

SUMMARY OF 2011 PUBLIC ACTS

Connecticut General Assembly

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NOTICE TO USERS

This publication, *Summary of 2011 Public Acts*, summarizes all public acts passed by the 2011 Regular Session and the June and October 2011 special sessions of the Connecticut General Assembly. Special acts are not summarized.

Use of this Book

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The office strongly discourages using the summaries as a substitute for the public acts. The summaries are meant to be handy reference tools, not substitutes for the text. The public acts are available in public libraries and can be purchased from the secretary of the state. They are also available online from the Connecticut General Assembly's website (<http://www.cga.ct.gov>).

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 certifications) are in their own chapter. The acts from the June and October special sessions appear in separate chapters according to the special session. Within each chapter, summaries are arranged in order by public act number.

2011 VETOED ACTS

1. PA 11-65, An Act Exempting Certified Police Officers from Telecommunicator Training (Public Safety and Security Committee)
2. PA 11-95, An Act Reconstituting the Connecticut Capitol Center Commission (Planning and Development Committee)
3. PA 11-107, An Act Concerning the Siting Council (Energy and Technology Committee)
4. PA 11-142, An Act Promoting Economic Development in the Area Surrounding Oxford Airport (Commerce Committee)
5. PA 11-170, An Act Concerning the Rate Approval Process for Certain Health Insurance Policies (Insurance and Real Estate Committee)
6. PA 11-202, An Act Concerning the Revision of Municipal Charters (Planning and Development Committee)

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 sentence range 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.

Violators of infractions, which are not crimes, can pay the fine by mail without making a court appearance.

PA 11-6—SB 1239
Emergency Certification

AN ACT CONCERNING THE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2013, AND OTHER PROVISIONS RELATING TO REVENUE

SUMMARY: This act appropriates funds for state agencies and programs and estimates state revenues for FY 12 and FY 13. It carries forward unspent balances from prior years' appropriations and directs funds to be spent for specific programs and purposes. Among other things, it (1) specifies each town's Education Cost Sharing (ECS) grant, (2) allocates additional funds to reimburse school districts for special education costs, and (3) caps administrative spending at public higher education constituent units. It requires the legislature to approve a concession agreement with state employees and, if necessary, adjust the state budget to achieve savings equal to the difference between the savings from concessions and \$2 billion through the end of FY 13.

The act increases many state taxes, including those on personal income, sales, cigarettes and tobacco products, alcoholic beverages, corporations, real estate conveyances, and diesel fuel. It imposes a temporary tax on electric generation and a new tax on hospital revenue. It requires a specified share of revenue from certain state taxes to be distributed to municipalities.

The act (1) establishes a refundable earned income tax credit, and reduces the maximum property tax credit, against the state income tax; (2) eliminates sales tax exemptions and extends the tax to cover additional services; and (3) requires certain online retailers to collect sales tax on their taxable sales in the state. It also increases motor vehicle fees, including those for driver's licenses and motor vehicle registrations. (PA 11-61 and PA 11-1, June Special Session (JSS), later made numerous changes to the appropriations and revenue provisions of this act but those in PA 11-1, JSS were later repealed.)

EFFECTIVE DATE: July 1, 2011, unless otherwise noted below.

§§1-10 — FY 12 AND FY 13 APPROPRIATIONS

The act appropriates money from the state's 10 appropriated funds for state agency operations and programs in FY 12 and FY 13. Table 1 shows the net annual appropriations for each year from each fund.

Table 1: FY 12 & FY 13 Appropriations By Fund*

\$	Fund	Net Appropriation	
		FY 12	FY 13
1	General Fund	\$18,350,267,517	\$18,781,811,078
2	Special Transportation Fund	1,303,892,227	1,334,205,705
3	Mashantucket Pequot and Mohegan Fund	61,779,907	61,779,907
4	Soldiers, Sailors, and Marines' Fund	3,061,036	3,061,536
5	Regional Market Operation Fund	964,897	932,821
6	Banking Fund	26,555,453	26,113,149
7	Insurance Fund	26,621,617	26,131,750
8	Consumer Counsel and Public Utility Control Fund	26,129,247	25,694,813
9	Workers' Compensation Fund	22,259,542	22,037,360
10	Criminal Injuries Compensation Fund	3,493,813	3,602,121

(PA 11-61, §§ 67-69, changes these net appropriation totals for FYs 12 and 13 for the General Fund, Special Transportation Fund, and Consumer Counsel and Public Utility Control Fund. PA 11-1, JSS, further reduces the net General and Special Transportation Fund appropriations.)

§ 11 — UNALLOCATED PERSONAL SERVICES AND OTHER EXPENSES SAVINGS

For FYs 12 and 13, the act requires the Office of Policy and Management (OPM) secretary to recommend annual spending reductions of \$12,014,800 for personal services and \$9,440,200 for other expenses. The reductions do not apply to the higher education constituent units. (PA 11-48, § 3, amends this provision to require the OPM secretary to monitor personal services expenses and make, instead of recommend, reductions totaling these amounts.)

§ 12 — STATE EMPLOYEES BARGAINING AGENT COALITION (SEBAC) AGREEMENT

The act subjects any negotiated agreement between the state and SEBAC to achieve the labor-management savings specified in the act to legislative approval according to the regular statutory process for approving state employee collective bargaining agreements.

If there is an agreement, the act requires the governor to submit to the legislature, by May 31, 2011, a written plan that includes (1) recommended legislation to apply terms comparable to those in the agreement to nonunion employees for FYs 12 and 13 and (2) if the savings in the agreement are less than \$2 billion over FYs 12 and 13, recommended budget adjustments to achieve savings equal to the difference between the savings in the agreement and \$2 billion. If there is no agreement, the governor's plan must include recommended budget adjustments totaling \$2 billion through the end of FY 13.

By June 8, 2011, the act requires the General Assembly to adopt legislation to (1) apply terms comparable to those in the agreement to nonunion employees for FYs 12 and 13 and (2) the extent the agreement does not provide \$2 billion in savings over the biennium, adjust the budget to achieve those savings.

(PA 11-61, § 165, establishes a special approval method for the tentative agreement between SEBAC and the state and revises the timetable and requirements for extending comparable terms to nonunion employees. PA 11-1, JSS, repeals this section and replaces it with a revised SEBAC agreement approval process.)

Finally, the act requires the OPM secretary to reduce spending by up to \$2 billion over the FY 12-13 biennium as provided in any negotiated agreement between the state and SEBAC approved by the General Assembly and in any legislation the General Assembly adopts to (1) extend comparable terms to nonunion employees and (2) adjust the budget to achieve the full \$2 billion in savings over the biennium.

EFFECTIVE DATE: Upon passage

§ 13 — AUTHORITY TO TRANSFER PERSONAL SERVICES APPROPRIATIONS

The act allows the OPM secretary, with Finance Advisory Committee (FAC) approval, to transfer:

1. personal services appropriations in any appropriated fund from agencies to the Reserve for Salary Adjustments account to more accurately reflect collective bargaining and related costs and
2. General Fund appropriations for Reserve for Salary Adjustments to any agency in any appropriated fund to implement salary increases; other employee benefits; agency costs related to staff reductions, including accrual payments; agency general personal services reductions; or any other authorized personal service adjustment.

§§ 14, 15, 17-19, 27, 45, 52, 59, & 66-67 — FUNDS CARRIED FORWARD

Funds Carried Forward for the Same Purpose

The act carries forward various unspent balances from prior years' appropriations and requires them to be used for the same purposes in FY 12 or FY 13 rather than lapsing at the end of the fiscal year (see Table 2).

Table 2: Funds Carried Forward For The Same Purpose*

<i>\$</i>	<i>Agency</i>	<i>Purpose</i>	<i>Amount</i>	<i>To FY</i>
14 (a)	OPM	Collective bargaining agreements and related costs for FYs 10 and 11	Unspent balance	2012 2013
14 (b)	OPM	Collective bargaining agreements and related costs in General and Special Transportation funds for FY 12	Unspent balance	2013
15	OPM	Cost for (1) design and implementation of a comprehensive statewide technology system for sharing criminal justice information and (2) the Criminal Justice Information System Governing Board	Unspent balance	2012 2013
17	Motor Vehicles	Commercial Vehicle Information Systems and Networks project	Unspent balance	2012 2013
18 (a)	Motor Vehicles	Upgrading registration and drivers' license data processing systems	Unspent balance	2012 2013
18 (b)	Motor Vehicles	Upgrading registration and drivers' license data processing systems	Up to \$7 million	2012 2013
18 (c)	Motor Vehicles	Upgrading registration and drivers' license data processing systems	Up to \$8.5 million	2012 2013
19	OPM	Health care and pension consulting contract	Unspent balance	2012 2013
27	Developmental Services	Pilot Program for Autism Services: study of issues related to needs of people with autism, including the feasibility of a Center for Autism and Developmental Disabilities	Up to \$125,000	2012
45	Legislative Management	Redistricting	Unspent balance	2012
52	Corrections	Children of Incarcerated Parents	Unspent balance	2012
59	Education	Other Expenses: Litigation costs associated with the <i>Connecticut Coalition for Justice in Education v. Rell</i> lawsuit	Up to \$500,000	2012
66	Environmental Protection	Solid Waste Management Account: <ul style="list-style-type: none"> \$25,000 to hire temporary staff to retrain the regulated community concerning tidal wetlands and high tide lines and to update related publications and documents \$25,000 grant to Urban Oaks Organic Farm in New Britain 	\$50,000	2012
67	Environmental Protection	Emergency Spill Response Account: for a grant to the West River Tide Gate Habitat Restoration Project in New Haven	\$100,000	2012

(*PA 11-48, § 187, adds items to this list.)

§ 16 — FILLING STATE EMPLOYEE POSITIONS

Unless the governor recommends it and the FAC approves, the act limits the number of positions state agencies may fill to the number recommended by the Appropriations Committee as revised by later General Assembly enactments and set out in the Office of Fiscal Analysis report on the FY 12-13 budget.

§§ 20, 53, 58 & 60-64 — FUNDS CARRIED FORWARD AND TRANSFERRED

The act carries forward and transfers the amounts shown in Table 3.

Table 3: Funds Carried Forward and Transferred

<i>\$</i>	<i>Agency</i>	<i>Amount</i>	<i>From</i>	<i>To</i>	<i>FY</i>
20 (a)	OPM	Up to \$178,828	Other expenses to prevent base closures	Litigation/Settlement Account	2012 2013
20(b)	OPM	Up to \$4 million	Tax Relief for Elderly Renters	Litigation/Settlement Account	2012 2013
53	Auditors of Public Accounts	\$350,000	Personal Services	\$300,000 to Other Expenses; \$50,000 to Equipment	2012
58	Education	Up to \$1 million	Personal Services	Other expenses: Windham School District Takeover	2012
60	Education	Up to \$3.2 million	<i>Sheff</i> Settlement	Up to \$1.2 million to Magnet Schools for the balance of a magnet school supplemental grant to the Capitol Region Education Council (CREC) for FY 11	2011
60	Education	Up to \$3.2 million	<i>Sheff</i> Settlement	Up to \$2 million to OPEN Choice Program for Open Choice seats	2012
61	Education	Up to \$1 million	Development of mastery exams for grades 4, 6, and 8	Program for International Student Assessment (PISA)	2012
62	Education	\$50,000	Personal Services	Other Expenses: Develop a model teacher performance evaluation system for boards of education and regional education service centers	2012
63	Education	\$100,000	Personal Services	Neighborhood Youth Centers: <ul style="list-style-type: none"> • \$75,000 to Original Works in Bridgeport • \$25,000 to ARTE, Inc. in New Haven 	2012
64	Environmental Protection	\$800,000	Emergency Spill Response Account	Councils, Districts, and ERT's Land Use: \$400,000 each year	2012 2013

§ 21 — TRANSFERS TO MAXIMIZE FEDERAL MATCHING FUNDS

The act allows the governor, with FAC approval, to transfer all or part of an agency's General Fund appropriation, at its request, to another agency to take advantage of federal matching funds, as long as both agencies certify that the receiving agency will spend the money for the original purpose. Federal funds generated from transfers can be used to reimburse General Fund spending, expand services, or both, as the governor, with FAC approval, determines.

§ 22 — FUNDING ADJUSTMENTS TO MAXIMIZE FEDERAL FUNDING

The act allows the governor, with FAC approval, to adjust an agency's General Fund appropriation to maximize federal funding to the state. The governor must present a plan for any adjustment to the Appropriations and Finance, Revenue and Bonding committees.

§ 23 — NEWBORN SCREENING ACCOUNT

For FY 12 and FY 13, the act allocates \$900,000 annually, rather than the statutorily required \$500,000, to the General Fund's newborn screening account. (PA 11-48, § 39 increases this allocation to \$1,121,713.) The funding comes from fees the Department of Public Health (DPH) charges institutions for comprehensive newborn testing, parent counseling, and treatment. DPH must use the money (1) to buy upgraded screening technology and (2) for its testing expenses.

§ 24 — STEM CELL RESEARCH FUND

The act allows the DPH commissioner to use up to \$200,000 per year from the Stem Cell Research Fund in FY 12 and FY 13 for administrative expenses.

§ 25 — PRE-TRIAL ALCOHOL SUBSTANCE ABUSE PROGRAM FUNDING

For FY 12 and FY 13, the act reserves the following annual amounts from the Department of Mental Health and Addiction Services' (DMHAS) appropriations for the Pre-Trial Alcohol Substance Abuse Program: (1) up to \$1.1 million in each year for regional action councils and (2) up to \$510,000 in each year for the Governor's Partnership to Protect Connecticut's Workforce.

§ 26 — DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS) COST SETTLEMENTS WITH PRIVATE PROVIDERS

During FY 12 and FY 13, the act requires private organizations providing services under contract with DDS to reimburse DDS for 100% of the difference between the actual expenses incurred and the amount the organization received from DDS under the contract. (PA 11-61, § 87, requires the organizations to reimburse DDS for, rather than during, FYs 12 and 13.)

§ 28 — DEPARTMENT OF CHILDREN AND FAMILIES (DCF)-LICENSED PRIVATE RESIDENTIAL TREATMENT FACILITIES

For FY 12 and FY 13, the act eliminates per diem and other rate increases, as well as cost of living adjustments, for private residential treatment facilities licensed by the DCF.

§ 29 — FEDERAL REIMBURSEMENT FOR DEPARTMENTAL OF SOCIAL SERVICES (DSS) DATA WAREHOUSE PROJECT

In compliance with an advanced planning document for developing a data warehouse approved by the federal Department of Health and Human Services, the act authorizes DSS to establish a "receivable" (presumably, a receivable account) for FY 12 and FY 13 for the anticipated reimbursement from the data warehouse project.

§ 30 — DSS AUTHORITY TO ESTABLISH RECEIVABLE ACCOUNT FOR ELECTRONIC TRANSACTIONS

For FY 12, 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.

§ 31 — AUTHORITY FOR ADVANCE PAYMENTS TO CERTAIN NURSING HOMES

The act allows the DSS commissioner, after consulting the OPM secretary, to provide payments in advance of normal bill payment processing to nursing homes that provide services eligible for payment under the medical assistance program. The nursing facility must ask for the advance payments. The act limits advances to the estimated amounts due the facility for services to eligible recipients over the most recent two months.

The DSS commissioner must recover the advance either by reducing payments due the facility or through a cash reimbursement from the facility within 90 days after issuing the advance. The act requires the commissioner to take prudent measures to assure that no advances are made to nursing homes in danger of insolvency or bankruptcy and allows him or her to execute appropriate agreements to secure repayment.

§§ 32 & 34 — UCONN HEALTH CENTER AND VETERANS' AFFAIRS DISPROPORTIONATE SHARE TRANSFERS

The act allows the OPM secretary to transfer all or part of any FY 12 or FY 13 appropriation for the UConn Health Center or the Department of Veterans' Affairs to DSS' Disproportionate Share (DSH)-Medical Emergency Assistance account in order to maximize federal reimbursement.

§ 33 — DSS PAYMENTS TO DMHAS HOSPITALS

The act requires DSS to spend money appropriated to it for FY 12 and FY 13 for DMHAS/Medicaid Disproportionate Share payments when and in the amounts OPM specifies. DSS must make payments to DMHAS hospitals for operating expenses and related fringe benefits. Hospitals must reimburse the comptroller for the fringe benefit payments and deposit the other funds to "grants – other than federal accounts." Unspent DSH funds in the "grants" account must lapse at the end of each fiscal year.

§ 35 — BIRTH-TO-THREE PROGRAM

For FY 12 and FY 13, the act requires the State Department of Education (SDE) to annually transfer \$1 million of the federal special education funds it receives to DDS for the Birth-to-Three Program to carry out special-education-related requirements consistent with federal special education law.

§ 36 — PRIORITY SCHOOL DISTRICT GRANTS

The act distributes the priority school district grant appropriation to state education programs in the amounts shown in Table 4.

Table 4: Priority School District Grant Allocations

<i>Grant</i>	<i>FY 12</i>	<i>FY 13</i>
Priority School Districts	\$40,319,326	\$39,792,940
School Readiness	69,813,189	69,813,190
Extended School Building Hours	2,994,752	2,994,752
School Accountability	3,499,699	3,499,699

§ 37 — EDUCATION COST SHARING (ECS) GRANTS TO TOWNS

The act overrides the statutory formula for calculating ECS grants and specifies each town's ECS grant for FY 12 and FY 13. Under the act, each town's grant is the same for both years and the same as for FY 10 and FY 11.

§ 38 — TRANSPORTATION GRANTS FOR FORMER WRIGHT TECH STUDENTS

The act continues a separate state grant to reimburse school districts for the costs of transporting students who previously attended or were accepted for enrollment in the J.M. Wright Technical High School in Stamford so they may attend Henry Abbott Technical High School in Danbury. It allows the education commissioner, within available appropriations, to provide grants of up to \$2,500 per pupil for FY 12 and FY 13. Grant amounts may not exceed actual transportation costs for each student. Districts must submit grant applications when and how the commissioner prescribes. The act's grant program is in addition to existing statutory grants for public school and vocational-technical school transportation costs.

§ 39 — PRIVATE OCCUPATIONAL SCHOOL STUDENT PROTECTION ACCOUNT

The act overrides statutory restrictions to allow the Department of Higher Education (DHE) to spend \$301,000 in FY 12 and \$310,000 in FY 13 from the private occupational school student protection account.

§ 40 — CONNECTICUT INDEPENDENT COLLEGE STUDENT GRANT PROGRAM

The act bars Yale University from receiving an annual allocation from the appropriation for Connecticut Independent College Student (CICS) grants for FY 12 or FY 13.

It also requires the higher education commissioner to review the CICS Program to evaluate the benefits and cost-effectiveness of (1) the formula for deriving the annual appropriation, (2) the way annual allocations for each independent college or university are made, and (3) how the aid amounts for individual students are determined. The commissioner must report his findings and recommendations to the Higher Education and Appropriations committees by January 1, 2012. (PA 11-61, § 145, requires the executive director of the Office of Financial and Academic Affairs for Higher Education to conduct the review in consultation with staff from participating institutions. It also changes the study's requirements.)

§ 41 — NEIGHBORHOOD YOUTH CENTER GRANTS

The act directs the SDE to provide the following grants in each year from its FY 12 and FY 13 appropriations for neighborhood youth centers:

1. \$990,000 for the Boys and Girls Clubs of Connecticut, with up to \$90,000 to the Boys and Girls Club of Bridgeport, contingent on the organization’s providing a 100% cash match for the grants; and
2. funds for the following organizations, contingent on their matching at least 50%, with a cash match of at least 25%, of the grant amount:
 - (a) up to \$348,300 for Centro San Jose, Hill Cooperative Youth Services, Inc., and Central YMCA in New Haven;
 - (b) up to \$78,300 for Trumbull Gardens in Bridgeport;
 - (c) up to \$45,000 for the Valley Shore YMCA in Westbrook;
 - (d) up to \$22,500 for the Rivera Memorial Foundation, Inc. of Waterbury; and
 - (e) up to \$22,500 for the Willow Plaza Neighborhood Revitalization Zone Association in Waterbury.

§ 42 — JOHN DEMPSEY HOSPITAL FRINGE BENEFITS

The act requires the state comptroller to pay the difference, up to \$13.5 million per year for FYs 12 and 13, between the state fringe benefit rate for Dempsey Hospital employees and that for private hospitals from the General Fund appropriations for State Comptroller – Fringe Benefits.

§ 43 — SUPPLEMENTAL SPECIAL EDUCATION EXCESS COST GRANTS

The act allocates additional funds for FY 12 and FY 13 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 for (1) children placed by state agencies, the district’s average per-pupil educational cost for the previous school year and (2) locally placed children, 4.5 times that average. The act lists the specific additional grant each school district must receive and requires each to receive the same amount in both years.

§ 44 — HIGHER EDUCATION ADMINISTRATIVE SPENDING LIMITS

The act limits certain administrative spending by higher constituent units to no more than specified percentages of General Fund appropriations and operating fund spending in FYs 12 and 13 as shown in Table 5. The limits do not apply to federal, private, capital bond, and fringe benefit funds.

Table 5: Higher Education Spending Limits

Function	Unit	% of General Fund Appropriations and Operating Funds Expenditures	
		FY 12	FY 13
System office spending, excluding telecommunication center funds, capital equipment bond funds for identified system-wide projects benefiting individual campuses, and data center funds	Community-Technical Colleges	1.43%	1.4%
	Connecticut State University System	1.01%	1.0%
Institutional administration spending (system office, executive management, fiscal operations, and general administration but not logistical services, administrative computing, and development)	Community-Technical Colleges	9.92%	9.9%
	Connecticut State University System	6.77%	6.75%
	UConn	3.13%	3.1%

The act requires the higher education commissioner, within available appropriations, to monitor compliance with the limits and report his findings to the Higher Education and Appropriations committees within 60 days of the end of each quarter of FYs 12 and 13.

§§ 46 & 47 — ALLOCATIONS FROM THE TOBACCO AND HEALTH TRUST FUND

The act allocates the following amounts for FY 12 and FY 13 from the Tobacco and Health Trust Fund:

1. \$500,000 per year to the UConn Health Center for the Connecticut Health Information Network;
2. \$1.45 million per year to DPH for the following grants:

- a. within the Easy Breathing Program, \$300,000 annually for an adult asthma program and \$500,000 annually for a children's asthma program,
 - b. \$150,000 annually to the Coalition for Environmental Justice for the Community Asthma Education Program, and
 - c. \$500,000 annually to regional councils for emergency medical services (PA 11-44, § 87, changes the recipients to regional emergency medical services); and
3. \$2.75 million for FY 12 and \$3.4 million for FY 13 to DSS for Medicaid to support smoking cessation programs.

§ 48 — EMERGENCY ENERGY ASSISTANCE

The act requires the annual \$1.1 million appropriation for FY 12 and FY 13 to the Department of Energy and Environmental Protection (DEEP) for Operation Fuel to be used for emergency energy assistance for households with income levels under 200% of the applicable federal poverty level (FPL) that cannot make timely payments on energy bills. Operation Fuel must pay companies directly for all energy sources provided to qualified households. The emergency assistance can be for any energy use, including cooling.

The act allocates \$100,000 of the appropriated funds in each fiscal year to OPM for a grant to Operation Fuel for its operating expenses in administering emergency home cooling assistance. (PA 11-48, § 5, appropriates the funds to DEEP rather than OPM for operating expenses in administering emergency home energy, rather than cooling, assistance.)

§ 49 — FISH HATCHERY PRIVATIZATION PLAN

The act requires the environmental protection commissioner to prepare a plan to privatize state fish hatcheries. The commissioner must submit the plan to the Environment and Appropriations committees by January 1, 2012.

EFFECTIVE DATE: Upon passage

§ 50 — ALLOCATIONS FROM THE PROBATE COURT ADMINISTRATION FUND SURPLUS

On June 30, 2011, the act transfers \$2.335 million from the Probate Court Administration Fund surplus for the following purposes instead of to the General Fund:

1. \$500,000 to the Judicial Department's Court Support Services Division for a male youth leadership pilot program to provide services in targeted communities to high-risk males with low academic achievement;

2. \$1 million to the Kinship Fund and Grandparents and Relatives Fund, administered by the Children's Trust Fund Council and DSS through the Probate Court;
3. \$35,000 to the Judicial Department to expand the Children in Placement, Inc. program in Danbury (PA 11-48, § 42, increases this allocation to \$50,000 and specifies that it is transferred to the Judicial Department for Other Expenses, for this purpose); and
4. \$800,000 to the Children's Trust Fund administered by the Children's Trust Fund Council and DSS. (PA 11-48, § 42, and PA 11-61, § 100, add other transfers to this list.)

On June 30, 2012, it transfers \$1.035 million of the surplus to the following programs, and any remaining surplus to the General Fund:

1. \$1 million to the Kinship Fund and Grandparents and Relatives Fund, administered by the Children's Trust Fund Council and DSS through the Probate Court, and
2. \$35,000 to the Judicial Department to expand the Children in Placement, Inc. program in Danbury. (PA 11-48, § 42, increases this allocation to \$50,000 and specifies that it is transferred to the Judicial Department for Other Expenses, for this purpose. PA 11-48, § 42, and PA 11-61, § 100, add other transfers to this list.)

EFFECTIVE DATE: Upon passage

§ 51 — PLAN TO CONSOLIDATE WORKERS' COMPENSATION COMMISSION DISTRICT OFFICES

The act requires the Workers' Compensation Commission chairman to study the feasibility of consolidating the commission's district offices to achieve administrative efficiencies. He must report his findings and any recommended legislation to the Appropriations Committee by January 1, 2012.

EFFECTIVE DATE: Upon passage

§ 54 — INTERDISTRICT MAGNET SCHOOL OPERATING GRANT FOR EDISON MAGNET SCHOOL

The act extends for an additional two years the higher per-student state magnet school operating grant for each Meriden student attending the Thomas Edison Interdistrict Magnet School in Meriden. Under the act, Edison continues to receive \$3,833 rather than \$3,000 for each Meriden student enrolled in the school through FY 13. Under prior law, the higher grant was discontinued after FY 11.

For FY 12 and FY 13, the act also freezes the school's annual state grant of \$6,730 for each student from outside Meriden.

§ 55 — SUPPORTIVE HOUSING SERVICES

The act allows the DSS, DMHAS, and Correction commissioners; OPM secretary; and Court Support Services Division executive director to develop a plan for providing supportive housing services, including necessary rental subsidies, for an additional 160 people and families identified as frequent users of expensive state services in FY 12 and FY 13. The officials may conclude memoranda of understanding to reallocate necessary support and housing resources for this purpose, within existing appropriations.

§ 56 — PLAN FOR OPERATING COST SAVINGS AND EFFICIENCIES AT UCONN AND THE UCONN HEALTH CENTER

The act requires UConn's president to identify cost savings and efficiencies in operations at UConn and the UConn Health Center and submit a report with her recommendations, including recommendations for legislation, to the Higher Education and Appropriations committees by January 1, 2012.

EFFECTIVE DATE: Upon passage

§ 57 — PRIORITY SCHOOL DISTRICT SUPPLEMENTAL GRANTS

The act reduces the total annual funding for a supplemental priority school district (PSD) grant to all priority districts by \$523,665, from \$3,740,573 to \$3,216,908 for FY 12, and by a further \$287,544, from \$3,216,908 to \$2,929,364, for FY 13. It appears that, under the act, for FY 14 and thereafter, the annual funding is set at \$3,217,908.

By law, the State Board of Education must allocate a share of these supplemental funds to each priority district in proportion to its regular PSD grant. The money is in addition to all other PSD grants each district receives.

§ 65 — INSTITUTIONAL ELIGIBILITY FOR PARTICIPATION IN CT INDEPENDENT COLLEGE STUDENT GRANT PROGRAM

In order to receive a state funds allocation for student financial aid under the CICS grant program, the act requires a private college to (1) be a nonprofit institution, (2) have its home campus in Connecticut, (3) have authority from the Board of Governors of Higher Education to award degrees, and (4) not be primarily devoted to training students for religious vocations. It eliminates a provision that allowed accredited

institutions that do not meet these criteria to continue to participate in the CICS program if they were participating as of June 30, 1983 and to remain participants even if there is a change in their corporate structure.

The elimination of this grandfather provision eliminates for-profit institutions from the CICS program.

§§ 68-73 — RESERVED AMOUNTS FROM APPROPRIATIONS FOR EDUCATION PROGRAMS

The act reserves certain amounts from various line items in SDE's budget for particular purposes as shown in Table 6.

Table 6: Reserved Amounts From SDE Line-Item Appropriations

§	SDE Line Item Appropriation for	Reserved for	Amount	
			FY 12	FY 13
68	Regional Education Services	Alternative route to certification program	\$313,181	\$313,181
69	Health and Welfare Services for Pupils at Private Schools	Evaluation of the health services delivered to students in both public and private nonprofit schools	\$20,000	\$20,000
70	School Accountability	PSAT examinations for students in (1) District Reference Group (DRG) I; (2) state vo-tech schools; and (3) Ansonia, Coventry, East Hartford, Putnam, and Stamford	\$200,000	\$200,000
71	After-School Program	Plainville school district	Up to \$50,000	Up to \$50,000
		Thompson school district	Up to \$25,000	Up to \$25,000
		Montville school district	Up to \$25,000	Up to \$25,000
72	Headstart-Early Childhood Link	Action for Bridgeport Community Development, Inc.'s Total Learning Initiative	Up to \$1,200,000	Up to \$1,200,000
73	Interdistrict Cooperative	Sound School in New Haven	Up to \$331,000	Up to \$331,000
		Bristol-Plymouth Regional Technical School abuse education program	Up to \$150,000	Up to \$150,000

§ 74 — SERVICES FOR CHILDREN ON PAROLE

By July 1, 2011, the act requires DCF and the Judicial Department to conclude a memorandum of understanding to implement the appropriate transfer of

funds and services between the two agencies to provide services for children on parole in FYs 12 and 13. (PA 11-61, § 181, repeals this provision.)

EFFECTIVE DATE: Upon passage

§ 75 — INSURANCE PREMIUM TAX CREDIT LIMIT

For 2011 and 2012, the act generally lowers, from 70% to 30%, the amount by which an insurer can reduce its annual insurance premium tax liability through tax credits. It exempts insurance reinvestment fund tax credits from this cap, thus allowing an insurer to continue to apply these credits to reduce its tax liability by up to 70% in 2011 and 2012. It also allows an insurer to offset additional tax liability in these income years if it adds employees. The act makes the credit limit apply to calendar years, rather than income years.

Under the act, an insurer may offset additional tax liability for 2011 and 2012 by an amount equal to \$6,000 times its average net monthly increase in employees, up to 100% of its total tax liability. The average net employee gain must be calculated by adding the insurer's total increase in employees for the applicable year and dividing by 12. In order for an employee to count, he or she must (1) be required to work at least a 35-hour week and (2) not have been employed in Connecticut by the insurer's "related person" within 12 months before the applicable calendar year (see BACKGROUND). A company may not exceed the 30% credit limit if its average net employee gain is zero or less than zero.

(PA 11-61 later amended these provisions to add an additional credit limit for digital animation tax credits and specify the order in which certain credits must be claimed against the insurance premium tax.)

EFFECTIVE DATE: Upon passage, and applicable to calendar years beginning January 1, 2011.

§§ 76-79 — CORPORATION TAX

§§ 76 & 79 — *Surcharge*

The act imposes a 20% tax surcharge on certain corporations for the 2012 and 2013 income years. Under prior law and the act, a 10% corporation tax surcharge expires at the end of the 2011 income year. As under prior law, the surcharge for 2012 and 2013 applies to companies that have more than \$250 in corporation tax liability and either (1) have at least \$100 million in annual gross income in those years or (2) file combined or unitary returns.

§ 78 — *Credit Limit*

By law, companies are barred from using tax credits to reduce their annual corporation tax liability by

more than 70%. Under the act, for the 2011 and 2012 income years, a company may offset additional tax liability beyond 70% by adding employees. The credit for hiring new employees is calculated the same way as the credit against the insurance premium tax (see above).

EFFECTIVE DATE: Upon passage, and applicable to income years starting on or after January 1, 2011.

§ 77 — FILM PRODUCTION TAX CREDIT

The law allows film production companies to sell, assign, or transfer film production tax credits to other taxpayers with tax liabilities. The act limits the percentage of a credit such companies may transfer in one income year to (1) 50% of any credit allowed for the 2011 income year and (2) 25% of any credit allowed for the 2012 and any subsequent income year.

The act exempts from the transfer limitations (1) transfers by companies not subject to the corporation or insurance premium tax and (2) credits issued for any production that the Department of Economic and Community Development (DECD) commissioner determines is created in whole or significant part in a "qualified production facility." Under the act, a "qualified production facility" is a Connecticut facility that (1) is intended for film, television, or digital media production and (2) has a minimum investment of \$3 million, or less if the DECD commissioner determines it otherwise qualifies. (PA 11-61 also exempts companies not subject to the corporation or insurance premium tax if they own, directly or indirectly, at least 50% of another entity subject to the business entity tax.)

Finally, the act retroactively increases, from 25% to 50%, the minimum share of principal photography days a production company must spend in the state on or after January 1, 2010 to qualify for a film production tax credit. By law, unchanged by the act, a production company can also qualify for a credit if it spends at least (1) 50% or (2) \$1 million of its post-production costs in Connecticut on or after January 1, 2010.

EFFECTIVE DATE: Upon passage, and applicable to income years beginning on or after January 1, 2011.

§§ 80-82 — CIGARETTE TAX

The act increases the cigarette tax from \$3 to \$3.40 per pack.

It also imposes a 40-cent tax on each pack of cigarettes that dealers and distributors have in their inventories at the earlier of the close of business or 11:59 p.m. on June 30, 2011. By August 15, 2011, each dealer and distributor must report to the Department of Revenue Services (DRS) the number of cigarettes in inventory as of June 30, 2011 and pay the floor tax. If a dealer or distributor does not report by the due date, the

DRS commissioner must file the report, estimating the number of cigarettes in the dealer’s or distributor’s inventory using any information the commissioner has or obtains. If this occurs, the dealer or distributor is subject to a penalty of 10% of the tax due or \$50, whichever is greater, plus interest of 1% per month.

Failure to file the report by the due date is grounds for DRS to revoke or not renew a cigarette dealer’s or distributor’s license and any other DRS-issued license or permit the person or entity holds. Willful failure to file subjects the dealer or distributor to a fine of up to \$1,000, one year in prison, or both. A dealer or distributor who willfully files a false report can be fined up to \$5,000, sentenced to one to five years in prison, or both. Late filers are also subject to the same interest and penalties as apply to other late cigarette tax payments, namely, 10% of the tax due or \$50, whichever is greater, plus interest of 1% per month.

EFFECTIVE DATE: July 1, 2011, and applicable to sales on or after that date. The inventory tax is effective on passage.

§ 83 — TOBACCO PRODUCTS TAX

The act increases the tax on (1) snuff tobacco from 55 cents to \$1 per ounce, and (2) on all other tobacco products from 27.5% to 50% of the wholesale price. A later act (PA 11-61, § 38) caps the tax on cigars at 50 cents each.

The tobacco products tax applies to cigars, cheroots, pipe tobacco, and similar products, but not cigarettes.

EFFECTIVE DATE: July 1, 2011, and applicable to sales on or after that date.

§§ 84-87 & 119 — ESTATE AND GIFT TAXES

Tax Threshold

The act lowers the estate and gift tax threshold from \$3.5 million to \$2 million and extends the existing 7.2% rate to estates and gifts valued at between \$2 million and \$3.5 million. Table 7 shows the prior and new tax rates.

Table 7: Prior And New Estate And Gift Taxes

VALUE OF TAXABLE ESTATE OR GIFT		PRIOR TAX (Add cols. C & D)		NEW TAX (Add cols. E & F)	
Col A: Over	Col B: But not over	Col C Tax on Col. A	Col D: Tax rate on excess over Col A	Col E: Tax on Col. A	Col F: Tax rate on excess over Col A
0	\$2,000,000	NO TAX		NO TAX	
2,000,000	3,500,000	NO TAX		7.2% of the excess over \$2,000,000	
3,500,000	3,600,000	7.2% of the excess over \$3,500,000		7.2% of the excess over \$2,000,000	
3,600,000	4,100,000	\$7,200	7.8%	\$115,200	7.8%
4,100,000	5,100,000	46,200	8.4%	154,200	8.4%
5,100,000	6,100,000	130,200	9.0%	238,200	9.0%
6,100,000	7,100,000	220,200	9.6%	328,200	9.6%
7,100,000	8,100,000	316,200	10.2%	424,200	10.2%
8,100,000	9,100,000	418,200	10.8%	526,200	10.8%
9,100,000	10,100,000	526,200	11.4%	634,200	11.4%
Over \$10,100,000		640,200	12.0%	748,200	12.0%

Filing Estate Tax Returns

The act makes a conforming change in requirements for filing tax returns with the probate court. By law, all estates, regardless of their gross value, must file an estate tax return. If the estate’s value is more than the taxable threshold, the executor must file the return with DRS, with a copy to the probate court for the district where the decedent lived or, if the decedent was not a Connecticut resident, where the Connecticut property is located. If the estate’s value is below the tax threshold, the return must be filed only with the appropriate probate court. The probate judge must review the return and issue a written opinion to the estate’s representative if the judge determines it is not subject to the estate tax.

Under prior law, the threshold for filing an estate tax return only with the probate court from someone who died on or after January 1, 2010 was \$3.5 million. Starting with deaths on or after January 1, 2011, the act reduces that threshold to \$2 million.

Release of Estate Tax Liens

The act also makes a conforming change in requirements for releasing estate tax liens.

By law, a person who does not owe, or who has paid, the estate tax receives a certificate releasing the lien on his or her interest in real property in the estate. The probate court is required to issue all lien release certificates for estates below the estate tax threshold. Prior law required probate courts to issue all lien release certificates for estates of \$3.5 million or less, starting with deaths on or after January 1, 2010. The act reduces the threshold to \$2 million for deaths occurring on or after January 1, 2011.

A later act (PA 11-61) validates lien release certificates issued and recorded before May 4, 2011 (this act's effective date) for estates of those who died on or after January 1, 2011.

EFFECTIVE DATE: Upon passage, and applicable to deaths occurring and gifts made on or after January 1, 2011.

§§ 88-94, 97, 126-127, & 166 — SALES AND USE TAX

§§ 93-94, 97, & 126-127 — Tax Rate Increases

The act increases general sales and use tax rates from 6% to 6.35% and the hotel tax rate from 12% to 15%. It also increases, by one cent, the flat sales and use tax on items sold for \$1.08 or less, as shown in Table 8.

Table 8: Sales Tax On Items Sold For \$1.08 Or Less*

Price	Prior Tax	New Tax
8 cents or less	0	1 cent
9 to 24 cents	1 cent	2 cents
25 to 41 cents	2 cents	3 cents
42 to 58 cents	3 cents	4 cents
59 to 74 cents	4 cents	5 cents
75 to 91 cents	5 cents	6 cents
92 cents to \$1.08	6 cents	7 cents

*(PA 11-61, § 43, changes these amounts.)

The act does not change the lower tax rates for sales of (1) motor vehicles to active duty U.S. military members stationed in Connecticut (4.5%) or (2) computer and data processing services (1%).

§§ 93 & 97 — Luxury Goods Tax

The act imposes a 7% sales and use tax on the full sales price of motor vehicles, boats, jewelry, clothing, and footwear costing more than:

1. \$50,000 for motor vehicles, with certain exceptions (see below);
2. \$100,000 for boats;
3. \$5,000 for jewelry (real or imitation); and
4. \$1,000 for clothing, footwear, handbags, luggage, umbrellas, wallets, and watches.

It excludes from the luxury tax any motor vehicle costing more than \$50,000 that (1) is purchased by an active duty U.S. military member stationed in Connecticut, (2) weighs over 12,500 pounds, or (3) weighs 12,500 pounds or less and is designed or used for commercial purposes and for which the Department of Motor Vehicles (DMV) issued a commercial or more specific type of registration.

§ 93 — Rental Car Tax

The act increases the sales and use tax on short-term car rentals (30 days or less) from 6% to 9.35%.

§§ 88-92 & 166 — Sales & Use Tax Extensions

The act eliminates specified sales tax exemptions and extends the tax to additional services as shown in Table 9.

Table 9: Sales & Use Tax Extensions

Exemptions Eliminated	New Services Taxed (§ 92)
Evaluation, prevention, treatment, containment, or removal of hazardous waste (§ 88)	Motor vehicle storage, including storage for motor homes, campers, and camp trailers, but excluding self-storage units, which are already taxable
Valet parking at any airport (§ 89)	Packing and crating, other than that provided by retailers in connection with the sale of tangible personal property
Yoga instruction at a yoga studio (§ 91)	Motor vehicle towing and road services, other than repairs
Clothing and footwear costing less than \$50, including charges for selling such items on consignment (§§ 90 & 166) (PA 11-61, § 41 restores the exemption for charges for selling such items on consignment.)	Intrastate transportation via limousine, community car, or van with a driver, excluding taxis, buses, ambulances, scheduled public transportation, and funerals (PA 11-61, § 41 excludes additional types of transportation services.)
Non-prescription drugs and medicine (§ 166)	Pet grooming, boarding, and obedience classes, other than grooming or boarding provided as an integral part of veterinarian services
Cloth or fabric for non-commercial sewing (§ 166)	Cosmetic medical procedures, defined as medical procedures aimed at improving appearance and that do not promote proper body functions or prevent or treat illness or disease. Reconstructive surgery remains exempt.
Property or services used in operating solid waste-to-energy facilities (§ 166) (PA 11-61, § 95 restores this exemption.)	Manicure, pedicure, and other nail services, regardless of where they are performed
Yarn (§ 166)	Spa services, including body waxing and wraps, peels, scrubs, and facials, regardless of where they are performed
Smoking cessation products (§ 166)	

EFFECTIVE DATE: July 1, 2011, and applicable to sales on or after that date. (PA 11-61 also made the sales and use tax increases applicable to sales of services billed to customers for a period that includes

July 1, 2011.)

§§ 93, 95, 96, & 103 — TAX REVENUE ALLOCATED TO MUNICIPALITIES

The act allocates a portion of the revenue from the following taxes to municipalities: (1) sales and use and luxury taxes, (2) hotel and car rental taxes, and (3) real estate conveyance taxes.

Municipal Revenue Sharing Account

The act allocates the following to a nonlapsing Municipal Revenue Sharing Account in the General Fund:

1. 1.57% of the revenue from the 6.35% sales tax on most taxable goods and services;
2. 1.43% of the revenue from the 7% luxury tax; and
3. 33% and 20%, respectively, of the revenue from the state real estate conveyance tax on (a) sales of unimproved land and certain bank foreclosures and on the first \$800,000 of the sale price of a residential property and (b) sales of nonresidential property and any amount of the sale price of a residential property that exceeds \$800,000.

The DRS commissioner must deposit the revenue in the account quarterly and the account must contain any funds required by law to be deposited in it.

The OPM secretary must use account funds first for manufacturing transition grants to municipalities. The grants must equal (1) the amount each town received in FY 11 as a payment in lieu of taxes (PILOT) for eligible commercial vehicles and manufacturing machinery and equipment and for certain real property in enterprise zones or (2) if a town did not receive payments in FY 11 due to a filing error, its estimated FY 12 payments.

The secretary must distribute any remaining funds to municipalities as follows:

1. 50% on a per capita basis, according to the most recent federal 10-year census; and
2. 50% according to an existing property tax relief formula that apportions funds based on a municipality’s population, adjusted equalized net grand list per capita, and the per capita income of town residents. (PA 11-61, § 44, significantly modifies these provisions and specifies the amount of each town’s manufacturing transition grant.)

Regional Performance Incentive Account

The act establishes the Regional Performance Incentive Account as a separate, nonlapsing General Fund account and requires that it contain any funds

required by law to be deposited in it. It requires the DRS commissioner to allocate the following to the account every quarter: (1) 6.7% of the revenue from the 15% hotel tax and (2) 10.7% of the revenue from the 9.35% rental car tax.

The OPM secretary must use the account for the existing regional performance incentive grant program, under which the secretary awards grants to regional entities to provide a local service on a regional basis.

§§ 98 & 99 — ALCOHOLIC BEVERAGES TAX

The act increases the tax on alcoholic beverages (e.g., beer, wine, and liquor) by 20%. It requires sellers to pay an additional tax on alcoholic beverages in their inventories as of the opening of business or July 1, 2011, whichever is earlier. Prior and new rates for the alcoholic beverages tax and the inventory tax are shown in Table 10.

Table 10: Prior And New Alcoholic Beverages Taxes

	<i>Unit Taxed</i>	<i>Prior Tax</i>	<i>New Tax</i>	<i>New Per-Unit Inventory Tax</i>
BEER AND CIDER				
	Barrel	\$6.00	\$7.20	\$1.20
	1/2 barrel	3.00	3.60	0.60
	1/4 barrel	1.50	1.80	0.30
Beer and cider with no more than 7% alcohol	Wine gallon* or fraction under ¼ barrel	0.20	0.24	0.04
WINE				
Still wines with no more than 21% alcohol	Wine gallon*	0.60	0.72	0.12
Still wines with no more than 21% alcohol produced by a person producing no more than 55,000 wine gallons annually	Wine gallon*	0.15	0.18	0.03
Still wines with more than 21% alcohol and sparkling wines	Wine gallon*	1.50	1.80	0.30
LIQUOR AND LIQUOR COOLERS				
Liquor	Wine gallon*	4.50	5.40	0.90
Alcohol – more than 100 proof	Proof gallon*	4.50	5.40	0.90
Liquor coolers with no more than 7% alcohol by volume	Wine gallon*	2.05	2.46	0.41

*A wine gallon is 128 ounces. A proof gallon is a measurement based on volume and alcohol content.

The act requires sellers to file an inventory report with DRS and pay the tax due on the inventory by August 15, 2011. If a seller fails to file an inventory report and pay the tax by that date, the DRS commissioner must estimate the seller’s inventory tax

based on information he has or obtains. Regular provisions of the alcoholic beverages tax laws concerning failure to file returns, DRS examination of returns, deficiency assessments or assessments for failure to file a return, tax collection, penalties, and interest apply to the act's inventory tax. Under those provisions, someone who fails to pay the tax on time is subject to a penalty of 10% of the tax due with a \$50 minimum and interest at the rate of 1% per month from the tax due date to the payment date. The act also makes failure to file a report and pay the tax on time grounds to revoke any other DRS-issued license or permit the seller possesses.

The act requires the Department of Consumer Protection (DCP) commissioner to cooperate with the DRS commissioner to enforce the inventory tax.

EFFECTIVE DATE: Upon passage, and applicable to sales occurring on or after July 1, 2011.

§§ 100 & 101 — DIESEL FUEL TAX

The act increases the base tax on diesel fuel from 26 cents to 29 cents per gallon. It imposes a three-cent inventory tax on each gallon of diesel fuel that licensed sellers have in inventory as of either the close of business or 11:59 p.m. on June 30, 2011, whichever is earlier. It requires dealers, by August 1, 2011, to (1) report to the DRS commissioner the number of gallons of fuel they had in inventory at that time and (2) pay the inventory tax.

Amounts not paid by the due date accrue 1% interest per month or part of a month until paid. If a dealer fails to file an inventory report by that date, the DRS commissioner must estimate the number of gallons of fuel in the seller's inventory based on information he has or obtains. Failure to file the inventory report or filing an incorrect report must be treated as if the dealer failed to file other required motor vehicle tax reports, or filed them incorrectly, subjecting the dealer to, among other things, a penalty of 10% of the tax due or \$50, whichever is greater. In addition, failure to file inventory reports and pay the excise tax are grounds for revoking any other DRS-issued licenses or permits the dealer holds.

The DMV commissioner must cooperate with the DRS commissioner to enforce the tax.

EFFECTIVE DATE: The tax increase is effective July 1, 2011. The inventory tax is effective upon passage.

§§ 102 & 103 — REAL ESTATE CONVEYANCE TAX

The act (1) increases state real estate conveyance tax rates by 0.25%, and (2) makes permanent the 0.25% base municipal real estate conveyance tax, previously scheduled to expire on June 30, 2011.

The real estate conveyance tax has two parts: a state tax and a municipal tax. The applicable state and municipal rates are combined to get the total tax rate for a particular transaction. The combined rate is applied to the sale price.

Under prior law, the state portion of the tax was 0.5% of (1) the first \$800,000 of the sale price of a residential property and (2) the full sale price of unimproved land and certain bank foreclosures for mortgage delinquencies. A 1% rate applied to (1) sales of nonresidential property other than unimproved land and (2) any portion of the sale price of a residential dwelling that exceeds \$800,000 (the so-called "mansion tax"). The act increases these rates to 0.75% and 1.25%, respectively.

In addition to the state tax, a seller must pay a state-specified conveyance tax to the municipality where the property is located. The prior municipal tax rate, scheduled to expire on June 30, 2011, was 0.25% for all towns plus an additional tax of up to 0.25% in 18 eligible towns that choose to impose the increased rate. The act makes permanent the base tax rate of 0.25% for all towns. The additional 0.25% tax in eligible towns remains unchanged.

EFFECTIVE DATE: July 1, 2011, and applicable to conveyances occurring on or after that date.

§ 104 — ELECTRIC GENERATION TAX

The act imposes a temporary tax on electric generation facilities of $\frac{1}{4}$ of a cent per net kilowatt hour (kwh) of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. The tax, which expires on June 30, 2013, applies to all electricity except that generated through use of a fuel cell or alternative energy system, such as a solar or wind system. (PA 11-61 and PA 11-233 later amended this provision to also exempt electricity generated by (1) a resources recovery facility or (2) customer-side distributed resources.)

The tax is payable quarterly starting by October 31, 2011 and thereafter, by the last day of January, April, July, and October, through June 30, 2013. Each taxpayer must file a DRS-prescribed return that reports the kwhs generated during the calendar quarter ending the preceding month and whatever other information the commissioner considers necessary. Taxpayers must file returns and pay taxes electronically. Late payments are subject to a penalty of 10% of the tax due or \$50, whichever is greater, plus interest of 1% per month. The DRS audit, collection, and other tax administration procedures applicable to the admissions and dues taxes apply to the generator tax except where inconsistent.

The act allows the comptroller to count as revenue for FY 12 and FY 13, respectively, any generation tax revenue DRS receives within five business days after

the July 31st following the end of those fiscal years.

§ 105 — ADMISSIONS TAX EXEMPTIONS ELIMINATED

The act eliminates exemptions from the 10% admissions tax for the facilities and events shown in Table 11.

Table 11: Admission Tax Exemptions Eliminated

Hartford Civic Center	Lyme Rock Park	Dodd Stadium
New Haven Coliseum	Thompson Speedway	Arena at Harbor Yard
New Britain Beehive Stadium	Waterford Speedbowl	New Britain Rock Cats games
New Britain Stadium	Tennis Foundation of Connecticut facilities	New Haven Ravens games
New Britain Veterans Memorial Stadium	William A. O'Neill Convocation Center	Waterbury Spirit games
Bridgeport Harbor Yard Stadium	Nature's Art	
Stafford Motor Speedway	Connecticut Convention Center	

EFFECTIVE DATE: January 1, 2012, and applicable to charges imposed on or after that date.

§ 106 — CABARET TAX

The act imposes a 3% tax on charges for admission, food, drink, service, and merchandise at any “cabaret” that offers live music, dancing, or other entertainment in addition to serving alcoholic drinks. It requires the state to send all tax revenue collected to the municipalities where the taxable transactions occurred. (PA 11-61, § 172, repeals this cabaret tax.)

Tax Applicability

The 3% tax applies to charges for admission, food, drink, service, and merchandise at any public establishment that serves alcoholic drinks and offers live music by more than one performer, dancing, or other entertainment for profit. It applies to such charges (1) only when the cabaret is furnishing the music, dancing, or other entertainment and (2) even though the cabaret does not increase its admission, food, drink, service, or merchandise charges because of the entertainment.

A cabaret must start collecting the tax as soon as (1) the music, dancing, or entertainment starts or (2) it starts collecting an admission or cover charge, whichever is earlier. If part of the cabaret is subject to the tax, it must also collect it in other areas from which a customer can view, or have free access to, the entertainment or dancing.

Tax Collection

The act makes cabarets responsible for paying the tax to the state and requires them to collect it from customers. It specifies that the tax (1) is a recoverable debt from the customer to the establishment and (2) when collected by the establishment, is deemed a special fund in trust for the state.

Tax Administration and Enforcement

Cabarets subject to the tax must remit tax payments and file signed tax returns monthly. The returns must include (1) the amount of tax due for the preceding month and (2) any other information the DRS commissioner requires. Unpaid taxes are subject to a penalty of 10% of the unpaid amount or \$50, whichever is greater, plus 1% interest for each full or partial month that the tax remains unpaid.

The act applies the statutory admissions and dues tax administrative, enforcement, liability, and appeal process requirements to the cabaret tax, and requires them to be adapted accordingly.

EFFECTIVE DATE: July 1, 2011, and applicable to sales on or after that date.

§§ 107-111 — INCOME TAX CHANGES

§ 107 — Marginal Rate Increases

The act increases marginal income tax rates for those with taxable incomes over (1) \$100,000 for joint filers, (2) \$50,000 for single filers and married people filing separately, and (3) \$80,000 for heads of household. It does so by increasing the number of tax brackets from three to six and increasing the top marginal income tax rate from 6.5% to 6.7%. The act also increases the flat income tax rate for trusts and estates from 6.5% to 6.7%.

Table 12 shows marginal tax rates and brackets under prior law and the act.

Table 12: Prior And New Tax Rates And Brackets

CT TAXABLE INCOME				TAX RATES	
Married Filing Jointly		Single		Prior Law	Act
Over	But Not Over	Over	But Not Over		
\$0	\$20,000	\$0	\$10,000	3.00%	3.00%
20,000	100,000	10,000	50,000	5.00%	5.00%
100,000	200,000	50,000	100,000		5.50%
200,000	400,000	100,000	200,000		6.00%
400,000	500,000	200,000	250,000		6.50%
500,000	1,000,000	250,000	500,000	6.50%	6.70%
Over \$1,000,000		Over \$500,000			

CT TAXABLE INCOME				TAX RATES	
Head of Household		Married Filing Separately		Prior Law	Act
Over	But Not Over	Over	But Not Over		
\$0	\$16,000	\$0	\$10,000	3.00%	3.00%
16,000	80,000	10,000	50,000	5.00%	5.00%
80,000	160,000	50,000	100,000		5.50%
160,000	320,000	100,000	200,000		6.00%
320,000	400,000	200,000	250,000		6.50%
400,000	800,000	250,000	500,000	6.50%	6.70%
Over \$800,000		Over \$500,000			

§ 107 — Phase-Out of 3% Tax Bracket

The act phases out the lowest (3%) income tax bracket starting with taxpayers with Connecticut adjusted gross incomes (CT AGI) over \$100,500 for joint filers, \$56,500 for singles, \$78,500 for heads of household, and \$50,250 for married couples filing separately. It does so by subjecting less taxable income to the 3% income tax rate as CT AGI increases, thus subjecting more taxable income to the 5% bracket.

Table 13 shows how the amount of income taxed at 3% decreases as CT AGI increases for each type of filer.

Table 13: 3% Bracket Phase-Out

SINGLE			MARRIED FILING JOINTLY		
CT AGI		Amount of Income Taxed At 3%	CT AGI		Amount of Income Taxed At 3%
Over	But Not Over		Over	But Not Over	
0	56,500	\$10,000	0	\$100,500	\$20,000
56,500	61,500	9,000	100,500	105,500	18,000
61,500	66,500	8,000	105,500	110,500	16,000
66,500	71,500	7,000	110,500	115,500	14,000
71,500	76,500	6,000	115,500	120,500	12,000
76,500	81,500	5,000	120,500	125,500	10,000
81,500	86,500	4,000	125,500	130,500	8,000
86,500	91,500	3,000	130,500	135,500	6,000
91,500	96,500	2,000	135,500	140,500	4,000
96,500	101,500	1,000	140,500	145,500	2,000
Over \$101,500		None	Over \$145,500		None

Table 13: Continued

HEAD OF HOUSEHOLD			MARRIED FILING SEPARATELY		
CT AGI		Amount of Income Taxed At 3%	CT AGI		Amount of Income Taxed At 3%
Over	But Not Over		Over	But Not Over	
0	\$78,500	\$16,000	0	\$50,250	\$10,000
78,500	82,500	14,400	50,250	52,750	9,000
82,500	86,500	12,800	52,750	55,250	8,000
86,500	90,500	11,200	55,250	57,750	7,000
90,500	94,500	9,600	57,750	60,250	6,000
94,500	98,500	8,000	60,250	62,750	5,000
98,500	102,500	6,400	62,750	65,250	4,000
102,500	106,500	4,800	65,250	67,750	3,000
106,500	110,500	3,200	67,750	70,250	2,000
110,500	114,500	1,600	70,250	72,750	1,000
Over \$114,500		None	Over \$72,250		None

§ 107 — Benefit Recapture

For taxpayers whose annual CT AGI exceeds specified thresholds, the act imposes a “recapture” provision to eliminate the benefits they receive from having a portion of their taxable income taxed at lower marginal rates. It does so by requiring taxpayers with higher incomes to add specified amounts to their tax liability. These “recapture” amounts phase in as CT AGI increases, until a taxpayer’s CT AGI is effectively taxed at the highest marginal rate (6.7%).

Table 14 shows, for each type of filer, the CT AGI starting point for the recapture phase-in, the AGI phase-in intervals and the recapture amount to be added at each interval, and the maximum total recapture amount to be added once CT AGI reaches the fully phased-in level.

Table 14: Benefit Recapture Phase-In

	Married Filing Jointly	Single/ Married Filing Separately	Head of Household
Phase-In Starting Point: CT AGI over	\$400,000	\$200,000	\$320,000
Recapture Amount	\$150 per \$10,000 of CT AGI over starting point	\$75 per \$5,000 of CT AGI over starting point	\$120 per \$8,000 of CT AGI over starting point
Maximum Total Recapture Amount	\$4,500	\$2,250	\$3,600

§ 111 — Property Tax Credit Reduced

The act reduces, from \$500 to \$300, the maximum property tax credit against the personal income tax and phases out the credit at a steeper rate than under prior law. It reduces the maximum credit by 15% for every \$10,000 in additional CT AGI (every \$5,000 for married

people filing separately), rather than 10% under prior law.

The combination of a lower maximum credit and the steeper phase-out reduces the number of taxpayers eligible for a credit. For example, under the act, joint filers receive no credit once their CT AGI reaches \$160,500 compared to \$190,500 under prior law.

Table 15 shows the maximum property tax credits by income level and filing status under prior law and the act.

Table 15: Prior And New Maximum Property Tax Credits

CT AGI				MAXIMUM PROPERTY TAX CREDIT		
Married Filing Jointly			Single (for 2011-2012)		Prior Law	Act
Over	But Not Over	Not Over	Over	But Not Over		
0	\$100,500		0	\$56,500	\$500	\$300
100,500	110,500		56,500	66,500	450	255
110,500	120,500		66,500	76,500	400	210
120,500	130,500		76,500	86,500	350	165
130,500	140,500		86,500	96,500	300	120
140,500	150,500		96,500	106,500	250	75
150,500	160,500		106,500	116,500	200	30
160,500	170,500		116,500	126,500	150	0
170,500	180,500		126,500	136,500	100	
180,500	190,500		136,500	146,500	50	
Over \$190,500			Over \$146,500		0	
CT AGI				MAXIMUM PROPERTY TAX CREDIT		
Head of Household			Married Filing Separately		Prior Law	Act
Over	But Not Over	Not Over	Over	But Not Over		
0	\$78,500		0	50,250	\$500	\$300
78,500	88,500		50,250	55,250	450	255
88,500	98,500		55,250	60,250	400	210
98,500	108,500		60,250	65,250	350	165
108,500	118,500		65,250	70,250	300	120
118,500	128,500		70,250	75,250	250	75
128,500	138,500		75,250	80,250	200	30
138,500	148,500		80,250	85,250	150	0
148,500	158,500		85,250	90,250	100	
158,500	168,500		90,250	95,250	50	
Over \$168,500			Over \$95,250		0	

Under prior law, the AGI threshold at which a single filer's maximum property tax credit started to be reduced was scheduled to increase annually from \$56,500 to \$58,500 for 2012, \$60,500 for 2013, \$62,500 for 2014, and \$64,500 for 2015 and thereafter. The act instead maintains the \$56,500 threshold through the 2012 tax year and retains the scheduled increases for the subsequent years.

§ 110 — Earned Income Tax Credit

The act establishes a refundable state earned income tax credit (EITC) equal to 30% of the federal credit and, to the extent allowed under federal law, specifies that the refund is not counted in determining eligibility for or the amount of aid under any need-based state or federal program. (PA 11-1, JSS, later reduced the state credit to 25% of the federal credit, but specified that it would be restored to 30% on the date the SEBAC agreement with the state was approved. The SEBAC agreement was approved on August 22, 2011, thus the credit remains at 30%.)

The act gives people who qualify for, and claim, the federal EITC a credit against their state income tax liability equal to 30% of their federal credit for the same tax year. Under the act, if the state credit exceeds the taxpayer's state income tax liability, the DRS commissioner must refund the difference to the taxpayer. Refunds must be treated the same as other income tax refunds (i.e., subject to withholding to pay certain debts or obligations), except that they are not subject to the 0.66% monthly interest payable on late tax refunds.

Under federal law and the act, people who work and earn incomes below certain levels qualify for the EITC. Credit amounts vary according to a taxpayer's income and the number of children he or she has. Income limits and credit amounts are adjusted annually for inflation (26 USCA § 32).

For the 2011 tax year, a person qualifies for a federal EITC if he or she has at least \$1 of earned income, investment income (with certain exceptions) of \$3,150 or less, and a maximum federal AGI of:

1. \$13,660 (\$18,740 if married and filing jointly) with no children,
2. \$36,052 (\$41,132 if married and filing jointly) with one child,
3. \$40,964 (\$46,044 if married and filing jointly) with two children, and
4. \$43,998 (\$49,078 if married and filing jointly) with three or more children.

Based on the federal EITC for 2011, the maximum state credit for the 2011 tax year under this act is:

1. \$139 for filers with no children,
2. \$928 for filers with one child,
3. \$1,534 for filers with two children, and
4. \$1,725 for filers with three or more children.

If a taxpayer eligible for a state EITC files a joint income tax return for federal tax purposes but has to file a separate state income tax return for the same year, his or her state EITC is calculated by multiplying 30% of the taxpayer's federal EITC by the ratio of the taxpayer's CT AGI to federal AGI, as reported on the taxpayer's state and federal income tax returns, respectively.

§§ 108 & 109 — *Withholding and Estimated Tax Payments*

The act requires the DRS commissioner to adjust and issue new withholding tables applicable for the 2011 tax year as soon as practicable. It also requires those paying estimated taxes to adjust their September 2011 payment to reflect the act's income tax changes. EFFECTIVE DATE: Upon passage. The income tax provisions are applicable to tax years starting on or after January 1, 2011.

§§ 112-118 — PENALTY FOR FAILING TO REGISTER A MOTOR VEHICLE

By law, someone has 60 days from the time he or she takes up residence in the state to change his or her out-of-state registration to a Connecticut registration. The act increases, from between \$150 and \$300 to \$1,000, the fine for a Connecticut resident who operates his or her motor vehicle in violation of this requirement. The act requires the fine to be remitted to the municipality in which the violation occurred, rather than the Special Transportation Fund (STF), and makes related changes.

The act exempts everyone from the fine before January 1, 2012. It also exempts from any fine, interest, or penalties any Connecticut resident who registers a motor vehicle with out-of-state plates before January 1, 2012. Any taxes owed on the vehicle are due upon registration.

§ 120 — CITIZENS' ELECTION FUND TRANSFERS

The act reduces, from \$18.6 million to \$10.6 million, the required FY 12 transfer to the Citizens' Election Fund.

§ 121 — SPECIAL TRANSPORTATION FUND TRANSFERS

The act requires the DRS commissioner, by January 1, 2013 and biennially thereafter, to calculate the percentage of petroleum products gross earnings tax revenue from gasoline sold for the prior fiscal year and use this ratio as the basis for determining the required transfers from the General Fund to the STF. The commissioner must notify the Finance Committee chairpersons and ranking members and the OPM secretary of the calculated ratio.

The act also increases the required annual transfers from the General Fund to the STF as shown in Table 16.

Table 16: General Fund Transfers to Special Transportation Fund

FY	TRANSFERS TO STF	
	Prior Law (million)	Act (million)
2012	\$165.3	\$226.9*
2013	165.3	199.4
2014	179.2	222.7
2015	179.2	226.8
2016 and thereafter	179.2	231.4

*(The FY 12 transfer amount was later changed by PA 11-61, § 161, and PA 11-1, JSS, § 9.)

§ 122 — ESTIMATED CLAIMS FOR ABANDONED PROPERTY

The act requires the revenue estimates included in the budget act to be reduced by the estimated claims for abandoned property.

§ 123 — TRANSPORTATION STRATEGY BOARD ACCOUNT

On July 1, 2011, the act transfers the unspent balance in the Department of Transportation's nonlapsing Transportation Strategy Board account to the General Fund.

§§ 124 & 165 — FUEL OIL CONSERVATION ACCOUNT ELIMINATED

The act eliminates the nonlapsing fuel oil conservation account, the conservation programs the account pays for, and the 13-member board that oversees the program. Under prior law, the account was funded by annual revenue from the petroleum products gross receipts tax that exceeded the 2006 revenue, subject to a \$5 million annual cap. (PA 11-80, § 49, re-creates the board and places it within the Department of Energy and Environmental Protection for administrative purposes only.)

EFFECTIVE DATE: Upon passage

§ 125 — FUNDING FOR NATURAL GAS CONSERVATION PLANS

The act eliminates funding for natural gas conservation plans by repealing a provision that dedicates to such plans any utility company tax revenue that exceeds the legislatively adopted annual revenue estimate, up to a maximum of \$10 million per year. Under prior law, the comptroller transferred the dedicated revenue to the Energy Conservation Management Board account to be used to reimburse gas companies for their conservation expenditures.

EFFECTIVE DATE: Upon passage

§ 128 — SALES AND USE TAX COLLECTION BY REMOTE SELLERS

State law requires “retailers” to collect Connecticut sales tax if they are “engaged in the business” of making retail sales in the state. If a retailer is engaged in business in Connecticut, it is said to have “nexus” here.

The act requires certain remote sellers who have no physical presence in Connecticut to collect sales tax on their taxable sales in the state. It presumes a seller is a retailer with sales tax nexus in the state if it annually sells more than \$2,000 worth of taxable items or services in Connecticut through certain agreements with Connecticut residents. The agreements must provide that, in return for the resident referring potential customers to the retailer, the resident will receive a commission or other compensation from that retailer.

Under the act, the referrals can be direct or indirect and can be made by any means, including a link on an Internet website. By extending Connecticut sales tax nexus to retailers that have such agreements, the act requires them to collect Connecticut sales tax on all their taxable sales in Connecticut, not just on items sold through the referrals.

The act applies to any retailer that annually earned more than \$2,000 in gross receipts from sales in the state under such referral agreements in the preceding four quarters ending on the last days of March, June, September, and December. It establishes a presumption that such a retailer is soliciting business in Connecticut through the resident with whom it has an agreement. The retailer can rebut the presumption by proving that the resident did not solicit business in Connecticut in a manner that would satisfy the federal constitutional requirement.

