory provisions regarding appeals of on-the-record probate proceedings. Any copying or transcript cost of such recordings is charged to the requesting person. The act also requires such recordings to be made and retained in a manner approved by the probate court administrator.

**BACKGROUND**

*Fee Basis, Scale of Fees, and Minimum Fee*

Probate fees for settling an estate are based on the estate’s value. By law, the estate value for fee purposes is (1) the greater of (a) the gross estate for succession tax purposes, (b) the inventory (the probatable estate), (c) the Connecticut taxable estate, or (d) the gross estate for estate tax purposes, plus (2) all damages recovered for injuries resulting in death, minus (3) certain hospital and medical expenses and any attorneys fees and costs incurred in recovering the damages. The value for fee purposes must be reduced by 50% of any property passing to the surviving spouse. The minimum fee for settling a full estate valued at less than \$10,000 is \$150.

Table 1 shows the probate fees for proceedings begun on or after April 1, 1998.

**Table 1: Probate Fees For Settling Estates**

<i>Basis For Computation</i>	<i>Fee</i>
\$0 – \$500	\$25
\$501 – \$1,000	\$50
\$1,000 – \$10,000	\$50, plus 1% of the excess over \$1,000
\$10,000 – \$500,000	\$150, plus 0.35% of the excess over \$10,000
\$500,000 – \$4,754,000	\$1,865, plus 0.25% of the excess over \$500,000
\$4,754,000 and over	\$12,500

*Related Acts*

PA 10-34 allows (1) the probate court administrator to make, and requires the administrator to enforce, regulations governing record maintenance and eliminates the administrator’s authority to use the Uniform Administrative Procedure Act to regulate some other areas; (2) towns in the same probate district to agree on how to share costs associated with court operations; and (3) probate judges to conduct business in any location in Connecticut to facilitate a party’s attendance.

PA 10-41 (1) specifies that a probate court judge does not get extra compensation for acting as an administrative judge for a regional children’s court, a member of a three-judge panel, a special assignment judge, or the probate court administrator and (2) changes the statutes to reflect the centralized accounting and new pay formula scheduled to take effect January 5, 2011.

PA 10-121 makes Union part of a probate district that includes Enfield, Somers, and Stafford instead of a district that includes Ashford, Brooklyn, Eastford, Pomfret, Putnam, Thompson, and Woodstock when the new districts take effect January 5, 2011.

**PA 10-186—sHB 5434**  
*Judiciary Committee*

**AN ACT CONCERNING THE COMMON INTEREST OWNERSHIP ACT**

**SUMMARY:** This act makes several changes to the Common Interest Ownership Act (CIOA). It:

1. adds to the list of CIOA provisions which automatically apply to common interest communities created in Connecticut before January 1, 1984;
2. imposes requirements on bylaw amendments affecting the priority of a security holder’s interest;
3. modifies who elects the association’s officers;
4. makes association rules that restrict residential leasing unenforceable unless the restriction is recorded in land records;
5. modifies requirements for resale certificates, including changes regarding disclosure of the number of owners delinquent in paying their common charges and deleting a requirement regarding itemized costs;
6. reduces the required notice for executive board meetings from 10 days to five, except for meetings called to adopt, amend, or repeal a rule, and specifies the notice requirement for meetings concerning a rule; and
7. makes minor and technical revisions.

EFFECTIVE DATE: July 1, 2010

**§ 20 — APPLICATION OF CIOA TO OLDER COMMON INTEREST COMMUNITIES**

Generally, CIOA applies to common interest communities created in Connecticut on or after January 1, 1984. However, certain provisions of CIOA, to the extent necessary to construe these provisions, apply to common interest communities created in Connecticut before January 1, 1984, but only with respect to events and circumstances that occur after January 1, 1984. These provisions do not invalidate existing declarations, bylaws, or surveys or plans of those common interest communities (CGS § 47-216). The act makes the following additional CIOA provisions automatically apply to these older common interest communities, as shown in Table 1.

**Table 1: CIOA Provisions Applied by the Act to Older Common Interest Communities**

<i>CIOA Provision</i>	<i>Description</i>
CGS § 47-245(f)	Requires election of (1) an executive board by the unit owners and (2) officers by the board unless the declaration or bylaws provide for their election by unit owners
CGS § 47-251	Sets quorum requirements for association and executive board meetings, including a 20% requirement for association meetings and a majority requirement for executive board meetings (unless the bylaws provide otherwise)
CGS § 47-252	Sets permissible voting methods including proxy voting, establishes requirements for proxy voting, allows voting without a meeting if certain conditions are met, and concerns other voting matters
CGS § 47-261b	Concerns rules adopted by the association or executive board, including notice requirements and specific requirements for rules on construction and design criteria and aesthetic standards, flag or sign display, peaceful assembly, and behavior in residential units
CGS § 47-261c	Sets permissible methods of delivery for any required notices sent by an association to unit owners, and provides that notices are effective when sent
CGS § 47-261d	Sets requirements and restrictions for votes to remove an officer or director, and provides that any board member or officer considered for removal must have a reasonable opportunity to respond before the vote on removal
CGS § 47-261e	Sets requirements for budgets, special assessments, and loan agreements, including notice and voting requirements

**§ 21 — BYLAW AMENDMENTS REQUIRING CONSENT OF PERSON HOLDING SECURITY INTEREST**

The act extends to bylaw amendments that affect the priority of a security holder's interest the law's requirements for declaration amendments affecting the same issue. By law, if CIOA or the declaration or bylaws of any common interest community (no matter when created) require the consent of a person holding a security interest in a unit as a condition for the effectiveness of any amendment to the declaration, that consent is deemed granted if the association receives no refusal to consent in a record within 45 days after it notifies the interest holder of the proposed amendment. However, there is an exception: actual consent in a record is required for an amendment that affects the priority of a holder's security interest if the declaration or bylaws requires that consent as a condition of the amendment's effectiveness. This exception does not apply to amendments regarding the priority of the association's lien or the ability of the holder to foreclose its security interest.

**§ 22 — OFFICER ELECTIONS**

Under prior law, an association's bylaws had to, among other requirements, provide for election by the executive board of a president, treasurer, secretary, and any other officers specified by the bylaws. The act modifies this requirement to provide for election of such officers by either the executive board or the unit owners, unless otherwise specified in the declaration.

**§ 23 — ASSOCIATION RULES RESTRICTING RESIDENTIAL LEASING**

By law, an association can adopt rules that affect the use of residential units to accomplish certain objectives, including restricting the leasing of the units to the extent the rules are reasonably designed to meet underwriting requirements of lenders that make first mortgages on units or purchase such mortgages. The act modifies this to specify that no such leasing restriction is enforceable unless notice of it is recorded on the land records of each town encompassing any part of the common interest community. The notice must be indexed by the town clerk in the grantor index of land records in the association's name.

**§ 24 — RESALE CERTIFICATE**

By law, a unit owner must provide a purchaser with a certificate containing specified information before selling the unit. The information must include a statement disclosing the number of units whose owners are at least 60 days' delinquent in paying their common

charges on the date of the statement. The act modifies this to require that the statement disclose the number of such 60-day delinquencies on a specified date within 60 days of the statement date.

By law, within 10 business days of a unit owner's request in a record and the owner's payment of a fee, the association must provide the resale certificate. The act eliminates the requirement that the association itemize the actual printing, photocopying, and related costs associated with the resale certificate and provide a list of such costs to the unit owner with the certificate and accompanying documents.

#### § 25 — NOTICE REQUIREMENT FOR EXECUTIVE BOARD MEETINGS

By law, the secretary or other officer specified in the bylaws must provide notice of executive board meetings to board members and unit owners. The notice must include the meeting's time, date, place, and agenda. Under the act, the notice must be given five, instead of 10 days before the meeting. These notice requirements do not apply to meetings (1) included in a schedule given to unit owners or (2) called to deal with an emergency.

The act also specifies that these requirements do not apply to meetings called to adopt, amend, or repeal a rule. For such meetings, the executive board must provide (1) at least 10 days' notice of its intention to adopt, amend, or repeal a rule; (2) the text of the proposed rule, amendment, or rule proposed to be repealed; and (3) the date on which the board will act on the proposal after considering unit owners' comments.

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**PA 10-191**—sHB 5533  
*Judiciary Committee*

#### AN ACT CONCERNING SEXTING

**SUMMARY:** This act creates a new class A misdemeanor offense (see Table on Penalties) for certain acts of sexting or other electronic transmission or possession of child pornography by persons 13 to 15 years old (for transmission) or 13 to 17 years old (for possession). Under the act, the new class A misdemeanor addresses conduct of a recipient who must be 13 to 17 years old, and a sender who must be (1) 13 to 15 years old and (2) the subject of the depiction.

It provides that in a prosecution for felony possession of child pornography, it is an affirmative defense that the defendant's acts, if proven, would constitute the new class A misdemeanor crime. By law, a defendant must prove an affirmative defense by a preponderance of the evidence.

By law, persons convicted of felony possession of child pornography may have to register as sex offenders. Such persons also face potentially longer periods of probation than those convicted for most other felonies. These conditions would not apply to persons convicted of the misdemeanor offense created by the act.

EFFECTIVE DATE: October 1, 2010

#### NEW MISDEMEANOR CRIME

The act punishes the following conduct by a recipient who is 13 to 17 years old and a sender who is (1) 13 to 15 years old and (2) the subject of the depiction:

1. the knowing possession of a visual depiction of child pornography that the subject of the depiction knowingly and voluntarily sent to the recipient by an electronic device capable of transmitting a visual depiction, including a (a) cellular or wireless phone, (b) computer, or (c) computer network and computer system; and
2. the knowing and voluntary transmission, by means of such an electronic device, of a visual depiction of child pornography.

#### DEFINITIONS

The act applies to the new misdemeanor crime the same definitions of "child pornography" and "visual depiction" as apply for the existing law on felony child pornography and related offenses.

"Child pornography" means any visual depiction, including any photograph, film, videotape, picture, or computer-generated image or picture, produced by electronic, mechanical, or other means, of sexually explicit conduct, where the production involves the use of a person under age 16 engaging in sexually explicit conduct. Whether the subject of the depiction was under age 16 at the time it was created is a question to be decided by the trier of fact.

"Visual depiction" includes undeveloped film and videotape and information of any kind in any form, including computer software, capable of conversion into a visual image, and includes encrypted data.

#### AFFIRMATIVE DEFENSES

Under the act, the existing affirmative defenses for felony possession of child pornography also apply to the misdemeanor offense created by the act.

It is an affirmative defense if the defendant:

1. possessed fewer than three visual depictions of child pornography;

2. did not knowingly (a) purchase, procure, solicit, or request the depictions or (b) take any other action to cause them to come into his or her possession; and
3. promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any depiction or copy, (a) took reasonable steps to destroy each depiction or (b) reported the matter to a law enforcement agency and gave that agency access to each depiction.

It is also an affirmative defense if the defendant possessed a visual depiction of a nude person under age 16 for a bona fide artistic, medical, scientific, educational, religious, governmental, or judicial purpose.

## BACKGROUND

### *Possession of Child Pornography*

The felony offense of child pornography is divided into three degrees, depending on the number of visual images that the defendant knowingly possesses. The offenses range from a class B to a class D felony.

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PA 10-11—HB 5201

*Labor and Public Employees Committee*

**AN ACT CONCERNING INTEREST PENALTIES ON LATE PAYMENT OF ASSESSMENTS TO THE SECOND INJURY FUND**

**SUMMARY:** This act specifies that the penalty for overdue Second Injury Fund assessments from employers or insurers is 15% of the assessment or \$50, whichever is greater. Under prior law, it was unclear when an employer or insurer paid 15% or the \$50 minimum. The fund, administered by the state treasurer, provides workers’ compensation coverage to workers whose employers failed to provide it. Employers, and insurers on behalf of employers, pay an annual assessment into the fund.

EFFECTIVE DATE: Upon passage

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PA 10-12—sHB 5204

*Labor and Public Employees Committee  
Judiciary Committee*

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE JOINT ENFORCEMENT COMMISSION ON EMPLOYEE MISCLASSIFICATION**

**SUMMARY:** By law, any employer who misrepresents either the number of its employees or casts them as independent contractors to defraud or deceive an insurance company in order to pay lower workers’ compensation insurance is (1) guilty of a class D felony (see Table on Penalties), (2) subject to a stop work order, and (3) liable to the Labor Department for a \$300 civil penalty. This act applies the same penalty to an employer who defrauds or deceives the state in the same way. The act also increases the civil penalty for this violation by specifying that each day of the violation constitutes a separate offense.

The act specifies that any employer who is fully insured for workers’ compensation and fails to pay the required state assessments for (1) administration of the Workers’ Compensation Commission and (2) administration and funding of the Second Injury Fund (SIF), is guilty of a class D felony and subject to a stop work order. By law, a self-insured employer who fails to make the same assessments is already subject to these penalties.

The SIF, which the state treasurer administers, is an employer-funded program that provides workers’ compensation to employees whose employers did not provide it. By law and with few exceptions, employers must provide workers’ compensation insurance for their employees.

EFFECTIVE DATE: October 1, 2010

PA 10-37—sHB 5282

*Labor and Public Employees Committee  
Public Safety and Security Committee*

**AN ACT CONCERNING FIREFIGHTERS, POLICE OFFICERS AND WORKERS' COMPENSATION CLAIMS PERTAINING TO CERTAIN DISEASES**

**SUMMARY:** Under this act, a paid municipal or volunteer firefighter, municipal police officer, constable, or volunteer ambulance service member is eligible for workers’ compensation benefits for diseases, including the following, if they arise out of and are in the course of employment: (1) hepatitis, (2) meningococcal meningitis, (3) tuberculosis, (4) Kahler’s Disease (multiple myeloma), (5) non-Hodgkin’s lymphoma, (6) prostate cancer, or (7) testicular cancer. As with all workers’ compensation claims, the disease must result in death or temporary or permanent total or partial disability in order to be eligible for benefits (i.e., it must cause at least some loss of work time). Since workers’ compensation law already covers any disabling injury or illness that arises out of and in the course of employment, it is unlikely that this act has any legal effect.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*Arising Out of and In the Course of Employment*

By law, “arising out of and in the course of employment” means an accidental injury or an occupational disease originating while an employee was engaged in the line of duty in the business or affairs of the employer on the employer’s premises, or while engaged elsewhere in the employer’s business or affairs by the employer’s direction, express or implied. For a police officer or firefighter, it includes the period travelling from the employee’s place of abode (i.e., home) to work, time at work, and departure from work until arrival home (CGS § 31-275 (1)).

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PA 10-46—SB 65

*Labor and Public Employees Committee*

**AN ACT CONCERNING UNEMPLOYMENT COMPENSATION EXTENDED BENEFITS**

**SUMMARY:** This act conforms state unemployment compensation law with federal law regarding extended

benefits paid by employers that are allowed to reimburse the unemployment compensation fund rather than pay unemployment taxes.

Under federal and state law, the state, municipalities, and Native American tribes are allowed to reimburse the fund for unemployment benefits paid to their former employees. The act codifies the federal requirement that these employers pay 100% of the cost of any extended benefits. (Extended benefits are benefits granted beyond (1) the standard 26-week period and (2) any additional benefits the federal government grants and pays for.)

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *Federal Law and Reimbursing Employers*

The 1970 Federal-State Extended Unemployment Compensation Act (EUCA) (§ 204(a)(3)) requires that extended benefits provided by reimbursing employers be paid entirely by the employers. Under federal law, reimbursing employers, unlike other employers, do not have to pay regular unemployment taxes. They are allowed to reimburse the unemployment fund after a former employee (or employees) begins collecting unemployment benefits.

### *Extended and Additional Benefits*

The standard unemployment benefit period is 26 weeks. Due to the recession, the federal government created four periods of added benefits referred to as “additional benefits.” These four periods add 53 weeks for a total of 79 weeks of benefits. “Extended benefits” cover 20 weeks after the 79 weeks are completed.

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## PA 10-47—SB 97

*Labor and Public Employees Committee  
Judiciary Committee*

### **AN ACT CREATING A CIVIL ACTION TO ALLOW CONTRACTORS TO RECOVER UNPAID EMPLOYEE PENSION OBLIGATIONS FROM SUBCONTRACTORS**

**SUMMARY:** Under the prevailing wage law, the Labor Department can require a contractor on a public project to pay the employee wages and benefits for a subcontractor who fails to do so. The act permits a contractor to bring a Superior Court civil action to recover the damages sustained by making such payments, together with costs and a reasonable attorney’s fee. It gives the same legal recourse to a subcontractor required to cover wages or benefits not paid by a lower-tier subcontractor (i.e, a person with

whom a subcontractor contracts to do a portion of the job it was initially hired to do).

The act also makes conforming changes.

EFFECTIVE DATE: October 1, 2010

## BACKGROUND

### *Prevailing Wage Law*

The state prevailing wage law requires contractors on all state and municipal construction jobs to pay the prevailing hourly wage, as determined by the Labor Department, to all mechanics, laborers, or other workers. This requirement applies to repair and renovation projects of \$100,000 or more and new construction projects of \$400,000 or more. The punishment for violating the law includes fines, suspension from bidding on future public projects, and jail time (CGS §§ 31-53, 31-53a, & 31-54).

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## PA 10-68—sSB 167

*Labor and Public Employees Committee  
Planning and Development Committee  
Appropriations Committee  
Judiciary Committee*

### **AN ACT CONCERNING INDEMNIFICATION OF CERTAIN POLICE OFFICERS**

**SUMMARY:** By law, a state, local, or State Capitol police officer who is found not guilty or has charges dismissed in a prosecution for a crime allegedly committed in the course of duty must be indemnified by his or her employer for economic loss, including legal fees.

Under case law, an officer could recover attorney’s fees related to the prosecution but not from a separate lawsuit to enforce the officer’s right to indemnification (*Link v. Shelton*, 186 Conn. 623 (1982)). This act allows the officer to recover attorneys’ fees and costs from enforcing the indemnification provisions.

EFFECTIVE DATE: October 1, 2010

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## PA 10-84—sHB 5059

*Labor and Public Employees Committee  
Planning and Development Committee  
Government Administration and Elections Committee*

### **AN ACT CONCERNING THE APPOINTMENT OF MUNICIPAL ASSESSORS**

**SUMMARY:** This act eliminates a municipality’s option to elect assessors and only allows municipalities to appoint them. Under prior law, a municipality could

(1) choose to elect or appoint up to five assessors by a town or borough meeting vote or a two-thirds vote of the legislative body in a municipality without meetings, (2) set the assessor's qualifications and compensation, and (3) allow the assessor or board of assessors to appoint clerical or other assistants within appropriations. The act limits these provisions to appointed assessors and eliminates provisions on setting terms of office and terminating terms of assessors in office.

The act also requires the town clerk to swear the assessor to the faithful performance of his or her duties. The law already requires an assessor to be sworn before beginning his or her duties.

EFFECTIVE DATE: October 1, 2010

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**PA 10-88—SB 62**

*Labor and Public Employees Committee*

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL CORRECTIONS AND MINOR CHANGES TO LABOR STATUTES**

**SUMMARY:** This act requires a private-sector employee requesting military caregiver leave under the family and medical leave act (FMLA) to notify the employer at least 30 days before leave begins or provide notice as soon as practicable if a treatment date is sooner. The law already applied this notice requirement to employees requesting family and medical leave (1) due to their own serious health condition or that of a spouse, child, or parent or (2) to donate an organ or bone marrow.

The act also makes technical changes.

EFFECTIVE DATE: Upon passage

**BACKGROUND**

*Military Caregiver Leave*

The law permits an employee to take unpaid family and medical leave to care for an immediate family member or next of kin who is a current member of the U.S. military, National Guard, or the reserves with a serious illness or injury received in the line of duty. The employee may take up to 26 weeks of unpaid leave during a 12-month period if the family member is:

1. undergoing medical treatment, recuperation, or therapy;
2. otherwise in outpatient status; or
3. on the temporary disability retired list for a serious injury or illness.

The law applies to an employer with at least 75 employees.

Military caregivers are treated, for the most part, like other employees taking unpaid leave under the private-sector FMLA.

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**PA 10-142—sHB 5207 (VETOED; OVERRIDDEN)**

*Labor and Public Employees Committee*

*Government Administration and Elections Committee*

**AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR PROSPECTIVE STATE EMPLOYEES**

**SUMMARY:** This act prohibits certain state employers from asking about a prospective employee's past convictions until the person is deemed otherwise qualified for the position. The prohibition does not apply if a statute specifically disqualifies someone from a position due to a prior conviction.

The applicable employers are the state; the executive and judicial branches, including any of their boards, departments, commissions, institutions, agencies, or units; boards of trustees of state-owned or -supported colleges, universities, or their branches; public and quasi-public state corporations; authorities established by law; and anyone designated by such employers to act in their interest with employees. The act does not cover the state Board of Labor Relations, Board of Mediation and Arbitration, or, apparently, the Legislative Branch. This means these employers may ask a prospective employee about prior convictions. However, the law, unchanged by the act, prohibits these and other state agencies from denying a person employment solely because of a prior conviction.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*Denying State Employment or Credential Based on Prior Convictions*

With two exceptions, the law prohibits the state and its agencies from disqualifying a person from state employment or denying, suspending, or revoking a credential (such as a professional, trade, or business license) solely because of a prior conviction. The exceptions are for law enforcement agencies and licensing mortgage lenders, correspondent lenders, and brokers. Instead, prior to finding that someone is unsuitable for a position or credential based on a prior conviction, the relevant agency must consider the nature of the crime, its relation to the job, the person's rehabilitation, and how much time has passed since the conviction or release.

An agency must consider these factors regardless of other law and even one that purports to govern denying credentials due to lack of good moral character or suspending or revoking a credential due to a conviction.

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**PA 10-169**—sHB 5202

*Labor and Public Employees Committee*

*Government Administration and Elections Committee*

## **AN ACT CONCERNING TELECOMMUTING OPTIONS FOR STATE EMPLOYEES**

**SUMMARY:** Prior law allowed the Department of Administrative Services (DAS) commissioner to develop and implement guidelines authorizing state employee telecommuting and work-at-home programs. The act instead requires the commissioner to develop and implement these guidelines, within available appropriations, to (1) increase worker efficiency and productivity, (2) benefit the environment, and (3) reduce traffic congestion.

Under the act, a telecommuting or work-at-home assignment must meet the programs' guidelines. It eliminates the requirement that an assignment must be determined to be cost effective.

It specifies that the guidelines and the decision on whether a position is appropriate for telecommuting are not subject to collective bargaining. By law, the guidelines must be developed and implemented in cooperation with state employee unions.

EFFECTIVE DATE: July 1, 2010

### **AUTHORIZATION AND DURATION**

The act specifies that agency heads and the executive director of the Office of Legislative Management, or her designee, may authorize employees to participate in the programs. It eliminates the requirement that the DAS commissioner also approve an employee's participation.

The act eliminates the six-month limit on telecommuting assignments. Instead it states that the assignment must be temporary and may be terminated as required by agency operating needs.

Each agency must provide the DAS with a copy of each telecommuting or work-at-home program agreement authorized for an employee.

### **REPORTING TO THE LEGISLATURE**

The act requires the DAS commissioner to provide her annual report on employee use of the program to the Government Administration and Elections Committee. The law already required the report to be submitted to the Labor and Public Employees Committee.

PA 10-138—sSB 199

*Planning and Development Committee*

**AN ACT CONCERNING THE STATE PLAN OF CONSERVATION AND DEVELOPMENT AND DISSOLVING THE WOLCOTTVILLE SCHOOL SOCIETY**

**SUMMARY:** The law requires the state, regions, and municipalities to prepare periodic plans for balancing the need to conserve and develop land. This act requires the Office of Policy and Management (OPM) to develop a new process for adopting, revising, and implementing the five-year State Plan of Conservation and Development (State Plan of C&D) by incorporating “cross-acceptance,” comparing and reconciling local, regional, and state plans. The act also postpones, from March 1, 2011 to March 1, 2012, the deadline for revising the next five-year State Plan of C&D. In doing so, it resets the schedule for revising the plan.

The law requires municipalities to prepare 10-year plans of conservation and development and disqualifies those that fail to update their plans from receiving discretionary state funds until they do so or the OPM secretary waives this provision. The act relieves municipal planning commissions from the obligation to prepare or amend a municipal plan between July 1, 2010 and June 30, 2013, and suspends the disqualification provision until July 1, 2014, after the next time the state adopts its revised Plan of C&D.

The act requires state agencies to review grant applications for proposed development, rehabilitation, or other construction projects for their compliance with some or all of the smart growth principles set out in legislation enacted in 2009 (PA 09-230, see BACKGROUND).

The act also officially dissolves the Wolcottville School Society and transfers real or personal property it owns to the Center Cemetery Association of Torrington, Inc.

**EFFECTIVE DATE:** Upon passage, except the section on the delay for municipal plans is effective July 1, 2010 and the provision on compliance with smart growth principles is effective October 1, 2010.

**“CROSS-ACCEPTANCE” PROCESS**

Under the act, “cross-acceptance” is a process by which different levels of governments’ planning policies are compared and reconciled for compatibility among local, regional, and state plans. The act requires OPM to develop a new process for adopting, amending, revising, and implementing the State Plan of C&D, based on cross-acceptance, that incorporates:

1. public outreach and solicited public opinion on the preliminary plan;
2. comparison of the preliminary state plan with regional and local plans;
3. negotiation for consistency among the local, regional, and state plans;
4. a written statement describing areas of agreement and disagreement and those requiring modification; and
5. the draft and review of a final state plan.

OPM must use as a guideline the New Jersey State Planning Commission’s 2004 *Cross-Acceptance Manual*. By January 5, 2011, OPM must submit a draft of the new process to the Continuing Legislative Committee on State Planning and Development.

**NEW TIMEFRAMES FOR REVISIONS**

The State Plan of C&D sets policies for locating large-scale, state-funded capital projects. The act postpones, by one year, the deadline for revising the plan and resets the time periods covered in the next plan from 2012-2017 to 2013-2018. Table 1 compares the schedule for revising the plan under prior law and the act.

Table 1: Timetable for State Plan of Conservation and Development

<i>Action</i>	<i>Prior Law</i>	<i>The Act</i>
Submit draft of revised plan to Continuing Committee	Before September 1, 2010	Before September 1, 2011
Make further revisions	Between December 1, 2010 and March 1, 2011	Between December 1, 2011 and March 1, 2012
Publish and disseminate plan	No later than March 1, 2011	No later than March 1, 2012
Conduct hearings	Not later than five months after publication (July 31, 2011)	Not later than five months after publication (July 31, 2012)
Submit final draft to Continuing Committee	By December 1, 2011 for the 2012-2017 plan	By December 1, 2012 for the 2013-2018 plan

By delaying the deadlines for revising the state plan, the act postpones the process for OPM’s designation of “priority funding areas,” established by PA 05-205. That law generally restricts state funding for growth-related projects to these areas and establishes criteria for targeting state funding for such projects. The recommendations for delineating area boundaries are scheduled to be submitted when the next State Plan of C&D is submitted to the Continuing Legislative Committee on State Planning and Development.

## BACKGROUND

### *New Jersey Cross-Acceptance Manual*

On February 18, 2004, the New Jersey State Planning Commission approved the cross-acceptance manual “for the preparation, revision, and readoption of the New Jersey State Development and Redevelopment Plan.” New Jersey’s plan was adopted using cross-acceptance whereby “planning policies are reviewed by government entities at all levels while providing an opportunity for the public to influence the development of these policies.” The manual includes sections on the negotiating entities, public participation, and the elements of the cross-acceptance program and report.

### *Smart Growth Principles*

The principles of smart growth as defined in PA 09-230 include standards and criteria for:

1. integrating planning to coordinate state, regional, and local tax, transportation, housing, environmental, and economic development policies;
2. reducing the extent to which municipalities depend on the property tax and compete for new growth by delivering services regionally;
3. redeveloping existing infrastructure and resources, including brownfields and historic places;
4. providing rail, public transit, bikeways, walking, and other transportation alternatives to automobile travel while reducing energy consumption;
5. developing or preserving housing affordable to households with different incomes (a) near transportation and employment centers or (b) where such housing is compatible with smart growth;
6. concentrating mixed use, mixed income development near transit nodes and civic, employment, or cultural centers; and
7. conserving and protecting natural resources by preserving open space, water resources, farmland, environmentally sensitive areas, and historic property and furthering energy efficiency.

## PA 10-139—sSB 302

*Planning and Development Committee  
Environment Committee  
Commerce Committee*

## AN ACT CONCERNING STATE FUNDING OF AFFORDABLE HOUSING LOCATED IN A FIVE-HUNDRED-YEAR FLOOD PLAIN

**SUMMARY:** This act creates exceptions to the prohibition against building between the 100-year and the 500-year-flood plains for state-funded housing reconstruction, rehabilitation, or renovation as long as the state agency providing funding certifies that it complies with the provisions of the National Flood Insurance Program (NFIP) and the requirements of the act. The exceptions are:

1. projects involving renovation or rehabilitation of existing housing on the Department of Economic and Community Development’s (DECD) most recent affordable housing appeals list,
2. construction of minor structures to an existing building for the purpose of providing handicapped accessibility pursuant to the State Building Code, and
3. construction of open decks attached to residential structures that are properly anchored in accordance with the State Building Code.

The act also permits the demolition and reconstruction of existing housing for low- and moderate income housing provided there is no increase in the number of units and the:

1. reconstruction is limited to the footprint of the existing foundation of the building or buildings which could be used for low- and moderate-income housing after the reconstruction or
2. reconstruction is on a parcel of land where the elevation is above the 100-year flood elevation, provided there is no placement of fill within an adopted Federal Emergency Management Agency flood zone.

The act exempts proposed DECD projects from the prohibition against building in a flood plain in a drainage basin of less than one square mile.

EFFECTIVE DATE: July 1, 2010

## BACKGROUND

### *100- and 500-Year-Flood Plains*

The 100-year-flood plain is the area that has a 1% chance to be flooded each year. The 500-year-flood plain is the area that has a 0.2% chance to be flooded each year. The chance of a given year having a particular flood is not related to what happened in a

previous year. For example, it is possible, though unlikely, that 500-year-floods may happen in consecutive years.

*National Flood Insurance Program*

The NFIP enables property owners in participating communities to purchase insurance as a protection against flood losses in exchange for state and community floodplain management regulations that reduce future flood damages. Participation in the NFIP is based on an agreement between communities and the federal government (44 CFR § 59 et seq.).

**PA 10-140—sSB 394**

*Planning and Development Committee  
Government Administration and Elections Committee*

**AN ACT CONCERNING THE INSPECTION OF LAND FOR USE AS AN ASH RESIDUE FACILITY BY CERTAIN STATE QUASI-PUBLIC AGENCIES**

**SUMMARY:** By law, before the Department of Environmental Protection (DEP) commissioner issues a permit for a resources recovery facility, composting facility, or ash residue disposal area, she must make a written determination that the facility or disposal area is necessary to meet the state’s solid waste disposal needs and will not result in substantial excess capacity. Within 60 days after a permit application is complete, she must publish notice of the preliminary determination of need in a newspaper circulated in the area where the facility or disposal area is to be located. No final determination of need is issued unless a permit is issued.

This act advances the point in the process at which the DEP commissioner must issue a written determination of need, but only with respect to a disposal area for ash residue generated by a waste-to-energy facility that is operated by a state quasi-public agency. She must do so before the physical inspection or evaluation of any parcel of land proposed to be used as the disposal area.

As under prior law, the permit applicant must submit information the commissioner considers necessary, including the name of the resources recovery facilities or municipalities served by the disposal area, the transportation system needed to serve the disposal area, and the available capacity of other disposal areas in the state for ash residue or mixed municipal solid waste that already have construction permits. The act does not require submission of the design capacity for a disposal area proposed by a waste-to-energy facility and operated by a state quasi-public agency like the law

requires for other proposed facilities or disposal areas. In making her determination, the commissioner must consider this information and any other information she considers pertinent.

EFFECTIVE DATE: Upon passage

**PA 10-152—sSB 201**

*Planning and Development Committee*

**AN ACT MAKING TECHNICAL REVISIONS TO THE PLANNING AND DEVELOPMENT STATUTES, DELAYING REVALUATION FOR CERTAIN MUNICIPALITIES, MAKING SUBSTANTIVE CHANGES TO STATUTES CONCERNING HOUSING BLIGHT AND AUTHORIZING THE MODIFICATION OF CERTAIN ELECTRICITY PURCHASE AGREEMENTS**

**SUMMARY:** This act adds to municipal powers by authorizing municipalities to (1) remediate, not just prevent, housing blight and (2) designate agents to enter property for that purpose. It allows municipalities to exercise these powers under the ordinance they must adopt if they choose to impose a special assessment on blighted property. Under prior law, the revenue the assessment generates could be used only to cover enforcement costs. Under the act, the revenue can also be used to cover remediation costs.

The act permits Middletown, Guilford, and Madison to delay a revaluation that is scheduled to occur prior to the 2013 assessment year with the approval of their respective legislative bodies. In other words, these municipalities may continue taxing property based on its value as of the date of the decision to delay, after which each must revalue the property. The subsequent revaluation must re-commence at the point in the schedule that the municipality was following prior to the delay. In the event of a delayed revaluation, the act allows the person or entity authorized by law to prepare rate bills in these three municipalities to prepare new rate bills based on the delay, notwithstanding any law or municipal charter, special act, or home rule ordinance to the contrary.

By law, electric companies are required to enter long-term power purchase contracts with certain renewable energy producers, subject to the Department of Public Utility Control’s (DPUC) approval. The act permits a fuel cell project with an electricity purchase agreement that meets certain criteria to request a change to the agreement.

Finally, the act makes minor, technical, and grammatical changes to municipal and planning and development laws.

EFFECTIVE DATE: October 1, 2010 for the blighted

housing provisions and technical changes and upon passage for the revaluation delays and the electricity purchase agreement provision.

#### BLIGHTED HOUSING

By law, municipalities have the power to make and enforce regulations preventing housing blight, to which the act adds the power to remediate it and authorize agents to enter property, but not a house or structure, to do so.

By law, a municipality with regulations to prevent housing blight may adopt an ordinance under certain conditions and impose a special assessment on blighted housing. The law specifies the elements that must be included in such an ordinance and the conditions that must be met before establishing the special assessment. Money received from a special assessment goes into a special fund or account dedicated for the municipality's expenses related to enforcing the blight regulations and state and local health, housing, and safety codes and regulations, including police expenses. Any unpaid assessment is a lien on the real estate, similar to a tax lien.

The act allows a municipality to include in such an ordinance authority to designate an agent with the right to enter "property," but not any dwelling house or other structure, during reasonable hours to remediate blighted conditions. Any ordinance must specify (1) standards for determining whether the municipality has the right to enter the property and (2) procedures for notifying the property's owner that the municipality has determined it has the right to enter the property. The board designated in the ordinance that determines when the special assessment should be imposed on a specific property also authorizes a right of entry. The act adds remediation costs to those for which money in the special assessment fund can be used.

#### FUEL CELL PROJECT

The act permits a request for modification of a purchase agreement for electricity from a fuel cell project with a generating capacity of up to five megawatts that is located within 50 feet of a natural gas transmission facility operating at pressures above 150 pounds. The project administrator can request a change allowing the project to move to another location and adjust the contract's pricing provision to account for a change attributable to the move. The DPUC has 30 days after receiving such a request to open a docket to review it, and may approve it within 120 days. Under the act, factors affecting a modification are limited to location, contract pricing, and the schedule attributable to the relocation. An electric company cannot cancel an agreement or deem it out of compliance until the

modification is approved.

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#### PA 10-167—sHB 5336

*Planning and Development Committee*

*Education Committee*

#### AN ACT ENCOURAGING SHARED SERVICE AGREEMENTS BETWEEN BOARDS OF EDUCATION

**SUMMARY:** This act establishes a grant in FY 12 to any municipality whose board of education makes a cooperative arrangement with at least one other board of education to provide school transportation that results in a savings in FY 11. The grant is in addition to the reimbursements for student transportation school districts receive under existing law.

The act also permits two or more boards of education to establish shared service agreements, in addition to cooperative arrangements that boards may enter under existing law (see BACKGROUND).

**EFFECTIVE DATE:** Upon passage for the school transportation incentive program and October 1, 2010 for the shared services agreement provision.

#### TRANSPORTATION SAVINGS INCENTIVE GRANT

The act establishes a one-time grant payable in FY 12 from the State Department of Education to municipalities whose boards of education enter a cooperative agreement for student transportation. The grant equals one-half of the difference between the school transportation reimbursement the districts would have received in the absence of a cooperative agreement and the reimbursement after the cooperative agreement. Under existing law, the state reimburses local and regional school districts for a percentage of the reasonable cost of transporting students. The percentage is based on the town's wealth ranking compared to that of other towns. The normal state school transportation reimbursement is zero to 60%. But existing law caps reimbursements (and presumably, this grant) by requiring a proportional reduction to transportation grants through FY 11 if the total grants payable exceed the amount appropriated for that purpose for the year (CGS § 10-266m of the 2010 Supplement to the General Statutes).

#### BACKGROUND

##### *Cooperative Arrangements*

Two or more boards of education can establish cooperative arrangements to provide school accommodations services, programs or activities,



special education services, or health care services to enable boards to carry out their duties. Such arrangements must be in writing and meet specific requirements to be dissolved. Committees formed to supervise cooperative arrangements have broad power, including authority to receive and disburse funds, hire personnel, and hold title to property (CGS § 10-158a).

**PA 10-168—sHB 5383**

*Planning and Development Committee  
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING REGIONAL ECONOMIC DEVELOPMENT**

**SUMMARY:** This act allows regional planning and economic development organizations to propose regional economic development districts (REDDs) that the governor designates, prepare strategies to develop them, and apply for state and federal economic development funds. The act specifies criteria for drawing district boundaries and procedures for preparing, reviewing, and approving strategies.

The procedures require proposed districts and strategies to be approved by the Department of Economic and Community Development (DECD) commissioner and Office of Policy and Management (OPM) secretary. After these agencies approve a strategy, the district may submit it to the U.S. Department of Commerce for approval and apply for and receive federal funds.

EFFECTIVE DATE: July 1, 2010

**REGIONAL ECONOMIC DEVELOPMENT DISTRICTS (REDDs)**

The act allows several types of organizations, by themselves or together with similar organizations, to establish REDDs, with the approval of the DECD commissioner and OPM secretary, and establish boards of directors to govern them. They are:

1. regional economic development commissions or corporations,
2. organizations with a federally approved comprehensive economic development strategy,
3. certain nonprofit corporations, and
4. regional planning organizations.

The act permits only eight REDDs to be established in the state. A proposed district's boundaries must encompass OPM-designated planning regions or, to the extent practicable, conform to county boundaries. Each district must include an area that meets economic distress criteria established in federal regulation (13 CFR § 301.3(a)(1)).

**COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY (CEDs)**

The act requires any REDD board of directors to prepare and approve a CEDs that addresses the region's economic development problems. The strategy must do this in a manner that:

1. promotes economic development and opportunity and housing availability,
2. fosters effective transportation access,
3. improves workforce development,
4. enhances and protects the environment,
5. balances resources by soundly managing development, and
6. encourages responsible growth and development.

(Federal law also requires CEDs to address promoting the use of technology in economic development (42 USC § 3162 (a) (3) (A)).

The strategy must:

1. analyze the district's economic and community development problems and opportunities and incorporate information or suggestions from other publicly sponsored or supported plans;
2. provide historical and background information about the district's economic development situation, including its economy, geography, population, labor force, resources, and environment;
3. describe how the community participated in developing the strategy;
4. set goals and objectives for taking advantage of the district's opportunities and solving its economic development problems;
5. provide an action plan to achieve these goals and objectives; and
6. specify the performance measures the board will use to determine if the goals are being met.

**REVIEW AND APPROVAL PROCESS**

The board must formally approve the CEDs and submit it to regional and state agencies for review and approval. It must first submit the CEDs to the regional planning organizations that include a geographic area served by the REDD unless the organization is not part of it. These organizations have up to 90 days to study the strategy and report their findings and recommendations to the board.

The board must then submit the CEDs to the DECD commissioner and the OPM secretary, who have up to 60 days after receiving it to approve it or recommend changes making it consistent with their respective five-year plans. By law, the commissioner prepares the state economic development strategic plan, the first iteration of which was due July 1, 2009. The

secretary prepares the State Plan of Conservation and Development (Plan of C&D), the next revision of which is due in 2012 (see BACKGROUND).

The board must conform the strategy to the commissioner's and secretary's recommendations and resubmit it to them for review. These officials have up to 60 days to act on the initial or subsequent submission. If they do not, the strategy is deemed approved.

The board must submit annual reports to the commissioner and the secretary on the strategic plan's implementation. It must revise the strategy at least every five years and submit it to these officials for review and approval under the same procedures they used to review and approve the initial strategy.

#### CONSOLIDATION AND FEDERAL APPROVAL

REDDs must submit their approved CEDSs to the DECD commissioner and OPM secretary for review for the purpose of consolidating strategies into no more than eight regions in the state. Once the state officials make recommendations and they and the REDD boards concur, the commissioner and secretary may submit the strategy to the U.S. Department of Commerce (DOC) for approval under federal law.

An approved REDD can request:

1. the DECD commissioner to recommend to the governor that she designate the district as an economic development district and
2. federal designation from the DOC as an economic development district, making it eligible for federal economic development grants.

#### GRANTS AND BOND FUNDS

The act explicitly authorizes the DECD commissioner to provide REDDs with priority regional grants, within available appropriations, for municipal development and Economic Development and Manufacturing Assistance Act projects. It also makes projects connected with the CEDS eligible for DECD bond funds.

#### BACKGROUND

##### *Designating Districts under Federal Law*

Federal law allows entities to designate districts, establish organizations to plan and implement regional strategies, and qualify for economic development funds through the DOC's Economic Development Administration's Investment Assistance Program. It specifies the criteria DOC must use to approve a proposed district. Based on the criteria in regulations, DOC approves the district if it:

1. contains at least one economically distressed area that meets specified unemployment and income thresholds,
2. encompasses a sufficiently large area and has enough people and resources to foster economic development of more than one economically distressed area,
3. has a DOC-approved CEDS that was also approved by a majority of the counties in the proposed district, and
4. obtains the current approval of the state or states in which it is located.

##### *Related Act*

PA 10-138 postpones the next revision of the State Plan of Conservation and Development from 2011 to 2012.

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#### **PA 10-171—sHB 5255**

*Planning and Development Committee  
Finance, Revenue and Bonding Committee*

#### **AN ACT CONCERNING MUNICIPAL MANDATE RELIEF**

**SUMMARY:** This act:

1. requires a state marshal to deliver the possessions and personal property of an evicted tenant to a town-designated storage facility, rather than leaving them on the sidewalk or road to be picked up by the town and eliminates the town's responsibility to pay for the expense of moving these items;
2. applies the same procedures to possessions and personal property of a person evicted in a foreclosure or similar action;
3. limits the scope of a law under which certain telecommunications companies pay property tax on their personal property at a statewide mill rate; and
4. stipulates that the meeting minutes of a municipal agency need not be posted on the Internet in order to comply with the Freedom of Information Act's requirements.

**EFFECTIVE DATE:** July 1, 2010 for the tenant and foreclosure provisions and October 1, 2010 for (1) the Internet posting provision and (2) the property tax provisions, which are applicable to assessment years beginning on and after that date.

## TREATMENT OF TENANT PROPERTY

Under prior law, the state marshal who executed an eviction order was allowed to move the tenant's possessions and personal property to the sidewalk or street. Before doing so, the marshal notified the town's chief executive officer, who removed and stored the items for 15 days. The act requires the marshal to remove the items to a storage facility designated by the town's chief executive officer rather than putting them on the sidewalk or road for the town to remove and store. It eliminates (1) a requirement that the town's chief executive officer remove them and (2) the town's responsibility and reimbursement for removal expenses.

By law, within the 15-day storage period, the former tenant can claim the items and reimburse the town for the moving and storage expenses. After that time and an attempt to locate and notify the owner, the chief executive officer can sell the property at public auction, after posting a notice of the sale. He or she must give the former tenant the proceeds of the sale after deducting the town's costs for storage. After 30 days, if the tenant does not claim the sale proceeds, they are deposited in the town treasury.

The act requires the marshal's execution notice given to the tenant to include instructions on how and where he or she can reclaim his or her possessions and personal effects, including a telephone number for arranging their release.

## FORECLOSURES

Under prior law, the state marshal enforcing an eviction order following a mortgage foreclosure or similar court action could move any possessions and personal effects of the evicted person to the sidewalk or road. Under the act, the officer delivers them to a storage place designated by the town's chief executive officer. The act imposes the same requirements with respect to reimbursements and the notice instruction provisions as it does for tenants.

## PROPERTY TAXES FOR TELECOMMUNICATIONS COMPANIES

Under existing law, some telecommunications companies must, and others may, provide a list of their personal property used solely to provide telecommunications services to the Office of Policy and Management (OPM), the Department of Revenue Services (DRS), and the town where the property is located. The lists that go to OPM and DRS must list the property on a town-by-town basis; the list that goes to an individual town must identify just the property that is located in or allocated to that town. Each list must identify where the property is located and give its fair

market value, depreciated to the maximum extent allowed under the corporation business tax. The OPM secretary must calculate the taxable value of the property at 70% of its depreciated value, which is subject to a statewide tax rate of 47 mills. The tax revenue goes to the towns.

The act eliminates, after August 1, 2009, the ability of a company that provides mobile telecommunications services to choose this tax treatment. It makes the election of a company that chose this treatment before August 1, 2009 null and void. The act specifies how the property of these companies must be taxed. Property that had not been fully depreciated under the corporation tax on or before the October 1, 2009 grand list must be treated like other property under the property tax laws, e.g., it is subject to assessment by the municipality and the locally set tax rate.

The act phases in this treatment for property that had been fully depreciated as of the October 1, 2009 grand list. For the assessment year starting October 1, 2010, the company must file a tax declaration reporting 25% of the "total" (apparently undepreciated) value of its fully depreciated property. The proportion increases to 50% and 75% for the 2011 and 2012 assessment years, respectively. For assessment years 2013 and thereafter, the company must report 100% of the property's total value.

The act appears to apply to all of the personal property of telecommunications companies subject to its provisions, even if this property is used to provide other types of telecommunications services, e.g., landline service.

The act does not address the tax treatment of a company that chose the statewide taxation option between August 1, 2009 and this provision's effective date (October 1, 2010). It appears that such property would be subject to generally applicable property tax laws.

## MUNICIPAL MEETING MINUTES

The Freedom of Information Act requires agencies of the state and its political subdivisions to make the minutes of public meetings available for public inspection and, if the agency has an Internet website, to post them on it. The act exempts an agency of a town, city, borough, or district from the requirement to post minutes on the Internet.



**PA 10-156**—sHB 5164

*Program Review and Investigations Committee  
Higher Education and Employment Advancement Committee  
Education Committee*

**AN ACT IMPLEMENTING THE  
RECOMMENDATION OF THE PROGRAM  
REVIEW AND INVESTIGATIONS COMMITTEE  
CONCERNING THE ALIGNMENT OF  
POSTSECONDARY EDUCATION AND  
EMPLOYMENT IN THE GREEN INDUSTRY**

**SUMMARY:** This act requires higher education institutions in Connecticut to (1) publicize green technology initiatives in higher education and (2) collaborate in furthering these initiatives.

The act requires the Department of Higher Education, in consultation with the Department of Education, to develop annually and publish on its website (1) a list of every green jobs course and academic program in a public higher education institution or a regional vocational-technical school in the state and (2) an inventory of green jobs-related equipment in these schools. Additionally, the act requires the Community-Technical Colleges (CTC) Board of Trustees to have uniformly named green jobs academic programs in the CTC.

The act also requires institutions to (1) hold meetings to explore possible ways to collaborate on green initiatives and (2) support efforts to develop career ladders in the green technology industry.

EFFECTIVE DATE: October 1, 2010

**PUBLICIZING GREEN INITIATIVES**

The act requires the Connecticut Employment and Training Commission and Connecticut Energy Sector Partnership annually to solicit and publicize information on efforts made by Connecticut higher education institutions to promote the green technology industry. This includes (1) the development of new courses and academic programs and (2) initiatives to align green jobs programs with employer needs.

The act defines a “green job” as one that uses green technology and may include the occupation codes identified as green jobs by the United States Bureau of Labor Statistics and any codes identified as green jobs by the departments of Labor and Economic and Community Development. It defines “green technology” as technology that (1) promotes clean energy, renewable energy, or energy efficiency; (2) reduces greenhouse gases or carbon emissions; or (3) involves the invention, design, and application of chemical products and processes to eliminate the use and generation of hazardous substances.

**COLLABORATION REQUIREMENTS**

The act requires each regional vocational-technical school and public higher education institution to develop, in a manner prescribed by the commissioners of education and higher education, equipment-sharing agreements for students in green jobs courses or academic programs, including solar photovoltaic installation.

It also requires quarterly meetings between staff from UConn’s Center for Clean Energy Engineering and Eastern Connecticut State University’s Institute of Sustainable Energy to explore possible collaboration on green technology and green jobs initiatives. It requires staff from (1) other public higher education institutions and (2) centers that focus on clean or sustainable energy that are affiliated with these institutions and in the same geographic region to meet in order to promote collaboration with respect to the green technology industry.

Lastly, the act requires public higher education institutions to consult with regional workforce development boards in supporting efforts to develop career ladders and lattices in the green technology industry. It specifies that special attention be given to workers who entered these fields as a result of the 2009 American Recovery and Reinvestment Act.

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**PA 10-165**—HB 5197

*Program Review and Investigations Committee  
Government Administration and Elections Committee*

**AN ACT IMPLEMENTING THE  
RECOMMENDATIONS OF THE PROGRAM  
REVIEW AND INVESTIGATIONS COMMITTEE  
CONCERNING THE POSTPONEMENT OF  
PROGRAM TERMINATION DATES IN THE  
SUNSET LAW**

**SUMMARY:** This act delays for one year the review of all agencies and programs subject to termination under the sunset law. Under the sunset law, 78 licensing, regulatory, and other state agencies and programs terminate on set dates unless the General Assembly reestablishes them after the Legislative Program Review and Investigations Committee conducts a performance audit of each. The committee must review the public need for each entity according to established criteria and report to the legislature its recommendations for the entity’s abolition, reestablishment, modification, or consolidation. The act delays the termination dates as follows:

<i>Prior Termination Date</i>	<i>New Termination Date</i>
July 1, 2012	July 1, 2013
July 1, 2013	July 1, 2014
July 1, 2014	July 1, 2015
July 1, 2015	July 1, 2016
July 1, 2016	July 1, 2017

EFFECTIVE DATE: Upon passage

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**PA 10-18**—HB 5292  
*Public Health Committee*

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDED TECHNICAL CHANGES TO THE PUBLIC HEALTH STATUTES**

**SUMMARY:** This act makes a number of technical changes to various public health-related statutes.  
**EFFECTIVE DATE:** October 1, 2010

**PA 10-23**—sHB 5452  
*Public Health Committee*

**AN ACT CONCERNING THE PROVISION OF VOLUNTEER HEALTH CARE SERVICES ON A TEMPORARY BASIS**

**SUMMARY:** This act allows out-of-state, volunteer health care practitioners to provide health care services in Connecticut at (1) a free clinic or similar charitable medical event providing free health care services or (2) the Special Olympics or similar athletic event attracting a large number of out-of-state participants provided the practitioners meet certain criteria. The practitioner must:

1. hold an unrestricted license or certificate in another state, territory, or the District of Columbia;
2. not represent himself or herself as a Connecticut-licensed or -certified health care practitioner;
3. provide services only to patients or athletes participating in these events;
4. provide only those services permitted by Connecticut law;
5. provide services only under the supervision of a Connecticut-licensed or -certified health care practitioner within the same licensure or certification category; and
6. maintain, either personally or through the sponsoring organization, professional liability insurance or other professional malpractice insurance in an amount equal to or greater than that required for a comparable Connecticut licensee or certificate holder.

The act requires the organization conducting such events to ensure that any participating out-of-state practitioner fully complies with its provisions.

**EFFECTIVE DATE:** July 1, 2010

**APPLICABILITY**

The act appears to apply to any licensed or certified health care practitioner, which by law may include

physicians and surgeons, osteopaths, chiropractors, natureopaths, podiatrists, athletic trainers, physical therapists, occupational therapists, alcohol and drug counselors, radiographers, radiologic technologists, midwives, nurses, nurses aides, dentists, dental hygienists, optometrists, opticians, respiratory care practitioners, perfusionists, pharmacists, psychologists, marital and family therapists, clinical social workers, professional counselors, veterinarians, massage therapists, and emergency medical technicians.

**BACKGROUND**

*Out-of-State Health Care Providers Allowed To Work in an Emergency*

The law allows various health care practitioners licensed, certified, or registered in another state, territory, or the District of Columbia, to work in Connecticut during a declared public health emergency. They can work only within the scope of their practice as permitted by Connecticut law. The law allows the public health commissioner to suspend, for up to 60 consecutive days, state licensing, certification, or registration requirements that apply to them (CGS §19a-131j).

**PA 10-38**—sHB 5286 (**VETOED; OVERRIDDEN**)  
*Public Health Committee*  
*Appropriations Committee*

**AN ACT CONCERNING LICENSURE OF MASTER AND CLINICAL SOCIAL WORKERS**

**SUMMARY:** This act creates a new license category for certain social workers. The new category, called “master social worker,” is administered by the Department of Public Health (DPH). The act:

1. defines the practice of a master social worker,
2. requires practitioners to be licensed annually and establishes licensure requirements and fees,
3. allows for licensure by endorsement or licensure without examination in certain cases,
4. provides for one-time \$50 temporary permits to practice,
5. prohibits independent practice after October 1, 2013,
6. specifies activities certain master social workers can do, and
7. establishes continuing education requirements.

DPH currently licenses clinical social workers and continues to do so under the act, with some changes concerning work experience requirements.

The act specifies that (1) DPH must issue licenses to master social workers only if appropriations are available and (2) no new regulatory board is established for master social workers if the licensure program is in fact implemented.

EFFECTIVE DATE: October 1, 2010

## MASTER SOCIAL WORKER

### *Terms and Definitions*

Under the act, a licensed master social worker can practice clinical social work under the professional supervision of, and offer a mental health diagnosis in consultation with, a licensed physician, advanced practice registered nurse (APRN), psychologist, marital and family therapist, clinical social worker, or professional counselor. "Professional supervision" is face-to-face consultation consisting of at least a monthly review, a written evaluation, and assessment by the supervisor of the master social worker's practice of clinical social work.

The act specifies that a licensed clinical social worker can perform all the functions of a licensed master social worker and practice independently, but a licensed master social worker cannot engage in independent practice, except for a limited period (see below). "Independent practice" means the practice of clinical social work without supervision.

### *License Requirements*

The act requires an applicant for a master social work license to (1) have a master's degree from a social work program accredited by the Council on Social Work Education or, if educated outside the United States or its territories, have completed an educational program the council deems equivalent and (2) pass the master-level examination of the Association of Social Work Boards or any other examination DPH prescribes.

The application fee for a master social work license is \$220. (Existing law establishes a \$315 fee for licensed clinical social workers.) The annual renewal fee for both licenses is \$190.

### *Licensure by Endorsement*

The act allows the DPH commissioner to grant a license by endorsement to a master social work license applicant who (1) is licensed or certified as a master or clinical social worker in another state or jurisdiction whose practice requirements are substantially similar to or higher than Connecticut's and (2) has successfully completed the master-level examination of the Association of Social Work Boards or any other examination the commissioner prescribes. Existing law already allows for licensure by endorsement for clinical

social workers. The act allows the commissioner to prescribe an alternative examination for clinical social workers.

He cannot issue a license to anyone who is facing disciplinary action or is the subject of an unresolved complaint.

### *Licensure without Examination*

Prior to October 1, 2012, the act allows DPH to issue a license without examination to anyone who demonstrates to its satisfaction that, by October 1, 2010, he or she held a master's degree from a social work program accredited by the Council on Social Work Education or, if educated outside the United States or its territories, had completed an educational program the council deems equivalent.

### *Independent Practice*

The act allows a master social worker (presumably one who is licensed as such) to engage in independent practice between October 1, 2010 and October 1, 2013. After October 1, 2013, a master social worker cannot engage in independent practice unless he or she is licensed as a clinical social worker.

### *Temporary Permit*

The act allows DPH to issue a temporary permit to a license applicant who has a master's degree from an accredited or equivalent social work program but has not yet taken the required licensure examination. The temporary permit authorizes the holder to work under supervision as a master social worker for up to 120 calendar days from the date he or she receives the master's degree. A temporary permit is not renewable; it is void and cannot be reissued if the applicant fails the examination. The temporary permit fee is \$50.

### *Title Protection*

The act prohibits anyone from (1) using the title "licensed master social worker" or any initials associated with it or (2) advertising services under the description of a licensed master social worker, unless the individual has a master social worker license. The law already provides this protection for licensed clinical social workers.

### *Allowed Activities*

The act specifies that it does not prohibit (1) a social worker from practicing community organization, policy and planning, research, or administration that does not involve engaging in clinical social work or supervising a social worker engaged in clinical



treatment with clients or (2) individuals with a baccalaureate degree in social work from a Council on Social Work Education accredited program from performing nonclinical social work functions.

## CONTINUING EDUCATION

### *New Requirements for Licensed Clinical Social Workers and Master Social Workers*

By law, licensed clinical social workers must meet continuing education requirements to have their licenses renewed. Prior law authorized DPH to adopt regulations that define basic requirements for continuing education programs, delineate qualifying programs, establish a control and reporting system, and provide for waiving the requirements for good cause.

The act eliminates this provision and instead establishes statutory requirements for both licensed clinical and master social workers. (Some of the act's requirements reflect those in regulation.)

The act requires each type of social worker to complete a minimum of 15 hours of continuing education during each registration period. A "registration period" is the 12-month period for which a license is current and valid. The requirement for licensed master social workers begins on October 1, 2011. Continuing education must be related to the practice of social work and consist of courses, workshops, and conferences offered or approved by the Association of Social Work Boards, the National Association of Social Workers, or a school or department of social work accredited by the Council on Social Work Education.

A person can take up to six hours of on-line and home study continuing education per registration period. During the registration period, an initial presentation by a licensee of an original paper, essay, or formal lecture in social work to a recognized group of fellow professionals may account for five continuing education hours.

Each licensee must get a certificate of completion from the continuing education provider for all hours successfully completed. He or she must retain these certificates for at least three years following the license renewal date for which the activity satisfies the continuing education requirement. The licensee must submit the certificate to DPH upon request. A licensee failing to comply with the continuing education requirements may be subject to DPH disciplinary action, including license revocation or suspension, censure, letter of reprimand, placement on probation, or a civil penalty.

### *Professional Educator Certificates*

Existing law allows a licensed clinical social worker who also holds a State Board of Education professional educator certificate with a school social worker endorsement to meet continuing education requirements for social workers by completing continuing education activities required for the educator certificate. The number of continuing education hours for maintaining the educator certificate must equal that required for clinical social worker continuing education over a one-year period.

The act continues to recognize this professional educator certificate-related continuing education and applies it to both licensed clinical and master social workers.

### *Exemptions from Continuing Education*

A licensee applying for his or her first renewal is exempt from the continuing education requirements. DPH may grant a waiver from the requirements or a time extension to a licensee who has a medical disability or illness. The licensee must apply for a waiver or extension to DPH and submit any documentation the department requires. The waiver or extension cannot exceed one registration period. DPH may grant additional waivers or extensions if the initial reason for the waiver or extension continues beyond the waiver or extension period.

DPH may also grant a continuing education waiver to a licensee who is not engaged in social work during a given registration period if the licensee requests a waiver before the continuing education period expires.

A licensee granted a continuing education waiver must complete seven hours of continuing education within six months from the date on which he or she returned to active practice and must comply with the certificate of completion requirements.

### *Reinstatement of a Void License*

A licensee whose license is void because of failure to renew and who applies to DPH for reinstatement must submit evidence documenting that he or she has successfully completed seven hours of continuing education within the one-year period immediately preceding the date he or she applied for reinstatement.

## LICENSED CLINICAL SOCIAL WORKERS

By law, licensed clinical social workers must (1) have a doctorate or master's degree from a social work program accredited by the Council on Social Work Education or, if educated outside of the United States or its territories, have completed an educational program deemed equivalent by the council; (2) have 3,000 hours

of post-master's social work experience, which must include at least 100 hours of work under professional supervision by a licensed clinical or certified independent social worker; and (3) pass the clinical level examination of the American Association of State Social Work Boards (the act changes this name to Association of Social Work Boards) or any other examination prescribed by DPH (CGS § 20-195n).

The act specifies that beginning October 1, 2011, any work experience hours required for licensure as a clinical social worker completed in Connecticut must be as a licensed master social worker.

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**PA 10-60**—sSB 246

*Public Health Committee  
Appropriations Committee*

**AN ACT CONCERNING ISSUANCE OF EMERGENCY CERTIFICATES AND THE SAFETY OF PATIENTS AND STAFF AT FACILITIES OPERATED BY THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES**

**SUMMARY:** This act permits clinical social workers and advanced practice registered nurses (APRNs) who are members of a Department of Mental Health and Addiction Services (DMHAS)-certified community support program to issue emergency certificates directing a person with psychiatric disabilities to be taken to a hospital for evaluation. The law already allows social workers and APRNs who are members of a DMHAS-operated or -funded mobile crisis team, jail diversion program, crisis intervention team, advanced supervision and intervention support team, or assertive case management support program to issue emergency certificates.

As with social workers and APRNs already authorized to issue emergency certificates, those working in the community support program must (1) have received at least eight hours of specialized training in conducting direct evaluations and (2) as a result of direct evaluation, reasonably believe the person has psychiatric disabilities; is a danger to himself, herself, or others, or gravely disabled; and needs immediate care or treatment.

The act also requires the DMHAS commissioner to (1) certify intermediate care beds in general hospitals to provide inpatient mental health services for adults with serious and persistent mental illness and (2) operate a behavioral health recovery program providing clinical substance abuse treatment, psychiatric treatment, and nonclinical recovery support services not covered under Medicaid.

Finally, the act allows the head of a psychiatric hospital, or his authorized representative, to restrict patient communication by mail and telephone if a patient (1) sends obscene mail to another person or (2) makes harassing telephone calls. It also makes a technical change to a statute regarding the Connecticut Valley Hospital Advisory Council.

**EFFECTIVE DATE:** October 1, 2010 except for the provision regarding intermediate care bed certification, which takes effect July 1, 2010, and the provision regarding the behavioral health recovery program, which takes effect upon passage.

**INTERMEDIATE CARE BED CERTIFICATION**

The act requires the DMHAS commissioner to adopt regulations establishing general hospital intermediate care bed certification requirements and procedures. In adopting the regulations, the commissioner must consider the need for such beds. DMHAS must establish policies and procedures necessary to implement these certification requirements while adopting them as regulations. The commissioner must print notice of the intent to adopt regulations in the *Connecticut Law Journal* no later than 20 days after the policies and procedures are implemented. These policies and procedures are valid until the final regulations are adopted.

**BEHAVIORAL HEALTH RECOVERY PROGRAM**

The act requires the DMHAS commissioner, within available appropriations, to operate a behavioral health recovery program serving Medicaid-eligible individuals with substance abuse disorders or psychiatric disabilities. DMHAS may provide residential substance abuse treatment, recovery support services, peer supports, housing assistance, transportation, food, clothing, and personal care items. Under the act, DMHAS is responsible for all services and payment related to the provision of these services.

The act allows the DMHAS commissioner to adopt regulations for the program and establish policies and procedures necessary to implement the program while adopting regulations. The commissioner must print notice of the intent to adopt regulations in the *Connecticut Law Journal* not later than 20 days after the policies and procedures are implemented. These policies and procedures are valid until the final regulations are adopted.

**BACKGROUND**

*Community Support Programs*

Community support programs provide mental health and substance abuse rehabilitation services and

supports to help DHMAS clients function independently in the community. Services are provided by mobile, interdisciplinary teams of clinicians and peer specialists based on an individualized service plan the team develops. Services are provided in a community setting and may include medication management, psychosocial rehabilitation, interpersonal and other skill development, and education and support to clients' families. Currently, 14 DHMAS-certified programs operate statewide.

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**PA 10-81**—sHB 5289

*Public Health Committee*

*Government Administration and Elections Committee*

**AN ACT CONCERNING THE SALARIES OF THE CHIEF MEDICAL EXAMINER AND THE DEPUTY MEDICAL EXAMINER**

**SUMMARY:** This act requires the Commission on Medicolegal Investigations (COMLI) to submit recommendations concerning the salaries and annual increments of the chief and deputy chief medical examiner to the Department of Administrative Services (DAS) commissioner for review and approval. Previously, COMLI set these salaries and submitted recommendations concerning salaries and compensation of other professional staff to the DAS commissioner.

EFFECTIVE DATE: Upon passage

**BACKGROUND**

*COMLI*

COMLI is nine-member, independent administrative commission within the Department of Public Health (DPH) for administrative purposes only. Its members include pathology professors, two law professors, a Connecticut Medical Society member, a Connecticut Bar Association member, two public members, and the DPH commissioner. The Office of the Chief Medical Examiner operates under the control and supervision of COMLI.

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**PA 10-82**—HB 5290

*Public Health Committee*

*General Law Committee*

**AN ACT CONCERNING THE ADMINISTRATION OF VACCINES BY LICENSED PHARMACISTS**

**SUMMARY:** This act expands the authority of licensed pharmacists to administer vaccines to adults.

Under existing law, pharmacists may administer flu vaccine to adults; the act allows them also to administer federally approved vaccines for the prevention of (1) invasive pneumococcal disease and (2) herpes zoster (shingles) and its after effects.

As under existing law, pharmacists must administer the vaccine according to a licensed health care provider's order and Department of Consumer Protection regulations. By law, these regulations must require that pharmacists administering flu vaccine complete an immunization training course. The act expands this training requirement to pharmacists administering any of the above vaccines.

EFFECTIVE DATE: October 1, 2010

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**PA 10-89**—sHB 5291

*Public Health Committee*

*Human Services Committee*

**AN ACT CONCERNING THE SHARING OF INFORMATION BETWEEN THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES AND THE DEPARTMENT OF SOCIAL SERVICES AS RELATES TO MEDICAID FUNDED SERVICES**

**SUMMARY:** This act allows, to the extent federal law permits, the Department of Mental Health and Addiction Services (DHMAS) commissioner to enter into a memorandum of understanding (MOU) with the social services commissioner to share information about short-term acute care general hospital admissions and inpatient services received by DHMAS clients who (1) live and receive services in the community and (2) receive Medicaid benefits. The purpose of the MOU is to monitor and improve the quality of Medicaid-funded targeted case management (TCM) services DHMAS provides.

DMHAS provides TCM services to adults with chronic mental illness. These services are covered under the state Medicaid plan and help clients get medical and related care by (1) identifying needed services, (2) finding providers, and (3) monitoring and evaluating delivered services.

EFFECTIVE DATE: October 1, 2010

**PA 10-90**—sHB 5306  
*Public Health Committee*

**AN ACT CONCERNING THE OPERATION OF CHILD DAY CARE CENTERS AND GROUP DAY CARE HOMES IN PUBLIC SCHOOLS**

**SUMMARY:** This act requires the Department of Public Health (DPH) to adopt regulations establishing physical plant requirements for licensed child day care centers and group day care homes that exclusively serve school-age children. In doing so, DPH must consider those located in private or public school buildings. The act requires DPH to implement policies and procedures while in the process of adopting these regulations.

Prior law allowed child day care centers and group day care homes located in public school buildings to apply to DPH for a variance from any of the physical plant requirements specified in regulations.

EFFECTIVE DATE: Upon passage

**PHYSICAL PLANT REGULATIONS**

The act requires DPH to implement policies and procedures necessary to implement its physical plant requirements while in the process of adopting them as regulations. The DPH commissioner must print a notice of the intent to adopt regulations in the *Connecticut Law Journal* not later than 20 days after the policies and procedures are implemented. These policies and procedures are valid until the final regulations are adopted.

Until replaced by such policies and procedures, any physical plant requirements already in DPH regulations generally applicable to child day care centers and group day care homes continue to apply to those centers and homes that exclusively serve school-age children.

**VARIANCES**

The act eliminates the variance process. This process allowed a day care center or group day care home that provides services exclusively to school-age children in a public school building to ask DPH for a variance from its physical plant regulations. Before DPH could approve a variance, the center or home had to (1) document that it would satisfactorily meet the regulation's specific intent by other means and (2) enter a written agreement with DPH specifying the variance, its duration, and the terms under which it is granted. The variance was cancelled immediately if the home or center failed to comply with the agreement.

The day care operator had to post the variance near its license and, when a child enrolled and annually thereafter, notify the child's parents or guardian of the variance. The notice had to include the DPH requirements for which the variance was granted and an

explanation of how the variance would achieve the requirements' intent in a way that protected the children's health and safety.

**BACKGROUND**

*Physical Plant Requirements*

DPH physical plant requirements for child day centers and group day care homes address water quality, emergency exiting, toileting and washing facilities, temperature, lighting, hazard protection, program space, outdoor play space and equipment, and building safety and cleanliness (Conn. Agency Regs. § 19a-79-7a).

**PA 10-92**—sHB 5446  
*Public Health Committee*  
*Planning and Development Committee*

**AN ACT CONCERNING MASS GATHERINGS**

**SUMMARY:** This act makes various changes to the state's mass gathering law with respect to the requirements and procedures to apply for the license necessary for such an event. In addition, it provides an exemption from that law for agricultural fairs meeting certain conditions. (The act also uses the terms "assembly" and "event" in addition to "gathering.")

EFFECTIVE DATE: Upon passage

**MASS GATHERINGS**

*License Requirement*

Previously, the law required an event organizer to obtain a mass assembly license from the local police chief or first selectman when the event had or was reasonably expected to have at least 2,000 attendees and last for 12 or more consecutive hours.

The act instead requires a license if the (1) average number of people assembled during all hours of the event can reasonably be expected to equal or exceed 2,000 persons and (2) 12 or more consecutive hour standard is met. Also, the act instead makes the municipality's chief elected official (CEO) or his or her designee the license issuer. He or she must issue a license for the assembly within 15 days of receiving the application if the applicant has complied with all licensure requirements (see below). Under prior law, the license processing time was 20 days or less.

The act allows a municipality to waive the license process, but no assembly can take place without a license unless the organizer has notified the town's CEO, or the designee, at least 20 days before the event and provided a letter documenting that the applicant has provided the required information (see below).

The CEO or the designee can revoke a license at any time if the license holder fails to comply with any of the conditions for issuance. Previously, the governing body of the municipality could do this. The act deletes provisions prohibiting (1) a licensee from selling tickets to or permitting more than the maximum permissible number of people at the licensed location and (2) sound from the assembly carrying unreasonably beyond its location.

#### *Information Required for License*

The law requires a license applicant to provide information in several areas before a license is issued. The act removes the stipulation that the applicant must furnish a variety of accommodations at his or her own expense.

*Maximum Number of People.* By law, the applicant must determine the maximum number of people that will or can reasonably assemble at the location given the nature of the assembly; if the event is to continue overnight, the maximum number cannot exceed the number allowed to sleep within the location's boundaries under the municipality's zoning or health ordinances. The act provides that for an assembly occurring annually, the maximum number of people can be the average number assembled each day during the prior four years of the event.

*Emergency Medical Services.* Prior law required the applicant to provide a written plan reviewed by the Emergency Medical Service (EMS) primary area service responder for the event location that indicated that the applicant had satisfactorily planned and arranged for on-site availability of an EMS organization for the assembly's duration. Also, if it continued at night, sufficient illumination to light the entire assembly area was required.

The act instead requires a written plan for EMS, prepared by the applicant in consultation and cooperation with the primary area service responder that complies with state law and applicable local ordinances. It eliminates the lighting requirements.

*Parking.* Previously, the applicant had to provide a free parking area inside the assembly grounds sufficient for parking for the maximum number of people at the assembly, with a rate of at least one parking space for every four people. The act instead requires just a parking area, which does not have to be inside the assembly grounds and without any parking space requirement.

*Telephones.* The act deletes the requirement that the applicant provide telephone services with at least one separate outside line and receiver for every 1,000 people.

*Security.* The act requires the applicant to provide a copy of a written plan for (1) on-site security and traffic

control on public roads prepared in consultation and cooperation with the local police and (2) fire protection prepared in consultation and cooperation with the local fire department. Both plans must comply with state and local law. This replaces prior law, which specifically addressed the number of security guards required, fire protection standards and equipment, and excessive sound precautions. It also eliminates the requirement for a bond filed with the municipal clerk at the rate of \$4 per person for the maximum number of people permitted containing a (1) provision indemnifying and holding harmless the municipality and its agents, officers, and employees for liability that might arise from granting the license or for clean-up costs and (2) guarantee to the state for payment of any taxes which may accrue because of the gathering and for ticket reimbursement in the event of cancellation.

#### *License Application Process*

Under the act, a license application for an assembly must be made in writing to the chief elected official of the municipality or the designee within 20 days before the date of the gathering, instead of to the municipality's governing body at least 15 days before the event.

The act requires that the application be signed by the individual applicant or a duly authorized representative when the applicant is a partnership, corporation, limited liability company, firm, company, association, society, or group. Prior law required an individual, or all officers, partners, or members in the case of corporations, partnerships, associations, societies, or groups to sign and swear to or affirm the application. The act deletes the requirement that a corporation's application include a certified copy of its articles of incorporation with detailed information on each person owning 10% or more of the company's stock.

The act requires that the application contain a copy of written plans for limiting the maximum number of people allowed to assemble; supplying pure and adequate drinking water; toilet and lavatory facilities; solid waste collection and disposal; EMS; parking; camping facilities; on-site security and traffic control on public roads; fire protection; and compliance by concessionaires with federal, state, and local food protection laws. Prior law required that the application include these items but did not specifically require a "written plan."

#### AGRICULTURAL FAIRS

The act exempts agricultural fairs from the mass gathering law if (1) the fair has been held annually for at least 10 years since 1990 on the same grounds, (2) the fair is held on grounds owned or leased by the person

holding the fair that are specially improved and adapted for holding fairs, (3) the person holding the fair is a nonprofit organization under Connecticut law, and (4) a detailed description of the fair is hand-delivered to the CEO of the municipality or the designee where the fair is to be held at least 90 days before it starts.

The description must include the fair location, dates, and hours of operation. It must also include a copy of the written plan for:

1. providing EMS, prepared by the applicant in consultation and cooperation with the primary services area responder, for the location of the fair and in compliance with state law and applicable local ordinances;
2. on-site security and traffic control on public roads, prepared by the applicant in consultation and cooperation with the local police and in compliance with state law and local ordinances;
3. fire protection, prepared by the applicant in consultation and cooperation with the local fire department, in compliance with state law and local ordinances;
4. traffic and transportation services; and
5. pure and adequate drinking water, proper sewage and solid waste disposal, and food protection measures prepared by the applicant and reviewed by the local health department or district for compliance with federal and state law and local ordinances.

The act specifies that it does not prohibit a municipality from enacting any ordinance relating to an agricultural fair as otherwise authorized by law.

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**PA 10-93**—sHB 5448  
*Public Health Committee*  
*Human Services Committee*

### **AN ACT CONCERNING THE ADMINISTRATION OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES**

**SUMMARY:** This act makes minor changes to the Department of Developmental Services' (DDS) Birth-to-Three program and several departmental advisory bodies. It also removes from the sunset review process the DDS abuse and neglect registry, which is scheduled to terminate on July 1, 2012 unless reestablished.

The act allows the Department of Children and Families (DCF) to provide DDS with limited abuse and neglect investigation records of children (who are already DDS clients) enrolled in the DDS Voluntary Services Program. Prior law allowed this only for program applicants.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2010

### **BIRTH-TO-THREE**

#### *Definitions*

The act expands the definition of “parent” under the Birth-to-Three Program to conform to the federal Individuals With Disabilities Education Act. Under the act, parent means a (1) biological, adoptive, or foster parent of a child; (2) a guardian, except the DCF commissioner; (3) an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives; (4) an individual legally responsible for the child’s welfare; or (5) an appointed surrogate parent.

The act also specifies, that for the purposes of fees charged by the DDS commissioner for Birth-to-Three services, “parent” includes only the child’s biological or adoptive parent or legal guardian. By law, the commissioner may charge fees to any parent or guardian, regardless of income, and must do so for any parent or guardian with a family income of \$45,000 or more unless the child is Medicaid-eligible.

#### *Service Provision and Rate Setting*

The act permits DDS to arrange for Birth-to-Three services through means other than contract, including providing them directly or arranging them through other state agencies. It requires DDS to establish statewide rates for paying the Birth-to-Three service providers with which it contracts or otherwise arranges for early intervention services. (DDS has already set these rates.)

The act removes a requirement for DDS to monitor contractors' administrative spending and annually justify to the Appropriations and Public Health committees and Office of Policy and Management secretary expenditures over 20% of the contracted amount. It instead requires DDS to monitor all Birth-to-Three service providers for quality and accountability in accordance with the federal Individuals with Disabilities Education Act.

#### *Interagency Coordinating Councils*

The act allows DDS to establish a local interagency coordinating council in each region of the state; under prior law, DDS had to establish at least one council per region. But the act removes the definition of region, which currently ties these councils to DDS’ three regions. Consequently, it is not clear where the councils could be located under the act. Lastly, the act requires these councils to advise DDS rather than the regional Birth-to-Three managers.

The act also corrects references to federal laws governing the Birth-to-Three program and repeals several obsolete statutes.

#### ADVISORY COMMITTEES

The act allows an appointed member of the Council on Developmental Services who has served the maximum six years (or three years for the Southbury Training School board representative) to continue to serve until a successor is chosen. The council advises the DDS commissioner on state programs and can recommend legislation to the governor and General Assembly.

The act allows the Office of Protection and Advocacy and Children's Commission executive directors, the State Interagency Birth-to-Three Coordinating Council chair, and the child advocate to appoint designees to the Family Support Council. The council helps DDS and other state agencies identify and promote needed services and coordinate their activities.

The act removes from the membership of DDS' regional planning and advisory councils one practicing attorney in Connecticut familiar with mental retardation issues. Instead, it adds one member who is receiving DDS services. It also deletes obsolete language referring to the ARC of Connecticut.

Finally, the act replaces the Camp Harkness Booster Club representative from the Camp Harkness Advisory Committee with a representative of a tax-exempt, nonprofit corporation that promotes and supports the camp and its camping programs. It also deletes obsolete language referring to the ARC of New London County.

#### DDS VOLUNTARY SERVICES PROGRAM

The law allows limited disclosure of DCF records to DDS without the consent of the person named in the records. The act allows DCF to disclose a written summary of any child abuse or neglect investigation it conducted for any child enrolled in DDS's Voluntary Services Program, not just those applying for the program (an applicant must already be a DDS client).