(PA 11-61 (§ 46) later amended these provisions to, among other things, (1) eliminate the rebuttable presumption, (2) require the commission the person receives to be based on the sale of the taxable item or service, and (3) apply the requirements to sales occurring on or after May 4, 2011 (PA 11-6's effective date) instead of on or after July 1, 2011.)

By law, if a retailer does not collect and remit to DRS the sales tax due on a taxable item or service, a person who buys it for use in Connecticut must pay the equivalent use tax on that purchase directly to DRS.

EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after that date.

§ 129 — FEE INCREASE FOR CREMATION CERTIFICATE

The act increases the cremation certificate fee from \$40, or the amount the state pays to assistant medical examiners, if greater, to \$150. Under prior practice, the state fee was set at \$100, so the actual increase is \$50.

The \$100 fee is based on costs determined by the Commission on Medicolegal Investigations, which oversees the Office of the Chief Medical Examiner.

By law, cremation certificates are required for the cremation of a body for which a death certificate has been issued.

§§130-132 — JOB CREATION TAX CREDIT LIMIT

The act increases the cap on the total amount of business tax credits available for creating new jobs from \$11 million to \$20 million. The cap applies to three programs authorizing such credits, as shown in Table 17. (PA 11-86 later increased the cap on the job creation tax credit program alone to \$20 million, without correspondingly raising the cap on the other two programs.)

Table 17: Job Creation Tax Credit Programs

<i>Credit Program</i>	<i>Applicable Taxes</i>	<i>Eligibility Criteria</i>	<i>Credit Amount</i>
Jobs Creation Tax Credit (CGS § 12-217ii)	<ul style="list-style-type: none"> Insurance Premium Corporation Utility Company 	Any business creating at least 10 new jobs	Five-year credit of up to 60% of the income tax deducted and withheld from new employee wages
Small Business Jobs Creation Tax Credit (CGS § 12-217nn)	<ul style="list-style-type: none"> Insurance Premium Corporation Personal Income 	<ul style="list-style-type: none"> Businesses with fewer than 50 employees in Connecticut that create new jobs filled by Connecticut residents Credits available only for jobs created between May 6, 2010 and December 31, 2012 	Three-year credit of \$200 per month per new employee
Vocational Rehabilitation Job Creation Tax Credit (CGS § 12-217oo)	<ul style="list-style-type: none"> Insurance Premium Corporation Personal Income 	<ul style="list-style-type: none"> Businesses hiring Connecticut residents with disabilities Credits available only for employees hired after May 6, 2010 for income years beginning on or after January 1, 2010 	Three-year credit of \$200 per month per new employee

§§ 133 & 165 — BOATING ACCOUNT ELIMINATED

The act requires all revenue from watercraft registration and numbering fees to be deposited in the General Fund rather than in a separate nonlapsing boating account, which it eliminates. It requires the deposits to be made every October 1, starting with October 1, 2011. (PA 11-61, § 5, changes these provisions to require deposits to (1) start May 4, rather than October 1, 2011 and (2) be made continually instead of annually.)

The act also eliminates requirements that the fee revenue be used (1) by the Environmental Protection (DEP) and Motor Vehicles departments for expenses incurred in administering the boating laws, (2) to reimburse towns for lost property tax revenue on watercraft, and (3) to pay for state and local enforcement of boating safety and pollution laws and certain other local watercraft-related expenses.

Finally, the act eliminates requirements for (1) separate annual reports from the DMV and DEP commissioners to the Finance, Revenue and Bonding Committee on the operation of the boating account, (2) an annual report from the DEP commissioner to the comptroller on boating account revenue and expenditures for the preceding fiscal year, and (3) annual distribution of boat registration fee revenue to towns according to their proportionate shares of property tax revenue on boats as of the October 1, 1978 grand list.

EFFECTIVE DATE: July 1, 2011 for the requirement that boat registration revenue be deposited annually in the General Fund every October 1; upon passage for eliminating the boating account and reporting and revenue distribution requirements.

§ 134 — TRANSFERS FROM BANKING FUND TO GENERAL FUND

The act transfers, from the Banking Fund to the General Fund, revenue from fines, civil penalties, or restitution imposed by the banking commissioner or ordered by a court stemming from banking law violations. The act does not increase the amount of any such fines.

(PA 11-48, §§ 10-11, later (1) eliminated the transfer of revenue for violations of the banking laws under a provision that sets penalties when no other penalty is provided and (2) shifted two additional types of banking fees and penalties to the General Fund. PA 11-61, § 80, eliminated the transfer of revenue from restitution for any banking or securities law violations.)

§ 135 — TRANSFERS TO TRANSPORTATION STRATEGY BOARD (TSB) PROJECTS ACCOUNT

The act reduces the required annual transfers from the STF to the TSB projects account to fund statutorily designated transportation projects. Prior law required the state treasurer to transfer \$15.3 million annually through FY 15 and \$300,000 in FY 16 and each fiscal year thereafter. The act eliminates references to the TSB, reduces the annual transfers to \$15 million per year from FY 12 through FY 15, and eliminates scheduled transfers for FY 16 and subsequent years.

§§ 136-142 — DMV FEE CHANGES

Fee for Electronic Inspection of Vehicle ID Number

The act requires the DMV commissioner to charge a \$10 administrative fee, in addition to any other fee prescribed, for any motor vehicle transaction involving an electronic inspection of a manufacturer's vehicle identification number (VIN). Under prior law, the commissioner charged this additional administrative fee for vehicles that passed certain inspections, including those for VINs.

Fee Increases and Additional Fees

The act imposes a \$25 late fee for drivers who fail to renew a driver's license or commercial driver's license (CDL) on time. It also increases various fees, including those for driver's licenses, CDLs, and motor vehicle registrations, as shown in Table 18.

Table 18: DMV Fee Changes

<i>Fee</i>	<i>Statutory Citation</i>	<i>Prior Law</i>	<i>The Act</i>
Driver's License	§ 14-41 (b)	\$44 (4-year license) \$66 (6-year license) \$11 (per year, or part of a year)	\$48 (4-year license) \$72 (6-year license) \$12 (per year, or part of a year)
Driver's License (Late Fee)	§ 14-41 (c)	None	\$25
CDL	§ 14-44h (b)	\$15/year or part of a year	\$17.50/year or part of a year
CDL Late Fee	§ 14-44h (b)	None	\$25
Registration-Passenger Vehicle	§ 14-49 (a)	\$75 (biennial)	\$80 (biennial)
Registration-Passenger Vehicle, age 65 and over	§14-49 (a)	\$38/one year \$75/biennial	\$40/one year \$80/biennial

Table 18: Continued

Fee	Statutory Citation	Prior Law	The Act
Registration – special number plates	§ 14-49 (a)	\$75/biennial	\$80/biennial
Registration-Motorcycle	§ 14-49 (b)	\$40/biennial \$56/with attached sidecar or box used for commercial purposes	\$42/biennial \$60/with attached sidecar or box used for commercial purposes
Registration-Taxi, Livery	§ 14-49 (c)	\$250/biennial	\$266/biennial
Registration-Motor Bus	§ 14-49 (d)	\$53	\$56
Registration – Multi-state motor buses	§ 14-49 (d)	\$39, in addition to \$1.25/hundred-weight	\$42, in addition to \$1.25/hundred-weight
Registration – Combination Passenger	§ 14-49 (e)	\$83/biennial	\$88/biennial
Registration – Type I School Bus	§ 14-49 (e)	\$100	\$107
Registration – Type II School Bus	§ 14-49 (e)	\$60	\$64
Registration – Passenger, combination plate, more than 10 passengers, or pick-up under 12,500 lbs not used for commercial purposes	§ 14-49 (e)	\$13/biennial in addition to fee charged for commercial registration under § 14-47	\$14/biennial in addition to fee charged for commercial registration under § 14-47
Registration – Electric motor vehicle	§ 14-49 (f)	\$18	\$19
Registration – Motorcycles owned by dealer	§ 14-49 (g)	\$35	\$37
Registration – minimum fee for commercial vehicle w/o pneumatic tires	§ 14-49 (h)	\$56	\$60
Transfer of registration	§ 14-49 (i)	\$20	\$21
Registration - Hearse	§ 14-49 (k)	\$35	\$37
Registration – Truck used within Industrial Plant	§ 14-49 (l)	\$28	\$30
Registration – Camping Trailer	§ 14-49 (m) (1)	\$18	\$19
Registration – Heavy Duty Trailer, Crane etc.	§ 14-49 (m) (2)	\$306	\$326
Temporary Registration, non-commercial	§ 14-49 (n)	\$20/10-day period	\$21/10-day period

Table 18: Continued

Fee	Statutory Citation	Prior Law	The Act
Temporary Registration – Commercial Vehicle, less than 6,000 lbs.	§ 14-49 (n)	\$25/10-day period	\$27/10-day period
Temporary Registration – Commercial Vehicle, more than 6,000 lbs.	§ 14-49 (n)	\$46/10-day period	\$49/10-day period
Registration – Service Bus, transporting for free	§ 14-49 (p)	\$200/biennial (16 or fewer passengers) \$700/biennial (more than 16 passengers)	\$213/biennial (16 or fewer passengers) \$747/biennial (more than 16 passengers)
Registration – Service Buses, owned by nonprofit charitable org. used exclusively for org. purposes	§ 14-49 (p)	\$150/biennial (16 or fewer passengers) \$500/biennial (more than 16 passengers)	\$160/biennial (16 or fewer passengers) \$533/biennial (more than 16 passengers)
Registration – Farm vehicles	§ 14-49 (q)	\$28 /biennial	\$30/biennial
Special Number Plate Fee	§ 14-49 (s)	\$65	\$69
Registration - Camper	§ 14-49 (t)	\$70/biennial	\$75/biennial
Learner's Permit Renewal	§14- 49 (v)	\$18	\$19
Motorcycle Training Permit Renewal	§ 14- 49 (v)	\$15	\$16
Registration – High Mileage Vehicle	§ 14-49 (x)	\$44	\$47
Special Use Registration, less than 30 days	§ 14-49 (y)	\$20	\$21
Commercial registration, tractor w/pneumatic tires	§ 14-47 (b)	\$44 minimum	\$47 minimum
Registration – artesian well drilling equipment	§ 14-47 (c)	\$46	\$49
Registration – vehicle w/wood saw or spraying rigs	§ 14-47 (d)	\$25	\$27
Registration – misc. commercial vehicles	§ 14-47(e)	\$56 minimum	\$60 minimum

§ 139 — Late Fees for Apportioned Registrations

Certain interstate commercial vehicles must pay apportioned registration fees that include this state's registration fee and registration fees for other jurisdictions based on the distance they travel there (CGS § 14-34a). The act requires the commissioner to charge a \$150 late fee to people who fail to renew these

registrations within five days after they expire.

§ 140 — Commercial Motor Vehicle Registration Fees

Prior law charged registration fees for commercial motor vehicles based on each 100 pounds the vehicle weighed. The act instead bases these fees on each 1,000 pounds the vehicle weighs and increases the fees accordingly.

§ 141 — DMV Fees for Duplicate Licenses and ID Cards and Documents Kept Electronically

Under prior law, the commissioner had to charge \$30 for each duplicate of a driver's license. The act also requires her to charge \$30 for each duplicate of a non-driver ID card. But it requires her to charge only \$5 for one duplicate license or ID card issued to a license or card holder when he or she turns 21 years old. Under the act, a "duplicate" is a license or ID card re-issued before the previous card or license expires. It must either be identical to the most recently issued license or card or include modifications to one or more items of information that appears on the most recently issued license or card.

The act also authorizes the commissioner to charge \$20 for each document from a motor vehicle record that DMV keeps electronically. It eliminates obsolete language pertaining to fees charged for searches and copies of accident reports.

§ 142 — Manufacturers' Registrations

By law, the commissioner may issue motor vehicle registrations with the same distinguishing number to manufacturers. Under prior law, these registrations expired annually and, except for commercial registrations, could be renewed for \$35. The act requires these registrations to expire biennially and, except for commercial registrations, increases the renewal fee to \$140 for the two-year period.

Commercial registrations for manufacturers previously cost one-half the fee charged for the maximum gross weight of the registered vehicle on which the number was used. The act also doubles this fee so that it is the same as the fee charged for the maximum gross weight of the registered vehicle. Because this fee is charged biennially, the effective registration fee for commercial vehicles does not increase.

The act requires the manufacturer to furnish proof of financial responsibility that satisfies the commissioner. But the commissioner need not require this proof if she finds the manufacturer is financially able to meet its legal liability.

§ 143 — MOTOR VEHICLE VIOLATOR PAYMENTS TO TOWNS

The act increases, from \$10 to \$15, the fee paid in addition to a fine by people who violate certain motor vehicle laws and regulations, including speeding, traveling unreasonably fast, reckless driving, and driving under the influence. By law, the state must remit this money to the municipalities in which the violations occur.

§ 144 — GOVERNOR'S TRANSPORTATION PROJECT RECOMMENDATIONS

Under prior law, on the same day the governor proposed the biennial budget, he or she had to also recommend to the General Assembly any projects necessary to implement the transportation strategy adopted by the TSB and a financing plan for the projects. The act removes the reference to the TSB and instead requires the governor to submit recommendations and a financing plan for projects needed to implement the state's transportation strategy.

§§ 145-149 — TAX ON HOSPITAL NET REVENUE

The act replaces the hospital gross earnings tax (defunct since 2000) with a quarterly tax on hospital net patient revenue. Except for the Connecticut Children's Medical Center and John Dempsey Hospital, the act establishes a 4.6% quarterly tax on hospitals' net patient revenue. (PA 11-44 provides that the amount of the tax is the maximum allowed by federal law (up to 5% through September 30, 2011 and 6% as of October 1, 2011).) It requires hospitals to file the returns and pay the taxes electronically. (PA 11-61 provides that the quarterly payments cover a period the DSS commissioner determines instead of the calendar quarter ending the last day of the preceding month.)

Net Patient Revenue

The act defines net patient revenue as a hospital's gross revenue, including the amount of federal dollars the hospital receives for treating Medicare patients. (PA 11-44 defines it as the amount of accrued payments a hospital earns for providing inpatient and outpatient services.)

Collecting the Tax

Beginning with FY 12, the act allows the comptroller to count the amount received up to five business days after the July 31st following the end of each fiscal year as revenue for that year. It requires the DRS commissioner to notify the DSS commissioner of any delinquent amounts due by a hospital, and the DSS

commissioner, once he receives the notice, to deduct and withhold this amount from any amount it would otherwise pay the hospital.

The act authorizes the DRS commissioner to enter into an agreement with the DSS commissioner delegating to the DSS commissioner the authority to examine hospital tax records and returns to determine whether the tax has been overpaid or underpaid. If the commissioner delegates this authority, any examinations and determinations the DSS commissioner makes have the same effect as if the DRS commissioner had performed them himself.

EFFECTIVE DATE: July 1, 2011 and applicable to calendar quarters starting on or after that date.

§ 150 — NURSING HOME RESIDENT USER FEE

Beginning October 1, 2011, the act increases the cap on the nursing home resident user fee from 5.5% to the maximum allowed by federal law (6% starting October 1, 2011). This fee, originally enacted in 2005, is a percentage of most nursing homes' revenues.

The act also removes obsolete reporting requirements regarding the detrimental effects of the user fee.

§§ 151-153 — NEW USER FEE FOR PROVIDERS OF CARE TO INDIVIDUALS WITH MENTAL RETARDATION

The act establishes a new resident day user fee for intermediate care facilities for people with mental retardation (ICF-MRs), which generally are residential facilities (e.g., group homes) for individuals with mental retardation or related conditions. The fee a particular ICF-MR pays is the fee amount (see calculation below) times the number of resident days. This is collected on a quarterly basis beginning July 1, 2011. The act authorizes the comptroller to record as revenue any user fees imposed provided the DRS commissioner receives it within five business days after the July 31st following the end of the fiscal year.

Fee Calculation

Every two years, and no later than July 1, the DSS commissioner must determine the fee, which is a facility's anticipated net revenue, including revenue from any increases in Medicaid payments during the next 12 months, multiplied by the percentage set by the OPM secretary, in consultation with the DSS commissioner, and divided by the sum of each ICF-MR's anticipated resident days during that period. Before October 1, 2011, the fee can go up to 5.5%. On and after that date, it can increase to the maximum amount federal law allows (6%).

A resident day is any day an ICF-MR provides

residential care to an individual and includes a day (1) a resident is admitted, (2) for which the facility is eligible for payment for reserving the resident's bed due to hospitalization or temporary leave, or (3) a resident dies. A resident day does not include the day a resident is discharged.

The act requires the DSS commissioner to determine the fee amount and promptly inform the DRS commissioner and the ICF-MRs of it.

Net Revenue Defined

The act defines net revenue as the amount an ICF-MR bills for all services provided, including room, board, and ancillary services less (1) contractual allowances, (2) payer discounts, (3) charity care, and (4) bad debt.

Filing a Return with the Fee

The act requires each ICF-MR, by the last day of each January, April, July, and October, to file an electronic return to the DSS commissioner stating the ICF-MR's total resident days during the preceding calendar quarter, as well as any other information the commissioner deems necessary. The fee, which must also be sent electronically, is due and payable on the due date of the return.

Penalty for Failure to Pay Fee

The act establishes a penalty of 10% of the amount due or \$50, whichever is greater, on late user fees. Additionally, interest of 1% per month accrues from the due date until the fee is paid.

The act requires the DRS commissioner to notify the DSS commissioner of any delinquent amount. Once the DSS commissioner receives the notice, he must deduct and withhold the amount due from any amount DSS would otherwise pay the ICF-MR.

Delegating Authority for DSS Commissioner to Review ICF-MR User Fee-Related Returns and Records

The act permits the DRS commissioner, by agreement, to delegate to the DSS commissioner his authority to examine ICF-MRs' records and returns and determine whether the user fee has been overpaid or underpaid. The DSS commissioner's examinations and determinations have the same effect as those of the DRS commissioner.

No Collection of Fee until Federal Reimbursement Secured

The act prohibits the DRS commissioner from collecting the user fee until the DSS commissioner

informs him that he has all of the necessary federal approvals to secure federal matching funds associated with any authorized facility rate increases. The commissioner must stop collecting the fee if the DSS commissioner informs him that the federal approvals have been withheld or withdrawn.

§ 154 — DSS AUTHORITY TO IMPLEMENT POLICIES AND PROCEDURES WHILE IN THE PROCESS OF ADOPTING REGULATIONS

The act authorizes the DSS commissioner to implement policies and procedures needed to administer the act's provisions (presumably those related to the department) while in the process of adopting them in regulation form. He must publish notice of intent to adopt in the *Connecticut Law Journal* within 20 days of implementation. The policies and procedures are valid until final regulations are adopted. (PA 11-44, § 160, limits the applicability of this provision to the hospital tax, nursing home user fee, and ICF-MR user fee. It also establishes a process to be followed when such policies and procedures are implemented.)

§§ 155-164 — REVENUE ESTIMATES

The act's appropriations are supported by revenue estimates for FY 12 and FY 13 for each appropriate state fund as shown in Table 19.

Table 19: Revenue Estimates for FY 12 And FY 13

\$	Fund	FY 12	FY 13
155	General Fund	\$18,719,550,000	\$19,416,550,000
156	Special Transportation Fund	1,305,400,000	1,336,700,000
157	Mashantucket Pequot & Mohegan Fund	61,800,000	61,800,000
158	Soldiers, Sailors and Marines' Fund	3,100,000	3,100,000
159	Regional Market Operation Fund	970,000	940,000
160	Banking Fund	26,600,000	26,200,000
161	Insurance Fund	26,700,000	26,200,000
162	Consumer Counsel & Public Utility Control Fund	26,300,000	25,900,000
163	Workers' Compensation Fund	22,300,000	22,100,000
164	Criminal Injuries Compensation Fund	3,510,000	3,610,000

§ 165 — GAAP SALARY RESERVE ACCOUNT ELIMINATED

The act eliminates a separate nonlapsing account within the General Fund called the GAAP salary reserve account. Under prior law, the account had to be used to set aside funds to help pay the 27th state employee payroll that occurs every 11 years because of the state's

biweekly pay schedule.

The act also repeals requirements that (1) beginning in FY 13, one-tenth of the projected amount needed to fund the next 27th payroll be annually appropriated to the account and (2) in the fiscal year following disbursement for an extra payroll, the comptroller report to the General Assembly on the projected amount needed to fund the following one.

EFFECTIVE DATE: Upon passage

BACKGROUND

Related Person

By law, an entity is a "related person" to a taxpayer if (1) the taxpayer controls it, (2) it is a business or trust controlled by another person or entity that the taxpayer controls, or (3) it is a member of the same controlled group as the taxpayer. A company is considered to be "controlled" by someone if he directly or indirectly owns more than 50% of the combined voting power of all classes of its stock or more than 50% capital or profit interest in it. In the case of a trust, control means owning 50% or more of the beneficial interest of the trust's principal or income. Ownership is defined as in federal income tax law (CGS § 12-217ii).

PA 11-44 — SB 1240

Emergency Certification

AN ACT CONCERNING THE BUREAU OF REHABILITATIVE SERVICES AND IMPLEMENTATION OF PROVISIONS OF THE BUDGET CONCERNING HUMAN SERVICES AND PUBLIC HEALTH.

SUMMARY: This act creates a new Bureau of Rehabilitative Services (BRS) to provide services to individuals who are blind and visually impaired and deaf and hearing impaired. It transfers all of the administrative and programmatic functions of the Board of Education and Services for the Blind (BESB) and the Commission on Deaf and Hearing Impaired (CDHI) to BRS. The bureau also takes over the functions of the Bureau of Rehabilitation Services, previously within the Department of Social Services (DSS). The act also transfers from the (1) Department of Motor Vehicles (DMV) a unit that evaluates and trains people with disabilities to operate motor vehicles and (2) Labor Department the employee rehabilitation program of the Worker's Compensation Commission to BRS. The BRS director must report on the merger's status by January 2, 2012.

The act also makes numerous changes in the laws governing programs DSS administers. Some of the

major provisions include:

1. enabling the state to recover more assistance that DSS and state humane institutions provide (§§ 70-72);
2. freezing the Medicaid rates DSS pays to nursing homes, intermediate care facilities for people with mental retardation (ICF-MR), and other facilities but allowing for increases in certain circumstances (§§ 73-75);
3. reducing the amount DSS reimburses pharmacies for dispensing drugs to people enrolled in DSS' medical assistance programs (§ 76);
4. freezing for the next two years DSS cash assistance (§ 78);
5. decreasing the personal needs allowance for people residing in certain long-term care facilities and eliminating cost-of-living adjustments (COLA) in the allowance (§§ 78 & 79);
6. reducing the state subsidy for people enrolled in the Charter Oak Health Plan and excluding new enrollees from Charter Oak if they are eligible for the Pre-Existing Condition Insurance Plan (§ 80);
7. giving DSS three years to adopt regulations after implementing policies and procedures for new programs;
8. increasing the amount clients in the state-funded portion of the Connecticut Home Care Program for Elders must pay for their services (§ 86);
9. eliminating ConnPACE for anyone eligible for Medicare (§§ 88-90);
10. cutting in half the number of slots for DSS' HIV-AIDS waiver program (§ 93);
11. reducing eyeglass coverage for Medicaid recipients (§ 94);
12. moving child care and school readiness programs from DSS to the State Department of Education (SDE) (§§ 97-101);
13. providing Medicaid coverage for smoking cessation treatment starting January 1, 2012 (§§ 106 & 107);
14. allowing DSS to establish medical homes as a health care delivery model (§ 110);
15. changing how hospitals receive payments for serving a disproportionate share of low-income residents (§§ 111 & 174-178);
16. requiring DSS to submit a plan for implementing a cost-neutral, acuity-based method for establishing hospital rates, including a "blended" inpatient rate (§ 112);
17. allowing the DSS commissioner to modify Medicaid payment rates for certain providers to ensure cost neutrality and patient access under the new administrative services organization (ASO) model of care delivery (§ 113);
18. permitting the commissioner to establish an alternative benefit package for people enrolled in the Medicaid for Low-Income Adults (LIA) program (§ 116);
19. subjecting Medicaid state plan amendments to the same legislative oversight as Medicaid waivers (§ 144);
20. postponing for another two years the re-establishment of the Department on Aging (§§ 145 & 146);
21. strengthening the Connecticut False Claims Act for DSS medical assistance programs (§§ 153 & 154);
22. requiring DSS, within available funding, to run a Jobs First pilot program for Temporary Family Assistance (TFA) recipients that includes intensive case management services (§ 165);
23. increasing payments to adult day care providers (§ 166);
24. renaming the council that oversees DSS' medical assistance program, changing some of the council's duties, and changing the council's composition (§§ 167-172);
25. repealing a 2010 law that allowed the community spouse of a person applying for long-term care Medicaid to keep a higher amount of assets (§ 178); and
26. eliminating a Long-Term Care Reinvestment Fund meant to hold enhanced federal funds related to the Money Follows the Person Demonstration Program (§ 178).

The act (1) expands what insurers must cover for medically necessary early interventions for children with autism spectrum disorders (§§ 147 & 148), (2) adds protections to the law governing the dispensing of anti-epileptic drugs (§§ 150 & 151), (3) establishes a task force to determine whether the state should continue to make childhood immunizations universal (§ 163), (4) generally prohibits the Department of Children and Families (DCF) from placing any child under age six in a group home (§ 164), and (5) requires the commissioner of the Department of Public Health (DPH) to issue a request for proposals for an entity to provide financial assistance to sexual assault victims to help pay for HIV prophylactic drugs (§ 173).

The act also makes numerous technical and conforming changes.

EFFECTIVE DATE: July 1, 2011 unless otherwise noted below.

§§ 1-69 — CREATION OF BRS

The act creates BRS within DSS for administrative

purposes only. The bureau is responsible for providing (1) services to blind and visually impaired and deaf and hearing impaired individuals and (2) rehabilitation services.

The bureau is headed by a director, whom the governor appoints in accordance with the law governing appointments of agency heads. The director has the powers and duties of an agency head. The act requires the director to appoint people he or she deems necessary to administer the act. It directs the administrative services (DAS) commissioner to fix their compensation.

The act permits the director to create administration sections within the bureau, including a disability determination section; 100% of federal funds can be accepted to operate this section in conformance with state and federal regulation. (Previously, DSS' Bureau of Rehabilitation Services had a disability determination section that handled Social Security disability determinations for the federal government.)

§§ 2-4 — FUNCTIONS TRANSFERRED TO NEW BRS

The act transfers all functions, powers, and duties of CDHI and BESB to the new BRS, and makes BRS a successor administrative agency to the commissions with respect to these functions, powers, and duties. Previously, CDHI and BESB were within DSS for administrative purposes only.

BESB was the state's lead agency for providing services for blind residents and offered educational services to children and adults, rehabilitation services, and a program for blind entrepreneurs, among other things. CDHI's main function was to provide interpreters to deaf and hearing impaired citizens in a variety of settings. It also equipped the impaired individuals with telecommunication devices. The new BRS will provide these services.

The act also transfers all functions, powers, and duties of DSS' Bureau of Rehabilitation Services to the new BRS.

§ 7 — BESB-SPECIFIC CHANGES

The act changes the role of the BESB oversight board from the central policy-making authority for services provided to the state's blind and visually impaired to an advisor to BRS in fulfilling its responsibilities to provide services to blind and visually impaired residents. The act specifies that the BESB board chairman can call a meeting at the request of two or more members instead of exactly two members.

The act also eliminates the board's function of monitoring the activities of the agency in carrying out its mission to provide educational and rehabilitative services to blind and visually impaired state residents.

And it eliminates a requirement that the board report annually to the governor, Office of Policy and Management (OPM), and legislature on BESB's compliance with benchmarks.

§ 33 & 35 — CDHI — ROLE OF COMMISSION

Under the act, CDHI retains its role as an advisory body to BRS. But the act eliminates CDHI's role as a statewide coordinating agency and implementer of state policies affecting the deaf and hearing impaired. (It is unclear to what extent, if any, the commission, and not the agency, had these roles previously.)

The act also eliminates the position of CDHI executive director.

§ 38 — DOMESTIC TELEPHONE COMPANY ASSESSMENT

Under prior law, each domestic telephone company serving at least 100,000 customers had to pay \$20,000 into a Special Telecommunications Equipment Fund by July 1, 1992 to help CDHI provide telecommunications equipment for its clients. The act eliminates this deadline; thus, the telephone companies are once again subject to the assessment, but the act does not specify how frequently the assessment must be. (PA 11-48, § 306, repeals the law imposing the assessment.)

§ 45 — HANDICAPPED PLACARD CERTIFICATION

By law, people with disabilities must present certain certifications to the DMV commissioner verifying they are eligible for a handicapped placard. Under prior law, people who are blind and eligible for these placards needed certification of legal blindness from an ophthalmologist, an optometrist, or BESB. The act replaces BESB with BRS and makes technical changes.

§ 46 — HANDICAPPED DRIVER TRAINING PROGRAM

The act moves, from DMV to BRS, a unit that evaluates and trains people with disabilities to operate motor vehicles. It changes the name of the program from the handicapped driver training program to the driver training program for persons with disabilities and makes conforming changes. Under prior law, a handicapped driver consultant under the DMV commissioner's direction oversaw the program. The act renames this person the driver consultant for persons with disabilities, and places him or her under the BRS director's direction. PA 11-61 eliminates the position of driver consultant in BRS for persons with disabilities.

§§ 47-50 — DUTIES OF WORKERS' COMPENSATION CHAIRMAN TRANSFERRED TO BRS DIRECTOR

The act makes a number of conforming and technical changes necessary to transfer the employee rehabilitation program of the Workers' Compensation Commission (WCC) to the new BRS. The changes mean BRS, instead of WCC, will provide employee rehabilitation programs.

The act replaces the WCC chairman with the BRS director, thus requiring the director, rather than the WCC chairman, to establish rehabilitation programs for workers whose injuries are compensable under state workers' compensation law.

The act also transfers from the chairman to the BRS director the authority to (1) establish fees, (2) enter into agreements with state and federal agencies, and (3) develop matching programs or activities to secure federal grants and pledge or use funds from the Workers' Compensation Administration Fund.

§ 51 — JANITORIAL WORK PILOT PROGRAM

By law, the DAS commissioner runs a seven-year pilot program to create and expand janitorial work job opportunities for individuals with a disability or a "disadvantage," as defined in law. Previously, the DAS commissioner could consult with the DSS and labor commissioners in establishing the program. The act also allows him to consult with the BRS director.

§ 53 — EXEMPTING CERTAIN BRS EMPLOYEES FROM CLASSIFIED SERVICE

Under prior law, professional employees of DSS' Bureau of Rehabilitation Services were exempt from the classified service. The act instead exempts professional employees in the education professions bargaining unit of the new BRS from the classified service.

§ 58 — VOCATIONAL REHABILITATION SERVICES — EMPLOYMENT PLAN

Under prior law, vocational rehabilitation services for individuals with disabilities were provided through an individual written rehabilitation program. Under the act, the services are provided through an individual plan for employment (in conformance with current federal disability law). These plans help individuals reach their work goals.

§ 66 — REPORTING TO COMMITTEES OF COGNIZANCE

Under prior law, DSS had to report annually to the Human Services and Appropriations committees on:

1. DSS' plans to reduce Bureau of Rehabilitation counselor caseloads to the regional average;
2. client information, including age and race, and the nature of their disabilities;
3. DSS' efforts to ensure that the bureau was serving an equivalent proportion of minorities with disabilities as there were within the total disabled population in the state; and
4. the number, nature, and resolution of complaints the bureau received.

DSS also had to provide the committees with copies of federal audits of the bureau.

The act eliminates the requirement that the committees receive this specific data. It instead requires the new BRS, not DSS, starting July 1, 2011 and each year after that, to provide the committees with the data that it provides to the federal government on evaluation standards and performance indicators for the vocational rehabilitation services program.

§ 68 — REPORT TO LEGISLATURE

By January 2, 2012, the act requires the BRS director to submit a report to the Appropriations and Human Services committees on:

1. the status of the (a) merger of BESB, CHDI, and DSS' Bureau of Rehabilitation Services and (b) DMV and WCC functions integrated into the new agency;
2. the new bureau's organizational structure;
3. the bureau's places of operation; and
4. any recommendations for further legislative action concerning the merger, including recommendations to increase the efficiency of the new agency and achieve cost savings.

§ 69 — ADMINISTRATIVE FUNCTIONS OF OLD AND NEW AGENCY

Under the act, the personnel, payroll, administrative action, and business office functions of BESB and CDHI will not be merged and consolidated into DAS, as was required by 2005 legislation. Instead, BRS will assume these functions. But, the BRS director may extend the effective date for the transfers for six months, up to June 30, 2012, by submitting written notice to the Appropriations and Human Services committees.

EFFECTIVE DATE: Upon passage

§ 70-72 — RECOVERY OF PUBLIC ASSISTANCE AND OTHER STATE AID

Public Assistance Recipients

By law, the state has a claim against any kind of property or interest in any property acquired by a public assistance recipient. One way the state recovers

assistance paid is by placing liens on the property. The state also has a claim against the parents of children who receive certain aid but, under prior law, the state could only place a lien against property of the parent of an Aid to Dependent Children (former name for Aid to Families with Dependent Children (AFDC) program). The act extends this authority to parents of individuals (presumably children) who receive TFA (the current family cash welfare program that replaced AFDC) and State-Administered General Assistance (SAGA).

The state can also make a claim when a public assistance recipient inherits money, and is entitled to 50% of the assets of the estate payable to the recipient or the amount of the assistance, whichever is less. This amount is assignable to the state for payment. The act applies this provision to parents of these assistance recipients. It requires the probate court to accept these new assignments. The act also makes conforming, technical changes.

Patients in State Humane Institutions

By law, a patient who is receiving or has received care or support in a state humane institution (e.g., Department of Mental Health and Addiction Services (DMHAS) facility) or his or her estate is liable to reimburse the state for its charges to the same extent as public assistance recipients are when it comes to property and estate recoveries, but not recoveries from lawsuits and inheritances. The act applies the law's lawsuit and inheritance recovery provisions to these individuals.

§ 73 — NURSING HOME RATES

The act freezes, for the next two fiscal years, Medicaid reimbursement to nursing homes. By law and regulation, nursing homes should be getting higher rates due to rate re-basing and inflationary adjustments. Under the act, facilities that would have received lower rates in either year due to their interim rate status receive the lower rate.

Currently, facilities that undergo material changes in circumstances related to fair rent (e.g., building an addition) have an additional payment built into their rate. In FYs 10 and 11, these additional payments can be made only if the homes have an approved certificate of need (presumably for these material changes). The act extends this limitation for the next two fiscal years.

Despite this general prohibition on rate increases, the act permits the DSS commissioner, within available appropriations, to increase rates (presumably to reflect increases that result from the budget's increase in the nursing home provider tax).

§§ 74 & 75 — RATES FOR ICF-MR

Under the act, the Medicaid rates for ICF-MR and residential care homes are frozen at the FY 11 rate for FYs 12 and 13. However, during those fiscal years, (1) an ICF-MR assigned a lower rate due to interim rate status or by agreement with DSS gets the lower rate and (2) the DSS commissioner may pay fair rent increases to any facility that has undergone a material change and has an approved certificate of need. Although the act freezes the rates, it authorizes the DSS commissioner to increase rates to ICF-MR within available appropriations. It also authorizes the DSS commissioner to increase residential care rates for reasonable costs associated with initiating a program to certify unlicensed health care personnel to administer non-injectible medication in FY 12 or 13.

§ 76 — REIMBURSEMENTS FOR OUTPATIENT PRESCRIPTION DRUGS DISPENSED TO DSS MEDICAL ASSISTANCE RECIPIENTS

The act reduces the reimbursement DSS pays pharmacists for dispensing most brand name drugs to DSS medical assistance recipients. Previously, DSS paid the average wholesale price (AWP) of the drug minus 14%, plus a \$2.90 dispensing fee. Under the act, the reimbursement falls to the AWP minus 16% plus a \$2 dispensing fee.

§ 77 — TFA AND SAGA PAYMENTS

The act freezes TFA and SAGA payment standards at the FY 10 rate for the next two fiscal years. It retains the existing formula for calculating increases for future years.

§ 78 — FREEZE IN STATE SUPPLEMENT BENEFITS

The act freezes benefits in the State Supplement to Supplemental Security Income program for the next two fiscal years.

§§ 78 & 79 — DECREASE IN PERSONAL NEEDS ALLOWANCE

Residents of long-term care facilities who receive Medicaid generally must spend all of their monthly income (e.g., Social Security) towards their care costs, but may keep a small portion, called a personal needs allowance, to pay for incidentals. The allowance is increased each year based on any increases in Social Security benefits (COLA), although the statute does not include the updated amounts. Previously, the allowance was \$69 per month. The act reduces the allowance to \$60 and eliminates the Social Security COLA indexing.

The covered facilities include nursing homes, chronic disease hospitals, ICF-MRs, and state humane institutions.

§ 80 — CHARTER OAK HEALTH PLAN

The act excludes from coverage in Connecticut's health insurance plan for the uninsured (Charter Oak Health Plan) anyone eligible for the high-risk pool (the Pre-Existing Condition Insurance Plan) established under the federal Patient Protection and Affordable Care Act. The act eliminates a prohibition against excluding preexisting conditions from coverage under the Charter Oak plan.

The act reduces the number of low-income people eligible for premium assistance by closing the program to anyone not enrolled on May 31, 2010. It also reduces the amount of the DSS premium subsidy by lowering the range of its sliding scale, which bases the amounts on the extent to which a person's income is above the federal poverty level (FPL). Currently, the range is between \$50 and \$175; under the act, it is between \$35 and \$115. As under existing law, anyone with income above 300% of the FPL does not qualify for premium assistance.

EFFECTIVE DATE: September 1, 2011

§ 81 — MEDICAID NON-EMERGENCY DENTAL SERVICES

The act directs the DSS commissioner to modify the availability of nonemergency services to adults who do not appear to have a dental disease that is an aggravating factor in their overall health. Modifications must include providing one periodic exam, one dental cleaning, and one set of bitewing x-rays per year.

Policies, Procedures, and Regulations

The act authorizes the DSS commissioner to implement policies and procedures to administer the program while in the process of adopting them in regulation form, so long as he publishes a notice of intent to adopt regulations in the *Connecticut Law Journal* within 20 days of implementing the policies and procedures. The policies and procedures are valid for three years following the publication date unless the legislature calls for something otherwise.

Notwithstanding a requirement that proposed regulations be submitted within 180 days after adoption, the act requires policies and procedures concerning this program to be submitted in proposed regulation form to the legislative Regulation Review Committee no later than three years after the *Law Journal* notice is published. If the commissioner is unable to submit the proposed regulations by that deadline, he must submit a written notice to the Appropriations, Human Services,

and Regulation Review committees at least 35 days before the proposed regulations are due.

Under the act, the notice must indicate why DSS cannot meet the deadline and the date by which it will submit its proposed regulations. The Regulation Review Committee can require the commissioner to appear before the committee at a time it sets to further explain his reasons and to respond to the committee's policy questions. The committee may ask the Human Services Committee to review the (1) DSS policies, (2) reasons why DSS did not submit proposed regulations on time, and (3) date on which it intends to submit them. The Human Services Committee may review this information, schedule a hearing about it, and make a recommendation to the Regulation Review Committee.

§ 82 — CAPITAL IMPROVEMENTS TO FACILITIES FOR THE SEVERELY HANDICAPPED

For FYs 12 and 13, the act freezes rates at the FY 11 level for licensed private residential facilities and similar facilities operated by regional educational service centers that provide vocational or functional services for severely handicapped individuals. Any facility that would have gotten a lower rate due to interim rate status or an agreement with DSS gets the lower rate.

The rate may be higher if the facility makes a capital improvement in FY 11 or 12 required by the Department of Developmental Services commissioner for resident health and safety.

§ 83 — DSS REPORT ON SUBMITTING REGULATIONS

The act requires the DSS commissioner, by July 1, 2012, to report to the Appropriations and Human Services committees on the department's regulation process and the status of policies and procedures implemented for which proposed regulations have not been submitted to the Regulation Review Committee. He must report at least on the status of regulations with respect to (1) adult day care services, (2) medical homes, (3) LIAs, and (4) and nursing home and ICF-MR user-fees.

The report must include:

1. the duties of staff assigned to work on the proposed regulations;
2. the need for additional staff and the duties they would perform;
3. a timetable for training new staff to assist in the regulation process;
4. a description of the system supports used and needed for efficiency and delivery of proposed regulations;

5. a description of departmental policies and procedures that have not been submitted to the Regulation Review Committee, including the dates on which the policies and procedures were implemented; and
6. a timetable for submitting them to the committee.

EFFECTIVE DATE: Upon passage

§ 84 — TRANSPORTATION

For emergency medical transportation for people eligible for both Medicaid and Medicare, the act limits reimbursement for Medicare coinsurance and deductibles to ensure that the combined Medicaid and Medicare provider payment does not exceed the maximum allowable under Medicaid plus an additional percentage, which the DSS commissioner must establish.

§ 85 — FOREIGN LANGUAGE INTERPRETERS AND PODIATRY COVERAGE

Interpreters

PA 09-5, September Special Session (SSS), required DSS to amend the Medicaid state plan, by February 1, 2011, to include foreign language interpreter services as a “covered service” to any beneficiary with limited English proficiency. DSS also was supposed to establish billing codes for interpreter services provided under the Medicaid and HUSKY B programs. (DSS has not amended the plan or developed these codes.) This act continues this directive, eliminates its applicability to HUSKY B, and delays its implementation until July 1, 2013.

PA 09-5, SSS, directed each managed care organization (MCO) that contracted with DSS to provide interpreter services to HUSKY A recipients to submit semiannual reports to DSS, which the department submits to the Medicaid Care Management Oversight Council. This act instead requires DSS to report directly to the newly named council (see §§ 167, et. seq., below), effective July 1, 2013.

Federal Medicaid law allows states to receive federal matching funds for limited English proficiency interpreters, either by designating them as a covered state plan service or an administrative cost.

Podiatry

The act restores Medicaid coverage for podiatry services as a state plan service. It directs the DSS commissioner to amend the Medicaid state plan by October 1, 2011, to effect the change. Since 2003, DSS has not paid for podiatry services performed by

independent practitioners. It has paid for them when provided by physicians (orthopedists) and clinics.

§ 86 — CONNECTICUT HOME CARE PROGRAM FOR ELDERLY — COST SHARING IN STATE FUNDED PORTION OF PROGRAM

The Connecticut Home Care Program for Elders provides home- and community-based services to frail elders as an alternative to nursing home care. The program has state- and Medicaid-funded components. The act increases cost sharing for the state-funded portion of the program from 6% to 7% of service costs. For people with higher incomes, this charge is in addition to any income DSS applies toward the cost of their care.

§ 87 — EMERGENCY MEDICAL SERVICES

The budget act (PA 11-6) requires \$1.45 million to be transferred from the Tobacco and Health Trust Fund for three purposes, one of which is emergency medical services. Currently, \$500,000 in grants is allocated to regional councils for emergency medical services. This act allocates these grants to regional emergency medical services.

§§ 88-90 — CONNPACE FOR PEOPLE INELIGIBLE FOR MEDICARE

The ConnPACE program provides prescription drug assistance to low-income individuals age 65 and older and younger people with disabilities. Its eligibility requirements include enrollment in Medicare Part D (drug assistance) and one of that program’s benchmark plans. People with private prescription coverage also become eligible for ConnPACE if they use up their plan’s coverage and meet the program’s other eligibility criteria.

Under prior law, for people eligible for Medicare, ConnPACE paid any Medicare Part D prescription co-payments over ConnPACE’s \$16.25 and any Part D premiums and deductibles. It also paid for prescriptions needed during the coverage gap also known as the “donut hole.” (This gap begins when a beneficiary’s annual out-of-pocket drug costs reach \$2,840 and continues until they reach \$4,550.) The act eliminates all of this, but it continues to offer drug assistance to people (primarily younger adults with disabilities) who do not qualify for Medicare.

However, most individuals eligible for ConnPACE and Medicare qualify for one of three Medicare Savings programs (see below), which, in turn, makes them eligible for the federal Low-Income Subsidy (LIS) program. LIS offers Part D recipients significant premium and co-payment subsidies and pays for the donut hole coverage gap.

The act also eliminates the Medicare Part D Supplemental Needs Fund, which paid for drugs ConnPACE recipients needed that were not in their Part D plan's formulary. (DSS stopped making payments from this fund in January 2010.) It also removes the statutory formulas DSS could use under prior law to calculate how much it would pay for ConnPACE-covered drugs.

Finally, the act eliminates coverage for drugs excluded from Medicare Part D coverage. This includes benzodiazepenes and barbituates.

§ 91 — MEDICARE SAVINGS PROGRAM (MSP)

MSPs use Medicaid funds to help lower-income individuals who are eligible for Medicare Parts A (hospitalization) and B (doctor's visits and outpatient services). In 2009, eligibility for the programs was expanded to enable most ConnPACE recipients to qualify. An individual who qualifies for the MSP is automatically eligible for the prescription drug low-income subsidy, which helps with Part D cost sharing, including payments during the donut hole period.

Under existing law, DSS is required to increase the income disregards used to determine MSP eligibility to equalize the income limits in the MSPs and ConnPACE. The act requires DSS to do the same thing for deductions used to determine eligibility for the programs.

§ 92 — MEDICAID OUTPATIENT FEE SCHEDULE

The act authorizes the DSS commissioner to establish a uniform fee schedule for Medicaid-covered outpatient hospital services. Under the prior methodology, different hospitals were paid different rates for the same services.

§ 93 — AIDS PROGRAM WAIVER

The act reduces, from 100 to 50, the number of slots for Medicaid-enrolled people eligible for DSS' home- and community-based services waiver for people with HIV or AIDS who would otherwise need an institutional level of care. It eliminates a reference to a federal regulation (42 CFR 440. 180) that allows the DSS commissioner to decide what services are necessary for a participant's unique needs to avoid institutionalization.

§ 94 — EYEGLASS COVERAGE

The act reduces the frequency with which DSS will pay for eyeglasses from once per year to once every other year. It directs the commissioner to administer eyeglass and contact lens payments as cost effectively as possible. (PA 11-48 permits payment for a second

pair of eyeglasses when a Medicaid recipient's health care provider determines that it is necessary because of a change in the recipient's medical condition.)

§ 95 — LIMITATION ON SMALL HOUSE NURSING HOME PROJECTS

Prior law required the DSS commissioner, within available appropriations, to establish a pilot program to support the development of up to 10 licensed small house nursing homes. (These facilities are modeled after private homes and afford residents more privacy, increased support staff, and individualized care.) He could approve one project with up to 280 beds by June 30, 2011.

The act makes the program permissive. It only allows one such small house nursing home and it allows it to have 14 beds instead of 10. In doing so, it repeals provisions allowing existing nursing homes to develop their own small house projects and transfer existing beds to them, thus reducing the number of institutional nursing facility beds in the state. It also repeals provisions giving priority to certain locations and facilities that use fuel cell technology.

§ 96 — SECURITY DEPOSIT GUARANTEE PROGRAM

By law and within available appropriations, DSS administers a program that provides landlords a security deposit guarantee when they rent a unit to specified low-income tenants, the homeless, or people subject to eviction proceedings. Under prior law, DSS could deny applications if it had paid two or more damage claims on a tenant's behalf in the past five years. The act allows the department to deny eligibility to tenant-applicants on whose behalf it has ever paid two claims.

Previously, tenants had no obligation to contribute to the security deposit. Under the act, those (1) with income greater than 150% of the federal poverty level (or \$27,745 for a three-person household) and (2) for whom DSS has paid a damage claim, must pay 5% of one month's rent towards the security deposit. The DSS commissioner may waive this requirement for cause.

The act also gives landlords 45 days after the termination of a tenancy to submit a damage claim. DSS will only pay claims that are accompanied by receipts indicating that the repairs have been made. It will not pay when a tenant moves out because a local, state, or federal regulatory agency determines that substandard conditions make the unit uninhabitable.

§§ 97-101 — CHILD CARE AND SCHOOL
READINESS PROGRAMS TRANSFERRED FROM
DSS TO SDE

Previously, DSS, in consultation with the SDE (1) provided direct subsidies to providers for child care slots and (2) awarded grants to school readiness programs for quality enhancements. The act eliminates DSS' role in these programs and permits, instead of requires, the SDE commissioner to model the direct provider subsidy on the Care4Kids child care subsidy program, which DSS administers. The act requires the SDE commissioner, effective July 1, 2011, to pay funds under the quality grant program to providers on a prospective basis.

The act also makes the SDE commissioner, rather than both commissioners, responsible for (1) coordinating the development of a range of alternative programs to meet the needs of all children, (2) fostering partnerships between school districts and private organizations, (3) providing information and assistance to parents in selecting school readiness programs, and (4) working to ensure that such programs allow open enrollments.

The act also makes the education commissioner, instead of the DSS commissioner, responsible for administering the child care facilities loan guarantee program and the child care facilities direct revolving loan program.

§§ 102 & 103 — TAX ON HOSPITAL NET
REVENUE

Under the budget act (PA 11-6), hospitals are assessed a quarterly tax on net patient revenue. Currently, net patient revenue is defined as the amount of a hospital's gross revenue, including any Medicare payments. Under this act, the revenue is the amount of accrued payments a hospital earns for providing inpatient and outpatient services.

Under PA 11-6, other than for the Connecticut Children's Medical Center (CCMC) and John Dempsey Hospital, the tax is 4.6% of hospitals' net patient revenue. This act provides that the amount of the tax is up to the maximum allowed by federal law (6% starting October 1, 2011). It requires the DSS commissioner to determine the base year on which the tax is assessed. And it allows the commissioner, in consultation with the OPM secretary and in accordance with federal law, to exempt a hospital from the tax on payments earned from providing outpatient services based on financial hardship. (PA 11-61, § 79, requires the DSS commissioner to determine the revenue period.)

§ 104 — ASSET TRANSFERS BY NURSING HOME
RESIDENTS

The law prohibits institutionalized individuals (under the act, defined as residents of nursing homes or similar facilities or individuals receiving home and community-based services under a Medicaid waiver) from transferring or assigning their assets for less than they are worth in order to shift costs to the Medicaid program. Penalties attach when such transactions occur within five years before the nursing home resident applies for Medicaid. The act sets different penalty trigger dates and penalty periods for some of these transactions depending on their characteristics.

Transfers

Under the act, a resident can be penalized for an asset transfer even if the entire amount is returned if DSS determines that the circumstances surrounding the transaction indicate that the Medicaid recipient or his or her spouse or authorized representative intended from the time the asset was transferred to change the start date of a penalty period or shift nursing facility costs to the Medicaid program. Unless the transferor can prove otherwise by clear and convincing evidence, the entire amount of the returned asset is deemed available from the date of the transfer. If the transferor prevails, the asset is deemed available from the date of its return.

Under the act, a conveyance and subsequent return of an asset for the purpose of shifting costs to the Medicaid program is deemed to be a trust-like device, and the asset will be considered available for the purposes of determining Medicaid eligibility.

The act also specifies that a partial return of a transferred asset will not reduce the penalty period. This includes transfers to the same or different transferees.
EFFECTIVE DATE: Upon passage

§ 105 — SCHOOL-BASED CHILD HEALTH
PROGRAM

Federal law requires local education agencies (LEAs) to identify all children with disabilities who need special education and related services. The LEAs must provide the related services, which are diagnostic, evaluative, and rehabilitative in nature, and, for Medicaid-eligible students, bill DSS for the cost of providing them. DSS (1) bills the federal government for 100% of what the LEA spends, (2) keeps one-half of the reimbursement, and (3) gives the LEA the other half.

The act requires DSS to amend its Medicaid state plan for this program to maintain and enhance, to the extent allowed, federal matching funds associated with costs through a service-specific, rather than the current "bundling" of services, billing method. The act

eliminates an obsolete provision regarding the content of the state plan amendment.

The act requires the DSS commissioner to notify each LEA in writing of any change in policy or billing procedure within 30 days after the effective date of the change.

EFFECTIVE DATE: Upon passage

§§ 106 & 107 — COVERAGE FOR SMOKING CESSATION AND CERTAIN OVER-THE-COUNTER DRUGS; BILLING FOR DIABETIC SUPPLIES

Smoking Cessation Drugs

By law, the DSS commissioner was to have amended the Medicaid state plan to cover smoking cessation treatment for Medicaid patients when prescribed by a licensed health care professional. This was never done. The act continues to require DSS to amend the state plan but removes the requirement that treatment be ordered by a health care professional. Thus, the act allows treatment coverage for all prescription and over-the-counter drugs and counseling.

Previously, if the initial treatment was not successful, all prescriptive options had to be made available to the patient. The act eliminates this provision.

The act adds smoking cessation drugs to the list of drugs that are exempt from the general ban on DSS payments for over-the-counter drugs starting January 1, 2012.

Diabetic Supplies

The act also requires the DSS commissioner, by August 1, 2011, to notify pharmacists participating in any DSS medical assistance program that they may bill DSS for supplies used in diabetes treatment using the durable medical equipment-medical surgical supply fee schedule. Providers currently receive electronic notifications about the fee schedule. The commissioner must provide a copy of the notice to the Human Services and Appropriations committees.

EFFECTIVE DATE: January 1, 2012 for the smoking cessation coverage provisions and July 1, 2011 for the diabetic supplies and over-the-counter drug exception provisions.

§ 108 — SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

By law, certain relatives are legally responsible for repaying the state the amount of public assistance benefits another relative (usually a spouse or minor child) receives. They must report promptly to DSS (1) any increase in income or acquisition of property and

(2) various other planned changes in their finances.

The act excludes relatives of Supplemental Nutrition Assistance Program (SNAP, formerly Food Stamps) recipients from the reporting requirements. SNAP recipients are not required to repay the state for benefits they receive. It requires the DSS commissioner to establish reporting requirements as required by federal law.

EFFECTIVE DATE: Upon passage

§ 109 — HUSKY B COST SHARING

The act eliminates the law's specific premiums that HUSKY B, Band 2 families must pay for their children's care. By law, DSS can charge premiums for families with income greater than 235% of FPL, which is \$52,522 for a family of four in 2011.

Under prior law, families paid \$38 per month with a family cap of \$60, but the federal government recently determined that these premiums, which were increased in 2010, violated federal law (see BACKGROUND – HUSKY B Premium) and DSS is reimbursing families as a result. (Lower income, Band 1 families have only a co-payment obligation.) The act allows DSS, in accordance with federal law, to impose premiums, and for the next four fiscal years, annually increase the premiums based on any increase in the Consumer Price Index for Medical Care Services.

The act also removes a prohibition against DSS imposing a premium requirement on families with incomes between 185% and 235% (Band 1) of the FPL.

EFFECTIVE DATE: Upon passage

§ 110 — MEDICAL HOMES

The act permits the DSS commissioner to establish medical homes as a model for delivering care to recipients of DSS-administered medical assistance programs. The model, as defined by federal law, is for people eligible for Medicaid or a Medicaid waiver who have (1) two chronic conditions, (2) one chronic condition with a risk of developing a second, or (3) a serious and persistent mental health or substance abuse condition. Its components include:

1. comprehensive case management;
2. care coordination and health promotion;
3. comprehensive transitional care, including appropriate follow up, from inpatient to other settings;
4. patient and family support;
5. referral to community and social support services, if relevant; and
6. use of health information technology to link services.

Under the act, the commissioner may implement necessary policies and procedures to implement the

medical home model.

In addition, the act allows him to implement policies and procedures to carry out optional provisions of the federal Patient Protection and Affordable Care and Health Care and Education Reconciliation acts relating to:

1. family planning services,
2. establishing a temporary high-risk pool for individuals with preexisting conditions,
3. establishing an incentive program to prevent chronic diseases,
4. providing health homes to medical assistance beneficiaries with chronic conditions,
5. establishing Medicaid payments to institutions for a mental disease demonstration program,
6. establishing a demonstration program for people eligible for both Medicaid and Medicare,
7. establishing a balancing incentive payment program for home and community-based services,
8. establishing a “Community First Choice Option,”
9. establishing a demonstration project to make bundled payments to hospitals, and
10. establishing a demonstration project to allow pediatric medical providers to organize as accountable care organizations.

Policies, Procedures, and Regulations

The act authorizes the DSS commissioner to implement policies and procedures to administer the program while in the process of adopting them in regulation form, so long as he publishes a notice of his intent to adopt regulations in the *Connecticut Law Journal* within 20 days of implementing the policies and procedures. The policies and procedures expire three years following the publication date unless the legislature calls for something otherwise. (See § 81 for a summary of the procedures the commissioner must follow.)

EFFECTIVE DATE: Upon passage

§§ 111 & 174-178 — DISPROPORTIONATE SHARE (DSH) PAYMENTS TO HOSPITALS

DSH Payments Based on Actual Costs

The act modifies DSH payments to conform to federal law. Under prior law, DSS, within available appropriations, was permitted to make twice monthly payments to short-term general hospitals that serve a disproportionate share of low-income patients and provide uncompensated care. These state payments are eligible for federal matching funds. Previously, the

hospitals could receive these “interim payments” based on a prior year’s data without recalculating the payments using the year’s actual data and redistributing the difference between the two through a “settlement” process, and state law prohibited settlements. For FFY 11 and succeeding fiscal years, final DSH payment amounts must be recalculated and reallocated in accordance with federal law (see BACKGROUND – Uncompensated Care).

Under the act, starting July 1, 2011, DSS, within available appropriations, can make interim monthly DSH payments, regardless of any state law to the contrary. The total amount of these payments individually and in the aggregate must maximize federal Medicaid matching payments, as DSS determines in consultation with OPM. The act prohibits DSH payments to CCMC or John Dempsey Hospital. DSS determines the DSH payment amount based on information the hospitals submit as required by federal law.

Also starting July 1, 2011, interim DSH payments for the next 15 months must be based on 2009 federal fiscal year data and can be adjusted at the DSS commissioner’s discretion for accuracy. Effective October 1, 2012, these payments must be based on the most recent federal fiscal year data available.

The act requires the DSS commissioner to prescribe uniform annual hospital data reporting forms.

Any payments made under these provisions are in addition to Medicaid inpatient hospital rates. The act continues to permit the commissioner to withhold a payment to a hospital to offset any money the hospital may owe the state.

Conforming Changes to Existing Law

In accordance with the above provisions, the act makes a number of changes in existing law. It (1) eliminates obsolete DSH-related provisions in the Department of Public Health’s (DPH) Office of Health Care Access division (OHCA) statutes, (2) makes changes in hospital auditing and filing requirements, and (3) makes conforming and technical changes.

Prior law required OHCA, in consultation with DSS, to review annually each hospital’s level of uncompensated care to the indigent. Under the act, OHCA does not have to consult with DSS.

The act eliminates a requirement that each hospital get an independent audit of its level of charges, payments, and discharges to government and nongovernment payers and the amount of uncompensated care, although federal law requires this (see BACKGROUND – Uncompensated Care). But each hospital must continue to file its audited financial statements by February 28 annually. The act requires that this filing include a verification of the hospital’s net

revenue for the most recently completed fiscal year in an OHCA-prescribed format. Previously, the definition of “net revenue” for DSH purposes meant total gross revenue less contractual allowances, less the difference between government charges and government payments, less uncompensated care and other allowances, plus DSS’ DSH payments. The act eliminates the DSH payments from the definition.

The act also requires OHCA to report to the Public Health Committee, by September 1 annually. The report must cover its review of hospitals’ required annual and 12-month filings concerning uncompensated care, authorized revenue limits, and other hospital data. Under prior law, OHCA had to report each June 1 on the results of an uncompensated care audit for the previous fiscal year.

§ 112 — BLENDED INPATIENT HOSPITAL RATES

The act requires DSS, after consulting with OPM and DMHAS and DPH commissioners, to submit a plan to the Appropriations and Human Services committees for implementing a cost neutral, acuity-based method for establishing hospital rates. The plan is due January 1, 2012 and must be phased in over time.

Under the act, the DSS commissioner may establish a “blended” inpatient hospital case rate. It must include services provided to all Medicaid recipients and may exclude certain diagnoses if the DSS commissioner determines the rates are necessary to ensure that the planned conversion to an administration services organization (ASO) is, in the aggregate, cost neutral to hospitals and ensures patient access.

By law, the commissioner is authorized to contract with ASOs for care coordination, utilization and disease management, customer service, and grievance reviews for medical assistance recipients.

§ 113 — MODIFIED FEE SCHEDULES FOR CHRONIC DISEASE AND STATE-FUNDED HOSPITALS

The act permits the DSS commissioner to annually modify fee schedules for outpatient services in chronic disease hospitals and hospitals receiving state appropriations. The purpose of the modification is to ensure that the conversion to an ASO is, in the aggregate, cost neutral to hospitals and ensures patient access.

The act also repeals an obsolete reporting requirement.

§ 114 — FEE SCHEDULES FOR HOME HEALTH CARE AGENCIES

The act eliminates the DSS commissioner’s discretionary authority to annually increase a home

health care or homemaker-home health agency’s fee schedule for Medicaid services when there is an increase in the cost of services. Instead, he may annually modify the schedule to ensure that the conversion to an ASO is cost-neutral, in the aggregate, to home health care agencies and homemaker-home health agencies and ensure patient access.

§ 115 — MEDICAL SERVICE RATES

The act authorizes the DSS commissioner to establish payment rates for medical service providers if establishing the rates is required to ensure that any contract with an ASO is cost neutral to hospitals in the aggregate and ensures patient access. It requires ASO contracts with medical service providers to include provisions reducing inappropriate use of hospital emergency department services, such as requiring intensive case management services or cost sharing. PA 11-61 (§§ 121-124) prohibits utilization from being considered a factor in determining cost neutrality for inpatient and outpatient hospital services, home health care and homemaker health agencies, and medical service providers.

§ 116 — ALTERNATIVE MEDICAID BENEFIT PACKAGE FOR LOW-INCOME ADULTS

Benefit Package

The act permits the DSS commissioner to amend the Medicaid state plan to establish an “alternative benefit package” for individuals eligible for Medicaid under the Low-Income Adult (LIA) coverage group and to limit medical service provider rates. The act allows the package to limit:

1. health care provider office visits;
2. independent therapy services;
3. emergency room services;
4. inpatient and outpatient hospital visits;
5. medical equipment, devices, and supplies;
6. ambulatory surgery center services;
7. pharmacy services;
8. nonemergency medical transportation; and
9. home care agency services.

Effective July 1, 2011, the act prohibits DSS from paying a medical provider for services provided before April 1, 2010 to a LIA recipient. (Before that date, such individuals would have had their services paid for by the SAGA medical assistance program, which LIA replaced.)

Implementation

The act authorizes the DSS commissioner to implement policies and procedures to administer the program while in the process of adopting them in

regulation form, so long as he publishes a notice of his intent to adopt regulations in the *Connecticut Law Journal* within 20 days of implementing the policies and procedures. The policies and procedures are valid for three years following the publication date unless the legislature calls for something otherwise. (See § 81 for a summary of the procedures the commissioner must follow.)

§ 117 — RESIDENTIAL FACILITY FOR FORMER PRISONERS AND DMHAS CLIENTS

The act permits the Department of Correction, DSS, and DMHAS commissioners to establish or contract to establish a chronic or convalescent nursing home on state-owned or private property. The facility is for people who (1) require nursing home-level services and are transitioning from prison into the community or (2) are DMHAS clients.

The facility's development is exempt from the state's certificate of need requirements.

§ 118 — LIMITED MEDICAL SERVICES TO ELDERLY LEGAL IMMIGRANTS

In 2009, the legislature virtually eliminated the State Medical Assistance for NonCitizens (SMANC) program and the courts ultimately upheld this. The law continued to allow certain elderly immigrants who were receiving long-term care services to continue to get this care. Under the act, immigrant elders continue to get coverage if they are receiving (1) home care services that are equivalent to those provided under the Medicaid waiver portion of the Connecticut Home Care Program for Elders, rather than just home care; (2) SMANC-funded nursing home care as of June 30, 2011; or (3) care and apply for SMANC before June 1, 2011.

EFFECTIVE DATE: Upon passage

§ 119 — LIMITED NURSING HOME COVERAGE FOR ILLEGAL IMMIGRANTS

Under existing law, the DSS commissioner, within available appropriations and after consulting with the DMHAS commissioner and the OPM secretary, may provide payments to long-term care facilities for the care of certain illegal immigrants. Under the act, these individuals have to have been admitted to such a facility by July 1, 2011. By law, but for their illegal status, they must otherwise qualify for Medicaid. They must either be ineligible to return to their home country because of the nature of the illness or be the subject of a decision by the Bureau of Immigration and Customs Enforcement not to deport them.

EFFECTIVE DATE: Upon passage

§§ 120-141 — ELIMINATION OF STATE-ADMINISTERED GENERAL ASSISTANCE (SAGA) MEDICAL ASSISTANCE PROGRAM

PA 10-1, June Special Session, created a new Medicaid coverage group for LIAs. Anyone eligible for the SAGA medical assistance program was moved into LIA since the eligibility criteria were the same. This act eliminates the SAGA medical assistance program and most statutory references to it and in some instances, replaces SAGA medical assistance with LIA.

§§ 142 & 178 — ELIMINATION OF MEDICARE PART D SUPPLEMENTAL NEEDS FUND

The act eliminates the Medicare Part D Supplemental Needs Fund, funding for which was eliminated in January 2010. The fund paid for ConnPACE recipients to get drugs that were not on their Part D plan's formulary.

The act makes related technical and conforming changes.

§ 143 — MEDICAID THERAPY MANAGEMENT SERVICES

The act requires the DSS commissioner to contract with a pharmacy organization to provide Medicaid therapy management services. The organization can include a pharmacy school. The services must include (1) a review of the medical and prescription history of Medicaid recipients and (2) the development of patient medication action plans to reduce adverse medical interaction and related health problems. PA 11-61 (§ 127) allows DSS to select a patient-centered medical home or health home in lieu of a pharmacy.

§ 144 — LEGISLATIVE OVERSIGHT OF MEDICAID STATE PLAN AMENDMENTS

By law, the DSS commissioner must submit to the Human Services and Appropriations committees applications DSS is submitting to the federal government to waive any federal assistance program requirements unless the waiver pertains to routine operational issues. The law establishes a process for the legislature to review these waiver requests (see BACKGROUND – Legislative Oversight of DSS Waivers).

Under the act, the DSS commissioner must follow this same process when seeking a state plan amendment for any change in program requirements that would have otherwise required a waiver but for the passage of the federal Affordable Care Act. But the act sets up a slightly different time frame for public hearings.

Currently, when the Human Services and Appropriations committee chairpersons receive a waiver

application from DSS they must hold a public hearing on it within 30 days and advise the commissioner of their approval, denial, or modification of the waiver. Under the act, if the chairpersons receive a proposed state plan amendment, they must notify the commissioner if they intend to hold a hearing and if so, the date that it will be held, which cannot be more than 60 days after they receive the amendment.

§§ 145 & 146 — DELAY IN REESTABLISHING DEPARTMENT ON AGING

The act postpones the reestablishment of the state Department on Aging, by two years, from July 1, 2011 to July 1, 2013. Connecticut disbanded this department in 1993 and merged most of its functions and personnel into DSS under the Division of Elderly Services. EFFECTIVE DATE: January 1, 2011, except a conforming change is effective September 1, 2013.