It requires DDS to notify parents and guardians at the time a child's annual service plan is updated that DDS may obtain these records from DCF without their consent. Prior law required DDS to do this only when parents and guardians applied to enroll a child in the program.

By law, DCF can disclose records it or someone else created, without consent, in a variety of situations. As with these disclosures, before releasing a record under the act, DCF must determine disclosure is in a person's best interest and that the records are not privileged or confidential under state or federal law.

#### BACKGROUND

##### *Sunset Review*

Under the sunset review law, licensing, regulatory, and other state agencies and programs terminate on set dates unless the General Assembly reestablishes them after the Legislative Program Review and Investigations Committee conducts a performance audit of each. The committee must review the public need for each entity or program according to established criteria and report its recommendations to the legislature for the entity's or program's abolition, reestablishment, modification, or consolidation (CGS § 2c-2b).

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#### **PA 10-117—sSB 428**

*Public Health Committee*

*Appropriations Committee*

#### **AN ACT CONCERNING REVISIONS TO PUBLIC HEALTH RELATED STATUTES AND THE ESTABLISHMENT OF THE HEALTH INFORMATION TECHNOLOGY EXCHANGE OF CONNECTICUT**

**SUMMARY:** This act makes numerous substantive and minor changes to laws governing Department of Public Health (DPH) programs and health professional licensing and certification. The DPH program changes relate to:

1. access to patient medical records,
2. the Advisory Committee on Healthcare Associated Infections,
3. nursing home and nursing facility management certificate holder oversight,
4. the transfer of the Drinking Water State Revolving Fund administration to DPH,
5. Stem Cell Research Advisory Committee reporting requirements,
6. municipal and district health director qualifications,
7. funeral home practices,
8. chronic disease hospital emergency psychiatric admissions,
9. medical foundation providers,
10. regional emergency medical services (EMS) advisory board and regional councils,
11. designation of regional EMS coordinators as state employees,
12. Office of Oral Health director qualifications,
13. nursing home temperature levels and meals,
14. use of circulating nurses in certain operating rooms,
15. childhood immunizations,

16. oxygen-related patient care activities in hospitals, and
17. a new DPH laboratory in Rocky Hill.

The professional licensing and certification changes affect home health care agencies, long-term care facilities, homemaker-home health aide agencies, dentists, chiropractors, barbers, acupuncturists, nursing home administrators, registered nurses, licensed practical nurses, emergency medical technicians, mobile field hospitals, optometrists, foreign surgeons and physicians, radiologist assistants, child day care centers, group day care homes, marital and family therapists, paramedics, substance abuse counselors, and professional counselors.

The act also contains provisions relating to:

1. organ donation information on state tax form instructions,
2. the administration of feeding tubes by unlicensed assistive personnel in certain settings under the Department of Developmental Services' jurisdiction,
3. an exemption to the pharmaceutical wholesaler licensure requirements,
4. establishment of the "Health Information Technology Exchange of Connecticut" as a quasi-public agency for health information technology (HIT) and health information exchange (HIE) in the state,
5. collaborative drug therapy management agreements, and
6. pharmaceutical and medical device manufacturing company codes of conduct concerning interactions with health care professionals.

EFFECTIVE DATE: October 1, 2010 except as noted below.

#### § 1 — HOME HEALTH AGENCY AND NURSING HOME LICENSE RENEWALS

The act requires DPH to issue a license to a Medicare-certified home health care agency every three years, rather than biennially. This aligns Medicare's certification process, which requires triennial inspections (conducted by DPH) with license renewals.

The act also removes DPH's authority to waive licensure renewal inspection and investigation requirements for residential care homes, nursing homes, or rest homes certified by Medicare or Medicaid in the preceding year.

Finally, the act removes the DPH commissioner's authority to grant a provisional one-year license prior to an applicant's initial licensure as a home health care agency, homemaker-home health aide service, or homemaker-home health aide agency.

#### §§ 2-3 — ADVISORY COMMITTEE ON HEALTHCARE ASSOCIATED INFECTIONS

The act renames the Committee on Healthcare Associated Infections the Advisory Committee on Healthcare Associated Infections and makes technical revisions to reflect this change.

The act requires DPH to consider, rather than implement within available appropriations, the committee's recommendations concerning the creation of a mandatory reporting system for healthcare associated infections. It specifies that this mandatory reporting system must be designed to prevent healthcare associated infections. It also removes the requirement that these recommendations include standardized data reporting measures.

Starting in 2011, the act changes from October 1<sup>st</sup> to May 1<sup>st</sup> the annual deadline by which DPH must report to the Public Health Committee on the information it collects through the mandatory reporting system. The report must be posted on DPH's website and be available to the public.

#### §§ 4, 5, 20, & 65 — PATIENT MEDICAL RECORDS

##### *Medical Records of a Healthcare Institution Ceasing Operations*

By law, each licensed healthcare institution ceasing operations must give DPH, at the time it turns over its license to the department, a certified document specifying where patient records will be stored and how patients, former patients, and authorized representatives can access them. The act requires this certified document to also include provisions (1) concerning storage if the storage location closes or changes ownership and (2) granting DPH authority to enforce the certified document's provisions if the storage location closes or changes ownership.

The act imposes a civil penalty of up to \$100 for each day an institution fails to comply with the terms of the certified document.

##### *Medical Records of Retired, Deceased, or Other Providers*

The act prohibits a healthcare provider from refusing to return to a patient, original or copied medical records from another provider. When returning these records, the provider may keep copies for the patient's file as long as the provider does not charge the patient for the cost of copying the records.

It also prohibits a provider who purchases or otherwise assumes a retiring or deceased provider's practice from refusing to return original or copied medical records to a patient who decides not to continue receiving care from that practice. It prohibits the



successor provider from charging the patient for the cost of copying the records of the retired or deceased provider.

If a provider abandons his or her practice, the act allows the DPH commissioner to appoint a licensed healthcare provider to keep the abandoned provider's patient records and disburse them to patients upon their request.

*Medical Records Related to a Provider Investigation or Disciplinary Proceeding*

The act gives DPH and the professional licensing boards under its jurisdiction access to copies of patient records relating to any investigation or disciplinary proceeding of a person DPH licenses, certifies, or regulates. Except as required by federal law, the act specifies that DPH and the boards must not (1) be denied access to these records on the grounds that they are privileged or confidential and (2) further disclose these records. It also provides that these records are not subject to disclosure under the Freedom of Information Act.

*Nursing Home Medical Records*

The act requires a chronic and convalescent nursing home or a rest home with nursing supervision to preserve all patient medical records, regardless of whether they are in printed or electronic format, for at least seven years after the patient's (1) death at the facility or (2) discharge from the facility. Facilities may maintain all or part of these records electronically in a format that complies with accepted professional standards. It also requires the DPH commissioner to amend the Public Health Code to comply with this provision.

EFFECTIVE DATE: July 1, 2010

§§ 6-7 — DPH AND DEPARTMENT OF SOCIAL SERVICES (DSS) HEALTHCARE INSTITUTION INVESTIGATIONS

The act allows the DPH commissioner, when conducting an inquiry or investigation involving any healthcare institution, to (1) issue subpoenas and (2) order the production of books, records, and documents. The law already allows the commissioner to do this when conducting a hearing. The law also allows him to inspect facilities, administer oaths, and take testimony under oath.

The act allows the DSS commissioner, or his designee, to examine or audit the financial records of a nursing facility management certificate holder. The law already allows this for a nursing home. The act also extends to nursing facility management certificate holders the requirement to maintain (1) all financial

information, data, and records of operation for at least 10 years and (2) all financial information, data, and records relating to any real estate transactions affecting its operation for at least 25 years.

When conducting an inquiry, examination, or investigation of a nursing home or nursing facility management services certificate holder, the act allows the DSS commissioner, or his designee, to (1) issue subpoenas; (2) order the production of books, records, or documents; (3) administer oaths; and (4) take testimony under oath. The commissioner may also ask the attorney general to petition the Superior Court to enforce any subpoena order. The law allows the commissioner to petition the court directly.

§ 8 — NURSING HOME ACQUISITIONS

Prior law prohibited a nursing home operator who violated nursing home laws or had problems related to Medicare or Medicaid from acquiring a nursing home for five years. It applied to an operator with any civil penalties for nursing home violations imposed by DPH or another state over two years.

The act limits the prohibition (1) for civil penalties, to three or more imposed during the immediate two years before submitting the application, rather than any two-year period and (2) for Medicare and Medicaid sanctions, to those civil penalties over \$20,000. Prior law imposed the acquisition prohibition for any intermediate Medicare or Medicaid sanctions. The application must also include any additional information the DPH commissioner deems necessary. Under the act, if any of these conditions is present, the five-year prohibition on further acquisition continues to apply.

Notwithstanding these limitations, the law allows the DPH commissioner, for good cause, to approve a potential licensee's or owner's application to acquire a nursing home before the five-year period expires.

§§ 7 & 9 — NURSING FACILITY MANAGEMENT SERVICES CERTIFICATION

The act adds to the required information an applicant must submit to DPH to obtain a nursing facility management services certificate. It defines a "nursing facility management services certificate holder" as an individual or entity DPH certifies to provide nursing facility management services. The law defines "nursing facility management services" as services provided in a nursing home to manage the home's operations, including the provision of care and services.

By law, a "nursing home facility," is a nursing home, residential care home, or rest home with 24-hour nursing supervision (CGS § 19a-521). But nursing facility management services do not serve residential

care homes, thus it appears this section does not apply to these facilities.

#### *Contact Information*

The act requires an applicant, if a partnership, corporation or other legal entity, to provide the names of (1) its officers, directors, trustees, or managing and general partners and (2) anyone having 10% or more beneficial ownership interest in the applicant and a description of the person's relationship to the applicant. If the applicant is an out-of state corporation or provides nursing facility management services in another state, it must also provide a certificate of good standing from the agencies in that state that oversee corporations and public health licensing, respectively.

Prior law required an applicant to provide only its name and business address and indicate whether it is an individual, partnership, corporation, or other legal entity.

#### *Affidavits*

The act requires that each individual listed above, not just the applicants, sign the affidavits that the law requires applicants to submit disclosing the following:

1. any matter in which the person was convicted of or pleaded nolo contendere to a felony charge, or was held liable or enjoined in a civil action, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property or
2. whether the person (a) has, within the past five years, had any state or federal license or permit suspended or revoked as a result of a government action related to health care or business activity, including actions affecting the operation of a nursing, continuing care, or residential care home in Connecticut or elsewhere or (b) is subject to a current injunction, restriction, or remedial court order at the time of the application.

#### *Disclosure of Additional Nursing Homes*

The act explicitly requires an applicant to disclose the location and description of any out-of-state nursing home in which it currently provides management services or provided such services in the past five years.

#### *Certification Determinations*

The act adds a condition under which DPH may wholly or partially refuse to issue or renew a certificate. It can deny certification to provide services at one or more facilities to an applicant that (1) is an out-of state corporation or provides services in an out-of state-

nursing home and (2) failed to provide a certificate of good standing from the agencies in that state that oversee corporations and public health licensing, respectively. The law already permits such denial for substantial noncompliance with the Public Health Code at a facility.

The act requires applicants to submit information in their renewal applications showing that the homes they serve comply with certification requirements and any other applicable state laws and regulations.

#### *Investigations*

The act allows DPH to conduct an inquiry or investigation concerning the issuance or renewal of a nursing facility management services certificate.

It also permits DPH, when the attorney general advises it, to conduct an investigation and seek an injunction or other action against an uncertified provider of nursing facility management services. The law already allows this for unlicensed health care institutions.

#### *Penalties*

The act allows the DPH commissioner to impose a civil penalty of up to \$1,000 per day against an individual or entity operating without a nursing facility management services certificate.

### § 10 — NURSING HOME FACILITY MAINTENANCE AND REPAIRS

By law, nursing home, residential care home, or rest home property or building owners that are not the facility's license holder must submit a copy of the lease agreement to DPH indicating the person or entity responsible for maintenance and repair. The lease must be submitted whenever the facility's license is renewed and whenever the property owner changes.

If a DPH investigation reveals any Public Health Code violations, the law allows the commissioner to require the owner to sign a consent order to bring the facility into compliance. The act allows the commissioner, alternatively, to impose a civil penalty of up to \$1,000 for each day the owner violates the code or the consent order. It also permits the consent order to include the appointment of a temporary manager to complete any required improvements or repairs. It allows the attorney general, at the DPH commissioner's request, to petition the Superior Court for equitable and injunctive relief to ensure compliance with the consent order.

### § 11 — DENTAL COMMISSION DISCIPLINARY ACTION

The act allows the Dental Commission to take disciplinary action (e.g. license suspension or revocation, censure, probation, or letter of reprimand) against a dentist for failure to maintain professional liability insurance or other indemnity against professional malpractice liability. By law, dentists providing direct patient care services must have coverage amounts of at least \$500,000 per incident per individual and \$1.5 million in the aggregate.

### § 12 — BOARD OF CHIROPRACTIC EXAMINERS DISCIPLINARY ACTION

The act allows the Board of Chiropractic Examiners to take disciplinary action against a chiropractor for failing to comply with continuing education requirements for state licensure renewal.

### §§ 13 & 62 — CHIROPRACTIC LICENSURE

#### *Licensure Without Examination*

The act allows DPH to grant a license to a chiropractor without a written or practical examination if the chiropractor (1) holds a current valid license in good standing after examination by another state or territory with licensure standards comparable to Connecticut's, except for the examination and (2) has worked continuously as a licensed chiropractor in an academic or clinical setting for at least five years immediately prior to applying for licensure without examination.

#### *Licensure Without Examination Exception*

The act allows DPH to issue a chiropractor license to a person with a current, inactive chiropractor license in good standing from another state or territory. The inactive license must have been initially issued before August 1, 1995 on the basis of passing a (1) three-part clinical competency examination, (2) two-part x-ray examination, and (3) jurisprudence examination administered by the state's or territory's licensing authority. DPH may only issue such a license within 30 days of the act's effective date.

### §§ 14 & 47 — ACUPUNCTURIST LICENSURE

#### *Licensure By Endorsement*

By law, an applicant seeking an acupuncturist license by endorsement must provide evidence to DPH of licensure or certification in another state or jurisdiction as an acupuncturist or as a person entitled to

perform services similar to those of an acupuncturist but under a different designation. (Endorsement basically means that a licensee from another state may be eligible for licensure, without examination, in this state provided that the applicant has credentials and qualifications substantially equivalent to Connecticut's licensure requirements.)

Under the act, the other state's requirements must be equivalent to or higher than Connecticut's. Prior law required that they be only substantially similar to or higher than Connecticut's. The act retains the existing requirement that applicants have no disciplinary actions or unresolved complaints pending.

#### *Licensure Exception*

The act, notwithstanding licensure requirements, allows DPH within 30 days of the act's effective date, to issue an acupuncturist license to an applicant who presents satisfactory evidence that he or she (1) is a current licensed acupuncturist in good standing in another state, (2) was issued a license prior to September 5, 1990, (3) has a diploma from the National Board of Acupuncture Orthopedics, and (4) passed the acupuncture comprehensive exam and clean needle technique course portions of the National Certification Commission For Acupuncture and Oriental Medicine acupuncture exam.

### §§ 15, 16, 52, 64, & 76 — BARBERS, HAIRDRESSERS, AND COSMETICIANS

#### *Barber Licensure Requirements*

Starting October 1, 2011, the act reduces from 1,500 to 1,000, the minimum number of hours of study an applicant must complete to obtain a barber license. These hours must be completed in an approved school, or if trained out-of-state, in a barber school or college whose requirements are equivalent to Connecticut's. The act specifies that any DPH-issued barber license is non-transferable.

#### *Licensure Without Examination*

The act removes the requirement that applicants currently licensed as either a (1) barber or (2) hairdresser and cosmetician in another state complete at least 1,500 hours of formal education and training in (1) barbering or (2) hairdressing and cosmetology respectively, in order to obtain a Connecticut license. It instead requires these applicants to have successfully completed a (1) barber education and training program or (2) hairdressing and cosmetician education and training program. It retains the existing requirement that applicants also successfully pass a written examination in the state in which they are currently licensed.

It also removes the requirement that DPH annually inform the Connecticut Examining Board for Barbers, Hairdressers, and Cosmeticians of the number of applications for hairdresser and cosmetician licenses without examination.

#### *Exception to Barber Licensure Requirements*

The act allows DPH, notwithstanding the above licensure requirements, to issue a barber license until October 1, 2011 to an applicant who (1) completed an approved 1,500 hour course in a barber or hairdressing and cosmetology school and (2) passed the written examination. This provision takes effect upon passage.

#### *Displaying Barber Licenses*

The act requires all barber shops and barber schools to post in a conspicuous place, the license of any person practicing barbering in that shop or school. It allows any local or district health director DPH authorizes to conduct inspections to assess a civil penalty of up to \$100 against any school or shop owner that fails to comply with this provision.

#### *Barber, Hairdressing, and Cosmetology Regulations*

The act requires the DPH commissioner, in consultation with the Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians, to adopt regulations prescribing minimum curriculum requirements for (1) barber schools and (2) hairdressing and cosmetology schools. It allows him to consult with the board and adopt a curriculum and procedures for the approval of these schools while in the process of adopting the regulations. The commissioner must publish notice of intent to adopt regulations in the Connecticut Law Journal within 30 days of implementation. The curriculum and procedures are valid until the final regulations are adopted.

#### §§ 17 & 71 — NURSING HOME ADMINISTRATORS

##### *Licensure by Endorsement*

The act makes both technical and substantive changes to the requirements for licensure by endorsement for nursing home administrators. By law, an applicant must hold a nursing home administrator license in another state. The act specifies that this license must be (1) in current and good standing and (2) issued based on the licensee having at least a baccalaureate degree and passing that state's licensure examination.

It also removes the requirement that an applicant be a currently practicing competent practitioner in a state with licensure requirements substantially similar to or higher than Connecticut's. It instead requires an applicant to have practiced as a nursing home administrator in another state for at least one year within the two year period preceding the application date.

#### *In-Service Training*

The act requires a nursing home administrator to ensure that all nursing home staff receive annual in-service training in an area specific to the needs of the home's patient population. The administrator must ensure that any person conducting the training is familiar with that home's patient population provided the training does not have to be conducted by a qualified social worker or qualified social worker consultant. It requires the DPH commissioner to amend the Public Health Code to reflect this.

EFFECTIVE DATE: July 1, 2010

#### § 18 — REGISTERED NURSES

The act allows a registered nurse to execute orders issued by a licensed physician assistant, podiatrist, or optometrist as long as the orders do not exceed the scope of practice of the nurse or ordering practitioner.

The law allows a registered nurse to provide medical care under the direction of a licensed physician, dentist, or advanced practice registered nurse.

#### § 19 — DPH LICENSURE REQUIREMENTS

The act prohibits DPH from issuing any license to an applicant (1) with pending professional disciplinary actions or (2) who is the subject of an unresolved complaint with a professional licensing authority in another state. It appears to apply to any health care profession under the department's regulatory jurisdiction.

#### § 21 — CONTINUING EDUCATION FOR DENTISTS

Starting October 1, 2010, the act requires the DPH commissioner, in consultation with the Dental Commission, to biennially issue a list of up to five mandatory topics for continuing education activities licensed dentists must complete during the following two-year registration period. The list applies to registration periods beginning on and after October 1, 2011.

Under prior law, continuing education topics were limited to (1) infectious diseases, including AIDS and HIV; (2) access to care; (3) risk management; (4) special needs patient care; and (5) domestic violence.

Licensees were required to complete at least one hour of continuing education in each of these topics within the two-year registration period. The law, unchanged by the act, requires licensees to complete at least 25 hours of qualifying continuing education every two years.

#### §§ 22-25 & 29 — EMERGENCY MEDICAL SERVICES

##### *Definitions*

The act substitutes the terms (1) “emergency medical technician” for “emergency medical technician-intermediate” and (2) “emergency medical responder” for “medical response technician” in the definition of “emergency medical technician.” It also adds the following definitions into the EMS laws:

1. “advanced emergency medical technician” means a person who is certified as such by DPH;
2. “emergency medical responder” means a person who is certified as such by DPH;
3. “medical oversight” means active surveillance by mobile intensive care physicians sufficient to assess overall practice levels defined by statewide protocols;
4. “mobile intensive care” means pre-hospital care involving invasive or definitive skills, equipment, procedures, and other therapies;
5. “Office of Emergency Medical Services” (OEMS) means the office established by law within DPH; and
6. “sponsor hospital” means a hospital that has (1) agreed to maintain staff to provide medical oversight, supervision, and direction to an emergency medical services organization and its personnel and (2) been approved by OEMS for such activity.

It also makes other technical and conforming changes.

##### *Policies and Procedures*

The act allows the DPH commissioner to implement policies and procedures concerning training, recertification, and licensure or certification reinstatement of (1) emergency medical responders, (2) emergency medical technicians, (3) advanced emergency medical technicians, and (4) paramedics while in the process of adopting them in regulation. The commissioner must publish notice of intent to adopt regulations in the *Connecticut Law Journal* within 30 days of implementation. These policies are valid until the final regulations are adopted.

The commissioner may implement these policies and procedures notwithstanding (1) the department’s existing regulatory requirements and (2) EMS laws

regarding reinstatement of expired certificates.

EFFECTIVE DATE: Upon passage, except for the new definitions which take effect October 1, 2010.

#### §§ 26-27 — RADIOLOGIST ASSISTANTS

The act removes the requirement that a radiologist assistant perform (1) contrast media administration and (2) needle or catheter placement under the personal supervision of a supervising radiologist. (Personal supervision means a supervising radiologist must be in the room during the procedure.)

Starting July 1, 2011, the law creates a new license category for radiologist assistants, but only if DPH has appropriations to implement it. If this licensure goes forward, the act applies the same supervision criteria to radiologist assistants.

EFFECTIVE DATE: Upon passage except for the provision pertaining to licensure which takes effect July 1, 2011.

#### §§ 28 & 67 — MARITAL AND FAMILY THERAPISTS

##### *Definition*

The act expands the statutory definition of “marital and family therapy” to include the diagnosis and treatment of emotional disorders within the context of marriage and family systems. Under prior law, such therapy included only the evaluation, assessment, counseling, and management of these disorders.

##### *Licensure Without Examination*

The act extends licensure without examination to marital and family therapists licensed or certified in another territory or commonwealth. Those licensed in other states can already obtain a license without examination. Under the act, an applicant can obtain a license this way if these jurisdictions’ licensing standards are equivalent to or greater than Connecticut’s. Prior law required that they only be substantially similar to or higher than Connecticut’s. The act retains the existing requirement that applicants have no disciplinary actions or unresolved complaints pending.

Notwithstanding these requirements, the act allows an applicant currently licensed or certified in another state, territory, or commonwealth, whose standards are not equivalent to or higher than Connecticut’s to substitute five years of licensed or certified work experience in lieu of Connecticut’s clinical training requirements.

## §§ 30 & 75 — CHILD DAY CARE LICENSING

### *Licenses Non-Transferable*

The act makes a DPH-issued child day care center or group day care home license non-transferable. By law, these licenses are issued for four-year terms and renewable upon payment of the licensing fees.

### *Exemption*

The act exempts DSS-contracted teen pregnancy prevention programs providing services to children ages 10 to 19 from day care licensing requirements.

EFFECTIVE DATE: Upon passage

## § 31 — PARAMEDIC LICENSURE

The act allows a paramedic currently licensed by a state with licensing requirements equal to or higher than those in Connecticut to be eligible for licensure as a paramedic in Connecticut.

## §§ 32-33 & 60 — MOBILE FIELD HOSPITALS

The act makes technical and conforming changes to relocate the definition of a mobile field hospital from the statute concerning the licensing of institutions to the statute concerning the DPH mobile field hospital board. Removing the definition from the institutional licensing statute means the state does not have to license these hospitals.

## §§ 34-41 — CLEAN WATER FUND

### *Drinking Water State Revolving Fund Management*

The act makes several changes, primarily technical, to transfer the primary responsibility for management and administration of the Clean Water Fund's Drinking Water State Revolving Fund from the Department of Environmental Protection (DEP) to DPH, codifying current practice. (The fund consists of federal revolving loan and state accounts.)

By law, the fund may be used in specific ways to provide financial assistance for the construction of eligible DPH-approved drinking water projects, administration and management of drinking water programs, and for other federally authorized purposes. The act allows the DPH commissioner to administer this financial assistance including loans, grants, principal forgiveness, negative interest loans, or combinations of these, if permitted by federal law and made according to a legally authorized project funding agreement.

If permitted by federal law, the DEP commissioner could previously issue project loans to disadvantaged communities under different terms, such as reduced

interest rates or extended repayment. The act instead allows the DPH commissioner to do this for any project, not just those in disadvantaged communities, in conjunction with the state treasurer.

In transferring the fund's management to DPH, the act requires the department to assume responsibilities such as administering the fund's subaccounts, funding studies and surveys to assess drinking water needs and priorities, maintaining a priority list for project selection, and representing the state in funding agreements with eligible projects. It also requires DPH to consult with the state treasurer, in addition to the Office of Policy and Management secretary, before paying the fund's administrative and management costs.

The act allows drinking water state account funds to be used by the state treasurer to pay debt service on bonds the state issued to fund drinking water programs under the Clean Water Fund at any time. Prior law allowed the funds to be used in this manner only if they were not required for the fund's purposes.

### *Regulations*

The act requires DPH to adopt regulations pertaining to the Clean Water Fund's drinking water federal revolving and state accounts and eligible drinking water projects. Prior law required DPH to adopt such regulations jointly with DEP.

### *Definitions*

The act makes technical changes to several definitions pertaining to the Clean Water Fund to reflect the administrative transfer of the Drinking Water State Revolving Fund to DPH. It also changes the definition of "eligible project costs" to specify that if the eligible drinking water project recipient is a water company, the DPH commissioner must determine the project's total costs in consultation with the Department of Public Utility Control.

The act also makes technical and conforming changes.

## § 42 — UNLICENSED ASSISTIVE PERSONNEL

The act permits unlicensed assistive personnel to administer jejunostomy and gastrojejunal tube feedings to people who attend day programs or respite centers, reside in residential facilities, or receive support under the Department of Developmental Services' (DDS) jurisdiction. These feedings must be performed by trained, unlicensed personnel under the written order of either a (1) physician, (2) advanced practice registered nurse, or (3) physician assistant, who is licensed to prescribe.

#### § 43 — STEM CELL RESEARCH ADVISORY COMMITTEE

The act removes the requirement that the Stem Cell Research Advisory Committee annually report, until June 30, 2015, to the governor and the General Assembly on (1) the amount of grants awarded from the Stem Cell Research Fund to eligible institutions, (2) grant recipients, and (3) the current status of stem cell research in the state.

#### § 44 — MANAGED RESIDENTIAL COMMUNITY REGULATIONS

The act deletes the requirement that the DPH commissioner adopt regulations concerning managed residential communities.

#### §§ 45-46 — LOCAL HEALTH DIRECTORS

Starting October 1, 2010, the act requires any municipal or district health director nominee to (1) be a licensed physician and hold a public health degree from an accredited school, college, university or institution or (2) hold a graduate public health degree from an accredited school, college, or institution. It exempts from these educational requirements any municipal or district health director nominated or appointed prior to October 1, 2010.

Prior law required a municipal health director nominee to be either (1) a licensed physician or (2) hold a graduate public health degree. This degree must have resulted from at least one year of training, including at least 60 hours in local public health administration in a recognized public health school. Prior law allowed the DPH commissioner to approve a combination of training and experience in lieu of this educational requirement.

Prior law required district health nominees to be either (1) a doctor of medicine with a public health degree resulting from at least one year of special public health training (or that meets qualifications prescribed by the DPH commissioner) or (2) trained in public health and hold a public health master's degree.

#### § 48 — FUNERAL HOME PRACTICES

The law requires placing any body entombed in a crypt or mausoleum in a zinc-lined or plastic container (made of acrylonitrile butadiene styrene (ABS)) or, if the cemetery permits, a non-rusting or ABS sheeting tray. The act requires the use of a nationally-accepted composite instead of ABS. The use of zinc-lined containers remains unchanged under the act.

#### § 49 — SUBSTANCE ABUSE COUNSELORS

The act requires any state-employed alcohol and drug counselor to be licensed or certified unless he or she is, on October 1, 2010, a rehabilitation counselor acting in the capacity of an alcohol and drug counselor.

Prior law exempted all state-employed alcohol and drug counselors from licensure and certification requirements except for Department of Correction substance abuse counselors or supervisors.

#### § 50 — DEFINITION OF PROFESSIONAL COUNSELING

The law defines professional counseling as the application, by those trained in counseling, of established principles of psycho-social development and behavioral science to evaluate, assess, analyze, and treat emotional, behavioral, or interpersonal dysfunction or difficulties interfering with mental health and human development. The act expands this definition to include the diagnosis of such dysfunction or difficulties.

#### § 51 — COMMITMENT TO A CHRONIC DISEASE HOSPITAL

The law prohibits emergency psychiatric admission to a chronic disease hospital if the placing physician believes the person is suicidal or homicidal. The act allows such an admission if the hospital is certified under Medicare as an acute care hospital with an inpatient prospective payment system excluded psychiatric unit.

EFFECTIVE DATE: Upon passage

#### § 53 — OPTOMETRISTS AS MEDICAL FOUNDATION PROVIDERS

The act allows optometrists to provide health care services as part of a medical foundation. The law already allows licensed physicians, chiropractors, or podiatrists to do this.

The law allows any hospital or health system to organize and become a member of a medical foundation to practice medicine and provide health care services as a medical foundation through its employees or agents who are licensed physicians and through other providers.

## §§ 54-58 & 95 — REGIONAL EMERGENCY MEDICAL SERVICES

### *Regional EMS Coordinators Now State Employees*

The act repeals the requirement that regional EMS councils, or in regions without a council the DPH commissioner, appoint a regional EMS coordinator. It instead requires any regional EMS coordinator or assistant regional EMS coordinator employed on June 30, 2010 to be offered an unclassified durational position within DPH from July 1, 2010 to June 30, 2011. It limits the number of these positions to five and allows them to extend beyond June 30, 2011 only if appropriations are available.

The act requires the administrative services commissioner to establish job classifications and salaries for these positions, which must be located at DPH offices. It exempts the positions from collective bargaining requirements and provides that these employees do not (1) have reemployment or any other rights extended to unclassified employees under a State Employee's Bargaining Agent Coalition (SEBAC) agreement or (2) receive credit for any purpose for services performed prior to July 1, 2010.

It requires the Tobacco and Health Trust Fund to transfer any available FY 2011 funds for regional EMS councils to DPH to establish these positions.

### *Emergency Medical Services (EMS) Advisory Board*

The act removes the EMS Advisory Board's 41 member limit and adds to its membership the state's five appointed regional medical services coordinators (see above). The board (1) advises DPH on EMS; (2) coordinates EMS efforts; (3) makes legislative recommendations; and (4) reviews EMS regulations, guidelines, and policies.

### *Regional EMS Councils*

The act changes the role of regional EMS councils from area-wide EMS planning and coordinating agencies to advisory councils to the DPH commissioner on EMS planning and coordination for each region.

The act requires regional EMS coordinators, in consultation with the commissioner, to assist these councils in developing the regional EMS delivery plan required by existing law. Councils must submit this plan every five years to OEMS and submit annual updates detailing their progress.

It also requires each regional EMS coordinator, as directed by the DPH commissioner, to facilitate the work of its respective regional EMS council including, representing DPH at any Council Regional Chairpersons meetings. It also makes technical changes.

EFFECTIVE DATE: July 1, 2010

## § 59 — OFFICE OF ORAL PUBLIC HEALTH

The act requires the director of the DPH Office of Oral Public Health to (1) be a licensed dentist or dental hygienist and (2) have a graduate public health degree. Prior law required the director to be an experienced licensed public health dentist.

## § 61 — FOREIGN PHYSICIANS AND SURGEONS LICENSURE EXEMPTION

The act exempts a foreign physician or surgeon from state licensure requirements if he or she is participating in supervised clinical training under the direct supervision and control of a licensed physician at either a (1) Connecticut licensed hospital with an Accreditation Council for Graduate Medical Education-accredited residency program or (2) Connecticut primary affiliated teaching hospital of a medical school accredited by the Liaison Committee on Medical Education. The act requires the hospital to verify that the foreign physician or surgeon holds a current, valid license in another country.

EFFECTIVE DATE: Upon passage

## §§ 63 & 77-78 — NURSING HOMES

### *Temperature Levels*

The act allows a chronic and convalescent nursing home or a rest home with nursing supervision to maintain temperatures in resident rooms and other areas residents use that are lower than Public Health Code minimum standards if they comply with federal "comfortable and safe" temperature standards. (Federal regulations require nursing homes initially certified after October 1, 1990 to maintain a temperature range of 71-81 degrees Fahrenheit (42 CFR 483.15(h)(6)).) It also requires the DPH commissioner to amend the Public Health Code to conform to this provision.

The act removes the requirement that DPH (1) adopt recommendations for temperature levels in nursing homes; (2) make them available to nursing homes, rest homes, and the public; and (3) post them on its website.

### *Meals*

The act allows a nursing home to extend from 14 to 16 hours, the maximum time span between the patient's evening meal and breakfast the following day if such an extension complies with federal law. (Federal regulations allow the extension if the residents agree to this time span and the home serves a bedtime snack (42 CFR 483.35(f)(4)).)



The act allows a home, when providing a bed-time snack to patients required under the Public Health Code, to verbally offer the snack and to not serve it to patients who decline. It also requires the DPH commissioner to amend the Public Health Code to conform to this provision.

EFFECTIVE DATE: July 1, 2010

#### *Stretchers*

The act allows a nursing home to provide one stretcher per floor regardless of whether the floor contains multiple nursing units. It also requires the DPH commissioner to amend the Public Health Code to conform to this provision.

EFFECTIVE DATE: July 1, 2010

#### § 66 — OPTOMETRIST CONTINUING EDUCATION

The act requires the Connecticut Board of Examiners for Optometrists to approve all optometrist continuing education courses. By law, licensed optometrists must complete at least 20 hours of continuing education during each registration period (the 12-month period for which a license has been renewed) based on DPH regulations.

#### §§ 68-70 — LICENSED PRACTICAL NURSES

##### *Licensure Without Examination*

The act allows DPH to issue a licensed practical nurse (LPN) license without examination to an individual licensed in another state, commonwealth, territory, or the District of Columbia whose licensure requirements are equivalent to or higher than Connecticut's. Prior law required that they only be substantially similar to or higher than Connecticut's.

If an applicant obtained a license in another state, district, territory, or commonwealth by either (1) partially completing a registered nursing education program or (2) completing a practical nursing education program shorter than Connecticut's minimum requirements, he or she may substitute licensed clinical work experience. This experience must (1) be performed under the supervision of a licensed registered nurse, (2) occur after completion of a nursing education program, and (3) when combined with the applicant's educational program, equal or exceed the minimum program length for approved LPN education programs in Connecticut.

##### *Licensure Exception*

Under the act, a person is eligible for licensure as a LPN if he or she successfully completes by December

31, 2010 (1) at least 1,500 education and training hours in a registered nursing education program approved by the Connecticut Board of Examiners for Nursing and (2) the state licensure examination.

EFFECTIVE DATE: Upon passage

##### *Licensure Reinstatement*

Notwithstanding state law, the act allows any person previously licensed as an RN or LPN whose license became void solely because he or she failed to pay the 2007 supplemental annual professional services fee to apply to the DPH commissioner for license reinstatement. The commissioner must reinstate the license without imposing any requirements or conditions on the applicant other than filing the application and paying the current fee. A person may apply for license reinstatement in this manner until December 31, 2010.

EFFECTIVE DATE: Upon passage

#### § 72 — PHARMACEUTICAL WHOLESALERS

The act exempts from the pharmaceutical wholesaler licensure requirements, a pharmacy within a licensed hospital that contains another hospital wholly within its physical structure and supplies the contained hospital with either (1) noncontrolled drugs or (2) schedule II, III, IV, or V controlled substances it normally stocks. The hospital must stock these drugs to meet the needs of the contained hospital's patients receiving inpatient care as indicated by an authorized practitioner's prescription or medication order.

The law already exempts from the licensure requirements a retail pharmacy or pharmacy within a licensed hospital that supplies another pharmacy with noncontrolled drugs or schedule III, IV, or V controlled substances normally stocked to provide for immediate patient needs according to an authorized practitioner's prescription or medication order. The act extends the exemption to such pharmacies that supply schedule II controlled substances (e.g. methadone, morphine, oxycodone).

#### § 73 — CIRCULATING NURSES

The act requires any hospital or outpatient surgical facility to ensure that a circulating nurse is assigned to, and present for the duration of, each surgical procedure performed in its operating room.

It prohibits the hospital or facility from assigning a circulating nurse to concurrent or overlapping surgical procedures. A circulating nurse assigned to a surgical procedure must be present for its duration unless it is necessary for the nurse to leave the operating room as part of the procedure or the nurse is relieved by another circulating nurse.

Under the act, a “circulating nurse” is a licensed registered nurse who is (1) educated, trained, or experienced in perioperative nursing and (2) responsible for coordinating the nursing care and safety needs of a patient in an operating room. Perioperative nursing

means nursing services provided to patients before, during, and immediately after a surgical procedure.

#### § 74 — NEW DPH LABORATORY

The act requires DPH to ensure that the new state public health laboratory in Rocky Hill will be constructed and operated according to all applicable biosafety level criteria prescribed by the National Centers for Disease Control and Prevention Office of Health and Safety. The laboratory’s construction must enable its operation and administration to conform to biosafety level (BSL) 3 criteria as prescribed by the national centers. Its design or construction cannot include any component that would allow BSL 4 activities at the laboratory. The act also prohibits (1) activities at the new laboratory that exceed BSL 3 and (2) any person, entity, or state agency from applying for or seeking permission to convert the laboratory into one conducting BSL 4 activities (see BACKGROUND).

#### § 79 — CHILDHOOD IMMUNIZATIONS

The act requires the DPH commissioner to determine the standard of care for childhood immunizations in Connecticut based on the recommended schedules of the (1) National Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, (2) American Academy of Pediatrics, and (3) American Academy of Family Physicians.

Prior law required the standard of care to be the recommended immunization schedule of either the (1) American Academy of Pediatrics’ Committee on Infectious Diseases or (2) National Immunization Practices Advisory Committee, as determined by the DPH commissioner.

#### § 80 — OXYGEN-RELATED PATIENT CARE ACTIVITIES IN HOSPITALS

The act allows a hospital to designate any licensed healthcare provider and any certified ultrasound or nuclear medicine technician to perform the following oxygen-related patient care activities in hospitals: (1) connecting or disconnecting oxygen supply; (2) transporting a portable oxygen source; (3) connecting, disconnecting, or adjusting the mask, tubes, and other patient oxygen delivery apparatus; and (4) adjusting the oxygen rate or flow consistent with a medical order.

Under the act, a designated provider or technician may perform these activities only to the extent permitted by hospital policies and procedures, including applicable bylaws, rules, and regulations. The hospital must document that each designee is properly trained, either through (1) his or her professional education or (2) training provided by the hospital. It must also require each designee to complete annual competency testing.

It specifies that the act does not apply to any type of (1) ventilator, (2) continuous positive airway pressure or bi-level positive airway pressure unit, or (3) any other noninvasive positive pressure ventilation.