§§ 147 & 148 — BIRTH-TO-THREE SERVICES FOR CHILDREN WITH AUTISM SPECTRUM DISORDERS

The act makes changes to the requirements for individual and group health insurance policies that provide coverage for medically necessary early intervention (birth-to-three services) provided as part of an individualized family service plan. It prohibits these policies from imposing co-insurance, copayments, deductibles, or other out-of-pocket expenses for these services, unless they are high-deductible policies designed to be compatible with federally qualified health savings accounts.

It also increases the annual maximum benefit that group health insurers must provide for children with autism spectrum disorders who receive birth-to-three services.

Coverage Requirements

By law, group health insurance policies must cover medically necessary birth-to-three services provided as part of an individualized family service plan for children with developmental delays. This coverage must include an annual maximum policy benefit of \$6,400 per child, with an aggregate benefit of \$19,200 per child over the three-year period. The act expands these coverage amounts for children with autism spectrum disorders to \$50,000 per child per year and \$150,000 per child over the three-year period. The act specifies that coverage provided through a birth-to-three individualized service plan must (1) be credited toward these coverage amounts in other statutes mandating autism coverage and (2) not increase these coverage amounts.

Act's Applicability

The act applies to health insurance policies delivered, issued, or renewed in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including coverage under an HMO plan. Due to the federal Employee Retirement and Income Security Act, state health insurance mandates do not apply to self-insured plans.

EFFECTIVE DATE: January 1, 2012

§ 149 — CHRONIC GAMBLERS TREATMENT REHABILITATION ACCOUNT

Beginning in FY 12, the act increases from \$1.5 million to \$1.9 million, the amount of lottery revenue that the Connecticut Lottery Corporation must annually transfer to the chronic gamblers treatment rehabilitation account (PA 09-3, June Special Session, required the transfer of \$1.9 million in FYs 10 and 11).

This account partially funds DMHAS' compulsive gambling treatment program. The balance of the funding comes from a fee imposed on dog racing, jai alai, and teletheater licensees. The program provides prevention, treatment, and rehabilitation services for chronic gamblers.

§§ 150 & 151 — ANTI-EPILEPTIC PRESCRIPTION DRUGS

The act prohibits retail pharmacists from filling a prescription to treat epilepsy or prevent seizures using a different manufacturer or distributor of the prescribed drug without (1) giving prior notice to the patient and prescribing practitioner and (2) getting the prescriber's written consent. It applies to new and renewal prescriptions that contain an International Classification of Diseases statistical code indicating the drug is used to treat epilepsy or prevent seizures.

The law already permits a prescriber to tell a pharmacist not to substitute a generic name drug for any brand name one.

Banning Manufacturer Substitutions for Anti-Epileptic Drugs

The ban applies to community pharmacies, hospital pharmacies that serve employees and outpatients, and mail order pharmacies licensed to distribute drugs in Connecticut. It does not apply to pharmacies serving hospital in-patients or in (1) long-term care facilities, such as nursing homes, chronic disease hospitals, and ICF-MRs or (2) other institutions.

The act requires the pharmacist to notify the prescriber by email or fax to obtain consent. If the prescriber does not consent, the pharmacist must fill the

prescription without substitution or return it to the patient or his or her representative for filling at another pharmacy.

If, after making reasonable efforts, a pharmacist cannot contact the prescriber, he or she may refill a prescription with a 72-hour supply if, in his or her professional judgment, failure to do so might interrupt the patient's therapeutic regimen or cause the patient to suffer. When dispensing the refill, the pharmacist must tell the patient or the patient's representative that the prescriber did not authorize it and inform the prescriber that he or she must authorize future refills. The pharmacist may refill a prescription this way just once.

Drug Substitution

Under existing law, which the act does not change, a prescriber may tell a pharmacist not to substitute a generic name for any brand name drug. The prescriber must do this by writing "Brand Medically Necessary" on the prescription form or, if the prescriber calls in the prescription or electronically transmits it in a way that does not reproduce his or her handwriting, by stating so on the communication. For Medicaid and ConnPACE clients, the prescriber must (1) specify why the name brand and dosage are medically necessary and (2) send the "brand medically necessary" certification to the pharmacist in writing within 10 days if it was not on the prescription form. This law applies to all pharmacies.

EFFECTIVE DATE: October 1, 2011

§ 152 — CREMATION CERTIFICATE

By law, cremation certificates are required for the cremation of a body for which a death certificate has been issued. The chief medical examiner, deputy chief medical examiner, associate medical examiner, or an authorized assistant medical examiner must complete the cremation certificate, stating that such person has inquired into the cause and manner of death and believes that no further examination or judicial inquiry is needed. The act adds an authorized designee to those who can complete the certificate.

§§ 153-159 — FALSE CLAIMS ACT FOR MEDICAL ASSISTANCE PROGRAMS

In 2009, the state enacted the Connecticut False Claim Act (CFCA) applicable to the medical assistance programs that DSS administers (Medicaid, SAGA, HUSKY B, and Charter Oak). A false claims act generally allows an individual to bring a civil action in the name of the state to recover fraudulently handled state property or funds. The attorney general may, but need not, join the suit. If successful, the individual is awarded up to 300% of the amount of the state's damages, plus court costs and attorneys fees.

The act broadens the circumstances under which a person is liable for submitting false or materially misleading information in order to obtain or keep funds owed to a state medical assistance provider. It also permits more individuals to file CFCA suits and increases civil penalties.

Definitions

Claim. The act broadens the definition of "claim" by including demands for money or property, regardless of whether it belongs to the state (prior law was silent on who holds title to the property or money). Under the act, the demand must be submitted to (1) a state officer, employee, or agent or (2) a contractor, grantee, or other recipient, if the money or property demanded is to be spent or used on the state's behalf or to advance a state program or interest.

The act specifies that a request or demand for money or property that the state has paid to an individual as compensation for state employment or as an income subsidy with no restrictions on that individual's use of the money or property is not a claim.

Other Definitions. The act establishes new definitions of "material" and "obligation." Under the act, something is "material" if it has a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. An "obligation" is an established duty, whether fixed or not, arising from (1) an express or implied contractual, grantor-grantee, or licensor-licensee relationship; (2) a fee-based or similar relationship; (3) statute or regulation; or (4) the retention of an overpayment.

CFCA Prohibitions

With respect to goods and services provided through all DSS medical assistance programs, the act prohibits anyone from:

1. knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval (existing law covers only claims submitted to state officers or employees);
2. knowingly making, using, or causing to be made or used, a false record or statement material to (rather than to secure payment or approval of) a false or fraudulent claim;
3. conspiring to violate the CFCA (rather than to defraud the state by securing the allowance or payment of a false or fraudulent claim);
4. knowingly making, using, or causing to be made or used, a false record or statement material to (rather than to conceal, avoid, or decrease) an obligation to pay or transmit money or property to the state; and

5. knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the state.

The act retains as prohibitions:

1. having possession, custody, or control of property or money used, or to be used, by the state relative to these programs, and, with intent to defraud the state or willfully conceal the property, delivering or causing to be delivered less property than the amount for which the person receives a receipt or certificate;
2. being authorized to make or deliver a document certifying receipt of property used, or to be used, by the state relative to these programs and, with intent to defraud the state, making or delivering the document without completely knowing that the information in it is true; and
3. knowingly buying or receiving as a pledge of an obligation or debt, public property from a state officer or employee who may not lawfully sell or pledge the property.

Penalties

The act increases the civil penalties for any of the above violations from: between \$5,000 and \$10,000 to between \$5,500 and \$11,000, or as adjusted from time to time by federal law (28 USC § 2461). Other civil penalties are unchanged. If more than one person commits a violation, the act retains the provision that the judgment can be collected against one, some, or all of the wrongdoers (i.e., they are jointly liable).

Litigation

Under prior law, only the attorney general or an “original source” could bring CFCA actions. The act broadens the definition of original source. Under prior law, an original source was an individual who had direct and independent knowledge of the information on which the allegations were based before they became public and voluntarily provided the information to the state before bringing the action. Under the act, an original source is an individual who (1) has knowledge that is independent of and materially adds to the publicly disclosed allegations, (2) voluntarily discloses the information on which the claims are based, and (3) voluntarily provides the information to the state before filing suit.

Under the act, suits can also be brought, with the attorney general’s acquiescence, by individuals who are not original sources. They may recover, at the court’s discretion, up to 10% of the state’s damages plus court

and attorney fees when they bring a CFCA suit based on information that was already publicly disclosed in (1) criminal, civil, or administrative hearings in which the state or its agent was a party; (2) a report, hearing, audit, or investigation conducted by the legislature or a legislative committee, the state auditors, or a state or quasi-public agency; or (3) the media.

The act repeals a related provision that denies courts jurisdiction when the person bringing such an action is not the attorney general or an original source, but it requires the court to dismiss such an action unless the state opposes dismissal.

The act also allows a person to file a claim regardless of whether he or she knew or had reason to know that the attorney general or another state law enforcement official knew of the allegations or transactions before the claimant filed his or her action.

Retroactivity of Attorney General’s Claims. The law authorizes the attorney general to intervene in a CFCA action brought by a private party. When this occurs, the act permits the state to (1) file its own complaint, (2) amend the plaintiff’s complaint to clarify or add detail to claims in which the attorney general is intervening or (3) add any additional claim under which the state contends it is entitled to relief. If the additional pleadings are based on the same conduct, transactions, or occurrences as in the original complaint, under the act, the attorney general’s claims relate back to the date the original complaint was filed (i.e., the statute of limitations for the state’s claims stops running on the date the original complaint was filed).

Broader Whistleblower Protections

The law protects employees from adverse job actions when they lawfully participate in a CFCA investigation or action. The act extends these protections to contractors or agents acting in the same manner. And it permits employees, contractors, and agents to sue when adverse actions are taken against them for attempting to stop False Claim Act violations. PA 11-161 adds as potential whistleblowers people associated with employees, contractors, or agents.

The act establishes a three year statute of limitations for bringing a suit based on such adverse job actions. There was no express limitation period under prior law.

EFFECTIVE DATE: Upon passage

§§ 160-162 — DSS TO ANNUALLY CHANGE RESIDENT DAY USER FEES

Prior law required the DSS commissioner to biennially determine the amount of the nursing home and ICF-MR resident day user fee. The act gives him the option to do this annually instead.

The act also authorizes the commissioner to adjust the nursing home user fee as necessary to prevent the state from exceeding the maximum amount allowed under federal law. He may already do this for ICF-MR facilities.

Regulations

The act authorizes the DSS commissioner to implement policies and procedures to administer the fee program so long as he publishes a notice of his intent to adopt regulations in the *Connecticut Law Journal* within 30 days of implementing the policies and procedures. The policies and procedures are valid for three years following the publication date unless the legislature sets a different deadline (see § 81 for a summary of the procedures the commissioner must follow).

§ 163 — CHILDHOOD IMMUNIZATION TASK FORCE

Purpose

The act establishes a 27-member childhood immunization task force consisting of legislative appointees, legislators, and executive branch members to consider whether the state should continue universal childhood immunizations. By law, the DPH commissioner determines 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. Currently, DPH operates a federal “Vaccine for Children” program and its own immunization program funded by an assessment on health insurers.

The Task Force must also develop a plan to:

1. maintain access to high-quality immunizations for children in the state;
2. determine how to respond to recommendations by the National Centers for Disease Control for new childhood immunizations not currently provided by DPH’s immunization program;
3. implement a program permitting health care providers who administer vaccines to children under the federal Vaccines for Children program to select, and DPH to provide, vaccines licensed by the federal Food and Drug Administration; and
4. determine how best to cover the cost of immunizations for children in the state.

The task force must submit a report on its findings and recommendations, including recommendations for legislation, to the, Appropriations, Human Services, Insurance and Real Estate, and Public Health

committees by February 1, 2012. The task force terminates on the date that it submits its report or February 1, 2012, whichever is later.

Membership

Committee members appointed by legislative leadership are:

1. two representatives of the pharmaceutical industry, one each appointed by the House speaker and Senate president pro tempore;
2. two representatives of the insurance industry, one each appointed by the House and Senate minority leaders; and
3. two representatives of the American Academy of Pediatrics, one each appointed by the House and Senate majority leaders.

The legislative members are the chairpersons and ranking members of the Appropriations, Human Services, Insurance and Real Estate, and Public Health committees.

The Executive Branch members are the DSS, DPH, and Insurance commissioner, or their designees; the OPM secretary, or a designee; and a DPH employee, appointed by the commissioner, who is responsible for immunizations.

Administration

All appointments to the task force must be made not later than 30 days after June 13, 2011; vacancies are filled by the appointing authority. The House speaker and the Senate president pro tempore must select the chairpersons from among the task force members. The chairpersons must hold the first meeting not later than August 12, 2011.

The administrative staff of the Public Health Committee and the staff of the Office of Legislative Research serve as administrative staff to the task force.

EFFECTIVE DATE: Upon passage

§ 164 — RESTRICTING RESIDENTS UNDER AGE SIX FROM DCF GROUP HOMES

The act generally prohibits the DCF commissioner from placing any child under age six, or any sibling group including a child under that age, in a child care facility (group home). The prohibition does not apply if the (1) home is designed for children and their parents or (2) child’s health needs are so severe that that they can only be met in a group home.

When a child or a sibling group containing such a child is placed in a group home, the DCF commissioner must certify to the court that specific attempts were made to secure a family-based (foster care) placement. The certification must be filed in court within 96 hours after the group home placement.

If a child or sibling group containing such a child remains in a group home for more than 30 days, the commissioner must petition the court for an emergency placement review hearing. The hearing must be held no sooner than 45 days after the placement to (1) review the commissioner's efforts to find a foster placement and (2) determine whether the child's health needs warrant continued placement in the group home. (PA 11-48, § 305, repeals this provision.)

EFFECTIVE DATE: July 1, 2012

§ 165 — PILOT PROGRAM FOR TFA RECIPIENTS

The act requires the DSS and labor commissioners, within available appropriations, to implement a pilot program, for up to 100 people who (1) receive TFA benefits and (2) participate in the Jobs First Employment Services (JFES) program (see BACKGROUND – Jobs First).

Program Services

The act requires the pilot program to provide participants with:

1. intensive case management services to identify their employment goals and support services (e.g., child care), training, education, and work experience needs;
2. help in accessing the support services, training, education, and work experience; and
3. funding to facilitate their participation in necessary adult basic education, skills training, post-secondary education, or subsidized employment.

Many of these services and supports are already available to JFES clients.

Report

The act requires both commissioners to submit a joint report to the Human Services and Appropriations committees by October 1, 2012. The report must include:

1. the number of program participants;
2. the participants' education, training, and work experience activities;
3. the support services that the case manager determines participants need and those that they actually receive;
4. educational degrees and certificates participants obtain; and
5. a description of jobs that participants get as a result of the pilot.

TFA Extensions for Pilot Participants

The act requires the DSS commissioner to extend TFA program benefits beyond 21 months to pilot program participants who have made a good faith effort to comply with the pilot program's requirements, have not received more than 60 months of TFA benefits, and have not been granted more than two extensions.

Federal and state laws generally prohibit states from providing assistance to a family for more than 60 months. Currently, DSS grants up to two extensions to families that have made a good faith effort to comply with the Jobs First requirements but have family income less than the TFA benefit. DSS can also grant extensions in other circumstances, including domestic violence. DSS can grant subsequent extensions in certain circumstances.

The act does not (1) specify how long the pilot program runs, (2) specify how participants are selected, or (3) define what is expected of participants for them to be considered in compliance. It also does not specify whether these families are counted in the state's Temporary Assistance for Needy Families (TANF) work participation rate.

§ 166 — INCREASE IN DSS PAYMENTS TO ADULT DAY CARE PROVIDERS

The act requires the DSS commissioner, beginning July 1, 2011, to increase by \$4 per person, the daily fees that DSS pays for adult day care services. The current rates are (1) \$66.22 for a full day with approved medical model providers and (2) \$62.18 for a full day with non-medical model providers. The half-day rate for both types is \$40.54.

The law, unchanged by the act, allows DSS to annually increase these fees, which are set by schedule, based on increases in service costs. The state's rate for these services cannot exceed that charged to the public.

§§ 167-172 — COUNCIL OVERSEEING DSS MEDICAL ASSISTANCE PROGRAMS

Council Duties

By law, the Council on Medicaid Care Management Oversight oversees the HUSKY A program. In practice, the council has overseen HUSKY B and Charter Oak, too. The act renames the council as the Council on Medical Assistance Program Oversight to reflect its larger role, and in light of DSS converting its delivery model from full-risk MCOs to an ASO. Under the act, the council retains its advisory role to the DSS commissioner with regard to implementing HUSKY A, but the act expands the council's role to include all of Medicaid, including low-income adults and aged, blind, and disabled adults; people eligible for

both Medicaid and Medicare; and people with preexisting medical conditions.

By law, the council must make recommendations on a wide range of issues. The act expands those requirements and additionally requires the council to monitor them.

The act requires the council to monitor implementation of outcome measures and the issuance of the request for proposals for the ASO, which DSS issued in April 2011.

The act requires the council to monitor, as well as make recommendations concerning, a number of areas. Previously, the council had to assess the sufficiency of provider networks. The act requires the council to assess accessible adult and child primary care providers, specialty providers, and hospitals in Medicaid provider networks. It also requires the council to look for an enrollment process that ensures rather than guarantees access to all DSS-administered health care programs.

Previously, the council had to look at the sufficiency of capitated rates, provider payments, financing, and staff resources to guarantee timely access to services. Under the act, the council must monitor and make recommendations regarding provider rates to maintain the Medicaid network of providers and service access. And it must do the same for funding and agency personnel resources to guarantee access to services and effective management of the Medicaid program.

The act also specifies that monitoring and recommending changes concerning care management models includes medical homes and health homes. Also, when reviewing quality assurance, the council must look at outcome measures and continuous quality improvement initiatives that may include provider quality performance incentives and performance targets for ASOs.

Previously, the council looked at how coverage was coordinated under HUSKY and other health care programs. The act requires coordination of coverage without specifying program names and requires the council to look at continuity among Medicaid programs and integration of care, including (1) behavioral health, (2) dental, and (3) pharmacy care that DSS provides. (DSS has excluded these three areas from HUSKY managed care over the last several years.)

The act requires the council chairperson to ensure that a sufficient number of council members participate in the review of any contracts DSS enters into with an ASO.

Council Membership

The act changes the composition of the council, decreasing the number of voting members as of July 1, 2011 as follows:

<i>Appointing Authority</i>	<i>Prior Law</i>	<i>Act</i>
House speaker	One legislator, two insurance industry representatives*, one advocate for DCF foster families	One legislator; one community provider of adult Medicaid; one Medicaid aged, blind, or disabled recipient or his or her advocate; one representative of a federally qualified health center (FQHC)
Senate president pro tempore	One legislator, representative from each MCO,* representative of primary care case management (PCCM) provider, advocate for DCF foster families	One legislator, one home health care industry representative, one primary care medical home provider, one advocate for DCF foster families
House majority leader	Advocate for people with substance abuse disorders, Medicaid recipient	One advocate for people with substance abuse disabilities, one Medicaid dental provider
Senate majority leader	Advocate for person receiving Medicaid	One representative of school-based health centers, one HUSKY recipient
House minority leader	Advocate for people with psychiatric disabilities, Medicaid recipient	One advocate for people with disabilities, one dually eligible person or his or her advocate
Senate minority leader	Advocate for person receiving Medicaid	One Medicaid LIA recipient or his or her advocate, one hospital representative
	Chairs and ranking members of Human Services, Public Health, Appropriations committees, or their designees	Same
	Executive director of the Commission on Aging, or her designee	Same
	Executive director of the Commission on Children, or her designee	Same
	Two representatives each from DSS, DPH, DMHAS, DCF, OPM, appointed by agency heads	Commissioners of DSS, DCF, DPH, DDS, DMHAS and OPM secretary, who are ex-officio, nonvoting members
	Representative from Comptroller's office that he appoints, ex-officio nonvoting	Comptroller or his designee, who is an ex-officio, nonvoting member
		Representative from ASO contracting with DSS for Medicaid administration, who is an ex-officio, nonvoting member
		Representative of the Long-Term Care Advisory Council
TOTAL	41* (39 actual)	39 (31 are voting members)

* There were only three insurance representatives, not five. Previously, The House speaker appointed two MCO representatives and the Senate president pro tempore appointed one.

Reporting

Previously, DSS had to provide monthly reports to the council on HUSKY plans and implementation. The act instead requires him to report on matters that the council monitors and on which it makes recommendations, including policy changes and proposed regulations that affect Medicaid health services. The commissioner must also provide the council with quarterly reports for each covered Medicaid population. These latter reports must include a breakdown of amounts spent for each population.

The act also requires the council to report to the General Assembly biannually instead of quarterly.

§ 173 — ASSISTANCE FOR SEXUAL ASSAULT VICTIMS

The act requires the DPH commissioner to issue a request for proposals seeking an entity to administer a program that provides financial assistance for sexual assault victims. Funding of \$25,000 per year comes from AIDS Services funds.

The program covers drugs prescribed by a physician for non-occupational post-exposure prophylaxis for HIV consistent with the recommendations of the National Centers for Disease Control and Prevention and Connecticut's Technical Guidelines for Health Care Response to Victims of Sexual Assault.

DPH must give service priority to victims who are under- or uninsured and for whom the program is payer of last resort.

§ 178 — REPEALERS

The act repeals provisions that:

1. require the governor to appoint a BESB executive director (§ 10-294);
2. require the DMHAS commissioner to operate a behavioral health managed care program for SAGA recipients (§§ 17a-453a, 453b, & 17b-200);
3. establish a SAGA medical assistance program (§ 17b-192);
4. require the Office of Health Care Access to establish state hospital rates during a waiver period (§ 17b-240);
5. permit DSS to enter into a contract with a consortium of federally qualified health centers to run the SAGA medical assistance program (§ 17b-256d);

6. allow a long-term care recipient's spouse who is still living at home to keep the maximum community spouse protected amount instead of one half of the assets, up to the maximum (§ 17b-261k);
7. require DSS to develop and implement a two-year pilot program for 19- to 21-year-olds with one or more mental disorders (§ 17b-263b);
8. establish the Medicare Part D Supplemental Needs Fund (§ 17b-265e);
9. authorize a Long-Term Care Reinvestment Account that holds enhanced federal Medicaid matching funds the state receives from the Money Follows the Person Demonstration program (§ 17b-371);
10. require DSS to establish an adult foster care program (§ 17b-424);
11. require DSS to maintain a Bureau of Rehabilitation Services (§ 17b-651);
12. transferred the Bureau of Rehabilitation Services into DSS when agencies were reorganized in 1993 (§ 17b-652);
13. limit pharmacists who can participate in ConnPACE to those who accept Medicare Part D drug discount cards (§ 17b-492a);
14. require hospitals that engage in inefficient or inappropriate provisions of uncompensated care to submit cost reports (§ 19a-662);
15. establish a toll-free phone line for use by the Bureau of Rehabilitation and its clients (§ 17b-664);
16. require the OPM secretary to inform OHCA of the maximum DSH payments (§ 19a-669);
17. require DSS to promptly apply to the federal Medicaid agency for any necessary approvals, if needed, to carry out the DSH program (§ 19a-670a);
18. establish the formula for calculating DSH payments (§ 19a-671);
19. authorize DSS to adjust any DSH overpayments by reducing Medicaid payments to hospitals (§ 19a-671a);
20. provide that DSH appropriations must be used to make DSH payments to hospitals (§ 19a-672);
21. permit the DSS commissioner to make DSH payments to short-term general hospitals that change ownership in the middle of a hospital fiscal year (§ 19a-672a); and
22. establish a DSH reconciliation account in the General Fund (§ 19a-683).

BACKGROUND

HUSKY B Premiums and Federal Stimulus and Health Care Reform Legislation

The federal government recently informed DSS that the HUSKY B premium increases enacted in 2010 were not allowed by either the American Recovery and Reinvestment Act or the federal Affordable Care Act's maintenance of effort (MOE) requirements. DSS is in the process of refunding the increases to families. But the state is permitted to increase premiums prospectively if the increase is based on an increase in the consumer price index (CPI)-Medical Services and the state receives federal approval to do so.

Legislative Oversight of DSS Waivers

When DSS seeks a federal waiver for anything but routine operational issues, it must seek legislative approval, which includes a public hearing.

Once the hearing is concluded, the Human Services and Appropriations committees must advise the commissioner of their approval, denial, or modifications, if any, of the proposed waiver. If the committees advise the commissioner that they are denying the amendment, the commissioner may not submit it to the federal government.

If the committees do not agree, the chairpersons must appoint a conference committee composed of three members from each committee. At least one member from each committee must be from the minority party. The conference committee must report to both standing committees, which must vote to accept or reject the report. The report may not be amended.

If either standing committee rejects the conference report, that committee must notify the commissioner and the proposed waiver is deemed approved. If the committees accept the report, the Appropriations Committee must advise the commissioner of their approval, denial, or modifications of the waiver. If the committees do not advise the commissioner within 60 days, the waiver is deemed approved.

Any proposed waiver submitted to the federal government must be in accordance with the approval or modifications of the committees.

Before submitting a waiver to the committees, the DSS commissioner must publish notice in the *Connecticut Law Journal* that he intends to submit the waiver, including a summary of the waiver's provisions and the manner in which individuals may submit comments. The commissioner must allow 15 days for written comments before submitting the waiver to the committees and must include these comments with his submission.

The commissioner, when submitting the proposed waiver to the federal government, must submit (1) written comments received and (2) a complete transcript of the public hearing, including any additional written comments submitted at the hearing. The committees must send any such materials to the commissioner for this purpose.

Jobs First

The Jobs First program is the state's welfare-to-work program under which the state provides cash assistance (TFA) and employment services to enable low-income families to become self-sufficient within the program's 21-month time limit. Able-bodied adults in families receiving TFA work with a case manager to develop an employment plan that includes activities to ensure that they find work and can support their families by the end of the 21-month period. Federal and state laws prescribe the types of work-related activities that count towards the federal TANF work participation rate.

Uncompensated Care, DSH Payments, and New Federal Requirements

The original uncompensated care/DSH program had a settlement process. DSS made payments to hospitals that provided uncompensated care using two-year finalized data. For example, FFY 1998 data was used to make FFY 2000 interim DSH payments. After the FFY 2000 actual data was finalized (hospitals actual uncompensated care costs) the DSH payments were recalculated using the FFY 2000 data. The difference between the actual and interim DSH payments that DSS already made was the DSH settlement. State law stopped allowing this settlement process beginning in FFY 2000.

Before FFY 2000, DSS determined what the federal Medicaid agency calls an upper payment limit (UPL) to determine the interim DSH payments and the final payments based on the settlements. If the interim payments were higher than the UPL, the state would recover these and paid half of the recovered amount to the federal government (which reimburses states 50% for DSH payments).

The 2003 Medicare Prescription Drug, Improvement, and Modernization Act (P.L. 108-73, § 1001) requires states that make DSH payment adjustments to submit annual reports to CMS identifying each hospital that receives a DSH payment and any adjustments as well as other information regarding the payments that CMS determines. It also requires states to submit independent certified audits regarding the DSH payments.

Under the federal act, the UPL must be calculated using the year's actual data. If a hospital's interim

payment exceeds the UPL (which is the limit specific to each hospital) using the actual data, the state must recover the balance from the hospital, and half goes to the federal government. But if an approved Medicaid state plan specifies that the excess amounts are to be redistributed to hospitals that have not reached their UPL, as an integral part of the audit process, states do not have to return the excess.

PA 11-48 — HB 6651

Emergency Certification

AN ACT IMPLEMENTING PROVISIONS OF THE BUDGET CONCERNING GENERAL GOVERNMENT

SUMMARY: This act implements the 2012-2013 state budget and makes various unrelated changes in statutes and other 2011 public acts. The act's major budget implementation provisions include:

1. making the state's budget and financial statements conform to generally accepted accounting principles (GAAP) starting in FY 14;
2. establishing a procedure to amortize and pay off over 15 years the unreserved negative balances that have accumulated in state funds as a result of not applying GAAP in the past;
3. providing incentives for consolidating regions for state planning purposes;
4. establishing minimum budget requirements for FY 12 and FY 13 for towns receiving Education Cost Sharing (ECS) grants; and
5. increasing state grants to (a) districts enrolling students under the Open Choice Program and (b) state charter schools.

The act also revamps the structure of state government by, among other things:

1. merging nine "watchdog" agencies into a larger Office of Government Accountability to consolidate their administrative functions;
2. consolidating state economic development, workforce, tourism, and similar functions and agencies; and
3. reorganizing the state's higher education system and governance, consolidating the administration of all higher education constituent units, except the University of Connecticut, under a new Board of Regents for Higher Education.

Other major provisions:

1. reduce drivers' license suspensions for driving under the influence of alcohol or drugs and instead require drivers to install ignition interlock devices in their cars for a specified

period;

2. restructure the process for handling "whistleblower" complaints, expand existing whistleblower protections, and establish new ones; and
3. modify many state election laws on campaign finance, the Citizens' Election Program and the State Elections Enforcement Commission.

The act's changes are described in a section-by-section analysis below, except for §§ 2 and 4, which are technical and take effect on passage and July 1, 2011, respectively.

EFFECTIVE DATE: July 1, 2011, unless otherwise noted.

§ 1 — MEDICAID EYEGLASS COVERAGE

PA 11-44 reduces Medicaid eyeglass coverage from one pair every year to one pair every other year. This act allows recipients to get one more pair during a two-year period if their health care provider determines it is necessary because of a change in medical condition.

§ 3 — BUDGET REDUCTION PLAN

The budget act (PA 11-6) requires the Office of Policy and Management (OPM) to recommend annual spending reductions in FY 12 and FY 13 of \$12 million for personal services and \$9.4 million for other expenses. This act instead requires the OPM secretary to monitor such spending to meet the specified reductions.

§ 5 — OPERATION FUEL

The act corrects a reference in PA 11-6 by transferring the annual FY 12 and FY 13 appropriations of \$100,000 for grants for Operation Fuel, Inc. from OPM to the Department of Energy and Environmental Protection (DEEP). Under PA 11-6 and PA 11-80, DEEP assumes OPM's energy-related powers and duties. The act also corrects a reference to the services that Operation Fuel, Inc. provides to include all emergency energy assistance, not just home cooling.

§§ 6-9, 23-24, & 41 — FUNDS CARRIED FORWARD

The act carries forward various unspent balances from prior years' appropriations and requires them to be used for specified purposes in FY 12 or in both FY 12 and FY 13, rather than lapsing at the end of FY 11 (see Table 1).

Table 1: Funds Carried Forward

§	AGENCY	PURPOSE	AMOUNT	TO FY
6	Banking Dept.	Software upgrades	Up to \$100,000	2012
7	Banking Dept.	Software upgrades	Up to \$15,000	2012
8	Dept. of Motor Vehicles (DMV)	Roof replacement at Enfield office	Up to \$300,000 (Equipment)	2012 2013
9	DMV	Roof replacement at Enfield office	Up to \$100,000 (Other Expenses)	2012 2013
23	OPM	Connecticut Impaired Driving Records Information System (CIDRIS)*	Unspent balance	2012 2013
24	OPM	Criminal Justice Information System/Connecticut Information Sharing System account	Unspent balance	2012 2013
41	Dept. of Environmental Protection	Long Island Sound Assembly	\$75,000 \$75,000	2012 2013

* The CIDRIS is the clearinghouse in OPM's Criminal Justice Information System for all arrests for operating under the influence that provides automated and electronic exchange of arrest data and documents among law enforcement, the departments of Public Safety and Motor Vehicles, the Division of Criminal Justice, and the Judicial Branch Superior Court Operations.

§§ 10 & 11 — BANKING FEES AND BANKING FUND

By law, Connecticut banks and credit unions must pay annual assessments, based on their asset size, to cover the Banking Department's expenses. Prior law required them to do so within 20 business days of the banking commissioner mailing notice of the amount due. The act instead requires payment by the date the commissioner specifies. As under prior law, the act imposes a \$200 fee on banks and credit unions that fail to pay the assessments on time.

PA 11-6 (§ 134) shifts, from the Banking Fund to the General Fund, revenue from fines, civil penalties, or restitution imposed by the banking commissioner or ordered by a court stemming from violations of the banking laws. This act also shifts from the Banking Fund to the General Fund:

1. such revenue from violations of the Uniform Securities Act or Business Opportunity Investment Act, other than specified penalties for willful violations, and
2. late fees received from banks or credit unions that fail to pay their assessments on time, as provided above.

PA 11-61 (§ 80) eliminates the shift from the Banking Fund to the General Fund of revenue from restitution for any such banking or securities law violations.

By law, anyone who violates any provision of the banking law for which no other penalty is provided faces fines of \$25 to \$1,000 for each offense. Anyone who does so willfully and deliberately faces up to a \$1,000 fine for each offense, up to a year's imprisonment, or both. PA 11-6 shifted revenue from such violations from the Banking Fund to the General Fund. This act returns the revenue to the Banking Fund.

The act also makes a technical change.

§§ 12 & 13 — CCEDA EXECUTIVE DIRECTOR AND STAFF SUPPORT

The act (1) eliminates the requirement that the executive director of the Capital City Economic Development Authority (CCEDA) be an OPM staff member and that he or she act as the comptroller of the authority's projects, (2) requires the CCEDA board to appoint an executive director, and (3) exempts the person from the state's classified service.

By law, CCEDA and OPM can enter into a memorandum of understanding under which OPM provides staff support for the authority. The act eliminates a requirement that the memorandum provide for continuity of credited service of CCEDA employees hired by OPM.

§ 14 — STATE AGENCY INFORMATION AND TELECOMMUNICATIONS SYSTEMS

The act requires OPM to (1) develop and implement an integrated set of policies governing the use of information and telecommunications systems for state agencies and (2) develop comprehensive standards and planning guidelines on the development, acquisition, implementation, oversight, and management of these systems for state agencies.

§ 15 — INTEREST EARNED ON THE SOLDIERS', SAILORS', AND MARINES' FUND

The act sets conditions under which certain General Fund appropriations made to the Soldiers', Sailors', and Marines' Fund (SSMF) must be paid back to the General Fund.

By law, if the SSMF's accumulated interest and appropriations cannot provide necessary benefits for wartime veterans in need, the Finance Advisory Committee may make appropriations from the General Fund to SSMF.

The act authorizes SSMF repayments to the General Fund when (1) interest earned on the SSMF principal exceeds its expenditures in any fiscal year and (2) there remains an outstanding balance in the total amount to be repaid to the General Fund from appropriations made on or after July 1, 2002, that were used for the fund's purposes (see BACKGROUND –

Soldiers', Sailors', and Marines' Fund). It allows the comptroller to transfer interest earned on SSMF principal in any fiscal year when these conditions are met. The act explicitly prohibits such SSMF transfers to the General Fund for any other reason than to repay the cumulative balance appropriated from the General Fund to SSMF.

§ 16 — FUNDRAISING AND THE GOVERNOR'S HORSE GUARD'S FACILITIES

The act allows nonprofit organizations receiving contributions that support the Governor's Horse Guard to use the horse guard's Avon and Newtown facilities for fundraising purposes without charge, provided it does not interfere with the facilities' military use. By law, agricultural and other associations that receive state aid, and military organizations, may use state military facilities for a fee that is no more than it costs to maintain the facility while the association or organization uses it.

§§ 17 & 18 — WHISTLEBLOWER COMPLAINTS

The act restructures the process for investigating whistleblower complaints, expands existing whistleblower protections, and establishes new ones. In addition, it extends (1) the whistleblower protection from retaliation to employees who testify or provide assistance in any whistleblower complaint proceeding and (2) to each state agency and quasi-public agency, the requirement to post notice of whistleblower protections in a conspicuous place readily viewable by employees. This posting requirement already applied to large state contractors.

The act requires the auditors of public accounts and the attorney general to submit a joint report, by February 1, 2012, to the Legislative Program Review and Investigations Committee on any modifications made to their handling of whistleblower complaints. It also makes technical changes.

Investigating Whistleblower Complaints

By law, the auditors of public accounts initially review all whistleblower complaints and report any findings or recommendations to the attorney general, who investigates after consulting with the auditors. Under prior law, neither the auditors nor the attorney general had the authority to reject a complaint. The act allows the auditors to do so if they determine that:

1. a complainant has other available remedies that he or she could reasonably be expected to pursue;
2. another agency is better suited to investigate or enforce the complaint;

3. the complaint is trivial, frivolous, vexatious, or made in bad faith;
4. other complaints have greater priority in terms of serving the public good;
5. the complaint is not timely or has been delayed too long; or
6. the complaint could be more appropriately handled in an ongoing or scheduled regular audit.

If the auditors reject a complaint, they must submit a report to the attorney general setting out the basis for doing so. If at any time they determine that another state agency is better suited to investigate the complaint, they must refer it there. That agency must provide a status report on the referred complaint to the auditors upon their request.

Reporting Retaliatory Actions

Rebuttable Presumption and Deadline for Filing Complaints. By law, state officers, employees, and appointing authorities; officers and employees of quasi-public agencies; and large state contractors may not take or threaten to take any personnel action in retaliation for a whistleblower disclosure.

Under prior law, any negative personnel action against a whistleblower that occurred within one year after his or her initial report to the auditors of public accounts or the attorney general was presumed to be retaliatory. The presumption was rebuttable (i.e., an assumption that stands as fact unless contested and proven otherwise). An employee who believed he or she had been retaliated against had 30 days to file a complaint with the chief human rights referee at the Commission on Human Rights and Opportunities (CHRO). As an alternative, a state or quasi-public agency employee could file an appeal within the same period of time (1) with the Employees' Review Board or (2) according to the procedure specified in his or her collective bargaining agreement, if applicable. A large state contractor employee could bring a civil action after exhausting all administrative remedies.

The act extends the rebuttable presumption from one to two years after reporting misconduct. It also extends, from 30 to 90 days, the amount of time a whistleblower who believes he or she is a victim of retaliation has to file (1) a complaint with CHRO or (2) an appeal with the Employees' Review Board, if applicable.

Attorney General. Under prior law, a whistleblower could file a retaliation complaint with the attorney general. The attorney general investigated the complaint and reported any findings, but did not provide any relief (i.e., reinstatement or back pay) to a complainant. The act eliminates this provision.

Amended Claims. The act allows whistleblowers to amend complaints they file with CHRO if additional retaliatory incidents occur. Under prior law, these complaints could include only the original retaliatory incident.

Hearing Process. By law, CHRO may issue subpoenas compelling the appearance of witnesses and production of evidence relevant to a proceeding. The act allows hearing officers to, without issuing a subpoena, order state and quasi-public agencies to produce for a proceeding (1) an employee to testify as a witness and (2) books, papers, or other documents relevant to the complaint. It allows hearing officers to consider the failure to produce a witness, books, papers, or documents within 30 days after the order as supporting evidence for the complainant.

The act prohibits agencies and contractors from retaliating against an employee who testifies in or provides assistance to (1) a CHRO hearing, (2) an Employees' Review Board hearing, or (3) a civil action on a whistleblower complaint.

Internal Disclosures

Disclosures to State Agencies. The act expands the rebuttable presumption to include retaliatory personnel actions for (1) internal disclosures and (2) testimony or assistance provided during a whistleblower proceeding. "Internal disclosures" are disclosures of information to (1) an employee of the state or quasi-public agency where the individual is employed; (2) an employee of a state contracting agency, in the case of a large state contractor; or (3) a state agency employee pursuant to a mandated reporter statute.

Contracts. The act makes a similar change concerning actions or threats to impede, cancel, or fail to renew contracts. By law, an agency, contractor, or subcontractor can bring a civil action in Hartford Superior Court if an officer or employee in a state or quasi-public agency, large state contractor, or appointing authority, whichever applies, takes or threatens to take an action to impede, cancel, or fail to renew a contract in retaliation for the report to the auditors or the attorney general. The act expands this protection to include (1) retaliation for internal disclosures from one employee to another within an agency or (2) any testimony or assistance with a proceeding.

The act also requires contracts between state or quasi-public agencies and large state contractors to protect employees' testimony and assistance, rather than only their initial reports to the auditors of public accounts or the attorney general. As under prior law, anyone who takes or threatens to take retaliatory action against an employee who makes an internal disclosure may be subject to a civil penalty of up to \$5,000 for

each offense, up to a maximum of 20% of the contract's value. Each violation, and each calendar day that it continues, is a separate offense.

Disclosures

Good Faith. The act protects whistleblowers from civil liability for all good faith disclosures, not only those made in their report to the auditors of public accounts or the attorney general.

False Charges. By law, whistleblowers who knowingly and maliciously make false charges are subject to disciplinary action up to and including dismissal by their employer. The act specifies that a finding of false charges may be made by the auditors, the attorney general, a human rights referee, or the Employees' Review Board.

EFFECTIVE DATE: October 1, 2011, except the joint report requirement is effective upon passage.

§ 19 — MILEAGE REIMBURSEMENT

The act eliminates mileage reimbursements for both auditors of public accounts from July 1, 2011 through June 30, 2013. The auditors previously received \$0.51 per mile.

§ 20 — DISPARITY STUDY

Within available appropriations, the act requires CHRO to conduct a disparity study in consultation with the Department of Administrative Services (DAS). The study must generate statistical data on the state's set-aside program (now called the supplier diversity program) to determine whether it is achieving the goal of helping small contractors and minority business enterprises (MBEs) obtain state contracts.

The study must at least examine:

1. whether there is significant evidence of past or continuing discrimination in the way that the state executes its contracting duties;
2. the number of small contractors or MBEs that qualify under the supplier diversity program and whether they are legitimate small contractors or legitimately owned by a minority; and
3. state contracting processes to determine if they present any unintentional barriers that prevent full participation by small contractors or MBEs.

By January 1, 2012, the CHRO executive director must submit the study's findings and any recommendations for legislative action concerning the study to the Government Administration and Elections Committee.

EFFECTIVE DATE: Upon passage

§ 21 — STATE POLICE MAJORS

The act increases the maximum number of state police majors that the public safety commissioner may appoint by five (from seven to 12) and restores the position to a classified one. Prior law changed the position from classified to unclassified in 1999, but allowed any major who was then in the classified service to continue to serve as a classified employee until his or her service was terminated. The act abolishes the position of major in the unclassified service on July 1, 2011.

Under prior law, any permanent employee in the classified service appointed as major in the unclassified service could return to the classified service at his or her former rank. The act applies the provision to employees who accept the position before July 1, 2011, the date the position reverts to a classified one.

§ 22 — HIGHER EDUCATION AND CORE-CT

The act requires the constituent units of the state's higher education system to use their best efforts to work with the OPM secretary, DAS, and the comptroller to fully use the state's CORE-CT system for:

1. accounting processes and financial reporting that meet constitutional needs,
2. budget and financial reporting,
3. human resources and payroll reporting, and
4. starting to determine consistent classification and compensation for nonunion employees.

The constituent units are the University of Connecticut (UConn) and its branches, the Connecticut State University System (CSUS), the regional community-technical colleges (CTCs), and the Board for State Academic Awards (BSAA).

§§ 25 & 26 — MUNICIPALITIES' ABILITY TO ISSUE TEMPORARY MOTOR VEHICLE REGISTRATIONS

By law, the Department of Motor Vehicles (DMV) commissioner cannot renew the registration of a motor vehicle on which the owner owes property tax, or of any other vehicle the individual owns, until the municipality or taxing district notifies the commissioner that the owner has paid the back taxes. Municipalities also may take part in a program that bars the commissioner from issuing or renewing the registration of motor vehicles whose owners have failed to pay at least six municipal parking tickets.

The act authorizes municipalities, boroughs, and other taxing districts that notify the commissioner of these unpaid taxes or parking tickets to issue temporary motor vehicle registrations on the commissioner's behalf for passenger car owners who are denied registration but later fully pay the amount they owe. A

participating town, borough, or taxing district must issue the temporary registrations as the law requires and retain the \$20 statutory fee for each 10-day registration, or portion of it. The act allows the commissioner to adopt implementing regulations.

§ 27 — DMV VISION SCREENING AND LICENSE RENEWALS

The act eliminates a vision screening program for people applying to renew a driver's license. Under prior law, the vision screening program was scheduled to begin July 1, 2011, and apply to every other renewal following an initial screening.

The act allows the DMV commissioner to renew licenses or non-driver ID cards without the license or card holder appearing in person if the applicant has a digital image on file with DMV and has met all other renewal requirements. Prior law required the applicant to appear at every other renewal.

The act also eliminates a requirement that the commissioner renew driver's licenses every four or six years on the driver's birthday, according to a schedule the commissioner determines. The law, unchanged by the act, requires an original driver's license to expire within six years after the date of the driver's next birthday (CGS § 14-41 (b)).

§ 28 — DMV DISCLOSURE OF E-MAIL ADDRESSES

By law, the DMV commissioner may not disclose personal information from motor vehicle records except in certain circumstances. The act adds electronic mail (e-mail) addresses to the types of information considered personal and thus not subject to disclosure unless one of the exceptions applies. By law, personal information also includes an individual's photograph or computerized image, Social Security number, driver's license number, name, address (other than zip code), telephone number, and medical or disability information. The unauthorized disclosure of personal information is a class A misdemeanor (see Table on Penalties).

§ 29 — ELECTRONIC BUSINESS PORTAL

The act requires the secretary of the state's Commercial Recording Division to establish an electronic portal serving as a single entry point for businesses registering with the secretary. By law, all corporations, limited liability companies, limited liability partnerships, limited partnerships, and other types of businesses doing business in Connecticut must register with the secretary.

The portal must provide these entities with explanatory information and electronic links to other

state agencies and organizations to help them (1) obtain necessary licenses and permits, (2) identify state taxes and other revenue responsibilities and benefits, and (3) find relevant state financial incentives and programs.

The act allows the secretary to provide other state and quasi-public agencies the information businesses submit when registering, but only for economic development, state revenue collection, and statistical purposes, as the law provides.

Besides providing registration and licensing information, the electronic business portal must provide electronic links to state and quasi-public agencies. These include the Workers' Compensation Commission; the departments of Economic and Community Development (DECD), Administrative Services (DAS), Consumer Protection, Environmental Protection (DEP), Labor (DOL), and Revenue Services; the Connecticut Development Authority (CDA); Connecticut Innovations, Inc (CII); Connecticut Licensing Information Center; and the Connecticut Small Business Development Center.

The act also requires the portal to include links to the U.S. Small Business Administration and the nonprofit Connecticut Economic Resource Center. (PA 11-61, § 102, adds the Connecticut Center for Advanced Technology to those state agencies to which the business portal must link.)

EFFECTIVE DATE: January 1, 2012

§ 30 — STATE FUNDS DISTRIBUTION TASK FORCE

The act creates a 10-member task force to study the distribution of the following state funds to municipalities:

1. payment in lieu of taxes for certain property taxes,
2. the Mashantucket Pequot and Mohegan Fund,
3. education equalization grants, and
4. public and nonpublic school transportation grants or reimbursements.

Under the act, the task force must evaluate the equity, efficiency, and continued viability of these funds' distribution and report its findings and recommendations to the Appropriations Committee by January 1, 2012. The task force terminates when it submits the report or January 1, 2012, whichever is later.

Under the act, the task force consists of:

1. one member each appointed by the House speaker, Senate president pro tempore, and House and Senate majority and minority leaders and
2. the Appropriations Committee chairpersons and ranking members.

The act requires the appointing authority to (1) appoint task force members, who may be other legislators, by July 13, 2011 and (2) fill any vacancy.

The House speaker and Senate president must select the task force chairpersons from among its members. The chairpersons must schedule the task force's first meeting no later than August 12, 2011. The Appropriations Committee's administrative staff serves as the task force's administrative staff.

EFFECTIVE DATE: Upon passage

§§ 31-33 & 48 — THE GOVERNOR'S PROPOSED BUDGET

By law, in each odd-numbered year, the governor must send to the General Assembly a proposed budget for the ensuing biennium. The act eliminates requirements that the governor's budget include:

1. a list, for each budgeted agency, of all the agency's programs;
2. for each program, its (a) statutory authorization, (b) objectives, (c) description, including need, eligibility requirements, and any intergovernmental participation, (d) performance measures including an analysis of the program's workload, service quality, and effectiveness, (e) budget data broken down by major expenditure object and showing any additional federal and private funds, and (f) detailed information about its current and recommended permanent filled and vacant positions by fund; and
3. a statement of each agency's plans for energy conservation for the biennium and progress made in the last fiscal year.

In addition, the act eliminates the requirement that the governor submit the following information by program:

1. expenditures for the prior and current fiscal years;
2. each budgeted agency's budget request and the governor's recommended budget for each fiscal year of the biennium;
3. for each new or expanded program, estimated expenditures required for the fiscal year following the biennium;
4. an explanation of any significant program changes the agency requested or the governor recommends; and
5. a summary of current, requested, and recommended permanent full-time filled and vacant positions for each year of the budget and for the most recently completed fiscal year.

Instead, it adds the first four of these items to the financial statements that must be included in summary form with the governor's message. The law already

requires the governor to include the fifth item in these statements and in the detailed agency budgets. (PA 11-61, §§ 74 & 75, reinstates these program budget requirements.)

Finally, the act also eliminates requirements that (1) the governor's proposed appropriations bills include appropriations for each major program in each budgeted agency and (2) the proposed budget be split into four separate parts.

§§ 34-36 — DIRECT DEPOSIT FOR STATE EMPLOYEES, STATE RETIREES, AND RETIRED TEACHERS

The act makes direct deposit the required payment method for state employees, retired state employees receiving pensions, and retired teachers receiving pensions from the Teachers Retirement System, unless they ask to be paid in a different manner. PA 11-61 (§§ 76 & 77) makes the provision requiring state employees to be paid via direct deposit effective upon passage and allows the comptroller to meet the requirement as soon as practicable.

§ 37 — STATE BOARD OF ACCOUNTANCY

The act places the State Board of Accountancy, formerly an independent board, within the Secretary of the State's office. The nine-member board, appointed by the governor, regulates the practice of public accountancy in the state.

§ 38 — NEWBORN SCREENING FOR SEVERE COMBINED IMMUNODEFICIENCY DISEASE

The act requires all health care institutions caring for newborn infants to test them for severe combined immunodeficiency disease (SCID), unless, as allowed by law, their parents object on religious grounds. It requires the testing to be done as soon as is medically appropriate. Like existing law that requires these institutions to test newborn infants for cystic fibrosis, the test for SCID is not part of the state's newborn screening program for genetic and metabolic disorders. That program, in addition to screening, directs parents of identified infants to counseling and treatment.

SCID is a group of rare, sometimes fatal, congenital disorders characterized by little or no immune response. A person with this disease has a defect in the specialized white blood cells that defend the body from infection by viruses, bacteria, and fungi. Because the immune system does not function properly, a person with SCID is susceptible to recurrent infections such as pneumonia, meningitis, and chicken pox, and can die within the first year of life.

EFFECTIVE DATE: October 1, 2011

§ 39 — NEWBORN SCREENING ACCOUNT

PA 11-6 increased, from \$800,000 to \$900,000, the amount of newborn screening fees that must be credited in FY 12 and FY 13 to the newborn screening account for upgrading newborn screening technology and testing expenses. This act increases the credited amount from \$900,000 to \$1,121,713.

§ 40 — TEACHERS' RETIREMENT BOARD

The act increases the membership of the Teachers' Retirement Board, from 12 to 14, and alters its composition. The board manages the Teachers' Retirement System (TRS). Under prior law, the board's 12 members were: the commissioners of social services and education, as non-voting ex officio members; three actively teaching TRS members; two retired TRS members; and five public members appointed by the governor.

The act removes the social services commissioner from the board and adds the state treasurer and the OPM secretary as ex officio members. It also makes the treasurer, OPM secretary, and education commissioner voting members.

The act also adds a fourth actively teaching TRS member to the board. This member cannot be from the same collective bargaining unit as any of the other TRS members on the board and must be (1) nominated by the actively teaching TRS members and (2) elected by all TRS members. He or she serves a four-year term on the board beginning July 1, 2011. By law, unchanged by the act, members serve without compensation, but are reimbursed for expenditures related to their service.

EFFECTIVE DATE: Upon passage

§ 42 — TRANSFERS FROM THE PROBATE COURT ADMINISTRATION FUND SURPLUS

PA 11-6 diverts funds from the Probate Court Administration Fund's FY 11 surplus to the Judicial Department's Court Support Services Division (CSSD) as follows:

1. \$500,000 in FY 12 for the Male Youth Leadership Pilot Program that provides services for high-risk males with low academic achievement in targeted communities;
2. \$1 million annually in FY 12 and FY 13 to the Kinship Fund and Grandparents and Relatives Respite Fund administered by the Children's Trust Fund Council in the Department of Social Services (DSS) through the probate court;
3. \$800,000 in FY 12 to the Children's Trust Fund, which coordinates efforts and funding designed to prevent child abuse and neglect; and

4. \$35,000 annually in FY 12 and FY 13 to support Children in Placement, Inc. expansion in Danbury.

This act increases, from \$35,000 to \$50,000, the amount to be transferred for Children in Placement, Inc. in each of the fiscal years and specifies that it be used for Other Expenses.

It adds a transfer of \$50,000 from Judicial Department's Other Expenses in FY 12 and FY 13 for a grant to the Child Advocates of Connecticut for its services in Stamford and Danbury. (PA 11-61, § 100, changes these locations to the Stamford/Norwalk and Danbury judicial districts.) This agency has a contract with the Judicial Branch to help the court promote permanency planning for children.

(PA 11-61, § 100, adds another transfer of surplus funds and eliminates a provision that requires any Probate Court Administration Fund surplus remaining after all FY 13 transfers to go to the General Fund.)

EFFECTIVE DATE: Upon passage

§§ 43-49 — USE OF GAAP IN STATE BUDGETING

§§ 43 & 48 — *Balanced Budget Requirement*

By law, the governor must propose, and the General Assembly must adopt, a biennial budget for the state that balances appropriations and estimated revenue.

Under prior law, if the governor's proposed biennial budget recommended state expenditures that exceeded the estimated revenue generated under existing law plus any estimated unappropriated surplus for the current fiscal year available in the next biennium, he had to include recommendations for funding the difference. In addition, in the state budget the General Assembly adopts, total net appropriations for each appropriated fund for each budget year had to equal revenue estimates for that appropriated fund and year adopted by the Finance, Revenue and Bonding Committee and included in the budget act.

Starting with FY 14, this act changes these balanced budget calculations to (1) exclude from the revenue side any estimated unappropriated current year surplus and (2) include on the expenditure side the amount needed to pay off the unreserved negative GAAP balance in any appropriated fund. The latter must be the amount reported in the comptroller's most recently audited comprehensive annual financial report issued before the start of the fiscal year.

§ 44 — *Comptroller's Annual Financial Report*

By law, the comptroller must submit an annual financial report to the governor that includes information on the state's financial condition at the close of the preceding fiscal year. The act changes the

report's due date from September 1 to September 30 and requires the comptroller to prepare it in accordance with GAAP.

EFFECTIVE DATE: July 1, 2013

§ 45 — *GAAP Implementation Starting in FY 14*

Beginning in FY 14, the act allows the comptroller to start implementing GAAP to prepare and maintain the state's annual financial statements. It eliminates a requirement that he do so by making incremental changes in the statements consistent with GAAP. Also starting in FY 14, the act requires, rather than allows, the OPM secretary to start implementing GAAP in preparing the state's biennial budget.

It requires the comptroller to (1) establish an opening combined balance sheet for all appropriated funds based on GAAP as of July 1, 2013 and (2) aggregate and set up as a deferred charge on the combined balance sheet the accrued and unpaid expenses and liabilities and other adjustments as of June 30, 2013. Under the act, the state must pay off this deferred charge in equal annual increments over 15 years starting in FY 14.

The act eliminates the comptroller's and the OPM secretary's authority to concurrently prepare annual conversion plans for implementing GAAP and submit them to the Appropriations Committee when the governor submits the biennial budget and budget status report to the General Assembly.

§ 46 — *Use of Budget Surpluses to Pay Annual GAAP Increments*

Starting with FY 14, if the comptroller determines there is an unappropriated General Fund surplus at the end of any fiscal year, the act requires him to reserve the annual GAAP increment from that surplus before allocating it to other uses required by law. For FY 12 and FY 13, the comptroller must apply \$75 million and \$50 million, respectively, of any such surplus to any net increase in the unreserved negative General Fund balance for FY 11 before allocating the balance as otherwise required.

The act overrides laws requiring that any unappropriated General Fund surpluses (1) from FY 10 through FY 17 be first used to redeem outstanding economic recovery notes before they mature and then to reduce the state's obligations for economic recovery revenue bonds secured by electric ratepayer surcharges (PA 11-61 cancels the authorization for the economic recovery revenue bonds) and (2) in other years, be allocated according to the following priorities: (a) the Budget Reserve ("Rainy Day") Fund, (b) the State Employees Retirement Fund unfunded liability, and (c) reducing state bond debt.

EFFECTIVE DATE: Upon passage

§ 47 — *Definitions Relating to the OPM Secretary's Budget and Financial Management Responsibilities*

The act revises various definitions governing the OPM secretary's budgeting and financial management duties to incorporate GAAP accounting requirements. It:

1. defines the "budget" for FY 14 and thereafter as an estimate of proposed expenditures and revenue determined according to GAAP,
2. includes incurred liabilities as part of "expenditures," and
3. adds a definition of "modified accrual" to mean an accounting basis that recognizes (a) revenue when earned only if it is collectible within a period or soon enough thereafter to be used to pay liabilities for that period and (b) expenditures when they are incurred and would normally be liquidated.

§ 49 — *End-of-Year Balances*

The act gives the comptroller unlimited time to process end-of-year payments for obligations incurred under appropriations that are not continued from one fiscal year to the next from balances that would otherwise lapse. Prior law extended the balance of such appropriations for one month into the next year to permit the comptroller to liquidate obligations incurred in the prior year. The act eliminates the one-month limit.

§ 50 — VOLUNTARY REGIONAL CONSOLIDATION BONUS POOL

The act establishes a temporary Voluntary Regional Consolidation Bonus Pool program, which the OPM secretary administers, to provide a bonus payment to certain regional planning organizations (RPOs) that request consolidation into a redesignated planning region. The bonus payment is in addition to the annual payment each RPO receives under existing law. By law, an RPO is a regional planning agency (RPA), regional council of governments (COG), or regional council of elected officials (CEO).

The act provides an additional bonus payment to any two or more RPOs that:

1. vote to merge, forming a new regional COG or CEO within a proposed or newly redesignated planning region boundary and
2. submit a request for redesignation to the OPM secretary as authorized under existing law (see BACKGROUND — *Planning Regions*).

The act specifies that the OPM secretary must review and approve each proposed consolidation to determine it is an appropriate and sustainable redesignated planning region before issuing any bonus pool payment.

Under the act, OPM awards the payments in FY 12 and FY 13 on a first-come, first-served basis from any appropriation available for the bonus pool until exhausted for the fiscal year.

§§ 51- 57 & 307 — IGNITION INTERLOCKS

The act reduces the suspension period of a driver's license or nonresident's operating privilege for motorists convicted for a first or second time of driving under the influence of alcohol or drugs (DUI) to 45 days. It requires, as a condition of DMV restoring a license, that offenders install a functioning, approved ignition interlock device on each vehicle they own or operate and drive only vehicles with such a device for specified periods of time. Prior law required use of an ignition interlock following a license suspension for a second offense, but not for a first offense (see Table 2). (By law, a driver's license is permanently revoked for a third DUI violation. See below.)

An ignition interlock requires a driver to breathe into it to operate the vehicle in which it is installed; it prevents a vehicle from starting if it detects blood alcohol content (BAC) above a certain threshold. The device also requires the driver to submit periodic breath samples while the vehicle is operating.

The act authorizes the DMV commissioner to extend the duration of ignition interlock restrictions for drivers who fail to comply with the device's installation or use requirements beyond those the act establishes. It requires her to adopt regulations specifying (1) which actions by an individual constitute noncompliance, (2) the conditions under which noncompliance will result in DMV extending the time period the individual must drive only vehicles equipped with ignition interlocks, and (3) the length of any such extension.

It requires the commissioner to allow an offender who has served the 45-day suspension and installed ignition interlocks on his or her vehicles to drive them even if he or she has not finished serving an "administrative per se" suspension (see BACKGROUND — *Administrative Per Se*).

It requires DMV and the Judicial Branch's CSSD, by February 1, 2012, to jointly develop and submit to the Judiciary and Transportation committees a plan to implement the installation and use of ignition interlock devices for anyone convicted of DUI, starting January 1, 2014.

The act specifies that certain cost, supervision, installation, use, and other ignition interlock provisions apply only to motorists whose licenses are suspended

for DUI convictions on or after January 1, 2012. But it allows the DMV commissioner, at the request of anyone convicted of DUI whose license is under suspension on that date, to reduce the suspension (presumably after the driver has served 45 days) and place a restriction on the license requiring that the motorist drive only a vehicle equipped with an ignition interlock device for the remainder of the suspension period.

Prior law required anyone whose license was suspended for DUI or for two or more administrative per se suspensions to take part in a DMV-approved substance abuse treatment program in order to have his or her license reinstated. The act eliminates this program. It also makes conforming changes. But by law, unchanged by the act, (1) a court may order a driver to take part in such a program and (2) the commissioner must consider participation in such a program, among other things, when deciding whether to restore a permanently revoked license (see below).

DUI Suspensions

By law, motorists convicted of DUI are subject to imprisonment, a fine, and suspension of their driver's licenses (see BACKGROUND – *DUI Convictions*). Table 2 shows the DUI suspension period penalties under prior law and the act.

Table 2: License Suspensions under Prior Law and the Act

<i>DUI Violation</i>	<i>Suspension under Prior Law</i>	<i>Suspension under the Act</i>
First	One year	45 days, followed by one year driving only a vehicle equipped with an ignition interlock device
Second (under age 21)	Three years or until driver turns 21, whichever is longer, followed by two years of driving only a vehicle equipped with an ignition interlock device	45 days or until driver turns 21, whichever is longer, followed by three years of driving only a vehicle equipped with an ignition interlock device
Second (age 21 or older)	One year, followed by two years of driving only a vehicle equipped with an ignition interlock device	45 days, followed by three years of driving only a vehicle equipped with an ignition interlock device

Costs of Installing Ignition Interlocks and Supervision of Offenders

By law, an individual required to use an ignition interlock must pay to install and maintain it. The act prohibits a court from waiving the installation and

maintenance fees or costs. By law, the individual must also pay a \$100 fee, which goes to an account used to administer the program.

The act places anyone required to install an ignition interlock device who is on probation under CSSD's supervision; it places all others under DMV supervision. In either case, they are subject to any terms and conditions the DMV commissioner may prescribe and any laws or regulations she adopts consistent with the act.

The act requires the commissioner to ensure that companies installing the devices notify her and CSSD when anyone required to use an ignition interlock fails to comply with its installation, maintenance, or use requirements. The commissioner is not required to verify that a device has been installed on each motor vehicle owned by the person convicted of DUI.

Restoration of a Revoked License

The law allows someone whose driver's license has been permanently revoked following a third DUI conviction to request a reduction or reversal of the revocation of driving privileges after six years. By law, the commissioner may do this if she determines that doing so does not endanger public safety, certain requirements are met (including successfully completing an alcohol education and treatment program), and the person agrees to install and use an ignition interlock device. The act extends the time an ignition interlock device must remain in place in such circumstances. Under prior law, the device had to remain in place from the date the reversal or reduction was granted until 10 years passed from the date the license was revoked. The act instead requires that the ignition interlock remain in place for 10 years from the date the commissioner grants the reversal or reduction.

Penalties for Drivers Who Violate the Act

The act increases penalties for violations of certain ignition interlock restrictions. Under prior law these violations were class C misdemeanors (see Table on Penalties). The act instead subjects an individual under a court order or subject to DMV's ignition interlock restrictions who drives a vehicle (1) not equipped with a functioning ignition interlock or (2) that a court has ordered him or her not to drive, to the same penalties the law imposes on people who drive while their license is suspended or revoked for DUI or certain other offenses.

These penalties are, for a first offender, a fine of between \$500 and \$1,000 and imprisonment for up to one year, with a 30-day mandatory minimum. A driver who, for the second time, is subject to and violates the act's suspension and ignition interlock restrictions faces a fine of between \$500 and \$1,000 and imprisonment

for up to two years, with a 120-day mandatory minimum. A driver who, for a third or subsequent time, is subject to and violates the suspension and ignition interlock restrictions is subject to a fine of between \$500 and \$1,000 and imprisonment for up to three years, with a one-year mandatory minimum. In each case, the court is not required to impose the mandatory minimum sentence if there are mitigating circumstances.

By law, unchanged by the act, anyone required to use an ignition interlock who (1) asks someone else to blow into the device to start a vehicle or (2) tampers with, bypasses, or alters the device, commits a class C misdemeanor (see Table on Penalties).

EFFECTIVE DATE: January 1, 2012, except for the provision requiring the joint report, which is effective upon passage.

§§ 58-76 & 302 — OFFICE OF GOVERNMENT ACCOUNTABILITY

The act establishes an Office of Government Accountability (OGA), with an executive administrator as its head, to provide consolidated personnel, payroll, affirmative action, and administrative and business office functions, including information technology associated with these functions, for nine state agencies. It places the agencies in OGA, but retains their independent decision-making authority, including decisions on budgetary issues and employing necessary staff. The agencies are the:

1. Office of State Ethics (OSE),
2. State Elections Enforcement Commission (SEEC),
3. Freedom of Information Commission (FOIC),
4. Judicial Review Council (JRC),
5. Judicial Selection Commission (JSC),
6. Board of Firearms Permit Examiners (BFPE),
7. Office of the Child Advocate (OCA),
8. Office of the Victim Advocate (OVA), and
9. State Contracting Standards Board (SCSB).

The act establishes a Government Accountability Commission (GAC) within OGA and makes it responsible for (1) recommending OGA executive administrator candidates to the governor and (2) terminating the executive administrator's employment, if necessary. It also makes technical changes.

In addition, the act (1) adds four legislative appointments to FOIC and (2) eliminates the OCA and OVA advisory committees and establishes new ones.

§ 59 — Government Accountability Commission

The nine-member GAC consists of the (1) chairpersons of the Citizen's Ethics Advisory Board, SEEC, FOIC, JSC, BFPE, and SCSB; (2) JRC executive

director; (3) child advocate; and (4) victim advocate. Members may appoint a designee to serve on the commission. They must select a chairperson to preside at commission meetings.

The commission is not considered an executive branch commission and thus, is not subject to provisions requiring that (1) public members comprise at least one-third of the membership and (2) terms be coterminous with the governor, among other things.

§§ 58-67, 69, 71, & 74-76 — OGA Structure

The act merges and consolidates within OGA the nine agencies' personnel, payroll, affirmative action, administrative and business office functions, including information technology associated with these functions. ("Business office functions" generally include budgeting, accounts payable, accounts receivable, purchasing, grant management, central accounting, delinquent accounts, or asset management.) To accomplish this, the act:

1. places OSE, FOIC, SEEC, JSC, and JRC within OGA;
2. transfers BFPE from the Department of Public Safety for administrative purposes only to OGA;
3. eliminates SCSB's status as an independent executive branch body and places it within OGA; and
4. transfers OVA and OCA from DAS for administrative purposes only to OGA.

Under prior law, the executive directors of OSE, FOIC, and SEEC transmitted their agency's expenditure estimates to OPM. The act instead requires OGA's executive administrator to transmit these estimates. Existing law, unchanged by the act, prohibits the governor from reducing their allotments.