#### § 81 — ORGAN DONATION ON STATE TAX FORM INSTRUCTIONS

In order to help taxpayers to become registered organ donors, the act requires the revenue services commissioner to include in state tax return form instructions, information that (1) indicates how a taxpayer may contact an organ donor registry organization or (2) provides electronic links to appropriate organ donor registry organizations.

#### §§ 82-90 & 96 — HEALTH INFORMATION TECHNOLOGY

The act establishes the “Health Information Technology Exchange of Connecticut” as a quasi-public agency for health information technology (HIT) and health information exchange (HIE) in the state. (The act refers to this entity as the “authority” throughout.) It designates the authority as the lead HIE organization for the state beginning January 1, 2011. Under prior law, DPH was the designated lead HIE organization for the state.

Under the act, the authority takes over DPH’s responsibilities for the implementation and periodic review of the HIT plan. This includes the implementation of an integrated statewide electronic health information infrastructure for sharing electronic health information among health care facilities, health care professionals, public and private payors, and patients. The authority, instead of DPH, must also develop standards and protocols for privacy in sharing electronic health information.

Prior law also established a Health Information Technology and Exchange (HITE) Advisory Committee. The act replaces the HITE advisory committee with an authority board of directors. Board members are appointed by the governor and legislative leaders. The board also includes the lieutenant governor and the DPH commissioner who is the chairperson. Other executive branch officials serve as ex-officio, nonvoting members.

The act allows the authority to establish or designate subsidiaries to create, develop, coordinate, and operate a statewide health information exchange or for other approved purposes.

*Health Information Technology Exchange of Connecticut*

*Creation and Purposes.* The act creates the exchange (authority) as a quasi-public agency and adds the authority to the statutes governing quasi-public agencies. The purposes of the authority include promoting, planning, designing, developing, assisting, acquiring, constructing, maintaining, equipping, reconstructing, and improving health care information technology. Public funds may be spent to carry out these purposes. The authority is not a state department, institution, or agency.

Under the act, the authority can:

1. establish a state office;
2. employ assistants, agents, and other employees as necessary who are exempt from the classified service and not employees as defined in the collective bargaining law;
3. establish all necessary or appropriate personnel practices and policies concerning hiring, promotion, compensation, retirement, and collective bargaining, which do not have to follow the existing state law on collective bargaining for state employees (the authority is not an employer as defined under that law);
4. use consultants, attorneys, and other experts as necessary;
5. acquire, lease, purchase, own, manage, hold, and dispose of personal property and lease, convey, deal, or enter into agreements concerning such property on any terms necessary to carry out these purposes;
6. obtain insurance against loss concerning its property and other assets;
7. enter into necessary contracts or agreements to perform its duties and such contracts are not subject to approval by any other state department or agency, but copies must be kept by the authority as public records subject to the proprietary rights of the parties;
8. consent to termination, modification, forgiveness, or other change in contract rights, payments, royalties, contracts, or agreements that the authority is a party to, to the extent allowed under contracts with others;
9. receive and accept aid or contributions from any source;
10. invest any funds not needed for immediate use or disbursement;
11. account for and audit authority funds and funds of any recipients of authority funds;
12. sue and be sued, plead and be impleaded, and adopt and alter a seal;
13. adopt regular procedures for exercising its powers that do not conflict with other statutes; and
14. do all acts necessary and convenient to carry out its purposes.

*Board of Directors Members and Appointing Authorities.* Under the act, the authority is managed by a 20-member board of directors. Members are:

1. the lieutenant governor;
2. the DPH, DSS, and Department of Consumer Protection (DCP) commissioners and Department of Information Technology's (DOIT)'s chief information officer;
3. three members appointed by the governor, one who is a representative of a medical research organization, one an insurer or representative of a health plan, and one an attorney with experience in privacy, health care data security, or patient rights;
4. three appointed by the Senate president pro tempore, one with background in a private-sector health information exchange or HIT entity; one with public health expertise; and one who is a licensed physician in a practice of no more than ten physicians and not employed by a hospital, health network, health plan, health system, or academic institution or university;
5. three appointed by the House speaker, one a representative of hospitals, an integrated delivery network, or hospital association; one with expertise with federally qualified health centers; and one a consumer or consumer advocate;
6. a primary care physician whose practice uses electronic health records, appointed by the Senate majority leader;
7. a consumer or consumer advocate, appointed by the House majority leader;
8. a pharmacist or other health care provider that uses health information exchange, appointed by the Senate minority leader; and
9. a large employer or representative of a business group, appointed by the House minority leader.

The OPM secretary and the healthcare advocate, or their designees, are ex-officio, nonvoting members. The DPH commissioner is the board's chairperson.

Board membership and the respective appointing authorities are basically the same as for the existing HITE committee. (The chairperson of the HITE committee is chosen by its members, while the act designates the DPH commissioner as the chairperson).

Board members are not compensated, but can receive actual and necessary expenses incurred in performing official duties. The board must employ a chief executive officer (CEO) responsible for administering the authority's programs and activities according to the board's established policies and objectives. The CEO serves at the board's pleasure which determines his or her compensation. The CEO can employ others as designated by the board and must attend all board meetings, keep records, and maintain and keep all books and documents filed with the authority.

*Board Members' Terms.* Initial board appointments must be made by October 1, 2010, with the initial term for the governor-appointed members being four years. For members appointed by the House speaker the term is three years, for those appointed by the House and Senate minority leaders, two years. The initial term for the members appointed by the Senate president and majority leader is one year. Terms expire on September 30 of each year. Vacancies must be filled by the appointing authority for the rest of the term. Other than the initial term, a member serves for four years. No board member can serve more than two terms. Members can be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty.

The first board meeting must be held by November 1, 2010. A member failing to attend three consecutive meetings or 50% of all meetings during a calendar year is deemed to have resigned.

*Conflicts of Interest, Ethics.* The act provides that it is not a conflict of interest for a trustee, director, partner, officer, stockholder, proprietor, counsel, or employee of any person, firm, or corporation to serve as a board member, provided the individual abstains from deliberation, action, or vote by the board in specific respect to such person, firm, or corporation. All members are considered public officials and must follow the code of ethics for public officials.

*Board Direction.* The board must direct the authority concerning: (1) implementation and periodic revisions of the HIT plan submitted as required by law, including implementation of an integrated statewide electronic health information infrastructure for sharing electronic health information among health care facilities, health care professionals, public and private payors, state and federal agencies, and patients; (2) appropriate protocols for health information exchange; and (3) electronic data standards to assist the

development of a statewide, integrated electronic health information system for use by health care providers and institutions that receive state funding.

The electronic data standards must:

1. include provisions on security, privacy, data content, structures, format, vocabulary, and transmission protocols;
2. limit the use and dissemination of an individual's social security number (SSN) and require its encryption;
3. require privacy standards no less stringent than the "Standards for Privacy of Individually Identifiable Health Information" established under the federal Health Insurance Portability and Accountability Act (HIPAA);
4. require that individually identifiable health information be secure with access to it traceable by an electronic audit trail; and
5. be compatible with any national data standards to allow for interstate interoperability, permit collection of health information in a standard electronic format, and be compatible with the requirements for an electronic health information system as these terms and requirements are defined under existing law (CGS § 19a-25d).

The board can consult with public or private parties as it finds desirable in exercising its duties.

*Grants.* Applications for grants from the authority must be made on a board-prescribed form. The board must review applications and decide whether to make an award. The board may consider as a condition for receiving a grant, the applicant's financial participation and any other factors considered relevant.

*Reports.* By February 1, 2011 and annually until February 1, 2016, the authority's CEO must report to the governor and the General Assembly on (1) any private or federal funds received during the preceding year and how they were spent, (2) grant recipients and amounts, and (3) the current status of HIE and HIT in the state.

Previously, the DPH commissioner and the HITE Advisory Committee had to make these reports from 2010 to 2015.

*Contracts.* Under the act, the state pledges and agrees with any person the authority contracts with that it will not limit or alter the rights vested in the authority until such contracts and obligations are fully met and performed by the authority. But nothing precludes limitation or alteration if adequate provision is made by law to protect those entering into contracts with the authority.

*Taxes.* Under the act, the authority is exempt from all state or local franchise, corporate business, property, and income taxes. But it is not exempt from taxes levied concerning the manufacture or sale of any products which are the subject of an agreement made by the authority.

*Subsidiaries.* The act authorizes the authority to establish or designate one or more subsidiaries (1) to create, develop, coordinate, and operate a statewide health information exchange or (2) for other purposes prescribed by board resolution, which must be consistent with the authority's purposes. Each subsidiary is a quasi-public agency for statutory purposes.

The act allows the authority to transfer to a subsidiary any money and real or personal property. A subsidiary has all the privileges, immunities, tax exemptions, and other exemptions of the authority. An authority resolution must prescribe the purposes for forming a subsidiary.

Each subsidiary can sue and be sued, provided the liability of each subsidiary is limited solely to its assets, revenues, and resources and without recourse to the general funds, revenues, resources, or any other assets of the authority or any other subsidiary.

Each subsidiary has the power to do all acts and things necessary or convenient to carry out its purposes including: (1) solicit, receive and accept aid, grants, or contributions from any source of money, property, labor, or other things of value, subject to the conditions upon which such grants and contributions are made, including gifts, grants, or loans from any department, agency, or quasi-public agency of the United States or the state, or from any organization recognized as a nonprofit organization; (2) enter into agreements on terms and conditions consistent with the purposes of the subsidiary; and (3) acquire, lease, manage, hold and dispose of real and personal property and lease, convey, or deal in or enter into agreements with respect to such property.

Each subsidiary must act through its board of directors, not less than 50% of whom must be members of the board of directors of the authority or their designees.

Officers, directors, designees, or employees appointed as a member, director or officer of a subsidiary are not personally liable for the debts, obligations, or liabilities of the subsidiary as provided by law. Each subsidiary must, and the authority may, provide for the indemnification to protect, save harmless, and indemnify such officer, director, designee, or employee as provided by law.

The authority or any subsidiary may take actions necessary to comply with the provisions of the Internal Revenue Code to qualify and maintain the subsidiary as a tax exempt corporation.

The authority may make loans or grants to, and may guarantee specified obligations of, any subsidiary, following standard authority procedures, from the authority's assets and the proceeds of its bonds, notes and other obligations. The source and security, if any, for the repayment of any such loans or guarantees must be derived from the subsidiary's assets, revenues, and resources.

#### *Lead Health Information Exchange (HIE) Organization*

Prior law designated DPH as the state's lead HIE organization and required the department to seek private and federal funds, including those available under the federal American Recovery and Reinvestment Act (ARRA) for the initial development of a statewide HIE. DPH can use any private or federal funds it receives to establish HIT pilot programs and grant programs.

The act designates DPH as the state's lead HIE organization until December 31, 2010. It eliminates the pilot and grant program language. Beginning January 1, 2011, the act designates the Health Information Technology Exchange of Connecticut as the lead HIE organization for the state. It must continue to seek private and federal funds for the initial development of a statewide HIE. DPH may contract with the authority to transfer unexpended ARRA funds it received for the initial development of a statewide HIE. Within available resources, the authority can provide grants for the advancement of HIT and HIE.

Prior law required DPH to (1) assist with implementation and periodic revisions of the HIT plan after its initial submittal, including implementing an integrated statewide infrastructure for sharing electronic health information among health care facilities, health care professionals, public and private payors, and patients. The act adds sharing the information among state and federal agencies as well. The act specifies that DPH is responsible for these activities until December 31, 2010. After that time, the exchange (authority) is responsible for the implementation and periodic revisions of the HIT plan. Other DPH duties concerning developing privacy standards and protocols for sharing HIE become the responsibility of the authority as described above.

#### *Bonding and Other Financial Incentives*

The act extends to the authority requirements already applicable to several other quasi-public authorities. These are that it obtain the state treasurer's or deputy treasurer's approval before:

1. borrowing money or issuing bonds or notes backed by either a state guarantee or any kind of capital reserve fund that includes a state contribution or guarantee or

2. entering into any agreement or contract to moderate interest rate fluctuations or concerning interest rates, currency, cash flow, or similar issues that subjects any state-guaranteed or state-funded capital reserve fund to potential liability.

By law, the state treasurer's approval, in the first case, must be based on the authority's documenting that it has enough revenue to (1) pay off the bond or note principal and interest; (2) establish and maintain advisable reserves to secure the payment of principal and interest; (3) if applicable, pay the cost of maintaining, servicing, and insuring the purpose for which the bonds or notes are issued; and (4) pay other required costs. In the second case, the authority must demonstrate that its revenue is sufficient to meet the agreement's financial obligations.

The borrowing and interest rate agreement approval requirements already apply to the Connecticut Development Authority, Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, the Connecticut Housing Authority, Connecticut Resources Recovery Authority, and Capitol City Economic Development Authority.

The act also authorizes the indemnification of the authority's directors, officers, and employees from personal liability in performing their duties.

EFFECTIVE DATE: Upon passage, except for the provision repealing the existing HITE Advisory Committee which takes effect January 1, 2011.

#### §§ 91-92 — COLLABORATIVE DRUG THERAPY MANAGEMENT AGREEMENTS

The act allows physicians and pharmacists to enter into written collaborative drug therapy management agreements without regard to the health care practice setting or the condition being treated. The law already allows (1) physicians and hospital pharmacists and (2) physicians and pharmacists working in nursing homes to enter into such agreements.

As under existing law, these collaborative agreements must be governed by patient-specific written protocols established by the treating physician in consultation with the pharmacist. These agreements can authorize a pharmacist to implement, modify, or discontinue a drug therapy that the physician prescribes; order associated lab tests; and administer drugs.

Under the act, a pharmacist may enter into a collaborative agreement if determined competent according to regulations adopted by the DCP. Under the law, a pharmacist's competency is determined by the hospital or nursing home facility employing the pharmacist.

The act specifies that existing collaborative drug therapy provisions in effect on September 30, 2010 apply to any written protocol-based collaborative drug therapy management agreement entered into before October 1, 2010.

#### *Expansion of Collaborative Agreement Opportunities*

By law, physicians and hospital pharmacists, as well as physicians and pharmacists working in nursing homes, can enter into collaborative drug therapy management agreements. The hospital-based agreements can be for individuals receiving inpatient services as well as for certain outpatient drug therapies. The law allows hospital pharmacists to enter into agreements with physicians to manage the drug therapy of patients receiving outpatient care for diabetes, asthma, hypertension, hyperlipidemia, osteoporosis, congestive heart failure, or smoking cessation. Patients include those who qualify as targeted beneficiaries under the Medicare Part D prescription drug benefit. Protocols for both inpatient and outpatient care must be patient-specific and established by the treating physician with the pharmacist.

The act eliminates references to specific health settings where, and conditions for which, collaborative drug therapy management agreements may be implemented. Instead, the act allows them in all settings and without reference to specific health conditions or diseases. The agreements must continue to be based on written protocols.

#### *Physician-Patient Relationship*

The act specifies that in order to enter into a written protocol-based collaborative drug therapy management agreement, the physician must have a physician-patient relationship with the patient who will receive such therapy. The act defines a "physician-patient relationship" as one based on (1) the patient making a medical complaint, providing a medical history, and receiving a physical examination and (2) a logical connection between the complaint, history, examination, and any drug prescribed.

#### *Competency Determination Regulations*

By law, a pharmacist's eligibility to enter into a collaborative agreement is based on a determination of competency by the hospital or nursing home employing the pharmacist. A copy of the criteria used to determine competency must be filed with the Commission on Pharmacy. The act instead requires DCP, in consultation with DPH, to adopt regulations on competency requirements for participation in collaborative agreements. Previously, DPH, in consultation with DCP, could adopt regulations addressing the minimum

content of these agreements and the written protocols necessary. The act requires adoption of the regulations described above.

#### §§ 93-94 — PHARMACEUTICAL AND MEDICAL DEVICE MANUFACTURING COMPANIES

The act requires pharmaceutical and medical device manufacturing companies to adopt (1) codes of conduct concerning interactions with health care professionals consistent with existing industry codes and (2) a comprehensive compliance program. It authorizes the DCP commissioner to impose civil penalties for noncompliance.

##### *Definitions*

*Biologic.* A “biologic” is a biological product, as defined in federal law, that is regulated as a drug under the federal Food, Drug, and Cosmetic Act.

*Medical Device.* “Medical device” means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is:

1. recognized in the official National Formulary, the United States Pharmacopeia, or any of their supplements;
2. intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in people or animals; or
3. intended to affect human or animal body structure or function through primary means other than chemical reaction and is not dependent upon being metabolized to achieve its primary intended purposes.

*Pharmaceutical or Medical Device Manufacturing Company.* The act defines “pharmaceutical or medical device manufacturing company” as an entity (1) engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, biologics, or medical devices, either directly or indirectly, by extraction from natural substances, chemical synthesis, or a combination of these means or (2) directly engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs, biologics, or medical devices. The definition does not include a health care provider; physician practice; home health agency; or a Connecticut-licensed hospital, wholesale drug distributor, or retail pharmacy.

##### *Adoption of Code and Compliance Program*

By January 1, 2011, the act requires each pharmaceutical or medical device manufacturing company to adopt and implement a code consistent with and minimally containing all of the requirements of the

Pharmaceutical Research and Manufacturers of America’s (PhRMA) “Code on Interaction with Healthcare Professionals” or AdvaMed’s “Code of Ethics on Interactions with Healthcare Professionals” as these codes were in effect on January 1, 2010 (see BACKGROUND).

The act also requires each such company to adopt a comprehensive compliance program according to the guidelines of the “Compliance Program Guidance for Pharmaceutical Manufacturers” dated April 2003 and issued by the federal Department of Health and Human Services Office of Inspector General.

##### *Penalties*

Upon complaint, the act authorizes DCP to investigate an alleged (1) violation of the code adoption requirement or (2) failure to conduct any training program or regular audit for compliance with the adopted code. It allows the commissioner to impose a civil penalty of up to \$5,000 for any violation of these provisions.

#### BACKGROUND

##### *Pharmaceutical or Medical Device Manufacturing Company Codes*

The Advanced Medical Technology Association (AdvaMed) represents companies that produce medical devices, diagnostic products, and health information systems. Their voluntary code addresses third-party educational conferences; consulting arrangements; sales, promotional and other business meetings; entertainment and recreational prohibitions; meals; educational items; gift prohibitions; reimbursements; and research and educational grants.

PhRMA represents the country’s pharmaceutical research and biotechnology companies. Its voluntary code on interactions with health care professionals addresses similar issues and topics.

##### *Laboratory Biosafety Levels (BSL)*

BSL 3 is applicable to clinical, diagnostic, teaching, research, or production facilities in which work is done with indigenous or exotic agents that may cause serious or potentially lethal disease as a result of exposure by inhalation. Laboratory personnel have specific training in handling pathogenic and potentially lethal agents and are supervised by scientists who are experienced with these agents. All procedures involving the manipulation of infectious materials are conducted within biological safety cabinets or other physical containment devices, or by personnel wearing appropriate personal protective clothing and equipment. The laboratory has special engineering and design features.

BSL 4 is required for work with dangerous and exotic agents that pose a high individual risk of aerosol-transmitted laboratory infections, agents which cause severe to fatal disease in humans for which vaccines or other treatments are not available (e.g. Ebola; smallpox), and other various hemorrhagic diseases. When dealing with biological hazards at this level, the use of a Hazmat suit and a self-contained oxygen supply is mandatory. The entrance and exit of a Level 4 lab will contain multiple showers, a vacuum room, an ultraviolet light room, and other safety precautions designed to destroy all traces of the biohazard. Multiple airlocks are used. Members of the laboratory staff have specific training in handling extremely hazardous infectious agents, with an understanding of primary and secondary containment functions of standard and special practices, containment equipment, and lab design characteristics. The facility is either in a separate building or in a controlled area within a building, which is completely isolated from all other areas of the building. Within work areas of the facility, all activities are confined to Class III biological safety cabinets or Class II biological safety cabinets used with one piece positive pressure personnel ventilated by a life support system. The BSL 4 lab has special engineering and design features to prevent microorganisms from being disseminated into the environment. The laboratory is kept at negative air pressure, so that air flows into the room if the barrier is penetrated or breached. Also, an airlock is used during personnel entry and exit.

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**PA 10-118—SB 400**

*Public Health Committee*

*Insurance and Real Estate Committee*

**AN ACT CONCERNING INSURANCE REIMBURSEMENT PAYMENTS TO SCHOOL-BASED HEALTH CENTERS**

**SUMMARY:** This act requires each Connecticut-licensed health insurer, at the request of one or more school-based health centers (SBHCs), to offer to contract with the center or centers to reimburse enrollees for covered health services. This offer must be made on terms and conditions similar to contracts offered to other health care service providers.

EFFECTIVE DATE: Upon passage

**BACKGROUND**

*School-Based Health Centers*

SBHCs are free-standing medical clinics located within or on school grounds serving students in grades pre-kindergarten through 12. Centers are staffed by a

multi-disciplinary team of professionals with particular expertise in pediatric and adolescent health, including advanced practice registered nurses; physician assistants; social workers; physicians; and, in some cases, dentists and dental hygienists. They provide primary medical and mental health services to students at the school regardless of insurance coverage. There are currently 66 state-funded SBHCs located in 19 communities statewide.

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**PA 10-119—sSB 402**

*Public Health Committee*

*Human Services Committee*

**AN ACT CONCERNING THE BEHAVIORAL HEALTH PARTNERSHIP**

**SUMMARY:** This act makes a number of changes, primarily technical, to add the Department of Mental Health and Addiction Services (DHMAS) to the Connecticut Behavioral Health Partnership. The partnership is an integrated behavioral health system currently operated by the departments of Children and Families (DCF) and Social Services (DSS).

By adding DHMAS to the partnership, the act requires the department to assume all partnership responsibilities, such as (1) designating a partnership director to coordinate its agency responsibilities, (2) developing clinical management policies and procedures, (3) completing annual evaluation and reporting requirements, (4) developing consumer appeal procedures, and (5) monitoring administrative services organizations with whom it contracts to administer behavioral health services.

It also allows the partnership, at the departments' discretion, to expand coverage to include (1) Medicaid recipients not enrolled in HUSKY Plan Part A and (2) Charter Oak Health Plan members. By law, the partnership already serves (1) children and families receiving services under the HUSKY program; (2) children enrolled in DCF's voluntary services program; and (3) at the DCF and DSS commissioners' discretion, other children and families DCF serves.

Finally, the act makes changes to the partnership's (1) responsibilities, (2) rate setting, (3) clinical management committee, (4) coordinated benefit policies, and (5) oversight council.

It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage



## BEHAVIORAL HEALTH PARTNERSHIP

### *Agency Direction*

The act requires the departments to jointly direct the administrative services organizations (ASOs) they select to develop a community system of care to promote a community-based, recovery oriented system of care. By law, the departments must also direct these ASOs to (1) alleviate hospital emergency room overcrowding, (2) reduce unnecessary admissions and lengths of stay in hospitals and residential treatment facilities, and (3) increase the availability of outpatient services.

### *Partnership Responsibilities*

The act adds to the partnership's charge the reduction of the unnecessary use of institutional and residential services for adults, not just children. But, it also limits its responsibility to capture and invest enhanced federal revenue and savings from reduced residential services and increased community based services to only HUSKY plan recipients.

### *Clinical Management Responsibilities*

The law permits the DSS commissioner to contract with an ASO to administer behavioral health services through a state plan under the federal State Children's Health Insurance Program or Medicaid programs. The act allows him also to enter into such a contract to administer services under the Charter Oak Health Plan and specifies that he may contract with more than one ASO.

The law also allows the DSS commissioner to delegate to DCF responsibility for the clinical management portion of the agencies' contract with the ASO pertaining to children. The act allows DCF to assume responsibility for the clinical management portion of contracts pertaining to HUSKY A and B and other children, adolescents, and families DCF serves. The DSS commissioner may delegate responsibility to DHMAS for the clinical management portion of such contracts pertaining to (1) Medicaid recipients not enrolled in HUSKY Plan Part A and (2) Charter Oak Health Plan recipients.

### *Rate Setting*

The act removes obsolete language regarding the setting of partnership provider rates. It continues to require the departments to submit initial rates, rate reductions, and changes in the methodology they use to establish rates to the oversight council for its review.

Under existing law, unchanged by the act, if the council does not accept the rates or methodology changes, it can send its recommendations to the Appropriations, Human Services, and Public Health committees. These committees must hold a public hearing on the subject of the proposed rates (but not the rate setting methodology) to learn the partnership's reasons for the changes. They must make recommendations to the departments within 90 days after the proposed changes are submitted to the council. The departments must make every effort to incorporate the council's and the committees' recommendations when setting rates.

### *Clinical Management Committee*

The act increases, from one to two, the members appointed by the DHMAS commissioner to the partnership's clinical management committee. The DCF and DSS commissioners and the oversight council continue to select two members each. All members must be experts or experienced in behavioral health services.

### *Coordinated Benefit Policies*

The law requires the partnership to establish policies to coordinate benefits for people covered by both the partnership and Medicaid managed care organizations. The act expands these policies to include people covered by Medicaid or Charter Oak Health Plan managed care organizations or any other entity DSS contracts with to manage medical benefits. It continues to require the oversight council to review these policies.

## BEHAVIORAL HEALTH PARTNERSHIP OVERSIGHT COUNCIL

### *Voting Membership*

The Behavioral Health Partnership Oversight Council advises the departments on the partnership's planning and administration. The act removes from the council's voting membership the DHMAS commissioner or her designee and a member of the Community Mental Health Strategy Board. It specifies that the existing primary care provider member may serve children or adults in the Medicaid program rather than only HUSKY plan children. Existing law allows one member to be either an adult with a substance abuse disorder or an advocate for such adults; the act requires that member to be an advocate.

The act also adds to the council's voting membership four council-appointed members as follows: (1) one representative of a home health care agency providing behavioral health services, (2) one

substance use disorder treatment services provider, (3) one adult recovering from a psychiatric disability, and (4) a parent or family member of an adult with a serious behavioral health disorder.

#### *Non-Voting Membership*

The act adds to the council's nonvoting, ex-officio membership a developmental services commissioner appointee and removes the council chairs' ability to appoint consumer representatives.

The act potentially increases the council's nonvoting ex-officio membership by recognizing that more than one ASO may participate in the partnership and allowing each ASO to appoint a council representative.

The act reduces the frequency of council meetings from monthly to at least six times annually.

#### *Responsibilities*

The act adds to the council's responsibilities the requirement that it review and make recommendations on Charter Oak Health Plan behavioral health services.

Existing law also requires the council to review and make recommendations on (1) contracts between the departments and ASOs to assure ASO decisions are based solely on clinical management criteria developed by the partnership's clinical management committee, (2) behavioral health services provided under HUSKY A and HUSKY B to assure the maximization of federal revenues, and (3) periodic reports on program activities, finances, and outcomes, including reports from the partnership director on achieving the system's goals.

#### *Reporting Requirement*

The act removes the requirement that the council annually report on its activities and progress to the governor and the Appropriations, Human Services, and Public Health committees.

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#### **PA 10-122—sSB 248**

*Public Health Committee  
Judiciary Committee*

#### **AN ACT CONCERNING THE REPORTING OF ADVERSE EVENTS AT HOSPITALS AND OUTPATIENT SURGICAL FACILITIES AND ACCESS TO INFORMATION RELATED TO PENDING COMPLAINTS FILED WITH THE DEPARTMENT OF PUBLIC HEALTH**

**SUMMARY:** This act amends the state's adverse event reporting law by requiring that the Department of Public Health's (DPH) annual report to the legislature on

adverse events include, for each hospital and outpatient surgical facility ("facility"), aggregate information about adverse events identified at the hospital or facility. It also (1) requires the report to include contextual information about the hospital or facility and (2) allows these entities to provide informational comments relating to the adverse event reported, which must be included in DPH's annual report.

The act prohibits a hospital or outpatient facility from taking certain actions against an employee, job applicant, or provider for actions the individual takes to further provisions of the adverse event law.

It requires DPH to give patients access to information if they have filed complaints with the department alleging incompetence, negligence, fraud, or deceit by health care providers. It requires DPH to give the patients notice about their complaint's status and disposition. It also requires mandatory mediation for all civil actions involving allegations of negligence by health care providers resulting in personal injury or wrongful death.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2010, except for the provisions on patient complaints, which are effective October 1, 2010.

#### **ADVERSE EVENT REPORTING**

##### *Reportable Events*

By law, hospitals and outpatient surgical facilities must report adverse events to DPH on a specific department form and within seven days after the event occurs. Separate reports must be submitted for each adverse event that affects a patient while in the facility. An adverse event is any event that is identified on the National Quality Forum's (NQF) "List of Serious Reportable Events" or on a list compiled by DPH. NQF's list includes 28 events in six major categories that may occur in hospitals and outpatient facilities. DPH has added five Connecticut-specific adverse events to the NQF list.

The reporting form asks for:

1. facility information (type of hospital, i.e., general, children's, chronic disease, mental health, maternity, or outpatient surgical facility);
2. patient information, including the date and time of the adverse event and when it was first known;
3. the location of the event (e.g., emergency room, operating room, outpatient setting, surgical unit, neonatal intensive care);
4. notifications made (to patient, other state agencies, local or state police, others);

5. a description of the adverse event (e.g., event facts and status of the patient's condition, immediate plan of action to reduce the risk of a similar event); and
6. a corrective action plan (a plan must be filed within 30 days after any adverse event occurs).

After screening an adverse event report, including a corrective action plan, DPH determines whether to initiate an investigation. The act specifies that corrective action plan strategies reflect evidence-based best practices.

#### *Reporting of Adverse Events*

DPH must report annually by October 1 to the Public Health Committee on adverse event reporting. By law, the information collected on adverse events is not disclosed under the Freedom of Information Act and is not subject to subpoena, discovery, or introduction into evidence in any judicial or administrative proceeding except as specifically provided by law. Under prior law, DPH's report did not identify specific hospitals, outpatient surgical facilities, or individuals with reported adverse events. The annual reports listed adverse events by (1) frequency of occurrence based on the NQF and DPH's Connecticut-specific lists of adverse events and (2) facility type, patient age, and facility location.

The act instead requires that DPH include in its annual adverse event report submitted on or after July 1, 2011, hospital and outpatient surgical facility adverse event information for each entity identified by the (1) NQF list of serious reportable events category and (2) DPH's Connecticut-specific list.

The reports must be prepared in a format that uses relevant "contextual information." This includes the relationship between the number of adverse events and a hospital's total number of patient days, or an outpatient surgical facility's total number of surgeries, expressed as a fraction. The numerator is the aggregate number of adverse events reported by each hospital or outpatient facility by category and the denominator is the total of the hospital's patient days or outpatient facility's total number of surgeries. "Contextual information" also means information concerning the population the hospital or facility serves, including its payor or case mix.

The act also allows a hospital or facility to provide additional comments concerning any reported adverse event. Beginning July 1, 2011, any DPH adverse event report must include these additional comments.

#### *Employee Protection*

The act prohibits a hospital or facility from discharging, refusing to hire, refusing to serve,

retaliating in any manner, or taking any adverse action against an employee, job applicant, or health care provider because that individual takes action to further enforcement of the adverse event law.

#### COMPLAINTS PENDING IN DPH AGAINST HEALTH CARE PROFESSIONALS

By law, DPH is the licensing and regulatory agency for a number of health care professions. In most cases, the law makes information concerning complaints (petitions) against physicians confidential for 18 months, and forever if the department finds no probable cause or permits the physician to enter a rehabilitation program. For all other health care professionals, petitions are confidential for one year. They may be disclosed earlier if (1) the petition is withdrawn or there is some other informal disposition or (2) DPH mails or serves a probable cause determination on them before the one-year confidentiality period expires.

The act gives individuals access to information if they have filed, on or after October 1, 2010, petitions alleging incompetence, negligence, fraud, or deceit.

#### *Information Available to a Person Filing A Complaint*

The act requires DPH to provide any complainant who asks with information on the complaint's status. The person must also be given an opportunity to review, at DPH, records compiled as of the date of the request pursuant to any investigation of the complaint. This includes the respondent's written response to the complaint, except that the individual cannot copy the records and DPH cannot disclose (1) information concerning a health care provider's referral to, participation in, or completion of an assistance program for chemical dependency, emotional or behavioral disorder, or physical or mental illness, that is confidential; (2) information not related to the specific complaint, including information concerning other patients; or (3) personnel or medical records and similar files that, if disclosed, would be an invasion of personal privacy under the Freedom of Information Act, except for those records or similar files solely related to the complainant.

Under the act, DPH is not required to disclose any other information that is otherwise confidential under federal or state law, except for information solely related to the complainant. DPH can require up to 10 business days written notice before providing the review opportunity.

The act requires DPH, before resolving the complaint with a consent order, to give the person filing the complaint at least 10 business days to submit a written statement as to whether he or she objects to resolving the complaint with a consent order.

If a hearing is held on the complaint after a finding of probable cause, DPH must give the individual a copy of the hearing notice which has information on the opportunity to present oral or written statements under the Uniform Administrative Procedure Act. DPH must notify the complainant of its final disposition of the complaint within seven days of the disposition.

Under the act, records disclosed to a person filing a complaint that are otherwise confidential are not considered public records merely because they have been disclosed by DPH under these provisions.

#### MANDATORY MEDIATION

The act requires mandatory mediation for all civil actions seeking damages for personal injury or wrongful death, whether in tort or contract, where it is alleged that the harm resulted from a health care provider's negligence. Each action for which a valid certificate of good faith has been filed (as required by law for a negligence action against a provider) must be referred to mandatory mediation, unless the action is referred to another alternative dispute resolution program that the parties agree to. Mandatory mediation is for the purpose of reaching a prompt settlement or resolution of the action. "Health care providers" includes individuals as well as health care institutions.

Before the close of pleadings in the civil action, the judicial district's civil session presiding judge must refer the action to mandatory mediation or the other alternative dispute resolution. The referral cannot exceed 120 days unless, for good cause, the court extends it. The court must stay the time periods under which further pleadings, motions, and other procedures must be filed or take place except for adding defendants to apportion liability.

The act requires the mediation to start as soon as practicable but within 20 business days after the referral. The first mediation session must be conducted by the presiding judge or, at his or her discretion, a different superior court judge, senior judge, or judge trial referee. At the first session, the judge or referee must determine if the action can be resolved at that session, or if it cannot, whether the parties will agree to participate in further mediation. The mediation ends if the action is not resolved at the first session and the parties do not agree to further mediation. If they agree to further mediation, the presiding judge only must refer it for mediation before an attorney with experience related to such actions and who has been a Connecticut bar member for at least five years. Mediation must then begin as soon as practicable but not later than 20 business days after the referral. The plaintiffs must pay 50% of the mediation costs, with the other 50% apportioned among all defendants who are parties to the mediation.

Each party and a representative of each insurer that may be liable to pay a claim for an action must appear in person at each mediation session. The judge, referee, or mediator can allow participation by electronic means or telephone.

If mediation does not settle or conclude the action, the mediator and the parties, if they agree, may stipulate to any matter or conclusion that they believe may help or be relevant to narrow the issues, expedite discovery, or assist the parties in preparing the action for trial. All parties in attendance must agree to this. The act authorizes superior court judges to adopt necessary rules to conduct the mediation.

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#### PA 10-123—SB 250

*Public Health Committee  
Judiciary Committee*

#### AN ACT CONCERNING ANATOMICAL GIFTS

**SUMMARY:** This act replaces the 1987 Uniform Anatomical Gift Act with its 2007 successor. The act retains many provisions of the existing law, updates others, and introduces new provisions on organ and tissue procurement organizations and the role of the chief medical examiner.

The act allows some minors, parents of any minor, and a donor's legally authorized agent to make anatomical gifts during a person's lifetime. It permits more people to make donations after a person dies and reorders the priority for their doing so. It makes it more difficult for others to override a donor's anatomical gift and creates rules for interpreting gift documents that lack specificity.

The act establishes standards for donor registries and requires cooperation between procurement organizations and the Office of the Chief Medical Examiner.

It recognizes gifts made under the laws of other jurisdictions and allows for electronic records and signatures.

EFFECTIVE DATE: October 1, 2010

#### WHO MAY MAKE AN ANATOMICAL GIFT

##### *§ 4 — During the Donor's Lifetime*

The law allows an adult (someone age 18 or older) to donate all or part of his or her body for transplant, therapy, education, or research. The act permits minors to make such donations under certain conditions and parents to do so on behalf of an unemancipated minor. A minor can make a gift if he or she is emancipated or old enough to apply for an operator's license (age 16½) or a Department of Motor Vehicles (DMV)

identification card (there is no minimum age to apply for such cards).

The act also allows a donor's guardian or "agent" to make a gift on the donor's behalf. The act defines an "agent" as someone authorized through a power of attorney to make health care decisions for the donor or who the donor expressly authorizes to make an anatomical gift. The agent can make a donation unless the health care power of attorney or other document conferring agency prohibits this.

The act eliminates a donor's ability to designate a particular doctor to carry out the medical procedures for donation.

#### § 9 — *Upon a Donor's Death*

The law permits other people to make anatomical gifts when a person dies, unless the person had previously refused to donate. It sets a priority order among these people for decision-making. Under prior law, they were, in priority order, the decedent's: (1) spouse, (2) designated decision-making agent (under CGS § 1-56r), (3) adult child, (4) parents, (5) adult siblings, (6) grandparents, (7) guardian of the person, (8) legally authorized health care agent, and (9) conservator.

The act reorders this list and adds new people. It gives the donor's agent top priority. It gives the decedent's adult grandchildren priority over the decedent's grandparents and an adult who exhibited special care and concern for the decedent priority over conservators. It adds guardians at the same priority level as conservators and, at lowest priority, adds anyone authorized to dispose of the decedent's body.

The act appears to make it easier for these people to make decisions by allowing them to be "reasonably" available, not just available. It defines "reasonably available" as able to be contacted by a procurement organization and willing and able to act in a timely way consistent with medical criteria for making anatomical gifts.

By law, a person in this priority list cannot make a gift if someone in a higher class is available to make the decision or he or she knows that (1) the decedent refused to make a donation or (2) someone in the same or a higher class opposes donation. The act eliminates the specific bar on post-mortem donations by someone who knows the decedent refused to donate. Instead, it bars anyone, other than the parents of a deceased minor, from making a donation if the donor refused in writing to donate and did not revoke this refusal or expressly indicate otherwise.

Under the act, any member of a class that contains more than one member can make a donation, unless he or she or a potential recipient of the gift knows that someone else in the class objects. In that case, a

majority of reasonably available class members must make the decision to donate.

#### HOW ANATOMICAL GIFTS CAN BE MADE

##### § 5 — *By a Donor*

Under existing law, a donor may make an anatomical gift (1) in a will or other document, (2) by signing an organ or tissue donor card, (3) by being included in a donor registry maintained by an organ or tissue procurement organization, or (4) by indicating the intent to donate on an operator's license or license application or renewal. These are known as "documents of gift." The act allows a person to donate during a terminal illness or injury by communicating this intention in any way to at least two adults, at least one of whom must be a disinterested witness.

In order to donate through a registry, the act requires a donor or the donor's agent to sign a donor card or other record indicating the donor's intent to be included on a registry. By law, if a donor cannot sign a document of gift, another person and two witnesses can do so at the donor's direction and in the presence of all the parties. The act specifies that this is necessary only when the donor is physically unable to sign.

The act specifies that revocation, suspension, expiration, or cancellation of a DMV operator's license or identification card does not invalidate an anatomical gift.