§ 59 — *Executive Administrator*. By August 1, 2011, the GAC must give the governor a list of at least three candidates for the initial executive administrator appointee; by September 1, 2011, the governor must make the appointment. If the GAC does not forward the candidate list by the August deadline, then on or after August 2, 2011, the governor must appoint an acting executive administrator to serve until a successor is appointed and confirmed.

The appointee must be qualified by training and experience to perform the office's administrative duties. He or she serves a four-year term or until a successor is appointed and qualifies, and may be reappointed. The appointment is subject to confirmation by either house of the General Assembly.

If the executive administrator position becomes vacant, the GAC must meet to consider and interview successor candidates. No later than 60 days after the vacancy occurs, it must submit to the governor a list of

five to seven of the most outstanding candidates, ranked by preference. No later than eight weeks after receiving the list, the governor must designate an executive administrator candidate. If that candidate withdraws from consideration prior to confirmation, the governor must designate another from among those remaining on the list.

If the governor does not make a designation within eight weeks of receiving the list, the first-ranked candidate receives the designation and is referred to either legislative chamber for confirmation. If that chamber is not in session, the designated candidate serves as acting executive administrator until the chamber takes action on the appointment. The acting executive administrator receives compensation and has all the powers and privileges of the executive administrator.

The GAC is responsible for terminating the executive administrator's employment, if necessary.

§ 58 — *Other Staff.* The act authorizes the executive administrator to employ necessary staff, within available appropriations, to carry out OGA's administrative functions. It places the staff in classified service.

§ 60 — *Merger Plan and Report.* By November 1, 2011, the executive administrator must develop and implement a plan for OGA to merge and provide the personnel, payroll, affirmative action, administrative and business office functions, and information technology associated with these functions, for the nine agencies.

By January 2, 2012, the executive administrator must submit a report to the Appropriations, Government Administrations and Elections, Judiciary, Children's, Public Safety, and Human Services committees on (1) the merger's status and (2) any recommendations for further legislative action concerning the merger, including recommendations to further consolidate and merge the nine agencies' functions (e.g., best use of staff, redundancy elimination, and cross-training staff to perform functions across the nine agencies).

The executive administrator must submit the report in conjunction with the (1) executive directors of OSE, SEEC, FOIC, and JRC, or their designees; (2) chairperson of JSC, BFPE, and SCSB, or their designees; and (3) child advocate or victim advocate, or their designees.

§ 62 — *FOIC Membership*

FOIC formerly consisted of five members whom the governor appoints and either chamber confirms for four-year terms. No more than three members may be from the same political party.

The act adds four commission members appointed by the Senate president, House speaker, Senate minority

leader, and House minority leader on or after July 1, 2011, for two-year terms. Thereafter, no more than five members may be from the same political party. The act requires the appointing authority to fill any vacancy for the remainder of the term.

§§ 68 - 71 & 302 — *Advocate Advisory Committees*

The act eliminates the OVA and OCA advisory committees and replaces them with new ones. Under prior law, the OVA and OCA advisory committees were composed of 12 and six members, respectively. For both committees, members served five-year terms and had to meet three times a year. They reviewed and assessed the policies and activities of their respective offices, provided annual assessments of the offices' effectiveness, and suggested successor candidates to the governor upon a vacancy in the advocate position.

The act re-establishes OVA and OCA advisory committees, both with seven members. The governor and six legislative leaders each appoint one member. Each committee's purpose is to prepare and submit to the governor a list of candidates for victim advocate or child advocate, respectively, upon a vacancy in either position. As under prior law, the respective committee must meet to consider and interview successor candidates and submit a list of between five and seven individuals, ranked in order of preference, for appointment. Within eight weeks, the governor must designate a candidate from among the choices on the list or the first-ranked choice receives the designation and is referred to the General Assembly for confirmation. The act specifies that the victim advocate candidate list is confidential and not subject to disclosure.

Members serve five-year terms beginning July 1 in the year of their appointment, and may be reappointed. Initial appointments must be made no later than September 1, 2011. Each committee must select a chairperson to preside at its meetings. Any vacancy is filled by the appointing authority for the remainder of the term.

The act prohibits advisory committee members from being communicator lobbyists who lobby on behalf of any entity or agency subject to review, evaluation, or monitoring by the respective advocate office. It similarly prohibits members from being volunteers for, board members of, or employed by any such entity or agency.

§§ 69 & 71 — *Advocates' Annual Reports*

The act requires OVA and OCA to each submit the annual report required by law to their respective advisory committee, as well as the Judiciary Committee. OCA must also submit its report to the Children's and Human Services committees. The act eliminates the

requirement that they submit these reports to the entire General Assembly but retains the requirement for submission to the governor.

§§ 77 & 80-97 — OFFICE OF WORKFORCE COMPETITIVENESS

Status

Under prior law, the Office of Workforce Competitiveness (OWC) was within OPM for administrative purposes only. The act transfers OWC to DOL, making it an administrative unit of DOL. Under the act, any OWC orders or regulations continue in force and effect until amended, repealed, or superseded. If these orders or regulations conflict with DOL's, the commissioner may implement policies and procedures consistent with the act while in the process of adopting them in regulation.

Functions and Duties

The act assigns most of OWC's functions and duties to DOL, explicitly requiring the department to administer them with OWC's help. The assigned functions and duties are:

1. serving as the governor's principal workforce development policy advisor and liaison with local, state, and federal workforce development agencies;
2. serving as the lead state agency for developing employment and training strategies and initiatives needed to support Connecticut's position in the knowledge economy;
3. annually, starting by October 1, 2012, forecasting workforce needs and recommending ways to meet them;
4. reviewing, evaluating, and recommending improvements to the certification and degree programs the vocational-technical schools and the community-technical colleges offer and developing strategies linking education skill standards to business and industry training and employment needs; and
5. creating, by October 1, 2012, an integrated system of statewide advisory committees for each career cluster offered as part of the regional vocational-technical school and community-technical college systems.

The act retains the requirement for OWC to participate in a working group to define preservice and minimum training requirements and competencies for people involved in early childhood education.

The act relieves OWC of the responsibility to:

1. prepare reports on economic and workforce trends, but requires DOL to perform these duties and functions;

2. receive performance reports from the vocational-technical schools;
3. serve on the Blue Ribbon Commission preparing the master plan for higher education; and
4. assist DECD when it prepares the five-year economic strategy.

The act also transfers the task of receiving workforce development performance reports from OWC to DOL.

Programs and Committees Transferred to DOL

The act requires OWC to continue administering the Film Industry Workforce Training Program, but with the labor commissioner's approval. OWC must continue to develop guidelines for participating in the program, which, under the act it must do so by September 30, 2012 with the commissioner's approval. OWC must continue submitting annual status reports on the program to the Connecticut Employment Commission and the Commerce and Higher Education and Employment Advancement committees, but the act also requires OWC to submit them to the labor commissioner.

The act authorizes OWC to continue running the pilot program giving parents access to training to develop the skills needed to get and keep jobs.

The act transfers the Connecticut Career Choices program to DOL, which must administer it with OWC's help. The program stimulates and develops high school students' interest and skills in science, technology, engineering, and math.

Program Transferred to DECD

The act transfers to DECD several OWC grant programs preparing college students for careers in research and development and encouraging colleges and universities to collaborate with businesses on research projects.

The act also appears to transfer the Innovation Challenge Grant from OWC to DECD. It directs the DECD commissioner to chair the council that advised OWC, under prior law, about awarding grants.

OWC Boards, Committees, and Commissions

The act transfers several OWC committees and commissions to DOL, including the:

1. Connecticut Career Ladder Advisory Committee, whose members the labor commissioner must select based on OWC's recommendations;
2. Connecticut Employment and Training Commission;

3. Adult Literacy Leadership Board, which the DOL commissioner must maintain with OWC's help;
4. Council of Advisors on Strategies for the Knowledge Economy; and
5. industry advisory committees for career clusters within the regional vocational-technical schools and regional community-technical college systems.

Status Report

The act requires the labor commissioner to report on the status of the merger between OWC and DOL and recommend any necessary legislation regarding the merger. The commissioner must submit the report by January 2, 2012 to the Appropriations and Labor committees.

§§ 78 & 79, 98-122, 125-132, & 136-173 —
CONNECTICUT COMMISSION ON CULTURE &
TOURISM

Culture and Tourism Advisory Committee

The act eliminates the Connecticut Commission on Culture and Tourism (CCCT) and transfers its powers, duties, and programs to DECD. It reconstitutes the 28-member commission as the Culture and Tourism Advisory Committee (CTAC), but retains its existing makeup. It also requires the DECD commissioner to provide administrative assistance to CTAC.

The act replaces the CCCT executive director with the CTAC chairperson on several committees. Under the act, the chairperson or a committee member serves on the:

1. State Commission on Capitol Preservation and Restoration,
2. Connecticut Capitol Center Commission,
3. Sports Advisory Board,
4. State Museum of Art Advisory Committee,
5. Advisory Panel on Accepting Art Work,
6. Face of Connecticut Steering Committee,
7. Quinebaug and Shetucket Rivers Heritage Corridor Advisory Council, and
8. Committee for the Restoration of Historic Assets.

The act requires the CTAC executive director to serve on the Baldwin Museum Advisory Committee, but CTAC has no executive director.

Under the act, the CTAC chairperson assumes CCCT's former role in preparing the state's five-year strategic economic development plan. Under prior law, CCCT was one of several agencies the DECD commissioner had to consult when preparing the plan.

The act transfers to DECD CCCT's authority to appoint a state poet laureate. The act specifies that DECD must make this appointment with CTAC's recommendations.

Transferred Powers, Duties, and Functions

General. The act transfers to DECD CCCT's general powers, duties, and functions. These include:

1. marketing and promoting the state's tourist attractions,
2. promoting the arts,
3. preserving historic resources,
4. promoting Connecticut as a place to produce digital media and films, and
5. establishing a uniform financial reporting system for the state's three regional tourism districts.

In transferring CCCT's powers and functions to DECD, the act specifies that any orders or regulations under which CCCT exercises those powers and duties continue until amended, repealed, or superseded. If these orders or regulations conflict with DECD's, the commissioner may implement policies and procedures consistent with the statutes while adopting policies and procedures in regulation.

Tourism-Related Powers, Duties, and Functions. The act transfers CCCT's tourism-related powers, duties, and functions to DECD. These include:

1. preparing a strategic plan to promote tourism and develop new tourism-related products and services;
2. maintaining and operating the visitor welcome centers;
3. administering grants promoting and supporting tourism, the arts, and historic preservation;
4. identifying and marking historic properties;
5. issuing permits for archaeological digs, developing procedures for inventorying Native American burial sites, and advising other agencies about specified archaeological matters;
6. administering tax credits for rehabilitating historic properties and community investment funds for historic preservation activities; and
7. selecting art for public works projects.

Budget and Planning Duties. The act also transfers CCCT's budget and planning duties to DECD. It transfers CCCT's duty to review and approve regional tourism district budgets and develop guidelines concerning the regional tourism districts' administrative costs. But it does not do so until December 31, 2011, six months after the start of FY 12. Under the act, the districts must annually submit their budgets to DECD for approval beginning June 1, 2011 and may spend

funds under that budget only after DECD approves it.

The act also transfers CCCT's duty to prepare the two-year strategic plan for implementing the culture and tourism-related statutory functions to DECD. Under the act, the commissioner must submit the plan to the governor and legislature by January 1, 2012. The act also requires the commissioner to evenly distribute funding within available appropriations to the three regional tourism districts.

Under prior law, CCCT also submitted an annual culture and tourism budget to OPM, a duty the act eliminates.

Transferred Services and Programs

General. The transfer of CCCT's powers and duties to DECD includes many services and programs CCCT administered under prior law. The transferred services include supporting the state welcome centers, administering the state art collection, helping agencies include works of art in public works projects, designating the state poet laureate and troubadour, and regulating activities at archeological sites. Lastly, the transfer includes specific tasks and functions specified in the statutory procedure for creating historic districts.

The transferred programs include programs providing grants and loans to public and private organizations for promoting arts and culture, restoring historic assets, acquiring historic property, and providing tax credits for rehabilitating such property. As discussed below, the transfer also includes the program providing tax credits for rehabilitating such property.

Historic Preservation. Although the act transfers the historic preservation tax credit programs from CCCT to DECD, it requires the State Historic Preservation Officer (SHPO) to perform specific technical tasks. These include developing rehabilitation standards, certifying whether rehabilitation plans meet those standards, and reviewing documents developers must submit showing that they rehabilitated the property according to those plans.

The act relocates the 12-member Historic Preservation Council from CCCT to DECD.

Status Report

The act requires the DECD commissioner to report on the status of the merger between CCCT and DECD and recommend any necessary legislation regarding the merger. She must submit the report by January 2, 2012 to the Appropriations and Commerce committees.

EFFECTIVE DATE: July 1, 2011. The changes in the historic preservation tax credits apply to income years beginning on or after January 1, 2011.

§ 102 — REGIONAL TOURISM DISTRICTS

The act requires the state's three regional tourism districts to adopt charters and bylaws to govern their operations.

§§ 123, 124, & 303 — ECONOMIC DEVELOPMENT AGENCY BOARDS

The act makes the DECD commissioner the chairperson of the boards of CDA and CII, the state's two quasi-public economic development agencies. Under prior law, the commissioner was an ex officio member of both boards and the governor appointed their chairpersons, with the legislature's advice and consent. (PA 11-140 also makes the commissioner the chairperson of the CDA and Connecticut Housing Finance Authority (CHFA) boards.)

The act also eliminates the 21-member Connecticut Competitiveness Council, which PA 10-75 established to promote the state's industry clusters.

§§ 115 & 120-122 — HISTORIC PRESERVATION TAX CREDITS EXPANSION

Overview

The law authorizes business tax credits for investing money in restoring certified historic homes and nonresidential property. Developers qualify for these credits under separate programs based on the property's current use (e.g., commercial or industrial) and the intended reuse (e.g., residential or mixed residential and nonresidential).

The act expands the range of eligible property and eligible reuses under the programs for restoring nonresidential historic property. It transfers the programs to DECD and assigns specific technical tasks to the SHPO, who is appointed or designated by the governor under federal law.

Credits for Converting Nonresidential Property to Residential Uses

Prior law authorized tax credits for converting certified historic commercial and industrial property to residential uses. The act extends the range of credit-eligible property to certified historic cultural buildings; institutional property; former municipal, state, and federal property; and residential buildings with five or more units.

Credits for Converting Nonresidential Historic Property to Mixed Residential and Nonresidential Uses

Prior law authorized tax credits for converting certified historic commercial and industrial property into property that houses both residences and stores,

offices, or other business uses. The act expands the range of projects eligible for such credits.

It expands the range of eligible property to cultural buildings; institutional property; mixed residential and nonresidential property; and former municipal, state, and federal property. Under prior law, the property had to be owned by people, businesses, or nonprofit organizations. Under the act, the property must be owned by these entities or municipalities.

The act extends the range of eligible reuses. Under prior law, the historic property had to be converted into a structure that housed residences and businesses, with the residences comprising at least 33% of the structure. The act additionally allows the credit on property to be rehabilitated for business use only. And, for property being converted for both residential and business uses (e.g., multistory buildings with stores and shops on the ground floor and apartments on the upper floors), the act eliminates the requirement that the residential portion comprise at least 33% of the property.

Procedural Changes

The act also changes two procedural requirements for awarding historic restoration grants. Under prior law, before CCCT could approve a grant application, the applicant had to (1) prepare a covenant guaranteeing that the historic structure or landmark would be preserved forever or for a CCCT-approved period and (2) file the covenant with the clerk of the municipality where the property was located. The act instead requires the applicant to file the covenant before DECD awards the grant under the agreement.

The act also changes another prerequisite an applicant must meet before a grant application can be approved. Under prior law, CCCT could not approve a proposed project in a local historic district unless it was first approved by the municipality's historic district commission. Under the act, the project must be approved by the municipality's historic preservation department instead.

EFFECTIVE DATE: July 1, 2011 and applicable to tax years beginning on or after January 1, 2011.

§§ 133-135 — DOCUMENT RECORDING FEE

Fee Increase Permanent

The act makes permanent a \$10 increase (from \$30 to \$40) in the land use document recording fee previously scheduled to expire July 1, 2011. The law imposes the fee to fund historic preservation, affordable housing, open space preservation, and agricultural programs and specifies how the fee revenue must be allocated among these purposes.

In making the fee permanent, the act requires municipalities to remit \$36 of each \$40 fee to the state and retain \$4, as prior law required.

Grant Distribution Formula

PA 09-229, which temporarily increased the fee, changed the schedule for allocating the revenue, and expanded the list of agricultural programs to include grants to milk producers. These changes were effective until July 1, 2011. PA 09-3, JSS, made additional temporary changes. It changed the distribution schedule for the agricultural programs and earmarked funds for more programs. These were also effective until July 1, 2011.

The act changes the schedule for allocating the fee revenue, makes permanent the distributions for most of the activities authorized under PA 09-3, JSS, and extends funding to more activities. It credits \$10 of each fee to the agricultural sustainability account, established to help dairy farmers when milk prices fall below the level needed to sustain dairy operations (i.e., minimum sustainable monthly production cost).

The law sets that level at 82% of the baseline the U.S. Agriculture Department determines as the monthly average cost of producing milk in New England. If that baseline is unavailable, the act requires the agriculture commissioner to set the baseline based on data and variables the U.S. agriculture secretary publishes.

After crediting \$10 of each \$40 fee for milk grants beginning July 1, 2011, the act requires the remaining revenue to be apportioned equally to DECD (formerly to CCCT), CHFA, DEP, and the Department of Agriculture (DOAg). These agencies received equal shares of the fee revenue before PA 09-229 temporarily increased DOAg's share to 40% and reduced the share for the other agencies to 20% each. This distribution schedule was effective until July 1, 2011.

Prior law specified how DOAg should allocate its share of the fee revenue. As Table 3 shows, the act changes the allocation schedule, adding and eliminating programs and adjusting allocation amounts.

Table 3: Land Use Recording Fee Allocations for Agriculture Programs

<i>Program</i>	<i>Quarterly Allocation Under Prior Law</i>	<i>Annual Allocation Under the Act</i>
Agricultural Viability Grant Program	\$125,000	\$500,000
Farm Transition Program	125,000	500,000
Encouraging the Sale of Connecticut-Grown Food	100,000	100,000
Connecticut Farm Link Program	18,750	75,000
Urban Oaks Organic Farm	12,500	0
Seafood Advisory Council	11,875	47,500
Connecticut Farm Wine Development Council	11,875	47,500
Connecticut Food Policy Council	6,250	25,000
Agricultural Sustainability Program	Remaining Balance	0
Other DOAg Farmland Preservation Programs	0	Remaining Balance

§§ 174-182 — CAPS ON EDUCATION GRANTS

The act continues existing caps on certain state education formula grants to school districts and regional education service centers (RESCs) for two more fiscal years, through June 30, 2013. The caps require grants to be proportionately reduced if their state budget appropriations do not cover the full amounts required by the statutory formulas. The caps apply to state reimbursements for:

1. health services for private school students;
2. transportation for public and private school students;
3. adult education;
4. bilingual education programs;
5. RESC operations;
6. special education costs and excess costs, other than such grants for state-placed students for whom no financially responsible district can be identified (“no-nexus students”); and
7. excess regular education costs for state-placed children educated by local and regional boards of education.

§ 183 — INTERDISTRICT MAGNET SCHOOL PER-PUPIL GRANTS

The act freezes state per-pupil operating grants for certain interdistrict magnet schools at the FY 11 level for two years, through FY 13.

For magnet schools that help the state meet the requirements of the *Sheff v. O’Neill* settlement (“*Sheff* magnets”), the act freezes per-pupil grants at:

1. \$13,054 for each student from outside Hartford who attends a school run by the Hartford school district (“Hartford host magnets”) and
2. \$10,443 per pupil for those run by RESCs or other entities (“RESC magnets”) that enroll less than 60% of their students from Hartford.

For host magnet schools run by school districts other than Hartford, the act freezes per-pupil operating grants at \$6,730 for each enrolled student from outside the host town. The grant for each student who lives in the host town remains at \$3,000, as under prior law.

§ 184 — TUITION AT HARTFORD HOST MAGNETS

The act extends for an additional two years, through the 2012-13 school year, the existing prohibition against Hartford host magnets charging tuition to districts sending students to those schools.

§ 185 — UNIFORM SCHOOL CALENDAR & REGIONAL TRANSPORTATION STUDIES

The act requires the RESC Alliance to study the feasibility of implementing a uniform school calendar and regional school transportation services. It must report its findings and recommendations to the governor by October 15, 2011. The RESC Alliance is an organization of the state’s six regional education service centers.

§ 186 — PLAN TO INTEGRATE CHILD DAY CARE AND SCHOOL READINESS SERVICES

The act requires the education commissioner, in consultation with the social services commissioner, to develop a plan to integrate the child day care and school readiness services offered as part of the school readiness program and report to the governor by July 1, 2012. The plans must address eligibility, slot rates, and program requirements. (PA 11-61, § 144, changes the required plan in several ways, including requiring it to maintain the integrity of the state-contracted child care center program.)

§ 187 — EXCESS CHILD CARE FUNDS

Instead of lapsing, the act requires any unused funds appropriated for FY 12 to the State Department of Education (SDE) for child care services to continue to be available for school readiness programs in FY 13. It requires the excess funds to be distributed according to statutory requirements for distributing school readiness funds.

By law, priority and former priority school districts are eligible for school readiness program grants from SDE to provide spaces for children in accredited school

readiness programs. When there are unexpended grant funds, the commissioner may distribute the excess money in a competitive grant program for eligible districts and, if there is still money unexpended, use it for a variety of purposes including: (1) assisting local school readiness programs in meeting accreditation, (2) providing training for student assessments, (3) developing best practices for parents in supporting preschool learning, and (4) other purposes.

§ 188 — OPEN CHOICE PROGRAM

Grants to Receiving Districts

Starting in FY 12, and within available appropriations, the act increases maximum state grants to school districts that enroll students from other districts under the Open Choice interdistrict school attendance program. It increases maximum grants to these receiving districts from a flat \$2,500 for each out-of-district student to:

1. \$3,000 per out-of-district student for districts where Open Choice students are less than 2% of the district's total student population,
2. \$4,000 per out-of-district student for districts with 2% to 3% Open Choice enrollment, and
3. \$6,000 per out-of-district student for districts with Open Choice enrollment of 3% or more of total enrollment.

Supplemental Grants

The act changes, from October 15 to March 1, the date by which the education commissioner must annually determine whether Open Choice enrollment is below the number for which funds were appropriated.

By law, when student enrollment in Open Choice is below the number for which funds are appropriated, the excess funds do not lapse but remain available for supplemental grants to receiving districts. Under the act, as under prior law, the commissioner must use the first \$500,000 of any excess funds for supplemental grants to districts that have at least 10 Open Choice students attending the same school.

The act allocates the next \$500,000 of any nonlapsing funds to supplemental pro rata grants to receiving districts that report to the commissioner before March 1 that they have enrolled more Open Choice students than they did the year before. Finally, it requires the education commissioner to use any remaining excess funds to increase Open Choice enrollment instead of for interdistrict cooperative grants, as under prior law.

Private School Students

The act allows students who have been enrolled in private school to participate in the Open Choice program. Under prior law, only students enrolled in public school could do so.

§ 189 — TASK FORCE TO STUDY THE ECS FORMULA AND OTHER SCHOOL FINANCE ISSUES

The act establishes a 12-member task force to study the Education Cost Sharing (ECS) formula and related issues in light of state constitutional requirements. Although the task force must focus on the ECS formula, it must also consider (1) state grants to interdistrict magnet schools and regional agricultural science and technology (vo-ag) centers and (2) special education costs for the state and municipalities.

By July 13, 2011, the governor must appoint six and the six legislative leaders one each of the task force members, who may include legislators. The governor selects one co-chairperson from the executive appointees and the House speaker and Senate president pro tempore jointly select the other from among the legislative appointees. The chairpersons must schedule the first meeting, which must be held by August 13, 2011. The Education Committee administrative staff serves as the task force's administrative staff.

The task force must submit an initial report on its findings and recommendations by January 2, 2012 and its final report by October 1, 2012. Both reports go to the governor and the Education and Appropriations committees. The task force terminates when it submits its final report or on October 1, 2012, whichever is later. EFFECTIVE DATE: Upon passage

§ 190 — MINIMUM BUDGET REQUIREMENT

By law, towns receiving state ECS grants must budget at least a minimum amount for education each fiscal year. A town that fails to meet this minimum budget requirement (MBR) is subject to a penalty of twice the amount of the shortfall.

For FY 12 and FY 13, unless their enrollment has fallen (see below), this act requires towns to budget the same amount for education as they budgeted in the previous fiscal year. For FY 12, towns must budget at least the amount they budgeted in FY 11 plus any reduction made to offset federal money paid directly to their boards of education under the 2009 federal stimulus act. For FY 13, towns must budget the same amount for education as they do in FY 12.

Districts with Falling Enrollment

Unless its school district has failed to meet specified academic achievement criteria (see below), the act allows a town whose school district has fewer students enrolled in FY 12 or FY 13 than in the previous year to reduce its MBR for those fiscal years by \$3,000 times the enrollment reduction. But the total reduction for each year is limited to 0.5% of the prior year's budget appropriation.

To qualify to reduce its MBR for FY 12, a district must have fewer students in the 2011-12 school year than it had in 2010-11. An FY 13 MBR reduction may similarly reflect a drop in enrollment in 2012-13 compared to 2011-12. Thus, for example, if a district had 800 students enrolled in 2010-11 and 790 students in 2011-12, it could reduce its minimum FY 12 education appropriation by \$30,000 (\$3,000 x 10) or 0.5% of its FY 11 appropriation, whichever is less, and still meet its MBR for FY 12. (PA 11-234 also extends the same MBR reduction option to towns without high schools that (1) pay tuition for their students to attend high school in other towns and (2) have fewer such students than in the previous year.)

Districts In Need of Improvement for at Least Three Years

The act bars a town from reducing its MBR in FY 12 or FY 13, even in the face of falling enrollment, if its school district is in the third year or more of being identified as "in need of improvement" under the state's education accountability law, and has also either:

1. failed, on the whole district level, to make adequate yearly progress (AYP), as determined under the federal No Child Left Behind Act (NCLB), in reading or math or
2. achieved AYP in reading or math only through the "safe harbor" provisions of the federal law.

But, under the act, the education commissioner may allow such a district to reduce its MBR if it permanently closes a school because of falling enrollment (see below).

The federal law allows districts to reach "safe harbor" and avoid corrective action for failing to make AYP if they show an increase of at least 10% in the number of students in identifiable subgroups (minority students, students with disabilities, and students with limited English) achieving academic proficiency and meet certain other criteria (see *BACKGROUND – "Safe Harbor" Under the No Child Left Behind Act*).

Because a school district is identified as "in need of improvement" for the first time only after it has failed to make AYP for two years in a row, a district reaches its third year of being identified only after it has failed to make AYP for five consecutive years.

(PA 11-234 expands the types of districts that are barred from reducing their MBRs to also include districts that (1) have been designated as in need of improvement and (2) have poverty rates greater than 10% for school-aged children.)

Districts that Close Schools

If a school district permanently closes one or more schools because of falling enrollment in FYs 11, 12, or 13, the act gives the education commissioner authority to permit its town to reduce its MBR for FY 12 or FY 13. Instead of the \$3,000 per student or 0.5% limits applicable to other situations, the act requires the commissioner to determine the permissible reduction in such a case.

Under the act, the commissioner's MBR reduction authority applies to any school district, including one designated for three or more years as needing improvement and meeting the criteria described above. But, PA 11-234 subsequently eliminated the commissioner's authority to allow reductions for such districts.

§ 191 — STUDY OF THE VOCATIONAL-TECHNICAL SCHOOL SYSTEM

The act establishes a 15-member task force, appointed by the governor and legislative leaders and representing various organizations and others, to study the finances, management, and enrollment structure of the vocational-technical (V-T) school system. The study must provide a cost-benefit analysis of (1) maintaining and strengthening the existing system; (2) developing stronger articulation agreements between the V-T schools and community colleges; (3) transferring control of schools to RESCs, local or regional school districts, or community colleges; and (4) maintaining or transferring V-T adult programs. It must also consider what effect maintaining the existing system or transferring control would have on the system's facilities, equipment, and personnel.

The task force members are the OPM secretary, the education and DECD commissioners, and the community-technical college system chancellor, or their designees, and the appointees shown in Table 4 below.

Table 4: Vocational-Technical School System Task Force

<i>Appointing Authority</i>	<i>Number of Members</i>	<i>Representation or Other Qualification</i>
Governor	1	Regional workforce investment board
Senate president pro tempore	2	<ul style="list-style-type: none"> Connecticut Education Association Chief executive of a small manufacturer
House speaker	2	<ul style="list-style-type: none"> American Federation of Teachers-Connecticut Person with experience in a trade offered at, alumnus of, or educator at the V-T schools
Senate majority leader	1	RESC Alliance
House majority leader	1	Mayor or first selectman of a town with a V-T school
House minority leader	1	Connecticut Association of Public School Superintendents
Education Committee co-chairs	2	Public

(PA 11-61 requires the governor to appoint an additional member who is a parent of a student enrolled at a V-T school.)

All appointments must be made by July 13, 2011. The OPM secretary or the secretary's designee chairs the task force and must schedule the first meeting to be held by August 13, 2011. SDE's administrative staff provides the task force's administrative staff.

The task force must report its recommendations to the governor and the Education Committee by January 15, 2012. It terminates on that date or when it submits its report, whichever is later.

EFFECTIVE DATE: Upon passage

§§ 192 & 193 — EQUALIZED NET GRAND LIST ADJUSTMENT

The law requires the OPM secretary to compute each town's equalized net grand list (ENGL) annually. ENGL is an estimate of the market value of a town's taxable real and personal property, equalized to reflect taxation at 100% of fair market value. ENGL is a factor in state distribution formulas for various wealth-based grants to municipalities, including ECS grants, reimbursements for local school construction projects, and Mashantucket Pequot and Mohegan grants.

This act requires OPM to adjust its ENGL calculation for towns opting to phase in an increase in assessed values for real property after a revaluation.

Prior law required OPM to base ENGL calculations for all towns on a 70% ratio of assessments to fair market value. Because phase-ins exclude part of a town's taxable net grand list from the ENGL calculation, use of the 70% ratio in such cases temporarily distorts town wealth rankings and grant distribution formulas.

The act also requires towns implementing a revaluation phase-in to continue to submit annual data on real property transfers to OPM. Under prior law, no town had to submit such data in the assessment year a revaluation became effective.

EFFECTIVE DATE: Upon passage

§ 194 — FUNDS FOR STATE SCHOOL READINESS PROGRAM ADMINISTRATION

The act extends, through FY 13, SDE's authority to retain \$198,200 of the priority school district school readiness grant appropriation for coordination, program evaluation, and administration. Under prior law, this administrative set-aside expired on June 30, 2011.

EFFECTIVE DATE: Upon passage

§ 195 — FUND TRANSFERS TO IMPLEMENT THE SHEFF SETTLEMENT

The act gives the education commissioner authority to transfer funds appropriated for the *Sheff* settlement to (1) the V-T schools for programming and (2) grants for (a) interdistrict cooperative programs, (b) state charter schools, (c) the Open Choice program, and (d) interdistrict magnet schools.

EFFECTIVE DATE: Upon passage

§§ 196 & 210 — SHEFF 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 that transportation. For most school districts, such grants are limited to \$1,400 per student. But, for districts transporting such students to help meet *Sheff* goals, as determined by the education commissioner, the limit for FY 11 is \$2,000 per student. The act extends these higher *Sheff* transportation grants for two more years, through June 30, 2013.

For FY 11, the act also allows the education commissioner, within available appropriations, to provide supplemental transportation grants to RESCs to transport students to *Sheff* interdistrict magnet schools. Grants are payable only after a comprehensive financial review of all transportation activities as prescribed by the commissioner. In addition, the commissioner may require a RESC to provide an independent financial review to be paid for out of the supplemental grant.

Under the act, up to 75% of the supplemental grant is payable by June 30, 2011 with the balance paid by September 1, 2011, on completion of the comprehensive financial review.

EFFECTIVE DATE: July 1, 2011 for the extension of the higher *Sheff* transportation grant for districts; upon passage for the supplemental grants for RESCs.

§ 197 — MAGNET SCHOOL DIVERSITY REQUIREMENTS

The act allows an interdistrict magnet school that is not in compliance with the state magnet school minority enrollment requirements because of changes in the federal racial and ethnic reporting requirements to maintain its status as an interdistrict magnet school under state law and remain eligible for magnet school operating grants, if it submits a compliance plan to the education commissioner that he approves. Under the act, noncompliance is based on student information data schools submit to the state public school information system on or before October 1 in 2011 and 2012.

The changes in the federal racial and ethnic reporting requirements are those described in the *Federal Register* of October 19, 2007.

The act requires SDE to submit to the Education Committee, by January 1, 2013, its recommendations to amend the statutory racial minority enrollment requirements for interdistrict magnet schools to conform with changes in the federal law. The plan must reflect the regional demographics of the interdistrict magnet schools and the diverse racial, ethnic, and socio-economic needs of the student populations attending them.

EFFECTIVE DATE: Upon passage

§ 198 — STATE SCHOOL BREAKFAST GRANTS

The act makes more schools eligible for state school breakfast grants by making schools eligible if at least 20%, rather than 40%, of the lunches they serve are served free or for reduced prices. The prior 40% threshold is fixed in federal law, which the prior law incorporates by reference (Child Nutrition Act of 1966, as amended). The act places the 20% criterion in state law and makes conforming changes.

§ 199 — FUNDS FOR THE RIVER ACADEMY

The act (1) carries forward \$405,000 of an FY 11 appropriation to the SDE for Magnet School Administration and \$405,000 of an FY 11 appropriation to SDE for Charter Schools; (2) transfers both amounts to the *Sheff* settlement; and (3) makes them available for developing magnet school programs at the River Academy at Goodwin College in East Hartford during FY 12 and FY 13, respectively.

§ 200 — CHARTER SCHOOL GRANT INCREASE

The act increases the state grant for students attending state charter schools from \$9,300 to \$9,400 per student per year, starting with FY 12.

§ 201 — SUPPLEMENTAL PRIORITY SCHOOL DISTRICT GRANT TO LARGEST DISTRICTS

For FY 12 and FY 13, the act extends the existing allocation of \$2,610,798 in supplemental priority school district (PSD) grants to the three largest school districts (Bridgeport, Hartford, and New Haven). By law, the State Board of Education (SBE) must distribute shares of these supplemental funds to each district in proportion to its regular PSD grant. The money is in addition to all other PSD grants the districts receive.

§ 202 — VO-AG EDUCATION CENTER TUITION FREEZE

The act extends the existing \$9,687 foundation for the ECS formula for one year, from FY 12 to FY 13. This does not affect town ECS grants, which are specified in PA 11-6, but because the per-student tuition that local or regional school districts operating vo-ag centers may charge sending districts is based on a percentage of the ECS foundation amount, the act effectively freezes the maximum tuition a center can charge for an additional year.

§ 203 — VO-AG EDUCATION CENTER GRANTS

The act requires SDE to allocate, for FYs 12 and 13, \$500,000 for grants to local and regional school districts operating vo-ag education centers. The money must be used for the following statutory grants: (1) \$500 per student for vo-ag centers with more than 150 out-of-district students attending the program, (2) a four-year phase-out grant for vo-ag centers that no longer serve more than 150 out-of-district students, and (3) \$60 per student for vo-ag centers that do not qualify under (1) or (2).

By law, if there are remaining funds after these grants are made, excess funding must be distributed as follows: \$100 per student and, if there are remaining funds, proportionate amounts to districts whose vo-ag centers enroll more than 150 out-of-district students, based on their relative numbers of out-of-district students in excess of 150.

§§ 204 & 205 — COLLEGE TRANSITION PILOT PROGRAMS

The act requires the education commissioner, in consultation with the higher education commissioner, to establish two college transition pilot programs. One is

an adult education program in three municipalities and the respective community colleges located in them. The adult education programs and colleges are (1) New Haven and Gateway Community College, (2) Manchester and Manchester Community College, and (3) Meriden and Middlesex Community College (which has a facility in Meriden). The other is separate from and in addition to the New Haven component of the other program and is at Hillhouse High School in New Haven and Gateway Community College. The programs must operate within existing budgetary resources or by applying for available federal, state, or private funding.

The adult education college transition pilot program must offer college preparatory classes to adults who (1) have a high school diploma or its equivalent and (2) require intensive postsecondary developmental education that will enable them to enroll directly, upon completing the pilot program, in a higher education institution program that awards college credit. The Hillhouse-Gateway program is the same except it is for high school students who have not yet gotten a high school diploma or equivalent.

The education and higher education commissioners must report to the Education and Higher Education and Employment Advancement committees by October 1, 2012 on the results of the pilot programs.

The reports, at a minimum, must include:

1. the number, ages, and educational history of the participating adults and high school students;
2. the dates each participated in the pilot;
3. the subject matter in which participants required developmental education;
4. a description of the college preparatory classes that were offered through the pilot;
5. participants' level of improvement in each subject in which the participant required developmental education;
6. the results of participants' college placement exams and the dates they were taken;
7. whether any participants applied for acceptance to, enrolled in, or registered for a higher learning program at a higher education institution before or after completing the pilot, and a description of the higher learning program; and
8. the cost of offering college preparatory classes through the pilot compared to offering the equivalent or similar secondary or postsecondary developmental education classes at an institution of higher education in this state.

§§ 206 & 207 — NEIGHBORHOOD YOUTH CENTER AND LEAP PROGRAMS

The act transfers the administration of the neighborhood youth center and the Leadership, Education, and Athletics in Partnership (LEAP) grant programs from OPM to SDE. It requires SDE rather than OPM to solicit competitive proposals for neighborhood youth center grants and convene an advisory committee to help review grant applications. It eliminates the OPM representative from the committee.

The neighborhood youth center grant supports neighborhood centers for youths between ages 12 and 17 in Bridgeport, Hartford, New Britain, New Haven, Norwalk, Stamford, and Waterbury. The LEAP Program is a model mentoring program operating in New Haven. It matches children, ages 7-14, from high poverty urban neighborhoods with trained high school and college student counselors to help children develop academic skills and self-esteem, improve their ability to succeed in school, and be involved in their community.

§ 208 — CAPITOL SCHOLARSHIP GRANT PROGRAM

The act places a moratorium for FY 12 and FY 13 on new students receiving financial assistance under the Capitol Scholarship grant program, while students who received grants in FY 11 continue to receive assistance. The act requires grants to be proportionately reduced if total program grants exceed the program's budgeted appropriation.

Capitol Scholarship grants are available to state residents who have not received a bachelor's degree and have been accepted at a postsecondary school, technical institute, college, or university in Connecticut, or in any other state that allows its students to bring state student financial assistance funds into Connecticut. Grant awards are based on academic performance and financial need. Maximum grants are \$3,000 per year for those attending in-state institutions and \$500 per year for those going out-of-state.

§ 209 — STATE LIBRARY OPERATING GRANTS

For FY 12 and FY 13, the act continues to suspend a requirement that, for a public library to receive a state library operating grant, its annual tax levy or appropriation not be reduced below the average amount for the three fiscal years immediately preceding the grant year. The requirement was also suspended for FY 10 and FY 11 under prior law.

§§ 211-227 & 230 — BOARD OF REGENTS FOR HIGHER EDUCATION

The act reorganizes the state system of higher education by establishing a 19-member (including 15 voting members) Board of Regents for Higher Education (BOR) to serve as the governing body for the Connecticut State University System (CSUS), the community-technical colleges (CTC), and Charter Oak State College. It allows the board to appoint and remove staff responsible for its own operation and that of these constituent units. BOR replaces the existing CSUS and CTC boards of trustees and the Board of State Academic Awards (BSAA), which governs Charter Oak. The act maintains UConn's board of trustees and makes changes to the budget process for UConn and the other constituent units.

The act eliminates the Board of Governors of Higher Education (BGHE) and the Department of Higher Education (DHE) and places DHE staff within (1) BOR and (2) the newly established Office of Financial and Academic Affairs for Higher Education (OFAAHE), which is within BOR for administrative purposes only. It also makes technical and conforming changes.

Membership

Under the act, BOR has 15 voting members. The governor appoints nine members to staggered six-year terms; the House speaker, Senate president pro tempore, and House and Senate minority leaders each appoint one member to a staggered four-year term; and the chairperson and vice-chairperson of the newly created student advisory committee (see *Student Advisory Committee* below) serve two-year terms. The governor appoints the board's chairperson to a three-year term in that position while the board elects a vice-chairperson and other officers.

The appointed members are subject to legislative confirmation, but the act allows the initial members to begin serving immediately upon appointment. Voting members may not be members of, or employed by, UConn's board of trustees or an independent institution's board of trustees. Additionally, the economic and community development, education, labor, and public health commissioners serve as ex-officio, nonvoting members. (By law, the economic and community development and education commissioners are voting members of UConn's board of trustees.) Table 5 shows the board's membership.

Table 5: Board of Regents Membership

<i>Appointing Authority</i>	<i>Number</i>	<i>Term Length</i>	<i>Other Requirements</i>
Governor	9	6 years	3 of the members have an initial 2-year term and 3 have an initial 4-year term
House speaker*	1	4 years	A specialist in K-12 education
Senate president pro tempore	1	4 years	A CTC alumnus
House minority leader	1	4 years	A Charter Oak alumnus; initial appointment is for three years
Senate minority leader*	1	4 years	A CSUS alumnus; initial appointment is for three years
Student Advisory Committee	2	2 years	The committee's chairperson and vice-chairperson serve on BOR. One must be from CSUS and one from CTC.
Ex-officio, nonvoting members	4	N/A	Economic and community development, education, labor, and public health commissioners

*(PA 11-61, § 106, reverses the House speaker's and Senate minority leader's appointments (but not the lengths of the initial terms) so that the House speaker appoints a CSUS alumnus and the Senate minority leader appoints a specialist in K-12 education.)

Duties

The act makes BOR the governing body for CSUS, CTC, and Charter Oak State College. BOR is not a successor agency to the existing boards of trustees. Rather, the act states that, beginning January 1, 2012 (see *Transition Period* below), BOR serves as the CSUS and CTC boards of trustees as well as the BSAA and assumes their existing powers and duties for the operation of the constituent units. Thus, while the act maintains numerous references to the respective boards of trustees and the BSAA, BOR, acting as the respective boards, must perform their functions.

The act requires BOR to establish terms and conditions for employing staff, prescribing their duties, and fixing the compensation of professional and technical personnel. It allows the board to appoint and remove (1) a chief executive for each institution in its jurisdiction and (2) executive staff for the respective constituent units. Under prior law, the constituent unit boards performed these duties.

The act eliminates the CSUS and CTC chancellor positions but requires BOR, upon the president's recommendation, to appoint two vice presidents to serve as BOR liaisons to CSUS and CTC, respectively. The act also transfers to BOR DHE's authority for approving new academic programs in public institutions (see below).

(PA 11-61, § 137, requires that (1) there be a BOR vice president for each constituent unit and (2) their duties be prescribed by BOR and the BOR president. Those duties must include oversight of academic programs, student support services, and institutional support.)

BOR President

The act establishes the position of president of the Board of Regents and requires the governor to appoint an interim initial president. Beginning January 1, 2012, BOR must recommend, and the governor appoint, the president, whose term is coterminus with the governor's and who is subject to legislative confirmation.

The president (1) is responsible for implementing the board's policies and directives; (2) directs the board's executive staff (which the act authorizes him or her to hire); and (3) administers, coordinates, and supervises the board's activities. Additionally, the president must:

1. build interdependent support and facilitate cooperation and synergy among CSUS, CTC, and Charter Oak;
2. balance central authority with institutional differentiation, autonomy, and creativity; and
3. implement a strategic master plan for higher education.

Budgeting

Under prior law, BGHE prepared a single consolidated public higher education budget request. The act instead requires BOR to prepare a consolidated request only for those constituent units under its jurisdiction (i.e., not for UConn) but maintains existing law's requirement that appropriations be made directly to the constituent units rather than as a single appropriation to BOR. It requires UConn to submit its budget request directly to OPM. Additionally, the act allows the Appropriations Committee 30 days, rather than 10 as under prior law, to approve or reject higher education allotment reductions exceeding 5%.

UConn

The act does not transfer many BGHE duties concerning UConn to BOR. For example, prior law required UConn's board of trustees to (1) establish policies and fulfill its duties in conformance with BGHE guidelines and (2) submit its budget request to BGHE. The act eliminates these requirements. However, among other things, it (1) transfers to BOR responsibility for approving new UConn degree programs and (2) requires UConn to submit a quarterly report to OPM through BOR on the actual expenditures of the UConn and

UConn Health Center operating funds.

Student Advisory Committee

The act establishes a student advisory committee (SAC) to BOR consisting of one student representative from each BOR institution (a total of 17 members), elected by their respective student government organizations for two-year terms. The act specifies that a student's membership on the committee terminates if he or she ceases to be a student in good standing, in which case a successor is elected to serve the remainder of the term.

The act requires the SAC, on a rotating basis among its members, to determine its chairperson and vice-chairperson by consensus voting. One of two must be a CSUS student and the other a CTC student. The chairperson and vice-chairperson serve as voting members of BOR. The SAC replaces the standing advisory committee to BGHE, which had consisted of trustees, faculty, staff, and students from various higher education institutions.

The SAC must meet at least biannually with BOR. Agendas for the meetings must be prepared and distributed beforehand and consist of matters recommended by the BOR chairperson, who also chairs the meeting, and the committee. SAC members may participate in discussions and deliberations but, except for the two student BOR members, cannot vote at such meetings.

Faculty Advisory Committee

The act also establishes a seven-member faculty advisory committee to BOR with three representatives each from CSUS and CTC and one from Charter Oak. It requires representatives and alternates to be elected by their respective constituent units' faculty senates for two-year terms. It requires the committee, on a rotating basis among its members, to elect its chairperson and vice-chairperson. One of two must be a CSUS member and the other a CTC member. The act requires the committee to (1) meet at least biannually with BOR, with the meetings subject to the same requirements as the SAC meetings, and (2) report annually, beginning January 1, 2012, to the Appropriations and Higher Education committees regarding the performance of its statutory functions and its meetings with BOR.

§§ 216, 220, 227, & 231 — HIGHER EDUCATION CONSOLIDATION TRANSITION PERIOD

Temporary Continuation of Existing Boards

The act requires the existing CSUS and CTC boards of trustees and the BSAA to remain in office from July 1, 2011 until December 31, 2011 in order to

facilitate the transition of duties and responsibilities to BOR. However, the BSAA and the existing boards of trustees cannot take any action after July 1, 2011 unless it is ratified by BOR.

The act also requires BOR, by December 1, 2011, to develop and implement a plan to maintain the constituent units' distinct missions. It must present the plan to the Appropriations and Higher Education committees by January 1, 2012 and continue to report annually on the plan.

Higher Education Consolidation Committee

The act establishes a Higher Education Consolidation Committee consisting of (1) the chairpersons, vice-chairpersons, and ranking members of the Appropriations and Higher Education committees and (2) the members of the Appropriations Committee's subcommittee on higher education. The Higher Education Committee co-chairpersons or their designees (who must be members of the Higher Education Committee) convene the consolidation committee, which must establish a meeting and public hearing schedule to receive updates from the BOR president on the consolidation's progress. The committee must meet on or before September 15, 2011 and at least every two months thereafter until September 15, 2012.

The act requires the Office of Legislative Management and OFAAHE to enter into a memorandum of understanding providing that up to \$100,000 appropriated to OFAAHE must be used by the consolidation committee to hire a consultant to assist with its duties.

§§ 228 & 229 — HIGHER EDUCATION COORDINATING COUNCIL

Duties

Under existing law, the Higher Education Coordinating Council must develop accountability measures for each constituent unit and public institution of higher education. The act requires the council, in developing accountability measures, to also consider (1) completions, (2) allocation of resources across expenditure functions, (3) revenue and expenditures broken out by program, and (4) patterns of students transferring into and out of the constituent units.

The act requires the measures to be used to assess each public institution's, rather than each constituent unit's, progress towards meeting certain goals. It also requires the measures to be available for inspection and separated by constituent unit, institution, campus, and program.

Additionally, the act requires the council to work with DOL to (1) produce periodic reports on the employment and earnings of students who leave the

constituent units, whether or not they graduated and (2) develop an annual affordability index for public higher education based on statewide median family income.

Membership and Reporting

Under prior law, each constituent unit had to submit an accountability report to the DHE commissioner, who compiled them and submitted a consolidated report to the Education Committee. The act instead requires (1) each public institution of higher education to submit its report to the BOR president by November 1, rather than December 1, annually and (2) the consolidated report to be submitted to the Higher Education Committee by December 1, instead of February 1, annually.

The act also adds the BOR president to the council (replacing the DHE commissioner), removes the chairpersons of the constituent unit boards of trustees, and requires the OPM secretary to call an annual meeting of the council.

(PA 11-61, § 107, modifies the council's membership by adding to it the (1) chairpersons of BOR and the UConn board of trustees and (2) BOR vice presidents for the constituent units.)

§§ 232-269 — OFFICE OF FINANCIAL AND ACADEMIC AFFAIRS FOR HIGHER EDUCATION

Duties

The act creates a new OFAAHE and places it within BOR for administrative purposes only. The office is led by an executive director appointed by the governor and subject to legislative confirmation. It requires the new office to administer several programs previously administered by DHE and BGHE, including, among other things:

1. oversight of private occupational schools;
2. granting authority to independent institutions to confer academic degrees and licensing and accrediting programs and institutions of higher learning (subject to final approval by SBE);
3. approving entities that were granted authority to confer degrees before July 1, 1935, but that did not exercise it until after that date;
4. the alternate route to teaching certification program;
5. scholarship and financial aid programs for Connecticut students attending public and private colleges and universities; and
6. the student community service fellowship program.

(PA 11-61, §§ 112 & 114, require BOR, rather than OFAAHE, to (1) assist in providing tutors for certain students and (2) administer certain community service programs.)

Private Occupational School Licensing Duties

The act transfers authority for approving applications for, and renewals of, operating authority for private occupational schools, as well as for revising or revoking that authority, from the higher education commissioner and BGHE to OFAAHE and SBE, respectively. It makes several conforming changes to carry out this transfer.

Under the act, applications for private occupational schools must be submitted to the OFAAHE executive director, who must appoint an evaluation team to review the application. Under prior law, the team had to include at least one member for each area of occupational instruction proposed at the school and two representatives of BGHE. The act changes the two board members to two representatives of public higher education institutions.

The act requires SBE to adopt regulations to carry out the provisions of the occupational school licensing statutes. In addition, it requires the OFAAHE executive director to oversee the private occupational school student (1) benefit and (2) protection accounts.

Licensing, Accreditation, and Degree-Granting Authority for Public and Independent Institutions

The act establishes two separate processes for approving new academic programs in higher education institutions. It transfers, from BGHE to SBE, the responsibility for licensing and accrediting independent higher education institutions and their programs and for granting such entities authority to award academic degrees. Under the act, SBE's authority in this area does not apply to the programs offered by the state's public higher education institutions. Rather, BOR has this authority over the public institutions, including UConn.

The act transfers most of the administrative responsibilities for licensing and accrediting independent institutions from BGHE and DHE to OFAAHE. It requires the office, rather than BGHE, to adopt implementing regulations and requires SBE to follow those regulations in evaluating and approving institutions and programs. It requires OFAAHE to investigate violations and allows it to ask the attorney general to sue to restrain or prevent violations and seek appropriate relief.

The act also requires the OFAAHE executive director to assume the higher education commissioner's previous authority to:

1. administer oaths and issue subpoenas in an investigation by the office,
2. serve notice of and assess administrative penalties for violating licensing and accreditation requirements, and

3. ask the attorney general to seek injunctions to prevent violations.

The act requires SBE, rather than BGHE, to hold a hearing on an appeal by anyone aggrieved by an administrative penalty assessed by the OFAAHE executive director.

The act is unclear regarding BOR's role in approving academic programs in public institutions. It appears that BOR issues final approval for proposed programs, but it is unclear whether it is BOR or OFAAHE that performs the administrative responsibilities for program approval described above.

§§ 286-301 — CAMPAIGN FINANCE

The act modifies state election laws on campaign finance, the Citizens' Election Program (CEP), and the State Elections Enforcement Commission (SEEC). Concerning campaign finance, the act, among other things:

1. authorizes testimonial affairs in honor of a candidate, statewide officer, or General Assembly member to raise funds for a party committee, not just the candidate or public official;
2. authorizes campaign treasurers to use a bank or cashier's check to pay a television company for advertising costs, provided the treasurer maintains documentation showing the payment came from the candidate committee's funds; and
3. specifies that, for campaign finance purposes "candidate committee" means one for a candidate who participates (i.e., participating candidate) or does not participate (i.e., nonparticipating candidate) in the CEP, unless a provision clearly indicates otherwise.

With respect to the CEP, the act, among other things:

1. revises the grant application and payment schedule, giving the SEEC more time to review applications; and
2. revises the schedule for submitting supplemental campaign finance statements and reporting excess expenditures.

Concerning the SEEC, the act reduces term lengths for members and prohibits consecutive terms. It requires the commission to keep certain information about complaints and preliminary investigations confidential and restricts the number of legislative candidates it may audit after an election. It requires the commission to list organization expenditures on its homepage and makes technical and conforming changes.

§§ 286 & 288 — *Campaign Contributions*

Existing law places limits on contributions made to benefit candidate committees, party committees, and political committees (known as PACs) and subjects the contributions to campaign finance reporting requirements. However, the law creates exemptions for certain items and services under the definition of contribution. Thus, these items and services need not be reported as contributions. The act expands the list of items and services that are not considered contributions. In certain instances, it applies the exemptions for party committees to slate committees and PACs.

De Minimis Activities. Existing law exempts from the definition of contribution certain de minimis campaign activities that benefit PACs and party, slate, and candidate committees, including those for participating and nonparticipating candidates. The act expands the list of de minimis activities to include:

1. receiving, not just sending, without compensation, e-mail or messages;
2. an individual using up to \$100 per election or calendar year, as applicable, in (a) personal items or services that are customarily associated with occupying a residence or (b) donated personal property customarily used for campaign purposes to benefit a candidate committee;
3. posting or displaying the name or names of one or more candidates at a town fair, county fair, local festival, or similar gathering by a party committee; and
4. voluntarily creating electronic or written communications, including ongoing content development and social media on the Internet or a phone.

Under the act, “social media” means an electronic medium where users may create and view user-generated content, such as uploaded or downloaded videos, still photographs, blogs, video blogs, podcasts, or instant messages.

Volunteer Services and Travel Costs. By law, volunteer services provided by individuals are not considered campaign contributions. The act specifies that the exemption applies when individuals provide volunteer services to party committees, PACs, slate committees, and candidate committees, including those for participating and nonparticipating candidates.

The act exempts as a contribution all travel expenses incurred by a volunteer. Under prior law, travel expenses over \$200 per election for volunteers to a single candidate and over \$400 per calendar year for volunteers to a state central or town committee were considered contributions. The act specifies that people are considered volunteers when they do not receive compensation for the services they provide, regardless

of whether they did in the past or may in the future.

Business Donations. The act raises, from \$100 to \$200, the contribution exemption for donated goods and services by a business entity for a fundraiser. By law, the exemption applies to any committee.

Ad Books and Advertising Space on Signs. The act extends to advertising space on a sign at a fundraising affair the existing law’s ad book limits, i.e., \$250 for purchases by a business entity and \$50 for purchases by an individual.

Discounted Food. The act (1) raises the exemptions for discounted food and drinks sold to a candidate or party committee and (2) extends them to slate committees and PACs. Specifically, it raises the exemption from \$200 to \$400 for candidate committees and applies it separately to a single primary or general election. Prior law applied the exemption to a single election. The act also raises the exemption from \$400 to \$600 in a calendar year for party committees and applies it to slate committees and PACs.

Donated Food. Existing law exempts the cost of food and drink donated by an individual, up to a total of \$50, to be consumed at a single slate, candidate, legislative caucus, legislative leadership, or party committee meeting or event, other than a fundraiser. The act extends the exemption to PAC meetings and events.

Food Sold by a Town Committee. Existing law exempts the sale of food or beverages, up to \$50, sold by a town committee to an individual at a town fair, county fair, or similar mass gathering. The act extends this exemption to local festivals.

Personal Property. The act raises, from \$50 to \$100, the maximum allowable exemption for an item of personal property donated to or purchased at a committee’s fundraising affair.

Slate Cards. The act changes the exemption for costs associated with preparing, displaying, or distributing slate cards, sample ballots, or other printed material that list the names of three or more candidates. Specifically, it eliminates the exemption for PACs and individuals, but extends it to slate committees. It retains the exemption for party committees.

Security Deposits. Existing law establishes a contribution exemption for security deposits made by an individual for a committee’s phone service, provided he or she receives a refund. The act extends this exemption to cover security deposits to any utility company, such as an electric company.

“House Parties.” The act:

1. raises the exemption for costs associated with hosting a house party (i.e., cost of invitations, food, drinks, and using real and personal property);
2. creates exemptions for two or more people hosting a house party, provided at least one

- resides at the residence where the party is held;
- 3. extends the house party exemption to a community room in a person’s residential facility; and
- 4. extends the exemption to house parties given on behalf of a slate committee or PAC.

The act’s exemption for an individual hosting a candidate party applies to a single event for one candidate during a primary or general election. Under prior law, the exemption applied to one candidate during an election cycle.

The act’s exemption for an individual hosting an event for a party committee, slate committee, or PAC applies to a single event for one committee during a calendar year or a single election, whichever applies. Under prior law, the threshold applied to all party committees during a calendar year.

The act’s exemption for two or more individuals hosting an event sets a threshold for each event and also a threshold for each of the two individuals (e.g., one person may host multiple events per year or election with different people.) Table 6 shows the exemptions.

Table 6: Maximum Exemptions for House Parties

"Donor"	Recipient: Individual Candidate	
	Prior Law	Act
Individual Acting Alone	\$200 per candidate per single election	\$400 per event, per candidate, per election or primary
Individual Acting as Part of Two or More <i>(see below)</i>	N/A	\$800 per candidate per single election
Event hosted by Two or More People <i>(at least one lives on the premises)</i>	N/A	\$800 per event
"Donor"	Recipient: Party Committee	
	Prior Law	Act
Individual Acting Alone	\$400 for all party committees per calendar year	\$400 per event, per committee, per calendar year
Individual Acting as Part of Two or More <i>(see below)</i>	N/A	\$800 per committee per calendar year
Event hosted by Two or More People <i>(at least one lives on the premises)</i>	N/A	\$800 per event

Table 6: Continued

"Donor"	Recipient: Slate Committees and PACs	
	Prior Law	Act
Individual Acting Alone	N/A	\$400 per event, per committee, per single election or calendar year, whichever applies
Individual Acting as Part of Two or More <i>(see below)</i>	N/A	\$800 per committee per single election or calendar year, whichever applies
Event hosted by Two or More People <i>(at least one lives on the premises)</i>	N/A	\$800 per event

N/A means not applicable.

Joint Checking Accounts. By law, campaign treasurers must equally divide campaign contributions from joint checking account holders who co-sign the check. The act creates an exception to the law by allowing the account holders to submit a written statement indicating how they want the contribution attributed.

Anonymous Contributions. The act changes the procedure for handling anonymous contributions by requiring campaign treasurers to remit those of any amount to the SEEC for deposit in the General Fund. Under prior law, treasurers had to remit anonymous contributions of more than \$15 to the state treasurer, who then deposited them in the General Fund.

§ 290 — Reporting Organization Expenditures

By law, organization expenditures are made by legislative caucus, legislative leadership, or party committees for the benefit of candidates or their committees. They are not considered campaign contributions.

Existing law requires each campaign finance statement that a legislative caucus, legislative leadership, or party committee treasurer files to include an itemized accounting of organization expenditures made to benefit participating legislative candidates. The act expands this requirement to also include organization expenditures made to benefit (1) nonparticipating legislative candidates and (2) all statewide office candidates.

Existing law, unchanged by the act, requires a committee that makes an organization expenditure to notify the benefitted candidate committee. The act eliminates the requirement that these notifications include the expenditure’s amount and purpose. It also

eliminates the requirement that the treasurer of the benefitted candidate committee file a statement with the SEEC listing the (1) committee that made the expenditure and (2) amount and purpose, if known.

Instead, the act requires the SEEC to post a link on its website's homepage listing all organization expenditures reported by any legislative leadership, legislative caucus, or party committee. The list must include information on the committee making the expenditure, the committee receiving the expenditure, and the expenditure's date and purpose.

§§ 287 & 289-290 — Campaign Finance Statements

Existing law requires the following committees and individuals to file periodic campaign finance statements with the SEEC: (1) candidate committees for statewide, legislative, and probate judge offices; (2) party committees; (3) individual lobbyists; and (4) PACs, other than those formed to aid or promote the success or defeat of a municipal referendum or municipal office candidates.

Required Information. The act eliminates a requirement for candidate committees, PACs, and party committees to include in their periodic campaign finance statements:

1. the total amount and denomination of money received from anonymous contributors;
2. the names of people who purchase items totaling \$100 or less at a fundraiser or food at a town fair, county fair, or similar gathering;
3. the names of people who donate food or beverages for a meeting; or
4. costs associated with permissible de minimis activities.

It requires these committees to include in their statements:

1. whether a person contributing over \$400 in the aggregate to a slate committee financing a candidate for chief executive officer of a town, city, or borough has, or is associated with, a business that has a contract valued at over \$5,000 with the town, city, or borough and
2. the name and address of any person or business that purchased ad space on a sign at a fundraiser and the aggregate amount.

The act specifies that treasurers need not retain receipts related to de minimis activities.

Duplicate Reporting. The act eliminates duplicate filing requirements for campaign finance statements. Specifically, it eliminates the requirement that (1) town committees file copies of reports with the applicable town clerks since they also file with the SEEC and (2) slate committees for the office of justice of the peace file a duplicate report with the SEEC since they also file with the applicable town clerk. It eliminates a

requirement that individual lobbyists file with the SEEC since the law requires them to file periodic financial reports with the Office of State Ethics.

Filing Exemption. Under prior law, candidates in a primary or general election had to file periodic campaign finance reports, unless they were exempt. Certain candidates had to also file supplemental campaign finance statements. The act eliminates this dual filing requirement by allowing a supplemental statement to satisfy the requirement for the periodic campaign finance statement due to the SEEC on the seventh day before a regular election (see *Excess Spending and Reporting* below).

Covered Period. The act slightly expands the period that periodic campaign finance statements must cover but maintains existing deadlines for submitting them. Under the act, monthly statements must include information through 11:59 p.m. on the last day, rather than simply on the last day, of the month before the filing deadline. Statements required to be filed seven days before an election, primary, or referendum must include information through 11:59 p.m. on the second, rather than the seventh, day preceding the filing deadline.

Timely Submission. Under the act, to be considered timely, periodic campaign statements must not just be postmarked by the filing deadline, but the SEEC must receive them by a specified time on the filing deadline. To be deemed timely, the SEEC must receive hard copies by 5 p.m. and electronic submissions by 11:59 p.m. on the filing deadline. "Authorized electronic" methods include e-mail, fax, and SEEC-created web-based programs.

The act specifies that grant applications, supplemental campaign finance statements, and independent expenditure reports are considered timely when they are filed according to the procedures under existing law.

§ 290 — Certifying Contributions over \$50

The law prohibits principals of state and prospective state contractors and their immediate family members from making contributions to (1) candidate and exploratory committees for statewide and legislative candidates, (2) PACs authorized to contribute to these candidates, and (3) party committees. It places a \$100 limit on contributions to these committees from communicator lobbyists and their family members.

Under prior law, individuals who made such contributions that separately or in the aggregate exceeded \$50 had to certify that they were not a principal of a state or prospective state contractor. But they also had to certify that they were neither a communicator lobbyist nor the immediate family member of one, even though the law permits these

individuals to make contributions of up to \$100.

The act changes this procedure by requiring individuals who make contributions exceeding \$50 to instead (1) provide their status as a communicator lobbyist, immediate family member of a communicator lobbyist, state or prospective state contractor, or such a contractor's principal and (2) certify that they are not prohibited from making a contribution to any of these candidates or committees. The law, unchanged by the act, requires them to also provide the name of their employer.

The act requires the SEEC to amend the sample form upon which certifications are made to include an explanation of the terms "immediate family," "state contractor," and "prospective state contractor." The form already explains "communicator lobbyist" and "principal of a state contractor or principal of a prospective state contractor."

The act requires treasurers to keep only one certification per contributor, unless non-financial information changes. Treasurers who deposit a contribution based on a certification have a complete defense in any action taken against them concerning the contribution, including any investigation that the SEEC initiates or conducts based on a complaint.

§ 290 — Surplus Distributions and Post-Election Payments

By law, candidate committees and political committees, other than ongoing PACs or exploratory committees, must spend or distribute surplus funds after (1) a primary if the candidate loses, (2) an election, or (3) a referendum.

The act extends the distribution deadline from January 31st to March 31st following an election or referendum held in November, unless a candidate uses the surplus to comply with a post-election audit by the SEEC. For these candidates, the act extends the distribution deadline from (1) within 90, to within 120, days after (a) an election or referendum not held in November or (b) a primary resulting in a defeat or (2) January 31st to June 30th following an election or referendum held in November.

"Thank You" Parties. The act authorizes participating candidates to host a meal after an unsuccessful primary or an election to acknowledge committee workers' efforts. The meal must be provided no later than 14 days after the primary or election, whichever is applicable. The cost for meals cannot exceed \$30 per worker.

Treasurer Payment. The act authorizes participating candidates to use any remaining funds after an election or unsuccessful primary to make a payment of up to \$1,000 to their campaign treasurer for services rendered. By law, candidates may compensate

without limitation (1) campaign and committee staff and (2) attorneys, accountants, consultants, or other professionals for services during a campaign.

§ 291 — Exemption from Affidavit of Intent to Participate in the CEP

By law, candidates who finance their campaigns entirely from personal funds or do not receive or spend over \$1,000 from other sources are not required to form a candidate committee and must attest to their eligibility for this exemption in a sworn statement. If these candidates do not intend to participate in the CEP, the act exempts them from the requirement to file an affidavit certifying their intent to abide or not abide by the program's spending limits. Like other candidates who do not intend to participate, they are called "nonparticipating candidates."

§ 292 — CEP Qualifying Contributions (QCs)

To participate in the CEP, candidates must qualify by raising a specified amount in small donations, known as QCs. The act specifies that "individuals" include sole proprietorships, thus allowing them to make QCs. In addition, it prohibits contributions by minors under age 12 from counting as QCs. By law, minors under age 18 can contribute a maximum of \$30 to (1) exploratory and candidate committees and (2) PACs and party committees in a calendar year.

§§ 293 & 294 — CEP Grant Applications

By law, each participating candidate and campaign treasurer must sign the CEP grant application. The application must include certain written certifications and a cumulative itemized accounting of all funds received, expenditures made, and expenses incurred but not yet paid. The act requires the itemized accounting to cover campaign finances as of three days preceding the date the application is actually filed, rather than three days before its filing deadline.

The act also (1) establishes (a) the first Wednesday, rather than Thursday, in May as the earliest date when participating candidates may apply for a grant and (b) subsequent Wednesdays, rather than Thursdays, for later application submissions; (2) extends, from four to five business days and from four to 10 business days, the time that the SEEC has to review most applications from legislative candidates and statewide office candidates, respectively; and (3) specifies that the SEEC will not review general election grant applications it receives during the seven business days before the final primary application deadline, until five or 10 business days, as applicable, after the next application deadline.