It eliminates the requirement that a donor registry be operated by a procurement organization. Under the act, a donor registry is either the DMV registry process or any other database that identifies donors and conforms to the act's requirements for donor registries (see below).

##### § 10 — *By a Third Party after the Donor's Death*

The act does not change the way third parties can make a gift after a donor dies—by document of gift or a recorded message reduced to writing and signed by the recipient.

#### §§ 6, 8, & 10 — AMENDING OR REVOKING A GIFT

##### *During a Donor's Lifetime*

The act permits more people to amend or revoke a donor's gift but makes it more difficult for a dying donor to do so. Under existing law, a donor can amend or revoke a gift that is not made in a will by (1) signing a statement, (2) delivering a signed statement to a procurement organization or a donee named in a document of gift, or (3) communicating with a doctor

during a terminal illness or injury.

The act permits a donor's authorized agent, or, if the donor or agent are physically unable to sign, another party acting at their direction, to sign a document amending or revoking a gift. A document signed by someone other than the donor or agent must be witnessed by at least two adults, one of whom is a disinterested witness, who have signed at the donor's or third party's request. The act defines a "disinterested witness" as someone not (1) related to the person making, amending, revoking, or refusing to make a gift, including those people able to make post-mortem gifts or (2) able to receive an anatomical gift.

The act requires a dying donor who wants to amend or revoke a gift to communicate this intention to at least two adults, one of whom must be a disinterested witness.

Under existing law and the act, unless a person formally refuses to donate, a donor's revoking or amending a gift does not constitute a refusal. The act specifies that a donor's or other authorized person's revocation of a gift does not bar anyone authorized to make a gift from doing so either before or after the donor's death. Under the act, anyone authorized to make a gift during the donor's lifetime can amend or revoke a gift by destroying or cancelling the document of gift or that part of the document that conveys the gift.

Under the act, absent express indications to the contrary, giving a body part for a specific purpose does not bar giving it for other purposes. Under existing law and the act, giving one body part is not deemed to be a refusal to give other parts or limit future donations of other parts, unless the donor or other authorized person expressly indicates otherwise.

#### *Post-Mortem*

Under prior law, an unrevoked anatomical gift was irrevocable and did not need anyone's consent to be effective after the donor died. The act, with two exceptions, explicitly bars anyone other than the donor from making, amending, or revoking a donor's gift without some express indication that the donor wanted to change his or her decision. The exceptions permit a parent of an unemancipated minor to (1) revoke the child's signed refusal to make a donation or (2) amend or revoke the child's gift. The act also specifies that if someone other than the donor made or amended a gift during the donor's lifetime, no one can make, amend, or revoke the gift after the donor dies.

The act makes it more difficult to amend or revoke a gift made after a person dies. Under prior law, someone in the same or higher class as the person who made the gift could revoke it if the person removing the parts knew about the revocation. Under the act, only someone in a class above the person who made the gift

can revoke or amend it. If more than one member of this higher class is reasonably available, a majority must agree to amend, while a majority or equal division can revoke.

#### § 7 — REFUSING TO MAKE A GIFT

By law, a person can refuse to make an anatomical gift in a will or by signing a written document. By law, a dying person can also refuse by communicating his or her refusal to a doctor, orally or in writing. The act requires a dying person to communicate this refusal to at least two people, one of whom must be a disinterested witness. It allows a third party to sign a refusal document at the direction of someone who is physically unable to sign. In this situation, at least two adults, one disinterested, must witness the signing.

The act permits someone to amend or revoke his or her refusal by (1) changing a will; (2) signing a written document; (3) communicating at death with two or more adults, as above; (4) making a document of gift that is inconsistent with the refusal; or (5) destroying the refusal.

The act specifies that, in the absence of express evidence to the contrary, a person's unrevoked refusal bars anyone from making a gift of his or her body or parts, except for the parents of an unemancipated minor.

#### § 11 — WHO CAN RECEIVE AN ANATOMICAL GIFT

The act appears to permit private and public corporations, other commercial and legal entities, and government organizations (all "persons" under the act), as appropriate, to receive anatomical gifts for research or education. It specifically permits donations to eye and tissue banks. And, as under existing law, it permits donations to hospitals, medical and dental schools, colleges and universities, organ procurement organizations, and individuals designated by the person making the gift, if the individual is the recipient of the body part.

As under existing law, no one who knows that the decedent refused to make an anatomical gift can accept one. The act specifies that anyone who knew that a donation was made through a document of gift is deemed to know of any refusal, amendment, or revocation made in the same document.

If an organ donation is made for transplant or therapy, but does not name an individual to receive it, the act requires the organ to go to an organ procurement organization, which acts as the organ's custodian.

The act requires eye banks, tissue banks, or organ procurement organizations, as appropriate, to receive body parts in four situations:

1. a donated part cannot be transplanted into a designated donee, and the person making the gift did not direct some other use;
2. a gift identifies a purpose for using donated body parts but does not name a person to receive them (if the gift document lists more than one purpose without setting priorities, the gift must be used first for transplant or therapy and then for research or education);
3. a gift of one or more specific parts neither names a person to receive them or a purpose for their use, in which case the receiving organization must use them first for transplant or therapy, or if they are not suitable for these purposes, for research or education; and
4. a document of gift specifies only a general intent to donate, in which case the parts must be used as in #3.

Under the act, custody of any anatomical gift that does not pass as described above or that is not used for any purpose permitted under the act passes to the person who must dispose of the body.

Finally, the act specifies that, except for donations to named individuals, these provisions do not affect organ allocations for transplant or therapy, which is done pursuant to the National Organ Transplant Act.

#### §§ 12 & 13 — LOOKING FOR AND EXAMINING A DOCUMENT OF GIFT

The law requires various people to look for documents indicating that a dead person or one near death is either an organ donor or has refused to donate. These include (1) paramedics, police, and firefighters and (2) hospital personnel, if no other source of information is immediately available. The act removes procurement organizations from this list. It specifies that the officer or paramedic responsible for conducting the search must send any document he or she finds to the hospital.

Existing law requires anyone who possesses a document of gift to make it available to an “interested party” (presumably a donee or someone who could make a gift) for examination or copying. The act extends this requirement to anyone who possesses a donor’s refusal and specifies that donees and parties authorized to make gifts must be given access to the document.

The act removes a requirement that a hospital notify any designated donee it knows of or a procurement organization if it learns a donor is in transit to the hospital, is dying or has died, or that the chief medical examiner has removed an organ or tissue as part of a medicolegal exam.

The act retains the law that specifies that a document of gift does not have to be delivered during a

person’s lifetime for it to be effective.

#### §§ 14 & 15 — REFERRAL TO A PROCUREMENT ORGANIZATION

The act requires each hospital in the state to enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Under the act, when a hospital refers a person near or at death to a procurement organization, the organization must search the DMV registry and any other geographically relevant donor registries to find out whether the person has made an anatomical gift. It requires DMV to give these organizations reasonable access to its donor records. Under the act, procurement organizations include organ, tissue, and eye banks.

Similarly, when a hospital refers a person to a procurement organization, the act requires the organization to look for people with priority to make a post-mortem gift. If an organization learns that a gift to anyone else was made, amended, or revoked, it must advise this person of all relevant information.

When a minor dies, the act requires an organization to look for the parents, unless it knows the minor was emancipated, and give them the chance to amend any donation or revoke a refusal.

Current law requires anatomical gifts to authorize any reasonable examination needed to assure that the gift is medically acceptable for the purposes for which the gift is made. It allows procurement organizations to review a potential donor’s medical record to assess his or her suitability to donate.

The act allows procurement organizations to examine an individual to assess the medical suitability of a part that is, or could be, donated for any eligible purpose. During this examination, any measures needed to maintain a part’s suitability cannot be withdrawn unless the person says they can. After the person dies, the act permits the donee to conduct a similar examination. People conducting either of these exams can also look at the person’s medical and dental records (under federal law, someone would have to consent to this).

The act eliminates (1) the requirement for hospital personnel to discuss the option of donation with any patient who is near death, if there is no record that the patient has made or refused to make a gift and (2) criteria for determining death.

#### §§ 2 & 20 — DONOR REGISTRIES

The act defines a donor registry as the DMV registry or any other database that identifies donors. It eliminates the current requirement that a procurement organization maintain a registry.

The act requires all registries to be accessible to procurement organizations 24 hours a day, seven days a week. It specifies that it does not require DMV to provide access to data it maintains in its registry in any way that is inconsistent with existing law. It prohibits the use or disclosure of personally identifiable information on a registry without the consent of the donor or the person who made the gift except to determine if a donor or prospective donor (but apparently not a third party) made a gift.

The act specifies that it does not preclude anyone from creating or keeping a registry without a state contract to do so. But such a registry must comply with the above provisions.

#### § 21 — CHIEF MEDICAL EXAMINER (CME)

Existing law requires the CME to facilitate tissue harvesting and organ procurement within the constraints of the office's official investigative responsibilities. The act requires the CME to cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for eligible purposes, subject to existing law governing the operations of the office.

#### § 16 — SELLING BODY PARTS

By law, it is a class A misdemeanor (see Table on Penalties) to knowingly sell, receive, or transfer for valuable consideration any human organ for transplant. The act specifies that this prohibition applies only if the body part is supposed to be removed after a person dies. The act also applies to body parts intended to be used for therapy.

The act does not define "valuable consideration." Existing law's definition of "valuable consideration" excludes (1) ordinary medical and hospital fees for services, (2) a donee's medical and legal fees, and (3) a donor's travel and housing expenses and lost wages. The act permits people to charge reasonable amounts to remove, process, preserve, control quality, store, transport, implant, and dispose of a body part.

#### §§ 17, 18, & 19 — LIABILITY AND VALIDITY

Under the act, anyone who, for financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation, or a refusal is guilty of a class A misdemeanor.

The law protects people from civil or criminal liability if they act in good faith to comply with Connecticut's or another state's anatomical donation laws. The act also protects them from liability in administrative proceedings.

The act specifies that, in determining whether an anatomical gift has been made, amended, or revoked, a

person can rely on representations of relationship by people who can make post-mortem donation decisions, unless the person knows the representation is false.

Under the act:

1. a document of gift is valid if it is executed according to (a) the act, (b) the laws of the jurisdiction in which it was executed, or (c) the laws of the jurisdiction where the person making the gift was domiciled, resided, or a national, when the gift was made;
2. if a gift is valid, Connecticut law governs its interpretation; and
3. people can presume a gift or an amendment is valid unless they know it was not properly executed or was revoked.

#### § 22 — CONSTRUING THE BILL

The act specifies that anyone applying and construing it must consider the need to promote uniformity among the states that enact the uniform act.

#### § 23 — ELECTRONIC RECORDS AND SIGNATURES

The act addresses the use of electronic records and signatures. It states that it modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act. This federal law facilitates the use of electronic records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically. But the act does not affect that act's consumer disclosure provisions or authorize electronic delivery of any notices that the act exempts from electronic transmission.

#### § 24 — DMV DONOR REGISTRY

The act makes conforming changes in the law permitting people applying for an operator's license or identity card to make donations through DMV. It allows the donor symbol to be imprinted on the person's operator's license or identity card.

#### REPEALED PROVISIONS

The act repeals all provisions of the prior Uniform Anatomical Gifts Act but reenacts many of them in the same or slightly altered form. But, in addition to provisions discussed in the context above, it totally repeals provisions that:

1. permit a document of gift to designate a particular doctor to perform the appropriate procedures or, if no designation is made or the doctor is not available, the donee to do so;



2. permit storing a document of gift in a hospital, procurement organization, or donor registry as a way to keep it safe or facilitate procedures after death;
3. require the public health commissioner to adopt implementing regulations; and
4. require a medical examiner to remove corneal or pituitary tissue from any body being autopsied if (a) the examiner believes they may help someone and that removal will not disfigure the body and (b) no next of kin is known at the time or the deceased did not belong to a religious group that objects to tissue removal.

## BACKGROUND

### *DMV Donor Registry*

The law requires the DMV commissioner and the Department of Information Technology's chief information officer to enter into an agreement to provide one or more federally designated organ and tissue procurement organizations with access to names, birthdates, and other relevant information of operator license holders who have registered their intent to be organ donors with DMV. The departments determine the form and manner of such access in consultation with the procurement organization. This can include electronic transmission of initial information and periodic updates.

DMV can disclose personal information from a motor vehicle record to any individual, organization, or entity using it for inclusion of personal information about people who have consented to become organ and tissue donors in a donor registry established by a procurement organization. The individual, organization, or entity must sign and file with DMV a statement on a DMV-approved form, under penalty for false statement, that the information will be used as stated. DMV can require supporting documentation or information (CGS § 14-42a).

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**PA 10-10—HB 5157**

*Public Safety and Security Committee  
Planning and Development Committee*

**AN ACT CONCERNING THE ADVERTISEMENT OF BAZAARS AND RAFFLES**

**SUMMARY:** This act expands the types of advertising nonprofit organizations may use to promote bazaars or raffles. Under prior law, an organization could post only one sign up to 12 square feet on the premises where the drawing would be held or the prizes awarded and one where the prizes were displayed. The act allows an organization to post an advertisement (1) on its Internet website, (2) in an email, and (3) on lawn signs on private property with the property owner's consent. The lawn sign cannot be more than 18 by 24 inches and must comply with any applicable local ordinance or planning or zoning regulation.

The act applies to the following organizations conducting bazaars and raffles under a permit in a town that has adopted the Bazaar and Raffle Act: volunteer fire companies and veterans', religious, civic, service, fraternal, educational, and charitable organizations.

EFFECTIVE DATE: October 1, 2010

**PA 10-42—sHB 5339**

*Public Safety and Security Committee  
Judiciary Committee*

**AN ACT CONCERNING NOTIFICATION OF PEACE OFFICERS WHO HAVE BEEN ASSAULTED PRIOR TO THE COURT SENTENCING OR ACCEPTING A PLEA AGREEMENT OF THE DEFENDANT**

**SUMMARY:** This act requires the state's attorney (or assistant or deputy) to personally notify, instead of attempt to notify, the peace officer of the date, time, and place of the original sentencing hearing or plea bargaining in any case in which a defendant was originally charged with assaulting the peace officer with the intent to prevent the officer from performing his or her duties. If the officer is not at the sentencing or did not submit a victim statement, the act requires the court to inquire, on the record, whether the state's attorney personally notified, instead of attempted to contact, him or her. Under the act, a peace officer, unlike other victims, does not have to (1) inform the state's attorney of his or her wish to make or submit a statement and (2) provide a stamped, self-addressed postcard to be notified of the hearing or plea bargaining.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND***Victim Statements*

By law, any crime victim (or legal representative or immediate relative of a deceased victim) may make or submit a statement to the court at sentencing and before a plea agreement is accepted.

The state's attorney must notify crime victims of the date, time, and place of the original sentencing hearing or any judicial plea deal proceeding, provided the victim informed the official that he or she wishes to make or submit a statement and complied with a request from the official to submit a stamped, self-addressed postcard for notification. If the state's attorney is unable to notify the victim, he or she must sign a statement to that effect. If the victim does not appear at sentencing or submit a statement, the court must ask, on the record, whether the official attempted to contact him or her as required by law.

Victim statements are limited to the case facts, the appropriateness of any penalty, the extent of any injuries, losses directly resulting from the defendant's crime, and opinions about the plea agreement.

*Assaulting a Peace Officer*

Under CGS § 53a-167c, a person is guilty of assaulting a peace officer if he or she assaults a reasonably identifiable peace officer performing his or her duties, with intent to prevent the officer from performing them, by doing any of the following to the officer:

1. injuring;
2. throwing potentially damaging objects;
3. using tear gas, Mace, or a similar agent;
4. throwing paint, dye, or any other offensive substance; or
5. throwing bodily fluid, such as feces, blood, or saliva.

This crime is a class C felony (see Table on Penalties).

*Peace Officer*

Under CGS § 53a-3, a peace officer means a state or local police officer, Division of Criminal Justice inspector, state or judicial marshal, conservation officer, constable who performs criminal law enforcement duties, special policeman, adult probation officer, Department of Correction official authorized to make arrests in a correctional facility, investigator in the State Treasurer's Office, or federal drug enforcement agent.

**PA 10-50**—sSB 149

*Public Safety and Security Committee  
Public Health Committee*

**AN ACT CONCERNING THE GOVERNOR'S  
POWER TO MODIFY OR SUSPEND STATUTES,  
REGULATIONS OR OTHER REQUIREMENTS  
DURING A PUBLIC HEALTH EMERGENCY**

**SUMMARY:** This act allows the governor, when she declares a civil preparedness emergency, to modify or suspend statutes, regulations, or other requirements that conflict with the protection of the public health, not just those that conflict with the efficient and expeditious execution of civil preparedness functions.

The act explicitly allows her to take such actions when she declares a public health emergency, but it appears that she may do so only if she has declared a civil preparedness emergency. By law, the governor may already, during a civil preparedness emergency, take steps that are reasonably necessary to protect the health of state residents and may modify and suspend laws for certain occurrences, which may include situations affecting public health. Consequently, the legal effect of the new provision is unclear.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*Civil Preparedness Emergency*

The law defines a “civil preparedness emergency” as an emergency declared by the governor “in the event of a serious disaster, enemy attack, sabotage or other hostile action within the state or a neighboring state or in the event of the imminence thereof” (CGS § 28-1(7)).

*Governor’s Authority to Declare a Public Health  
Emergency (CGS § 19a-131a et seq.)*

Under existing law, the governor may declare a statewide or regional public health emergency after making a good faith effort to inform legislative leaders. She may do this when a communicable disease, other than a sexually transmitted disease, or contamination that poses a substantial risk of a significant number of human fatalities or permanent or long-term disabilities occurs or is an imminent threat. The disease or contamination must be caused by, or the governor must believe it is caused by, bioterrorism, an epidemic or pandemic disease, a natural disaster, or a chemical or nuclear attack or accident.

When she declares a public health emergency, the governor may (1) order the public health commissioner to implement all or part of the public health emergency

response plan and vaccinate people and (2) authorize him to isolate or quarantine people.

She must also ensure that the declaration and any orders issued under it are published in full at least once in a newspaper with general circulation in each county, provided to news media, and posted on the state’s website.

Six members of a 10-member legislative committee may vote to disapprove and nullify a declaration.

**PA 10-51**—sSB 151

*Public Safety and Security Committee  
Judiciary Committee*

**AN ACT LIMITING THE INDEMNIFICATION  
OF FIRE SERVICE INSTRUCTORS**

**SUMMARY:** This act narrows the circumstances in which the state must hold harmless and indemnify fire service instructors from financial loss and expense.

The law requires the state to hold harmless and indemnify any fire service instructor certified by the Commission on Fire Prevention and Control for negligence or other acts resulting in personal injury or property damage, if (1) the person is performing his or her duties in providing fire service training and instruction, and (2) the act is not wanton, reckless, or malicious.

The act specifies the fire service instructor must also be (1) an employee or member of a municipal, state, or tribal fire department providing fire service training and instruction for other members or employees of his or her fire department; (2) a fire service instructor employed by the commission to provide training and instruction on its behalf; or (3) a fire service instructor employed by a regional fire school to provide training and instruction on its behalf.

EFFECTIVE DATE: October 1, 2010

**PA 10-54**—sSB 310

*Public Safety and Security Committee*

**AN ACT CONCERNING THE LEGISLATIVE  
COMMISSIONERS' RECOMMENDATIONS FOR  
TECHNICAL CORRECTIONS TO THE PUBLIC  
SAFETY STATUTES AND AN EFFECTIVE DATE  
CHANGE**

**SUMMARY:** This act postpones by two years, from January 1, 2011 to January 1, 2013, the effective date of certain provisions of PA 09-177 mainly affecting the state Fire Prevention Code, including the adoption of regulations, regulation of hazardous chemicals, and criminal penalties for certain code violations.

It also makes technical changes in various public safety statutes, mostly affecting hazardous chemicals and flammable liquids.

EFFECTIVE DATE: Upon passage for the changes in effective dates; January 1, 2013 for the technical changes.

**PA 10-70—sSB 231**

*Public Safety and Security Committee  
Finance, Revenue and Bonding Committee*

**AN ACT CREATING AN AMNESTY PROGRAM FOR DELINQUENT LOTTERY SALES AGENTS**

**SUMMARY:** This act requires the Division of Special Revenue (DSR) executive director to establish a settlement initiative program, from October 1, 2010 through December 31, 2010, to collect money owed by lottery sales agents on whom he imposed a delinquency assessment before October 1, 2010. To participate in the program, an agent must (1) pay all the money he or she owes minus 50% of the interest and (2) waive all administrative and judicial appeal rights that have not expired on the date payment is made.

The executive director must deposit the money collected under the program in the General Fund. He may do all that is necessary to implement the program, notwithstanding any other law.

EFFECTIVE DATE: October 1, 2010

**SETTLEMENT INITIATIVE PROGRAM**

The act requires the DSR executive director to establish a settlement initiative program for any lottery sales agent who owes money from lottery ticket sales, provided the executive director had imposed a delinquency assessment against the agent before October 1, 2010. The executive director must send a written notice by November 1, 2010 to agents eligible to participate in the program.

An agent has 60 days from the date of receiving the notice to pay the total amount owed (the unremitted lottery proceeds plus the delinquency penalty and interest), minus 50% of the interest. In making this payment, the agent waives any administrative and judicial appeal rights that have not expired on the date the payment is made. Payments made under the program are nonrefundable.

Any duly notified agent who fails to make a payment within 60 days after receiving the notice can no longer participate in the program. The executive director must retain any payments the agent makes and apply them against any money he or she owes.

Agents are not eligible for any refund or credit for any amount paid to DSR before they received the program notice.

**BACKGROUND**

*Delinquency Assessments*

Under DSR regulations, when the Connecticut Lottery Corporation (CLC) determines that an agent has not submitted all proceeds from lottery sales, it must notify the agent and give him or her a reasonable time to make the payments. If the agent does not comply, CLC makes a delinquency finding and notifies DSR. The executive director must charge the agent (1) the amount due and not remitted; (2) a delinquency assessment of 10% of the amount or \$10, whichever is more; and (3) 1.5% interest on the amount due for each month or fraction of a month from the date the settlement was due to the date of the payment (Conn. Agencies Reg. § 12-568a-13).

Agents may contest delinquency findings at a hearing before the executive director.

**PA 10-125—sSB 312 (VETOED)**

*Public Safety and Security Committee  
Planning and Development Committee  
Appropriations Committee*

**AN ACT MANDATING THE REGIONALIZATION OF CERTAIN PUBLIC SAFETY EMERGENCY TELECOMMUNICATIONS CENTERS AND A STUDY OF CONSOLIDATION**

**SUMMARY:** This act:

1. beginning in FY 2016, makes municipalities with 40,000 or fewer people ineligible for enhanced 9-1-1 (E 9-1-1) funding if they have not joined with two or more municipalities to form a regional public safety answering point (PSAP) and
2. requires the Office of State-wide Emergency Telecommunications (OSET), which administers the state's E 9-1-1 program, to use money in the E 9-1-1 Telecommunications Fund to study PSAP regionalization issues and submit its findings to the Public Safety and Security Committee by July 1, 2011.

PSAPs are facilities that receive 9-1-1 calls and dispatch emergency response services (e.g., fire and police) or transfer the calls to other public safety agencies.

EFFECTIVE DATE: Upon passage for the OSET study; October 1, 2010 for the remaining provisions.

## E 9-1-1 SYSTEM FUNDING

### *OSET Funding to Towns*

Currently, OSET pays for all of the towns' 9-1-1 equipment and reimburses them at 10 cents per capita for costs incurred to train and certify telecommunicators (people who take 9-1-1 calls and dispatch emergency services). It also offers financial incentives to encourage towns to (1) establish multi-jurisdiction PSAPs and (2) consolidate PSAP operations by eliminating secondary answering points (facilities to which PSAPs transfer 9-1-1 calls instead of dispatching emergency services or transferring the calls to another public safety agency). OSET provides:

1. annual subsidies to towns with PSAPs that receive and process 9-1-1 calls for three or more towns (regional emergency telecommunication centers) and towns with PSAPs that receive and process 9-1-1 calls for two towns (multi-town PSAPs);
2. one-time, transition funding to help towns offset the cost of forming regional or multi-town PSAPs;
3. (a) annual subsidies to towns with more than 40,000 residents and (b) reduced subsidies for each year that they continue to use a secondary answering point; and
4. service credits to encourage dispatch centers to regionalize (CGS §§ 28-24 *et seq.* & Conn. Agencies Regs. §§ 28-24-1 *et seq.*).

Beginning in FY 2016, the act eliminates funding to all municipalities with 40,000 or fewer people that have not joined with two or more municipalities to form a regional PSAP. It also specifically prohibits OSET, on or after July 1, 2016, from paying to replace existing 9-1-1 equipment for any PSAP that is not part of a regional PSAP (see BACKGROUND).

### OSET STUDY

The act requires OSET to conduct a study to determine a range of feasible arrangements of PSAPs. The study must include:

1. the number of answering points that would achieve a balance between cost-effectiveness, operational efficiency, and efficient use of new and existing resources;
2. which answering points should be consolidated, after considering cost, efficiencies, and natural or selected operational groupings;
3. what consolidation of fire, police, emergency medical services and related services is recommended; and

4. all costs associated with all aspects of, and various options for, consolidation, including state and municipal costs.

## BACKGROUND

### *E 9-1-1 System*

Currently, there are (1) seven regional PSAPs serving 73 member towns; (2) nine multi-town PSAPs; (3) 22 towns receiving subsidies based on the 40,000 resident population threshold, with four receiving reduced funding because they operate secondary answering points; and (4) 60 towns that get no subsidies because they operate stand-alone PSAPs and do not qualify for the population-based subsidy.

### *Funding Source*

Funding for the E 9-1-1 system is generated by a monthly surcharge levied on all phone lines (CGS § 28-30a). The current rates start at 47 cents per line per month, and customers with multiple lines are rated on a sliding scale. (CGS § 16-256g limits the maximum charge to 50 cents per line.) Customers pay the surcharge to their telephone service provider which, in turn, remits it to OSET monthly for deposit in the E 9-1-1 Telecommunications Fund.

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## **PA 10-128—HB 5236 (VETOED; OVERRIDDEN)**

*Public Safety and Security Committee*

### **AN ACT CONCERNING ADDITIONAL OFF-TRACK BETTING BRANCH FACILITIES IN NEW LONDON, MANCHESTER AND WINDHAM**

**SUMMARY:** This act increases the number of off-track betting (OTB) facilities that may operate as simulcasting facilities (i.e., televise OTB programs) from 12 to 15 of the 18 currently authorized OTB facilities. It requires that the new simulcasting facilities be located in Manchester, New London, and Windham.

**EFFECTIVE DATE:** Upon passage

## BACKGROUND

### *OTB Facilities*

By law, simulcasting facilities are OTB facilities authorized to (1) provide live television coverage of OTB programs and jai alai games and (2) have restaurants, concessions, and other amenities. Other OTB facilities have bench seating, public restrooms for patrons, and monitors for OTB information.

Currently, the 12 simulcasting facilities are located in Bridgeport, Bristol, East Haven, Hartford, Milford, New Britain, New Haven, Norwalk, Putnam, Torrington, Waterbury, and Windsor Locks.

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**PA 10-132**—sHB 5340

*Public Safety and Security Committee*

**AN ACT CONCERNING PRIZES FOR TEACUP RAFFLES**

**SUMMARY:** This act (1) increases, from \$100 to \$250, the value of each prize that qualified organizations conducting “teacup raffles” at bazaars may award and (2) allows the organizations to award gift certificates of the same value. Under prior law, organizations could only award merchandise as prizes.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*Teacup Raffles*

The following organizations may conduct, operate, or sponsor bazaars, and “teacup raffles” at such bazaars, in a town that has adopted the Bazaar and Raffles Act: veterans, religious, civic, fraternal, educational, and charitable organizations; volunteer fire companies; political parties; and town committees, including centennial, bicentennial, or other centennial celebration committees.

An organization conducting “teacup raffles” must do so at an authorized bazaar booth that is subject to Division of Special Revenue regulation and may conduct only one scheduled drawing for all prizes offered on the day of the bazaar.

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**PA 10-154**—HB 5159

*Public Safety and Security Committee*

*Appropriations Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING AN ASSESSMENT FOR REGULATORY OVERSIGHT OF THE CONNECTICUT LOTTERY CORPORATION**

**SUMMARY:** Annually, beginning July 1, 2010, this act requires the Office of Policy and Management (OPM) to assess the Connecticut Lottery Corporation (CLC) for the reasonable and necessary costs the Division of Special Revenue (DSR) incurs in regulating CLC. Under prior law, CLC was authorized, rather than required, to pay or reimburse OPM, DSR, and other affected agencies for certain reasonable “direct and

indirect” costs, including DSR regulatory oversight. Under prior practice, DSR billed CLC and CLC paid DSR. The act establishes an assessment procedure whereby OPM assesses CLC annually, CLC pays OPM quarterly, and OPM deposits the money in a lottery assessment account the act establishes as a separate nonlapsing General Fund account.

The act makes technical changes to (1) reflect the range of regulatory activities DSR performs, under the statutes, with regard to CLC and (2) eliminate CLC authority to reimburse “OPM and other affected agencies” for what appears to be obsolete responsibilities related to the 1996 transfer of the lottery from DSR to CLC.

EFFECTIVE DATE: Upon passage

**ASSESSMENTS**

Under prior law, CLC was authorized to pay or reimburse DSR, OPM, and other affected agencies for the “reasonable direct and indirect costs” of certain activities related to (1) CLC’s creation, operation, and management; (2) informational material on compulsive gambling programs; and (3) DSR’s regulatory oversight of CLC.

The act, instead, establishes a procedure requiring OPM, annually, to assess CLC an amount sufficient to compensate DSR for its “reasonable and necessary” costs of regulating CLC during the preceding fiscal year. Under prior practice, DSR billed CLC monthly and CLC paid DSR, after reviewing the charges. (The act eliminates CLC payment and reimbursement authority with regard to “OPM and other affected agencies,” which appears to have been related to the transfer of the lottery from DSR and the creation of CLC. In practice, DSR is the only agency CLC pays or reimburses for services.)

*Assessment Procedure*

By August 1 annually, OPM must submit to CLC the assessment amount for the preceding fiscal year, together with a proposed assessment for the succeeding fiscal year, based on the preceding fiscal year cost. OPM must determine the preceding fiscal year’s assessment, by September 15 annually, after receiving any objections to the proposed assessment and making such changes or adjustments as it determines are warranted. CLC must pay the total assessment in quarterly payments to OPM, with the first payment starting on October 1 annually, and the remaining payments to be made on January 1, April 1, and July 1.

OPM must deposit the payments in the lottery assessment account, which the act creates as a separate nonlapsing account in the General Fund for DSR expenditure.

## ASSESSMENTS AND STATUTES

The act makes technical changes to add the following statutory services to those DSR currently provides in its billable regulatory services:

1. providing criminal enforcement services through special police officers in the State Police legalized gambling investigative unit (CGS § 12-562);
  2. adopting regulations to regulate CLC (CGS § 12-568a);
  3. imposing assessments on lottery sales agents who are delinquent or otherwise breached their fiduciary responsibilities (CGS § 12-569); and
  4. enforcing the laws that make it illegal to forge lottery tickets or sell out-of-state lottery tickets in Connecticut (CGS §§ 12-570 & 12-570a).
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**PA 10-83**—sHB 5033  
*Transportation Committee*  
*Appropriations Committee*

**AN ACT PROVIDING A PARTIAL REFUND OF THE SALES TAX IMPOSED ON THE SALE OF SCHOOL BUSES EQUIPPED BY THE MANUFACTURER WITH SEAT SAFETY BELTS**

**SUMMARY:** This act requires the Department of Motor Vehicles (DMV) to administer a program to help pay for school buses equipped with lap/shoulder (3-point) seat belts. DMV must do this by raising certain fees by \$50 and using the increase to offset a portion of the sales tax paid on school buses in participating school districts. School districts may apply to take part in the program from July 1, 2011 through December 31, 2017.

The act requires the participating school districts to (1) provide written notice to the parents or legal guardians of each student who uses a school bus of the availability and proper use of the seat belts and (2) teach students the proper use of the seat belts, including how to fasten and unfasten them.

It exempts (1) participating school districts; (2) the school bus companies with which they contract; and (3) school bus operators, from liability for injuries caused solely by a student’s use, misuse, or failure to use a seat belt installed under the program.

It requires the Transportation and Education committees to hold a joint hearing in the 2018 legislative session on the program’s effectiveness and level of participation and to recommend to the legislature, by March 1, 2018, whether to continue the program.

EFFECTIVE DATE: July 1, 2010

**SEAT BELT PROGRAM**

From July 1, 2011 through December 31, 2017, school districts may apply to DMV, on a form DMV provides, to take part in the program. The application must include a proposed agreement between the district and the school bus company that transports the district’s students. The proposed agreement must (1) require that the carrier provide the school district with between one and 50 school buses, each equipped with 3-point seat belts installed at the time of manufacture and (2) include a request by the carrier for funding in the amount of half the sales tax paid on the seat-belt equipped school buses it purchases on or after July 1, 2011. The agreement is contingent on DMV’s approval and funding from a school bus seat belt account the act creates.

**SCHOOL BUS SEAT BELT ACCOUNT**

The act creates a school bus seat belt account as a separate non-lapsing account in the General Fund. Funding for the account comes from increasing, from \$125 to \$175, the fee to restore a suspended or revoked (1) driver’s license or right to operate a motor vehicle, (2) motor vehicle registration, or (3) right to operate a commercial motor vehicle.

**BACKGROUND**

*Federal Requirements*

National Highway Traffic Safety Administration (NHTSA) regulations require seat belts on school buses whose fully loaded weight is less than 10,000 pounds (small school buses) but do not require them on buses weighing 10,000 pounds or more (large school buses) (49 CFR 571.222). NHTSA leaves the decision on whether to require seat belts on large school buses to individual states.

In 2009, NHTSA required small school buses to have 3-point, rather than lap belts, and devised standards for 3-point belts voluntarily installed in large school buses. These requirements apply to buses manufactured on and after October 21, 2011.

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**PA 10-109**—sSB 427  
*Transportation Committee*  
*Planning and Development Committee*  
*Judiciary Committee*  
*Public Safety and Security Committee*

**AN ACT CONCERNING THE USE OF HAND-HELD MOBILE TELEPHONES AND MOBILE ELECTRONIC DEVICES BY MOTOR VEHICLE OPERATORS**

**SUMMARY:** This act:

1. specifies that it is illegal for a driver to type, send, or read text messages on a hand-held cell phone or mobile electronic device while operating a moving motor vehicle;
2. replaces, in most cases, the maximum \$100 fine for using a hand-held cell phone or mobile electronic device while driving with fines of \$100 for the first violation, \$150 for a second violation, and \$200 for subsequent violations, and explicitly imposes these fines on people who text while driving;
3. requires the state to remit 25% of the amount it receives from each summons to the municipality that issues the summons; and

4. eliminates the requirement that judges suspend the fine for a first-time offender who acquires a hands-free accessory before the fine is imposed.

It requires each Superior Court clerk, the chief court administrator, or any official the administrator designates, by the 30<sup>th</sup> day of January, April, July, and October, annually, to certify to the comptroller the amount due for the previous quarter to each municipality served by that clerk or official.

By law, school bus drivers and drivers under age 18 are prohibited from using either hand-held or hands-free cell phones while driving, except in emergencies. The law, unchanged by the act, imposes a maximum fine of \$100 on these drivers who violate the law.

As with the law against using hand-held cell phones while driving, the texting ban does not apply in emergency situations or to any of the following people while performing their official duties: peace officers, firefighters, ambulance and emergency vehicle drivers, or members of the military when operating a military vehicle.

EFFECTIVE DATE: October 1, 2010

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**PA 10-110—sSB 414**

*Transportation Committee*

*Finance, Revenue and Bonding Committee*

*Judiciary Committee*

*Appropriations Committee*

**AN ACT MAKING REVISIONS TO STATUTES CONCERNING THE DEPARTMENT OF MOTOR VEHICLES**

**SUMMARY:** This act:

1. imposes penalties on school bus operators and others who, among other things, (a) file false reports relating to the maintenance, repair, or use of school buses or (b) fail to inspect, maintain, and repair the buses (§§ 44 and 47);
2. requires, rather than allows, the installation of ignition interlock devices on vehicles driven by certain people convicted of driving under the influence (DUI), and imposes a \$100 ignition interlock fee (§§ 6, 45, and 46);
3. requires the Department of Motor Vehicles (DMV) commissioner to conduct state and federal criminal history record checks of DMV employees who make or produce driver's licenses or identity cards or who are able to affect the identity information that appears on them, and to remove from such a position a person with a disqualifying criminal offense or condition (§ 26);

4. requires driver's license and non-driver's identity card holders to appear in person only at every other renewal if the DMV has their digital image on file (§ 21);
5. requires the DMV commissioner to conduct formal state and national criminal history record checks on, and check the state child abuse and neglect registry for, applicants seeking or renewing a license to conduct a driving school or become a driving instructor and makes other changes in laws affecting driving schools and driving instructors (§§ 38 - 41);
6. makes it a crime for certain health professionals to falsely certify in writing that a driver requires a handicapped placard (§ 24);
7. prohibits municipal assessors and tax collectors from disclosing information they receive from DMV that the department is not required to disclose or is otherwise protected by state or federal law (§ 22);
8. allows, rather than requires, the commissioner to issue registration stickers (§ 23);
9. allows automobile clubs and associations to process identity card renewals for non-drivers and conduct registration transactions (§ 21);
10. requires that all people and firms that operate wreckers be licensed, regardless of whether they tow motor vehicles for compensation, and that each wrecker be registered (§ 61); and
11. exempts certain nonprofit organizations from requirements applicable to "carriers" (§ 36).

The act also makes a number of changes to laws affecting commercial driver's license (CDL) holders, activity vehicles, motor vehicles in livery service, the driver's retraining program, motor vehicle dealers and repairers, motor vehicle recyclers, state marshals, seat belt requirements, fingerprinting, and tow truck operators. It also makes technical changes (§§ 8, 50-59).  
EFFECTIVE DATE: Various, see below; technical changes are effective on passage.

**§ 1 — ELIMINATES A LAW BARRING DMV FROM CHARGING A DRIVER'S LICENSE FEE FOR CERTAIN VEHICLES**

The act eliminates an obsolete reference to a law barring DMV from charging an operator's license fee with respect to any municipal, governmental, or military motor vehicle used exclusively to conduct official business.

EFFECTIVE DATE: July 1, 2010

### §§ 2-3 — PENALTIES FOR VIOLATING OUT-OF-SERVICE ORDERS

By law, a CDL holder who is disqualified or subject to an out-of-service order cannot drive a commercial motor vehicle (see BACKGROUND), and an employer cannot knowingly permit or require a driver to do so.

The current penalty for employers who knowingly permit or require a driver to operate a commercial motor vehicle in violation of an out-of-service order is a fine of between \$2,750 and \$11,000, the same as the federal penalty. Drivers who violate an out-of-service order are subject to a fine of between \$1,100 and \$2,750, the same as now exists under federal law. The act conforms these penalties to the federal regulations as amended (49 CFR § 383. 53), so that the state penalties will change as the federal penalty does.

By law, CDL holders who violate certain laws are disqualified from driving commercial motor vehicles for specific periods of time.

The act applies the various disqualification periods applicable in some, but not all, of these cases to drivers convicted of offenses in other states that the commissioner deems substantially similar to offenses that would call for their disqualification in Connecticut. For example, it applies 60-day disqualifications to violations committed in other states that would result in 60-day disqualifications in Connecticut, such as committing two or more serious traffic violations.