§ 295 — *Excess Spending and Reporting*

The act (1) revises the procedure for submitting supplemental campaign finance statements and for reporting excess expenditures, (2) deems candidates who submit supplemental campaign finance statements to have satisfied the campaign finance report filing requirement for seven days preceding a primary or election, and (3) requires supplemental statements to include the same information as periodic campaign finance statements (see *Required Information*, above).

Supplemental Campaign Finance Statements. Under prior law, if a candidate in a primary or general election campaign with at least one participating candidate received contributions, loans, or other funds, or made or became obligated to make an expenditure that in the aggregate exceeded 90% of the applicable spending limit for the primary or general election period, his or her campaign treasurer had to file a supplemental campaign finance statement with the SEEC. Thereafter, the campaign treasurer for every candidate in the race had to file periodic supplemental campaign finance statements according to a specified schedule.

The act eliminates the 90% threshold. Instead, it requires the campaign treasurer of each candidate in a primary or general election campaign with at least one participating candidate to file weekly supplemental campaign finance statements:

1. for a primary campaign, on the Thursday following the July filing date set by law, and every subsequent Thursday, including the one before the primary and
2. for a general election campaign, on the Thursday following the October filing date, and every subsequent Thursday, including the one before the election.

The act eliminates the supplemental reporting requirement for candidates who spend under \$1,000. Those who spend \$1,000 or more are subject to the requirement. The act similarly eliminates the requirement for unopposed participating candidates, provided they file a supplemental statement on the last Thursday before a primary or general election, whichever applies. Supplemental statements must cover the first day not included in the last statement through 11:59 p.m. on the second day preceding the filing deadline.

Excess Expenditures. Under prior law, each campaign treasurer of a candidate in a primary or general election campaign with at least one participating candidate had to file a declaration of excess receipts or expenditures when the candidate committee received contributions, loans, or other funds, or made or became obligated to make an expenditure that, in the aggregate, exceeded 100% of the applicable spending limit. The

treasurer had to do the same if the candidate had receipts or expenditures that, in the aggregate, exceeded 125%, 150%, or 175% of the applicable spending limit for the primary or general election.

The act eliminates the excess expenditure reporting requirement for nonparticipating candidates. For participating candidates, the act (1) bases reporting on their expenditures only and (2) eliminates filings at the 125%, 150%, and 175% thresholds.

The reporting schedule remains the same. A candidate who exceeds the applicable threshold must file the declaration of excess expenditures with the commission within 48 hours; one who exceeds the applicable threshold 20 or fewer days before the primary or election, must file the declaration within 24 hours.

The act specifies that declarations of excess expenditures must cover the first day not included in the last statement through 11:59 p.m. on the first day preceding the filing deadline.

§§ 299-301 — *SEEC*

Commission Members. The act reduces the terms of SEEC members appointed on or after July 1, 2011, from five to three years. As of the same date, it prohibits members from serving consecutive terms, except sitting members may serve until their successor is appointed and qualifies.

Complaints and Preliminary Investigations. Unless the campaign treasurer, deputy treasurer, chairperson, or candidate affiliated with a committee that is the subject of a complaint or preliminary investigation by the SEEC requests otherwise, the act requires the commission to keep information concerning the complaint or investigation confidential until it determines that a full investigation is necessary.

Audits. The act prohibits the SEEC from auditing more than 50% of legislative candidate committees after an election or primary. It requires the SEEC to (1) randomly select by lottery the legislative candidate committees that it will audit, (2) audit all statewide office candidate committees, and (3) notify those committees of the audit no later than May 31 following the election for the office sought.

EFFECTIVE DATE: Most of the campaign financial provisions are effective January 1, 2012 and applicable to primaries and elections held on or after that date. Provisions on the SEEC and eliminating duplicate campaign finance statements for town committees are effective on passage, and those concerning payments to television companies are effective July 1, 2011.

§ 305 — PLACING CHILD UNDER AGE SIX OR SIBLING GROUP IN GROUP HOME

The act repeals a provision of PA 11-44 that generally prohibited the Department of Children and Families commissioner from placing any child under age six, or any sibling group including a child under that age, in a child care facility (group home).

§ 306 — REPEAL OF DOMESTIC TELEPHONE COMPANY ASSESSMENT FOR DEVICES FOR DEAF AND HEARING IMPAIRED

PA 11-44 (§ 38) (1) removes a 1992 deadline for telephone companies to pay assessments into a fund to help pay for telecommunication devices for the deaf and hearing impaired, (2) substitutes the new Bureau of Rehabilitative Services director for the Commission on Deaf and Hearing Impaired as the entity responsible for administering the fund, and (3) eliminates related obsolete provisions.

The act repeals the underlying law, which effectively eliminates the requirement that telephone and telecommunications companies that provide equipment to their customers (1) make special equipment to serve deaf and hearing impaired people available for rental or purchase and (2) take responsibility for maintaining and repairing this equipment. Federal law imposes similar requirements on telecommunication companies and equipment manufacturers.

BACKGROUND

Soldiers', Sailors', and Marines' Fund

The SSMF is a self-sustaining trust fund created by the legislature in 1919 to provide benefits, such as food, clothing, medical, surgical, and funeral assistance to needy wartime veterans honorably discharged from active service in the U.S. Armed Forces, their spouses living with them or who lived with them when they died, and dependent children under age 18.

Planning Regions

By law, OPM must designate local planning regions within the state (CGS § 16a-4a (4)). It has assigned towns to each of 15 designated planning regions. Through local ordinance, the municipalities within each of these planning regions have voluntarily created one of the three types of regional planning organizations to carry out a variety of regional planning and other activities on their behalf.

Starting by January 1, 2012, the law requires the OPM secretary to analyze regional boundaries at least once every 20 years and redesignate them if necessary.

Before doing so, he must develop criteria to evaluate how urban centers affect neighboring towns. At a minimum, the criteria must evaluate environmental and economic development trends, including housing, employment levels, commuting patterns for the most common types of jobs, traffic patterns on major roads, and changes in how people see social and historic ties. The criteria must also specify a minimum size for logical planning areas based on the number of municipalities, total population, and total square mileage (CGS § 16a-4c).

Administrative Per Se Suspensions

These are suspensions the DMV commissioner must impose on drivers who refuse to submit to a test or whose test results indicate an elevated BAC; they are in addition to any suspension penalties imposed for conviction of any criminal DUI charge. By law, the commissioner must suspend the license of a person with a BAC of between 0.08 and 0.16 for 90 days for a first offense; nine months for a second offense; and two years for a third or subsequent offense. The license suspension period for a driver who refuses to take a test is six months for a first offense, one year for a second offense, and three years for a third or subsequent offense.

DUI Convictions

The law considers a subsequent DUI conviction one that occurs within 10 years of a prior conviction for the same offense. In practice, a driver's first DUI conviction is usually for the driver's second violation. By law, an individual charged with DUI, or, if under 21, operating a vehicle with a BAC of 0.02% or more, may apply to the court for admission to a Pretrial Alcohol Education Program (CGS § 54-56g). The applicant must state under oath that he or she has not been in the program in the preceding 10 years, or ever, if under age 21. The court must dismiss the DUI charges if the driver satisfactorily completes the program.

"Safe Harbor" Under the No Child Left Behind Act

Connecticut's education accountability law (CGS §10-223e) and the federal NCLB Act (P.L. 107-110) impose sanctions on schools and school districts that fail to make AYP towards proficiency in specified subjects for all students, including those in identified subgroups (economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency (LEP)). The determination of AYP is based on measurable objectives, including student performance on annual statewide tests.

Under the federal law, in order for a school or a school district to make AYP, both of the following must happen each year:

1. all students and the students in each subgroup must meet or exceed the state's measurable objectives and
2. at least 95% of both the school's total enrollment and the students in each subgroup must take the tests (with allowable accommodations and alternative assessments for certain LEP and disabled students).

The so-called "safe harbor" provision provides an exception to the first of these requirements. It provides that, if any of the subgroups does not meet the objectives, the school must still be considered to have made AYP for the year if (1) the percentage of students in the subgroup who did not reach proficiency declined at least 10% from the year before and (2) the subgroup also made progress on one or more of the state's other non-test indicators.

Related Act

PA 11-51 contains ignition interlock provisions identical to those in §§ 51-57 & 307 of this act.

PA 11-51—HB 6650 *Emergency Certification*

AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING THE JUDICIAL BRANCH, CHILD PROTECTION, CRIMINAL JUSTICE, WEIGH STATIONS AND CERTAIN STATE AGENCY CONSOLIDATIONS

SUMMARY: This act makes many changes to implement the state budget, including reorganizing state agencies. Among other things, it:

1. dissolves the Department of Public Works (DPW), establishes a Department of Construction Services (DCS) as its successor for purposes of construction and construction management, and shifts some DPW duties to the Department of Administrative Services (DAS) and others to the Office of Policy and Management (OPM);
2. divides, between the State Department of Education (SDE) and DCS, responsibility for reviewing and approving school construction grant applications;
3. dissolves the Department of Information Technology (DOIT) and makes DAS its successor;
4. eliminates the Department of Public Safety (DPS) and the Department of Emergency

Management and Homeland Security (DEMHS) and creates the Department of Emergency Services and Public Protection (DESPP) as a successor agency, with some exceptions; and

5. eliminates the Division of Special Revenue (DSR) and transfers its responsibilities to the Department of Consumer Protection (DCP), its successor agency.

The act makes criminal justice changes including allowing the Department of Correction (DOC) commissioner to award inmates risk reduction earned credits and release certain inmates to home confinement.

The act also makes changes affecting weigh station supervision and the suspension period for drivers convicted of driving under the influence (DUI). The following sections of the act make technical and conforming changes in addition to those discussed below: §§ 141, 142, 144, 145, 153-161, 163, 166, 169-172, 176-179, & 181.

EFFECTIVE DATE: July 1, 2011 unless noted below.

§§ 1-20 & 223 — CHANGES RELATED TO CHILDREN'S MATTERS AND PUBLIC DEFENDERS

Transfer of Functions from Commission on Child Protection to Public Defender

Under prior law, the Commission on Child Protection (CCP) was required to ensure that children and indigent parents who required legal services and guardians ad litem (GALs) in child protection, child custody, and child support cases received high quality representation from people knowledgeable and trained in the law applicable to these cases. The chief child protection attorney, who served at the CCP's pleasure, was responsible for establishing the system of legal representation and ensuring its quality.

The act eliminates the CCP and the position of the chief child protection attorney. It makes the Public Defender Services Commission (PDSC) the successor to the CCP, and transfers all of the CCP's functions, powers, and duties to the PDSC. The chief public defender assumes the duties previously assigned to the chief child protection attorney. Among other things, the chief public defender must train, supervise, and pay Division of Public Defender Services (DPDS) assigned counsel.

§§ 2, 3, & 7 — *Legal Services and Guardians Ad Litem for Children, Youth, and Others*

The act transfers to DPDS the chief child protection attorney's duty to provide (1) legal services and GALs to children, youth, and indigent respondents in family

relations matters when the state has been ordered to pay the individual's legal costs and (2) legal services and GALs to children, youth, and indigent parties in civil juvenile matters before the Superior Court. As under prior law regarding the CCP, the act permits the court to direct the division to provide assigned counsel to indigent respondents only in family relations matters concerning paternity and contempt proceedings. The act makes several related conforming changes, including requiring DPDS to establish training, practice, and caseload standards for assigned counsel.

Prior law authorized the chief child protection attorney, in carrying out these requirements, to contract with appropriate not-for-profit legal services agencies and lawyers to represent children and indigent parties in such proceedings. The act transfers this authority to the Office of the Chief Public Defender, as well as specifically authorizing the office to contract with mental health professionals to serve as GALs in family relations matters. As under prior law, the act specifies that any such contract may include terms that encourage or require the use of a multidisciplinary agency model of legal representation.

The act requires the chief public defender to maintain a list of trial lawyers who may represent children, parents, or guardians in child protection and family relations matters as described above. (The law already requires her to maintain a list of trial attorneys for criminal habeas corpus and delinquency matters.)

The law authorizes a public defender to represent an indigent defendant prior to his or her appearance in court in a criminal, criminal habeas corpus, extradition, or delinquency case. The act specifies that DPDS assigned counsel may also represent such defendants, as well as indigent children, youths, respondents, or parties, until the court assigns them an attorney.

The law requires people receiving appointed public defender services based on indigency to reimburse expenses for such services when financially able to do so. The act extends these requirements to parents, guardians, children, or youth receiving appointed DPDS counsel as described above.

§§ 1, 4, & 8 — Income and Eligibility

By law, the PDSC must adopt rules relating to the operation of the Public Defender Services Division. The act specifies that these rules must include income and eligibility guidelines for representing indigent people. PDSC already has such guidelines for those on trial for misdemeanors, felonies, and delinquency.

The act specifies that existing provisions in the public defender law regarding eligibility of minors for public defender services do not apply to minors receiving the services described above in family relations matters and juvenile matters in Superior Court.

For such matters, the act applies the same procedures for determining eligibility for counsel as applied in the CCP statutes that the act repeals.

§§ 2, 5, 9-11, 15, & 19 — Change from Special Assistant Public Defender to DPDS Assigned Counsel

Under prior law, Superior Court judges could appoint a special assistant public defender on a contractual basis in an appropriate case. The appointment was temporary and was paid for by the PDSC. The act eliminates the position of "special assistant public defender" and replaces it with "Division of Public Defender Services assigned counsel." Among other conforming changes, the act specifies that division-assigned counsel are entitled to the same immunity from personal liability that state officers and employees (including other public defenders) possess.

The act also specifies that the chief public defender's duties include supervising the training of division-assigned counsel. She is already responsible for supervising the training of other public defenders, assistant public defenders, deputy assistant public defenders, and other staff.

The act specifies that juvenile court records can be disclosed to DPDS employees who require access to the records in the performance of their duties related to division-assigned counsel.

§ 12 — Public Defender Privileged Communications

Consistent with existing law, the act provides that confidential communications (whether oral or written) between a public defender and someone he or she has been appointed to represent, as well as any records the public defender prepares in rendering legal advice to such person, are privileged and cannot be disclosed by the public defender unless the client gives his or her informed consent to waive the privilege. This privilege and prohibition on disclosure extends to any civil or criminal case or proceeding, as well as any legislative or administrative proceeding. These protections extend to anyone considered to be an "indigent defendant" in the public defender law, including those people added to the indigency definition by the act (see § 6 below).

The confidentiality provisions apply to the chief public defender; deputy chief public defender; public defenders, assistant, and deputy assistant public defenders; DPDS assigned counsel; and division employees.

For purposes of waiving the privilege, the act applies the same definition of "informed consent" as applies in the Rules of Professional Conduct for attorneys. Under those rules, informed consent is agreement by a client to a proposed course of conduct after the lawyer has communicated adequate

information and explanation about the material risks of, and reasonably available alternatives to, the proposed course of conduct (Rule 1.0(f)).

§§ 2 & 20 — Reporting Requirements

By law, the chief public defender must submit an annual report to the PDSC. The report must include information on the costs, projected needs, and recommendations for statutory changes or changes to court rules that are appropriate to improve the criminal justice system, offender rehabilitation, and related objectives. The act requires the report to also recommend such changes related to the representation of children and parents or guardians in child protection and family relations matters.

The act requires the chief public defender, by January 2, 2012, to submit a report to the Appropriations and Judiciary committees on (1) the status of the transfer of the CCP's functions, powers, and duties to the PDSC in accordance with the act and (2) any recommendations for further legislative action concerning this transfer.

§§ 16 & 17 — Abuse and Neglect Cases

Child's Attorney Also Acting as Guardian Ad Litem. Children who are subjects of abuse and neglect litigation generally have an attorney to represent their wishes (legal interests) and a GAL to represent their best interests. Prior law required the child's attorney to simultaneously perform both functions, creating a conflict when the child's legal choices contradict what the attorney determines are in the child's best interests. In cases where there is a conflict, prior law allowed the child's attorney to notify the court and the court to appoint a separate GAL. The act requires the attorney to act solely in the child's legal interests rather than as both an attorney and GAL.

Appointment of Attorneys. Under the act, the office of the Chief Public Defender, rather than the judge, assigns attorneys to represent children in abuse and neglect proceedings. But it continues to allow judges to appoint them based on immediate need. In either case, the judge must give the parties advance notice of the assignment or appointment.

Under the act, when a child who needs representation in an abuse or neglect case is already represented in an ongoing probate or family matter, the judge can appoint that attorney to represent the child in the abuse or neglect matter. The judge must notify the office of the Chief Public Defender when doing this. The appointed attorney must be knowledgeable about representing such children.

Appointment of a GAL. The act narrows the circumstances under which a GAL is appointed. Under

prior law, a GAL was appointed automatically at the beginning of every abuse and neglect case (with the child's attorney fulfilling both roles) and a separate GAL was appointed as soon as a conflict arose between the child's wishes and legal interests. Under the act, GALs do not serve in all abuse and neglect cases.

Under the act, either the court or the child's attorney can determine that the child cannot adequately protect his or her best interests. If the attorney then determines that following the child's wishes could lead to substantial physical, financial, or other harm, the child's attorney may ask, and the judge may order, that a separate GAL be assigned. The court must either appoint a volunteer GAL or direct the office of the Chief Public Defender to assign a GAL. A GAL already representing the interests of the child in another matter cannot be selected in the current matter (if it is determined that appointment of a GAL is necessary).

Role of a GAL. By law, the GAL need not be an attorney but must be knowledgeable about the needs and protection of children. The act additionally requires that a GAL be knowledgeable about relevant court procedures. The act eliminates provisions requiring the GAL to (1) act in conformity with the Rules of Professional Conduct (which do not regulate non-attorney conduct) and (2) speak on behalf of the child's best interests. The act instead requires the GAL to perform an independent investigation and allows the GAL to present at any hearing information pertinent to the court's best interests determination. He or she may be cross-examined at the opposing attorney's request.

Removal of Attorney for Cause. By law, when a GAL is appointed in a case, the child's attorney generally continues to represent the child's legal interests unless the court finds good cause for removal. Under the act, when such good cause is found, the judge must notify the office of the Chief Public Defender and that office, rather than the court, must assign a different attorney.

Fees. Previously, the law required the court to pay attorneys and GALs when the parents or the child's estate could not do so. Under the act, the office of the Chief Public Defender pays the fees unless the parents, guardian, or child's estate are able to pay. When some ability to pay is established, the court must assess the rate and the office of the Chief Public Defender may seek reimbursement from the parents, guardians, or the estate.

Counsel for Relatives Who Intervene. The act specifies that relatives allowed to intervene in a case regarding temporary custody or permanent guardianship of neglected or abused children or youth are not entitled to court-appointed counsel or representation by division-assigned counsel, except as provided in the law requiring courts to appoint attorneys in certain circumstances in juvenile court proceedings.

§§ 6 & 18 — *Appointment of Attorney in Juvenile Matters*

By law, unchanged by the act, courts must appoint attorneys to represent children or youth, guardians, and parents in juvenile court proceedings and appeals when justice requires it. Judges must provide attorneys to represent a child in an abuse or neglect or termination of parental rights case. The act transfers from CCP to DPDS the duty to (1) set the compensation rate for such attorneys and (2) pay for attorneys appointed under these provisions.

The act specifies that in the public defender statutes, “indigent defendant” includes (in addition to those already included) anyone who has a right to counsel under the provisions described above and who lacks the financial means when requesting representation to secure competent legal representation and to provide other necessary expenses of such representation.

§ 21 — INTENSIVE PROBATION

The act expands probation officers’ responsibilities. Under the act, probation officers:

1. must provide intensive pretrial supervision services when the court orders them to,
2. must complete alternative sentencing plans for people who enter a stated plea agreement with a prison term of up to two years when the court orders them to, and
3. may evaluate and develop a community release plan for people sentenced to a prison term of up to two years who have (a) served at least 90 days in prison and (b) complied with DOC prison rules and necessary treatment programs.

If an officer develops a community release plan for an offender under the act, the officer must apply for a sentence modification hearing. By law, the sentencing court can, if it finds good cause after holding a sentence modification hearing, (1) reduce a person’s sentence, (2) discharge the defendant, or (3) discharge the defendant on probation or conditional discharge for a period of up to the time the defendant could have been originally sentenced.

The act requires the Judicial Branch’s Court Support Services Division to develop guidelines for performing these functions.

EFFECTIVE DATE: Upon passage

§§ 22-25 — RISK REDUCTION EARNED CREDITS FOR INMATES

Regardless of other statutes, the act allows the DOC commissioner to award risk reduction earned credits of up to five days per month for inmates, retroactive to April 1, 2006, to (1) reduce an inmate’s maximum

prison sentence and (2) make inmates eligible sooner for release from prison under supervision. It applies to inmates who were sentenced to prison for a crime committed on or after October 1, 1994 and committed to DOC custody on or after that date. Inmates who committed offenses before October 1, 1994 are eligible for various credits under existing law for good conduct, obedience to prison rules, employment, and outstanding meritorious performance.

Inmates convicted of the following crimes are ineligible for credits under the act:

1. murder (CGS § 53a-54a),
2. capital felony (CGS § 53a-54b),
3. felony murder (CGS § 53a-54c),
4. arson murder (CGS § 53a-54d),
5. 1st degree aggravated sexual assault (CGS § 53a-70a), or
6. home invasion (CGS § 53a-100aa).

Under the act, an inmate can earn credits for (1) adhering to his or her offender accountability plan (a plan with an inmate’s treatment goals and program needs to assist the offender’s reintegration into the community), (2) participating in eligible programs and activities, and (3) good conduct and obeying institutional rules as designated by the commissioner (but good conduct and obedience alone is not enough to earn credits). Credits cannot reduce a mandatory minimum sentence.

At the commissioner’s or his designee’s discretion, an inmate can lose all or some of his or her earned credits for (1) misconduct, (2) insubordination, (3) refusal to conform to recommended programs or activities or institutional rules, or (4) other good cause. An inmate’s conduct at any time while serving a sentence can cause him or her to lose credits. If the inmate loses more credits than he or she has earned, the loss is deducted from future credits. Credits are only earned while sentenced to prison and committed to DOC custody. They cannot be transferred or applied to a subsequent prison sentence.

The act requires the commissioner to phase in the award of credits for conduct occurring before July 1, 2011, consistent with public safety, risk reduction, administrative purposes, and sound correctional practice. It gives the commissioner discretion in this process but requires him to complete the phase-in by July 1, 2012.

The act requires the commissioner to adopt policies and procedures to (1) determine the amount of credit an inmate can earn to reduce a prison sentence and (2) phase in the awarding of retroactive credits.

Credits and Eligibility for Release

Prior law required DOC personnel to supervise offenders who committed a crime on or after October 1,

1994 until the end of the maximum term of their sentence. The act allows the credits to reduce the maximum term.

Under prior law, an offender sentenced to (1) up to two years was not eligible for release from prison under supervision until serving 50% of his or her sentence and (2) more than two years was not eligible for parole until serving 50% of his or her sentence for a non-violent offense or 85% of his or her sentence for a violent offense (some offenses, such as capital felony, make an inmate ineligible for parole). The act allows an offender's eligibility to be based on his or her sentence as reduced by the credits.

The act similarly reduces an inmate's sentence by the amount of the credits for purposes of calculating when the Board of Pardons and Paroles must hold a parole eligibility hearing for a (1) non-violent offender who remains incarcerated after serving 75% of his or her sentence and (2) violent offender who remains incarcerated after serving 85% of his or her sentence.

§§ 26-27 — HOME CONFINEMENT FOR CERTAIN OFFENDERS

Regardless of other statutes, the act allows the DOC commissioner to release a sentenced inmate, after admission and conducting a risk and needs assessment, to the inmate's residence if he or she was sentenced for: (1) driving under the influence (DUI); (2) operating a motor vehicle with a refused, suspended, or revoked license or registration; (3) possessing a controlled substance other than a narcotic, a hallucinogen, or less than four ounces of marijuana; or (4) drug paraphernalia crimes. These released offenders cannot leave their homes without authorization.

Based on the person's assessment, the commissioner can require:

1. electronic monitoring of the offender, including by a global positioning system;
2. automatic testing of breath, blood, or transdermal alcohol concentration levels and tamper attempts at least hourly, regardless of the person's location (made possible, presumably, by an electronic alcohol testing system) and, for drug offenders, random drug tests; and
3. other conditions the commissioner considers appropriate.

Under the act, someone released to his or her home remains in DOC custody and is supervised by DOC employees. The commissioner can revoke the release and return the person to prison for violating release conditions.

Advisory Committee

Regarding release of DUI and operating without a license or registration offenders, the act requires the commissioner to create an advisory committee to develop a protocol for:

1. training DOC staff who assess and supervise offenders eligible for this type of release,
2. evaluating outcomes,
3. establishing victim impact panels, and
4. treating participants.

§§ 28 & 29 — EDUCATING STUDENTS IN JUVENILE DETENTION FACILITIES

The act makes local and regional boards of education responsible for providing, and paying part of the cost of, regular and special education and related services for students held in juvenile detention centers operated by, or under contract with, the Judicial Department.

Responsible Districts

The act requires the school district where a detention facility is located to provide educational services, either directly or under contract with public or private educational service providers and in accordance with state and federal education laws. The district may charge tuition to the district where the child would otherwise go to school. Educational services must begin on the date the student is placed in detention and financial responsibility commences on the date services begin.

Under the act, the student's home district, or if no such district can be identified, the district where the detention center is located, must pay a basic contribution towards the cost of the student's education equal to its average per pupil cost for the previous year. The State Board of Education (SBE) must, on a current basis, pay any costs exceeding the responsible district's basic contribution. To receive the state payments, a district must apply to the SBE for a grant according to the same procedure used for excess cost grants for educational services for students in other types of state residential placements.

Students No Longer Enrolled

Under the act, the student's home district must pay a basic contribution for the student even if he or she has (1) been suspended or expelled from school by that district or (2) withdrawn, dropped out, or otherwise terminated school enrollment there. Once the student's home district receives notice from the educational service provider for the juvenile detention facility, it must re-enroll the student. If no home school district can

be identified, the notice must go to the district where the detention center is located, and that district must enroll the student.

Judicial Branch Notice to School Districts

Under the act, the Judicial Branch must give written notice of the detention within one business day after the student is placed. The notice must go to the student's home district or, if none can be identified, to the district where the detention center is located. It must include the student's name and date of birth, guardian or parental address, placement location, contact information, and other information necessary to provide educational services.

Assignment and Transfer of Academic Credit

Before the student is discharged from detention, the act requires the district responsible for providing educational services to assess the schoolwork he or she completed and determine the academic credit earned. The credit is considered credit from that school district and must be accepted in transfer by the school district where the student continues his or her education after being discharged from the juvenile detention facility.

§§ 30 & 225 — JUVENILE COURT ACCESS

By law, the Juvenile Court hears family matters on the civil side in separate, closed courtrooms as far away as is practicable from other cases. Family matters include child abuse, neglect, dependency, and contested termination of parental rights cases.

This act eliminates a pilot program designed to increase public access to these cases. The program operated in a courthouse the chief court administrator selected and gave judges the discretion to exclude the public at a party's request. It required the Judicial Branch to adopt policies and procedures after consulting with the Juvenile Access Policy Board, which dissolved December 31, 2010 after recommending against continuing the program.

In place of the pilot program, the act permits all family matters judges to open their courtrooms to people with a legitimate interest in the hearing or work of the court. People who may be granted access include:

1. foster parents and relatives;
2. service providers; and
3. members of the media and individuals or representatives of any agency, entity, or association.

For a child's safety and protection, judges may direct members of the last group who are present at a hearing not to disclose information that identifies the child, his or her custodian or caretaker, or members of

the child's family involved in the case.

The act specifies that it does not affect a foster parent's statutory right to be heard at hearings where the child's best interests are an issue.

The act also repeals obsolete reporting statutes related to the pilot program.

EFFECTIVE DATE: Repeal of the reporting statutes is effective upon passage.

§§ 31-32 — JUDICIAL FORECLOSURE MEDIATION PROGRAM

The act extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009.

PA 11-201 also extends the sunset date of the judicial foreclosure mediation program, and makes other changes to it.

§ 33 — GUN POSSESSION BY A MINOR

The act makes it a class A misdemeanor (see Table on Penalties) for a parent or guardian who knows that his or her minor child or ward possesses a firearm and is ineligible to do so, to fail to make reasonable efforts to remove the firearm from the child. If the child injures or kills someone with the firearm, the parent or guardian commits a class D felony (see Table on Penalties).

EFFECTIVE DATE: October 1, 2011

§ 34 — JUVENILE JURISDICTION POLICY AND OPERATIONS COORDINATING COUNCIL

The act requires the 30-member Juvenile Jurisdiction Policy and Operations Coordinating Council (JJPOCC) to submit recommendations concerning the implementation of changes to expand juvenile court jurisdiction to those under age 18. Its report is due January 1, 2012 and must go to the governor; committees on Appropriations, Human Services, and Judiciary; and the Select Committee on Children.

The JJPOCC was established in 2007 to monitor the implementation of changes required to raise the age of juvenile court jurisdiction from age 15 to 17. Under existing law, court jurisdiction has been extended to 16-year-olds; it is scheduled to be extended to 17-year-olds on July 1, 2012.

EFFECTIVE DATE: Upon passage

§ 35 — REPORT ON UNIFIED COMMUNITY CORRECTIONS

The act requires the DOC and children and families commissioners and OPM secretary, in consultation with the JJPOCC and Criminal Justice Policy and Advisory Commission, to report on the feasibility of establishing,

and steps to implement, a unified community corrections agency by July 1, 2013, to serve adult and juvenile offenders who can be safely served in community-based programs. They must report by January 1, 2012, to the governor; Appropriations, Human Services, and Judiciary committees; and the Select Committee on Children.

EFFECTIVE DATE: Upon passage

§§ 36 & 37 — PROBATE SURPLUS

By law, beginning annually on June 30, 2011, surplus money in the Probate Court Administration Fund is to be transferred to the General Fund. The act provides that on the last day of both FY 11 and FY 12, \$4 million from the Probate Court Administration Fund will not be transferred to the General Fund.

Under the act, \$150,000 of the probate surplus goes to the Judicial Branch's Court Support Services Division, half on June 30, 2011 and half on June 30, 2012. The funding is for competency examinations of children and youth involved in juvenile matters and youth in crisis matters under sHB 6637, but the bill did not become law. Children and youth, like adults, are presumed to be competent, but by law must undergo mental examinations if there is reason to believe that they may be unable to understand the proceedings or participate in their own defense (legally incompetent).

The following also have provisions allocating the \$4 million probate surplus: PA 11-6 (§ 50), PA 11-48 (§ 42), and PA 11-61 (§ 100).

EFFECTIVE DATE: Upon passage

§§ 38-41 — WEIGH STATION COVERAGE AND RESPONSIBILITIES

By law, the Department of Motor Vehicles (DMV) and DPS share responsibility for staffing the state's six weigh stations. The act gives the DMV commissioner primary responsibility for staffing and coordinating coverage and hours of operation at these facilities. It requires her to adjust work shifts at the weigh stations daily to create an unpredictable schedule. Under prior law, the DMV commissioner carried out this function with the DPS commissioner. (This act merges DPS into DESPP and makes it DPS's successor agency).

Under prior law, DPS and DMV each staffed three work shifts in each seven-day period (Sunday through Saturday) at the Danbury weigh station. The act gives DMV responsibility for all six work shifts. It requires the DMV commissioner, whenever possible, to coordinate coverage at the Danbury and Greenwich weigh stations to assure that both stations are covered at the same time. Under prior law, the DPS commissioner performed this function.

Prior law required the staffing of 10 staggered shifts in each seven-day period (Sunday through Saturday) at portable scale locations in four geographical areas established by the DPS commissioner. The act requires the DESPP commissioner to assign troopers to enforce commercial motor vehicle laws in 10 work shifts during this seven-day period in four geographical areas established by the DMV commissioner. As under prior law, the DMV commissioner must concentrate the shifts in those areas where the permanent weigh stations are open fewer hours. The act eliminates the requirement that the shifts be staggered. Under prior law, the DPS commissioner could assign any personnel remaining in the DPS traffic unit to the permanent weigh stations in Waterford and Middletown or the portable scale locations. The act instead authorizes the DMV commissioner to assign DMV personnel to these locations.

Prior law also required the DPS commissioner to assign DPS traffic unit personnel to work between nine and 12 shifts in each seven-day period from Sunday through Saturday to patrol and enforce highway safety laws. The act instead requires the DESPP commissioner to assign one trooper to each weigh station work shift in each seven-day period to enforce these laws. The DESPP commissioner must consult with the DMV commissioner in assigning the troopers.

The act requires DESPP, in addition to enforcing commercial motor vehicle laws at weigh stations, to assign troopers trained in commercial motor vehicle enforcement to patrol state highways to enforce these laws (roaming enforcement).

Under prior law, the transportation commissioner, in consultation with the DMV and DPS commissioners, was to (1) establish a program to implement regularly scheduled operating hours for the weigh stations by January 1, 2004, and (2) report annually on the program to the Transportation Committee, starting October 1, 2004. The act requires the DMV and DESPP commissioners to meet these requirements as of January 1, 2012 and October 1, 2012, respectively.

Traffic Backlogs

The act makes DMV's commercial vehicle safety division, rather than the State Police, responsible for temporarily closing any weigh station where a traffic backlog is causing a traffic hazard.

Log Books

Prior law required the weigh stations to submit logs containing certain information to the DPS commissioner, and for the commissioner, by December 15, 2007, after consulting with the DMV commissioner, to develop and distribute a form to record this

information. It required the DPS commissioner, starting January 1, 2008, to submit a semi-annual written report with this information to the Transportation Committee, and for the information to be posted on DMV and DPS websites. The act instead requires the logs to be submitted to the DMV commissioner, who must (1) develop and distribute the form by December 15, 2011, and (2) report the information to the Transportation Committee by January 1, 2012, and semi-annually thereafter. Also, the report need only be posted on the DMV website.

The act modifies the information the logs must contain. Specifically the logs must include:

1. the location and date of each shift, rather than the location, date, and hours of each shift;
2. the number of vehicles weighed, rather than the number and weight of vehicles inspected; and
3. the number and type of safety inspections, rather than just the type of vehicle inspections.

Finally, under the act, the log books no longer need to include the operating costs for each shift.

§§ 42-72, 90-92, 96-104, & 112-113 —
DEPARTMENT OF PUBLIC WORKS
DISSOLUTION

The act dissolves DPW and transfers its personnel powers, duties, obligations, and other government functions that do not relate to construction or construction management to DAS beginning July 1, 2011. Under the act, the DAS commissioner generally assumes responsibility for (1) purchasing, selling, leasing, subleasing, and acquiring property for state agencies; (2) disposing of surplus state property; (3) supervising the care and control of certain state buildings and grounds; and (4) establishing and maintaining security standards for most state property. If any of the departments' orders or regulations conflict, the act allows the DAS commissioner to implement policies or procedures to resolve the conflict while adopting the policies and procedures in regulation.

The act establishes DCS as an independent executive branch agency headed by a commissioner with the authority to, among other things, designate a deputy or deputies. It makes DCS the successor department to DPW with respect to the construction of state buildings and property, including administering most state capital improvement projects and selecting consultants to assist on them.

DAS and DCS Overlap

While the act transfers most of DPW's responsibilities to DAS, there are some instances in which functions previously within DPW will be shared by DAS and DCS. For instance, the act requires the

attorney general's office, upon request by the appropriate commissioner, to provide assistance in contract negotiations to the (1) DAS commissioner regarding the purchase or lease of real estate and (2) DCS commissioner regarding the construction. It requires the DAS commissioner to consult with the DCS commissioner when renegotiating a lease to allow the lessor to make necessary alterations or additions costing \$500,000 or less.

The act also makes the DAS commissioner responsible for accepting and executing trusts created for procuring, erecting, and maintaining a memorial on public grounds or within a public building. However, it requires the commissioner, in addition to receiving legislative approval as required under existing law, to consult with the DCS commissioner before making, erecting, or removing from its location any statue or sculpture upon state property.

Additionally, the act requires the Minority Business Enterprise Review Committee to consult with both DAS and DCS regarding compliance with state programs for minority business enterprises. Previously, it consulted with DPW only. It also places both the DAS and DCS commissioners on the Connecticut Capitol Center Commission.

Property Inventories

Prior law required DPW to maintain a complete and current inventory of all state-owned or -leased property and premises, including space-utilization data. The act instead requires (1) DAS to maintain an inventory of leased property and (2) OPM to maintain an inventory of owned property. DAS must also maintain a comprehensive and complete inventory of all improved and unimproved real estate available to the state by lease.

Additionally, the OPM secretary must be informed of property transfers effectuated by the transportation commissioner. In creating the owned property inventory, the OPM secretary must make recommendations concerning the reuse or disposition of state property and identify existing buildings that (1) are of historic, architectural, or cultural significance and (2) would be suitable to meet the state's or the public's needs for renewable energy sources. The act also removes a reference to OPM's bureau of real property management.

The act requires all state agencies to provide DAS or OPM, as appropriate, with any requested information and notify (1) DAS of any new or terminated leases and (2) OPM of any change in property ownership. DAS and OPM must update the inventories at least annually and must share the inventories with each other. By June 30, 2012 and annually thereafter, they must also submit a copy of the inventories to the Appropriations and

Government Administration and Elections (GAE) committees.

“State property” means any improved or unimproved real property or building owned or leased by a state agency and “state agency” means any office, department, board, council, commission, institution, constituent unit of the state system of higher education, vocational-technical school, or other agency in the executive, legislative, or judicial branch of state government.

PA 11-61, § 89, requires the DAS commissioner to prepare an annual inventory of state-owned improved and unimproved real estate that is unused or underutilized. The commissioner must submit, annually by January 1, to the Appropriations and GAE committees, a status report on the inventory and recommend possible reuse or disposition of such real estate. It also requires, rather than allows upon request, the OPM secretary to physically compile the inventory of improved or unimproved real estate available to the state by lease. It eliminates a requirement for the administrative services commissioner to share the inventory with the State Properties Review Board.

Security Standards

The act transfers, from DPW to DAS, responsibility for establishing and maintaining security standards for state property. However, it gives DCS sole authority and oversight responsibility for implementing security audit recommendations for capital improvements. The DCS commissioner must also (1) determine whether state building renovation projects would have a significant impact on the building’s security characteristics and (2) review preliminary designs for new state construction projects for compliance with security standards. The act also removes from the State-Wide Security Management Council the attorney appointed by the DPW commissioner (see also § 143).

State Facilities Plan

Generally, DAS assumes DPW’s responsibilities regarding the state facilities plan, including its implementation. However, the act requires both DAS and DCS to assist agencies and departments with long-range facilities planning.

The act also requires DAS to adopt regulations that mandate all agencies seeking to enter into a lease, lease renewal, or holdover agreement to submit them to the OPM secretary for approval. (PA 11-61, § 88, requires the regulations to mandate that the DAS commissioner, rather than the agencies, submit the agreements for approval.) Prior law required the DPW commissioner, to submit only negotiated lease requests that exceed gross cost and total square footage limits approved by

the secretary. The act also eliminates a requirement that deemed approved any lease request not acted upon by the OPM secretary within 10 work days.

The act allows both the DAS and DCS commissioners, as applicable, to audit the books of any contractor employed by the respective commissioners.

§§ 73-75 — AFFIRMATIVE ACTION AND DISCRIMINATION

Affirmative Action Plans

The act exempts state agencies with fewer than 25 full-time employees from the requirement to file an affirmative action plan. (State agencies include departments, boards, and commissions.) Under prior law, all state agencies had to file a plan.

The act also decreases how frequently certain agencies must file their plans. Prior law required agencies with (1) more than 20 full-time employees to file their plans annually if they had already had a plan approved by the Commission on Human Rights and Opportunities (CHRO) and semi-annually if they had not and (2) 20 or fewer full-time employees to file biennially.

Under the act, only agencies with 250 or more full-time employees must file semi-annually or annually, depending on the existence of previously approved plans. Agencies with 25 to 249 full-time employees must file biennially (unless the plan is not approved, in which case CHRO may require that it be resubmitted until it is).

The act requires all plans to be filed electronically. (PA 11-61, § 113, requires electronic filing only if practicable.) It specifies that any plan filed more than 90 days late is deemed disapproved. It requires CHRO’s executive director, rather than the agency’s regulations, to establish a filing schedule.

Discrimination

The act also reduces the frequency and length of training CHRO and the Permanent Commission on the Status of Women must provide to affirmative action officers, renamed equal employment opportunity officers by the act, on state and federal discrimination laws. Beginning October 1, 2011, the act reduces training for the officers from (1) 10 to five hours during their first year of service and (2) five hours per year to three hours every two years thereafter. The reduced training also applies to individuals designated by the attorney general to represent state agencies before CHRO or the federal Equal Employment Opportunity Commission (EEOC).

The act also allows state agencies to refrain from investigating a discrimination complaint that has also been filed with CHRO or EEOC. The agencies may

instead rely on the applicable commission's process. Under prior law, agencies' affirmative action officers had to investigate most complaints filed against their agencies. Similarly, the act allows DAS and CHRO to rely on an EEOC or CHRO investigation of a complaint made by or against an agency head, an agency affirmative action officer, or any member of a state board or commission. Under prior law, all such complaints were referred to CHRO for review and, if appropriate, DAS investigation.

Working Group

The act requires CHRO's executive director to chair a working group to (1) review the commission's existing regulations governing affirmative action plans and (2) recommend changes. The recommendations must include (1) elimination of unnecessary or redundant regulations, (2) improvements in the use of statewide data (including CORE-CT, Labor Department, and census data) for efficient information collection concerning affirmative action plans, (3) whether the regulations are constitutional and comply with state and federal law, and (4) streamlining the regulations' content and structure.

The group includes the executive director as the chairperson, the OPM secretary and DAS commissioner or their designees, and eight other members chosen by the executive director. These members must include at least one representative from each of the following types of agencies: (1) regulation and protection, (2) conservation and development, (3) human services, (4) transportation, and (5) education. The executive director's appointees must also have experience with (1) drafting state agency affirmative action plans, (2) affirmative action law or education, and (3) the impact of affirmative action on minority communities.

The executive director must convene the working group by July 1, 2011 and it must issue its recommendations by November 1, 2011. By January 1, 2012, CHRO must publish a notice of intent to amend its regulations to implement the group's recommendations in the *Connecticut Law Journal*.

PA 11-61, § 115, allows a designee to perform the executive director's duties associated with the working group.

EFFECTIVE DATE: Upon passage

§§ 42, 76-89, & 223 — DOIT

The act dissolves DOIT and reestablishes it as a division within DAS, which becomes its successor agency. Beginning July 1, 2011, DAS assumes DOIT's personnel powers, duties, obligations, and other government functions. The act requires the DAS commissioner to appoint a chief information officer

(CIO) to lead the division but transfers the existing DOIT CIO's powers to the DAS commissioner. Among other things, the act makes the DAS commissioner, rather than the CIO of DOIT, responsible for:

1. developing and updating an annual information and telecommunications (IT) strategic plan;
2. identifying and implementing (a) telecommunication systems to efficiently service state agencies and (b) opportunities for reducing costs associated with these systems;
3. approving or disapproving state agency acquisition of hardware and software;
4. approving or disapproving state agency requests or proposed contracts for IT systems consultants;
5. purchasing, leasing, or contracting for telecommunication system facilities, equipment, and services for executive branch agencies other than the constitutional offices; and
6. serving on the Geospatial Information Systems Council.

If any DAS or DOIT orders or regulations conflict, the act allows the DAS commissioner to implement policies or procedures to resolve the conflict while adopting the policies and procedures in regulation.

Under the act, DAS does not inherit the DOIT CIO's responsibility to (1) develop and implement an integrated set of IT policies for state agencies and (2) produce a series of comprehensive standards and planning guidelines pertaining to the development, acquisition, implementation, and management of IT systems. PA 11-48, § 14, requires OPM to perform these duties.

The act removes the requirements that the IT strategic plan have goals of (1) establishing direction for state agencies to collect, store, manage, and use information in an efficient manner and (2) developing a comprehensive information policy for state agencies. It also removes a requirement that the plan include a policy concerning the infusion of new technology for state agency IT systems. It requires DAS to develop the strategic plan in accordance with policies established by OPM.

Additionally, the act eliminates a requirement for the CIO of DOIT to approve the provisions of subcontracts for information system or telecommunication system facilities, equipment, or services. Instead, it requires only that the DAS commissioner approve the disclosure of the provisions. (However, it does transfer to the DAS commissioner the requirement to approve the selection of a subcontractor.) It also repeals a requirement that the CIO provide for the professional development of the state's IT professionals.

The act also places the Commission for Educational Technology within DAS. Under prior law, it was within DOIT for administrative purposes only.

§§ 45, 90, 93-95, & 105-111 — DIVISION OF FIRE, EMERGENCY, AND BUILDING SERVICES

The act dissolves the DPS Division of Fire, Emergency, and Building Services and transfers most of its functions to DCS. It transfers to DCS the Office of the State Building Inspector and the Office of the State Fire Marshal but not the Office of State-Wide Emergency Telecommunications. The transfer makes DCS responsible for enforcing the Fire Safety Code and the State Building Code. Under the act, the heads of the two transferring offices report to the DCS commissioner rather than the head of the division. If any of the departments' orders or regulations conflict, the act allows the DCS commissioner to implement policies or procedures to resolve the conflict while adopting the policies and procedures in regulation.

The act eliminates a provision under which the state building inspector serves as the administrative head of the Office of the State Building Inspector. The office's responsibilities include (1) the adoption, administration, and interpretation of the State Building Code; (2) licensing municipal building officials; and (3) oversight of elevators, escalators, and boilers.

Additionally, the act transfers, from DPS to DCS, oversight of (1) crane operators, (2) passenger tramways, and (3) motion pictures and motion picture projectors. It also transfers to DCS responsibility for adopting regulations concerning building demolition and licensing people engaged in that business.

State Fire Marshal

Under prior law, the DPS commissioner served as state fire marshal. The act instead requires the DCS commissioner to appoint the state fire marshal. It also allows the DCS commissioner to (1) delegate the fire marshal's responsibilities to others and (2) appoint a deputy state fire marshal.

The state fire marshal is responsible for, among other things:

1. adopting and administering the State Fire Prevention Code and Fire Safety Code;
2. certifying local fire marshals, deputy fire marshals, fire inspectors, and investigators;
3. hearing and adjudicating complaints against local fire marshals, deputy fire marshals, and fire inspectors;
4. abating fire hazards;
5. investigating fires and explosions; and
6. regulating (a) flammable and combustible liquids, (b) liquefied petroleum gas, (c)

hazardous chemicals, (d) explosives and blasting agents, and (e) fireworks, including storage, use, transportation, and transmission, as applicable.

PA 11-61 (§§ 91 & 92) specifies that the commissioner of emergency services and public protection, instead of the state fire marshal, investigates the cause, circumstances, and origins of fires involving property damage or personal injury or death. It also requires the commissioner, instead of the state fire marshal, to provide quarterly reports to the insurance commissioner detailing arson cases.

§§ 45, 90, & 115-132 — STATE SCHOOL CONSTRUCTION PROJECTS

Under prior law, SDE was responsible for the entire school construction grant process, including (1) reviewing and approving school building project grant applications from local and regional boards of education, (2) establishing priority categories, (3) making grant payments, and (4) auditing the projects. The act divides these responsibilities between SDE and DCS. It generally makes DCS responsible for most of the process while maintaining the SDE commissioner's responsibility to evaluate projects for compliance with certain educational requirements. Additionally, it makes numerous changes to project requirements and state reimbursement rates.

Division Between SDE and DCS

The act requires towns or regional school districts to submit school construction grant applications to the SDE commissioner, who must review the application to (1) determine if it complies with educational requirements, (2) assign building projects to the priority categories established by law, and (3) determine whether the projects assist the state in meeting the requirements of the 2008 stipulation and order in the *Sheff* settlement. The SDE commissioner also determines whether an interdistrict magnet school project helps the state meet the *Sheff* requirements.

The act requires the SDE commissioner to send the applications to the DCS commissioner by August 31 of each fiscal year. The DCS commissioner reviews the applications on the basis of school construction standards established by regulations adopted by DCS in consultation with SDE and, under the act, approves the applications. The act requires the DCS commissioner to consult with the SDE commissioner before approving a grant application to remedy fire and catastrophe damage, correct code violations, replace roofs, remedy air quality emergencies, or purchase and install portable classroom buildings if such an application is made after the deadline.

The DCS commissioner estimates the amount of the grant for which a project is eligible, based on reimbursement percentages determined by the SDE commissioner, and, as under existing law, submits the list of eligible projects to the governor and legislature. The act adds the OPM secretary as a recipient of the list. It transfers to DCS responsibility for (1) determining eligible project costs, (2) entering into grant commitments upon legislative authorization, (3) certifying the amounts to the comptroller, and (4) auditing projects.

Other Duties Requiring Consultation

The act transfers several existing SDE duties to DCS, but requires DCS to fulfill these duties in consultation with SDE. For instance, the act generally makes the DCS commissioner responsible for the part of the process relating to construction, including (1) adopting regulations concerning per-square-foot costs for school construction, (2) determining whether reasonable lease costs must be part of a school construction grant, and (3) requiring renovation projects to meet the same state and federal codes and regulations as alteration projects.

However, the DCS commissioner must consult with the SDE commissioner in deciding whether to (1) modify standard space specification requirements for projects in districts that have fewer than 150 students in kindergarten through eighth grade or (2) waive any building project requirements for interdistrict magnet schools. If a building ceases to be used as an interdistrict magnet school, the DCS commissioner must determine, in consultation with the SDE commissioner, whether (1) title to the building and any legal interest in related land revert to the state and (2) the district must reimburse the state. The DCS commissioner may also request that the SDE commissioner withhold the amount owed from the district's education cost sharing grant.

Additionally, the DCS commissioner, in consultation with the SDE commissioner, is responsible for collecting, publishing, and distributing information on (1) procedures for school building committees, (2) building methods and materials suitable for school construction, and (3) relevant educational methods, requirements, and materials. The DCS commissioner, in consultation with the SDE commissioner, must also:

1. provide advisory services to local officials and agencies on long-range school plant planning and educational specifications;
2. review the sketches and preliminary plans and outline specifications for school building projects and the educational programs they are designed to house; and
3. advise boards of education and school building committees on the suitability of such plans on

the basis of educational effectiveness, sound construction, and reasonable economy of cost.

Regulations

The act provides that the State Board of Education's (SBE) existing regulations continue in force until (1) the education commissioner, in consultation with the DCS commissioner, determines that they should be transferred to DCS and (2) either DCS or the SBE amends the regulations to effect the transfer. It requires the DCS commissioner, in consultation with the education commissioner, to adopt regulations by June 30, 2013 to apply to projects for which an application is submitted on or after July 1, 2013.

Grant Requirements

In addition to the changes in the grant process and the transfer of most responsibilities to DCS, the act also makes several changes in the requirements and reimbursement rates for state-funded school construction projects.

1. For applications made on or after July 1, 2011, it reduces reimbursement rates for building a new or replacement school to between 10% and 70% of the eligible cost from between 20% and 80%, unless a district can show that new construction is less expensive than renovating or remodeling an existing school. Reimbursement rates for renovations, extensions, major alterations, remedying code violations, and replacing roofs on existing schools remain on the 20% to 80% reimbursement scale.
2. For applications made on or after July 1, 2011, it reduces the state reimbursement rate for building new interdistrict magnet schools from up to 95% to up to 80% of the eligible cost. (PA 11-61, § 86, makes an identical change for approved facilities for a regional vocational-agricultural science and technology center operated by a local or regional school district.)
3. Starting with the December 2011 list, it requires the DCS commissioner to include with the annual school project priority list he or she submits to the legislative school construction review committee a report on the SDE commissioner's review of enrollment projections for each project on the list.
4. Starting July 1, 2012, it bars previously approved projects from requesting more than one legislative reauthorization for a change in cost or scope greater than an amount determined by the SDE or DCS commissioner as appropriate (existing law allows two

reauthorizations). As under existing law, regional vocational-technical school projects are exempt from this reauthorization limit. A district may submit a second reauthorization only if it can demonstrate exigent circumstances.

5. The act requires the DCS commissioner to set a per-square-foot cost for school construction by county and authorizes him or her to reject any application for a project that exceeds that cost for the county where it is located.
6. Starting with project applications filed on or after July 1, 2011, the act eliminates grant eligibility for projects at the Connecticut Science Center. Under prior law, science center projects were considered interdistrict magnet school projects and reimbursed at 95% of their eligible cost.
7. Starting with the list submitted in December 2011, the act requires school construction priority lists submitted to the legislative review committee to include the OPM secretary's comments and recommendations on the listed projects. Such recommendations must be submitted by December 31 each year. It allows the legislative committee to modify the list for any reason, not only when it finds that the DCS commissioner acted arbitrarily or unreasonably in establishing the list.
8. The act requires the DCS commissioner to cancel grant commitments made before July 1, 2010 for projects that do not begin construction by April 30, 2015. It allows towns and districts to reapply for a cancelled grant.

HVAC Systems

The act also requires the DCS commissioner to submit a plan for making the purchase or replacement of heating, ventilation, and air conditioning (HVAC) systems eligible for school construction grants if they increase energy efficiency or reduce heating fuel costs for a town or district. The plan must include (1) criteria and conditions for state reimbursement, as well as recommended reimbursement rates; (2) an estimate of the potential costs to the state and potential savings to towns and districts; and (3) various methods of sharing realized savings between towns or districts and the state. The commissioner must submit the plan by January 2, 2012 to the Appropriations, Education, and Finance committees.

School Building Projects Advisory Council

The act establishes a School Building Projects Advisory Council consisting of the OPM secretary and

DCS commissioner, or their designees, and three members appointed by the governor, one of whom must have experience in school building project matters, one in architecture, and one in engineering. The council is chaired by the DCS commissioner or his or her designee, and a DCS employee responsible for school building projects serves as its administrative staff.

The act requires the council to (1) meet at least quarterly to discuss school building project matters; (2) develop model blueprints for new projects; (3) conduct studies, research, and analyses; and (4) recommend improvements to the school building projects process to the governor and the Appropriations, Education, and Finance committees.

§ 114 — SDE AND DCS REPORTS ON MERGERS

The act requires the SDE and DCS commissioners to each submit a report by January 2, 2012 to the Appropriations, Education, GAE, and Public Safety committees. The reports must cover (1) the status of the merger of DPS, DPW, and SDE functions into DCS; (2) the status of school construction regulations; (3) outstanding issues regarding the division of duties between SDE and DCS; (4) recommendations for strengthening DCS's audit functions; and (5) recommendations for further legislative action.

The act also requires the DAS commissioner to submit a report by January 2, 2012 on the status of its mergers with DOIT and DPW. The report must be submitted to the Appropriations and GAE committees and contain recommendations for future legislative action on the mergers.

§§ 133 & 134 — DESPP ESTABLISHED

The act establishes DESPP, under a commissioner appointed by the governor, and designates it as the state's emergency management and homeland security agency. It requires the commissioner to provide a coordinated, integrated program for protecting life and property and for statewide emergency management and homeland security. He or she (1) must appoint up to two deputy commissioners to help administer DESPP and (2) may take necessary action to apply for, qualify for, and accept, any federal emergency management or homeland security funds.

The act designates DESPP as the successor agency to (1) DEMHS and (2) DPS, except for the regulation of amusements and exhibitions, which the act transfers to DCP, and the following, which it transfers to DCS: films; elevators, escalators, and lifts; cranes and hoisting equipment; boilers and water heaters; fire, emergency, and building services, including the state fire safety and prevention codes and state building and demolition codes; and paintball facilities.

Under the act, DPS orders or regulations in force on July 1, 2011, except those pertaining to the transferred areas, continue in force and effect as DESPP orders or regulations until amended, repealed, or superseded. When any order or regulation of the departments conflict, the DESPP commissioner may implement policies and procedures consistent with law while in the process of adopting regulations, provided notice of intent to adopt regulations is printed in the *Connecticut Law Journal* within 20 days of implementation. The policy or procedure is valid until final regulations take effect.

The act requires the Legislative Commissioners' Office, when codifying these provisions, to make technical, grammatical, and punctuation changes necessary to implement them. The act makes numerous technical and conforming changes.

§ 135 — DESPP REPORT ON MERGER STATUS

By November 1, 2011, and again, by January 2, 2012, the act requires the DESPP commissioner to submit a report to the Appropriations and Public Safety and Security committees on (1) the status of the merger of DPS, DEMHS, the Office of State-Wide Telecommunications (OSET), the Police Officer Standards and Training Council (POST), and the Fire Prevention and Control Commission and (2) any recommendations for further legislative action on the merger.

§ 136 — DPS ELIMINATED

DPS Eliminated; State Police Placed in DESPP

The act (1) eliminates DPS, (2) puts the Division of State Police within DESPP, (3) makes the DESPP commissioner the division's administrative head and commanding officer, and (4) requires the commissioner to appoint a deputy commissioner to head the division. Under prior law, the State Police was within DPS and the DPS commissioner could, but was not required to, appoint a deputy commissioner. By law, the deputy commissioner must be a state police officer.

Division of Emergency Management and Homeland Security

The act eliminates DEMHS (§ 162) and instead establishes a Division of Emergency Management and Homeland Security within DESPP. The DESPP commissioner serves as the division's administrative head and must delegate his or her jurisdiction over the department to a deputy commissioner.

The deputy commissioner must have at least five years of professional training in, and knowledge of, managerial or strategic planning experience in public

safety, security, emergency services, and emergency response. Under the act anyone with a record of criminal, unlawful, or unethical conduct is ineligible to serve as deputy commissioner. Also ineligible is anyone whose present or past political activities or financial interests may (1) substantially conflict with his or her duties as deputy commissioner, (2) expose him or her to potential undue influence, or (3) compromise his or her ability to be entrusted with necessary state or federal security clearances.

§ 137 — EMERGENCY MANAGEMENT COORDINATING ADVISORY BOARD CREATED

The act establishes this 13-member board to advise DESPP how to:

1. improve communication and cooperation in providing emergency response services locally and statewide;
2. improve emergency response and incident management, including communications and use of technology and coordination and implementation of state and federally required emergency response plans;
3. improve the state's use of regional management structures; and
4. strengthen cooperation and communication among federal, state, and local governments; the Connecticut National Guard, police, fire, emergency medical and other first responders; emergency managers; and public health officials.

The DESPP commissioner, or his or her designee, serves as board chairperson. Table 1 lists the other board members.

Table 1: Emergency Management Coordinating Advisory Board Members

<i>Member</i>	<i>Representing</i>	<i>Designated By</i>
Connecticut State Firefighters Association president or designee	Volunteer firefighters	NA
Uniformed Professional Firefighters Association president or designee	Professional firefighters	NA
American Federation of State, County and Municipal Employees, Council 15, president or designee	Municipal police	NA
Connecticut Conference of Municipalities executive director or designee	NA	NA
POST member	NA	POST chairperson
Commission on Fire Prevention and Control member	NA	Commission chairperson
Connecticut Emergency Management Association president or designee	NA	NA

Table 1: Continued

<i>Member</i>	<i>Representing</i>	<i>Designated By</i>
Emergency Management and Homeland Security Division representative	NA	DESPP commissioner
State Police Division representative	NA	DESPP commissioner
Scientific Services Division representative	NA	DESPP commissioner
OSET representative	NA	DESPP commissioner

The board must meet quarterly and when the chairperson deems necessary. Annually, starting on January 2, 2012, it must submit a report to the governor and the Public Safety and Security committee on its findings and recommendations on any communication and cooperation necessary to protect Connecticut citizens and enhance state and local government emergency response.

§§ 138 & 139 — WORKERS' COMPENSATION CLAIM PROCESS

The act streamlines the processing of workers' compensation claims involving police officers and firefighters.

Prior law required the state comptroller to draw an order on the treasurer to pay workers' compensation claims for (1) police officers eligible for relief under the provisions of the Police Association of Connecticut's constitution and bylaws and (2) firefighters eligible for relief under the Connecticut State Firefighters Association's constitution and bylaws. The act requires the DESPP commissioner to process the claims. By law, the pertinent association must submit adequate proof of a person's eligibility to obtain benefits, which are limited to available appropriations.

§ 140 — GRANTS TO FIRE SCHOOLS AND OTHER ENTITIES

The act transfers to the DESPP commissioner, from the state comptroller, the duty to disburse funds appropriated for regional fire schools, regional emergency dispatch centers, and county-wide fire radio base networks. It makes a conforming change by requiring the entities to submit their annual audited disbursement reports to the commissioner instead of the comptroller through the Connecticut State Firemen's Association.

§ 143 — STATE-WIDE SECURITY MANAGEMENT COUNCIL

The act adds the president of the Uniformed Professional Fire Fighters Association (UPFFA) to this council and removes an attorney appointed by the public

works commissioner (retaining the commissioner.) It makes a conforming change by replacing the DPS and DEMHS commissioners with the DESPP commissioner, and it allows any of the council members to appoint a designee. Only the UPFFA president could appoint designees under prior law.

The council coordinates nonexempt state agencies' activities that relate to statewide state facility security. Exempt agencies must report to the council quarterly on (1) the frequency, character, and resolution of workplace violence and (2) security-related expenditures

§ 146 — POST

The act puts POST, which was within the State Police for administrative purposes only, within DESPP for all purposes. As was the case for the DPS commissioner, the DESPP commissioner serves *ex officio* on the council. The act maintains the council's current membership.

§ 147 — POST FUNCTIONS MODIFIED

POST is responsible for (1) developing a comprehensive municipal police training plan; (2) training, certifying, and establishing minimum qualifications for municipal police officers; (3) enforcing professional standards for certification and decertification of police officers; and (4) developing standards for, and granting accreditation to, law enforcement units that meet the standards. (While the agency's responsibilities are mainly described in terms of "police officers," its authority extends to other persons who perform police functions, according to a 1993 attorney general's opinion.)

The act modifies the following POST functions. It requires POST to:

1. instead of visiting and inspecting police basic training schools at least annually, develop a schedule for such annual visits and inspections in consultation with the DESPP commissioner;
2. get the commissioner's approval to accept contributions, grants, gifts, donations, services, or other financial assistance from any governmental unit, public agency or the private sector;
3. develop objective and uniform criteria for recommending, rather than granting, waivers of regulations or granting a waiver or council procedures; and
4. work with the commissioner and state and federal agencies and departments involved with police training. Under prior law, POST consulted and cooperated with these entities.

The act eliminates the council's authority to hire an executive director and hire other staff, instead authorizing it to make recommendations to the commissioner about the hiring of personnel. It requires POST to make recommendations to the commissioner to hire staff. The act also eliminates the council's authority to appoint special police officers. (PA 11-61, § 154, restores this authority.)

§ 148 — POST AUTHORITY TO ADOPT REGULATIONS

The act eliminates this council's authority to adopt regulations. It instead allows POST to recommend regulations to the DESPP commissioner. It authorizes the DESPP commissioner to adopt regulations addressing POST issues. As under prior law, the regulations are binding on all law enforcement units except the State Police.

§ 149 — CONNECTICUT POLICE ACADEMY

The act requires DESPP to operate the Connecticut Police Academy to provide municipal police training. DESPP must fix tuition and fees for training, education programs and sessions, and such other purposes as the commissioner deems necessary for the operation and support of the academy, subject to OPM approval. The fees must be used only for police education and training.

Under prior law, POST operated the academy and did not charge tuition or training fees. The state paid for these costs through the state's general appropriations to POST in the Personal Services and Other Expenses accounts.

Municipal Police Officer Training and Education Extension Account

The act allows DESPP to establish and maintain a municipal police officer training and education extension account as a separate, nonlapsing General Fund account. The account (1) holds any money the law requires to be deposited in it and (2) must be used for operating training and education extension programs and sessions DESPP establishes.

Proceeds from operating the education programs and sessions must be deposited in the General Fund and credited to and become a part of the account's resources. Direct expenses incurred in conducting the programs and sessions must be charged against the account on the state comptroller's order. Payments of bond interest and principal or any sums transferable to any fund for such payments and any related equipment cost may also be so charged. Any balance must remain in the account for training and education programs and sessions.

Recovery of Municipal Police Training Costs

The act eliminates a provision that allows POST to recover from any municipality that operated a local police training school that it closed on or after January 1, 2007, the costs of providing law enforcement training at POST for their recruits. (But it does not authorize DESPP to recover the costs. It is unclear if all costs have been recovered.)

§§ 150 & 151 — COMMISSION ON FIRE PREVENTION AND CONTROL

The act removes this 12-member commission, appointed by the governor, from within DPS for administrative purposes only and puts it within DESPP for all purposes. The commission's membership remains unchanged.

The act eliminates the commission's authority to adopt regulations, allowing it instead to recommend regulations to the DESPP commissioner. It allows the commissioner to adopt implementing regulations.

The act requires the commission to submit its annual report to the DESPP commissioner, in addition to the governor and Legislative Management Committee.

It requires the commission to get the DESPP commissioner's approval to apply for and receive and distribute federal and private funds or contributions available for firefighter training and education.

By law, the commission is primarily responsible for providing training, life safety education, and professional competency certification to fire service personnel, and it serves as both an advisory and policy making body.

§ 152 — OFFICE OF STATE FIRE ADMINISTRATION

The act requires DESPP, instead of the Office of State Fire Administration, to establish and maintain a state fire school. It specifies that the school must provide firefighter training and educational services. It requires DESPP, in consultation with the Fire Prevention and Control Commission, to fix fees for education programs and sessions and other purposes deemed necessary for operating and supporting the school. Under prior law, the office fixed fees, subject to the commission's approval. By law, the fees must be used solely for training and education.

In conformance, the act allows DESPP, instead of the commission, to establish and maintain a state fire school training and education extension account as a separate General Fund account. The act requires, rather than allows, the account to be used for (1) operating the school's training and education programs and sessions; (2) buying equipment for operating the programs and

sessions; and (3) within available funding, reimbursing fire departments for Firefighter 1 and firefighter recruit training programs.

The act allows DESPP, instead of the commission, to establish and maintain a state fire school auxiliary services account as a separate General Fund account. By law, the account must be used to operate, maintain, and repair auxiliary facilities and for such other auxiliary activities of the fire school. The act allows DESPP, instead of the commission, to borrow money from the General Fund to establish or continue auxiliary services activities; but it can do so only with the approval of both OPM and the Finance Advisory Committee (FAC). Under prior law, the commission needed only FAC approval to borrow money.

§ 162 — DEMHS ELIMINATED

The act eliminates DEMHS, which was the designated state agency responsible for providing a coordinated, integrated program for statewide emergency management and homeland security. It instead requires the DESPP commissioner to organize the newly created Division of Emergency Management and Homeland Security to carry out emergency management, civil preparedness and homeland security missions, including the provisions of the state and national civil preparedness, plans (i.e., functions formerly carried out by DEMHS).

Under prior law, the commissioner could enter into contracts for the furnishing of goods and services for the department. The act removes this contracting authority.

§ 164 — OSET

The act puts OSET in DESPP and requires the DESPP commissioner to perform the OSET functions formerly performed by the DPS commissioner. Under prior law, OSET was within the DPS Division of Fire, Emergency and Building Services.

By law, OSET administers the state's enhanced 9-1-1 (E 9-1-1) program, which provides emergency dispatch services to people who dial 9-1-1. OSET works with the Department of Public Utility Control to carry out its functions.

§ 165 — E 9-1-1 COMMISSION

The act modifies the composition of this commission, replacing the DPS commissioner with the DESPP commissioner and the DEMHS representative with a Division of Emergency Management and Homeland Security representative.

§ 167 — DEPUTY STATE FIRE MARSHAL

The act eliminates the deputy state fire marshal's position. Under prior law, the DPS commissioner was authorized to appoint a deputy state fire marshal, who served as an unclassified employee.

§ 168 — RESIDENT TROOPER PROGRAM COST

Under prior law, towns paid 70% of the cost and other expenses of maintaining a resident state trooper. The act increases, from 70% to 100%, the amount towns must pay resident troopers for overtime and fringe benefits directly associated with overtime costs. Towns continue to pay 70% of regular costs and other expenses.

§§ 173-175 — REGULATION OF AMUSEMENTS AND EXHIBITIONS

The act transfers the authority to regulate amusements and exhibitions from DPS to DCP and makes DCP the successor agency to DPS for this purpose. The act makes DCP a successor agency to DSR, which under prior law was responsible for regulating gaming in the state.

In cases where a DPS or DSR order or regulation conflicts with one of DCP's, the DCP commissioner may implement policies and procedures consistent with law while adopting regulations, provided notice of intent to adopt regulations is printed in the *Connecticut Law Journal* within 20 days of implementation. The policy or procedure is valid until final regulations take effect.

By January 2, 2012, the act requires the DCP commissioner to submit a status report to the Appropriations and Public Safety and Security committees on DCP's assumption of responsibility for regulating amusements and exhibitions, the mergers of DAS, DPW, and DOIT and any recommendations for legislative action.

The act requires the Legislative Commissioners Office to make technical, grammatical, and punctuation changes necessary to carry out the provisions on the transfer of amusement and exhibition regulatory authority to DCP.

§ 180 — STATE-WIDE COOPERATIVE CRIME CONTROL TASK FORCE POLICY BOARD

The act moves this board, which was in the Division of State Police for administrative purposes only, into DESPP. It replaces the POST director with a POST member designated by the chairperson on the board's state committee.

§§ 173 & 182-215 — DEPARTMENT OF
CONSUMER PROTECTION

Division of Special Revenue

The act dissolves DSR and transfers its powers, duties, obligations, and other government functions to DCP beginning July 1, 2011. On the same date, the act also eliminates the DSR executive director position, transferring his authority and responsibilities to the DCP commissioner. Under the act, DCP assumes responsibility for administering state gaming laws and regulations, including oversight of bingo, bazaars and raffles, and sealed tickets, and regulatory oversight of the Connecticut Lottery Corporation (CLC).

Legislative Report

The act requires the DCP commissioner to submit a report to the Appropriations and General Law committees, by January 2, 2012, on (1) the status of the DCP and DSR merger and (2) any recommendations for further legislative action concerning the merger.

Application of Ethics Code

The Code of Ethics for Public Officials prohibits public officials and state employees from agreeing to accept compensation, or being a member or employee of a business that agrees to represent a client for compensation, before certain regulatory agencies. Under prior law, the prohibition covered appearances before DSR and DCP's office in charge of liquor control. The act extends the restriction to any appearance before DCP.

Under prior law, the DSR executive director could not participate in political activities, which included, among other things, campaigning for a candidate in a partisan election through speeches or writings. The act does not transfer this restriction to the DCP commissioner.

Abatement Review Committee Membership

The act adds the DCP commissioner, or his designee (who must be a DCP employee), to the Abatement Review Committee. The other three members are the (1) state comptroller, (2) OPM secretary, and (3) DRS commissioner, or their designees who must be agency employees. By law, the committee considers and approves tax abatements that come before it, including those that the DRS and DCP commissioners (DSR executive director under prior law) authorize.

§§ 197 & 198 — CLC

By law, CLC is a quasi-public agency responsible for operating the state lottery in an entrepreneurial manner and increasing lottery revenue, among other things.

Board of Directors. CLC's board of directors consists of 13 members whom the governor and legislative leaders appoint. The act specifically prohibits the DCP commissioner from serving on the board.

Assessment of Regulatory Costs. Beginning April 1, 2012 and annually thereafter, the act requires OPM to assess CLC to reimburse DCP, instead of DSR, for the reasonable and necessary regulatory costs the department incurs in overseeing the corporation.

The act also changes the due dates for OPM's assessment of the regulatory costs. It changes, from August 1 to May 1, the date by which OPM must submit to CLC its assessment of the preceding year's cost and an estimate of the next year's costs. It changes, from September 15 to June 15, the date by which OPM must finalize the assessment for the preceding year. Finally, it requires CLC to make its first quarterly payment for the assessment on July 1, rather than October 1, and every three months thereafter.

§§ 206 & 208-211 — Bingo

Enforcement. By law, bingo operators must keep accurate receipt and disbursement records and make them available for inspection by the DCP commissioner (DSR executive director under prior law). The act requires bingo operators to also make these records available for inspection by the chief law enforcement official of the municipality where the game operates.

If the commissioner finds a bingo violation after an investigation, he may suspend or revoke a person's bingo permit and issue a cease and desist order. The law allows the party named in the order to request a hearing. Under prior law, the hearing could not be held until at least 14 days after the notice was mailed. The act increases this to at least 30 days after the notice was mailed.

Prizes. With four exceptions, prior law limited to \$100 the maximum value of any prize that a bingo permittee could award. The act increases (1) this to \$200 and (2) the values under the four exceptions.

One exception allowed a permittee to award individual prizes valued at \$101 to \$300 in one day if the total value of all prizes did not exceed \$1,200. The act increases the award under this exception by allowing prizes valued at \$251 to \$750 in any day as long as the total value does not exceed \$2,500.

Under the second exception, prior law allowed a permittee to offer one or two winner-take-all games or series of games on days bingo is allowed if 90% of the receipts were awarded as prizes for such games and each prize did not exceed \$500. The act increases this to \$1,000.

The third exception allowed a class A permittee to award two special weekly grand prizes of up to \$125. If no one won the grand prize, the permittee added the money to the following week's special grand prize as long as the prize did not accumulate for more than 16 weeks or exceed \$2,000. The act increases the weekly prize to \$500 and maximum accumulation to \$5,000.

Under the final exception, a permittee could award door prizes valued at up to \$200 in the aggregate. The act increases this amount to \$500 in the aggregate.

The law allows seniors' organizations (age 60 and over) and parent teacher associations (PTA) to operate and conduct bingo games without a permit if they abide by certain conditions. One condition concerns prize amount. The act increases the amounts that seniors and PTAs can award from \$25 to \$50 and from \$20 to \$50, respectively.

Annual Fee. The act increases the annual registration fee for (1) bingo product manufacturers or equipment dealers from \$1,750 to \$2,500 and (2) PTAs from \$40 to \$80.

§§ 207 & 214 — *Bazaars and Raffles*

Fifty-Fifty Coupon Game. The act eliminates the requirement that organizations conducting a fifty-fifty coupon game furnish to the municipality's chief of police or first selectman a verified statement showing (1) the total number of coupons purchased and sold for each drawing and (2) the total number and amount of prizes awarded and the names and addresses of the winners. The law still requires an organization conducting any bazaar or raffle to provide the municipality with a verified statement showing, among other things, gross receipts and net profits.

Cow-Chip Raffle. The act eliminates the requirement that an organization conducting a cow-chip raffle furnish, along with its application, a plot plan that displays the area being used for the raffle and the numbered plots.

Teacup Raffle. The act eliminates the provision under which DSR was the sole sheet ticket issuer, thus allowing other entities to issue these tickets. A sheet ticket may contain up to 25 coupons, each with the same number and including a "hold" stub for the purchaser and a corresponding numbered stub that has the purchaser's name, address, and telephone number.

§§ 212 & 213 — *Sealed Tickets*

The act restructures the process for manufacturing and distributing sealed tickets. The act does not change the organizations that qualify to sell sealed tickets.

"Sealed tickets" are cards with tabs which, when pulled, expose pictures of various objects, symbols, or numbers and which entitle the ticketholder to receive a prize if the combination of objects, symbols, or numbers pictured matches what is determined to be a winning combination.

Manufacturers. The act requires sealed ticket manufacturers (1) to register with DCP, (2) pay a \$5,000 annual registration fee, and (3) undergo state and national criminal history checks as a condition of registration. The act prohibits (1) manufacturers from selling sealed tickets to anyone except registered distributors and (2) distributors from buying sealed tickets from anyone except qualified sealed ticket manufacturers.

Distributors. Under prior law, qualified organizations bought sealed tickets directly from DSR. The act requires an organization authorized to sell sealed tickets to buy them from a private sealed ticket distributor instead of from the state. It requires distributors to register with DCP and pay a \$2,500 annual registration fee. It requires distributors to (1) undergo state and national criminal history checks as a condition of registration, (2) be state residents, and (3) have a physical office in Connecticut, subject to inspection by DCP during normal business hours. The act prohibits any organization or anyone affiliated with an organization permitted to sell sealed tickets from being a distributor.

The act requires all sealed tickets purchased by distributors for sale in Connecticut to be stored or warehoused in the state before they are sold to an organization. It requires that tickets meet the standards for pull-tabs adopted by the North American Gaming Regulators Association.

Penalties. The act subjects manufacturers and distributors to existing law on investigating violations of the sealed tickets laws. The act increases the civil penalty for such violations or making a false statement from \$200 to \$500.

Annual Fees. The act requires manufacturers of, and dealers in, sealed ticket dispensing machines to register annually with DCP, instead of DSR. Under prior law, the application fee for both the dealer and manufacturer was \$625. The act doubles the manufacturer fee to \$1,250.

DSR Tickets. The act allows DCP to sell any sealed tickets in its possession on and after July 1, 2011, provided it does not buy any new tickets after that date. As was the case under prior law for DSR sealed ticket sales, permittees must buy these sealed tickets at a cost

of 10% of the resale value. After all the tickets are sold, the act requires permittees to purchase from a distributor at a cost of 10% of the resale value. The act requires each distributor to submit 30% of its gross revenue from the ticket sales to the state treasurer each quarter.

§§ 216–222 & 224 — IGNITION INTERLOCKS

The act reduces the suspension period of a driver's license or non-resident's operating privilege for motorists convicted for a first or second time of DUI to 45 days. It requires, as a condition of DMV restoring a license, that offenders install a functioning, approved ignition interlock device on each vehicle they own or operate and drive only vehicles with such a device for specified periods of time. Prior law required use of an ignition interlock following a license suspension for a second offense, but not for a first offense (see Table 2). (By law, a driver's license is permanently revoked for a third DUI violation. See below.)

An ignition interlock requires a driver to breathe into it to operate the vehicle in which it is installed; it prevents a vehicle from starting if it detects blood alcohol content (BAC) above a certain threshold. The device also requires the driver to submit periodic breath samples while the vehicle is operating.

The act authorizes the DMV commissioner to extend the duration of ignition interlock restrictions for drivers who fail to comply with the device's installation or use requirements beyond those the act establishes. It requires her to adopt regulations specifying (1) which actions by an individual constitute noncompliance, (2) the conditions under which noncompliance will result in DMV extending the time period the individual must drive only vehicles equipped with ignition interlocks, and (3) the length of any such extension.

It requires the commissioner to allow an offender who has served the 45-day suspension and installed ignition interlocks on his or her vehicles to drive them even if he or she has not finished serving an "administrative per se" suspension (see BACKGROUND-*Administrative Per Se Suspensions*).

It requires DMV and the Judicial Branch's Court Support Services Division (CSSD), by February 1, 2012, to jointly develop and submit to the Judiciary and Transportation committees a plan to implement, starting January 1, 2014, the installation and use of ignition interlock devices for anyone convicted of DUI.

The act specifies that certain cost, supervision, installation, use, and other ignition interlock provisions apply only to motorists whose licenses are suspended for DUI convictions on or after January 1, 2012. But it allows the DMV commissioner, at the request of anyone convicted of DUI whose license is under suspension on that date, to reduce the suspension (presumably after the driver has served 45 days) and place a restriction on the

license requiring that the motorist drive only a vehicle equipped with an ignition interlock device for the remainder of the suspension period.

Prior law required anyone whose license was suspended for DUI or for two or more administrative per se suspensions to take part in a DMV-approved substance abuse treatment program in order to have his or her license reinstated. The act eliminates this program. It also makes conforming changes. But by law, unchanged by the act, (1) a court may order a driver to participate in such a program and (2) the commissioner must consider participation in such a program, among other things, when deciding whether to restore a permanently revoked license (see below).

DUI Suspensions

By law, motorists convicted of DUI are subject to imprisonment, a fine, and suspension of their driver's licenses. Table 2 shows the DUI suspension period penalties under prior law and the act (see BACKGROUND-*DUI Convictions*).

Table 2: License Suspensions Under Prior Law And The Act

DUI Violation	Suspension under Prior Law	Suspension under the Act
First	One year	45 days, followed by one year driving only a vehicle equipped with an ignition interlock device
Second (under age 21)	Three years or until driver turns 21, whichever is longer, followed by two years of driving only a vehicle equipped with an ignition interlock device	45 days or until driver turns 21, whichever is longer, followed by three years of driving only a vehicle equipped with an ignition interlock device
Second (age 21 or older)	One year, followed by two years of driving only a vehicle equipped with an ignition interlock device	45 days, followed by three years of driving only a vehicle equipped with an ignition interlock device

Costs of Installing Ignition Interlocks and Supervision of Offenders

By law, an individual required to use an ignition interlock must pay to install and maintain it. The act prohibits a court from waiving the installation and maintenance fees or costs. By law, the individual must also pay a \$100 fee, which goes to an account used to administer the program.

The act places anyone who is on probation and required to install an ignition interlock device under CSSD's supervision; it places all others under DMV supervision. In either case, they are subject to any terms and conditions the DMV commissioner may prescribe

and any laws or regulations she adopts consistent with the act.

The act requires the commissioner to ensure that companies installing the devices notify her and CSSD when anyone required to use an ignition interlock fails to comply with its installation, maintenance, or use requirements. The commissioner is not required to verify that a device has been installed on each motor vehicle owned by the person convicted of DUI.

Restoration of a Revoked License

The law allows someone whose driver's license has been permanently revoked following a third DUI conviction to request a reduction or reversal of the revocation of driving privileges after six years. By law, the commissioner may do this if she determines that doing so does not endanger public safety, certain requirements are met (including successfully completing an alcohol education and treatment program), and the person agrees to install and use an ignition interlock. The act extends the time an ignition interlock device must remain in place in such circumstances. Under prior law, the device had to remain in place from the date the reversal or reduction was granted until 10 years passed from the date the license was revoked. The act instead requires that the ignition interlock remain in place for 10 years from the date the commissioner grants the reversal or reduction.

Penalties for Drivers Who Violate the Act

The act increases penalties for violations of certain ignition interlock restrictions. Under prior law, these violations were class C misdemeanors (see Table on Penalties). The act instead subjects an individual under a court order or subject to DMV's ignition interlock restrictions who drives a vehicle (1) not equipped with a functioning ignition interlock or (2) that a court has ordered him or her not to drive, to the same penalties the law imposes on people who drive while their license is suspended or revoked for DUI or certain other offenses.

These penalties are, for a first offender, a fine of between \$500 and \$1,000 and imprisonment for up to one year, with a 30-day mandatory minimum. A driver who, for the second time, is subject to and violates the act's suspension and ignition interlock restrictions is subject to a fine of between \$500 and \$1,000 and imprisonment for up to two years, with a 120-day mandatory minimum. An individual who, for a third or subsequent time, is subject to and violates the act's suspension and interlock restrictions, faces a fine of between \$500 and \$1,000 and imprisonment for up to three years, with a one-year mandatory minimum. In each case, the court is not required to impose the mandatory minimum sentence if there are mitigating

circumstances.

By law, unchanged by the act, anyone required to use an ignition interlock who (1) asks someone else to blow into the device to start a vehicle or (2) tampers with, bypasses, or alters the device, commits a class C misdemeanor.

Related Act

PA 11-48 contains identical ignition interlock provisions.

EFFECTIVE DATE: January 1, 2012, except or the provision requiring the joint report, which is effective upon passage.

§ 223 — STATE-WIDE EMERGENCY MANAGEMENT AND HOMELAND SECURITY COORDINATING COUNCIL

The act eliminates this council, which was responsible for advising DEMHS and DPS on various emergency management and homeland security issues such as:

1. applying for and distributing emergency management and homeland security funds;
2. planning, designing, implementing, and coordinating statewide emergency response systems;
3. assessing the state's overall emergency management and homeland security preparedness, policies, and communications;
4. strategies to improve emergency response and incident management; and
5. strengthening consultation, planning, cooperation, and communication among federal, state, and local governments; the Connecticut National Guard; police, fire, emergency medical and other first responders; emergency managers; public health officials; private industry; and community organizations.

BACKGROUND

DUI Convictions

The law considers a subsequent DUI conviction one that occurs within 10 years of a prior conviction for the same offense. In practice, the first conviction of a driver for DUI is usually for the driver's second violation. By law, an individual charged with DUI, or, if under 21, operating a vehicle with a BAC of .02% or more, may apply to the court for admission to a Pretrial Alcohol Education Program (CGS § 54-56G). The applicant must state under oath that he or she has not been in the program in the preceding 10 years, or ever, if under age 21. The court must dismiss the DUI charges if the driver

satisfactorily completes the program.

Administrative Per Se Suspensions

These are suspensions the commissioner must impose on drivers who refuse to submit to a test or whose test results indicate an elevated BAC; they are in addition to any suspension penalties imposed for conviction of any criminal DUI charge. By law, the commissioner must suspend the license of a person with a BAC of between 0.08 and 0.16 for 90 days for a first offense; nine months for a second offense; and two years for a third or subsequent offense. The license suspension period for a driver who refuses to take a test is six months for a first offense, one year for a second offense, and three years for a third or subsequent offense.

PA 11-57—SB 1242
Emergency Certification

AN ACT AUTHORIZING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS AUTHORIZING SPECIAL TAX OBLIGATION BONDS OF THE STATE FOR TRANSPORTATION PURPOSES AND AUTHORIZING STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS

SUMMARY: This act authorizes up to \$9 million in state general obligation (GO) bonds for FY 11, up to \$1.202 billion for FY 12, and up to \$1.365 billion for FY 13 for state capital projects and grant programs, including school construction, water quality, and economic development projects; farmland and open space acquisition and preservation; and improvements to state buildings, property, and parks.

It establishes a new \$20 million bond-funded program to help municipalities jointly buy or lease needed vehicles and capital equipment; authorizes \$172.5 million for the development of a University of Connecticut technology park; and merges three existing programs for energy efficiency and renewable energy projects in state buildings.

It authorizes up to \$578.6 million in special tax obligation (STO) bonds for FY 12 and up to \$515.2 million in FY 13 for transportation projects and up to \$471.78 million in revenue bonds over the two years for Clean Water Fund loans.

It approves \$284.9 million in grant commitments for 22 new local school construction, vocational agriculture (vo-ag), and interdistrict magnet school projects and reauthorizes five previously authorized projects with significant changes in cost and scope, for a net increase of \$1.85 million in grant authorizations for those projects. Finally, the act approves various exemptions, waivers, and changes in previously authorized school construction projects.

EFFECTIVE DATE: Various, see below.

§§ 1-38 — BOND AUTHORIZATIONS FOR STATE AGENCY PROJECTS AND GRANTS

This act authorizes GO bonding for FY 12 and FY 13 for state facilities, infrastructure, and programs; development and rehabilitation for housing projects and supportive housing; and grants to nonprofit organizations, municipalities, and other eligible entities. The bonds are subject to standard issuance procedures and have a maximum term of 20 years. The act includes a standard provision requiring private entities receiving bond-funded grants for facilities to repay a portion of the grant if a facility ceases to be used for the grant's purpose within 10 years of the entity receiving it.

Table 1 lists the purpose and amounts of these GO bond authorizations for FY 12 and FY 13.

Table 1: GO Bond Authorizations for FY 12 and FY 13

§§	AGENCY	FOR STATE PROJECTS	FY 12	FY 13
<i>State Projects</i>				
2 (a), 21 (a)	Secretary of the State	Development, implementation, and upgrade of information technology systems	\$3,000,000	\$2,000,000
2 (b), 21 (b)	Comptroller	CORE financial system: Enhancements and upgrades	15,000,000	7,000,000
2 (c), 21 (c)	Office of Policy and Management	Criminal Justice Information System: Design and implementation	7,700,000	4,720,000
		State and local benchmarking systems: Design and implementation, including technology development	4,000,000	2,000,000
2 (d)	Veterans' Affairs	Power plant upgrades, Rocky Hill	1,750,000	0
		Boiler repairs and improvements, Rocky Hill	250,000	0

Table 1: Continued

<i>§§</i>	<i>AGENCY</i>	<i>FOR STATE PROJECTS</i>	<i>FY 12</i>	<i>FY 13</i>
<i>State Projects</i>				
2 (e), 21 (d)	Administrative Services	Development of a new data center, including design, construction, and demolition, provided before the money is allocated, DAS must study other methods of storing and using data	21,000,000	0
		State Office Building, Hartford: Exterior renovations and improvements, including installation of air conditioning	1,500,000	21,500,000
		State-owned buildings and grounds: Infrastructure repairs and improvements	12,500,000	12,500,000
2 (f), 21 (e)	Construction Services	Removal and encapsulation of asbestos in state-owned buildings	5,000,000	5,000,000
		State-owned buildings and grounds: Infrastructure repairs and improvements	2,500,000	2,500,000
		Land acquisition, construction, improvements, repairs, and renovations at fire training schools, notwithstanding a statutory provision limiting the department's authority to state-owned or -leased buildings. (Nine of the fire training schools are controlled by municipal or regional fire associations and are not state-owned.)	0	2,000,000
2 (g), 21 (f)	Public Safety	Buildings and grounds: Alterations and improvements, including utilities, mechanical systems, and energy conservation projects	5,000,000	2,212,000
		Programmatic study of state police troops and districts and development of a design prototype for troop facilities	1,000,000	0
2 (h), 21 (g)	Military	State matching funds for anticipated federal reimbursable projects	2,000,000	2,000,000
		Buildings and grounds: alterations and improvements, including utilities, mechanical systems, and energy conservation projects	1,000,000	1,000,000
		Construction of a readiness center for the Connecticut Army National Guard Civil Support Team in Windsor Locks	1,250,000	0
		Construction of a combined support maintenance shop for Connecticut National Guard equipment in Windsor Locks	4,000,000	0
		National Guard Armory, New London & Stones Ranch storage facility, East Lyme: Alterations, renovations, and improvements for the 250 th Engineering Company	0	2,000,000
2 (i), 21 (h)	Energy and Environmental Protection (DEEP)	Dam repairs, including state-owned dams	4,000,000	4,000,000
		Alterations, renovations, and new construction at state parks and other recreational facilities, including Americans with Disabilities Act (ADA) improvements	45,000,000	15,000,000
2 (j), 21 (i)	Developmental Services	Regional facilities: Fire, safety, and environmental improvements for client and staff needs	5,000,000	5,000,000
2 (k), 21 (j)	Mental Health and Addiction Services	Regional facilities: Fire, safety, and environmental improvements for client and staff needs	3,000,000	5,000,000

Table 1: Continued

<i>§§</i>	<i>AGENCY</i>	<i>FOR STATE PROJECTS</i>	<i>FY 12</i>	<i>FY 13</i>
<i>State Projects</i>				
2 (l), 21 (k)	Education	Regional vocational-technical school system: Building and grounds alterations and improvements, including new and replacement equipment, tools, and supplies needed to update curricula; vehicles; and technology upgrades at all schools	28,000,000	28,000,000
2 (m), 21 (l)	Community College System	All colleges: Facilities alterations and improvements, including fire, safety, energy conservation, and code compliance	4,000,000	5,000,000
		All colleges: New and replacement instruction, research, or lab equipment	9,000,000	9,000,000
		All colleges: System Technology Initiative	5,000,000	5,000,000
		Northwestern: Site remediation, design, and construction for Joyner Building replacement	24,650,786	0
		Housatonic: Implement phase III of master plan for renovations and additions to Lafayette Hall	4,669,770	0
		Norwalk: Implement phase III of master plan	0	3,720,936
		Naugatuck Valley: Founders Hall alterations, improvements, and renovations	0	39,008,382
		Tunxis: Implement phase III of master plan	0	4,993,817
2 (n), 21 (m)	Children and Families	Buildings and grounds: Alterations, renovations, and improvements	1,751,000	1,285,000
2 (o), 21 (n)	Judicial	State-owned and maintained buildings and grounds: Alterations, renovations, and improvements	5,000,000	5,000,000
		Security improvements at state-owned and maintained facilities	1,000,000	1,000,000
		Implementation of the Technology Strategic Plan Project	5,000,000	5,000,000
2 (p)	Attorney General	Electronic document software and hardware: Enhancements and upgrades	2,125,000	0
2 (q)	Agricultural Experiment Station	Jenkins Building: Renovations and construction	3,500,000	0
<i>Housing Projects</i>				
9, 28	Economic and Community Development	Housing development and rehabilitation	25,000,000	25,000,000
		Supportive housing initiatives	30,000,000	0
<i>Grants</i>				
13 (a), 32 (a)	Energy and Environmental Protection	Grants for containment, removal, or mitigation of identified hazardous waste disposal sites	10,000,000	10,000,000
		Grants to municipalities for open space land acquisition and development for conservation or recreational purposes	5,000,000	5,000,000
13 (b), 32 (b)	Economic and Community Development	Regional Brownfield Redevelopment Loan Fund	25,000,000	25,000,000
13 (c), 32 (c)	Public Health	Grants to community health centers, primary care organizations, and municipalities for equipment purchases and facility renovation, improvement, and expansion	2,000,000	2,000,000

Table 1: Continued

<i>§§</i>	<i>AGENCY</i>	<i>FOR STATE PROJECTS</i>	<i>FY 12</i>	<i>FY 13</i>
<i>Grants</i>				
13 (d), 32 (d)	Developmental Services	Grants to private nonprofit organizations for alterations and improvements to nonresidential facilities	2,000,000	2,000,000
13 (e), 32 (e)	Mental Health and Addiction Services	Grants to private, nonprofit, tax-exempt organizations for community-based residential and outpatient facilities: Purchases, repairs, alterations, and improvements	5,000,000	5,000,000
13 (f), 32 (f)	Transportation	Grants for improvements to ports and marinas, including dredging and navigational direction. FY 12 authorization reserves \$1 million for a study of the strategy for economic development in the New Haven, New London, and Bridgeport ports.	6,000,000	25,000,000
13 (g), 32 (g)	Social Services	Grants for neighborhood facilities, child day care projects, elderly centers, multipurpose human resource centers, shelter facilities for domestic violence victims, and food distribution facilities	10,000,000	10,000,000
13 (h)	Education	Grants for <i>Sheff</i> magnet school program start-up costs: Purchasing a building or portable classrooms, leasing space, and purchasing equipment, including computers and classroom furniture, provided that title to any such building that ceases to be used as an interdistrict magnet school may revert to the state as the education commissioner determines.	6,250,000	0
13 (j), 32 (h)	Children and Families	Grants for residential facilities, group homes, shelters, and permanent family residences for construction, alteration, repairs, and improvements	5,000,000	5,000,000

EFFECTIVE DATE: FY 12 authorizations are effective July 1, 2011 and FY 13 authorizations are effective July 1, 2012.

§§ 39-45 — AUTHORIZATION FOR LEGISLATIVE MANAGEMENT

The act authorizes up to \$9 million in GO bonds for FY 11 to the Office of Legislative Management for capital equipment, information technology system upgrades, and infrastructure repair and improvement. It requires any balance of the bond proceeds that exceed the project cost to be credited to the General Fund.

EFFECTIVE DATE: Upon passage

§ 46 — GROTON BONDS FOR THAMES STREET REHABILITATION PROGRAM

The act validates the results of a Groton referendum on May 2, 2011 that is otherwise valid except for the town's failure to publish timely notice of it. The referendum concerned an appropriation for costs related to the Thames Street Rehabilitation Program and authorizing bonds, notes, and temporary notes to defray the cost of the appropriation. The act also validates the actions of Groton officials taken in reliance on the referendum's results and makes them effective as of the date taken.

EFFECTIVE DATE: Upon passage

§ 47 — NORWICH SEWER PROJECT BONDS

The act validates an ordinance approved by the Norwich city council on October 19, 2009 authorizing \$1.6 million in revenue bonds and \$800,000 in GO bonds to finance the Newton Street Area sewer project. It authorizes Norwich to issue and sell the bonds and makes them valid obligations of the city and its Department of Public Utilities. It also validates any proceedings or acts taken or omitted in adopting the ordinance, authorizing the project, and issuing the bonds.

EFFECTIVE DATE: Upon passage

§ 48 — CANAAN BONDS

By law, municipal bonds must mature, or the final sinking fund payment for such bonds must occur, no more than 20 years after the bonds are issued. This act supersedes the statute to double the maximum term to 40 years for bonds issued by the town of Canaan to evidence a loan from the U.S. Department of Agriculture for the cost of designing, building, and equipping a fire station housing emergency equipment.

EFFECTIVE DATE: Upon passage

§§ 49-60 — TRANSPORTATION PROJECTS

This act authorizes STO bonds for FY 12 and FY 13 for transportation-related projects, including "Fix-It-First" state road and bridge repair programs,

Department of Transportation (DOT) capital improvements and highway maintenance projects, and capital projects for ports and aviation and public transportation. The bonds are payable from the Special Transportation Fund and are subject to the regular procedures for issuing such bonds.

Table 2 lists the amounts and purposes of the act's STO bond authorizations.

Table 2: STO Bond Authorizations for DOT Projects

<i>AUTHORIZED PROGRAM AREAS</i>	<i>FY 12</i>	<i>FY 13</i>
Bureau of Engineering and Highway Operations		
Interstate highway program	\$13,000,000	\$14,950,000
Urban systems projects	8,500,000	8,500,000
Intrastate highway program	44,000,000	44,000,000
Environmental compliance, soil and groundwater remediation, hazardous materials abatement, demolition, salt shed construction and renovation, storage tank replacement, and environmental emergency response at or near state-owned property or related to DOT operations	13,000,000	11,205,000
State bridge improvement, rehabilitation, and replacement	33,000,000	33,000,000
Capital resurfacing and related construction	137,800,000	68,900,000
Fix-It-First road repair program	39,146,000	57,600,000
Fix-It-First bridge repair program	66,150,000	64,129,000
Improvement and repair of a rail freight bridge between Hartford and East Hartford	3,000,200	0
Bureau of Aviation and Ports		
Reconstruction and improvements to the warehouse and State Pier in New London, including site and ferry slip improvements	780,000	6,100,000
Developing and improving general aviation airports, including grants to municipal airports, excluding Bradley International Airport	2,000,000	2,000,000
Bureau of Public Transportation		
Bus and rail facilities and equipment, including rights-of-way, other property acquisition, and related projects	156,722,000	167,000,000
Demolition of 175,000 square feet of obsolete mill structures related to the Barnum train station project in Bridgeport	2,500,000	0
Construction of a catwalk over the railroad tracks separating the Columbus Circle area from McAuliffe Park in East Hartford	230,000	0
Bureau of Administration		
DOT facilities	\$37,520,993	\$16,555,168
STO bonds, cost of issuance and debt service reserve	21,300,000	21,300,000

EFFECTIVE DATE: FY 12 authorizations are effective July 1, 2011 and FY 13 authorizations are effective July 1, 2012.

§§ 61-75, 91-92, & 116 — BOND
AUTHORIZATIONS FOR STATUTORY
PROGRAMS AND GRANTS

This act authorizes new GO bonding for FY 12 and FY 13 for various capital programs, including school construction, clean water, and economic development projects; the Local Capital Improvement Program (LOCIP); and farmland preservation. It also authorizes bonds for development of a University of Connecticut technology park.

It establishes a new program to provide grants to allow municipalities, on or after October 1, 2011, to jointly buy or lease equipment or vehicles for required government functions or services. It authorizes up to \$10 million per year in GO bonds for FY 12 and FY 13 for the grants.

In addition to the GO bond authorizations, the act authorizes revenue bonds over the two years for Clean Water Fund loans and reallocates \$16.4 million in funds under the Connecticut State University System’s 2020 program (CSUS 2020) for a renovation and addition to the Buley Library at Southern Connecticut State University.

It also merges three existing programs for energy efficiency and renewable energy projects in state buildings and transfers responsibility for the programs to DEEP. Under prior law, each program had a separate bond authorization, funded different types of projects, and was administered by a different agency.

§§ 61-66, 71-75, & 91-92 — *New Authorizations for Statutory Programs*

The act authorizes new bonding for FY 12 and FY 13 as shown in Table 3.

Table 3: Statutory Bond Authorizations for FY 12 and FY 13

§	Agency	Purpose/Fund	FY 12	FY 13
61	Office of Policy and Management	Economic and community development project grants (Urban Act)	\$50,000,000	\$50,000,000
62	Office of Policy and Management	Small Town Economic Assistance Program (STEAP)	20,000,000	20,000,000
63	Office of Policy and Management	Capital Equipment Purchase Fund	0	22,900,000
64	Office of Policy and Management	Local Capital Improvement Program (LOCIP)	30,000,000	30,000,000
65	Construction Services ¹	School construction projects	523,000,000	584,000,000
66	Education	School construction interest subsidy grants	13,400,000	8,300,000
71	Agriculture	Farmland preservation	10,000,000	10,000,000
72	Environmental Protection	Clean Water Fund grants	92,600,000	94,000,000
73	Environmental Protection	Clean Water Fund loans (revenue bonds)	233,420,000	238,360,000

Table 3: Continued

§	Agency	Purpose/Fund	FY 12	FY 13
74	Economic and Community Development	Manufacturing Assistance Act	40,000,000	40,000,000
75	Office of Policy and Management	Intertown Capital Equipment Purchase Incentive Program (see below)	10,000,000	10,000,000
91	Economic and Community Development	Housing Trust Fund	25,000,000	25,000,000
92	University of Connecticut	Development of a technology park and related buildings at UConn, including planning, design, construction and improvements, land acquisition, equipment purchases, on- and off-site utilities, and infrastructure improvements (see below)	18,000,000	154,500,000

¹ PA 11-48 transfers responsibility for paying school construction grants from the State Department of Education to the Department of Construction Services.

EFFECTIVE DATE: FY 12 authorizations are effective July 1, 2011 and FY 13 authorizations are effective July 1, 2012.

§ 67 — *CSUS 2020 Project Reallocation*

The act adds a project for additions and renovations to Buley Library at Southern Connecticut State University (SCSU) to Phase I of the CSUS 2020 system-wide capital improvement plan. It funds the project by reallocating \$16,386,585 in GO bond authorizations from two existing SCSU projects: (1) new academic laboratory building/parking garage (reduced by \$11,482,000) and (2) code compliance/infrastructure improvements (reduced by \$4,904,585). The reallocation allows SCSU to complete the Buley Library renovation and supports work on its new addition.

EFFECTIVE DATE: July 1, 2011

§§ 68-70 & 116 — *Renewable Energy and Energy Services Projects in State Buildings*

The act merges three programs with separate GO bond authorizations for funding energy efficiency and renewable energy projects in businesses and state buildings. It does so by (1) limiting the program to state buildings, (2) requiring all three authorizations to fund the same types of projects, (3) transferring responsibility for all three programs to DEEP, and (4) eliminating separate program requirements (see Table 4).

Table 4: Merging Energy Programs for State Buildings

PROGRAM	BOND AUTHORIZATION	TYPES OF PROJECTS		ADMINISTERING AGENCY	
		Prior Law	The Act	Prior Law	The Act
Energy services projects in state buildings (§ 16a-38m)	\$13,000,000	Energy efficiency measures under the strategic plan for improving energy management in state buildings	Energy efficiency measures under the strategic plan for improving energy management in state buildings	Public Works	Energy and Environmental Protection
Clean and Distributive Generation Grant program (§§ 16a-38n & 16a-38o)	20,000,000	Clean and distributive generation projects in businesses and state buildings generated from a Class I renewable energy source	management in state buildings Renewable energy in state buildings Combined heat and power (cogeneration) in state buildings	Public Utility Control	Energy and Environmental Protection
Renewable energy or combined heat and power projects (§ 16a-38p)	\$10,000,000	Renewable energy or combined heat and power projects in state buildings		Connecticut Innovations, Inc.	Energy and Environmental Protection

The act also eliminates requirements, formerly applicable to one or more of the separate programs, that:

1. bond funds be used only to pay the net project cost or the balance after applying available private incentives;
2. the funds be available through the Renewable Energy Investment Fund; and
3. the state building where the project is performed (a) be certified or in the process of being certified in the Leadership in Energy and Environmental Design (LEED) program, (b) be in the process of becoming LEED silver-rated, or (c) have received or be in the process of receiving a two-globe rating in the Green Globes USA design program.

EFFECTIVE DATE: July 1, 2011

§ 75 — Intertown Capital Equipment Purchase Incentive Program

The act establishes a new grant program, administered by the Office of Policy and Management (OPM) secretary, to help municipalities jointly buy or lease needed vehicles or capital equipment starting October 1, 2011.

The program provides grants to pay up to 50% or \$250,000, whichever is less, of the cost of buying or leasing (1) a maintenance vehicle, pickup truck, tractor,

truck tractor, utility trailer, or similar vehicle or (2) any other equipment, including data processing equipment with a unit price under \$1,000, that has an expected remaining useful life of at least five years from the purchase or lease date. The municipality must use the vehicle or equipment to perform or deliver a required government function or service.

The act requires the OPM secretary, by September 1, 2011, to develop guidelines establishing:

1. application and administrative procedures for the program;
2. criteria for spending the grants and for allocating them among the municipalities jointly acquiring the equipment; and
3. priorities for awarding grants, including limits on how often a municipality may apply, or the dollar amount it may receive, in a given time period.

By October 1, 2011 and each year thereafter, the secretary must issue a notice that the grants are available and solicit proposals for funding. Eligible municipalities may apply for grants when and how the secretary prescribes. The secretary must review the applications and determine the vehicles or equipment to fund and the grant amounts in accordance with program guidelines.

EFFECTIVE DATE: July 1, 2011

§ 92 — *UCONN Technology Park*

The act gives UConn authority to supervise all aspects of the project to develop a technology park, including off-campus improvements. It requires UConn to work in consultation with the town of Mansfield concerning on- and off-site utilities financed under the act's bond authorization.

EFFECTIVE DATE: July 1, 2011

§§ 83, 84, 86, & 87 — CANCELLATIONS AND REALLOCATION OF FUNDS FOR NEW PUBLIC HEALTH LABORATORY

The act cancels parts of two authorizations for a new public health laboratory and allows reallocation of some of the funds. It:

1. cancels \$630,250 of a \$5 million authorization for development of a new public health lab and allows the remaining \$4,369,750 funds to be used for a laboratory addition for DEEP in Windsor; and
2. cancels \$2,215,700 of an authorization for the new health lab and related costs, reducing it from \$32,785,900 to \$30,570,200.

EFFECTIVE DATE: July 1, 2011

CHANGES IN EXISTING AUTHORIZATIONS

§§ 76-82 — *Authorizations Transferred to New Agencies*

In conformity with acts consolidating state agencies, the act transfers responsibility for existing bond authorizations for the following capital projects related to state buildings and property from the Department of Public Works (DPW) to the Department of Construction Services (DCS):

1. various security improvements;
2. removal or encapsulation of asbestos in state buildings;
3. infrastructure repairs and improvements, improvements to state-owned buildings and grounds, and preservation of unoccupied buildings and grounds;
4. capital construction, improvements, repairs, renovations, and land acquisition at fire training schools; and
5. development and implementation of a plan to reduce the number of state-owned and -leased surface parking lots in Hartford.

In addition, it transfers responsibility for existing bond authorizations for the following information technology projects from the Department of Information Technology (DOIT) to the Department of Administrative Services (DAS):

1. development and implementation of the Connecticut Education Network,
2. planning and design for a state data center, and
3. development and implementation of systems to comply with the federal Health Insurance Portability and Accountability Act.

EFFECTIVE DATE: July 1, 2012

§§ 85 & 88 — *Corrections in Prior Authorizations for Housing Development and Rehabilitation Projects*

The act makes two corrections in prior authorizations to the Department of Economic and Community Development for housing development and rehabilitation projects. It changes the amount authorized for specific projects in PA 07-7, June Special Session (§ 28), from \$9 million to \$10 million to match the total authorization for all housing development and rehabilitation projects specified in the preceding section of that act. It also corrects the names of two New Britain housing development projects authorized under PA 10-44 to receive \$15 million from a previous \$21 million authorization.

EFFECTIVE DATE: July 1, 2011

§ 89 — *Department of Environmental Protection (DEP) Water Pollution Grants*

The act expands the permissible uses for a \$16 million authorization to DEP to allow the department to use the funds for grants to state and regional planning agencies and municipalities for water pollution control projects. Under prior law and the act, DEP can also use these funds for grants to:

1. contain, remove, or mitigate identified hazardous waste disposal sites;
2. municipalities for new water mains to replace supply from contaminated wells;
3. identify, investigate, contain, remove, or mitigate industrial sites in urban areas;
4. municipalities to acquire land for public parks, recreational and water quality improvements, and water mains and water pollution control projects, including sewers; and
5. municipalities to provide potable water.

EFFECTIVE DATE: July 1, 2011

§ 90 — *Authorization for Northwestern Community College*

The act expands the permissible uses of an FY 10 authorization of up to \$1,633,611 for replacing the Joyner Building at Northwestern Community College to include property acquisition as well as site remediation, design, and construction.

EFFECTIVE DATE: July 1, 2011

§ 93 — SCHOOL CONSTRUCTION PROJECTS

The act authorizes \$284.9 million in grant commitments for 22 new local school construction, vocational agriculture (vo-ag), and interdistrict magnet school projects. It also reauthorizes and changes grant commitments for five previously authorized projects with significant changes in cost and scope, three for the first time and two for the second. (By law, districts are limited to two reauthorizations.) Of the five reauthorizations, two are reauthorized at reduced, and three at increased, cost. The total net increase in grant commitments for the reauthorizations is \$1.85 million.

New Project Authorizations

Table 5 shows the 22 new school projects the act authorizes. Projects are listed alphabetically by district or entity.

Table 5: New School Construction Projects Authorized

<i>District/Entity</i>	<i>School</i>	<i>Project</i>	<i>Estimated Cost</i>	<i>Estimated Grant</i>
Bridgeport	Black Rock School	Extension & alteration/site purchase	\$12,000,000	\$9,385,200
Bridgeport	Harding High School	New school	78,254,163	61,202,581
Bridgeport	Central High School	Extension & alteration	73,418,940	57,420,953
Bridgeport	Dunbar School	Alteration/energy conservation	8,807,099	6,888,032
Capitol Region Education Council (CREC)	CREC Academy of Aerospace	New interdistrict magnet school/ site purchase	67,393,000	64,023,350
CREC	CREC Discovery Academy	New interdistrict magnet school/ site purchase	31,975,000	30,376,250
CREC	CREC Museum Academy	New interdistrict magnet school/ site purchase	31,961,000	30,362,950
Cheshire	Cheshire High School	Energy conservation	209,101	90,353
Cheshire	Norton School	Energy conservation	500,000	205,350
Connecticut Science Center	Connecticut Science Center	Alteration/energy conservation/ interdistrict magnet school	1,500,000	1,425,000
Fairfield	Fairfield Woods Middle School	Extension & alteration	24,453,000	6,374,897
Milford	Pumpkin Delight School	Code violation	500,000	194,650
Milford	Jonathan Law High School	Extension & alteration/energy conservation	5,500,000	2,141,150
Milford	Joseph A. Foran High School	Extension & alteration/energy conservation	10,400,000	4,048,720
New Britain	Diloreto Magnet School	Extension & alteration	10,000,000	7,929,000
Oxford	Great Oak Middle School	Alteration/energy conservation	910,791	465,141
Region 4	John Winthrop Middle School	Energy conservation	994,000	426,028
Region 14	Nonnewaug High School	Vo-ag center alteration	192,500	182,875
Region 19	E. O. Smith High School	Vo-ag center equipment	590,062	560,559
Stratford	Bunnell High School	Alteration/code violation	1,357,000	654,210
Weston	Weston High School	Energy conservation	1,175,460	251,901
Weston	Weston Middle School	Energy conservation/code violation	1,395,150	298,981

Reauthorized Projects

Table 6 lists the five projects proposed for reauthorization because of a significant (more than 10%) change in cost or scope.

Table 6: Reauthorization of Previously Authorized Projects

<i>District</i>	<i>School</i>	<i>Project</i>	<i>Prior Grant Authorization</i>	<i>New Grant Authorization</i>	<i>Change</i>
FIRST REAUTHORIZATION					
Cromwell	Cromwell Middle School	Alteration/ energy conservation	\$1,248,987	\$622,212	(\$626,775)
Cromwell	Edna Stevens School	Alteration/ energy conservation	1,873,734	507,607	(1,366,127)
Waterbury	Waterbury Career Academy	New school	50,163,802	53,576,883	3,413,081
SECOND REAUTHORIZATION					
Montville	Leonard J. Tyl School	Energy conservation/code violation	\$676,947	\$887,461	\$210,514
West Hartford	King Philip Middle School	Alteration	589,960	808,072	218,112

EFFECTIVE DATE: Upon passage

§§ 94-99 & 101-115 — *School Construction Notwithstanding*

The act exempts specified school construction projects from various statutory and regulatory requirements to allow them to qualify for state grants. These exemptions are referred to as “notwithstanding” provisions. Table 7 summarizes each exemption and any applicable conditions.

Table 7: Notwithstanding Provisions for Local School Projects

<i>§</i>	<i>District/Entity</i>	<i>Project (s)</i>	<i>Exemption, Waiver, or Other Change</i>
94	Bridgeport	Projects authorized between July 1, 2011 and June 30, 2016	<ul style="list-style-type: none"> Exemption for limit on cost of site acquisition and remediation of a brownfield if that cost is less than the cost of a reasonable alternative site, as determined by the DCS commissioner, in consultation with the education commissioner and the Office of Brownfield Remediation and Development. DCS, in consultation with the commissioner and the office, must report to the Education and Finance committees by June 30, 2017 on the efficacy and cost-effectiveness of the exemption.
95	Bristol	Bristol Central High and Bristol Eastern High: Alterations	Change to a renovation project.
96	CREC	7 new interdistrict magnet schools	<ul style="list-style-type: none"> State must pay the initial cost of CREC's local shares for these projects. After audit of completed projects, DCS must calculate the local share of each and determine a 20-year repayment schedule, including a fixed interest rate as determined by the state treasurer over the repayment period. SDE must withhold annual repayments from the interdistrict magnet school grants payable to CREC for operating the schools. SDE must transfer withheld amounts annually to the School Building Construction Fund.
97	Two Rivers Magnet Academy governance committee	Two Rivers Magnet Middle School: New magnet school	<ul style="list-style-type: none"> Forgives repayment of \$1,568,672 in grant funds received for reimbursement of ineligible costs. Governance committee members repay \$268,600 of the ineligible costs on a pro rata basis.
98	Goodwin College	Connecticut River Academy: New magnet school	Reduces authorized project cost by \$1.2 million

Table 7: Continued

<i>§</i>	<i>District/Entity</i>	<i>Project (s)</i>	<i>Exemption, Waiver, or Other Change</i>
99	Cromwell	Woodside Intermediate School: New school	<ul style="list-style-type: none"> • Waives repayment of any portion of grant already paid prior to the act's passage based on enrollment figure of 494. • SDE not responsible for making any more grant payments based on that figure.
101	Hartford	Capital Preparatory Magnet School: New magnet school	<p>Allow district to change the project to accommodate change from a grade 6-12 to pre-k- to- 12 school, provided:</p> <ul style="list-style-type: none"> • there is no increase in total project costs authorized, • the education commissioner reviews and approves all construction plans and specifications for the pre-k-12 school, and • the education commissioner approves Hartford's modified enrollment projections for the pre-k-12 school.
102	Ledyard	Juliet W. Long Elementary School: Asbestos removal	Waives requirements for Bureau of School Facilities plan approval before bid, provided bureau approves plans and specifications.
103	Ledyard	Ledyard High School: Asbestos removal	Waives requirements for Bureau of School Facilities plan approval before bid, provided bureau approves plans and specifications.
104	New London	Interdistrict magnet school district	<ul style="list-style-type: none"> • Extends, from June 30, 2012 to June 30, 2015, the deadline for New London's out-of-district student enrollment to equal at least 15% of its total districtwide enrollment as a condition of receiving state operating grants. • Requires the districtwide enrollment to be measured based on the total number of students enrolled in New London public schools.
105	West Haven	West Haven High School: Alteration and energy conservation	<ul style="list-style-type: none"> • Waives requirements for Bureau of School Facilities plan approval before bid, provided bureau approves plans and specifications. • Waives competitive bidding requirements for orders and contracts applicable to project. • Makes district eligible for payment for any change orders not submitted within statutory time limit.
106	Woodstock	Woodstock Elementary School: Asbestos removal	Waives requirement for Bureau of School Facilities plan approval before bid, provided bureau approves plans and specifications.
107	Winchester	Pearson Middle School: Code violations	Waives requirement for Bureau of School Facilities plan approval before bid, provided bureau approves plans and specifications.
108	Enfield	Stowe Elementary School	<ul style="list-style-type: none"> • Waives requirement to repay the unamortized balance of a school construction grant when redirecting a school building to other use. • Waiver continues while Enfield leases the building to CREC for temporary use as the Public Safety Magnet School. • Period for which CREC uses the facility to be credited towards time Enfield uses it for another school use.
109	Groton	Catherine Kolnaski Magnet School: New school	Exempts project from space standards for grant calculation purposes.
110	New Haven	Clinton Avenue School: Renovations	<ul style="list-style-type: none"> • New Haven not responsible for returning any portion of grant already paid prior to the act's passage based on enrollment figure of 680. • SDE not required to make any more grant payments based on that figure.
111	Hartford	M.D. Fox Elementary School: Alteration, energy conservation, code violation, and renovation	Waives requirement that a renovation project cost less than a new building, provided project cost does not exceed approved cost of \$54,337,500.
112	Danbury	Danbury Head Start Center: Extension/alteration	Changes project scope to site acquisition and new construction.

Table 7: Continued

<i>§</i>	<i>District/Entity</i>	<i>Project (s)</i>	<i>Exemption, Waiver, or Other Change</i>
113	Amistad Academy Charter School	Amistad Academy Charter School: Purchase and renovations	Increases authorized project cost by \$2.75 million, from \$31.5 million to \$34.25 million.
114	Region 6	Wamogo Regional High School: Vo-ag/extension and alteration	Waives newspaper notice requirement in competitive bidding procedure to allow alternate public bidding invitation for costs up to \$419,200.
115	Wilton	Cider Mill School: Renovation/extension	<ul style="list-style-type: none"> • Waives repayment of any portion of grant already paid prior to the act's passage based on square footage of 145,300. • SDE not responsible for making any additional grant payments based on that square footage figure.

EFFECTIVE DATE: Upon passage

§ 100 — Diversity School Project Grants

The act requires the DCS commissioner, in consultation with the SDE, to provide special school construction grants for school districts that have one or more schools with minority enrollments that exceed the district-wide percentage of minority enrollment for the same grades by more than 25%. The grant must reimburse such districts for 80% of the reasonable capital costs for school construction projects, including purchase, construction, extension, replacement, leasing, major alteration of, or buying equipment for, diversity schools open to all students within the district. Under the act, minorities are students whose race is defined as other than white or whose ethnicity is defined as Latino or Hispanic for purposes of the federal census.

To qualify for the grant, (1) the diversity school must be open to all students living in the district for the purpose of correcting the existing minority enrollment disparity and (2) the school board must demonstrate that it has made a good faith effort to correct the disparity, as determined by the education commissioner. An eligible district must apply for grants according to the school construction grant application procedure and include with the application evidence that it is developing policies to let its residents know that the diversity school is open to all eligible students living in the district. The DCS commissioner must approve only those applications that the education commissioner finds will help correct the district's enrollment disparity. Diversity school projects must meet all requirements for school construction projects receiving state grants, but the act allows the DCS commissioner to waive any of these requirements for good cause.

The act requires the education commissioner to conduct a programmatic audit of each diversity school within five years after it opens. If the commissioner determines the school board has not made significant progress to correct the district's minority enrollment disparity, the commissioner must notify the board that, unless there is significant progress within one year after

the audit, it may be responsible for repaying the difference between the 80% reimbursement and the district's regular school construction project reimbursement rate.

If, after the one-year period, the commissioner determines there has not been significant progress, the school district must repay the extra project reimbursement. Under the act, it must do so by paying the amount of the difference in equal annual payments over a 20-year schedule, as calculated by the DCS commissioner. The repayment must include interest at a fixed rate determined by the state treasurer and applied to the outstanding principal at the time of each payment.

EFFECTIVE DATE: Upon passage

PA 11-61—HB 6652
Emergency Certification

AN ACT IMPLEMENTING THE REVENUE ITEMS IN THE BUDGET AND MAKING BUDGET ADJUSTMENTS, DEFICIENCY APPROPRIATIONS, CERTAIN REVISIONS TO BILLS OF THE CURRENT SESSION AND MISCELLANEOUS CHANGES TO THE GENERAL STATUTES

SUMMARY: This act revises many provisions of previously adopted 2011 public acts affecting the state budget, taxes, and other laws.

It makes numerous alterations in the budget and tax provisions of PA 11-6, including:

1. adjusting the FY 12 and FY 13 appropriations for state agencies and programs and generating changes in net appropriations for those years in the General Fund, Special Transportation Fund (STF), and Consumer Counsel and Public Utility Control Fund;
2. revamping the property tax exemptions for manufacturing machinery and equipment (MME) and commercial trucks as well as

eliminating state payments in lieu of taxes (PILOTs) for the exemptions and altering the distribution of the manufacturing transition grants designed to replace them;

3. altering the distribution of funds in the municipal revenue sharing account and modifying the qualifications for regional performance incentive grants;
4. eliminating the cabaret tax;
5. capping the tobacco products tax on cigars;
6. making the sales tax on remote sellers ("Amazon tax") apply to sales on or after May 4, 2011, PA 11-6's effective date;
7. adding exemptions to several taxes imposed by PA 11-6; and
8. reducing the required revenue transfer for FY 12 from the General Fund to the STF by \$42.5 million.

The act also makes many other changes, including:

1. cancelling authorization for the state to issue economic recovery revenue bonds backed by a surcharge on electric bills to provide revenue for the state General Fund for FY 11;
2. delaying scheduled rail fare increases on the New Haven line and its branches;
3. abolishing the Transportation Strategy Board (TSB);
4. allowing Bridgeport to make smaller contributions towards the unfunded liability of a city pension fund for which it previously sold pension deficit funding bonds;
5. requiring the State Board of Education (SBE) to appoint a special master to run the Windham school district and help it improve student achievement;
6. reducing the state reimbursement rate for construction projects for vocational agriculture (vo-ag) centers run by school districts;
7. modifying retirement eligibility and benefits under the Judges' Retirement System;
8. revising the Department of Mental Health and Addiction Services (DMHAS) supportive housing initiative for people with mental illness and others;
9. eliminating staffing at the West Willington visitor welcome center (later restored under PA 11-233); and
10. establishing a procedure for the General Assembly to approve the May 27, 2011 agreement between the state and the State Employees Bargaining Agent Coalition (SEBAC). (The approval timetable was subsequently extended by PA 11-1, June Special Session (JSS), after state employees failed to ratify the May 27 agreement.)

Finally, the act appropriates \$355 million to cover deficiencies in General Fund appropriations for FY 11. The lion's share of these funds (\$277 million) is appropriated to the Department of Social Services (DSS).

A section-by-section analysis of the act's provisions appears below. Technical sections (§§ 101 and 132) are not listed. Section 101 is effective January 1, 2012 and applicable to primaries and elections held on or after that date.

EFFECTIVE DATE: July 1, 2011 unless otherwise noted.

§§ 1-3, 44, 52, & 189 — MME & TRUCK PROPERTY TAX EXEMPTIONS AND PILOTS

§§ 1-3, 52, & 189 — MME Property Tax Exemption

Beginning with the October 1, 2011 assessment year, the act exempts all eligible manufacturing, biotechnology, and recycling MME from local property taxes regardless of purchase or acquisition date. Under prior law, such property would have been exempted under separate programs for MME purchased and acquired (1) on or before October 1, 2006, (2) between October 2, 2006 and October 1, 2011, and (3) on or after October 1, 2011.

To conform to this change, the act eliminates the requirements that, for the 2006 through 2011 assessment years, (1) MME owners file a supplement to their personal property declaration that includes data on the date of acquisition, acquisition costs, and depreciated value of MME and (2) town assessors determine the depreciated value of such MME using the method they used for the 2005 assessment year.

The act shifts, from the Office of Policy and Management (OPM) to municipal assessors, (1) responsibility for prescribing the documentation to support an application for a five-year MME exemption and (2) authority to request such applicants to submit a copy of applicable federal income tax returns and accompanying schedules or alternative supporting documentation. And it repeals provisions that (1) require MME owners applying for a five-year exemption to do so on a form prescribed by OPM and (2) allow the OPM secretary to deny an exemption claim if the owner of new MME is delinquent on his or her corporation tax, after providing notice to the affected taxpayer.

Enterprise Zone MME Property Tax Exemption and PILOT

The act retains an existing state-reimbursed property tax exemption for eligible MME located in designated areas (i.e., the Distressed Municipality Property Tax Reimbursement Program). Certain MME

may qualify for a partial exemption under this program, but not the 100% exemption described above.

By law, MME and other types of personal property located in targeted investment communities, enterprise zones, and the Bradley Airport Development Zone (BADZ) may qualify for a five-year, 80% property tax exemption. The exemption applies to property (1) in manufacturing or service facilities and (2) acquired as part of a technological upgrade of a manufacturing process in these designated areas. (By law, these exemptions apply in the BADZ for assessment years beginning on or after October 1, 2012.)

The state makes an annual grant payment to towns to reimburse them for half of the revenue loss from real and personal property tax exemptions in these designated areas.

§ 189 — MME and Commercial Vehicle PILOTs

Prior law required the state to reimburse municipalities for the revenue loss resulting from the property tax exemptions for (1) eligible MME and (2) certain commercial trucks and other vehicles used to transport freight for hire. The act eliminates these PILOTs for assessment years that begin on or after October 1, 2011. The act also repeals related provisions that (1) provide a five-year MME depreciation schedule to determine the tax revenue loss to the town and the PILOT amount and (2) require a state grant payment to replace the MME PILOT beginning in FY 14.

§ 44 — Manufacturing Transition Grants and the Municipal Revenue Sharing Account

To mitigate the loss of these PILOTs, PA 11-6 requires the OPM secretary to distribute “manufacturing transition grants” to municipalities equal to the amount each received in FY 11 as a PILOT for eligible commercial vehicles, MME, and certain real property in enterprise zones. PA 11-6 creates the Municipal Revenue Sharing Account (a separate, nonlapsing General Fund account) and allocates a certain portion of sales, luxury, and state real estate conveyance tax revenue to the account to fund these grants.

This act:

1. eliminates enterprise zone PILOTs from the basis for determining the manufacturing transition grants;
2. lists the grant amount each town receives;
3. requires OPM to make the grant payments in quarterly allotments on the 15th of November, February, May, and August of each fiscal year;
4. requires the grants to be reduced proportionately if the amount available in the Municipal Revenue Sharing Account is less than the amount required for the grants; and

5. requires any overpayments made prior to June 30, 2011 for truck and MME PILOTs to be deducted from the grants. (PA 11-239 (§ 17) makes a technical change to this provision.)

Under PA 11-6, the OPM secretary must distribute any remaining account funds to municipalities as follows:

1. 50% on a per capita basis, according to the most recent federal 10-year census and
2. 50% according to an existing property tax relief formula that apportions funds based on a municipality’s population, adjusted equalized net grand list per capita, and per capita income of town residents.

This act requires that the property tax relief formula be calculated using population information from the most recent federal 10-year census, 2007 equalized net grand list, and 1999 per capita income.

EFFECTIVE DATE: July 1, 2011, except that the repeal of the following provisions is applicable to assessment years starting on or after October 1, 2011: (1) commercial truck and MME PILOT, (2) property tax exemption and PILOT for older MME, (3) five-year MME depreciation schedule, and (4) state grant payment to replace the MME PILOT beginning in FY 14.

§ 4 — WATERCRAFT REGISTRATION REVENUE

PA 11-6 eliminated the separate nonlapsing boating account and instead required the Department of Motor Vehicles (DMV) commissioner to deposit the annual revenue from watercraft registration and numbering fees with the state treasurer for the General Fund. This act requires the commissioner to start making deposits on May 4, 2011 (PA 11-6’s effective date) instead of October 1, 2011, although the change is not effective until July 1, 2011. It also eliminates the requirement that the DMV commissioner make annual deposits, thus allowing her to determine the revenue deposit schedule.

§ 5 — REGIONAL PERFORMANCE INCENTIVE GRANT PROGRAM

Eligible Grant Recipients

The law establishes a grant program that provides funds to municipalities for jointly performing a service they have been performing separately. PA 11-6 establishes the Regional Performance Incentive Account, a separate, nonlapsing General Fund account, to fund the grant program and directs a portion of the state hotel tax and rental car surcharge to the account.

Under prior law, municipalities accessed the grants through their respective regional planning organizations, which can be a regional planning agency, regional council of elected officials, or regional council of

governments. The act expands the range of eligible entities to include (1) any two or more municipalities and (2) regional economic development districts. (The law already allows regional planning organizations and other entities to form these districts and prepare and implement strategies to develop their economies.)

Eligible Proposals and Application Deadlines

By law, eligible applicants submit proposals, by December 31 of each year, to (1) jointly perform a service they have been performing separately or (2) prepare a planning study for delivering an existing or new service on a regional basis. The act gives applicants the additional option of submitting proposals by December 1, 2011 to jointly provide a service they have been performing separately.

Application Selection Priorities

By law, the OPM secretary must review all applications and award grants to those he determines best meet the law's criteria. Under prior law, the secretary gave priority to proposals that (1) involved all of an entity's member municipalities and (2) increased their purchasing power or provided cost savings. The act requires the secretary to also give priority to proposals that economic development districts submit.

Reporting

The law requires the OPM secretary to report annually by March 1 to the Finance, Revenue and Bonding Committee about (1) each grant award, (2) its potential for leveraging public and private investments, and (3) the extent to which the grants helped reduce property taxes. The act requires the secretary to submit the FY 12 report by February 1, 2012 and subsequent reports by March 1 of each year.

§ 6 — WATER COMPANY RATES AND BILLS

The law allows the Department of Public Utility Control (DPUC) to authorize a water company to use a rate adjustment mechanism to cover the costs of eligible infrastructure projects that are completed and in service. DPUC's approval of the adjustment, which can result in a billing surcharge or credit, takes place outside of a water company's rate case. The act requires any such adjustments to be separately identified on any customer bill.

By law, utility companies must have DPUC's approval to change their existing rates. The act requires that, in the case of water companies, the "existing rates" include any adjustment approved by DPUC under the above provision.

EFFECTIVE DATE: Upon passage

§ 7 — SPECIAL TAXING DISTRICTS FOR FERRY SERVICE

The act expands the list of purposes for which a district's residents may vote to establish a special taxing district to include providing ferry service. The law already allows residents to establish districts to provide a wide range of public services and infrastructure, including collecting trash and constructing and maintaining drains and sewers.

EFFECTIVE DATE: Upon passage

§ 8 — BRIDGEPORT PENSION PLAN FUNDING

The law allows municipalities to issue pension deficit funding bonds to fund unfunded past pension obligations. If a municipality issues such bonds, it must appropriate money for, and contribute to its pension plan, at least the actuarially required amount in each fiscal year that it has outstanding pension deficit funding bonds for the plan.

The act exempts Bridgeport from these requirements for any pension plan previously funded with pension deficit funding bonds the city issued under the law. Instead, it requires the city to make a minimum pension plan contribution of \$7 million for FY 12. Starting in FY 13, the city must contribute an annual amount based on:

1. a calculation by the city's actuary of the pension plan's actuarial accrued unfunded liability (the amount by which the plan's accrued liability exceeds the actuarial value of its assets) at the beginning of each fiscal year, applying (a) standard methods and assumptions used in actuarial practice and (b) a level percentage amortization of the unfunded liability with a 5% growth rate;
2. a 24-year amortization period starting in FY 13 and declining by one year in each subsequent fiscal year; and
3. annually recalculating the contribution to take into account the plan's gains and losses in determining its accrued unfunded liability for the year, and amortizing those gains and losses over the remaining period.

EFFECTIVE DATE: Upon passage

§§ 9 & 23 — NEW HAVEN LINE FARE INCREASES

The act postpones, for two years, scheduled fare increases on the New Haven line and its branches. Under prior law, fares for trips starting or ending in the state were to increase by 1.25% in calendar year 2010 and by 1% in each subsequent year, through 2016. (The 2010 and 2011 increases did not take effect.) The act instead increases, from 1% to 1.25%, the fare increase scheduled to take effect on January 1, 2012, and extends

the subsequent 1% increases through 2018.

It eliminates the New Haven Line revitalization account within the STF into which the revenue from the increases was deposited. Under prior law, money in the account was used for New Haven line capital costs, debt service, and the purchase of new rail cars.

§§ 10–16, 20–22, 24–32, & 188 — TSB ELIMINATED

The act eliminates the TSB and makes minor and conforming changes but retains the STF account that funds TSB projects. It also retains TSB projects enumerated by law (e.g., building or expanding certain rail stations) and the five Transportation Investment Areas (TIAs). It retains a requirement that the governor recommend to the legislature, by the day on which he submits his proposed biennial budget, (1) any projects he believes are needed to implement the transportation strategy that the board initially proposed and (2) a plan to finance them. It eliminates a requirement that the OPM secretary, when developing recommendations to delineate the boundaries of priority funding areas, consider certain TSB principles, among other things.

§§ 17-19 — STF FUNDING

By law, certain revenue derived from motor vehicle receipts and other sources must be credited to the STF. The act specifies that, starting July 1, 2011, this includes all money the law requires to be credited to the STF from the petroleum products gross earnings sales tax. The act also requires crediting to the STF (1) motor vehicle sales tax revenue; (2) funds the law requires to be transferred to the STF from the General Fund; and (3) any other funds the law requires to be deposited, transferred, or paid into the STF, other than the proceeds of bonds, other state securities, or federal grants. It also makes minor changes.

§§ 33-36 — NONADMITTED INSURANCE POLICIES AND PREMIUM TAXES

Under prior law, the state imposed a 4% tax on gross premiums charged by nonadmitted (i.e., unauthorized) insurers on insurance policies procured independently or through licensed surplus lines brokers. In accordance with the 2010 federal Nonadmitted and Reinsurance Reform Act (NRRA), the act:

1. limits the policies subject to the tax,
2. modifies how individuals and brokers must pay the tax,
3. allows the revenue services and insurance commissioners to enter into an agreement with other states regarding the allocation of premium taxes among the states in cases where the policy covers multiple states, and

4. exempts certain commercial purchasers from certain filing requirements.

Under the NRRA, states must adopt, by July 21, 2011, uniform requirements and procedures for allocating and collecting premium taxes on nonadmitted insurance policies. The act requires that its provisions be construed so as to avoid preemption under the NRRA.

It also modifies the penalty and interest due on unpaid tax payments.