EFFECTIVE DATE: July 1, 2010

### § 4 — “TOW DOLLY” EXEMPT FROM REGISTRATION

The act exempts a “tow dolly” from motor vehicle registration requirements. It defines a tow dolly as a two-wheeled vehicle without motive power (1) that is towed by a motor vehicle and designed and used to tow another motor vehicle and (2) on which the front or rear wheels of the towed motor vehicle are mounted while the towed vehicle’s remaining wheels stay in contact with the ground.

EFFECTIVE DATE: Upon passage

### § 5 — REGISTRATION RENEWAL APPLICATIONS FOR LEASED VEHICLES

The act allows DMV to mail registration renewal applications to lessees of leased vehicles registered to licensed leasing companies.

EFFECTIVE DATE: July 1, 2010

### § 6 — IGNITION INTERLOCK FEES

By law, the commissioner may permit or require certain individuals whose licenses have been suspended after being convicted of driving under the influence to operate a motor vehicle on which an ignition interlock has been installed. This device prevents a driver from operating a vehicle if it detects a predetermined level of alcohol on the driver’s breath. The act requires these individuals to pay a \$100 fee before the device is installed, and requires the commissioner to deposit these fees in a separate, nonlapsing account in the General Fund, which the act creates. The commissioner must use this money to administer the ignition interlock program.

EFFECTIVE DATE: July 1, 2010

### § 7 — EXPANSION OF SEAT BELT REQUIREMENT

The act requires drivers and front seat passengers to wear seat belts in any motor vehicle when it is being operated, rather than just those drivers and front seat passengers in vehicles with a gross vehicle weight rating of 10,000 pounds or less.

EFFECTIVE DATE: October 1, 2010

### § 9 — ELIMINATING A REQUIREMENT THAT DMV RECEIVE A COPY OF A CERTIFICATE OF TITLE IN CERTAIN CIRCUMSTANCES

The law imposes certain requirements on insurance companies taking possession of a motor vehicle with a Connecticut title that has been declared a total loss, and which the company offers for sale in Connecticut. The requirements include attaching to the certificate of title a copy of the appraiser’s damage report. The law requires that insurance companies send a copy of this certificate to DMV. The act allows the commissioner to discontinue the requirement that the companies send DMV this copy if he finds that salvage information federal law requires the insurance company to report to the National Motor Vehicle Title Information System (49 CFR §§ 30501 to 30505 and 28 CFR §§ 25. 51 to 25. 57) is regularly available to DMV.

The act gives the commissioner the same authority under the same conditions in the case of a self-insurer offering for sale in Connecticut a motor vehicle with Connecticut title that has been declared a total loss.

EFFECTIVE DATE: October 1, 2010

### § 10 — MOTOR VEHICLE RECYCLER REQUIREMENTS

Recyclers store unregistered motor vehicles no longer intended for use, and used and discarded motor vehicle parts. The law requires licensed motor vehicle recyclers to mail to DMV, twice monthly, a list of all motor vehicles received. The act requires recyclers to also report this information to the National Motor Vehicle Title Information System (49 USC § 30504). It exempts DMV from reporting this information to the system.

The law also requires that a licensed recycler receive a vehicle's certificate of title, or a copy of it, when receiving a motor vehicle. These certificates or copies must accompany the list of motor vehicles that recyclers send to DMV. Under the act, if the commissioner determines that information concerning junked motor vehicles the licensee must report to the National Motor Vehicle Title Information System is regularly available to DMV from the national system, he may discontinue the requirement that licensed recyclers submit to DMV (1) the list of vehicles or parts received and (2) certificates of title or copies of these certificates.

EFFECTIVE DATE: Upon passage

### § 11 — MEDICAL REPORTING REQUIREMENTS

By law, physicians may report to DMV, in writing, the name, age, and address of any patient with (1) a chronic health problem the physician believes will adversely affect his or her ability to safely operate a motor vehicle or (2) recurring periods of unconsciousness uncontrolled by medical treatment. The act adds licensed physician assistants and advanced practice registered nurses to those health professionals who may do so. The law similarly authorizes optometrists to report to DMV the name, age, and address of anyone the optometrist believes has a vision problem that would significantly affect his or her ability to safely operate a motor vehicle. The act prohibits anyone from suing these physicians, physician assistants, advanced practice registered nurses, or optometrists if they make a report to DMV in good faith.

EFFECTIVE DATE: July 1, 2010

### § 12 — DEALER SURETY BOND INCREASE

The act increases, from \$20,000 to \$50,000, the amount of a surety bond required of applicants for a new or used car dealer's license.

EFFECTIVE DATE: October 1, 2010

### § 13 — SUSPENSION OR REVOCATION OF DEALER OR REPAIRER LICENSES

By law, the DMV commissioner, after notice and a hearing, may, for certain specified violations, (1) suspend or revoke the license of a motor vehicle dealer or repairer, (2) impose a civil penalty of up to \$1,000 per violation, and (3) order the dealer or repairer to make restitution to an aggrieved customer. The act allows him to also impose these sanctions if the license holder (1) has been convicted either in federal or any state court of a violation (a) of any law pertaining to the motor vehicle dealer, repairer, or recycler business or (b) involving fraud, larceny, or deprivation or misappropriation of property; or (2) has failed to disclose such a conviction. The commissioner may similarly impose these penalties on a licensed firm or corporation if an officer or major stockholder has been convicted of these violations.

EFFECTIVE DATE: July 1, 2010

### § 14 — APPLYING FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION REGULATIONS TO CERTAIN MOTOR VEHICLES

By law, the commissioner may adopt regulations incorporating Federal Motor Carrier Safety Administration standards and apply them to certain motor vehicles or motor carriers. The act authorizes the commissioner to apply these federal regulations to motor vehicles designed or used to carry more than (1) eight passengers, including the driver, for compensation or (2) 15 passengers, including the driver, but not for compensation. These definitions conform to federal regulations for commercial motor vehicles (49 CFR § 390.5).

The act excludes student transportation vehicles from the first category. By law, a student transportation vehicle is a vehicle other than a registered school bus that a carrier uses to transport students. The state already regulates these vehicles.

Under prior law, the commissioner could apply the federal standards to vehicles designed to transport more than 15 passengers, including the driver, regardless of whether they were transported for compensation. Prior law also allowed the commissioner to apply the federal standards to "service buses," which are vehicles, other than vanpool vehicles or school buses, designed and regularly used to carry at least 10 passengers in private service without charge to the individual (CGS § 14-1(81)).

The act's effect is to (1) extend the federal standards to vehicles (except for student transportation vehicles) that carry between eight and 15 passengers for compensation and (2) remove from these federal standards those vehicles carrying between 10 and 15 passengers for no compensation.

EFFECTIVE DATE: July 1, 2010

#### § 15 — LICENSE SUSPENSION FOR PERSONS UNDER 18 YEARS OLD

Under prior law, the commissioner could not issue a driver's license for at least one year to anyone under age 18 who was convicted of operating without a license and did not have a license at the time of the conviction.

The act instead bases the commissioner's action on whether the offender had a license at the time of the offense. It allows the commissioner to suspend or refuse to issue a driver's license for one year to a person under age 18 convicted of driving without a license if the commissioner determines the offender did not have a license at the time the offense occurred.

EFFECTIVE DATE: Upon passage

#### § 16 — EMISSIONS RE-INSPECTION LATE FEE

The law imposes a \$20 late fee if a motor vehicle's emission inspection is performed more than 30 days after the initial assigned inspection date. Anyone whose motor vehicle fails its emission test may return within 60 days for a free re-inspection. The act allows the commissioner to also charge the \$20 late fee for an emissions inspection (apparently an emissions re-inspection) performed more than 30 days after the expiration date of the assigned re-inspection. As with inspections, the commissioner may waive the late fee for the re-inspection if (1) he finds the delay was due to exigent circumstances or (2) ownership of the vehicle was transferred after the re-inspection, if the new owner has the vehicle inspected within 30 days of registering it.

EFFECTIVE DATE: Upon passage

#### § 17 — SERVING PROCESS ON DMV

The act requires that any process to compel the DMV commissioner to provide a copy of any document from a motor vehicle record, as defined by law, (1) must be in writing and (2) cannot be issued until at least seven working days have elapsed since the commissioner received the request for the document. Under prior law, these conditions only applied to process to compel the commissioner to provide a copy of an abstract of a driver's history record.

EFFECTIVE DATE: July 1, 2010

#### § 18 — IMPOSING ENHANCED SPEEDING FINES ON COMMERCIAL VEHICLES

The law imposes certain fines on people convicted of speeding depending on the speed, where it occurred, and the type of vehicle. There is a fine of between \$150 and \$200 on anyone operating a truck on (1) a multiple lane, limited access highway at speeds between 70 and 85 mph and (2) any other highway at speeds between 60 and 85 mph.

The act generally expands the types of vehicles subject to the fine. It imposes the fine on anyone operating a motor vehicle (1) in intrastate commerce with a gross vehicle weight rating or gross combination weight rating of 18,001 or more pounds; (2) in interstate commerce with a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; (3) designed or used to transport more than eight passengers, including the driver, for compensation, except a student transportation vehicle; (4) designed or used to transport more than 15 passengers, including the driver, but not for compensation; or (5) used to transport hazardous materials in a quantity requiring placarding under the federal Hazardous Materials Transportation Act (49 USC App. §§ 1801 *et seq.* ), unless exempted by law. On the other hand, it apparently excludes trucks in intrastate commerce weighing 18,000 pounds or less and in interstate commerce weighing 10,000 pounds or less.

EFFECTIVE DATE: October 1, 2010

#### § 19 — DEALER'S RETURN OF NUMBER PLATES

The act requires licensed motor vehicle dealers whose dealer licenses are no longer valid or who are no longer in business to return to the commissioner, within five business days of the license expiration or termination of the business, any (1) number plates or other materials the commissioner supplied to enable the dealer to issue new registrations or complete the temporary transfer of registrations and (2) applications for new registrations or registration transfers that the dealer did not act on or complete while conducting its business. Failure to do so is an infraction.

EFFECTIVE DATE: July 1, 2010

#### § 20 — LIMITING DEALERS' REGISTRATIONS

By law, the commissioner may withdraw a registration he issued a car dealer or repairer, or limit the number of registrations that a dealer or repairer may receive, in cases where the licensee has violated certain motor vehicle laws. The act also allows him to withdraw a registration or limit the number of them a dealer or repairer may receive if the commissioner finds that the dealer or repairer does not need so many of them.

EFFECTIVE DATE: Upon passage

#### § 21 — PERSONAL APPEARANCE NOT NEEDED FOR CERTAIN DRIVER'S LICENSE RENEWALS

The act authorizes the commissioner to renew a driver's license or non-driver's identity card at every other renewal without the licensee or card holder's personal appearance in cases where DMV has a digital image of the licensee or card holder on file and the licensee or card holder has fulfilled all other renewal requirements.

By law, automobile clubs and associations may perform license renewals at their office locations for which they may charge a convenience fee of up to \$2. The act allows them to also renew identity cards for non-drivers and conduct registration transactions, and to charge up to \$2 for each transaction.

EFFECTIVE DATE: July 1, 2010

#### § 22 — TAX COLLECTORS AND ASSESSORS BARRED FROM DISCLOSING CERTAIN INFORMATION

By law, the commissioner must annually provide information to each municipal tax assessor for motor vehicles and snowmobiles subject to property taxes in the assessor's town. The information must include the names and addresses of the owners and the identification number of each vehicle. The act prohibits assessors and tax collectors from disclosing any information that the commissioner provides if (1) the commissioner is not required to disclose the information or (2) it is protected from disclosure under state or federal law.

EFFECTIVE DATE: Upon passage

#### § 23 — REGISTRATION STICKERS

Prior law required motorists to display on their rear number plates or elsewhere on their vehicles a sticker noting the date their vehicle registration expires. The act leaves issuance of these stickers and their placement on the vehicle to the commissioner's discretion. It requires motorists to place such a sticker, if issued, where the commissioner directs.

EFFECTIVE DATE: Upon passage

#### § 24 — HANDICAPPED PLACARDS

By law, persons with disabilities seeking or renewing a handicapped placard must present certain certifications to the commissioner verifying they are eligible for one. People with disabilities must present certifications of disability from (1) a licensed physician, (2) a physician assistant, or (3) an advanced practice registered nurse. They also must include certification that they meet the definition of a person with a disability that limits or impairs their ability to walk from (1) a

licensed physician, (2) an advanced practice registered nurse, or (3) a member of the handicapped driver training unit. The act adds a physician assistant to those who can issue the latter certification. By law, people who are blind and eligible for handicapped placards require certification of legal blindness from an ophthalmologist, optometrist, or the Board of Education and Services for the Blind.

The act requires that people who issue these certifications sign the application or renewal application under the penalty of second-degree false statement (CGS § 53a-157b). A person is guilty of this crime if he or she intentionally makes a false written statement under oath or on a form bearing notice to the effect that a false statement is punishable, which he or she does not believe to be true and is intended to mislead a public servant in his official function. Second degree false statement is a class A misdemeanor (see Table On Penalties).

EFFECTIVE DATE: Upon passage

#### §25 — MOTOR CARRIER INDEMNITY AGREEMENTS

The act makes void and unenforceable any provision, clause, covenant, or agreement in a "motor carrier transportation contract" that indemnifies, defends, or holds harmless an "indemnitee" from or against liability for loss or damage his or her negligence or intentional acts or omissions caused. It specifies that it does not apply to contracts or agreements for moving household goods. (Though the act does not define "indemnitee," it presumably means a shipper or other person who is not the motor carrier.)

It defines "motor carrier transportation contract" as a contract, agreement, or understanding entered into, renewed, modified, or extended on or after July 1, 2010 about (1) transporting property for compensation or hire; (2) entering public or private property to load, unload, or transport property for compensation or hire; or (3) a service incidental to either (1) or (2). The act excludes from the definition the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America and any other agreements providing for the interchange, use, or possession of intermodal chassis or containers or other intermodal equipment.

EFFECTIVE DATE: July 1, 2010

#### § 26 — CRIMINAL BACKGROUND CHECK FOR DMV EMPLOYEES

The law requires DMV to subject new employees to state and national criminal history records checks. The act specifically requires DMV to run formal background checks on all employees who make or

produce driver's licenses or identity cards or who have the ability to affect the identity information that appears on them. The check must include name- and fingerprint-based criminal history records checks of federal and state records to determine if the employee has a disqualifying criminal offense under federal law or a disqualifying condition.

DMV must evaluate the criminal history record of any such employee according to the criteria set forth in federal law. If DMV determines the employee has been convicted of a disqualifying crime, the employee cannot remain employed in such a position. If the employee is found subject to a disqualifying condition, the employee cannot be employed in that position until the disqualifying condition no longer applies. DMV must reassign any such employee to a different position in the department.

Under federal regulations (6 CFR § 37.45(b)(1) and 49 CFR § 1572.103), permanent disqualifying crimes include murder, terrorism, and certain other crimes. Interim disqualifying crimes include assault with intent to murder, kidnapping, hostage taking, and rape. An interim crime is disqualifying if the employee (1) was convicted of the crime or admits having committed acts that constitute the crime's essential elements in the seven years preceding the date of employment in the covered position or (2) was released from prison within five years before the start of employment in the covered position.

Under federal regulations (6 CFR § 37.45 (b) (1) (iii) and (iv)), an employee who is wanted or under indictment for a permanent or interim disqualifying crime is disqualified from employment until he or she is no longer wanted or the warrant is released. When a fingerprint-based check finds an arrest for a disqualifying crime without noting a disposition, the state must determine the disposition.

EFFECTIVE DATE: October 1, 2010

#### § 27 — LICENSE SUSPENSION DEADLINE

By law, the DMV commissioner must suspend the driver's license of a person arrested for driving under the influence who refuses to take a breath test or whose test results indicate an elevated blood alcohol level (administrative per se). A driver whose license has been suspended is entitled to a hearing. Prior law required the commissioner to suspend the driver's license or nonresident operating privilege of a person (1) who failed to contact DMV to schedule a hearing, (2) failed to appear at the hearing, or (3) against whom the commissioner rendered a decision, by either (a) the effective date of the suspension notice or (b) the date the commissioner rendered a decision against the driver,

whichever is later. The act requires him to suspend the license or operating privilege by the suspension notice's effective date.

EFFECTIVE DATE: Upon passage

#### § 28 — DISCLOSURE EXEMPTION FOR LAKE PATROLMEN

The act adds lake patrolmen enforcing boating laws to those people, such as judges and law enforcement officers, who may ask the DMV commissioner, in writing, to disclose or make publicly available their business address rather than home address.

EFFECTIVE DATE: October 1, 2010

#### § 29 — STATE MARSHALS ENTITLED TO INFORMATION FROM DMV RECORDS

The act adds state marshals to those people to whom the commissioner may lawfully disclose personal information from motor vehicle records. A marshal may only use the information in executing or serving process according to law. The marshal may request the information by fax or other means the commissioner requires. The commissioner must provide the information by fax or other means in a reasonable time.

By law, anyone seeking this information must sign and file with DMV, under penalty of false statement, a statement that the information will only be used for the purpose allowed.

The law already allows the commissioner to disclose personal information from a motor vehicle record to individuals or organizations that require the information in connection with any civil, criminal, administrative, or arbitral proceeding, including the service of process.

EFFECTIVE DATE: October 1, 2010

#### § 30 — PROCESS SERVER'S FEE INCREASE

By law, drivers and motor vehicle owners are deemed to have authorized the commissioner to receive process in a civil action resulting from the operator's or owner's negligence or alleged negligence in the operation of a motor vehicle. The act increases, from \$20 to \$50, the fee the serving officer must leave with the commissioner.

EFFECTIVE DATE: October 1, 2010

#### § 31 — DRIVER'S RETRAINING PROGRAM

The law allows the commissioner to require that violators of certain motor vehicle laws attend a motor vehicle operator's retraining program. The program is offered by DMV or by any organization that conducts a program the commissioner certifies. Participants must pay a fee of up to \$60. Under prior law, the

commissioner could retain up to \$10 from this fee to implement the program. The act allows any licensed driving school to seek certification to offer the program. It specifies the certification procedure, sets a \$350 application fee, and eliminates the commissioner's ability to retain \$10 of the participants' fee.

Under the act, certification is valid for two years and is not transferable. Re-certification is at the commissioner's discretion and in the form and manner he determines.

The act (1) requires the commissioner's designee or an instructor he approves to teach the program, and (2) allows the commissioner to determine the number of providers needed to serve the public. Driving schools seeking to offer the program must submit the \$350 application fee to DMV and request certification on a DMV-prescribed form.

Each applicant for certification or re-certification must (1) be registered to do business in the state; (2) be continuously in good standing with the secretary of the state; (3) have a permanent place of business in the state where it must keep program records accessible to the commissioner during normal business hours; (4) submit for the commissioner's approval a detailed curriculum, lesson plan, and any program changes; and (5) electronically transmit enrollment and class completion information to the commissioner when and how he prescribes. An applicant also must file and continuously maintain a \$50,000 surety bond.

The bond must be (1) conditioned on the applicant complying with federal and state law and regulations relating to the conduct of the retraining program and (2) provided to indemnify any loss or expense the state or any person sustains because of the provider's acts or failure to act. The bond must be executed in the name of the state of Connecticut for the benefit of an aggrieved party, but it cannot be forfeited except on the commissioner's order following a hearing conducted according to the Uniform Administrative Procedure Act.

Before certifying an applicant, the commissioner must investigate his or her character; criminal and driving history; and, if the applicant is a business entity, that of its principals and officers. The applicant must submit to DMV any information pertaining to past or current criminal or civil actions.

EFFECTIVE DATE: January 1, 2011

#### § 32 — ESTABLISHMENT OF NEW DEALER FRANCHISES IN A MARKET AREA

Certain notice and hearing requirements apply to manufacturers or distributors seeking to enter into a franchise establishing a new motor vehicle dealer or relocating an existing dealer into a relevant market area where the same motor vehicle line make is represented. These requirements do not apply in certain cases. The

act additionally exempts the sale of new or used motor vehicles by a licensed new motor vehicle dealer at a public display of motor vehicles sponsored by an association of licensed new motor vehicle dealers representing more than 75% of these dealers in the state. These displays must be permitted annually for up to four consecutive days.

EFFECTIVE DATE: October 1, 2010

#### § 33 — MOTOR VEHICLES IN LIVERY SERVICE

The act exempts from laws applying to motor vehicles in livery service a motor vehicle operated by or through a community-based regional transportation system for the visually impaired. Motor vehicles in livery service, with some exceptions, are vehicles used by a person, association, limited liability company, or corporation in the business of transporting passengers for hire.

EFFECTIVE DATE: July 1, 2010

#### §§ 34 – 37 — ACTIVITY VEHICLES AND THE DEFINITION OF “CARRIER” AND “STUDENT TRANSPORTATION VEHICLE”

By law, motor vehicle carriers generally include school districts, school bus companies, and others that transport people under age 21. Carriers are subject to certain laws and regulations. The act expands the class of carriers to include people, firms, and corporations providing transportation primarily, rather than exclusively, for people under age 21 for compensation. But it exempts from carrier laws and regulations corporations, institutions, and nonprofit organizations whose main purpose is not transporting primarily people younger than age 18.

The act specifies that a “student transportation vehicle” is any motor vehicle, except a registered school bus, that transports students to or from (1) school, (2) school programs, or (3) school-sponsored events. It eliminates the subcategory of, and corresponding operator's license endorsement for, “activity vehicles.” Under prior law, these were a type of student transportation vehicle that brought students to school-sponsored events and activities, but did not bring them to or from school.

EFFECTIVE DATE: July 1, 2011

#### §§ 38 - 41 — LICENSING OF DRIVERS' SCHOOLS AND DRIVING INSTRUCTORS

The act requires the DMV commissioner to conduct state and national criminal history record checks on, and check the state child abuse and neglect registry for, applicants seeking or renewing a license to conduct a driving school. It requires DMV to conduct the same formal criminal history record and registry checks on



anyone seeking to become a driving instructor or to renew an instructor's license.

The act also authorizes the commissioner to (1) create a master instructor license, (2) charge certain applicants late fees in certain instances, and (3) revoke instructors' licenses in certain situations. It changes the duration of driving school and instructor licenses, and bars the commissioner from issuing classroom-only instructor licenses after September 30, 2010.

#### *Driving School License*

The act requires the commissioner to determine whether to issue a driving school license to, or renew one for, an applicant with a criminal record or who is listed on the child abuse registry according to standards and procedures set out in law and regulation.

It makes a license to conduct a driving school valid for one year, instead of the calendar year in which it is issued.

The act maintains the \$350 license renewal fee and an \$88 fee for each additional place of business. It authorizes the commissioner to charge an additional \$350 late fee if he has not received a complete renewal application before the applicant's license expires. It eliminates a requirement that an applicant renewing a license provide a security deposit.

#### *Instructor's License*

Under prior law, driving instructors had to provide the commissioner with evidence they were of good moral character considering their criminal record and listing, if any, on the state child abuse and neglect registry. The act instead subjects them to a formal state and national criminal history record check. If an applicant seeking or renewing a driving instructor's license has a criminal record or is listed on the child abuse registry, the commissioner must decide whether to grant the license according to standards and procedures set out in law and regulation.

The act requires each applicant to be fingerprinted when he or she applies for an instructor's license. Under prior law, the applicant was fingerprinted after successfully completing an examination and meeting all other licensure requirements.

By law, the applicant must show the commissioner that he or she has (1) held a driver's license for the past four years and (2) not been convicted of a drug or alcohol-related offense in that time. Under the act, the applicant must also show that he or she has not had an administrative license suspension for a drug or alcohol-related offense during those four years. An administrative license suspension occurs when a driver

refuses to submit to drug or alcohol testing or when his or her test results indicate an elevated blood alcohol level.

The act requires a licensed instructor to notify the commissioner within 48 hours of an (1) arrest for, or conviction of, a misdemeanor or felony or (2) arrest, conviction, or administrative license suspension for a drug- or alcohol-related offense.

It reduces, from three months to one month, the length of time an applicant for an instructor's license must wait before retaking a test he or she failed.

It makes the license valid for one year, rather than for the calendar year in which it was issued.

#### *License Revocation*

By law, the commissioner may suspend or refuse to renew an instructor's license for several reasons, including the failure to comply with (1) laws on driving schools or (2) regulations establishing instructional standards of procedure. The act allows the commissioner to also revoke an instructor's license for these reasons, and expands the grounds on which he may suspend, revoke, or refuse to renew a license to include failing to comply with driving school regulations the commissioner adopts.

#### *Master Instructor's License*

The act authorizes the commissioner to adopt regulations creating standards and procedures to teach and license master instructors to train driving instructors. Master instructors are subject to the same application procedures as driving instructors.

It sets a \$100 fee for a master instructor's license and renewal, and requires an additional \$100 late fee if the commissioner does not receive a complete renewal application and fee before the license expires.

#### *Classroom-Only Instructors*

Under prior law, the commissioner had to adopt regulations requiring him to issue licenses allowing certain driving instructors to teach only in a classroom, and not on the road. The act bars the commissioner from issuing these classroom-only licenses on or after October 1, 2010, but permits classroom-only instructors who receive such licenses before that date to keep and renew them.

EFFECTIVE DATE: Upon passage for the termination of the classroom-instructor license and provisions on instructor license revocation; July 1, 2010 for changes to the application procedures for applicants seeking to conduct driving schools; and October 1, 2010 for

changes in the application procedure and license conditions for driving instructor applicants and authorization of a program to train and license master instructors.

#### § 42 — MOTOR CARRIER ADVISORY COUNCIL

By law, the Motor Carrier Advisory Council serves as a forum for motor carrier industry representatives to meet with representatives of state agencies that regulate the commercial transportation industry. Among other things the council, composed of representatives of the departments of transportation, motor vehicles, public safety, and other state agencies, must meet before the start of each regular legislative session about bills affecting the industry. The act instead requires this meeting to take place after the start of each session.

EFFECTIVE DATE: Upon passage

#### § 43 — MOTOR VEHICLE RECYCLER FEES

By law, a motor vehicle recycler applies to DMV for a “general distinguishing number and mark” which, once issued, constitutes registration for all vehicles it owns. The act specifies that a recycler pay at an annual rate of \$70 for each motor vehicle it registers under its general distinguishing number and mark. Prior law required recyclers to pay \$70 for each number plate provided. Recycler licenses are valid for two years.

EFFECTIVE DATE: Upon passage

#### §§ 44 & 47 — SCHOOL BUS INSPECTION AND MAINTENANCE

The act imposes a civil penalty of up to \$2,500 on carriers (see below), or people acting on behalf of a carrier, that file with the DMV commissioner, under penalty of false statement, a report or other document containing one or more false statements relating to the maintenance, repair, or use of a school bus or motor vehicle used to transport students. Each false statement is subject to a separate penalty.

It also imposes a maximum \$2,500 fine per violation on carriers that:

1. fail to inspect, maintain, or repair, on a schedule set by the commissioner, a school bus or vehicle used to transport students;
2. fail to make, keep, or provide for DMV inspection a record it is required to make, keep, or provide;
3. refuse to allow DMV to inspect a school bus or vehicle used to transport students;
4. remove an out-of-service sticker from a school bus or vehicle used to transport students before repairs to the vehicle have been satisfactorily completed;

5. fail to inspect or repair a vehicle defect a driver has reported on his or her vehicle inspection report; or
6. fail to require a driver to prepare and submit a driver’s vehicle inspection report for each school bus or motor vehicle used to transport students that the driver operates.

Because the law defining carriers changes on July 1, 2011 (see §§ 34-37), from July 1, 2010 through June 30, 2011 the above penalties apply to:

1. school districts, educational institutions providing elementary or secondary education, and people, firms and corporations that contract with them to transport school children;
2. anyone transporting only people younger than age 21 for compensation; and
3. corporations, institutions, and nonprofit organizations that provide transportation as an ancillary service to people younger than 18.

Starting July 1, 2011, the penalties apply to:

1. school districts, educational institutions providing elementary or secondary education, and people, firms, and corporations that contract with them to transport students; and
2. anyone transporting primarily people under age 21 for compensation.

The act also requires the commissioner to adopt regulations governing the inspection, registration, operation, and maintenance of motor vehicles carriers use to transport any student, rather just special education students. State regulations already cover these vehicles (Conn. Agency Regs. §§ 14-275c-36 et seq.)

EFFECTIVE DATE: July 1, 2010

#### §§ 45 & 46 — IGNITION INTERLOCKS

Under prior law, a person convicted of driving under the influence (DUI) for a second time in 10 years was subject to a license suspension of three years or until the offender’s 21<sup>st</sup> birthday, whichever was longer. However, in cases where the second conviction was based solely on alcohol use, and if the offender qualified, he or she could have an ignition interlock installed on his or her vehicle. In such cases the offender’s license was suspended for one year, followed by two years where the offender could only operate a vehicle on which such a device had been installed.

The act conforms the law to practice by requiring, rather than allowing, installation of an interlock device for second offenders. For offenders age 21 and over, it imposes a mandatory one-year suspension and installation of the interlock for the two following years. It applies these penalties to all drivers older than 21 convicted of a second DUI violation in 10 years, rather than only those convicted based solely on alcohol use.

For offenders under age 21 it imposes a suspension of three years or until the offender's 21<sup>st</sup> birthday, whichever is longer, and bars operation of a motor vehicle without an interlock device for the two years following completion of the suspension.

EFFECTIVE DATE: October 1, 2010

#### § 48 — FORWARDING DMV NOTIFICATIONS

The act allows the DMV commissioner (1) in cases where an individual has not notified DMV of an address change as required by law and (2) on receiving notification from the U.S. Postal Service that an individual with a driver's license, identity card, or registration for a motor vehicle, snowmobile, or vessel has changed his or her address, to send any mail related to the license, card, or registration to the address on file with the postal service. It allows the commissioner to change that person's motor vehicle records accordingly.

EFFECTIVE DATE: July 1, 2010

#### § 49 — FINGERPRINTING

This act requires employees of the Division of State Police in the Department of Public Safety (DPS) and local police departments to collect fingerprints for criminal history record checks or other noncriminal purposes (e.g., employment) if (1) this is part of their duties and (2) the person making the request lives or works in the town where the department or division is located. It allows municipalities to limit the hours and charge a reasonable fee for collecting fingerprints. If a municipality submits fingerprints electronically to DPS, it must charge the person providing the fingerprints all applicable state or federal fees and forward these fees to DPS each month.

EFFECTIVE DATE: July 1, 2010

#### §§ 60 & 61 — WRECKERS

By law, a person, firm, or corporation who operates a wrecker to tow or transport, for compensation, disabled, inoperative, or wrecked vehicles or vehicles being removed according to law must be licensed as a motor vehicle dealer or repairer. The act requires all people, firms, and corporations who operate wreckers to be licensed regardless of whether they receive compensation (see BACKGROUND). It requires that wreckers that tow any vehicle be registered. By law, the registration fee for each wrecker is \$125, renewed biennially.

The act changes where wreckers must place certain equipment. It requires a spotlight beam to be mounted so that it can be directed toward the hoisting equipment in the rear of the wrecker, rather than so it can be shown in all directions. It requires two flashing yellow lights to be installed on the wrecker as close to the back of the

cab as practicable, rather than simply "near" the back of the cab. These lights must be displayed when the wrecker is towing any vehicle, not just a disabled vehicle.

The act expands the types of entities exempted from these requirements. Prior law did not apply to motor vehicle dealers towing or transporting motor vehicles for salvage, as long as they did not offer direct towing or wrecker service to the public. The act exempts from its requirements these dealers as well as (1) automobile clubs and associations, (2) motor vehicle recyclers, (3) people, firms, and corporations that repossess motor vehicles for lending institutions, and (4) people, firms, and corporations towing motor vehicles they own or lease. All these entities are also exempt from other requirements, such as the requirement that wreckers carry fire extinguishers and flares.

Under prior law, only a police officer could direct a wrecker to remove a mini-motorcycle, dirt bike, snowmobile, or other motorized personal property abandoned on private property. The act also allows the owner of the property on which the item has been abandoned to direct a wrecker to remove it. As under existing law, the wrecker (1) must notify the owner of the abandoned property, within 48 hours, (a) that he has taken and stored the property, and (b) of its location; and (2) may sell or dispose of the property if its owner does not claim it within 30 days.

EFFECTIVE DATE: October 1, 2010

#### § 62 — REPEAL OF LAW BARRING MINORS FROM POSSESSING ALCOHOL IN A MOTOR VEHICLE

The act repeals a law making it illegal for minors to possess alcohol in a motor vehicle. Under the law, the minor could be summoned for a hearing at DMV, and his or her driver's license revoked for up to 60 days. Another law also prohibits minors from possessing alcoholic liquor on a public street or highway. Under this law (CGS § 30-89 (b)), a first offense is an infraction, and subsequent offenses subject the minor to fines of between \$200 and \$500.

EFFECTIVE DATE: July 1, 2010

#### BACKGROUND

##### *Commercial Motor Vehicles*

By law, a "commercial motor vehicle" includes vehicles designed and used to transport people or property, except for farming vehicles, fire apparatus or emergency vehicles, and recreational vehicles in private use, that:

1. have a gross vehicle weight rating of 26,001 or more pounds or a gross combination weight rating of 26,001 or more pounds, inclusive of

- one or more towed units with gross weight ratings over 10,000 pounds;
2. are designed to transport 16 or more passengers, including the driver, or more than 10 passengers, including the driver, when the passengers are students under age 21 being transported to and from school; or
  3. are transporting hazardous material in quantities that require placards under federal law or that are listed as a select agent or toxin under federal regulations (CGS § 14-1 (15)).

#### *Out of Service Order*

An out-of-service order is an order (1) issued by a police officer, state policeman, or motor vehicle inspector under the authority of CGS section 14-8, or by an authorized official of the United States Federal Motor Carrier Safety Administration pursuant to any provision of federal law, to prohibit a commercial motor vehicle from being operated on any highway, or to prohibit a driver from operating a commercial motor vehicle, or (2) issued by the Federal Motor Carrier Safety Administration, pursuant to any provision of federal law, to prohibit any motor carrier, as defined in Section 386.2 of Title 49 of the Code of Federal Regulations, from engaging in commercial motor vehicle operations (CGS § 14-1(63)).

#### *Wreckers*

By law, a wrecker is a vehicle registered, designed, equipped, and used for towing or transporting wrecked or disabled motor vehicles for compensation or for related purposes by a person, firm, or corporation licensed according to law, or a vehicle contracted for the consensual towing or transporting of one or more motor vehicles to or from a place of sale, purchase, salvage, or repair (CGS § 14-1 (102)).

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#### **PA 10-120—sSB 412**

*Transportation Committee*

*Environment Committee*

*Planning and Development Committee*

#### **AN ACT CONCERNING THE ENVIRONMENTAL IMPACT EVALUATION PREPARED FOR A STATE-OWNED AIRPORT DEVELOPMENT PROJECT, AND THE REQUIREMENTS FOR THE PREPARATION, EVALUATION AND REVIEW OF ENVIRONMENTAL IMPACT EVALUATIONS**

**SUMMARY:** This act allows state agencies, institutions, and departments (agencies) conducting an

environmental impact evaluation (EIE) under the Connecticut Environmental Policy Act (CEPA) to contract with a person to prepare the EIE as long as the agency (1) guides the person in preparing the EIE, (2) participates in its preparation, (3) independently reviews the EIE before submitting it for comment under CEPA, and (4) ensures that any third party responsible for conducting an activity that the EIE is evaluating is not a party to the contract. The agency may require that such a third party pay the agency enough money for the agency to hire the person preparing the EIE.

In the case of an EIE (1) of a development project at a state-owned airport; (2) completed before the act's passage by a contractor retained by a private, non-state entity; and (3) independently evaluated by the Department of Transportation (DOT), DOT must review, circulate, and hold a public hearing on the EIE as CEPA requires and submit all comments and responses it receives to the Office of Policy and Management (OPM). The act requires OPM to review the EIE, comments, and responses according to CEPA within 30 days after DOT submits them. But it specifically bars OPM, in determining whether the EIE complies with CEPA, from considering that the EIE was prepared by a contractor retained by a private, non-state entity. The state-owned airport to which the act refers is the Waterbury-Oxford airport.

EFFECTIVE DATE: Upon passage

#### **BACKGROUND**

##### *Connecticut Environmental Policy Act (CEPA)*

CEPA identifies and evaluates the impact of proposed state actions that could significantly affect the environment. It requires that certain information be available to decisionmakers and the public, and that this information be considered in deciding whether and how to proceed with the project. Among other things, EIEs must examine the direct, indirect, and cumulative environmental consequences of the proposed action, and any reasonable alternatives to it. OPM reviews EIEs, determining, among other things, if the agency has taken all practicable steps to avoid or minimize environmental harm. However, findings of adverse impact do not necessarily stop a project from proceeding (CGS §§ 22a-1b through 1h).

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**PA 10-153**—sSB 407

*Transportation Committee  
Appropriations Committee*

**AN ACT REQUIRING MOTORCYCLE TRAINING PRIOR TO THE ISSUANCE OF A MOTORCYCLE ENDORSEMENT**

**SUMMARY:** This act requires all applicants for a motorcycle license endorsement, rather than just those under age 18, to demonstrate to the motor vehicles (DMV) commissioner that they have successfully completed a novice motorcycle training course. By law, the course must be conducted by the Department of Transportation (DOT) or a firm or organization conducting a course that uses the curriculum of the Motorcycle Safety Foundation or other safety or educational organization that has developed a curriculum approved by the DMV commissioner. Under the act, if DOT conducts the course, it must do so with federal funds available for such courses.

The act eliminates the DMV commissioner's authority to waive the on-road skills portion of license examination for an applicant who (1) presents evidence of passing a motorcycle training course or (2) has held a license or endorsement in other states requiring a similar test or course.

The act eliminates the requirements that an endorsement applicant, regardless of age, demonstrate personally to the commissioner, his deputy or agent, or a DMV inspector, that he or she (1) is a proper person to operate a motorcycle, (2) has sufficient knowledge of the motorcycle's mechanisms to operate it safely, and (3) has satisfactory knowledge of the law concerning motorcycles and other motor vehicles and the rules of the road.

EFFECTIVE DATE: January 1, 2011

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**PA 10-159**—sHB 5455 (**VEETOED; OVERRIDDEN**)

*Transportation Committee  
Appropriations Committee*

**AN ACT CONCERNING THE MASTER TRANSPORTATION PLAN, THE FACILITIES ASSESSMENT REPORT, THE CONNECTICUT PILOT AND MARITIME COMMISSIONS, A REVIEW OF THE STATE TRAFFIC COMMISSION AND CHANGES TO THE STAMFORD TRANSPORTATION CENTER, AND REQUIRING NEW CROSSWALKS TO PROVIDE TIME FOR THE SAFE CROSSING OF PEDESTRIANS**

**SUMMARY:** This act modifies the scope of the Department of Transportation's (DOT) master

transportation plan and the factors the DOT commissioner must consider in preparing it. It requires DOT to prepare an assessment of existing transportation facilities every even-numbered year, rather than annually, and specifies the factors the commissioner must consider in developing this assessment. It requires DOT to, among other things, review the State Traffic Commission's procedures and develop a plan to improve the timeliness of its permit application and decision process. It requires that newly designated crosswalks have markings and other features the traffic authority considers necessary to give pedestrians enough time to cross safely.