Nonadmitted Insurance Premium Tax

Applicability. Under prior law, the 4% premium tax on independently procured unauthorized insurance (i.e., policies not purchased through a broker) applied to any individual procuring, continuing, or renewing insurance with an unauthorized insurer on an insured risk that (1) resided, (2) was located, or (3) was performed in the state. The premium tax on policies procured through a licensed surplus lines broker applied to the gross premiums for all policies the broker sold, minus any premium amounts returned to policyholders.

To conform to NRRA provisions, the act limits the tax to any nonadmitted insurance policy procured directly or through a licensed surplus lines broker where Connecticut is the insured's home state. Under the NRRA, an insured's "home state" is the state where an insured maintains its principal place of business or residence. If the insured risk is located entirely outside of the state in which the insured resides or maintains its principal place of business, the "home state" is the state to which the greatest percentage of the insured's taxable premium is allocated. In the case of an affiliated group insured on a single nonadmitted insurance contract, the "home state" is the state to which the largest percentage of premium is allocated.

By law, the tax on surplus lines broker premiums does not apply to policies issued to (1) the state, (2) any town, or (3) any special taxing district if any of these are named on the policy and responsible for paying its premiums. Also, by law, the tax on independently procured policies does not apply to (1) individual life or disability, (2) wet marine, or (3) transportation insurance. The act also makes a minor related change.

Tax Administration. Prior law required individuals who procured an insurance policy from a nonadmitted insurance company to withhold 4% of the premium for premium taxes, file an annual tax return, and remit the tax by March 1 to the Department of Revenue Services (DRS). Licensed surplus lines brokers (see BACKGROUND—*Surplus Lines Insurance*), on the other hand, had to file quarterly tax returns and remit the tax to the Insurance Department by the first day of February, May, August, and November. The act requires both individuals and brokers to file quarterly

tax returns and remit the tax to DRS and the Insurance Department, respectively, by the 15th day of these months.

Late Filing Penalty and Interest. Under prior law, surplus lines brokers that failed to pay the premium tax were subject to a penalty of 10% of the tax due plus at least 1% interest for each full or partial month that the tax remained unpaid. The act makes the interest rate 1% and subjects individuals who fail to pay the tax on independently procured policies to the same penalty and interest. It eliminates the \$75 minimum penalty for independently procured policies.

Under prior law, the DRS commissioner could ask the attorney general to recover any delinquent taxes on independently procured policies. The act authorizes the attorney general to also recover any related interest and penalties. By law, the DRS commissioner may waive all or part of the penalty if he finds that the taxpayer's failure to pay the tax has a reasonable cause and is not intentional or due to neglect.

Nonadmitted Insurance Premium Agreement

The act allows the DRS and insurance commissioners to enter into a cooperative or reciprocal agreement with other states to allocate nonadmitted insurance premium taxes among them in accordance with the NRRA's requirements. The agreement may include the National Association of Insurance Commissioners' Nonadmitted Insurance Multistate Agreement (NIMA) (see BACKGROUND—*Nonadmitted Insurance Multistate Agreement*). Under the act, if the agreement's provisions differ from those in the act, the agreement prevails.

Premium Allocation. The agreement may provide a formula for allocating nonadmitted insurance premiums for policies that cover insured risks that are only partially in the state. For such policies, premiums allocated to Connecticut are subject to the state's 4% tax; premiums allocated to other states that are a party to the agreement are subject to each state's respective tax rate. To the extent that a policy covers an insured risk in a state that is not a party to the agreement, the portion of gross premiums otherwise allocable to that state must be allocated to Connecticut.

Administrative Requirements. The agreement may include requirements or procedures for (1) recordkeeping, (2) audits, (3) information-sharing, (4) collecting delinquent taxes, (5) disbursing funds to other states in the agreement, and (6) any additional provisions that will facilitate its administration.

Cooperative Agreements with Processing Entities. The commissioners may enter into cooperative agreements with processing entities in Connecticut or any other state to collect and process nonadmitted insurance tax premiums and data.

Disclosing Confidential Information. Although the DRS and insurance commissioners are generally prohibited from disclosing tax return information, the act allows them to disclose such information on insured individuals under the agreement's terms. "Return information" includes a taxpayer's identity and the nature, source, or amount of the taxpayer's income, tax liability, and tax payments. The act also allows the insurance commissioner to disclose information on surplus lines brokers that is otherwise confidential under state law, under the agreement's terms.

Both commissioners may disclose the information to officials in (1) other states that are a party to the agreement and (2) entities that collect and process nonadmitted insurance premiums and related data, if their official duties require such information.

Exemption from Diligent Search Requirements for Certain Commercial Purchasers

The law requires the insurance commissioner to maintain, publish, and make available to surplus lines brokers a list of lines of insurance he believes are not available from admitted Connecticut insurers (i.e., surplus lines insurance). By law, licensed surplus lines brokers and their clients that procure a type of insurance that is not on this list must file with the commissioner an affidavit that shows that they made diligent efforts to procure the full amount of the coverage from an admitted insurer.

The act exempts from this requirement any insurance policy a licensed surplus lines broker procures for an "exempt commercial purchaser," as defined in the NRRA (see BACKGROUND—*Exempt Commercial Purchaser*). In doing so, it aligns state law to the NRRA's requirements that certain commercial purchasers be exempt from state diligent search requirements.

Under the act and the NRRA, an exempt commercial purchaser is exempt from state diligent search requirements if (1) the broker procuring the insurance discloses to the purchaser that such insurance may or may not be available from an authorized insurer that may provide greater protection with more regulatory oversight and (2) the purchaser subsequently requests, in writing, that the broker procure the policy from a nonadmitted insurer.

EFFECTIVE DATE: Upon passage and applicable to nonadmitted insurance coverage procured, continued, or renewed on or after July 1, 2011.

§ 37 — FILM TAX CREDIT TRANSFERS

PA 11-6 limits the transfer of film production tax credits allowed in any one income year to 50% in 2011

and 25% in 2012 and thereafter. It exempts from these transfer restrictions: (1) entities subject to the corporation or insurance premium tax and (2) credits issued for any production that the Department of Economic and Community Development (DECD) commissioner determines is created in whole or significant part in a “qualified production facility.”

This act adds an exemption for entities that are not subject to the insurance premium or corporation tax but that, directly or indirectly, own at least 50% of another entity subject to the business entity tax.

§ 38 — TOBACCO PRODUCTS TAX ON CIGARS

PA 11-6 increases the tax on (1) snuff tobacco from 55 cents to \$1 per ounce and (2) all other tobacco products from 27.5% to 50% of the wholesale price. This act caps the tax on cigars at 50 cents each.

The tobacco products tax applies to cigars, cheroots, pipe tobacco, and similar products, but not cigarettes.

EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after that date.

§ 39 — ESTATE TAX LIEN RELEASE CERTIFICATES

By law, a person who does not owe, or who has paid, the estate tax receives a certificate releasing the lien on his or her interest in real property in the estate. Probate courts issue lien release certificates for estates that owe no tax because they fall below the estate tax threshold.

PA 11-6 lowered the estate tax threshold from \$3.5 million to \$2 million for estates of those who die on or after January 1, 2011. This act validates probate court lien release certificates issued and recorded in town records where the property is located before May 4, 2011 (PA 11-6’s effective date) for estates of those who die on or after January 1, 2011, and whose Connecticut taxable estates were valued at between \$2 million and \$3.5 million.

EFFECTIVE DATE: Upon passage and applicable to estates of those who die on or after January 1, 2011.

§§ 40-43 & 183-184 — SALES TAX CHANGES

The act makes numerous changes to the sales tax provisions in PA 11-6. It specifies that the sales and use tax increases in PA 11-6 apply to the sale of services that are billed to customers for any period that includes July 1, 2011. It also makes technical corrections to the flat sales and use tax on items sold for \$1.18 or less to conform to the sales and use tax rate increases in PA 11-6.

PA 11-6 imposes the sales tax on intrastate transportation services via limousines, community cars, and vans with a driver, excluding taxis, buses, ambulances, scheduled public transportation, and funerals. This act also excludes (1) Medicaid nonemergency medical transportation, (2) paratransit services provided under an agreement with the state or any political subdivision, and (3) dial-a-ride services.

The act restores sales tax exemptions eliminated in PA 11-6 for (1) services provided by a person selling clothing and footwear on consignment and (2) property or services used in operating solid waste-to-energy facilities.

EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after that date, except for the provisions (1) on bills issued to customers on or after July 1, 2011 and (2) restoring the sales tax exemption for solid waste-to-energy facilities, which are effective upon passage.

§ 45 — ELECTRIC GENERATION TAX EXEMPTION

The act exempts electricity generated by a resources recovery facility from a temporary electricity tax imposed by PA 11-6. The exemption applies to any facility using processes that reclaim material or energy values from solid waste.

The tax is one-quarter of a cent per net kilowatt hour of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. It expires on June 30, 2013. PA 11-6 already exempts electricity generated through a fuel cell or an alternative energy system, such as a solar or wind system. (PA 11-233 adds an exemption for customer-side distributed resources.)

§§ 46, 47, & 185 — SALES AND USE TAX COLLECTION BY REMOTE SELLERS

State law requires “retailers” to collect Connecticut sales tax if they are “engaged in the business” of making retail sales in the state. If a retailer is engaged in business in Connecticut, it is said to have “nexus” here.

PA 11-6 required certain remote (out-of-state) sellers who have no physical presence in Connecticut to impose and collect sales tax on their taxable sales in the state by presuming a seller is a retailer with Connecticut sales tax nexus if it annually sells more than \$2,000 worth of taxable items or services in Connecticut through certain agreements with Connecticut residents. The agreements must provide that, in return for the resident directly or indirectly referring potential customers to the retailer through an Internet link or otherwise, he or she will receive a commission or other compensation from that retailer. PA 11-6 allowed a remote seller to rebut the presumption that it must

collect Connecticut sales tax by proving that the person with whom it has an agreement did not solicit business in the state in a manner that would satisfy the federal constitutional nexus requirement.

This act:

1. eliminates the rebuttable presumption;
2. requires the person making referrals to the remote seller under an agreement to be located in, rather than a resident of, Connecticut;
3. requires the commission the person receives to be based on the sale of the taxable item or service;
4. expressly defines someone who sells taxable items or services under the above conditions to be “engaged in business in this state” and thereby required to impose Connecticut sales tax on the sales; and
5. applies the requirements to sales occurring on or after May 4, 2011 (PA 11-6’s effective date) instead of on or after July 1, 2011.

By law, for purposes of sales and use tax, “person” includes individuals, businesses, associations, government entities, and any group or combination acting as a unit.

EFFECTIVE DATE: Upon passage and applicable to sales occurring on or after May 4, 2011.

§ 48 — INSURANCE PREMIUM TAX CREDIT LIMIT

For the 2011 and 2012 calendar years, PA 11-6 lowered, from 70% to 30%, the maximum amount by which an insurer can reduce its annual insurance premium tax liability through tax credits. PA 11-6 also exempted insurance reinvestment fund credits from the 30% limit, thus allowing an insurer to continue to apply those credits to reduce its annual tax liability by up to 70% in those years.

This act instead classifies insurance premium tax credits into three types and establishes three levels of maximum tax liability that an insurer can offset in calendar years 2011 and 2012 by claiming one or more of these credit types. The three credit types and the maximum tax reduction from each type are:

- Type 1: digital animation credits, 55%
- Type 2: insurance reinvestment fund credits, 70%
- Type 3: all other credits, 30%

The act also specifies the order in which an insurer must apply the three credit types to offset liability (see Table 1).

Table 1: Application of Insurance Premium Tax Credits

<i>Credit Types Claimed</i>	<i>Order of Applying Credits</i>	<i>Maximum Reduction In Tax Liability</i>
Type 3	None	30%
Types 1 & 3	1. Type 3 2. Type 1	Type 3 = 30% Sum of two types = 55%
Types 2 & 3	1. Type 3 2. Type 2	Type 3 = 30% Sum of two types = 70%
Types 1, 2, & 3	1. Type 3 2. Type 1 3. Type 2	Type 3 = 30% Type 1 + Type 3 = 55% Sum of all types = 70%
Types 1 & 2	1. Type 1 2. Type 2	Type 1 = 55% Sum of two types = 70%

EFFECTIVE DATE: Upon passage and applicable to calendar years starting on or after January 1, 2011.

§§ 49, 50, & 187 — ECONOMIC RECOVERY REVENUE BOND ISSUANCE CANCELLED

In 2010, the General Assembly authorized the issuance of economic recovery revenue bonds (ERRBs) to provide up to \$956 million in revenue for transfer to the General Fund and to pay the bond financing costs. The bonds were payable from revenue generated by (1) extending a per-kilowatt-hour surcharge (the competitive transition assessment or CTA) on electric company bills beyond the dates when it would otherwise have expired and (2) diverting 35% of the revenue from a conservation charge that would otherwise go to the Energy Conservation and Load Management Fund (ECLM).

This act:

1. repeals the state treasurer’s (“financing entity’s”) authority to issue ERRBs,
2. bars the use of any CTA charge to secure and pay off the ERRBs, and
3. eliminates the ECLM revenue diversion.

Prior law required all excess revenue from extended CTA charges beyond that needed to repay rate reduction bonds issued before January 1, 2002 to be used to pay off the ERRBs or, if ERRBs were not issued, deposited in the General Fund. The act instead requires the excess to be used to benefit customers as long as it does not lead to a recharacterization of the tax, accounting, or other characteristics of the financing of the pre-2002 rate reduction bonds.

EFFECTIVE DATE: Upon passage

§ 51 — DEPARTMENT OF TRANSPORTATION (DOT) FARE CHANGES

The act allows DOT to change the fares it charges for mass transportation, which, by law, includes rail and bus services, without going through the Uniform Administrative Procedure Act’s (UAPA) regulatory

process. (A 1981 Connecticut Supreme Court case (*Hartford v. Powers*, 183 Conn. 76) held that the DOT is subject to the provisions of the UAPA with respect to setting bus fares.) Instead, the act requires DOT to follow a specific procedure before changing a fare. In practice, fares are set in statute or through the budget process.

Under the act, DOT must provide notice of a proposed fare change, the amount of the change, and its effective date, by advertising in at least one newspaper that circulates in the area of the state that the change may affect. This notice must run at least once, provide the time and place of a public hearing on the proposed change, and appear at least 15 days before the hearing. The hearing must be held at a time and place convenient to the public.

The act requires DOT to send a copy of the notice to the chairpersons and ranking members of the Transportation and Finance, Revenue and Bonding committees. But it does not specify when DOT must do so.

§ 53 — TAX INCENTIVES FOR AEROSPACE AND DEFENSE PLANTS

The law targets some business tax incentives to state-designated economically distressed municipalities. But it also provides procedures for extending them to other municipalities. Until 2010, it provided a procedure for extending the incentives only to municipalities affected by defense cuts. The incentives are for improving property, acquiring machinery and equipment, and creating jobs. They are also for occupying vacant facilities that were vacant on July 1, 1998 and previously used to manufacture defense goods.

PA 10-162 provided a similar procedure for extending the tax incentives to municipalities hit by major aerospace and defense plant closings affecting at least 800 employees. In doing so, it also extended the incentives to businesses occupying a facility that was vacant on July 1, 1998 and previously used as an aerospace or defense plant. This act extends the incentives to businesses occupying such facilities that are vacant on or after June 21, 2011.

EFFECTIVE DATE: Upon passage

§ 54 — RECIPROCAL TAX REFUND AGREEMENTS WITH OTHER STATES

The act eliminates certain notice and certification requirements when the DRS commissioner withholds a taxpayer's Connecticut tax refund at the request of another state where the taxpayer owes taxes.

Existing law allows the commissioner to withhold all or part of a taxpayer's Connecticut tax refund if (1)

another state to which the taxpayer owes taxes requests it and (2) the other state authorizes its tax officials to withhold tax refunds from a taxpayer who owes taxes to Connecticut. Under prior law, as part of such a request, the other state's tax officer had to certify:

1. the taxpayer's full name, address, and Social Security or federal employer identification number;
2. the amount to be collected, including a detailed statement showing the tax, interest, and penalty for each taxable period; and
3. that applicable administrative and judicial remedies have been exhausted or have expired and the tax amount is legally enforceable.

The act eliminates the requirement that the officer's certification include a detailed statement showing the tax, interest, and penalty for each taxable period.

Prior law also required the DRS commissioner to notify the taxpayer whenever he received such a certification. The act requires him to do so only if the taxpayer is otherwise entitled to a Connecticut tax refund. It eliminates a requirement that the commissioner include a copy of the other state's certification with the notice.

EFFECTIVE DATE: Upon passage

§ 55 — ECONOMIC NEXUS FOR CORPORATION TAX

The act (1) requires a company to meet both, rather than one, of the existing criteria to have economic nexus in Connecticut and thus be liable for corporation tax and (2) exempts certain foreign corporations from economic nexus in conformity with DRS' policy.

Under prior law, and to the extent allowed by the U.S. Constitution, a company was subject to the Connecticut corporation tax if, regardless of physical presence, it either (1) had a "substantial economic presence" here or (2) derived income from sources in the state. The act requires that, to be subject to the Connecticut tax, a company must meet both rather than only one of these conditions. By law, a company has "substantial economic presence" in Connecticut if it purposefully directs business towards the state, which must be determined by the frequency, quantity, and systematic nature of its economic contact with the state.

The act also makes the law conform to DRS policy by exempting from the tax any company that (1) is treated as a foreign corporation under the federal tax code and (2) has no income "effectively connected" with a U.S. trade or business, as determined under the code. But if, and to the extent that, a company treated as a foreign corporation has income effectively connected with a U.S. trade or business, that income must be considered to be its gross income for Connecticut corporation tax purposes, regardless of other

corporation tax statutes. In addition, when such a company calculates its net income apportionment fractions to determine its Connecticut corporation tax liability, the act requires it to do so using only its U.S.-connected property, payroll, and receipts.

EFFECTIVE DATE: Upon passage and applicable to income years starting on or after January 1, 2011.

§ 56 — ESTIMATED CORPORATION TAX OVERPAYMENTS

The act gives a company that overpays its estimated corporation tax for the year the option to apply the overpayment to its estimated tax payments in the following year.

By law, a corporation must make estimated corporation tax payments in four installments during its income year as follows: 30% of its estimated annual liability in the third month, 40% in the sixth, 10% in the ninth, and 20% in the 12th. If a company overpays one installment, the law requires the excess to be credited against the next installment. But, if the amount paid for the year exceeds the amount due for that year, under prior law, the company had to receive a refund.

The act gives a company that has overpaid its estimated corporation tax in one income year the option to apply the excess to its estimated taxes in the following year instead of receiving a refund. (DRS policy already allows companies to do this.) It requires the excess to be applied to the first installment due in the next income year and to any subsequent installments in the order they are due. The act also eliminates the DRS commissioner's authority to adopt regulations concerning how excess estimated corporation tax payments are credited from one year to the next.

EFFECTIVE DATE: October 1, 2011 and applicable to estimated corporation tax payments for income years starting on or after January 1, 2012.

§ 57 — ELECTRONIC FUNDS TRANSFER REQUIREMENTS FOR WITHHOLDING TAX PAYMENTS FROM NONPAYROLL AMOUNTS

The act allows the DRS commissioner to require payers that withhold Connecticut income tax from nonpayroll amounts to pay the withholding tax to DRS electronically on the same basis as employers.

By law, the DRS commissioner can require employers with more than \$2,000 in annual income tax withholding liability from wages to pay the taxes electronically. The act also allows the commissioner to require electronic payments from any payer that had more than \$2,000 in income tax withholding liability from nonpayroll amounts. The commissioner must determine a payer's annual withholding tax liability based on the amount the payer withheld from

nonpayroll amounts in the calendar year two years before the one in which the commissioner makes the determination (the "look-back" year) or, if the payer filed no withholding tax return for that period, on information available to him.

As under existing law, the commissioner must notify the payer of the electronic payment requirement.

By law, nonpayroll amounts include:

1. gambling winnings paid to Connecticut residents that are subject to federal income tax withholding (i.e., payments over \$5,000);
2. Connecticut lottery winnings that must be reported to the Internal Revenue Service (IRS), regardless of whether they are subject to federal withholding (i.e., payments of \$600 or more and 300 times the wager);
3. pension and annuity distributions and military retirement paid to Connecticut residents requesting state income tax withholding;
4. unemployment compensation paid to those requesting state income tax withholding; and
5. nonwage payments to athletes or entertainers for which the DRS commissioner requires withholding (generally, fees over \$1,000 unless DRS grants a waiver).

EFFECTIVE DATE: July 1, 2011 and applicable to tax periods ending on or after that date.

§ 58 — SUCCESSOR LIABILITY FOR WITHHOLDING TAXES

The act requires a successor who buys a business or its entire stock from an employer to withhold enough funds from the purchase price to cover any withholding tax due until the employer produces either a DRS receipt for the tax payment or a DRS certificate that no taxes are due.

Under the act, when an employer who is required to pay withholding taxes sells or quits its business or sells out its entire stock, the employer's successors or assigns must hold back enough money from the purchase price to cover any unpaid withholding taxes, penalties, or interest due when the employer sells or quits. The buyer must hold back the money until the employer provides either a DRS receipt showing that the employer has paid all taxes, penalties, and interest or a DRS certificate stating that no taxes are due. If the buyer fails to hold back the money, the act makes the buyer personally liable for the amount that should have been withheld, up to the monetary value of the purchase price of the business or stock.

The act requires the DRS commissioner to issue the certificate or mail the buyer a tax deficiency assessment notice according to the regular procedure for such notices within 60 days after the latest of the following:

- (1) the date the commissioner receives the buyer's

written request for a certificate that no taxes are due, (2) the date the employer sold or quit the business, or (3) the date the employer's records become available for DRS audit. If the commissioner fails to mail the deficiency assessment notice in time, the buyer need not hold back money from the purchase price.

Under the act, the statutory three-year time limit for enforcing the successor's liability starts when the (1) employer sells or quits the business or (2) assessment against the employer becomes final, whichever is later.

EFFECTIVE DATE: July 1, 2011 and applicable to sales of businesses and stock occurring on or after that date.

§ 59 — WITHHOLDING TAX DEFICIENCY ASSESSMENT DEADLINE

The act extends, from three to six years, the deadline for DRS to send a tax deficiency assessment notice to any employer or pass-through entity that omits from its withholding tax return more than 25% of includable amounts withheld from employee wages or payments to nonresident members, respectively.

By law, DRS has six years, rather than the usual three, to send an income tax deficiency assessment notice to a taxpayer who omits more than 25% of his includable Connecticut adjusted gross income (AGI) from his income tax return without adequately disclosing the amount and nature of the omission in either the return itself or an attached statement.

The act extends the same six-year time limit for DRS to send a tax deficiency assessment notice to (1) an employer that omits more than 25% of Connecticut wages from its withholding tax return or (2) a pass-through entity that omits more than 25% of includable Connecticut-sourced AGI from the withholding taxes required for its nonresident members. As under existing law, in either case, the extended statute of limitations applies only when the employer or entity does not adequately disclose the amount and nature of the omission in the return or an attached statement.

By law, a "pass-through entity" is an S corporation; a general, limited, or limited liability partnership; or a limited liability company treated for tax purposes as a partnership. A "member" is a shareholder in an S corporation; a partner in a general, limited, or limited liability partnership; or a member in a limited liability company.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2011.

§§ 60 & 61 — SALE OF USED MOTOR VEHICLE CONTAINING TAX-EXEMPT SPECIAL EQUIPMENT

The act exempts from sales and use tax any part of the sale price of a vehicle that has special equipment for the exclusive use of a person with physical disabilities already installed, if the vehicle is sold to such a person.

By law, the sale of special equipment to be installed in a motor vehicle for the exclusive use of a person with physical disabilities is exempt from sales and use tax. The act also exempts the part of the sale price attributable to such special equipment when a vehicle with the equipment already installed is sold, either privately or by a dealer, for exclusive use by a person with physical disabilities. It requires the dealer to collect sales tax, or the private buyer to pay use tax, on the price of the vehicle alone.

EFFECTIVE DATE: Upon passage and applicable to all open tax periods.

§ 62 — SALE OF CIGARETTES OR TAXED TOBACCO PRODUCTS WITH AN EXPIRED LICENSE

The act reduces penalties for certain cigarette dealers who continue to sell cigarettes or taxed tobacco products after their licenses expire.

It is illegal to sell, offer to sell, or possess with intent to sell cigarettes or taxed tobacco products without a license from DRS. Under prior law, the penalty for each knowing violation was a fine of up to \$500, up to three months in jail, or both, with each day of unauthorized operation counted as a separate offense. In the case of a cigarette dealer who operates for no more than 90 days after his or her license expires, the act reduces the penalty to an infraction, with a \$90 fine.

Taxed tobacco products include snuff, cigars, cheroots, pipe tobacco, and similar products.

§ 63 — SALE OR POSSESSION OF UNSTAMPED CIGARETTES

The act reduces penalties for certain cigarette dealers who possess cigarettes that do not have required Connecticut tax stamps.

It is illegal to sell, offer to sell, display for sale, or possess cigarettes without the required Connecticut tax stamp, except that a licensed cigarette dealer may possess unstamped cigarettes, other than those that may not legally be stamped, at a licensed location for no more than 24 hours. Under prior law, the penalty for any knowing violation was a fine of up to \$1,000, up to one year in jail, or both. Under the act, if it is the dealer's first violation and he or she possesses no more than 600 unstamped cigarettes, the penalty is reduced to an infraction, with a \$90 fine.

§ 64 — ILLEGAL USE OF DYED DIESEL FUEL

Federal law exempts diesel fuel used for certain non-highway purposes from federal fuel taxes and requires exempt diesel fuel to be dyed red so it can be identified.

This act imposes a fine of up to \$1,000 on anyone who uses dyed diesel fuel in a motor vehicle, other than a passenger or combined passenger-commercial vehicle, on a public highway. The penalty does not apply to those who use dyed diesel fuel under federal law or regulation. The act imposes the same penalty on anyone who refuses to allow an authorized DRS or other state official to inspect such a vehicle's fuel tank upon request.

The act requires violators who live in Connecticut to pay the fine by mail, or plead not guilty through the Centralized Infractions Bureau. If the violator is a nonresident, he or she must either post a bond equal to the fine or, if the violator lives in a state that has reciprocity with Connecticut for suspending an operator's license for nonpayment of a fine, pay or plead not guilty through the Centralized Infractions Bureau.

The act also imposes the same bond or reciprocity requirements on nonresidents charged with infractions for operating motor carriers on Connecticut highways without proper identification markers.

§ 65 — PENALTY FOR FAILING TO PAY TAXES ELECTRONICALLY

By law, the DRS commissioner may require taxpayers and employers to pay taxes by electronic funds transfer if they have (1) \$4,000 or more in annual tax liability or (2) more than \$2,000 in annual withholding tax payments. This act establishes maximum penalties on taxpayers who, for the first or second time, fail to make tax payments electronically when required to do so.

Under prior law, the penalty for failing to pay electronically when required to do so was a flat 10% of the required electronic payment, regardless of the amount of that payment. Starting with the first imposition of a penalty for a tax period starting on or after January 1, 2012, the act establishes penalties of 10% or \$2,500, whichever is less, for the first such failure and 10% or \$10,000, whichever is less, for the second. It maintains the existing 10% penalty with no maximum for a third or subsequent failure.

The act also makes technical changes.

EFFECTIVE DATE: Upon passage and applicable to tax periods starting on or after January 1, 2012.

§ 66 — TAX SECURITY REQUIREMENTS FOR NONRESIDENT CONTRACTORS

To secure payment of Connecticut taxes in connection with a nonresident contractor's in-state activities, prior law required a person doing business with a nonresident contractor to either hold back and deposit with DRS 5% of the contract price or obtain proof from the contractor that it had posted a bond for the equivalent amount with DRS.

This act revamps these tax security requirements to, among other things:

1. require DRS, upon request, to verify whether nonresident contractors and subcontractors are registered with DRS for tax purposes, have filed all required tax returns, and, if required, have posted a bond with DRS;
2. impose the bond requirement only on nonresident general or prime contractors, and the hold-back requirement only on nonresident subcontractors, who are not so verified by DRS;
3. require general contractors to hold back funds from their unverified subcontractors; and
4. require customers contracting with unverified general or prime contractors to obtain proof that the contractor has posted the required bond and eliminate the customer hold-back option.

Prior law made anyone who does business with a nonresident contractor without complying with the security requirements personally liable for the contractor's taxes stemming from the project. The act applies this liability to anyone who does business with an unverified prime or general contractor without obtaining proof that the contractor has posted the required bond. It also caps the customer's liability at 5% of the contract price. The act specifies that the personal liability applies to sales, use, or withholding taxes the contractor owes that arise from its activities under the contract. Under prior law, a customer also had to pay any use taxes due on purchases of services from the unverified contractor in connection with the project but under the act, the customer must do so only if he or she fails to obtain proof that the contractor has posted the required bond.

The act exempts contracts whose total contract price is less than \$250,000. In addition, as under prior law, the tax security requirements do not apply to a homeowner's or tenant's contract involving his or her own residence with three or fewer units.

As under prior law, the "contract price" covers all contract charges, including deposits, retainage, change orders, or charges for add-ons.

Nonresident Contractors

Under the act, as under prior law, a nonresident contractor or subcontractor is one who does not continuously maintain or occupy any Connecticut office, factory, warehouse, or other space where it regularly and systematically does business in its own name through employees who are (1) in regular attendance and (2) carrying on the contractor's business in the contractor's own name. The act classifies nonresident contractors as either verified or unverified and applies the tax security requirements only to the latter.

Verified Contractors and Subcontractors

The act requires the DRS commissioner, upon request, to verify whether a nonresident contractor or subcontractor:

1. has (a) been registered with DRS for all applicable taxes (sales and use and income tax withholding) for at least three years before it concludes a contract covered by the act's security requirements, (b) filed all required tax returns, and (c) no outstanding tax liabilities with DRS or
2. (a) is registered with DRS for all applicable taxes, (b) has filed all required tax returns and has no outstanding liabilities with DRS, and (c) has posted a valid bond with DRS in an amount the commissioner determines up to a maximum of six times the contractor's average tax liability. The bond must be with a surety company authorized to do business in Connecticut.

The act requires DRS to treat contractors and subcontractors who meet either of these two sets of conditions as "verified contractors." Verified contractors are not subject to the act's tax security requirements (see below).

Unverified Contractors and Subcontractors

Tax Security Requirements. Prior law allowed two alternative methods of ensuring tax security when someone hires a nonresident contractor for a project in Connecticut. The first was for the customer to hold back 5% of the contract price and deposit it with DRS. The second was for the nonresident contractor to post a bond equal to that amount with DRS.

The act divides nonresident contractors into two categories:

1. "prime or general" contractors, who either (a) make contracts with those who own or control real property to perform services, furnish material, or both on construction projects involving the property or (b) own or lease real

estate to develop for others to occupy and, in the course of development, contract, change, or improve it and

2. subcontractors, who contract with either prime or general contractors or other subcontractors to perform part of the contract work.

The act eliminates the customer hold-back option; imposes the bond requirement only on unverified contractors who qualify as general or prime contractors; and requires all general or prime contractors, including resident contractors, to hold back 5% of the payment to unverified subcontractors to provide security for tax payment.

Bond Requirement for Unverified General Contractors. The act requires every unverified prime or general contractor that makes a contract priced at more than \$250,000 for a project in Connecticut to post a bond with DRS equal to 5% of the contract price. The bond is to secure payment of required taxes by both the general or prime contractor and its subcontractors.

Hold-Back Requirements for Unverified Subcontractors. The act requires any resident or nonresident general or prime contractor that does business with an unverified subcontractor to hold back 5% of its payments to the subcontractor until the subcontractor furnishes a certificate of compliance from DRS authorizing the general contractor to release all or part of the hold-back (see below). The contractor must keep the hold-backs in a special fund in trust for the state. The act eliminates the requirement that hold-backs be periodically transferred to DRS and that DRS hold the money in a special trust fund.

General or prime contractors must give unverified subcontractors written notice of the hold-back requirements by the time the subcontractor begins work under the contract. As under prior law, no subcontractor may sue a general or prime contractor for holding back payments to comply with the act.

Releasing Bonds and Hold-Backs

Under prior law, a contractor who posted a bond or whose payments were withheld had to file a written request, within three years after the final payment to DRS, that the DRS commissioner audit its records for the project to determine if it owed taxes. If a contractor failed to file its request on time, it waived the right both to an audit and any refund of excess amounts withheld or excess bond amounts. DRS had to refund excess amounts from the bond or hold-back within 90 days after completing its audit and issuing a certificate of no tax due.

The act instead establishes separate procedures for releasing bond obligations and hold-backs.

Bond Obligations. The act requires the DRS commissioner to release an unverified general or prime

contractor from its bond obligation once the contractor satisfies the commissioner, by submitting necessary documentation that includes any DRS-prescribed forms, that:

1. the contractor and its unverified subcontractors have paid all the taxes they owe in connection with the contract or
2. the contractor has (a) paid all taxes it owes in connection with the contract, (b) held back the required 5% of its payments to any unverified subcontractors, and (c) released the hold-backs to a subcontractor in accordance with a DRS certificate of compliance authorizing it to release all or part of those amounts.

Hold-Backs — Certificate of Compliance. Once an unverified subcontractor’s work on the contract is completed, the act requires the subcontractor to file a written request that the DRS commissioner issue a certificate of compliance authorizing the general contractor to release all or part of its hold-backs. After receiving the request and any documentation and forms he considers necessary, the commissioner must review it in the context of generally accepted construction industry cost guidelines for the project’s scope and type. The commissioner has 120 days after receiving the required documentation to issue a certificate allowing release of all or part of the hold-backs. If no certificate is issued within that time, the commissioner is deemed to have issued one.

If the certificate authorizes the general contractor to release the full amount of the hold-back, the contractor must do so; if the certificate authorizes release of part of the hold-back, the general contractor must pay the required amount to the subcontractor and the balance to DRS. In the latter case, the contractor is not liable to the (1) subcontractor for failing to pay the full amount or (2) commissioner for failing to pay the subcontractor’s taxes arising from the project.

The act imposes a 10% penalty on any general contractor who fails to pay DRS the balance of a partially released hold-back within 30 days after DRS mails the certificate of compliance. It allows DRS to use existing tax collection procedures to collect the required payment and the penalty. Under the act, DRS must treat issuance of a certificate authorizing a partial release of hold-backs as a notice of assessment under the sales and

use tax law. That law requires the commissioner to give written notice of the assessment, either by personal service or by mail, at the address appearing in DRS records.

The certificate of compliance does not prevent the commissioner from exercising his authority to examine an unverified subcontractor’s tax returns, books, and records and, if appropriate, make an assessment against the subcontractor for tax deficiencies stemming from activities other than the project to which the certificate of compliance applies.

DRS Disclosures

In addition to allowing DRS to verify nonresident contractors and subcontractors, the act requires it, upon request, to:

1. disclose, to a person doing business with an unverified subcontractor and who is consequently required to hold-back part of the subcontractor’s payments, whether the subcontractor has requested or been issued a certificate of compliance;
2. disclose, to a person doing business with an unverified prime or general contractor, whether that contractor has posted the required bond; and
3. verify whether a contractor or subcontractor is a resident contractor.

The act also allows the DRS commissioner to give a requestor a copy of a subcontractor’s certificate of compliance.

EFFECTIVE DATE: October 1, 2011

§§ 67-69, 166-179, & 181 — ADJUSTMENTS IN FY 12 AND FY 13 APPROPRIATIONS

The act adjusts funds appropriated in PA 11-6 for state agency operations and programs in FY 12 and FY 13. The changes affect the General Fund, STF, and Consumer Counsel and Public Utility Control Fund. The act’s total adjusted net appropriations for these funds for each fiscal year are shown in Table 2.

Table 2: Revised FY 12 & FY 13 Appropriations By Fund

\$	Fund	Net Appropriation		Change from PA 11-6	
		FY 12	FY 13	FY 12	FY 13
67	General Fund	\$18,707,734,750	\$18,952,488,239	\$357,467,233	\$170,677,161
68	Special Transportation Fund	1,261,932,205	1,277,832,928	(41,960,022)	(56,372,777)
69	Consumer Counsel and Public Utility Control Fund	26,428,820	25,986,745	299,573	291,932

The act repeals the provisions of PA 11-6 concerning FY 12 and FY 13 appropriations from the three funds and makes other conforming changes in that act. (PA 11-1, JSS, adjusted General Fund and STF appropriations again but those adjustments were cancelled in favor of this act's provisions upon approval of a concession agreement with state employees on August 22, 2011.)

The act also repeals a provision of PA 11-6 that required the Department of Children and Families (DCF) and the Judicial Department, by July 1, 2011, to conclude a memorandum of understanding to implement the appropriate transfer of funds and services between the two agencies to provide services for children on parole in FYs 12 and 13.

EFFECTIVE DATE: Upon passage for the repeal of PA 11-6's provisions and July 1, 2011 for the replacement appropriation provisions.

§§ 70-73 — FY 11 DEFICIENCY APPROPRIATIONS

§§ 70 & 71 — *General Fund*

The act appropriates \$355.195 million additional funds for FY 11 from the General Fund for various state agencies and purposes as shown in Table 3. It also reduces the FY 11 appropriation to the Reserve for Salary Adjustments by \$26 million.

Table 3: Additional FY 11 General Fund Appropriations, by Agency

<i>Agency</i>	<i>Total</i>
State Comptroller	\$625,000
Public Works	6,770,000
Agriculture	180,000
Public Safety	9,000,000
Mental Health and Addiction Services	57,250,000
Social Services	277,000,000
Teachers' Retirement Board	70,000
Public Defender Services Commission	1,600,000
Child Protection Commission	2,400,000
Workers' Compensation Claims – Dept. of Administrative Services	300,000
TOTAL	\$355,195,000

EFFECTIVE DATE: Upon passage

§§ 72 & 73 — *STF*

The act reduces the FY 11 STF debt service appropriation by \$4 million and appropriates, also for FY 11, an additional \$4 million to DOT for personal services.

EFFECTIVE DATE: Upon passage

§§ 74 & 75 — GOVERNOR'S PROPOSED BUDGET, PROGRAM BUDGET INFORMATION

The act restores a requirement, eliminated by PA 11-48, that the governor include certain content in the proposed biennial budget he must submit to the General Assembly in odd-numbered years. Under the act, as under the law prior to passage of PA 11-48, the governor's proposed budget must continue to include:

1. a list, for each budgeted agency and its subdivisions, of all the agency's programs;
2. for each program, its (a) statutory authorization; (b) objectives; (c) description, including need, eligibility requirements, and any intergovernmental participation; (d) performance measures, including a workload analysis, service quality or level, and effectiveness; (e) budget data broken down by major expenditure object and showing any additional federal and private funds; and (f) detailed information about current and recommended permanent filled and vacant positions by fund; and
3. an explanation of any significant program changes the agency requested or the governor recommends.

The act restores the requirement that the governor submit the following information by program instead of including it only in summary form in the required financial statements:

1. expenditures for the prior and current fiscal years;
2. each budgeted agency's budget request and the governor's recommended budget for each fiscal year of the biennium; and
3. for each new or expanded program, estimated expenditures required for the fiscal year following the biennium.

It also restores a requirement that the governor's drafts of proposed appropriations bills include appropriations for each major program in each budgeted agency.

Finally, 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 Public Defenders Services Division submitted by the chief public defender. Under prior law, the division's estimated expenditures were included in estimates for the Judicial Department submitted by the chief court administrator.

By law, OPM cannot adjust the estimates for the Judicial Department or the legislative branch. The act extends the same restriction to the estimates for the Public Defenders Services Division.

§§ 76 & 77 — STATE EMPLOYEE DIRECT DEPOSIT

The act makes the provision in PA 11-48 requiring state employees to be paid via direct deposit effective upon passage, instead of on July 1, 2011. It also allows the comptroller to meet that requirement as soon as practicable, instead of on June 13, 2011.

EFFECTIVE DATE: Upon passage

§ 78 — GUBERNATORIAL APPOINTMENTS

By law, the governor appoints the chairperson and executive director, if any, of executive branch boards or commissions, with certain exceptions. The act requires the governor to appoint the chairperson of the Commission on Fire Prevention and Control. (PA 11-233 reverses this change.)

It also makes a technical correction by specifying that the governor does not appoint the chairperson or executive director of the State Properties Review Board, State Elections Enforcement Commission, Commission on Human Rights and Opportunities (CHRO), or Citizen's Ethics Advisory Board.

§ 79 — HOSPITAL NET PATIENT REVENUE TAX

PA 11-6 and PA 11-44 replaced the non-operational hospital gross earnings tax with a new tax on hospital net patient revenue. They require hospitals to submit, on a quarterly basis, the amount of their net patient revenue to the DRS commissioner. Previously, the hospitals had to submit tax returns and payments based on revenue for the calendar quarter ending on the last day of the preceding month. This act instead requires the Department of Social Services (DSS) commissioner to determine the revenue period.

EFFECTIVE DATE: July 1, 2011 and applicable to calendar quarters beginning on and after that date.

§ 80 — BANKING FUND

PA 11-6 (§ 134), as amended by PA 11-48 (§ 11), shifts from the Banking Fund to the General Fund revenue from fines, civil penalties, and restitution imposed by the banking commissioner or ordered by a court stemming from violations of the banking laws, Uniform Securities Act, and Business Opportunity Investment Act, with certain exceptions. This act eliminates this shift regarding revenue from restitution for such violations.

§ 81 — STATE FIRE ADMINISTRATOR

The act (1) requires the Commission on Fire Prevention and Control to recommend, instead of

appoint, a state fire administrator; (2) requires the Department of Emergency Services and Public Protection (DESPP) commissioner to appoint the administrator; and (3) makes a conforming change to reflect the merger of the departments of Energy and Environmental Protection.

§ 82 — DIRECTOR TO OVERSEE GAMBLING AND CHARITABLE GAMING

The act authorizes the Department of Consumer Protection (DCP) commissioner to appoint a director to implement and administer the gambling and charitable gaming statutes. The director is exempt from the classified service.

§§ 83-85 — WORKERS' COMPENSATION ASSESSMENTS ON EMPLOYERS AND FUNDING FOR THE BUREAU OF REHABILITATION SERVICES (BRS)

By law, the Workers' Compensation Commission (WCC) chairman determines the amount of funds sufficient to meet the expenses of the WCC. The act requires the WCC chairman to also determine the amount sufficient to meet the expenses of the BRS to provide rehabilitation services for employees with compensable injuries, beginning July 1, 2011.

By law, the state treasurer collects an assessment levied on all employers in order to raise the necessary funds to administer the WCC. The act requires the treasurer, when collecting the assessments, to deposit all the funds to meet the BRS expenses into the Workers' Compensation Administration Fund. By law and under the act, assessments to meet WCC expenses must be deposited in the Workers' Compensation Administration Fund.

The law requires the WCC chairman and the comptroller to account for the total expenses of the WCC for the previous year and make this information publicly available for 30 days in the chairman's office. Under the act, the chairman and the comptroller must also perform this function for the BRS.

§ 86 — VO-AG CENTER CONSTRUCTION REIMBURSEMENT RATE

The act changes the state reimbursement, from 95% to 80%, for constructing, acquiring, renovating, and equipping approved facilities for regional vo-ag centers operated by local or regional school districts. The lower reimbursement applies to the eligible project costs for applications filed on or after July 1, 2011. Applications filed before that are eligible for the 95% reimbursement.

§ 87 — DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS) COST SETTLEMENTS WITH PRIVATE PROVIDERS

During FY 12 and FY 13, PA 11-6 requires private organizations providing services under contract with DDS to reimburse DDS for 100% of the difference between the actual expenses incurred and the amount the organization received from DDS under the contract. This act requires the organizations to reimburse DDS for, rather than during, those years.

§§ 88 & 89 — PROPERTY LEASING AND INVENTORY

PA 11-51 requires the Department of Administrative Services (DAS) commissioner to adopt regulations outlining the procedure for leasing offices or facilities. Under that act, the regulations must require agencies to submit lease, lease renewal, or hold-over agreements to the OPM secretary for approval. This act instead requires the regulations to mandate that the DAS commissioner, rather than the agencies, submit the agreements to OPM for approval.

Additionally, this act requires the DAS commissioner to prepare an annual inventory of state-owned improved and unimproved real estate that is unused or underutilized. He must submit, annually by January 1, to the Appropriations and Government Administration and Elections committees, a status report on the inventory and recommend possible reuse or disposition of such real estate. Under PA 11-51, unchanged by this act, the OPM secretary also maintains such an inventory and recommends possible reuse or disposition.

This act also requires, rather than allows upon request, the OPM secretary to physically compile the inventory of improved or unimproved real estate available to the state by lease. It eliminates a requirement that the DAS commissioner share the inventory with the State Properties Review Board.

§ 90 — BINGO PRIZES

With exceptions, prior law limited the maximum value of the prize a bingo permittee could award to \$100. PA 11-51 increased the limit to \$200 and this act increases it to \$250.

§§ 91 & 92 — STATE FIRE MARSHAL'S DUTIES

The act requires the DESPP commissioner, instead of the state fire marshal, to investigate the cause, circumstances, and origins of fires involving property damage or personal injury or death. It requires the commissioner, instead of the state fire marshal, to provide quarterly reports to the insurance commissioner

detailing arson cases. By law, the reports are provided within available appropriations.

§§ 93 & 94 — SCHOOL CONSTRUCTION

The act modifies the changes to the school construction grant application process made in PA 11-51. It requires applications to be submitted on the form provided and manner prescribed by the construction services (DCS) commissioner instead of by the education commissioner in consultation with the DCS commissioner.

The act also requires DCS, rather than the SBE, to include reimbursement for reasonable lease costs required as part of a school building project grant and makes technical changes.

§ 95 — COORDINATING ADVISORY BOARD FOR DESPP

The act expands the membership of this board, from eight to 12, by adding the public health commissioner and the presidents of the following associations, or their designees: the Connecticut Police Chiefs Association, Connecticut Fire Chiefs Association, and Connecticut Career Fire Chiefs Association. (PA 11-51 (§ 137) created this board to advise the DESPP commissioner on emergency management issues.)

§§ 96 & 97 — POLICE STANDARDS AND TRAINING COUNCIL (POST)

PA 11-51 (§ 146) put POST in the Division of State Police within DESPP. This act instead puts POST within DESPP, without specifying its exact location. It requires DESPP to consult with POST in carrying out its charge to (1) operate the Connecticut Police Academy; (2) fix fees for tuition, training, education programs and sessions, and other purposes the commissioner deems necessary for the academy; and (3) expend money in the municipal police officer training and education extension account. This is a nonlapsing General Fund account used for operating training and education programs DESPP establishes.

The act eliminates a requirement that DESPP get OPM approval to fix tuition and fees, as required by PA 11-51 (§ 149).

§ 98 — LOTTERY ASSESSMENTS

Under PA 11-51 (§ 198), OPM must annually, beginning April 1, 2012, assess the Connecticut Lottery Corporation (CLC) an amount sufficient to compensate DCP for its reasonable and necessary costs for regulating CLC. This act advances the start date to July 1, 2011.

The act changes the dates for the assessment year ending on June 30, 2012, but reverts to the dates required by PA 11-51 for the assessment year ending on June 30, 2013, and each year thereafter. Under PA 11-51, OPM must submit, by May 1 of each year, its assessment of the preceding year's cost and an estimate of the next year's cost to CLC. It must also, by June 15 of each year, finalize the assessment for the preceding year. CLC must make quarterly payments on July 1, October 1, January 1, and April 1.

For the assessment year ending on June 30, 2012, this act instead requires OPM to submit, by August 1, 2012, instead of May 1, 2012, its assessment of the preceding year's cost and an estimate of the next year's cost. It must also by, September 15, 2011, finalize the assessment for the preceding year. CLC must make quarterly payments on October 1, 2011, January 1, 2012, April 1, 2012, and June 1, 2012.

The final quarterly assessment payment for the fiscal year ending June 30, 2011 must be paid on July 1, 2011.

§ 99 — BOARD OF ACCOUNTANCY STAFFING

PA 11-48 placed the Board of Accountancy in the Secretary of the State's office for administrative purposes only. This act transfers the board's hiring authority to the secretary of the state. It allows the board to make hiring recommendations and eliminates the board's executive director position.

§ 100 — PROBATE COURT ADMINISTRATION FUND SURPLUS

The act adds another transfer of surplus funds from the Probate Court Administration Fund to those already specified in PA 11-6 (§ 50) and PA 11-48 (§ 42). In FY 11 and FY 12, it transfers \$150,000 per year to the Judicial Department's Other Expenses account for a grant to the Ralphola Taylor Community Center YMCA in Bridgeport. It eliminates a provision in PA 11-6, as amended by PA 11-48, requiring that any Probate Court Administration Fund surplus remaining after all FY 12 transfers go to the General Fund.

Finally, it also changes a reference to a transfer to the Child Advocates of Connecticut's services in Stamford and Danbury to services in the Stamford/Norwalk and Danbury Judicial Districts.
EFFECTIVE DATE: Upon passage

§ 102 — ELECTRONIC BUSINESS PORTAL

PA 11-48 (§ 29) requires the Office of the Secretary of the State's Commercial Recording Division to establish an electronic portal to serve as a single entry point for businesses registering with the secretary, effective January 1, 2012. The portal must provide these

entities with explanatory information and electronic links to other specified state agencies and organizations to help them (1) obtain necessary licenses and permits, (2) identify state taxes and other revenue responsibilities and benefits, and (3) find relevant state financial incentives and programs. The act adds the Connecticut Center for Advanced Technology to the organizations to which the business portal must link.

EFFECTIVE DATE: January 1, 2012

§ 103 — DISPARITY STUDY

PA 11-48 (§ 20) requires CHRO to conduct a disparity study in consultation with DAS. This act extends, from January 1, 2012 to January 1, 2013, the deadline by which CHRO must submit its findings and any recommendations for legislative action concerning the study to the Government Administration and Elections Committee.

EFFECTIVE DATE: Upon passage

§ 104 — ADDITIONAL APPOINTMENT TO VOCATIONAL-TECHNICAL SCHOOL SYSTEM TASK FORCE

PA 11-48 establishes a 15-member task force, appointed by the governor and legislative leaders and representing various organizations and others, to study the finances, management, and enrollment structure of the vocational-technical (V-T) school system, and several other issues. The act expands the task force to 16 members by adding an additional gubernatorial appointee, who must be the parent of a student enrolled at a V-T school.

EFFECTIVE DATE: Upon passage

§ 105 — STATE POLICE MAJORS

The act puts state police majors appointed on or after July 1, 1999 in the classified service.

State jobs are divided into two groups: classified and unclassified. Classified jobs are civil service jobs. Unclassified jobs are exempt from statutory merit hiring requirements (i.e., civil service exams). Instead, hiring authorities have discretion over how to hire employees for unclassified positions.

§§ 106-112, 114, 136, & 137 — HIGHER EDUCATION

The act modifies certain provisions of PA 11-48 concerning the Board of Regents for Higher Education (BOR).

PA 11-48 requires the House speaker to appoint a person to the BOR who is a specialist in K-12 education and the Senate minority leader to appoint an alumnus of the Connecticut State University System (CSUS). This

act reverses these requirements so that the House speaker appoints a CSUS alumnus and the Senate minority leader appoints a specialist in K-12 education. It also increases the membership of the Higher Education Coordinating Council by adding (1) the chairpersons of the BOR and the UConn Board of Trustees and (2) the BOR vice presidents for the constituent units.

PA 11-48 establishes vice presidents to serve as liaisons to CSUS and the community-technical colleges (CTC). This act requires that (1) there be a BOR vice president for each constituent unit and (2) their duties be prescribed by BOR and the BOR president, but must include oversight of academic programs, student support services, and institutional support.

PA 11-48 requires the existing CSUS and CTC boards of trustees and the Board for State Academic Awards (BSAA) to remain in office from July 1, 2011 to December 31, 2011 to facilitate the transition of duties and responsibilities to the BOR. This act requires these boards and the Board of Governors for Higher Education to continue to protect and hold harmless their members and employees from financial expense until December 31, 2011.

PA 11-48 also requires the newly created Office of Financial and Academic Affairs for Higher Education (OFAAHE) to (1) assist in providing tutors for certain students and (2) administer certain community service programs. This act transfers these responsibilities to BOR.

Lastly, the act makes technical changes and repeals obsolete language.

§§ 113 & 115 — AFFIRMATIVE ACTION PLANS

PA 11-51 establishes a working group to review CHRO's existing regulations governing affirmative action plans and recommend changes. It requires CHRO's executive director to chair the working group. This act allows the executive director to appoint a designee for this purpose.

PA 11-51 also requires affirmative action plans to be filed electronically. This act specifies that plans must be filed electronically only if it is practicable to do so.

EFFECTIVE DATE: Upon passage

§§ 116-118 — DCP UNIT HEAD

PA 11-51 eliminates the Division of Special Revenue (DSR) and transfers (1) its responsibilities to DCP and (2) the DSR executive director's powers and duties to the DCP commissioner. This act makes minor, technical, and conforming changes to implement these changes.

It defines a "unit head" as a managerial employee with direct oversight of a legalized gambling activity. It

eliminates the requirement that unit heads be (1) appointed with the advice and consent of the Gaming Policy Board and (2) qualified and experienced in the functions to be performed. It also eliminates a provision that exempted the position from the classified service.

The act eliminates the prohibition on Gaming Policy Board employees purchasing lottery tickets.

§ 119 — FALSE CLAIM ACT WHISTLEBLOWERS

PA 11-44 (§ 158) creates whistleblower protections for those who experience adverse job actions as a result of lawfully testifying, participating in, or taking steps to end illegal medical assistance activities. That act covers employees, contractors, or agents that experience discrimination. This act adds "associated others."

EFFECTIVE DATE: Upon passage

§ 120 — DRIVER TRAINING FOR PEOPLE WITH DISABILITIES

PA 11-44 transfers DMV's handicapped driver training unit to the BRS and renames it the driver training program for persons with disabilities. The act eliminates from this program the statutory position of driver consultant for persons with disabilities, who oversees the program. BRS is authorized, as under existing law, to hire staff for the unit.

§§ 121-124 — COST-NEUTRAL, ACUITY-BASED MEDICAL SERVICE RATES

PA 11-44 requires the DSS commissioner, in consultation with the DMHAS and public health (DPH) commissioners and the OPM secretary, to develop a plan for implementing a cost neutral, acuity-based method for establishing medical service rates for outpatient, inpatient, and homemaker home health services if doing so is needed to ensure that the conversion to an administrative services organization is cost neutral in the aggregate and ensures patient access. This act provides that service utilization cannot be a factor in determining cost neutrality (see BACKGROUND—*Administrative Service Organizations*).

§§ 125 & 126 — AMBULANCE RATE REDUCTION

PA 11-44 modifies the amount DSS pays for emergency medical transportation (e.g., ambulances) in its medical assistance programs so that it does not exceed the maximum allowable under Medicaid plus an additional percentage set by the DSS commissioner. Under this act, the commissioner must, instead, reduce by up to 10% the rates that were in effect on December 31, 2010 for fees that DSS directly reimburses. The rates take effect on July 1, 2011. The commissioner may

increase them when he determines there are sufficient funds and a reasonable need to do so.

The act also eliminates a provision that limits the amount DSS will reimburse DPH for emergency vehicle and invalid coach services for which DPH statutorily sets rates.

§ 127 — MEDICAID THERAPY MANAGEMENT SERVICES

PA 11-44 requires the DSS commissioner to contract with a pharmacy organization to provide Medicaid therapy management services, including reviewing a Medicaid patient's medical and prescription history. This act allows the commissioner to alternatively contract with a patient-centered medical home or health home for these services.

§§ 128-130 — WAIVER OF SCHOOL CONSTRUCTION PROJECT AUDIT DEFICIENCIES

The act allows the DCS commissioner to waive any deficiencies found in an audit of a regular or interdistrict magnet school construction building project, when he or she determines such a waiver is in the state's best interest.

The act applies to (1) the limited-scope audits DCS must conduct when it has not completed a project audit within five years after receiving a notice that the project is complete, (2) audits of interdistrict magnet school project expenditures, and (3) any other audits required under the school construction law. By law, limited-scope audits review only (1) the total expenditures reported, (2) off-site improvements, (3) adherence to standard space specifications, (4) interest costs on temporary notes and bonds, and (5) any other matters the DCS commissioner considers appropriate.

The act also makes (1) other changes identical to those already enacted in PA 11-51 and (2) technical changes.

§ 131— COPIES OF CERTAIN LEGISLATIVE DOCUMENTS

The act eliminates a provision in PA 11-150 (§ 10) requiring the Legislative Management Committee to determine how many printed copies of the revised statutes, public acts, and special acts the secretary of the state must distribute to the State Library and the Judicial Department. It thus leaves this determination to the secretary.

§§ 133-135 — SUPPORTIVE HOUSING INITIATIVE

The act amends DMHAS' supportive housing initiative by eliminating references to its "Pilot" and "Next Steps" phases, and instead using the term

"permanent." It also (1) adds two state entities to those already collaborating with DMHAS on the supportive housing initiative and (2) establishes a process for developing scattered-site housing. Finally, the act makes technical and conforming changes.

Designation as "Permanent"

By law, DMHAS is responsible for a supportive housing initiative that provides housing units mainly to individuals with mental illness. To date, the initiative has operated under two phases, a "Pilot" phase and the "Next Steps" phase. Under the Pilot, DMHAS was required to provide up to 650 housing units and support services to eligible persons. Subsequently, the law was amended to authorize an additional 1,000 units under the Next Steps initiative. The act eliminates references to the Pilot and Next Steps initiatives and instead refers to the initiative as "permanent supportive housing."

By law, those eligible for the initiative are:

1. people or families affected by psychiatric disabilities, chemical dependencies, or both and who are homeless or at risk of becoming homeless;
2. families who qualify for the temporary assistance for needy families program;
3. 18-to-23-year-olds who are homeless or at-risk of becoming homeless because they are transitioning out of foster care or other residential programs; and
4. community-supervised offenders with serious mental health needs who are under Judicial Branch or Department of Correction (DOC) jurisdiction.

This act clarifies that individuals and families with special needs and those at-risk for homelessness are eligible for supportive housing.

Agency Collaboration

DMHAS establishes and operates the supportive housing initiative in collaboration with DSS, the Department of Children and Families (DCF), DECD, and the Connecticut Housing Finance Authority (CHFA). The act adds DOC and the Court Support Services Division of the Judicial Branch to this collaboration.

Development and Scattered Site-Model

Under prior law, CHFA issued requests for proposals (RFPs) for those interested in participating in the supportive housing initiative to applicants, including organizations deemed by DMHAS, DSS, and DCF as qualified to provide services. CHFA then reviewed and underwrote projects developed under the supportive housing initiative.

The act limits CHFA's review and underwriting to "development projects" and creates a new RFP process for scattered-site models of supportive housing. It eliminates specific forms of financial assistance CHFA can provide.

The act requires DMHAS and DSS to issue, within available appropriations, RFPs in a scattered-site model for homeless individuals with psychiatric disabilities and substance abuse disorders.

EFFECTIVE DATE: Upon passage

§ 138 — STATE SUPERVISION OF WINDHAM SCHOOL DISTRICT

Special Master

The act requires the SBE to assign a special master to administer the Windham school district's educational operations to help it achieve adequate yearly progress (AYP) as a district in reading and mathematics as required by the federal No Child Left Behind Act. The act requires the special master to:

1. collaborate with the Windham board of education and school superintendent to implement the district's improvement plan developed under the state education accountability law;
2. manage and allocate the district's federal, state, and local funds; and
3. report regularly to the SBE on the (a) district's progress in implementing its improvement plan and (b) effectiveness of the Windham school board and superintendent.

By law, the SBE may take various actions to improve student performance in low-achieving schools and districts. The act delegates to the special master the SBE's authority to take several of these actions in Windham. It authorizes the Windham special master to:

1. require an operations audit to identify possible program savings and an instructional audit to identify problems with the district's curriculum and instruction or learning environment;
2. provide incentives to attract highly qualified teachers and principals;
3. direct the assignment and transfer of teachers and principals;
4. require additional training and technical assistance for the district's teachers, principals, and central office staff, and for parents and guardians of the district's students;
5. require implementation of model curriculum, including recommended textbooks, material, and supplies approved by the State Department of Education (SDE);
6. direct the school board to develop and implement a plan to address deficits in

achievement identified in the instructional audit;

7. assign a technical assistance team to guide school or district initiatives and report to the education commissioner on its progress;
8. establish instructional and learning environment benchmarks for the district to meet;
9. direct establishment of learning academies within schools that require teacher groups to continuously monitor student learning; and
10. require Windham's board of education members to (a) undergo training to improve the board's operational efficiency and effectiveness in leading the district's improvement plan and (b) submit an annual action plan to the education commissioner that outlines how and when its effectiveness is to be monitored.

The special master serves at the SBE's pleasure. His authority expires one year after the school year in which the Windham school district as a whole makes AYP in both reading and mathematics.

The act overrides both the Freedom of Information Act and another law barring the disclosure of teacher evaluations to give the SBE and the special master access to all district records, facilities, communications, and meetings, including school board executive sessions, that relate to the special master's authority under the act.

Special Procedures for Reopening Collective Bargaining Agreements

Negotiations. The act authorizes the SBE to require the Windham school board to ask the union representing a school district bargaining unit to reopen negotiations on an existing contract. The sole purpose of the request must be to allow the board to present proposed revisions in salary, hours, and employment conditions to implement the district's improvement plan. The act gives the union five days to respond, with failure to respond considered a rejection. If the union agrees to reopen negotiations, the parties have 30 days to negotiate the revisions.

Any agreement the parties reach must be ratified by a majority vote of the union's members employed by the Windham school board. If the parties fail to agree on one or more issues, or if the union's members fail to ratify an agreement, the act requires the parties to use an expedited arbitration process to resolve the dispute.

Expedited Arbitration Process. The parties must select a single neutral arbitrator, using the procedures specified in the state Teacher Negotiations Act (TNA), no later than five days after they either reach an impasse on one or more issues or the union's members fail to

ratify the agreement. Within 10 days after his or her selection, the arbitrator must hold a hearing in Windham at which the parties must submit their last best offers on each issue in dispute. Within 20 days after the hearing closes, the arbitrator must issue a detailed written decision, which is final and binding.

Arbitrator Decision Criteria. In his or her decision, the arbitrator must give the highest priority to the state's educational interests as they relate to children of Windham. By law, these interests are that (1) each child have an equal opportunity for a suitable educational program; (2) each school district finance such a program at a reasonable level; (3) each district provide educational opportunities to interact with students and teachers from different racial, ethnic, and economic backgrounds, as well as, at district discretion, from different communities; and (4) statutory educational mandates under SBE jurisdiction are implemented.

The arbitrator must also consider the TNA's statutory criteria in light of those interests. By law, TNA arbitrators must consider:

1. as a first priority (second under the act), the public interest and the financial capability of the town or towns in the school district, including other demands on its capability;
2. the negotiations between the parties;
3. the interests and welfare of the employee group;
4. changes in the cost of living averaged over three years;
5. existing employment conditions of the employee group and those of similar groups; and
6. salaries, fringe benefits, and other employment conditions prevailing in the state labor market.

EFFECTIVE DATE: Upon passage

§§ 139 & 140 — LANDOWNER RECREATIONAL LAND IMMUNITY

The law protects private parties from liability to the public if they allow members of the public to use their land for recreation without charging admission fees. PA 11-141 extended this protection to municipalities, special taxing districts, and metropolitan districts. This act eliminates the protection for these entities and makes a conforming change.

PA 11-141 sets conditions protecting large municipalities from liability to the state with respect to contaminated property for which they have an easement. It protects them from liability if they allow the public to use the property without charge for recreation. This act makes a conforming technical change.

EFFECTIVE DATE: October 1, 2011

§ 141 — HEALTHCARE PARTNERSHIP PLANS

PA 11-58 requires the comptroller to offer health insurance coverage under "partnership plans" to certain employer groups and specifies that nothing in its provisions regarding these plans modifies the state employee health plan in any way without the written consent of SEBAC and the OPM secretary. This act extends this SEBAC consent requirement to include PA 11-58's provisions regarding (1) the SustiNet Health Care Cabinet, (2) the Office of Health Reform and Innovation, and (3) health insurance claims data reporting and collection requirements.

EFFECTIVE DATE: Upon passage

§ 142 — HEALTH INSURANCE EXCHANGE EMPLOYEES

PA 11-53 (§ 2) requires exchange employees who sell to, solicit from, or negotiate insurance with individuals and small employers to become licensed insurance producers within one year after starting work for the exchange. This act instead requires exchange employees whose primary purpose is to help individuals or small employers select health insurance plans offered on the exchange to become licensed insurance producers within 18 months of starting work for the exchange.

EFFECTIVE DATE: Upon passage

§ 143 — OFFICE OF HEALTH CARE ACCESS (OHCA) DATA COLLECTION

PA 11-58 (§12) requires hospitals to submit patient-identifiable inpatient discharge data and emergency department data to the OHCA division of DPH. "Patient-identifiable data" means any information that identifies, or may reasonably be used as a basis to identify, an individual patient, including data from patient medical abstracts and bills.

PA 11-58 allows an intermediary to submit data to OHCA on behalf of a hospital or outpatient surgical facility. This act instead allows the data to be submitted through a contractual arrangement with an intermediary. The contractual arrangement must (1) comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and (2) ensure that data is submitted accurately and on time.

PA 11-58 requires OHCA, by October 1, 2011, to enter into a memorandum of understanding with the comptroller to allow the comptroller access to the hospital data if he agrees in writing to keep patient and physician data confidential. This act instead requires him to keep patient and provider data confidential.

§ 144 — PLAN FOR COORDINATING CHILD DAY CARE AND SCHOOL READINESS SERVICES

PA 11-48 requires the education and DSS commissioners to develop a plan to integrate DSS-administered child day care services offered as part of the school readiness program into the school readiness program administered by SDE. It required the (1) plan to address eligibility, slot rates, and program requirements and (2) education commissioner to submit the plan, with any findings and recommendations, to the governor by July 1, 2012.

This act (1) modifies the plan's content and purpose; (2) requires the agencies to submit a report, rather than the plan itself; (3) moves up the submission deadline to January 1, 2012; (4) makes both departments rather than just the education commissioner responsible for submitting the report; and (5) requires submission to the Education and Human Services committees as well as the governor.

Under the act, the commissioners' plan must coordinate, rather than integrate, school readiness and child daycare into a coordinated early care and education program and cover all DSS-administered day care services, not only those offered as part of the school readiness program. In addition to addressing eligibility, slot rates, and program requirements, the plan must include recommendations to maintain the mission and integrity of DSS' existing child care subsidy program.

§ 145 — AID TO INDEPENDENT COLLEGES AND UNIVERSITIES

PA 11-6 required the higher education commissioner to review the Connecticut Independent College Student (CICS) grant program and, by January 1, 2012, present findings and recommendations to the Appropriations and Higher Education committees. The review had to evaluate the cost-effectiveness and benefits of the (1) formula for deriving the annual appropriation, (2) manner of allocating the appropriation to participating institutions, and (3) system used to determine the amount of aid given to individual students.

This act instead requires the OFAAHE executive director, in consultation with financial aid and institutional research staff from participating independent institutions, to perform these functions. It also removes the reference to cost-effectiveness and benefits. PA 11-6 also required the recommendations to suggest possible modifications to the program. This act instead requires that the recommendations presented to the legislature concern the collection of further data to demonstrate the CICS program's results.