The act eliminates reimbursement of necessary expenses for members of the Connecticut Pilot and Connecticut Maritime commissions. By law, the former advises the commissioner on the licensure of pilots, the safe conduct of vessels, and the protection of the ports and waters of the state, including Long Island Sound. The latter advises the commissioner, the governor, and the legislature on the state's maritime policy and operations and various other issues.

The act requires DOT's State Maritime Office to provide staff support to the Pilot Commission; it already supports the Maritime Commission. It requires DOT to review the State Traffic Commission's procedures for granting permits to certain large developments.

The act also:

1. more precisely specifies the location of the Donald F. Reid Memorial Bridge in Norwalk;
2. requires DOT, by June 30, 2011, to remove sand and debris deposited by highway storm drains into the pond located at 245 Wolcott Road, in Wolcott, adjacent to Route 69;
3. requires that the proceeds of bonding authorized in 2007 be used for repairing, reconstructing, or expanding the parking garage at the Stamford Transportation Center, rather than building a garage there; and
4. eliminates the authorization for these funds to be used for the acquisition of rights-of-way and other property and related projects.

EFFECTIVE DATE: Upon passage

**MASTER TRANSPORTATION PLAN**

The act eliminates the requirement that the DOT commissioner, in developing this plan, investigate and study all existing transportation facilities and services in the state and examine the feasibility of planning a long-term commercial transportation system, with the goal of coordinating all transportation services. Instead, it requires the commissioner to consider DOT's statutory responsibilities, the guiding principles and transportation strategies adopted by the governor and legislature, the state Plan of Conservation and

Development, the factors that are required to be considered under the current federal surface transportation authorization legislation, and DOT's assessment of existing transportation facilities (described below).

The act requires the commissioner in preparing the plan, to consider all reports and studies relating to the planning and development of the state, rather than just those prepared under the Connecticut interregional planning program. It additionally requires him to consider regional long-range transportation plans prepared by regional planning organizations in the state.

As under prior law, the act requires that the plan indicate the priorities for the next five years, both by need and by fiscal capability, but for each mode of transportation rather than just public transportation. It eliminates the requirement that the plan indicate these priorities for the next two years for public transportation.

By law, the commissioner must identify the federal funds to be received by DOT annually by category. The act eliminates the reference to obsolete federal transportation legislation and instead refers to the current federal surface transportation authorization legislation. It also eliminates references to specific funding programs under the former federal legislation.

#### ASSESSMENT OF TRANSPORTATION FACILITIES

The act eliminates the requirement that the commissioner consult with the Connecticut Public Transportation Commission (CPTC), which must advise him on rail and motor carrier facilities and services, in developing the assessment of transportation facilities. Instead, it requires him to consider the plans and recommendations prepared by the various boards, councils, and commissions that have statutory responsibilities for the various modes of transportation in Connecticut. It also requires him to consider reports, plans, surveys, and studies relating to transportation prepared by any state agency or for or by the state's regional planning organizations. The act expands from CPTC to all state agencies, boards, councils, commissions, and regional planning organizations, who can help the commissioner prepare this plan.

#### STATE TRAFFIC COMMISSION

By law, a State Traffic Commission certificate is required for certain large developments that affect state highways. The act requires DOT to review the commission's procedures and prepare a statistical analysis of the average length of time from the date an application is submitted to when the commission approves or denies it, including the number and date of

applications that are withdrawn. DOT must also develop a plan to improve the timeliness of the commission's permit application and decision process. The plan must clarify and justify any new requirements the commission imposes on permit applicants and include provisions to promote fairness for applicants. DOT must report on the review and the permit application plan to the Transportation Committee by December 31, 2010.

#### CROSSWALKS

By law, traffic authorities can designate, by devices, markers, or lines on the highway, crosswalks and intersections that are dangerous for pedestrians crossing a highway. The act specifies that the devices must be official control devices as defined by statute. By law, the traffic authority for local roads can be one of several local officials or agencies; for state highways, the State Traffic Commission is the traffic authority.

The act requires that any crosswalk designated by a traffic authority on or after October 1, 2010 have markings, signage, or any control signals the authority considers necessary to provide sufficient time for the safe crossing of pedestrians.

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#### PA 10-182—sHB 5387

*Transportation Committee*

*Public Safety and Security Committee*

*Judiciary Committee*

#### AN ACT CONCERNING THE REMOVAL OF SNOW AND ICE FROM MOTOR VEHICLES

**SUMMARY:** This act requires a motorist to remove accumulated snow and ice from the hood, trunk, and roof of his or her motor vehicle so that it does not pose a threat to people or property while the vehicle is being operated on a state street or highway. A violator faces a \$75 fine.

It imposes a fine of between \$200 and \$1,000 on operators of noncommercial motor vehicles and \$500 and \$1,250 on operators of commercial motor vehicles who violate the act if snow or ice dislodged from the vehicle causes personal injury or property damage.

Drivers are not required to clean snow or ice from a vehicle (1) while it is parked or (2) if snow, sleet, or freezing rain began, and accumulated, while they were driving.

EFFECTIVE DATE: December 31, 2013

#### BACKGROUND

##### *Motor Vehicle*

By law, a motor vehicle is any vehicle propelled or drawn by non-muscular power, except aircraft, motor

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boats, road rollers, baggage trucks used at mass transit facilities, battery-operated wheel chairs used by people with physical handicaps at no more than 15 miles per hour, certain golf carts and golf cart-like vehicles, farm tractors, and certain other vehicles designed and adapted exclusively for agricultural or livestock-raising operations. It excludes vehicles that run only on tracks, self-propelled snow plows, snow blowers, and lawn mowers used for the purposes for which they were designed and operated at speeds below four miles per hour, and certain bicycles with helper motors, mini-motorcycles, and special mobile equipment, and any other vehicle not suitable for operating on a highway (CGS § 14-1 (53)).

### *Highways*

By law, a highway includes any state or other public highway, road, street, avenue, alley, driveway, parkway, or place under the control of the state or any of its political subdivisions, dedicated, appropriated, or opened to public travel or other use (CGS § 14-1 (40)).

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**PA 10-15**—HB 5263

*Select Committee on Veterans' Affairs  
Public Safety and Security Committee*

**AN ACT CONCERNING PROMOTIONS FOR  
RETIRED VETERANS**

**SUMMARY:** This act allows honorably discharged retired members of the Connecticut National Guard or the governor's military staff with 30 or more years of service to apply to the adjutant general for "retirement promotion" if they did not apply before retiring. The law already allows members still in the service and who meet years-of-service requirements to apply for retirement promotion before retiring. A retired applicant, like a currently serving applicant with 20 or more years of service, may apply to be promoted or commissioned at one grade above the highest grade he or she ever held in the state or U.S. Armed Forces or on the governor's military staff, but not above brigadier general or sergeant major.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*Retirement Promotion*

By law, before retiring from active service, (1) members of the National Guard or governor's military staff with 10 years of honorable service may apply to the adjutant general to be placed on the "retired list" in the highest grade in which they ever served, and (2) members with 20 or more years of service may apply to be placed on the list at one grade above the highest grade they ever held in the U.S. Armed Forces, in the National Guard, or on the governor's military staff, but not above brigadier general or sergeant major. They are eligible for only one promotion.

*"Retired List"*

Members on the retired list (1) must be kept on the state armed forces register; (2) are subject to the National Guard's rules and regulations; (3) may wear, within the limitations of law and regulations, the uniform of the rank at which they retired; (4) may, if they consent, be detailed from the list and placed on active duty at the governor's order; and (5) serve without pay, except when on such duty, in which case, they are entitled to the same pay and allowances as officers of a similar grade on the active list. They must be withdrawn from command, line of promotion, and unit rosters.

**PA 10-16**—HB 5265

*Select Committee on Veterans' Affairs  
Transportation Committee*

**AN ACT CONCERNING THE EXPIRATION OF  
DRIVER'S LICENSES ISSUED TO MEMBERS OF  
THE ARMED FORCES**

**SUMMARY:** This act extends the expiration date of a driver's license held by an armed forces member who was out of state because of his or her active-duty service. The extension is for 30 days after the service member is honorably separated from service or returns to Connecticut.

The act applies only if the (1) license has not been suspended, cancelled, or revoked and (2) service member has it and his or her discharge or separation papers in his or her immediate possession.

EFFECTIVE DATE: October 1, 2010

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**PA 10-21**—sHB 5388

*Select Committee on Veterans' Affairs  
Human Services Committee*

**AN ACT CONCERNING HOMELESS FEMALE  
VETERANS AND BILINGUAL SERVICE  
OFFICERS**

**SUMMARY:** This act requires the state Department of Veterans' Affairs to conduct a study of homeless female veterans in Connecticut. The study must include an analysis of the number of such veterans and information on shelter options and resources available to them. The commissioner must report the findings to the Veterans' Committee by January 1, 2011.

The act requires that at least two, instead of one, of the six veterans' service officers (VSO) in the Veterans' Advocacy and Assistance Unit be proficient in both English and Spanish. The requirement takes effect when the next VSO position opens after June 30, 2010.

The Advocacy and Assistance Unit is responsible for helping veterans and their eligible spouses and dependents obtain veterans' benefits.

EFFECTIVE DATE: Upon passage

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**PA 10-39—HB 5351**

*Select Committee on Veterans' Affairs  
Public Health Committee*

**AN ACT CONCERNING PRESCRIPTION DRUG BENEFITS FOR VETERANS IN NURSING HOME FACILITIES**

**SUMMARY:** This act prohibits nursing home facilities from restricting patient access to prescription drugs from any U.S. Department of Veterans' Affairs (VA) prescription drug program or health plan. It requires the facilities to dispense and administer prescription drugs obtained under any such plan or program to patients who request them, regardless of how the drugs are packaged. But it (1) does not prevent the facilities from dispensing or administering prescription drugs obtained from other sources when a patient needs them before they can be obtained from the VA program or plan and (2) allows the facilities to dispense and administer drugs patients receive under a VA program or plan in accordance with their policies, provided the policies conform to applicable state and federal laws.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*Nursing Home Facility*

By law, a “nursing home facility” means any nursing home or residential care home, rest home with nursing supervision, or chronic or convalescent nursing home (CGS § 19a-521).

**PA 10-40—sHB 5352**

*Select Committee on Veterans' Affairs  
Government Administration and Elections Committee*

**AN ACT PROCLAIMING MARCH THIRTIETH TO BE WELCOME HOME VIETNAM VETERANS DAY**

**SUMMARY:** This act requires the governor to proclaim March 30 annually as Welcome Home Vietnam Veterans' Day to commemorate and honor Vietnam veterans' return home. It requires suitable exercises to be held in the State Capitol and elsewhere as the governor designates.

EFFECTIVE DATE: Upon passage

**PA 10-66—sSB 215**

*Select Committee on Veterans' Affairs  
Higher Education and Employment Advancement Committee*

**AN ACT CONCERNING VETERAN TUITION WAIVERS**

**SUMMARY:** This act specifies that for purposes of the veterans' tuition waiver, which the law requires UConn, the Connecticut State University (CSU) system, and regional community-technical colleges (CTC) to give to eligible veterans, “service in time of war” does not include time spent attending a military service academy. The act requires that, within 30 days of its passage, the institutions' boards review current and prospective students' eligibility for the waiver to ensure compliance. EFFECTIVE DATE: Upon passage

**BACKGROUND**

*Veterans' Tuition Waiver at UConn, CSU, and the CTCs*

By law, these institutions must waive tuition for veterans who (1) live in Connecticut when they are accepted for admission to the institution and (2) served at least 90 days during a statutorily defined period of war or for the duration of a war that lasted less than 90 days, unless they were separated earlier by a Veterans' Administration-rated service-connected disability. Table 1 shows post-1940 war periods for purposes of veterans' benefits, including tuition waivers. “Service in time of war” also includes service during the period beginning on the date of any future declaration of war by Congress and ending on the date prescribed by presidential proclamation or concurrent resolution by Congress.

**Table 1: Post-1940 “Service in Time of War”**

<i>Conflict/War (CGS § 27-103)</i>	<i>From</i>	<i>To</i>	<i>Service Condition</i>
World War II	12/7/41	12/31/46	Active service during the war
Korean War	6/27/50	1/31/55	Active service during the war
Lebanon	7/1/58 9/29/82	11/1/58 3/30/84	Combat or combat-support role in Lebanon
Vietnam Era	2/28/61	7/1/75	Active service during the war

<i>Conflict/War (CGS § 27-103)</i>	<i>From</i>	<i>To</i>	<i>Service Condition</i>
Grenada Invasion	10/25/83	12/15/83	Combat or combat-support role <i>in</i> Grenada required
Operation Earnest Will (escort of Kuwaiti tankers flying U. S. flag in Persian Gulf)	2/1/87	7/23/87	Combat or combat-support role required in the operation
Panama invasion	12/20/89	1/31/90	Combat or combat-support role required in the invasion
Persian Gulf War	8/2/90	Until a date prescribed by the President or law	Active service anywhere <i>during</i> the war, not necessarily <i>in</i> the Persian Gulf or in a combat role

**PA 10-69**—sSB 214

*Select Committee on Veterans' Affairs  
Public Safety and Security Committee*

**AN ACT NAMING THE STATE MILITARY TRAINING FACILITY CAMP NIANTIC**

**SUMMARY:** This act changes the name of Camp Rell, the state military training facility in Niantic, to Camp Niantic. Under prior practice, the facility was named after the sitting governor.

EFFECTIVE DATE: January 6, 2011

**PA 10-105**—sHB 5350

*Select Committee on Veterans' Affairs  
General Law Committee*

**AN ACT CONCERNING LICENSURE AND CERTIFICATION CREDITS FOR MILITARY TRAINING**

**SUMMARY:** This act requires state agencies or boards that issue licenses or certificates requiring professional training, schooling, or apprenticeship to provide credits or exemptions to applicants who received applicable training, schooling, or experience while serving in the armed forces. The act prohibits agencies from requiring applicants to repeat any substantively similar training or schooling required for licensure or certification.

It requires that any such credits or exemptions awarded by the state’s higher education constituent units be granted in a manner consistent with (1) guidelines established by the American Council on Education, (2) the institutions’ transfer credit policies, and (3) federal regulations (38 CFR §§ 21.4253 and 21.4254).

The act defines the “armed forces” as the U.S. Army, Navy, Marine Corps, Coast Guard, and Air Force and reserve components, including the Connecticut National Guard and state militia.

EFFECTIVE DATE: October 1, 2010

**BACKGROUND**

*State Militia*

By law, the state militia includes the unorganized and organized militia. The unorganized militia consists of (1) all 18- to 45-year-old male citizens and male residents who have declared their intent to become citizens, who meet certain criteria and (2) female citizens and female residents age 18 to 45 who have declared their intent to become citizens and volunteer.

The organized militia is the Governor’s Foot and Horse Guards, the State Guard, and other military forces the governor designates (CGS § 27-2).

**PA 10-130**—HB 5264

*Select Committee on Veterans' Affairs  
Public Safety and Security Committee*

**AN ACT CONCERNING THE DUTIES OF THE ADJUTANT GENERAL**

**SUMMARY:** This act generally streamlines and codifies the process for the Military Department adjutant general to enter into contracts or agreements for federal construction (projects constructed with federal funds) on state property, subject to the attorney general’s approval.

The act decreases, from twice to once per calendar year, the number of times the adjutant general must inspect National Guard units. It conforms the law to practice by allowing him to delegate his duties to department officials, including an assistant adjutant general, as he deems necessary to operate the department efficiently.

The act also makes (1) conforming changes and (2) technical changes affecting, among other things, the adjutant general’s authority to adopt regulations. It conforms the law to practice by explicitly adding personnel administration to the issues subject to regulation.

EFFECTIVE DATE: October 1, 2010

## ADJUTANT GENERAL'S DUTIES

The act allows the adjutant general to enter into agreements, not just contracts, for goods and property, instead of just services, to carry out his duties, subject to the attorney general's approval. It also allows him, subject to the attorney general's approval, to enter into contracts or agreements necessary for the operation of the Military Department.

## BACKGROUND

### *Federal Construction of Military Facilities*

According to the Connecticut National Guard, the federal government will not build military facilities on state land unless either state law authorizes, or a state official approves, the construction.

Under current practice, and in the absence of statutory authorization, the Connecticut attorney general, before certifying to the federal government that a proposed project is legal, requires the governor to review and approve it. When the project is approved and certified, the federal government, in conjunction with state military officials, puts it out to bid, selects the winning bid, and awards the contract.

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**PA 10-1, June 2010 Special Session—SB 501**  
*Emergency Certification*

**AN ACT CONCERNING THE REAL ESTATE CONVEYANCE TAX, THE CONVEYANCE OF CERTAIN PARCELS OF STATE LAND, ADJUSTMENTS TO CERTAIN PROGRAMS IMPLEMENTED THROUGH THE DEPARTMENT OF SOCIAL SERVICES, A REPORT ON TAX CREDITS, JUVENILE JUSTICE, ABSENTEE VOTING BY MEMBERS OF THE MILITARY, REVISIONS TO VARIOUS TASK FORCES, COMMISSIONS AND COUNCILS, AND AMENDMENTS AND MINOR AND TECHNICAL CHANGES TO CERTAIN SPECIAL AND PUBLIC ACTS OF THE 2010 REGULAR SESSION**

**SUMMARY:** This act extends the expiration date of a higher municipal real estate conveyance tax rate for one year and exempts foreclosures by sale and short sales from the tax. It makes changes to the FY 11 budget act as well as to other laws enacted in the 2010 regular session relating to Medicaid, HUSKY Plus, juvenile justice, tax credits, school construction projects, and appointments to commissions and task forces. It authorizes conveyances of state property, establishes a temporary high risk insurance pool in conformance with the federal health care reform law, and changes state election law to comply with the federal Military and Overseas Voter Empowerment Act.

Finally, the act makes minor and technical changes and corrections in public and special acts, including bond acts, passed in the 2010 regular session.

These and other changes are described in the section-by-section analysis below.

EFFECTIVE DATE: Various, see below.

**§§ 1 & 2 — MUNICIPAL REAL ESTATE CONVEYANCE TAX**

The act extends the expiration date of the basic 0.25% municipal real estate conveyance tax rate for one year, until July 1, 2011. In doing so, it also maintains the optional rate of up to 0.5% allowable in 18 eligible municipalities for the same period. Under prior law, the basic municipal rate was scheduled to drop from 0.25% to 0.11% on July 1, 2010. Because 18 towns are eligible to impose an additional tax of up to 0.25% on top of the basic rate, the maximum rate allowable in the 18 towns under prior law would also have dropped from 0.5% to 0.36% on that date.

The act also (1) restores an exemption, eliminated in 2009, from the tax for transfers made pursuant to a foreclosure by sale and (2) exempts from the tax transfers of a seller's principal residence when the

transfer is (a) in lieu of a foreclosure or (b) a "short sale," which, under the act, means that the sale price is less than the total amount the seller owes on the property for mortgages and liens for municipal property taxes and utility or other charges that have priority over mortgage liens (see BACKGROUND).

EFFECTIVE DATE: July 1, 2010 for the municipal rate extension and October 1, 2010 for the exemption provisions.

**§ 3 — FY 11 UNALLOCATED LAPSES**

The act increases the unallocated General Fund lapses for FY 11 by \$1.73 million, from \$87.78 million to \$89.51 million. It reduces FY 11 net General Fund appropriations by a corresponding amount, from \$17,668,900,229 to \$17,667,170,229.

EFFECTIVE DATE: July 1, 2010

**§§ 4-17 — CONVEYANCE OF STATE PROPERTY**

The act:

1. authorizes conveyances of state property to the municipalities of Portland, Marlborough, Manchester, Wallingford, New Haven, and Simsbury, and the Lake Phipps Special Taxing District;
2. amends prior conveyances in Bridgeport, Middletown, and New Britain;
3. leases state property to the municipalities of Bridgeport and Burlington; and
4. requires the development of a plan for the Cedar Ridge facility property in Newington should it be declared surplus.

EFFECTIVE DATE: Upon passage

*New Conveyances*

*Conveyances to Municipalities.* The act requires the following conveyances from the agencies to the towns named for the purpose specified:

1. the Department of Environmental Protection (DEP) to Portland for construction of a fire house (1.83 acres);
2. the Department of Transportation (DOT) to Marlborough (.46 acres at fair market value);
3. DOT to Manchester for road alignment and traffic mitigation purposes, provided that state funds may not be used for the construction of a flyover ramp (1.517 acres);
4. DOT to Wallingford for municipal purposes (.593 acres);
5. DOT to New Haven for traffic mitigation purposes (2.7 acres);
6. DOT to Simsbury (two parcels totaling 3.59 acres at fair market value); and

7. the Department of Economic and Community Development (DECD) to New Haven (.52 acres at fair market value).

The conveyance from DECD to New Haven also releases a deed restriction that required the parcel to be used for low- and moderate-income housing only. The conveyance from DOT to Simsbury must (1) consist of land deemed excess by DOT and (2) not break the continuity of the existing land-banked rail line.

Unless otherwise noted, each conveyance:

1. is subject to the State Property Review Board's (SPRB) approval within 30 days;
2. must be made at a cost equal to the administrative cost of the conveyance, including legal fees; and
3. for those conveyances with a specified purpose, reverts to the state if the recipient uses the parcel for any purpose other than that specified in the act.

When an agency conveys property at fair market value, the value is determined by the average appraisals of two independent appraisers chosen by the agency's commissioner.

*Lake Phipps Special Taxing District.* The act conveys at no cost, from DEP to the Lake Phipps Special Taxing District in West Haven, seven parcels of land and a dam structure that were previously conveyed to DEP from the Lake Phipps Land Owners Corporation pursuant to a 1990 judgment order. The act excludes portions of three of the parcels that had previously been conveyed to other parties. The conveyance is subject to SPRB approval within 30 days.

#### *Amended Conveyances*

The act amends a 2007 conveyance of a 1.008 acre parcel from DOT to the Bridgeport Port Authority. The act allows the port authority to lease the parcel or portions of it for economic development or waterfront-related purposes. It also requires DOT to grant the port authority a right-of-way to and from the parcel. The original conveyance required the port authority to use the property for economic development and waterfront-related purposes, but did not allow it to lease the property.

The act amends a 1999 conveyance of four parcels totaling 3.31 acres from the Department of Children and Families to Middletown for municipal purposes. It conveys to Middletown improvements to the previously-conveyed parcels and requires those improvements to be used for municipal purposes. The original conveyance did not include the improvements to the parcels.

The act amends a 2009 conveyance of a .06 acre parcel from DOT to New Britain by eliminating the city's obligation to pay fair market value for the land. It

retains the requirement that New Britain cover the conveyance's administrative costs. It also requires New Britain to use the land for economic development purposes or the property reverts to the state.

#### *Leases*

The act requires the following leases of state property, for five years at a cost equal to the administrative cost of the lease, from the agencies to the municipalities named for the purpose specified:

1. DOT to Bridgeport for public parking (1.25 acres) and
2. DEP to Burlington for recreational purposes (14.19 acres).

Bridgeport may renew its lease for two additional five-year periods. Neither municipality may sublease the property, with one exception. Bridgeport may sublease its parcel to Mercy Learning Center for parking purposes at no cost to the center.

Both leases are subject to SPRB approval within 30 days and the property reverts to the state if the recipient uses the parcel for any purpose other than that specified in the act. If DOT requires the Bridgeport parcel for transportation needs, it may terminate the lease by providing Bridgeport 30 days' written notice.

#### *Plan For Cedar Ridge Property*

The act requires the Office of Policy and Management (OPM) secretary and the DEP and Department of Public Works commissioners to develop a plan to preserve a 10-acre parcel of the Cedar Ridge facility property in Newington as open space, provided the Department of mental Health and Addiction Services (DMHAS) commissioner certifies to OPM in writing that the property or any portion of it is surplus. The plan must allow Newington to use the 10-acre parcel for passive recreation.

#### § 18 — TAX CREDITS FOR HIRING PEOPLE WITH DISABILITIES

PA 10-75 authorizes insurance premium, corporation business, and personal income tax credits for businesses hiring Connecticut residents with disabilities. This act expands the range of new employees that qualify businesses for the credits to include people with blindness.

Under PA 10-75, a business can claim the credit for hiring new employees who:

1. live in Connecticut;
2. can see, but have other physical or mental impairments that make it hard for them to find work;

3. receive vocational rehabilitation services from the Department of Social Services' Bureau of Rehabilitation Services (BRS);
4. were hired after May 6, 2010; and
5. did not work for a related business during the previous 12 months.

Under the act, the business can claim the credit for hiring people who are blind or receiving services from the Board of Education and Services for the Blind (BESB). It also allows the business to claim the credit for hiring people with disabilities who were employed by a related business as long as they did not receive services from the BRS or BESB. As under PA 10-75, the business can claim the credit for Connecticut residents hired after May 6, 2010.

EFFECTIVE DATE: Upon passage and applicable to income years beginning on or after January 1, 2010.

**§ 19 — TAX CREDIT RESERVATIONS FOR HOUSING PROGRAMS**

By law, businesses qualify for tax credits in exchange for contributions to nonprofit organizations developing low- and moderate-income housing through the Housing Tax Credit Contribution (HTCC) program administered by the Connecticut Housing Finance Authority (CHFA). The total amount of all tax credits cannot exceed \$10 million in any fiscal year. Under prior law, until November 1 each year, the authority had to set aside \$2 million of the total amount for the Supportive Housing Pilots Initiative or the Next Steps Initiative and also \$1 million for workforce housing.

The act moves the deadline for the set-aside to 60 days after CHFA publishes its list of housing programs that will receive tax credit reservations (September 1 in practice), rather than November 1. It also makes any supportive housing initiative, not only the Supportive Housing Pilots Initiative and the Next Steps Initiative, eligible for the \$2 million tax credit reservation. After the deadline, unused tax credits become available for any housing program eligible for tax credits under the HTCC program.

EFFECTIVE DATE: July 1, 2010

**§ 20 — HIGH RISK POOL**

The act establishes a temporary high risk insurance pool pursuant to the federal Patient Protection and Affordable Care Act (PPACA). It authorizes the Health Reinsurance Association (HRA) to enter into contracts with the federal and state government to administer the temporary pool, which must be separate from any other plans or risk pools that HRA already administers.

The PPACA creates a temporary high risk pool to provide health coverage to people with preexisting medical conditions who have been uninsured for six

months. The pool remains in place until broader PPACA coverage requirements take effect in 2014. The federal Health and Human Services secretary will determine the minimum benefits that the pool must offer.

EFFECTIVE DATE: Upon passage

**§ 21 — MEDICAID REIMBURSEMENT FOR ELECTRONIC HEALTH RECORDS**

The act requires the Department of Social Services (DSS) commissioner, in consultation with the Department of Public Health (DPH) commissioner, to take any actions needed to qualify for Medicaid funds under the American Recovery and Reinvestment Act of 2009 (ARRA) for (1) DSS health information technology planning activities and (2) incentive payments to hospitals and eligible health professionals who are meaningful electronic health record users. It requires the DSS commissioner to disburse any incentive payments the department receives to these hospitals and health professionals (see BACKGROUND).

EFFECTIVE DATE: Upon passage

**§ 22 — MEDICAID HOME- AND COMMUNITY-BASED SERVICES**

The act authorizes the DSS commissioner, by January 1, 2011, to evaluate whether the state should seek to institute optional Medicaid home- and community-based services that the federal PPACA makes available to states with enhanced reimbursement (see BACKGROUND).

EFFECTIVE DATE: Upon passage

**§ 23 — SAGA CONVERSION TO MEDICAID**

The act allows funds appropriated to the State Administered General Assistance (SAGA) medical program for FY 10 to be deemed appropriated to the state's Medicaid account in order to maximize federal revenue. This occurs on federal approval of a Medicaid state plan amendment that DSS has already submitted. The federal government approved the amendment in June 2010.

It permits funds recouped in FY 11 from medical providers due to the conversion of the SAGA medical program to Medicaid to be spent under the Medicaid program for that fiscal year. (DSS is recouping funds paid to providers between April 1 and June 30, 2010 and subsequently repaying these amounts to ensure maximum federal Medicaid reimbursement. The conversion was effective retroactive to April 1, 2010.)

EFFECTIVE DATE: Upon passage

§ 24 — MEDICAID ELIGIBILITY FOR INDIVIDUALS MEETING STATE-ADMINISTERED GENERAL ASSISTANCE (SAGA) CRITERIA

The act explicitly requires the DSS commissioner, subject to federal approval, to administer Medicaid coverage for low-income adults required by the PPACA and PA 10-3. DSS must use the SAGA medical assistance eligibility rules, which include the use of (1) the Medicaid “medically needy income limit” (about \$500 per month for most residents of the state), (2) a \$150 employment deduction from income, and (3) a three-month extension of assistance for individuals who lose eligibility because their earnings have increased above the income limit. The act requires the commissioner to implement this provision while in the process of adopting it in regulations.

EFFECTIVE DATE: Upon passage

§ 25 — PAYMENT FOR STATE HUMANE INSTITUTIONS SERVING MEDICAID RECIPIENTS

Under prior law, payments for supporting Medicaid recipients who received care in a state mental hospital could be made to the commissioner of administrative services, who had to keep an accounting of them and turn them over to the state treasurer. The act instead allows DSS to pay all bills for services provided by state humane institutions to Medicaid recipients to the state agency that provides the services or oversees the institution’s operations. The state’s humane institutions include the above hospitals, community mental health centers, treatment facilities for children and adolescents, or any other facility or program administered by the departments of Mental Health and Addiction Services, Developmental Services, or Children and Families.

EFFECTIVE DATE: July 1, 2010

§ 26 — PRESUMPTIVE ELIGIBILITY FOR HUSKY B CHILDREN

The act permits the DSS commissioner to implement presumptive eligibility for children applying for HUSKY B if it is cost effective to do so. By law, DSS must do these eligibility determinations for children applying for Medicaid, in accordance with federal law. The commissioner adopts regulations to establish standards and procedures for designating organizations as “qualified entities” that can grant presumptive eligibility. These same provisions apply under the act if DSS uses presumptive eligibility for HUSKY B applicants.

Presumptive eligibility means that children are presumed to be eligible for assistance (hence can start receiving benefits immediately) based on statements made by their caretaker relatives. Complete eligibility

determinations are done after initial eligibility is granted.

EFFECTIVE DATE: Upon passage

§ 27 — REVIEW OF TAX CREDITS

*Reports*

The act requires the DECD commissioner, in consultation with the revenue services commissioner, to evaluate and report every three years on tax credit and abatement programs enacted to recruit and retain businesses. The commissioner must submit the reports to the governor; the OPM secretary; and the Appropriations, Commerce, and Finance, Revenue and Bonding committees starting by January 1, 2011. The reports are in addition to DECD’s regular required annual reports.

*Report Information*

The act requires DECD to include the following information in its report:

1. a baseline assessment of each tax credit or abatement program it administers, including the aggregate number of jobs associated with eligible taxpayers and the aggregate annual revenue these taxpayers generate through direct taxes on them and indirectly through their employees and their contribution to the state’s economy;
2. a listing, by program, of the tax credits or abatements the state approved during the preceding calendar year;
3. an assessment of the fairness, performance, burden, economic impact, and incidence of the corporation business and insurance company taxes;
4. the cost to the state and businesses of administering and complying with the corporation and insurance premium taxes and their credits; and
5. the methodology and assumptions used.

The DECD must also include a summary and evaluation of each tax credit or abatement program it administers. The summary and evaluation of each program must include:

1. an assessment of its intended goals;
2. the value of each credit and number of taxpayers granted it in the previous 12 months, categorized by North American Industrial Classification System (NAICS) code;
3. the value of the credits claimed and carried forward, by NAICS code;
4. an assessment and five-year projection of the potential effect on the state’s revenue of any allowable credit carry-forwards;



5. an analysis of (a) the credit’s economic impact, (b) its statutory and programmatic goals and whether the goals are being met, and (c) if possible, obstacles to meeting the goals;
6. the types and value of credits assigned, with a summary of the NAICS codes of those to which they are assigned;
7. a cost-benefit analysis of the revenue foregone compared to the economic activity the credit creates;
8. the cost to the state to administer the program and a comparison between that cost and the net revenue generated by each program;
9. the average aggregate administrative and compliance cost to the state and businesses; and
10. a recommendation whether the program should be continued, modified, or repealed, along with the basis and expected economic impact of the recommendation.

EFFECTIVE DATE: July 1, 2010

§ 28 — JUVENILE MATTERS DEFINITIONS

The act amends various definitions applicable to juvenile matters, in most cases to conform statutes to reflect the increase in juvenile court jurisdiction to those age 16, rather than 15.

But it also (1) excludes emancipated minors from juvenile court jurisdiction, (2) makes 1<sup>st</sup> and 2<sup>nd</sup> degree failure to appear a delinquent act only if it involves failing to appear at a delinquency proceeding of which the child had notice, and (3) excludes from the definition of “serious juvenile offense” that portion of the risk of injury statute that involves placing a child in a situation where he or she is likely to be endangered or have his or her morals impaired.

EFFECTIVE DATE: Upon passage

§ 29 — DISCLOSING DELINQUENCY RECORDS TO THE DEPARTMENT OF MOTOR VEHICLES

The act requires delinquency proceedings that contain information that a child has been convicted as delinquent for specified offenses to be disclosed to the Department of Motor Vehicles. The department must use the records in determining whether administrative sanctions on the delinquent’s driver’s license are warranted. It may not further disclose the delinquency record.

The covered offenses are:

1. misrepresenting one’s age to get an identity card or using someone else’s card;
2. using someone else’s motor vehicle registration or driver’s license;
3. operating with a revoked or suspended license;

4. reckless driving;
5. failing to bring a vehicle to a full stop when signaled by a police officer;
6. leaving the scene of an accident;
7. drag racing;
8. if a minor, using a fake or borrowed license to buy alcohol; and
9. if a minor, possessing alcohol.

EFFECTIVE DATE: July 1, 2010

§ 30 — TRANSFERRING CASES TO JUVENILE DOCKET

The act allows judges to transfer cases involving 16-year-olds (and beginning July 1, 2012, 17-year-olds) from the youthful offender, adult, or motor vehicle docket to juvenile court. The transfer provision applies to matters for which the juvenile could be subject to imprisonment. Driving under the influence claims are not subject to this process.

The transfer is triggered by the motion of any party or the judge hearing the case; it must be raised before trial or entry of a guilty plea. The judge must find that (1) the youth is charged with an offense or violation occurring on or after January 1, 2010 and (2) after a hearing considering the facts and circumstances of the case and the youth’s prior history, the programs and services available in the juvenile court would more appropriately address the youth’s needs and the youth and community are better served treating the youth as a delinquent.

Under the act, the court ordering the transfer must vacate any pleas entered in the matter and advise the youth of his or her rights. The youth must (1) enter pleas on the docket for juvenile matters in the jurisdiction where he or she resides and (2) be subject to prosecution as a delinquent child.

The act specifies that transfer decisions cannot be immediately appealed.

EFFECTIVE DATE: July 1, 2010

§ 31 — ADMISSIBILITY OF JUVENILE CONFESSIONS

By law, in juvenile proceedings, confessions of children under age 16 are not admissible against the child unless a parent who has been given Miranda warnings is present. For those age 16, admissibility is determined based on the totality of the circumstances.

The act provides that admissions, confessions, or statements, whether written or oral, made by a 16 year old to a police officer in connection with a case that gets transferred to the juvenile court from the youthful offender or regular docket or from a motor vehicles docket are admissible in juvenile court.

EFFECTIVE DATE: July 1, 2010

### §§ 32-34 — RESTORATION OF HUSKY PLUS SERVICES

PA 10-179 repealed the HUSKY Plus program. The act restores the program, which requires DSS to provide supplemental benefits to children enrolled in the HUSKY B program (1) in families with incomes no higher than 300% of the federal poverty level and (2) who have extraordinary physical health or behavioral health needs that exceed the standard HUSKY B benefit package. The program must be run within available appropriations.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2010

### §§ 35-39 — ABSENTEE VOTING BY MEMBERS OF THE MILITARY AND CITIZENS LIVING ABROAD

The act changes state election law to comply with the federal Military and Overseas Voter Empowerment (MOVE) Act, which Congress passed in October 2009 and applies to the November 2010 general election (see BACKGROUND). Generally, it allows (1) applications for absentee ballots to be issued and returned electronically and (2) military and overseas absentee ballots to be issued electronically. The applicant or voter determines whether the application or ballot is delivered electronically or by another permitted method.

The act makes U.S. citizens age 18 and older who were born outside the country but whose parent or guardian was a Connecticut resident before leaving the country eligible to vote by presidential or overseas ballot in a federal election administered in Connecticut. It also extends, from noon to 5:00 p.m., the close of the mandatory voter registration session held to admit certain individuals on the last weekday before a regular election.

The act also makes technical and conforming changes.

#### *Issuing Applications Electronically*

The act authorizes town clerks to transmit absentee ballot applications by electronic means and requires them to do so at an applicant's request. By law, clerks may also issue absentee ballot applications in person, by facsimile, or mail.

Under the act, any application that is transmitted electronically may also be returned electronically, provided the applicant also mails the original to the town clerk, either separately or together with the completed absentee ballot. An absentee ballot is not counted unless the completed original application is mailed to the clerk.

#### *Issuing Absentee Ballots Electronically*

The act authorizes town clerks to transmit absentee ballots by electronic means to active duty members of the armed forces, their spouses or dependent family members living where they are stationed, and other U.S. citizens living outside the country. It specifies that town clerks must transmit the ballot either by mail or electronically at the elector's request. Under prior law, town clerks issued these absentee ballots by mail or in person.

The act's provisions apply to two types of overseas absentee ballots. The first is a blank ballot that members of the armed forces and their family members living with them may use to vote in a regular election and that town clerks must make available beginning 90 days before the election before the candidates are known. For this ballot, town clerks subsequently send the list of candidates as soon as it is available.

The second is a blank ballot that any elector living abroad or members of the armed forces and their family members living with them may use to vote in a primary or regular election. Town clerks send this together with the list of candidates and questions to be voted on, as soon as they are available.

In both cases, when the clerk issues a ballot electronically, he or she must include a secretary of the state-prescribed certification that the elector must complete, sign, and return with the completed ballot in order for it to be counted.

#### *Eligibility*

The act authorizes U.S. citizens age 18 and older who were born outside the U.S. but whose parent or guardian was a Connecticut resident immediately prior to leaving the country to vote in a federal election administered in Connecticut using a presidential or overseas absentee ballot. Prior law did not allow them to do so.

Under the act, such an individual is eligible to vote in the Connecticut town where his or her parent or guardian formerly resided provided he or she (1) is not registered to vote and not voting in another state, territory, or U.S. possession; (2) has a valid passport or identification card and registration from the U.S. secretary of state or alternative form of identification; and (3) has not forfeited his or her electoral privileges due to a disenfranchising crime.

#### *Voter Registration Session*

The act conforms the hours for the mandatory voter registration session held on the last weekday before a regular election for individuals who qualify after the registration cut-off (seven days before the election) to the similar session held on the same day for armed

forces members (CGS § 9-25). It does this by extending the closing time, from noon to 5:00 p.m., for the mandatory voter registration session, which must start at 9:00 a.m. By law, current and former (i.e., those discharged within the preceding calendar year) armed forces members may register to vote until 5:00 p.m. on the last weekday preceding a regular election.

EFFECTIVE DATE: Upon passage

§§ 40-46 — APPOINTMENTS

*State Commission on Capitol Preservation and Restoration*

The act allows the public works commissioner to appoint a designee to the commission and attend its meetings. Prior law made the commissioner an ex-officio member of the commission and required her to attend the meetings.

The commission has 12 members. The governor, House speaker, and Senate president pro tempore appoint two each; the House and Senate minority leaders appoint one each; the Legislative Management Committee chairpersons each appoint one; and the Commission on Culture and Tourism chairperson appoints one.

EFFECTIVE DATE: Upon passage

*Advisory Council for Special Education*

PA 10-175 reduced the council's membership from 37 to 30 and revised appointments to the council. This act:

1. adds back one member for a total of 31,
2. increases the education commissioner's appointments from eight to nine,
3. requires the commissioner rather than the Senate president pro tempore to appoint a representative of a Connecticut higher education institution with a teacher preparation program, and
4. requires the Senate president pro tempore to appoint a member of the Connecticut Speech-Language-Hearing Association.

EFFECTIVE DATE: Upon passage

*Waste Reduction Task Force*

PA 10-75 establishes a 12-member task force to determine how state agencies and departments can reduce or eliminate duplicative procedures and paper usage. Eight of the task force members are appointed by legislative leaders and must include corporate executives, economists, information technology experts, and those representing any other interest the appointing authority considers appropriate.

This act allows one of the House speaker's two appointees to be a legislator.

EFFECTIVE DATE: July 1, 2010

*Task Force on Converting Legislative Documents to Electronic Form*

The act revises appointments to, and the membership of, the task force established by PA 10-179 to study converting legislative documents from paper to electronic form. It increases the task force's membership from 15 to 17. It also requires the group to study an additional issue, namely the need to protect the authenticity of, and preserve, legislative documents.

Instead of four members of the Association of Connecticut Lobbyists appointed by the majority leader of each legislative caucus, the act requires the task force to have: (1) one member of that association appointed by the Senate majority leader, (2) a public member appointed by the House majority leader, and (3) the House and Senate minority leaders or their designees. Instead of making the three supervising committee administrators members, the act requires the chairpersons of the Legislative Management Committee to appoint two staff people. Finally, the act adds the following members or their designees to the task force:

1. the Legislative Commissioner's Office director,
2. the secretary of the state, and
3. the Freedom of Information Commission executive director.

The act retains as members, as required by PA 10-179, up to two state agency liaisons appointed by OPM and the following people or their designees: House and Senate clerks, state librarian, Legislative Management Committee chairpersons, and director of the legislative Office of Information Technology.

The act also:

1. extends the deadlines for (a) making appointments from June 1 to July 15, 2010 and (b) holding the first meeting from July 1 to August 15, 2010 and
2. requires the Legislative Management Committee chairpersons to select the task force chairs from among its members rather than requiring the committee chairpersons or their designees to serve as task force chairpersons.

EFFECTIVE DATE: Upon passage

*Achievement Gap Task Force*

The act adds one member, appointed by the governor, to the nine-member task force established by PA 10-111 to study, monitor, and consider effective ways to close the academic achievement gap between racial and socioeconomic groups in Connecticut.

The task force already consists of the education commissioner or the commissioner’s designee and eight members appointed by legislative leaders as follows: two each by the House speaker and Senate president pro tempore and one each by the House and Senate majority and minority leaders.

EFFECTIVE DATE: Upon passage

*Task Force on Individualized Education Programs*

The act adds one member, appointed by the governor, to the task force to study individualized education programs for students eligible for special education established by SA 10-9, thus increasing the membership from 22 to 23. The act requires the governor’s appointee to be an adult who formerly received special education services.

Under SA 10-9, the task force consists of the commissioners of education, higher education, and developmental services and other members appointed and with the qualifications as shown in Table 1.

Table 1: Task Force Appointing Authorities, and Member Qualifications

<i>Number</i>	<i>Appointed By</i>	<i>Qualifications</i>
1	Education commissioner	Official of the State Department of Education’s Bureau of Special Education
4	One each appointed by the Senate president pro tempore, House majority leader, and House and Senate minority leaders	General Assembly members
2	Senate president pro tempore	<ul style="list-style-type: none"> <li>Connecticut Association of Boards of Education member</li> <li>Parent of a child requiring special education</li> </ul>
2	Senate majority leader	<ul style="list-style-type: none"> <li>Regional educational service center representative</li> <li>Parent of a child requiring special education</li> </ul>
3	Senate minority leader	<ul style="list-style-type: none"> <li>Representative of vocational, community, or business organization providing transitional services to children with disabilities</li> <li>Connecticut Association of Private Special Education Facilities member</li> <li>Parent of a child requiring special education</li> </ul>
2	House speaker	<ul style="list-style-type: none"> <li>Connecticut Association of School Administrators</li> </ul>

<i>Number</i>	<i>Appointed By</i>	<i>Qualifications</i>
		member and a local education official <ul style="list-style-type: none"> <li>Parent of a child requiring special education</li> </ul>
2	House majority leader	<ul style="list-style-type: none"> <li>Person working in special-education-related services field</li> <li>Parent of a child requiring special education</li> </ul>
3	House minority leader	<ul style="list-style-type: none"> <li>Connecticut Association of Pupil Personnel Administrators member and administrator of special education program</li> <li>Special education teacher</li> <li>Parent of a child requiring special education</li> </ul>

EFFECTIVE DATE: Upon passage

*Behavioral Health Partnership Oversight Council*

The act reverses a change made in PA 10-179 (§ 71) that reduced the Senate minority leader’s council appointments from two to one by eliminating the requirement that he appoint a member of the advisory council on Medicaid care management oversight. Under this act, the Senate minority leader once again appoints two members, one of whom must be a provider of community-based services for children with behavioral health problems and the other a member of the advisory council on Medicaid care management oversight.

The council advises the DSS and DCF commissioners on the planning and implementation of the Behavioral Health Partnership.

EFFECTIVE DATE: July 1, 2010

§ 47 — NONPRIME HOME LOANS

The act changes the definition of “nonprime home loan” for purposes of their regulation.

The law sets criteria for what constitutes a nonprime home loan and imposes requirements on making these loans. For example, excluding Federal Housing Administration loans, the law prohibits lenders from (1) making nonprime home loans unless they reasonably believe, when the loan is consummated, that the people incurring the debt will be able to (a) make the scheduled payments and (b) pay the related taxes and insurance and (2) offering nonprime home loans that contain a prepayment penalty.

The previous statutory definition of nonprime home loans included those with principal amounts not exceeding (1) \$417,000, for loans originated from July 1, 2008 to June 30, 2010 and (2) the conforming loan limit set by the Federal National Mortgage Association (Fannie Mae) for loans originated on or after July 1,

2010. The act eliminates the provision tying the amount to limits established by Fannie Mae, instead setting \$417,000 as the limit for the definition of nonprime home loans.

EFFECTIVE DATE: Upon passage

#### §§ 48 & 49 — SCHOOL CONSTRUCTION PROJECTS

##### *Highland Park School – Manchester*

PA 10-108 overrides statutory and regulatory requirements to allow Manchester to change an extension and alteration and roof replacement project at Highland Park School to a school renovation project. This act specifies that Manchester can change the project scope as well as its description and limits the project's total cost to \$13.1 million.

##### *Duggan School – Waterbury*

PA 07-249 overrode statutory and regulatory requirements to allow Waterbury to change the description of a project to build a new elementary school to a project to renovate Duggan School. PA 07-249 made the change on the condition that the state reimbursement grant for the Duggan School renovation not exceed the grant for a new school. This act allows Waterbury to change the project scope as well as the description and limits the project costs eligible for state reimbursement to \$39,662,469. (PA 10-108 already authorized a \$3.255 million increase in the state's grant commitment for the project, from \$24,722,500 to \$27,977,500.)

EFFECTIVE DATE: Upon passage

#### § 50 — OVER-THE-COUNTER DRUGS IN DSS MEDICAL ASSISTANCE PROGRAMS

PA 10-3 (§ 12) eliminates DSS payments for most over-the-counter drugs purchased by enrollees of the department's medical assistance programs, beginning May 1, 2010. It exempts insulin and insulin syringes and drugs that must be covered under federal law. This act also exempts nutritional supplements for individuals who must be tube fed or cannot safely ingest nutrition in any other form. (Children under age 21 who are Medicaid-eligible can still get these drugs.)

EFFECTIVE DATE: Upon passage

#### §§ 51-57 — ALLOCATING FUNDS FOR BOND POOL PROJECTS

PA 10-44 authorizes up to \$58.6 million in new state general obligation bonds and divides the money into three pools for specified projects in Bridgeport, Hartford, and New Haven as designated by the State Bond Commission. Depending on the designation, for two of the pools, PA 10-44 requires the commission to allocate funding through the most appropriate of several listed state agencies. These are (1) for the economic and community development project pool, the DECD or DEP and (2) for the pool for infrastructure and other specified programs, DECD, DEP, the Department of Public Safety, or DSS.

This act instead requires the commission to allocate the money to OPM, who must distribute the money for the project to whichever of the listed agencies is most appropriate. It also authorizes the project grants to be distributed through OPM rather than the listed agencies.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2010 for the bond pool changes. The technical changes take effect on various dates.

#### § 58 — STATE BOARD OF EDUCATION VOCATIONAL-TECHNICAL SCHOOL SUBCOMMITTEE

PA 10-76 specifies which State Board of Education (SBE) members may chair its vocational-technical (V-T) school subcommittee. Under this act, starting April 1, 2011, the subcommittee chairperson must be one of the two SBE members who (1) have experience in manufacturing or in a trade taught in the V-T system or (2) are alumni of, or have taught at, a V-T school. It deletes a requirement that, after that date, the subcommittee chairperson be the SBE member who either (1) has agriculture experience or (2) is an alumnus of, or has taught at, a regional agricultural science and technology education center.

EFFECTIVE DATE: July 1, 2010

#### §§ 59-71 — TECHNICAL CHANGES

These sections make technical changes.

EFFECTIVE DATE: Various

#### §§ 72 & 73 — INACTIVE BOND FUNDS

To allow the state treasurer to close out inactive bond funds, SA 10-1 reconciles bond authorizations originally adopted between 1967 and 1986 to actual project allocations. This act corrects two of these revised authorizations as shown in Table 2.

*Table 2: Revised Authorizations for Inactive Bond Funds*

<i>Original Authorization Date</i>	<i>Agency</i>	<i>For</i>	<i>Prior Law</i>	<i>SA 10-1</i>	<i>The Act</i>
1973	DOT	Bureau of Aeronautics – runway facilities improvements at Trumbull Airport	\$52,815	\$58,000	\$55,000
1984	OPM	Municipalities located outside area of presidential disaster declaration of June 14, 1982 – reimbursement for flood-related costs and expenses not otherwise reimbursed	380,887	580,000	500,000

EFFECTIVE DATE: Upon passage

#### § 74 — REPEAL OF DEADLINE EXTENSION FOR PROPERTY TAX EXEMPTION

PA 10-162 and SA 10-8 contain similar provisions allowing taxpayers in Seymour to receive a statutory property tax exemption for manufacturers even if they missed the deadline for claiming the exemption. Both acts provide similar procedures for claiming the exemption. But PA 10-162 allows taxpayers to claim the exemption only for real property on the 2009 Grand List while SA 10-8 allows them to claim it for real and personal property on that grand list. This act eliminates PA 10-162's narrower authorization, thus allowing taxpayers to claim the exemption for real and personal property under SA 10-8.

EFFECTIVE DATE: Upon passage

#### BACKGROUND

##### *Real Estate Conveyance Tax*

With some exceptions, Connecticut law requires a person who sells real property for \$2,000 or more to pay a real estate conveyance tax when he or she conveys the property to the buyer. The tax has two parts: a state tax and a municipal tax. The applicable state and municipal rates are added together to get the total tax rate for a particular transaction.

In addition to the basic municipal tax rate of 0.25% until July 1, 2011 and 0.11% thereafter that applies in all towns, 18 specific towns have the option of levying an additional tax of up to 0.25%. The 18 towns are: Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

##### *Foreclosure by Sale*

Under a foreclosure by sale, any party can ask the court to force a sale of the property. The court appoints a committee to sell the property, after which the court grants the deed to the purchaser. The borrower whose

home is being foreclosed may stop the sale by paying his or her mortgage. A “foreclosure by sale” is distinct from a “strict foreclosure” or bank foreclosure through which a lender asks the court for the deed.

##### *ARRA Medicaid Incentive Grants*

Under Title IV of ARRA, the federal government will pay 100% of the costs eligible health professionals and hospitals incur to purchase, implement, and operate (including support services and staff training) certified electronic health record (EHR) technology. And it will pay 90% of state administrative expenses related to implementing these incentives. State-designated entities that promote the adoption of EHR technology are also eligible to receive incentive payments through arrangements with eligible professionals under certain conditions.

The incentive grants are made through state Medicaid agencies (i.e., DSS) to certain health professionals and hospitals that provide services to specified minimum percentages of Medicaid beneficiaries and are “meaningful users” of EHR. Incentives can cover up to 85% of the net allowable costs of technology. They are available for up to six years. The maximum incentive grant is \$63,750.

The Centers for Medicare and Medicaid Services, which administers this program, recently proposed regulations defining “meaningful use.” The Stage 1 criteria, which take effect in 2011 if adopted, focus on electronically capturing health information in a coded format, using that information to track key clinical conditions, communicating that information for care coordination, and initiating reporting of clinical quality measures and public health information. The criteria contain 25 objectives and measures for professionals and 23 for hospitals. Additional reporting requirements would take effect in 2012.

##### *PPACA Home- and Community-Based Services (HCBS) Incentives*

PPACA creates a new Medicaid community-based attendant service option for people who want to remain at home or in a community-based setting but need an institutional level of care. The option becomes available October 2011. States that choose to adopt this in their state Medicaid plan will receive a six percentage point increase in their reimbursement rate. (Connecticut would receive 56% rather than 50%). PPACA also:

1. enhances the Medicaid HCBS state plan benefit by expanding services that can be available and eliminating state discretion to cap participants,
2. offers financial incentives to states that are currently spending less than 50% of their

Medicaid long-term care dollars on community-based services, and

3. (a) extends until 2016 the Money Follows the Person demonstration program under which states receive enhanced reimbursement rates for moving people from nursing homes to community settings and (b) reduces from six months to 90 days the minimum institutional residency requirement for eligibility and prohibits states from imposing a longer one.

*MOVE Act*

The Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) (P.L. 99-410) requires U.S. states and territories to allow certain U.S. citizens to register and vote by absentee ballot in federal elections. The MOVE Act (P.L. 111-84) requires states, by the November 2010 general election, among other things, to:

1. establish procedures allowing UOCAVA voters to request voter registration and absentee ballot applications by mail or electronically for general, special, and primary elections for federal office;
2. designate at least one means of electronic communication for (a) UOCAVA voters to request voter registration and absentee ballot applications, (b) sending voter registration and absentee ballot applications to voters, and (c) providing UOCAVA voters with election and voting information;
3. develop procedures for transmitting blank ballots to UOCAVA voters by mail and electronically for general, special, and primary elections for federal office; and
4. develop a free access system that allows a UOCAVA voter to determine whether his or her absentee ballot was received.

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**PA 10-2, June 2010 Special Session—SB 502**  
*Emergency Certification*

**AN ACT MAKING ADJUSTMENTS TO THE BUDGET AND TO CERTAIN PUBLIC ACTS, AND ESTABLISHING THE HOMEOWNER'S EQUITY RECOVERY OPPORTUNITY LOAN PROGRAM**

**SUMMARY:** This act makes various changes to implement the FY 10 deficit mitigation and FY 11 budget adjustment acts. It also allows the Connecticut Housing Finance Authority (CHFA) to provide mortgages to eligible buyers of distressed, foreclosed, or abandoned property and repeals a duplicative property

tax exemption deadline extension.

EFFECTIVE DATE: Upon passage except the changes in the FY 11 budget and the CHFA provisions are effective July 1, 2010.

§§ 1 & 2 — CHANGES IN FY 11 BUDGET

The act makes changes to the FY 11 budget as enacted in PA 10-179. It:

1. reduces the Department of Social Services' (DSS) appropriation for the Children's Trust Fund by \$2,253,225 and adds that amount to the Medicaid appropriation;
2. reduces DSS' appropriation for Alzheimer Respite Care by \$500,000;
3. appropriates \$500,000 to the State Department of Education for the Parent Trust Fund Program; and
4. redistributes cuts in Other Expenses to the FY 07 level by increasing the legislative branch's required lapse by \$1,101,667, from \$9,639 to \$1,111,306, and reducing the executive branch's by the same amount, from \$31,990,361 to \$30,888,694.

§ 3 — SUPPORTIVE HOUSING AND NEXT STEPS INITIATIVE

PA 09-7 authorized funds to (1) provide rental assistance and services for the Next Steps Initiative's Round 3 development projects and (2) pay for debt service on the bonds issued to finance the projects. That act required any rental assistance and services funds not used for Round 3 to be used for other rental assistance and services for new scattered site supportive housing. This act allows, rather than requires, any unused FY 11 Round 3 funds to be used for those purposes.

PA 09-7 authorized up to the following amounts for Round 3 in FY 11:

1. \$264,000 of the funds appropriated to DSS for Homeless/Housing Services,
2. \$1 million of the funds appropriated to the Department of Mental Health and Addiction Services (DMHAS) for Housing Supports and Services, and
3. \$1 million of the funds appropriated to the treasurer to pay debt service.

By law, the Next Steps Initiative provides affordable housing and support services for people and families affected by psychiatric disabilities and chemical dependency who are homeless or at risk of being homeless and for supervised ex-offenders with serious mental health needs, among others.

#### § 4 — SPECIAL EDUCATION SUPPLEMENTAL EXCESS COST GRANTS

PA 10-179 allocated supplemental grants for FY 10 and FY 11 to most schools districts for their special education costs that exceed (1) for children placed by state agencies, the district's average per-pupil educational cost for the previous school year and (2) for other children, 4.5 times the district's average per-pupil educational cost for the previous school year.

This act changes the effective date of these supplemental grants from July 1, 2010 to the date of PA 10-179's passage (May 7, 2010).

#### § 5 — PROPERTY TAX EXEMPTION DEADLINE WAIVERS

The act makes technical changes correcting an incorrect reference to those sections of PA 10-1 extending the application deadlines for the distressed municipality, enterprise zone, and targeted investment community (TIC) property tax exemptions.

Businesses qualify for real and personal property tax exemptions under several statutes, some of which require the state to reimburse the municipalities for the forgone property tax revenue. The statutes specify the procedures they and municipalities must follow to claim the exemption and the reimbursement, respectively. PA 10-1 extends the application deadlines for the businesses in Bridgeport, New Haven, and Torrington to claim the state-reimbursed exemptions for manufacturing and service facilities in the enterprise zones, distressed municipalities, and TICs.

It also gives their assessors more time to file for the state reimbursement, but cites the wrong statute for the state to process those reimbursements. This act corrects the reference by requiring the OPM secretary to reimburse them under the statute authorizing the reimbursements for distressed municipalities, enterprise zones, and TICs (CGS § 32-9r).

#### §§ 6 & 9 — EYEGLASS COVERAGE IN MEDICAID AND REPEALER

PAs 10-3 and 10-179 (1) prohibit DSS from paying for more than one pair of eyeglasses per year under the Medicaid program and (2) require DSS to administer the payment for eyeglasses and contact lenses as cost-effectively as possible.

This act permits DSS to implement policies and procedures to administer these provisions while it adopts them in regulation, provided the DSS commissioner publishes notice of intent to adopt regulations in the *Connecticut Law Journal* within 20 days of implementing the policies and procedures. These policies and procedures are valid until final regulations are adopted.

The act repeals this identical language as it applies to the entirety of PA 10-179 (§ 60), which has provisions dealing with several state agencies, not just DSS.

#### §§ 7 & 8 — CHFA MORTGAGE LOANS FOR FORECLOSED AND OTHER PROPERTIES UNDER CT FAMILIES AND HERO PROGRAMS

The act allows the CHFA, under the Connecticut Fair Alternative Mortgage Lending Initiative and Education Services (CT FAMILIES) program and the Homeowner's Equity Recovery Opportunity (HERO) program, to make mortgage loans to eligible borrowers who purchase (1) foreclosed properties, (2) abandoned properties, or (3) properties conveyed by deed in lieu of foreclosure or short sale.

The CT FAMILIES program offers 30-year fixed-rate refinance loans to Connecticut homeowners who are delinquent on their fixed-rate or adjustable-rate mortgages. The program also provides second mortgage loans in conjunction with the refinance loan.

Prior law provided that CHFA could make up to \$40 million in mortgages under the program, and required these mortgages to be consistent with and subject to CHFA's contractual obligations to its bondholders. The act provides that these conditions apply or, in the alternative, CHFA can make mortgage loans to eligible borrowers who purchase foreclosed properties, abandoned properties, or those conveyed by deed in lieu of foreclosure or short sale.

The act also allows CHFA to make such mortgages through the HERO program, through which CHFA purchases mortgages directly from lenders and places eligible borrowers on an affordable repayment plan.



**PA 10-1, July 2010 Special Session—SB 551  
(VETOED; OVERRIDDEN)  
*Emergency Certification***

**AN ACT CONCERNING CLEAN ELECTIONS**

**SUMMARY:** PA 05-5, October 25 Special Session (OSS) established the Citizens' Election Program (CEP) as a voluntary public campaign financing system, changed contribution limits, and banned contributions from certain contractors and lobbyists, among other things. This act changes PA 05-5, OSS, including the CEP, to conform state law to the decision by the U.S. Court of Appeals for the Second Circuit in *Green Party of Connecticut, et al. v. Garfield, et al.*, 2010 U.S. App. LEXIS 14248 (2d Cir. Conn. July 13, 2010) (see BACKGROUND). It also makes other campaign-finance related changes.

Principally, the act:

1. eliminates the reversion clause in PA 05-5, OSS, and replaces it with a severability clause;
2. eliminates the CEP's matching grant (i.e., "trigger") provisions under which candidates who participate in the program (participating candidates) receive additional grant money when their opponents reach certain spending thresholds or they are the target of independent expenditures promoting their defeat;
3. limits the ban on political contributions by lobbyists, their immediate family members, and political committees (known as PACs) they establish or control;
4. authorizes communicator lobbyists to give qualifying contributions (QCs) to participating candidates;
5. limits the ban on soliciting contributions by lobbyists, state contractors, and people and PACs associated with them;
6. defines "bundling" and establishes a restriction on bundling contributions;
7. increases CEP grants for participating gubernatorial candidates; and
8. requires the State Elections Enforcement Commission (SEEC) to analyze campaign spending under the CEP and report back to the Government Administration and Elections Committee biennially.

The act retains the ban on contributions by state contractors, which the appeals court upheld.

The act also:

1. reduces the grant participating candidates receive if they possess a specified minimum number of lawn signs from any previous primary or general election,
2. codifies the term "slate committee" for campaign finance and CEP purposes, and

3. expands the list of items and services that are not considered contributions.

Finally, the act makes several conforming and technical changes.

**EFFECTIVE DATE:** Upon passage, and the provision concerning campaign contributions is applicable to primaries and elections held on or after that date.

**§ 1 — SEVERABILITY**

The act repeals the CEP's reversion clause, CGS § 9-717, and replaces it with a severability clause. Under the act, if any provision of PA 05-5, OSS, including the CEP, or any amendment to it is held invalid, the remainder must be construed as separable and severable, thus allowing those portions to remain in effect. Generally, if a court prohibited or limited the expenditure of funds from the Citizens' Election Fund (CEF), prior law made the CEP, PA 05-5, OSS, and any amendments to it inoperative after a specified period of time, unless amended (see BACKGROUND).

**CITIZENS' ELECTION PROGRAM**

The act makes changes to the CEP affecting opposition status, grants, spending limits, and matching funds.

**§ 3 — *Determining Opposition Status***

By law, participating candidates who are (1) opposed by a major party candidate are eligible for a full grant, (2) opposed by a minor party candidate are eligible for 60% of the applicable grant, or (3) unopposed are eligible for 30% of the applicable grant. The act establishes a date by which participating candidates are considered "opposed" for CEP purposes.

Under the act, a participating candidate is considered to have a major party opponent if, by the nominating or petition deadline set by law (1) a major party endorses a candidate, (2) a candidate from any other major party receives at least 15% of the delegate vote on a roll-call at the party convention, or (3) a candidate qualifies as a petitioning candidate for any other major party's nomination.

**§ 2 — *Spending Limits***

The act changes spending limits for participating candidates. For legislative and statewide office candidates, it eliminates independent and excess expenditure matching grants. For gubernatorial candidates only, it also increases the general election grant.

§ 3 — General Election Grants

The act increases the general election grant amount for participating gubernatorial candidates. The primary grant remains the same (\$1,250,000 for major party candidates; petitioning and minor party candidates are not eligible for primary grants). Table 1 shows the general election grant amounts under prior law and the act.

Table 1: General Election Grants for Major Party Gubernatorial Candidates <sup>a</sup>

Grant	Prior Law	The Act
General Election Grant, Opposed Candidate	\$3,000,000 <sup>b</sup>	\$6,000,000
General Election Grant, Unopposed Candidate	900,000	1,800,000
General Election Grant, Nominated Candidate Opposed by Minor or Petitioning Party Candidates	1,800,000	3,600,000

<sup>a</sup> To be adjusted for inflation.

<sup>b</sup> By law, applies to a nominated major party candidate who is opposed by another major party candidate or by a minor or petitioning party candidate who has received the required QCs.

By law, minor party candidates may receive a general election grant equal to the grant for a major party candidate only if the candidate for the same office representing the same minor party at the last regular election received at least 20% of the votes cast for that office. Similarly, an eligible petitioning candidate may receive a full grant for the general election only if his or her petition is signed by a number of qualified electors equal to at least 20% of the number of votes cast for the same office at the last regular election. (Both receive a one-third grant by meeting a 10% threshold or a two-thirds grant by meeting a 15% threshold.) Table 2 shows the grant amounts for petitioning and minor party gubernatorial candidates under prior law and the act.

Table 2: General Election Grants for Petitioning and Minor Party Gubernatorial Candidates <sup>a</sup>

Grant	Prior Law	The Act
General Election, Previous Minor Party Candidate Received at Least 10% of All Votes Cast for Same Office	\$1,000,000	\$2,000,000
General Election, Previous Minor Party Candidate Received at Least 15% of All Votes Cast for Same Office	2,000,000	4,000,000

Grant	Prior Law	The Act
General Election, Previous Minor Party Candidate Received at Least 20% of All Votes Cast for Same Office	3,000,000	6,000,000

<sup>a</sup> To be adjusted for inflation

§ 3 — Lawn Sign Reductions

The act reduces the grant participating candidates receive if they possess a specified minimum number of lawn signs from any one of their previous primary or general election campaigns. Under the act, all participating candidates must certify in their grant application to the SEEC whether they have custody and control over a number of signs applicable to the office for which they are running. If they do, their primary or general election grant, whichever is applicable, is reduced by a certain amount. The act specifically prohibits a reduction based on lawn signs that are not in the candidate committee’s custody or control. It does not apply to any item other than lawn signs (see BACKGROUND). For each office, Table 3 provides the applicable number of lawn signs and resulting grant reduction.

Table 3: Grant Reductions Based on Lawn Signs

Office	Applicable Minimum Number of Lawn Signs	Primary or General Election Grant Reduction
Statewide office (governor, lieutenant governor, attorney general, state comptroller, secretary of the state, state treasurer)	500	\$2,500
State senator	100	500
State representative	50	250

§§ 2-6 & 15 — Matching Grants

The act repeals the CEP’s independent and excess expenditure provisions, thus eliminating matching grants for these purposes. Prior law authorized participating candidates to receive additional money in the form of matching grants if their opponent exceeded certain spending limits or they were the target of independent expenditures promoting their defeat. Specifically, they could receive up to two times the applicable primary and general election grants to match independent and excess expenditures. The act also makes conforming changes with respect to matching funds. Among other things, it removes these funds from participating candidate spending limits.

### § 14 — SEEC Study

The act requires the SEEC to study campaign spending after each state election. For each election cycle, it must analyze and compile the amount of:

1. grants made from the CEF,
2. expenditures reported by each participating and nonparticipating candidate,
3. money returned by each candidate to the CEF,
4. overall and average spending for each election contest for each office, and
5. independent expenditures for each election contest for each office.

By January 1, 2012 and biennially thereafter, the SEEC must report to the Government Administration and Elections Committee on its analysis and any recommendations it may have for adjusting grant amounts.

### CAMPAIGN FINANCE

The act generally (1) modifies the bans on contributions and solicitations by lobbyists, state contractors, and certain people and PACs associated with them and (2) expands the list of items and services that are not considered contributions.

### §§ 7-9 & 11-12 — Lobbyists

The act specifies that for campaign finance purposes, “lobbyist,” “communicator lobbyist,” and “client lobbyist” have the same meanings as they do under the Code of Ethics for Lobbyists (see BACKGROUND).

Prior law prohibited communicator lobbyists, their immediate family members, and PACs established or controlled by these lobbyists or their family members (“lobbyist PACs”) from making or soliciting contributions to or on behalf of the following recipients: (1) exploratory or candidate committees for statewide or legislative candidates, (2) PACs these candidates establish or control, (3) legislative caucus or legislative leadership committees, or (4) party committees. Prior law prohibited them from soliciting purchases for advertising space in a town committee’s fundraising program (ad book). It also prohibited a communicator lobbyist’s agents and their agents’ PACs from soliciting contributions on behalf of these entities. Finally, it prohibited communicator lobbyists and their immediate family members from giving QCs to participating candidates.

*Contributions and Solicitations.* For communicator lobbyists, their immediate family members, and lobbyist PACs, the act (1) lifts the contribution ban, but establishes a \$100 contribution limit and (2) eliminates the absolute ban on solicitations and, beginning January 1, 2011, replaces it with a restriction on known

solicitations from certain people associated with their client lobbyists (i.e., boards of directors, owners of at least 5% interest in the lobbying entity, employees, and partners).

Thus, the act allows these lobbyists and their immediate family members and PACs to contribute \$100 or less to the above-listed recipients. It allows the same individuals and PACs, as well as communicator lobbyists’ agents and their agents’ PACs, to solicit contributions or ad book purchases from any entity except a client lobbyist that they lobby and the people associated with the client lobbyist.

*Bundling.* The act establishes a restriction on contribution bundling by communicator lobbyists, their agents, and immediate family members to (1) exploratory or candidate committees for statewide or legislative candidates, (2) PACs these candidates establish or control, (3) legislative caucus or legislative leadership committees, or (4) party committees.

The act defines “bundle” as (1) forwarding five or more contributions to a single committee by a communicator lobbyist, his or her agent, or immediate family member or (2) raising contributions for a committee at a fundraising affair, held, sponsored, or hosted by a communicator lobbyist, his or her agent, or immediate family member.

The penalty for bundling is the same as that under existing law for unlawfully making or soliciting campaign contributions. That is, anyone who violates the bundling ban is subject to a civil fine that the SEEC imposes of up to \$5,000 or twice the amount of the bundled contributions, whichever is greater.

*Qualifying Contributions.* The act lifts the ban on QCs made by lobbyists. It thus allows communicator lobbyists and their immediate family members to give QCs of up to \$100 to participating candidates.

*Sessional Contribution Ban.* The law imposes a ban on contributions when the General Assembly is in session from client lobbyists to committees associated with candidates for statewide or legislative office. Since the act lifts the communicator lobbyist contribution ban, it broadens the sessional ban to include all lobbyists, not only client lobbyists.

### § 10 — Contractors

Prior law banned state contractors, prospective state contractors, pre-qualified contractors, and their principals from making or soliciting contributions to or on behalf of the following recipients: (1) exploratory or candidate committees for statewide or legislative candidates, (2) PACs authorized to make contributions to or spend on behalf of candidates for statewide or legislative office, or (3) party committees (see BACKGROUND). The ban was branch-specific. (For example, a contractor that did business with only the

executive branch was allowed to make contributions to legislative candidates.) However, prequalified contractors could not contribute to or solicit for any candidates for state or legislative office.

*Contributions and Solicitations.* For state contractors, prospective state contractors, pre-qualified contractors, and their principals, the act (1) retains the contribution ban and (2) eliminates the absolute ban on solicitations and beginning January 1, 2011, replaces it with a restriction on intentional solicitations from their employees. For state contractors and their principals, beginning January 1, 2011 it additionally prohibits contribution solicitations from their subcontractors or the subcontractor's principals. The act thus allows contractors and their principals to solicit contributions from any entity or person except their employees, subcontractor, or subcontractor's principals, as applicable, on behalf of the recipients listed above. Just as with the ban under prior law, the limitations are branch-specific, except as they apply to pre-qualified contractors.

The act defines "subcontractor" as any person, business entity, or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. A subcontractor is considered such until December 31<sup>st</sup> of the year in which the subcontract terminates. Subcontractor does not include (1) a political subdivision of the state, including any entities or associations duly created by the political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter or (2) an employee in the executive or legislative branch or a quasi-public agency, whether in the classified or unclassified service and full- or part-time, and only in his or her capacity as a state or quasi-public agency employee.

It defines "principal of a subcontractor" in the same way the law defines principal of a contractor. With respect to a subcontractor that is a business entity, the principals include:

1. members of the board of directors;
2. individuals with an ownership interest of 5% or more in the business;
3. a president, treasurer, or executive vice president of the business;
4. employees with managerial or discretionary responsibilities with respect to a subcontract with a state contractor;
5. the spouse or dependent children of individuals described above; and
6. a PAC established by or on behalf of an individual described above.

With respect to a subcontractor that is a non-business entity, the definition of principal is the same as above except the act (1) excludes board members and (2) includes a chief executive officer or officer with

comparable duties, rather than president, treasurer, or executive vice president.

#### § 7 — *Slate Committees*

The act codifies the term "slate committee" for purposes of campaign finance and the CEP as a political committee formed by at least two candidates that will serve as the sole campaign funding vehicle (1) for nomination or election to any municipal office, (2) in a primary for the office of justice of the peace, or (3) for the position of town committee member. Although the term "slate committee" was not previously used in statute, the law did govern the activities of political committees formed solely to aid or promote the success or defeat of a candidate or referendum question (commonly referred to as "slate committees"). (For example, CGS § 9-603 dictates where campaign finance statements are filed, § 9-604 addresses the formation of candidate committees, and § 9-608 prescribes the distribution of surplus campaign funds.)

#### §§ 7 & 13 — *Campaign Contributions*

The act expands the list of items and services that are not considered contributions. It does this by exempting from the definition of contribution (1) the cost of donated food and drink, up to a total of \$50, to be consumed at a single slate, party, candidate, legislative caucus, or legislative leadership committee meeting, event, or activity, other than a fundraiser; (2) the display of a lawn sign by a human being or on real property; and (3) certain de minimis campaign activities made to benefit PACs and party, slate, legislative caucus, or legislative leadership committees, including those for participating and nonparticipating candidates.

Under the act, "de minimis campaign activity" means sending emails or messages, without compensation, from an individual's personal computer or cell phone.

#### BACKGROUND

##### *Green Party of Connecticut v. Garfield*

In a consolidated action, the U.S. Court of Appeals for the Second Circuit considered appeals from *Green Party of Conn. v. Garfield*, 590 F. Supp. 2d 288 (D. Conn. 2008) ("*Green Party I*") and *Green Party of Conn. v. Garfield*, 648 F. Supp. 2d 298 (D. Conn. 2009) ("*Green Party II*"). On July 13, 2010, the appeals court issued two opinions, reversing in part and affirming in part, the decisions by the federal district court for the District of Connecticut in *Green Party I* and *Green Party II*.

In its first decision, the appeals court considered the district court's ruling in *Green Party II*. In that case, the district court declared the entire CEP unconstitutional, finding that its (1) qualification and grant distribution provisions unconstitutionally burden minor party candidates' rights to political opportunity and (2) independent and excess expenditure provisions ("trigger provisions") violate the First Amendment rights of non-candidates, non-participating candidates, and their supporters (i.e., advocacy groups). The appeals court reversed the lower court's decision concerning minor party candidates and affirmed it concerning the trigger provisions.

In its second decision, the appeals court considered the district court's ruling in *Green Party I*. In that case, the district court upheld the Campaign Finance Reform Act's (CFRA) ban on certain contributions and solicitations by communicator lobbyists, state contractors, and their immediate family members. The appeals court (1) upheld the ban on contributions by contractors, principals, and their spouses and children; (2) struck down the ban on contributions by lobbyists, their spouses and children, and PACs they establish or control; and (3) struck down, for both lobbyists and contractors, the ban on soliciting contributions.

Since it found only parts of the CFRA unconstitutional, the appeals court remanded to the district court the question of whether the unconstitutional provisions may be severed from the law (under the reversion clause CGS § 9-717), an issue the lower court had not considered. It indicated that the lower court should develop the record to determine how the statute applies to the split judgment.

The appeals court vacated the permanent injunction that the district court placed on the CEP in *Green Party II*. It instructed the lower court to "reconsider the scope of the injunctive relief necessary" in light of the decision and that court's resolution of the severability issue on remand.

#### *Reversion and Severability*

Under prior law, if a court prohibited or limited, or continued to prohibit or limit, the expenditure of funds from the CEF for seven days or more between the 45th day before a special election scheduled to fill a General Assembly vacancy and the day after the special election (1) the CEP and (2) the remainder of PA 05-5, OSS and any amendments to it became inoperative until the day after the special election with respect to any race in the special election subject to the court order.

Likewise, the CEP and remainder of PA 05-5, OSS and any amendments to it became inoperative if:

1. the court took these steps for 30 days or more on or after April 15 during a state election year;

2. the court took these steps for 15 days on or after the August primary during a state election year; or
3. the primary occurred during a period of 15 days or more in which the court continued to prohibit or limit expenditures.

In these cases, the injunction took effect after the 30- or 15-day period, whichever was applicable and campaign finance law reverted to the law in effect prior to PA 05-5, OSS until December 31 of that year. If the injunction was still in effect on April 15 of the second year succeeding the original prohibition, campaign finance law reverted to prior law without time limitation.

#### *Lawn Sign Grant Reductions: Related Advisory Opinion*

In September 2008, the SEEC adopted Advisory Opinion 2008-02 stating that (1) a candidate's prior assets, including lawn signs, must be reported as contributions pursuant to campaign finance disclosure requirements and (2) the value of these assets is an amount equal to the original purchase price. In its opinion, the SEEC noted that some assets depreciate in value over time and that some formula for depreciation may be reasonably established in the future.

#### *Communicator and Client Lobbyists*

Under the ethics code, a "lobbyist" is a person who receives, spends, or receives and spends (or agrees to receive, spend, or both) at least \$2,000 in a calendar year in lobbying and in furtherance of lobbying. A "client lobbyist" is a lobbyist on whose behalf lobbying takes place and who makes expenditures for lobbying and in the furtherance of lobbying. A "communicator lobbyist" is an individual or business organization that communicates directly with public officials or their staff to influence legislative or administrative action.

#### *Principals of Contractors*

By law, a "principal" of a business entity includes:

1. directors;
2. owners of at least 5% of the entity;
3. the president, treasurer, or executive vice president;
4. managerial or discretionary employees;
5. a spouse or dependent children of any of the above;
6. a PAC established or controlled by any of the above, including spouses and dependent children; or
7. a PAC established or controlled by the business entity.

A "principal" of a nonprofit organization includes:

1. the chief executive officer or officer with comparable duties;
2. employees performing managerial or discretionary duties with respect to a state contract negotiation;
3. the spouse or dependent children of any of the above;
4. a PAC established or controlled by any of the above, including spouses and dependent children; or
5. a PAC established or controlled by the nonprofit organization.

Nonprofit board members are not considered principals.

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