This act also requires the executive director and staff to determine what additional data may be necessary to demonstrate grant recipients' need. The executive director must also require institutions participating in CICS to provide (1) the number of students receiving awards and the average amount of the award, (2) student family income, (3) the number of first-year recipients retained over the years of eligibility, and (4) the percentage of recipients graduating in four and six years.

EFFECTIVE DATE: Upon passage

§§ 146-151 — JUDGES RETIREMENT SYSTEM

The act makes a number of changes to retirement eligibility and benefits for judges, family support magistrates, and compensation commissioners, whose retirement system is separate from the State Employee Retirement System (SERS). The judges system has its own pension fund and it is governed by statute and not subject to collective bargaining as is the case with SERS.

§ 146 — *Right to Retirement Salary after 10 Years of Service*

By law, judges, family support magistrates, or compensation commissioners can receive a normal retirement benefit if they retire (1) at age 65 or older; (2) after at least 20 years of service; or (3) after at least 30 years of service with at least 10 years as a judge, family support magistrate, or compensation commissioner.

Under prior law, a reduced retirement benefit was available to judges, family support magistrates, and compensation commissioners who served at least 10 years in any of these capacities but did not meet the normal retirement criteria. The act makes several changes to the retirement benefit for those who serve at least 10 years. The exact changes depend on the dates these officials start and end their service.

Under prior law, a judge or compensation commissioner whose service started before January 1, 1981 and who retired before meeting normal retirement criteria was eligible for a reduced retirement benefit of 50% of the benefit he or she would have received under a normal retirement. An additional 10% was added for each year of service beyond 10, up to a maximum of five additional years. The act ends this benefit for those who retire on or after September 2, 2011. For those retiring on or after September 2, 2011 and before July 1, 2022, the benefit is a fraction of the retirement salary they would be eligible for when they resigned, but the act does not specify how the fraction must be calculated. The act also requires the beneficiary to be at least age 62 before collecting it.

Under prior law, judges, magistrates, or compensation commissioners whose service started on or after January 1, 1981 and who retired before meeting normal retirement criteria were eligible for a reduced retirement of a fraction of what they would have received if they had continued to serve until eligible for a normal retirement benefit. The reduced benefit was based on the ratio of the years of service actually completed to the years the person would have completed at age 65, or 20 years of service, whichever was less. The act ends this benefit for those who retire on or after September 2, 2011. For those retiring on or after September 2, 2011 and before July 1, 2022, the act changes the benefit to the fraction of the retirement salary to which the person would have been eligible when they resigned, but does not specify how the fraction must be calculated. Presumably, the fraction is based on the ratio of the years of service actually completed to the years the person would have completed at age 65, or 20 years of service, whichever is less. Beneficiaries cannot collect the benefit until they reach age 65.

These changes also apply to judges, magistrates, and officials whose service begins on or after July 1, 2011, serve for at least 10 years, and resign before becoming eligible for benefits. Retirees in this group must be age 65 before they can begin receiving the pension benefit.

§§ 147 & 151 — COLAS for Retired Judges, Family Support Magistrates, and Compensation Commissioners

Under prior law, retired judges, family support magistrates, and compensation commissioners or their surviving spouses received an annual cost of living adjustment (COLA) that matched the increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the previous year, up to a maximum of 3%.

Under the act, the existing COLA formula applies only to judges who retire by September 2, 2011. For those retiring after that date, the act caps the annual COLA at 2%.

The act reduces the maximum annual COLA for surviving spouses of judges, family support magistrates, and compensation commissioners, from 3% to 2%, beginning January 1, 2012.

§ 148 — Retirement Salary of Judges and Surviving Spouses Benefit

Under the act, as under prior law, a judge’s retirement benefit is based on the judge’s salary. The act changes how the benefit is calculated.

By law, for judges whose service started before January 1, 1981, the judge’s salary for retirement purposes is his or her final salary. For those whose service began after that date, it is the salary the judge was earning at the time of his or her retirement or death. For judges whose service begins on or after July 1, 2011, the act changes salary for retirement purposes to the judge’s average salary for the five years immediately preceding his or her retirement or death. Under existing law and the act, longevity pay is part of salary.

On or after September 2, 2011, the act also limits salary for retirement benefit calculation purposes at the maximum set by federal tax law (currently, \$195,000 annually for defined benefit plans such as the judges’ plan and adjusted periodically for inflation (IRC § 415)). Thus, retirement benefits for judges earning more than \$195,000 annually must be based on only the first \$195,000 of their salary. Under prior law, there was no limit in the salary amount that could be used. (No state judge in Connecticut currently earns \$195,000 or more.)

§ 149 — Retirement at Age 62 or 63

The act requires judges, family support magistrates, and compensation commissioners who retire at age 62 or 63 on or after July 1, 2022 to meet minimum service requirements (see Table 4). Presumably, the existing law, also shown, will no longer be in effect after July 1, 2022, but the act does not specify this.

Table 4: Age and Service Requirements for Judges, Family Support Magistrates, and Compensation Commissioners

<i>Existing Law For Those Retiring on or Before June 30, 2022</i>		<i>Law for Those Retiring on or After July 1, 2022</i>	
<i>Age</i>	<i>Service</i>	<i>Age</i>	<i>Service</i>
65	None	63	25 years as a judge, magistrate, or compensation commissioner

Table 4: Continued

<i>Existing Law For Those Retiring on or Before June 30, 2022</i>		<i>Law for Those Retiring on or After July 1, 2022</i>	
<i>Age</i>	<i>Service</i>	<i>Age</i>	<i>Service</i>
None	20 years as a judge, magistrate, or compensation commissioner	62	10 years as a judge, magistrate, or compensation commissioner
None	30 years of state service, with at least 10 years of service as a judge, family support magistrate, or compensation commissioner (provided the years of state service that are not in the Judges' Retirement System are not used for a separate SERS retirement benefit)	None	Same as prior law

The law provides for a retirement salary for judges who are at least age 63, have served for at least 16 years, and were nominated but not reappointed for another term. The law specified the formula for this benefit, which is a fraction of the retirement salary the judge would have received if he or she served until age 65, or for 20 years, whichever occurred first. The act adds an identical, duplicate provision without the benefit formula.

§ 150 — Retirement Salary of Family Support Magistrates and Surviving Spouse Benefit

The act changes the salary used to calculate retirement benefits for family support magistrates and their surviving spouses from the last year's salary, used under prior law, to the average annual salary for the five years preceding a magistrate's retirement.

On September 2, 2011, the act also limits the maximum salary that can be used for retirement benefit calculations to the limits imposed by the IRS as described above.

EFFECTIVE DATE: Upon the General Assembly's approval of the agreement between the state and SEBAC under another provision of this act. (PA 11-1, JSS, changed the effective date to be upon the General Assembly's approval of the SEBAC agreement provided in that act and would have repealed these provisions if no agreement was approved. However, under PA 11-1, JSS, the General Assembly was deemed

to have approved the SEBAC agreement on August 22, 2011.)

§ 152 — PRE-1920 STOCK CORPORATION CONVERSION

The act allows certain stock corporations organized before January 1, 1920 to convert into nonstock corporations under the nonstock corporations law. To be eligible, a stock corporation's certificate of incorporation must provide that each corporation member has one vote, regardless of how many shares the member holds in the corporation.

Certificate of Conversion

To convert in this manner, the stock corporation must file a certificate of conversion with the secretary of the state. The certificate must indicate the terms of the corporation's conversion plan and the membership classes to which its shareholders will or may elect to belong after the conversion. This can include any current shareholder classes. The certificate must also include any amendment, restatement, or amendment and restatement of the corporation's certificate of incorporation that will be effected due to the conversion.

The certificate of conversion must certify that the corporation's board of directors adopted the conversion plan and the amendment, restatement, or amendment and restatement. It must also certify that a majority of the members or shares present or represented by proxy and voting at a duly noticed shareholder or member meeting voted in favor of the conversion plan and to effect the amendment, restatement, or amendment and restatement.

Effect of Filing the Certificate of Conversion

After a corporation files a certificate of conversion:

1. it is deemed to have continued in existence with all the same corporate powers as it had before conversion, except for those that a nonstock corporation cannot exercise under the nonstock corporations law;
2. it is deemed to continue to own its pre-conversion assets and properties and to be liable for its pre-conversion debts and liabilities;
3. the actions taken by a majority vote of shares present and voting at its past shareholder meetings, as recorded in the meeting minutes, are valid despite any notice defect or lack of a quorum, unless someone brought an action before the act's passage alleging a notice defect or lack of a quorum; and

4. it need not comply until after January 1, 2015 with the law relating to ownership interests in the corporation deemed abandoned. (The law imposes certain requirements and procedures for holders of ownership interests in a corporation presumed abandoned.)

EFFECTIVE DATE: Upon passage

§§ 153 & 154 — POLICE AND SPECIAL POLICE OFFICERS

The act adds the Connecticut Police Chiefs Association president to the State-Wide Security Management Council. The council coordinates nonexempt state agencies' activities that relate to statewide state facility security. (Agencies exempt from Department of Public Work's security standards and audits must report to the council quarterly on (1) the frequency, character, and resolution of workplace violence and (2) security-related expenditures.) By law, each member must provide technical assistance in his or her area of expertise, as required by the council.

The act authorizes the POST Council to recommend to the DESPP commissioner the appointment of any POST training instructor, or other person it determines, to act as a special police officer statewide as his or her official duties may require, provided the appointee is a certified police officer. (Under prior law, repealed by PA 11-51 (§147) POST was authorized to appoint, not recommend, such special police officers.) The officer must be sworn and may arrest and present anyone before a competent authority for an offense committed in his or her precinct.

§ 155 — PILOT PROGRAM FOR JOBS FIRST EMPLOYMENT SERVICES (JFES) PARTICIPANTS

PA 11-44 requires the DSS and labor commissioners to implement, within available appropriations, a pilot program for up to 100 JFES participants that includes intensive case management services. It requires the DSS commissioner to extend Temporary Family Assistance (TFA, cash assistance) to these families beyond TFA's 21-month time limit if they make a good faith effort to comply with the pilot program's requirements, have not received more than 60 months of TFA benefits, and have not been granted more than two six-month extensions (which is generally the maximum number of extensions allowed).

This act (1) limits to one the number of six-month extensions participants may receive under the pilot program and (2) allows extensions only if there are available appropriations for them.

§ 156 — ELIMINATION OF SPREADING JUNE NURSING HOME PAYMENTS INTO NEXT FISCAL YEAR

Under prior law, DSS had to pay nursing homes one-half of the June payment for their Medicaid residents, and pay the balance in July. This act eliminates this practice.

EFFECTIVE DATE: Upon passage

§ 157 — VISITOR WELCOME CENTER STAFFING

PA 11-48 requires DECD, rather than the Commission on Culture and Tourism, to station a full-time year-round supervisor and a part-time assistant supervisor at the Danbury, Darien, North Stonington, and West Willington visitor welcome centers. This act eliminates these positions at the West Willington center. (PA 11-233 restores these positions.)

§ 158 — ADULT DENTAL SERVICES

PA 11-44 limits Medicaid coverage for nonemergency dental services for healthy adults to one periodic dental examination and tooth cleaning, and one set of bitewing x-rays, each year. This act defines a "healthy adult" as one age 21 or older. The prior act provided coverage for people over age 21.

§§ 159 & 160 — REPORTS ON COLLEGE TRANSITION PILOT PROGRAMS

PA 11-48 requires the education commissioner, in consultation with the higher education commissioner, to establish two college transition pilot programs, one an adult education program in three municipalities and the respective community colleges located in them and the other for high school students at Hillhouse High in New Haven and Gateway Community College.

PA 11-48 requires the two commissioners to report to the Education and Higher Education committees, by October 1, 2012, on the results of the programs. This act requires the commissioners to submit an additional report on the programs by October 1, 2013.

§ 161 — FY 12 TRANSFER TO STF

For FY 12, the act reduces the required revenue transfer from the General Fund to the STF by \$42.5 million, from \$124.05 million to \$81.55 million. (PA 11-1, JSS, reduced the FY 12 transfer by an additional \$40.55 million to \$41 million, but the reduction was repealed and this provision restored upon the August 22, 2011 approval of an agreement between the state and SEBAC.)

§§ 162-164 & 180 — DECD GRANT PROGRAMS

The act requires the DECD commissioner to establish a single grant program to fund specified existing and new high technology, business development, and technology diffusion programs and specifies how she must do so. It repeals the laws authorizing the existing programs as well as an obsolete law.

New Activities

The act requires the commissioner to fund new programs to:

1. promote, retain, and expand the state's hydrogen and fuel cell industries;
2. promote research innovation and nanotechnology;
3. provide technical assistance to small business owners;
4. train small businesses in high performance work practices; and
5. develop marine science, maritime, and homeland security defense industries.

The act provides funds for developing marine science, maritime, and homeland security defense industries by reallocating an existing \$1 million Manufacturing Assistance Act bond authorization. It also requires DECD to grant the bond proceeds to the Connecticut Center for Advanced Technologies (CCAT), which must use them to develop these industries. Although the bonds are available for this purpose on July 1, 2011, the authorization for developing the industries does not take effect until July 1, 2012.

Under prior law, DECD had to grant the proceeds to CCAT for developing a supply chain integration center.

Existing Activities

The act also requires the commissioner to fund several already authorized programs under the new consolidated grant program and makes conforming technical changes. These programs:

1. promote supply chain integration and encourage businesses to adopt digital manufacturing and information technology, which CCAT performed under prior law and
2. develop incubators for small technology-based businesses.

The act repeals the small business incubator program's advisory board, but retains the General Fund account for funding incubator facilities.

The act also eliminates the manufacturing extension service program, which helped small manufacturers adopt cost-cutting technology and techniques.

Program Administration

The act requires (1) the commissioner to specify how entities may apply for grants under the program and (2) the application process to include a request for proposals or a competitive award process. (The act appears to limit the grants for developing marine, maritime science, and homeland security defense industries to CCAT.)

The act allows the commissioner to administer the programs directly or under a personal services agreement with a person, firm, corporation, or other entity.

EFFECTIVE DATE: July 1, 2011, except for the provisions (1) creating the new programs and (2) repealing the authorization for the supply chain integration center and manufacturing extension service and an obsolete law, which take effect July 1, 2012.

§ 165 — SEBAC AGREEMENT APPROVAL

SEBAC is a collective bargaining coalition of 15 state employee unions representing approximately 85% of all state employees. The act establishes an expedited method for the General Assembly to approve the tentative collective bargaining agreement between SEBAC and the state signed on May 27, 2011. Upon approval, the act also requires nonunion state employees to be subject to terms comparable to those in the SEBAC agreement. Regardless of approval, the act also requires changes in nonunion longevity payments comparable to those provided in the agreement.

(SEBAC did not ratify the May 27, 2011 agreement and it was never submitted to the General Assembly. PA 11-1, JSS, amends this act so that similar provisions applied if the state and SEBAC reached another agreement by August 31, 2011. A new version of the SEBAC agreement was approved on August 22, 2011.)

Expedited Process for Approving the May 27, 2011 SEBAC Agreement

By law, if the General Assembly does not act on a state employee union agreement submitted to it within 30 days, it is deemed approved. The act essentially speeds up the approval process by allowing the General Assembly to call itself into special session to approve the May 27, 2011 SEBAC agreement no later than five calendar days after it is filed with the Senate and House clerks, or by June 30, 2011, whichever comes first. Under the act, the agreement is deemed approved if the General Assembly does not call itself into session within that time.

(Under PA 11-1, JSS, the General Assembly used a similar expedited approval method for the agreement with SEBAC approved on August 22, 2011.)

Applying Terms Comparable to SEBAC to Nonunionized State Employees

If the General Assembly approves the May 27 agreement, the act requires the administrative services commissioner and the OPM secretary to apply comparable terms to all nonunion classified and unclassified officers and state employees in the Executive Branch. The OPM secretary must submit a plan to the Appropriations Committee by June 30, 2011, detailing how the terms of the SEBAC contract will apply to these employees.

By the same date, the chief court administrator and the legislative management executive director must also submit plans to the Appropriations Committee detailing how the terms of the SEBAC contract will apply to nonunion classified and unclassified officers and employees of the Judicial Department and legislative branch, respectively. Both branches must implement the changes to their employees' wages and longevity payments by August 1, 2011.

The act specifies that the requirement to implement changes in wages and longevity payments in the Judicial Branch does not apply to officers or employees whose wages are set in statute (such as judges, family support magistrates, and workers' compensation commissioners).

Nonunion Longevity Pay

By August 1, 2011, the act requires all three government branches and the Board of Regents of Higher Education to implement changes to longevity pay for nonunion classified and unclassified officers and employees comparable to the longevity pay provisions of the May 27 SEBAC agreement. These changes are not contingent on passage of the May 27 agreement. Under that agreement, (1) longevity payments will be frozen for two years of service in the budget biennium and those years will not count as service for longevity purposes, (2) new employees hired after July 1, 2011 will not be eligible for future longevity payments, and (3) union employees with capped longevity will not receive their October 2011 payment and those with uncapped longevity will lose an amount equal to that lost by those with capped longevity. The procedure for implementing the last of these provisions is yet to be determined.

The act also specifies that it does not grant longevity payments to legislators.

(PA 11-1, JSS, amends this act to make many changes to nonunion longevity payments contingent on General Assembly approval of a SEBAC agreement by August 31, 2011. If such an agreement is approved, PA 11-1, JSS, requires the BOR and all three government branches to make longevity payments for their

respective nonunion employees comparable to the executive longevity pay plan. Under PA 11-1, JSS, a SEBAC agreement was deemed approved by the General Assembly on August 22, 2011.)

EFFECTIVE DATE: Upon passage

§ 182 — STUDY OF THE REGULATION ADOPTION PROCESS

The act repeals a provision in PA 11-150 (§ 20) requiring the Program Review and Investigations Committee to study the regulation adoption process and recommend modifications to achieve cost savings.

EFFECTIVE DATE: Upon passage

§ 186 — CABARET TAX REPEAL

The act repeals the provisions in PA 11-6 that impose a 3% cabaret tax and require the state to disburse the tax revenue to the municipality where the sale occurred.

EFFECTIVE DATE: Upon passage

§ 187 — AIRCRAFT REGISTRATION FEE REVENUE

The act repeals an obsolete provision that requires revenue from aircraft registration fees to be distributed to towns to reimburse them for lost revenue from the property tax exemption for aircraft.

EFFECTIVE DATE: Upon passage

BACKGROUND

Surplus Lines Insurance

Surplus lines insurance is property and casualty insurance coverage that is not available from licensed Connecticut insurers (also called admitted companies) and must be purchased from a nonadmitted carrier. Nonadmitted insurers are not licensed to transact business in the state but may still offer a line of insurance or a particular type of coverage in the state through a surplus lines broker. Examples of surplus lines insurance include commercial general liability insurance, fire insurance, mobile home policies, and medical malpractice insurance.

Nonadmitted Insurance Multi-state Agreement (NIMA)

This agreement establishes procedures for participating states' payment and allocation of premium tax revenue. It also establishes a clearinghouse for the coordination and dissemination of premium tax and transaction data related to nonadmitted insurance multi-state risks. States participating in NIMA must share tax revenue they are authorized to collect under the NRRA

as the home state on a nonadmitted insurance placement.

Exempt Commercial Purchaser

The NRRA defines an exempt commercial purchaser as any person that (1) employs or retains a qualified risk manager to negotiate insurance coverage; (2) has, in the preceding year, paid over \$100,000 in aggregate nationwide commercial property and casualty insurance premiums; and (3) meets at least one of the following requirements:

1. has a net worth over \$20 million;
2. generates over \$50 million in annual revenue;
3. employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group that employs more than 1,000 employees;
4. is a nonprofit organization or public entity that generates at least \$30 million in annual budgeted expenditures; and
5. is a municipality with a population over 50,000.

Administrative Service Organizations

Administrative service organizations contract with state Medicaid agencies (DSS in Connecticut) to provide care coordination, utilization and disease management, customer service, and grievance reviews for Medicaid recipients. They may also provide network management, provider credentialing, and monitor co-payments and premiums. DSS is authorized by law to enter into such contracts for recipients of Medicaid, HUSKY A and B, and the Charter Oak Health Plan.

Related Acts

PA 11-48 (§ 21) also makes the position of state police major a classified one and increases the number of majors that the public safety commissioner must appoint by five (from seven to 12) (see § 105 above).

PA 11-51 (§§ 36-37) also makes changes regarding the Probate Court Administration Fund surplus distribution (see § 100 above).

PA 11-64 contains the same language concerning the DMHAS Supportive Housing Initiative as this act (see §§ 133-135 above).

PA 11-80—SB 1243

Emergency Certification

AN ACT CONCERNING THE ESTABLISHMENT OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION AND PLANNING FOR CONNECTICUT'S ENERGY FUTURE

SUMMARY: This act creates the Department of Energy and Environmental Protection (DEEP) by merging the departments of Environmental Protection (DEP) and Public Utility Control (DPUC). In addition to the duties and powers inherited from those departments, the act transfers various energy-related responsibilities and powers from the Office of Policy and Management (OPM) to DEEP and also creates new energy-related planning and oversight responsibilities.

Among other provisions, the act:

1. renames the Public Utility Control Authority (the commissioners who run DPUC) the Public Utilities Regulatory Authority (PURA);
2. reduces the number of commissioners from five to three and renames them directors;
3. requires DEEP to develop a comprehensive plan integrating current efficiency and renewable energy plans;
4. requires DEEP, rather than the electric companies, to prepare the integrated resources plan (IRP), which seeks to meet electric needs through a mix of efficiency programs and power generation, and modifies the planning process;
5. requires DEEP to employ an electric power procurement manager and requires the manager, rather than the electric companies, to develop the plan for procuring power for the standard service the companies must provide to small customers who do not choose a competitive supplier;
6. modifies how this power is procured, eliminating a requirement for laddering, allowing for short term contracts, and making other changes;
7. requires electric companies and generators to notify DEEP of any prospective reliability concerns and DEEP to conduct a request for proposals (RFP) for efficiency and generation measures to avoid such problems;

8. expands the resources that can go into the Clean Energy Fund to include private capital and revenues reallocated to the fund by the legislature;
 9. expands the types of projects the fund can support to include electric and natural gas vehicle infrastructure, electricity storage, and the financing of energy efficiency;
 10. creates a quasi-public authority (the Clean Energy Finance and Investment Authority) to administer the fund, rather than Connecticut Innovations, Inc.;
 11. allows municipalities to establish a loan program to finance energy efficiency and renewable energy projects, and to recover costs by an assessment on the benefitted property;
 12. requires the energy efficiency and renewable energy plans developed under existing law to provide equitable funding for low-income neighborhoods;
 13. establishes energy efficiency standards for televisions, DVD players, and similar products and broadens circumstances when efficiency standards would be implemented for other consumer products;
 14. establishes three-year pilot programs to develop combined heat and power and anaerobic digester projects and provides \$2 million annually for each of the programs;
 15. requires the Clean Energy Finance and Investment Authority to establish a program to promote residential photovoltaic systems under which participants can choose to receive an up-front payment or a payment tied to the power the systems produce;
 16. establishes a program that requires electric companies to enter into long-term contracts to buy renewable energy credits (RECs) from zero-emission generators (e.g., solar, wind, hydro);
 17. establishes a similar program for low-emission technologies;
 18. requires PURA to study the feasibility of establishing discounted electric and gas rates for low-income customers by reallocating existing supports for these customers;
 19. establishes a code of conduct for competitive electric suppliers, that regulates door-to-door sales, limits early termination fees, bars unfair trade practices, makes related changes, and establishes civil and administrative penalties for violations;
 20. requires DEEP to establish programs to finance replacement residential heating equipment that is more energy efficient than the customer's current equipment and to provide financial incentives for such equipment and combined heat and power systems;
 21. requires DEEP to develop a plan to reduce energy use in state buildings by at least 10% by 2013 and another 10% by 2018;
 22. bars electric and gas utilities from terminating service at any time to hardship customers with children under 24 months old who are hospitalized if the attending physician determines that utility service is needed for the child's well-being;
 23. allows municipal customers of electric companies to share net metering credits among buildings the municipality owns (virtual net metering);
 24. explicitly authorizes state agencies and municipalities to enter into energy saving performance contracts;
 25. requires the Energy Conservation Management Board to develop standardized performance contracting procedures, and authorizes municipalities to use these procedures or ones they develop themselves;
 26. modifies the Green Connecticut Loan Guaranty Fund program, requires program measures to meet cost-effectiveness standards, and transfers its administration to the new authority;
 27. expands evaluation requirements for efficiency programs;
 28. allows electric companies to each own up to 10 megawatts of renewable energy generating capacity; and
 29. requires DEEP to conduct a number of studies.
- The act makes many minor changes to energy related statutes (§§ 2, 8, 23, 27, 41-43, 45, 50, and 80) and numerous conforming and technical changes (§§ 3-7, 9-13, 16, 18, 19, 21, 24-26, 28, 29, 31, 32, 34, 36, 38-40, 48, 54, 57-79, and 81-87), and repeals obsolete provisions of the energy statutes.
- EFFECTIVE DATE: July 1, 2011, except as indicated.
- §§ 1, 55, 56, & 88 — DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
- The act creates DEEP by merging DEP and DPUC and transferring their powers and duties, and those of the DEP commissioner, to DEEP and its commissioner. It reconstitutes DPUC as PURA, and places PURA and several existing energy-related entities, such as the Connecticut Siting Council, within the new department. It also transfers the energy-related powers and duties of OPM and its secretary regarding energy to DEEP and its commissioner.
- The act requires DEEP, by January 2, 2012, to report on the merger to the legislature's Appropriations, Energy and Technology, and Environment committees.

Goals

The act establishes DEEP's energy goals, which are: (1) reducing utility rates and decreasing ratepayer costs, (2) ensuring the reliability and safety of the state's energy supply, (3) increasing the use of clean energy, and (4) creating jobs and developing the state's energy-related economy. DEEP's environmental goals are: (1) conserving, improving, and protecting the natural resources and environment of the state, and (2) preserving the natural environment while fostering sustainable development.

In addition to the DEEP commissioner's inherited responsibilities, the act also charges him with (1) developing a comprehensive energy plan, (2) transitioning the state to cleaner, more diverse and sustainable energy sources; and (3) creating opportunities for innovation and technological advances in conserving energy and reducing costs.

DEEP Organization

The act establishes an energy bureau within DEEP and allows for additional bureaus within the department. It creates PURA as the successor to the DPUC and also makes changes to the Connecticut Energy Advisory Board (CEAB), both of which are placed within the department. Under the act, CEAB, the Office of Consumer Counsel (OCC), and the Connecticut Siting Council are all within DEEP for administrative purposes only.

The act also moves DPUC's Adjudication Division into DEEP and requires it to advise both the DEEP commissioner and PURA. It also changes the title of the division's hearing "examiners" to hearing "officers," and gives the DEEP commissioner power to appoint them and assign division staff to advise PURA (§ 17).

§§ 14, 15, & 22 — Public Utilities Regulatory Authority

Previously, DPUC was headed by five commissioners known as the Public Utility Control Authority. The act replaces the authority with PURA, within DEEP, and makes it responsible for regulating public utility rates and promoting policies that will lead to just and reasonable utility rates. It also creates a procurement manager position within PURA, whose duties must at least include overseeing the procurement of electricity for standard service. The manager must have experience in energy markets and procuring energy on a commercial scale.

The act reduces the five commissioners who headed the DPUC to three PURA "directors." It prohibits all three from belonging to the same political party. The act ends the term of any serving commissioner on June 30, 2011, and requires the governor to appoint the new directors by July 1, 2011. It staggers their initial terms:

the two directors from the governor's political party serve initial five and four-year terms, respectively, while the director from another political party serves an initial three-year term. Following these initial terms, all directors serve four-year terms and are appointed in the same manner as the previous DPUC commissioners.

The act requires that PURA decisions be guided by (1) DEEP goals, (2) the goals of the comprehensive energy plan, and (3) the integrated resources plan, and based on evidence in the record of each proceeding (§51). It also specifies that any final decision, order, or authorization of PURA in a contested case constitutes a final decision for the purposes of the Uniform Administrative Procedure Act and thus can be appealed to the courts.

The act eliminates the DPUC executive director position and authorizes the PURA chairperson, with approval from the DEEP commissioner, to assume the executive director's powers and responsibilities. It subjects the PURA directors to the conflict of interest prohibitions that applied to DPUC commissioners and also extends them to any DEEP employees working with PURA.

§ 20 — REGULATIONS

The act divides the former DPUC's authority to adopt regulations between PURA and DEEP. It allows PURA, in consultation with DEEP, to adopt regulations on utility companies. It allows DEEP, in consultation with PURA, to adopt regulations on electric suppliers.

§ 30 — AGENCY FUNDING

In the past, DPUC and OCC were primarily funded by an assessment on the companies DPUC regulated. The act applies this assessment (CGS § 16-49) to cover DEEP's bureau of energy, OCC, and PURA. It also expands the companies that are assessed to fund DEEP by adding certified competitive video service providers with a certificate of video franchise authority that annually gross over \$100,000 in the state. Video service providers who do not provide retail service in the state are exempt.

§ 33 — COST EFFECTIVENESS OF ENERGY EFFICIENCY PROGRAMS

The act makes the DEEP commissioner chair of the Energy Conservation Management Board (ECMB) and makes the utility company representatives non-voting members (under prior law, they could only vote on matters related to their respective fields). The law requires electric companies and ECMB to develop a comprehensive plan to implement energy conservation programs and initiatives. The act requires that this plan include steps to achieve a goal of weatherizing

80% of the state's housing units by 2030. It also requires ECMB to periodically review contractors to determine whether they are qualified to conduct work related to the efficiency programs.

Program Evaluation Requirement

The act requires DEEP to oversee the programs in the ECMB plan and specifies how it must do so. DEEP must implement an independent, comprehensive evaluation, measuring, and verification process that ensures:

1. the programs are administered appropriately and efficiently and comply with statutory requirements,
2. the programs and measures are cost effective,
3. evaluation reports are accurate and issued in a timely manner,
4. evaluation results are appropriately and accurately considered in program development and implementation, and
5. information needed to meet any third-party evaluation requirements is provided.

Under the act, the evaluations of efficiency programs and individual measures, measurement, and verification must be conducted on a continual basis. The emphasis must be on those impact and process evaluations, programs, or measures that (1) have not been studied and (2) account for a relatively high percentage of program spending. Evaluations must use statistically valid monitoring and data collection techniques appropriate for the programs or measures being evaluated.

Information Sources

Prior law required cost-effectiveness testing to use available information obtained from real-time monitoring systems. The act instead requires that impact evaluations use information obtained from a sampling of program participants as compared to a control group using either such systems or billing analyses, whichever is most appropriate for the measure or program being studied. If neither method is applicable, the requirement does not apply. By law, the testing is done to ensure accurate validation and verification of energy use and the effects on the state's load factor. The act specifies that the testing must also be used for resource planning purposes.

Schedule and Budget

The act requires ECMB to include an annual schedule and budget for evaluations, as determined by the board, in the plan filed with DEEP. It precludes the ECMB members who represent the electric and gas companies and the municipal electric energy

cooperative from voting on board plans, budgets, recommendations, actions, or decisions regarding the evaluation process or its program evaluations and their implementation.

Administration

The act requires ECMB to contract with one or more consultants not affiliated with ECMB board members to act as an evaluation administrator. The administrator must advise ECMB on the development of a schedule and plans for evaluations and oversee the program evaluation, measurement, and verification process on behalf of the ECMB.

Consistent with ECMB processes and approvals and DEEP decisions regarding evaluation, the administrator must implement the evaluation process by (1) preparing requests for proposals and selecting evaluation contractors to perform program and measure evaluations and (2) facilitating communications between evaluation contractors and program administrators to ensure accurate and independent evaluations. In the evaluation administrator's discretion, the electric and gas companies must communicate with him or her for data collection, vendor contract administration, and providing necessary factual information during the evaluations.

Evaluation Problems

Under the act, all evaluations must describe any problems encountered in the evaluation process, including data collection issues, and recommendations on how to address these problems in future evaluations.

The administrator must bring unresolved administrative issues or problems that arise during an evaluation to ECMB for resolution, but the administrator has sole authority regarding substantive and implementation decisions regarding any evaluation. Board members, including those representing the electric and gas companies, may not communicate with an evaluation contractor about an ongoing evaluation without the express permission of the evaluation administrator. The administrator can only grant this permission if he or she believes the communication will not compromise the independence of the evaluation.

Filing Reports

The administrator must file evaluation reports with ECMB and DEEP in its most recent plan approval proceeding and ECMB must post a copy of each report on its website. ECMB and its members, including the electric and gas company representatives, may file written comments regarding an evaluation with DEEP or for posting on the board's website.

Within 14 days of the filing of any evaluation

report, DEEP, the ECMB members, or other interested parties may request in writing that a transcribed technical meeting be held. (The meetings are an informal process for addressing questions in departmental proceedings.) DEEP must hold the meeting to review the methodology, results, and recommendations of any evaluation. Meeting participants must include the evaluation administrator, the evaluation contractor, and OCC at its discretion.

Legislative Report

By November 1, 2011, and annually thereafter, ECMB must report to the Energy and Technology Committee with the results and recommendations of completed program evaluations.

§ 35 — WHOLESALE MARKET STUDY

The act requires DEEP, by August 1, 2011, to begin studying the impact of ISO New England's Market Rule 1 on the state's ratepayers and the New England wholesale electric power market. The study must include:

1. a review of the ISO's accountability to Connecticut ratepayers and policy makers;
2. strategies and ways to reduce the rule's adverse affects on the state and New England, including long-term contracts;
3. an analysis of the pros and cons of participating in either the ISO New England, another ISO, or operating outside the ISO system;
4. a study of the Federal Energy Regulatory Commission's framework and its contribution to the state's high rates; and
5. methods to promote greater transparency in the system.

DEEP must report the study's results to the Energy Committee by January 1, 2012.

EFFECTIVE DATE: Upon passage

§ 37 — CONNECTICUT ENERGY ADVISORY BOARD

The act makes several changes to CEAB's composition and responsibilities. It reduces the board's membership from 15 to 9 by removing 9 members (representatives from DEP, DPUC, the transportation department, the agriculture department, OPM, the chamber of commerce, state-wide manufacturing association, an electricity expert from the public, and a state resident energy expert) and adding 3 members (a municipal representative, an academic energy expert, and a second energy expert from the public). It also changes who appoints the various board members. Table 1 shows the board's previous composition and

appointing powers and those under the act.

Table 1: Composition of CEAB Previously and Under the Act

<i>Previous CEAB</i>	<i>CEAB Under the Act</i>
1. Consumer Counsel	1. Consumer Counsel
2. Environmental representative appointed by governor	2. Environmental representative appointed by Senate president pro tempore
3. Consumer advocacy representative appointed by governor	3. Consumer advocacy representative appointed by Senate president pro tempore
4. State-wide business association representative appointed by governor	4. State-wide business association representative appointed by Senate president pro tempore
5. Low-income rate payer representative appointed by House speaker	5. Low-income rate payer representative appointed by House speaker
6. Public representative with expertise in electricity appointed by House speaker	6. Public representative with expertise in electricity, renewable energy, procurement, or conservation appointed by House speaker
7. Public expert in electricity appointed by Senate president pro tempore	7. Public representative with expertise in electricity, renewable energy, procurement, or conservation appointed by House minority leader
8. State resident with energy expertise appointed by House speaker	8. Academic energy expert appointed by House speaker
9. Transportation Commissioner	9. Municipal representative appointed by Senate minority leader
10. Chamber of Commerce representative appointed by Senate president pro tempore	
11. State-wide manufacturing association representative appointed by Senate president pro tempore	
12. Agriculture Commissioner	
13. DPUC Chair	
14. OPM Secretary	
15. DEP Commissioner	

The act eliminates several of the board's current responsibilities, including (1) representing the state at ISO New England planning processes, (2) participating in electric company forecast and life-cycle proceedings, and (3) reviewing IRP. The board's new responsibilities under the act include reporting on the status of DEEP programs, consulting on the IRP with the DEEP commissioner, and within available resources, reviewing requests from the General Assembly.

The act also caps CEAB's expenditures at \$1.5 million per fiscal year.

§§ 44, 46, 47, 52, & 53 — POWERS & RESPONSIBILITIES TRANSFERRED FROM OPM TO DEEP

The act transfers numerous energy and utility related powers and responsibilities from OPM to DEEP, including:

1. regulating the fuel oil industry,
2. updating green building standards in consultation with the commissioners of public works and public safety,
3. consulting with the Department of Public Works on lighting standards for public buildings, and
4. consulting with the Department of Consumer Protection on plumbing fixture efficiency standards and tests.

§49 — FUEL OIL CONSERVATION BOARD

The act re-creates a 13-member Fuel Oil Conservation Board and places it within DEEP for administrative purposes only. The board consists of six members of the public, all with energy-related experience, who are appointed by the governor and represent (1) an environmental organization knowledgeable in energy efficiency programs, (2) in-state biodiesel distributors, (3) a consumer advocacy group, (4) the business community, (5) low-income ratepayers, and (6) state residents in general. Legislative leaders also appoint six members who represent (1) retail heating oil dealers with sales of over 15 million gallons in the state, (2) retail heating oil dealers with sales under 15 million gallons in the state, (3) the heating, ventilation, and air-conditioning trades, (4) wholesale heating distributors, (5) a state-wide environmental advocacy group, and (6) a state-wide oil dealer trade association. The chairperson of the Heating, Piping, Cooling and Sheet Metal Work Board is the board's thirteenth member.

§ 51 — COMPREHENSIVE ENERGY PLAN

By July 1, 2012, and every three years thereafter, the act requires DEEP, in consultation with CEAB, to prepare a comprehensive energy plan. The plan must reflect the statutory energy policy (CGS § 16a-35k). The plan must include:

1. an assessment and plan for all energy needs, including electricity, heating, cooling, and transportation;
2. the IRP's findings;
3. the energy efficiency plan's findings;
4. the renewable energy plan's findings;
5. an assessment of energy supplies, demands, and costs, and factors likely to affect them;

6. the progress made meeting the goals and milestones of the last comprehensive plan;
7. long-range energy policies to achieve a sound economy and the least-cost mix of energy supply sources and measures that reduce energy demand, while also considering such factors as consumer price impacts, public health, and environmental goals, among other things;
8. recommendations for administrative and legislative action;
9. an assessment of the potential costs savings and benefits to ratepayers, including carbon dioxide emissions, and repowering coal and oil-fired generation facilities built before 1990; and
10. the benefits, costs, obstacles, and solutions related to expanding the use of natural gas for transportation purposes.

If the department finds that expanding the use of natural gas is in the public interest it must also develop a plan to increase natural gas's availability and use for transportation.

Procedurally, the act requires the plan to be developed in an uncontested proceeding, as long as there is a public hearing of which people are notified at least 15 days in advance. PURA must provide input on the proposed plan's impact on ratepayers, and the public may comment on it during a 45-day comment period. Once the plan is finalized, the commissioner must publish it electronically and summarize all public comments and any changes that resulted from them.

The commissioner (1) must submit the plan to the General Assembly's committees on energy and the environment and (2) can modify the plan in consultation with CEAB under the same procedures the act requires for the initial plan.

The act allows the utility companies to recover from ratepayers any expenses they incur assessing their resources for the plan's development.

§§ 89 & 90 — INTEGRATED RESOURCES PLAN

Changes in Plan Responsibilities

The act requires DEEP, rather than electric companies, to (1) assess future electric demands and how best to meet them and (2) develop a plan to meet the demands through procuring a mix of generating facilities and efficiency programs. (The act refers to this as the integrated resources plan, as it has been called in practice.) DEEP must consult with CEAB and the companies in conducting the assessment and the procurement manager must consult with them and the entity that administers the regional transmission grid in developing the procurement plan.

By law, the resource needs identified in the plan must first be met through all available and cost-effective

efficiency and demand reduction measures. DEEP must determine how efficiency and related measures can cost-effectively meet consumer needs. The act requires that this be done in a way that ensures equity in benefits and cost reductions to all classes and subclasses of consumers. The act requires DEEP, in developing the plan, to consider the effects on participants and nonparticipants.

Plan Review and Approval

The act eliminates CEAB's review of the plan. It requires PURA to give at least 15 days notice of the proceeding in which DEEP approves the proposed plan by electronic publication on DEEP's web site. DEEP must hold a hearing on the plan, which is not a contested case. The notice of the hearing on the plan may also be published in one or more newspapers if the commissioner considers this necessary. The notice must include the date, time, and place of the meeting, its subject matter, the statutory authority for the proposed plan, and the location where a copy of the proposed plan may be obtained or examined. DEEP must also post the plan on its web site.

PURA must comment on the plan's impact on ratepayers and anyone may comment on the proposed plan. The commissioner must provide at least 45 days from the date the notice is published on DEEP's web site for public review and comment.

The commissioner must consider fully, after all public meetings, all written and oral comments concerning the proposed plan. He apparently must post the proposed plan on the department's web site and notify by e-mail each person who requests such notice.

The commissioner must make available the electronic text of the final plan or a web site where the final plan is posted, and a report summarizing (1) all public comments, and (2) the changes made to the final plan in response to such comments and the reasons for doing so. The commissioner must approve or reject the plan with comments.

Submission and Report

The commissioner must submit the final plan electronically to the Energy and Technology and Environment committees. By law, the department must report to the Energy and Technology and Environment committees every two years on the implementation of the plan and its recommendations regarding the process. The act delays the next report from September 30, 2011 to March 1, 2012.

Cost Recovery

Under prior law, the electric company's costs in developing the IRP were recovered on the systems

benefits charge on electric bills. The act instead recovers all costs associated with the IRP and the procurement plan (apparently the plan for procuring resources for standard service) from the assessment on utility companies that covers the department's costs.

Effect of the Plans

PURA's decisions must be guided by DEEP's goals as established by the act and by the goals of the comprehensive plan described above and the IRP. DEEP's decisions must be based on the evidence in the record of each proceeding.

2012 and Subsequent IRPs

The act requires the 2012 and subsequent plans to, among other things (1) examine other states' best practices to determine why electric rates are lower elsewhere in the region; (2) indicate specific options to reduce the price of electricity; and (3) assess and compare the cost of transmission line projects, new power sources, renewable electricity sources, conservation, and distributed generation projects to ensure the state pursues only the least-cost alternative projects. The plan must also identify the least costly option to address any reliability concerns before an electric company submits a proposal to build a transmission line to the entity that administers the regional grid. However, this does not bar an electric company from making filings required by law or regulation.

If the 2012 or subsequent plan contains an option to procure new sources of generation, DEEP must pursue the most cost-effective approach. If it seeks new sources of generation, DEEP must issue a notice of interest for generation without any financial assistance, such as long-term contract financing or ratepayer guarantees. If the DEEP does not receive any responsive proposal, it must issue a request for proposals that may include such assistance.

By February 1, 2012, DEEP must report to the Energy and Technology Committee regarding state policy and legislative changes DEEP feels would most likely lower the state's electricity rates.

§§ 91 & 92 — STANDARD SERVICE AND RELATED PROVISIONS

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 act eliminates specific 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 overlap in time (the latter requirement is sometimes called laddering). The act also eliminates a requirement that if a generation affiliate of an electric company submits a bid, it do so one day before the other bidders (there are currently no such affiliates).

Under prior law, DPUC, in consultation with OCC, could retain a consultant with expertise in energy procurement to oversee the electric companies' procurement of contracts for standard service. The act instead allows the procurement manager of PURA to retain consultants as it sees fit to help with the procurement.

Under prior law, DPUC had to review and approve bids to provide power for standard service. The act requires that DEEP perform these duties and do so in an uncontested proceeding that includes a public hearing in which OCC and the Attorney General can participate.

By January 1, 2012 and every year thereafter, DEEP's procurement manager must develop a plan for procuring power and related wholesale electricity market products that will enable each electric company to manage a portfolio of contracts to reduce the average cost of standard service while maintaining cost volatility within reasonable levels. The manager must consult with the electric companies in developing the plan. It can consult with other entities including the Connecticut Municipal Electric Energy Cooperative, and individuals (except those potentially involved in bidding to supply power for the service).

Each procurement plan must provide for the competitive solicitation for load-following electric service (i.e., supply that goes up or down depending on demand). The plan can also (1) include a provision for the use of other contracts, such as contracts for generation or other electricity market products and financial contracts, and (2) provide for the use of contracts of varying lengths. If such plan includes the purchase of full requirements contracts, it must explain why these purchases are in the best interests of standard service customers. DEEP must conduct an uncontested proceeding to approve the plan, with any amendments it considers necessary.

The procurement manager must meet with the DEEP commissioner at least quarterly and prepare a written report on the plan's implementation. If the procurement manager finds that an interim amendment to the annual plan to address market conditions or to otherwise reduce the costs might substantially reduce the cost of standard service or its volatility, the procurement manager may petition PURA for an interim amendment. PURA must notify OCC and the electric companies of the proposed amendment. PURA must hold an uncontested proceeding and a technical meeting regarding the proposed amendment if requested by OCC or the companies within two business days of

their receipt of the notice. PURA may approve, modify, or deny the proposed amendment, following the technical meeting if one is requested. PURA's ruling must occur within three business days after the technical meeting, if one is requested, or the expiration of the time for requesting a technical meeting if one is not requested. PURA may maintain the confidentiality of the technical meeting to the full extent allowed by law.

An electric company is entitled to recover all reasonable and prudent costs it incurs in developing and implementing the approved plan, including costs of contracts entered into under the plan. The procurement costs must be borne solely by standard service customers.

DEEP must report annually to the Energy and Technology Committee on the procurement plan and its implementation.

Project 150

By law, the electric companies must enter into long-term contracts with renewable energy generators that meet certain criteria under a program commonly called Project 150. The act specifies that projects located in Connecticut should receive a preference under the program. The act prohibits PURA from issuing an order that extends any contract made under the program beyond the termination date established based on the in-service date agreed to under the contract. Notice must be provided in accordance with the terms of the contract and to the extent permitted under the contract.

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 PURA to conduct a proceeding to determine the cost of billing, collections, and other services provided by the electric companies or DEEP that solely benefit suppliers and aggregators. DEEP must equitably allocate these costs to such suppliers and aggregators. As part of the same proceeding, DEEP 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.

§ 93 — BUY DOWN OF STANDARD SERVICE CONTRACTS

The act requires DEEP's Bureau of Public Utility Control, at the request of an electric company, to conduct a proceeding to (1) consider the buy down of the company's current standard service contract to

reduce ratepayer bills and (2) conduct a cost benefit analysis of such a buy down. If DEEP determines that a buy down is in ratepayers' best interest, the company must proceed with it.

§ 94 — BILATERAL SUPPLY CONTRACTS

By January 1, 2012, and thereafter as DEEP determines to be in consumers' interest, DEEP must initiate a generation evaluation and procurement process. The evaluation process entails a nonbinding prequalification process to identify potentially eligible new generators. Interested generators must give DEEP information demonstrating how they will reduce electric rates for Connecticut ratepayers while maintaining or improving reliability, improving environmental characteristics of the Connecticut generation fleet, and providing economic benefit to the state. A determination of eligibility must be based on a showing of project attributes, including ratepayer, environmental, and economic benefits. It must also include a demonstration of reasonable certainty of completion of development, construction, and permitting activities.

If DEEP determines that one or more generators are eligible, it must issue an RFP to consider bilateral purchasing contracts from new generators by pricing such electricity on a cost-of-service basis, power purchase agreement, or other mechanism it determines to be in the best interest of Connecticut customers. The contracts must directly or indirectly, or in combination with other initiatives, provide electricity at lower rates for Connecticut consumers. The contracts must be for a term of between five and 20 years. They must provide that the generator bears the development, construction, and operation risks. Generators must be awarded contracts based on certain criteria, including reduction of rates, generator's heat rate, decrease in regulated pollution, and cost-effectiveness.

§ 95 — UTILITY ROAD CUTS

This act requires utilities that cut and permanently patch a public highway in the course of repairs or installations to, one year after the permanent patch is made, (1) inspect the patch, (2) make any additional repairs as may be necessary, and (3) certify to the municipality where it is located that it meets generally accepted standards of repair.

The requirements apply to utility companies; municipal waterworks systems; districts authorized by law to supply water (including metropolitan, municipal, and special districts); and any other waterworks system owned, leased, maintained, operated, managed, or controlled by any unit of local government under the statutes or public or special act. A municipality may, by vote of its legislative body, elect not to enforce these

requirements.

§ 96 — REVIEWING TRANSMISSION LINE PROPOSALS

The act requires DEEP to review any proposed merchant 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 such transmission lines at a rate that will lower electricity rates for Connecticut consumers.

§§ 97 & 98 — NOTICE OF RELIABILITY CONCERNS

By law, electric generators and the electric companies must annually file long-term supply and demand projections with the Connecticut Siting Council. The act requires, starting in March 2012, that they include any potential reliability concerns during the forecast period. It requires that this report go to DEEP as well as the Siting Council. Under the act, if DEEP receives such a report, it may issue an RFP for energy efficiency measures or generating capacity. The DEEP commissioner can determine that issuing an RFP is not needed, but in such cases the determination must include his rationale.

§ 99 — NEW CLEAN ENERGY FINANCE AUTHORITY

The act (1) renames the Renewable Energy Investment Fund the Clean Energy Fund (which is what it is already called in practice), (2) creates a quasi-public authority to replace the board that is responsible for developing the plan on how money in the fund is spent, (3) grants the authority a broad range of powers and duties, (4) places the fund under the authority rather than Connecticut Innovations, Inc. (CII), (5) allows the authority to receive additional specified revenues, and (6) expands how the fund can be used. The act specifies that the authority is the successor agency to CII for the purposes of administering the clean energy fund and is in CII for administrative purposes only.

Board of Directors

Under prior law, the Renewable Energy Investments Board was responsible for developing the plan for spending money in the fund and related functions. The act creates the Clean Energy Finance and Investment Authority as the successor to the board. The authority is subject to the ethics and auditing laws, among others, that apply to other quasi-public authorities.

The act establishes a board of directors consisting of 11 voting and two non-voting members to oversee the authority. Table 2 compares the membership of the former board and the authority's board.

Table 2: Membership Of Renewable Energy Investment Board And New Authority Board

<i>Appointing Authority</i>	<i>Former Board</i>	<i>Authority Board (initial term in parentheses)</i>
Governor	Three members: one with expertise regarding renewable energy resources, one representative of organized labor, and one representative of residential customers or low-income customers	Four members: two with experience in financing clean energy projects (2 years), one representing labor organizations (4 years), and one with experience in research and development or manufacturing of clean energy (unspecified term)
Senate president pro tempore	One member representing a state or regional organization primarily concerned with environmental protection	One member representing an environmental organization (4 years)
House Speaker	One member with expertise regarding renewable energy resources	One member representing residential or low-income groups (4 years)
Senate majority leader	One member representing a state or regional organization primarily concerned with environmental protection	No appointment
House majority leader	One member with experience in business or commercial investment	No appointment
Senate minority leader	One member representing a state-wide business association, manufacturing association or chamber of commerce	One member with expertise in the finance and deployment of renewable energy projects (4 years)
House minority leader	One member with experience in business or commercial investments	One member with experience in investment fund management (3 years)
CII board chairperson	Two members with experience in business or commercial investments	One member of the CII board (non-voting)
Ex-officio	Four members: Environmental Protection and Emergency Management and Homeland Security commissioners, Office of Policy and Management secretary, and Consumer Counsel	Four members: DEEP and Economic and Community Development commissioners, State Treasurer, (voting) authority president (non-voting)

Each ex-officio member, other than the authority president, may designate his deputy or staff member to represent him or her at authority meetings with full

power to act and vote on his or her behalf.

The president of the authority and a member of the CII board appointed by the chairperson of the corporation must serve on the board in an ex-officio, nonvoting capacity. The governor must appoint the chairperson of the board. The board must elect a vice chairperson and other officers deemed necessary. The board may establish committees and subcommittees and adopt bylaws and procedures.

Once the initial terms of the governor's and legislative leaders' appointees expire, the terms of their successors run for four years from the July 1st following their appointment.

Authority Responsibilities

The act requires the authority to (1) develop separate programs to finance and otherwise support clean energy investment in residential, municipal, small business, and larger commercial projects, and other projects as it determines; (2) stimulate demand for clean energy and the deployment of clean energy sources in the state that serve end-use customers here; and (3) support financing or other expenditures that promote investment in clean energy sources in accordance with a comprehensive plan it develops to foster the growth, development and commercialization of clean energy sources and related enterprises.

Under prior law, the Renewable Energy Investments Board was responsible for developing a comprehensive plan and the expenditure of the money in the fund. The plan was subject to DPUC review and approval. The act transfers these duties to the authority and DEEP, respectively.

Financing Projects

The act allows the authority to provide financing support to clean energy projects if it determines that the amount to be financed by the authority and other non-equity financing sources does not exceed 80% of the cost to develop and deploy a project, or for an energy efficiency project, up to 100% of the cost. The act allows the authority to assess reasonable fees on its financing activities to cover its reasonable costs and expenses, as determined by the board.

Before making any loan or other form of financing or risk management for a project, the authority must develop standards to govern its administration through rules, policies, and procedures that specify borrower eligibility, terms and conditions of support, and other relevant criteria, standards, or procedures.

The act allows the authority to enter into contracts with private funding sources to raise debt or equity from private sources. Its board must set the average rate of

return on such capital.

Authority Powers

The act grants the authority the privileges, immunities, tax exemptions, and other exemptions that CII has under current law. The authority is subject to suit and liability solely from its assets, revenues, and resources without recourse to CII's general funds, revenues, resources or other assets.

The authority may assume or take title to any real property, convey or dispose of its assets, and pledge its revenues to secure any borrowing and to develop, acquire, construct, refinance, rehabilitate, or improve its assets.

Each such borrowing or mortgage, unless otherwise provided by the board or the authority, is a special obligation of the authority. The obligation may be in the form of bonds, bond anticipation notes, or other obligations. The obligations can be used to fund, refinance, and refund the same and provide for the rights of their holders, and to secure the same by pledge of revenues, notes, and mortgages of others. The obligations are payable solely from the authority's assets, revenues, and other resources and may not be secured by a special capital reserve fund which is in any way contributed to by the state.

The authority may seek to qualify as a Community Development Financial Institution under federal law. If approved, the authority must be treated as such for federal tax purposes.

No authority director, officer, employee, or agent is personally liable for exercising or carrying out any of the authority's purposes or powers, so long as he or she is acting within the scope of his or her authority.

Funding Sources

By law, the fund is primarily supported by a 0.1 cent per kilowatt-hour charge on electric bills. The act allows the authority to receive funds repurposed from existing programs providing financing support for clean energy projects, provided (1) any transfer of funds from such existing programs must be approved by the legislature and (2) the funds must be used for financing, grants, and loans.

The act allows the authority to raise private capital. It also allows the authority to receive:

1. charitable gifts, grants, and loans;
2. any federal funds that can be used for its purposes;
3. contributions and loans from individuals, corporations, university endowments and philanthropic foundations;
4. earnings and interest from financing support activities for clean energy projects backed by

the authority; and

5. to the extent that it qualifies as a federal Community Development Financing Institution, funding from the Community Development Financing Institution Fund administered by the Treasury Department, as well as loans from and investments by depository institutions.

Uses of the Fund

By law, the fund can support a wide range of renewable energy projects. The act additionally allows it to:

1. finance energy efficiency projects;
2. support projects that seek to deploy electric, electric hybrid, natural gas, or alternative fuel vehicles and associated infrastructure and any related storage, transmission, distribution, manufacturing technologies or facilities; and
3. provide low-cost financing for the above projects and clean energy technologies.

The act allows the fund to be used to provide low-cost financing and credit enhancement mechanisms for clean energy projects and technologies reimbursement.

Under prior law, the fund could be used to reimburse CII for its expenses as administrator of the fund, including a management fee. The act instead allows the fund to pay for operating expenses, including administrative expenses incurred by the authority and CII, and capital costs the authority incurs in connection with the operation of the fund, the implementation of the renewable energy plan, or other permitted activities of the authority.

Audits and Related Provisions

The act requires the fund to be audited annually. The audits must be conducted using generally accepted auditing standards by independent certified public accountants (who can be a CII accountant) certified by the Connecticut Board of Accountancy.

In addition, any entity that receives financing for a project from the fund must provide the board with an annual financial statement of the project. The statement must describe all sources and uses of funds in the detail the authority requires. The recipient's chief financial officer must certify that the statement is correct. The authority must maintain such audits for at least five years. Residential projects for one to four dwelling unit buildings are exempt from all annual auditing requirements, but the projects may be required to grant their utility companies' permission to release their usage data to the authority.

The act requires the authority to make information regarding the rates, terms, and conditions for all of its

financing support transactions available to the public for inspection. These must include formal annual reviews by both a private auditor and the comptroller, and providing details to the public on the Internet. But the authority cannot disclose, pursuant to the Freedom of Information Act, patentable ideas, trade secrets, or proprietary or confidential commercial or financial information, when disclosure may cause commercial harm to a nongovernmental recipient of such financing support. In doing this (1) the authority must include formal annual reviews by a private auditor and the comptroller and (2) provide details to the public on the Internet.

The act eliminates requirements that the current Clean Energy Fund board report to the Energy and Technology and Commerce committees every five years. Prior law required the Clean Energy Fund board to report annually to the Energy and Technology and Commerce committees, DPUC, and OCC on the activities of the fund. The act instead requires that this report just go to the committees and DEEP and requires that it review the authority's activities.

§ 100 — MUNICIPAL ENERGY LOAN PROGRAM (PACE)

The act allows any municipality to establish a loan program for financing sustainable energy improvements to qualifying real property located within the municipality, if it determines that this is in the public interest. (These are commonly called Property Assessed Clean Energy (PACE) programs.) The municipality must issue a public notice and provide an opportunity for public comment before making this determination. The program can cover all or part of the municipality. Before establishing a program, the municipality must notify the electric company that serves 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 property are single- or multi-family residential dwellings or other buildings that a municipality determines can benefit from energy improvements. The property owner must agree to participate in the program, which includes signing a contractual assessment.

Before entering a contractual assessment, the municipality must provide each property owner the following notice, in at least fourteen-point bold type:

SEEK LEGAL ADVICE BEFORE PARTICIPATING IN THIS LOAN PROGRAM TO ENSURE UNDERSTANDING OF POTENTIAL CONSEQUENCES, INCLUDING A POSSIBLE DEFAULT UNDER YOUR MORTGAGE.

Any municipality that establishes this program may:

1. partner with another municipality or state agency to (a) maximize the opportunities for accessing public funds and private capital markets for long-term sustainable financing, and (b) secure state or federal funds available for this purpose; and
2. use the services of private, public, or quasi-public third-party administrators to provide support for the program.

Financing

Notwithstanding other limits or conditions on municipal bond issues, any municipality that establishes a loan program may issue bonds, as needed, to (1) offer loans to the owners of eligible property in the municipality 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 contractual assessments on the benefitted property. The municipality can supplement the bonds with other legally available funds at its discretion.

If a qualified property owner requests a loan, the municipality must:

1. require an energy audit or renewable energy system feasibility analysis on the property before approving a loan;
2. enter into a loan agreement with the owner in a principal amount sufficient to pay the costs of energy improvements and any associated costs the municipality determines will benefit the qualifying property;
3. impose requirements to ensure that the loan is consistent with the program's purpose; and
4. impose requirements and conditions on the loan to ensure timely repayment, including placing a lien of the benefitted property.

Any loan made under the program must be repaid over a term that does not exceed the calculated payback period for the installed improvements (the time in which the energy costs savings equals the cost of the improvements), as determined by the municipality. The municipality must set a fixed interest rate when each loan is made. The interest rate, as supplemented with state or federal funding that may become available, must be sufficient to pay the program's financing costs, including loan delinquencies. The loan cannot have a prepayment penalty.

Loans under the program, interest, and any penalties are a lien against the property. The lien must be levied and collected in the same way as property taxes, including, in a default or delinquency, with

respect to any penalties and remedies and lien priorities. However, the lien does not have priority over existing mortgages.

§ 101 — EFFICIENCY IN POORER TOWNS

By law, (1) the electric and gas companies must develop efficiency plans that are subject to review by the ECMB and (2) the Clean Energy Fund Board must develop a renewable energy plan. Under prior law, both plans were subject to DPUC approval; the act transfers this responsibility to DEEP.

Under the act, before approving any plan for energy conservation and load management and renewable energy projects, DEEP must determine that an equitable amount of the funds administered by each entity will be deployed among small and large customers in census tracts in which the median income is not more than 60% of the state median income, for customers whose average maximum demand is 100 kilowatts or less. DEEP must determine such equitable share. Projects may include a mentoring component for such communities. The requirements apply to submissions issued to DEEP by ECMB, the board of directors of the Clean Energy Finance and Investment Authority, or an electric company.

Starting January 1, 2012, DEEP must annually report to the Energy and Technology Committee regarding the distribution of funds to such communities.

§ 102 — PRODUCT ENERGY EFFICIENCY STANDARDS

General Provisions

Under prior law, OPM had to adopt regulations implementing statutory energy efficiency standards. The regulations had to establish energy efficiency standards for products not covered by the statutes if OPM determined that (1) such standards would promote energy conservation in the state, (2) they would be cost-effective for consumers who purchased and used the new products, and (3) multiple products were available that met such standards. These standards could not become effective until one year after OPM adopted them. The act transfers these responsibilities to DEEP.

Standards for Consumer Electronics

The act establishes energy efficiency standards for compact audio players, televisions and DVD players and recorders. The standards go into effect January 1, 2014, unless the DEEP commissioner determines that the standards are unwarranted, as described below, in which case he can accept, reject, or modify these standards.

Under the act, starting January 1, 2014, new

compact audio players, DVD players, and DVD recorders sold or installed in the state must meet the requirements shown in the November 2009 California Code of Regulations, Table V-1 of Title 20, Division 2, Chapter 4, Article 4. As of the same date, televisions manufactured on or after July 1, 2011 must meet the requirements shown in Table V-2 of the same section of the regulations. In addition, televisions manufactured on or after January 1, 2014, must meet the additional efficiency requirements as specified in these regulations.

Under prior law and the act, 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.

Standards for Additional Products

Under prior law, OPM had to adopt regulations to establish efficiency standards for other products if it found that (1) the standards would (a) promote energy conservation in the state and (b) be cost-effective for consumers who purchased and used these products, and (2) multiple products were available that met such standards. The act eliminates the last criterion and instead requires the DEEP commissioner to find that the standard would not impose an unreasonable burden on Connecticut businesses.

The act also requires DEEP, in consultation with the Multi-State Appliance Standards Collaborative, to identify additional appliance and equipment efficiency standards. The commissioner must review all California standards and may review standards from other states in such collaborative. He (1) must issue notice of the review in the *Law Journal*, (2) allow for public comment, and (3) may hold a public hearing within six months of adoption of an efficiency standard by a cooperative member state regarding a product for which no equivalent Connecticut or federal standard exists. DEEP must adopt regulations adopting the standard unless it makes a specific finding that the standard does not meet the criteria described above and thus is unwarranted.

§ 103 — COMBINED HEAT AND POWER AND ANAEROBIC DIGESTER PROGRAM

The act requires the Clean Energy Finance and Investment Authority it creates to establish a three-year pilot program to provide financial incentives for installing combined heat and power (CHP) systems with

a generating capacity of less than 2 megawatts. The authority must set one or more standardized grant amounts, loan amounts, and power purchase agreements for the projects to limit the authority's and project proponent's administrative burden. The standardized provisions must seek to minimize costs for the ratepayers, ensuring that the project developer has a significant share of the financial burden and risk, while ensuring the development of projects that benefit Connecticut's economy, ratepayers, and environment. The authority may decline to support a proposed project if its benefits, including emissions reductions, are insufficient to justify ratepayer or taxpayer investment.

The CHP program may not exceed 50 megawatts. Funding for individual projects is capped at \$350 per kilowatt.

The act also requires the authority to establish a pilot program to support sustainable practices and economic prosperity of Connecticut farms by using organic waste with on-site anaerobic digestion facilities to generate electricity and heat. The assistance can take the form of loans, grants, or power purchase agreements. The authority may approve no more than five projects under the program, each with a maximum size of 1,500 kilowatts (1.5 megawatts) and a maximum cost of \$450 per kilowatt.

The authority must allocate \$4 million annually from the Clean Energy Fund for the programs, \$2 million for the CHP projects and \$2 million for the digesters. By January 1, 2016, it must report to the Energy and Technology Committee on the programs and whether they should continue.

§§ 104 & 105 — TIME OF USE RATES AND METERS

The act requires suppliers, as a condition of maintaining their licenses, to offer a time-of-use price option to customers. The option must include a two-part price designed to minimize customer bills by encouraging the reduction of energy consumption during the most energy intense hours of the day. The licensee must file its time-of-use rates with the PURA.

Under the act, DEEP must order each electric company to notify its customers on an ongoing basis on the availability of time-of-use meters, if applicable.

§§ 106 & 109 — RESIDENTIAL SOLAR PROGRAM

Under the act, the Clean Energy Finance and Investment Authority must implement a residential photovoltaic (PV) solar energy program, which must result in at least 30 megawatts of new PV generating capacity being installed in the state by December 31, 2022. The program must be funded with up to one-third of the annual revenue from the renewable energy charge

on electric bills.

Incentives

Under the act, the authority must offer direct financial incentives for the purchase or lease of qualifying residential PV systems. 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. When determining the type and amount of incentive to provide, the authority must consider (1) verified PV solar system characteristics, such as operational efficiency, size, location, shading, and orientation and (2) willingness-to-pay studies. Under the act, participants in this program who receive the upfront incentive are ineligible to benefit from the net metering law. Under this law, customers with class I generating systems receive a billing credit when their systems produce more power than the customer uses (in effect, the customer's meter runs backwards during these periods).

The act requires PURA to increase the incentive provided under the program 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.

Program Plan

By law, the board that administers the Clean Energy Fund must develop a biennial comprehensive plan. Under the act, starting with the FY 12/13 plan, each plan must contain a proposed schedule for offering the incentives over the duration of the program. The schedule must:

1. provide for "blocks" that result in at least 30 MW of residential PV capacity and projected incentive levels for each block;
2. provide incentives that are sufficient to meet residential consumers' reasonable payback expectations, considering the estimated cost of solar installations, the value of the energy offset by the system, and the availability and estimated value of other incentives, such as federal and state tax incentives and revenues from the sale of solar renewable energy credits (RECs);
3. provide incentives that decline over time to help foster the development of a state-based solar industry;
4. automatically move to the next block once the fund has committed the resources for a block; and
5. provide comparable incentives to buy or lease qualifying systems.

The authority may retain a consultant with expertise in solar energy program design to help develop the incentive schedules, which DEEP must review and approve. The authority can modify the approved schedule before it issues its next plan to account for changes in state or federal law or regulation or developments in the solar market when these changes could affect the expected return on investment of a typical residential PV system by 20% or more.

The authority must post on its website the incentives schedule, available funding, and incentive estimators, and solar capacity remaining in the current block. It must establish and periodically update program guidelines, including (1) eligibility criteria, (2) standards for installing energy efficient equipment or building practices as a condition of receiving program funding, (3) procedures to ensure that reservations are made and incentives paid to PV systems that are very likely to be installed and operated as indicated in the funding application, and (4) reasonable protocols for measuring and verifying energy production.

Funding

Funding for these incentives must come from the renewable energy surcharge on electric bills but may not use more than one-third of this annual revenue, plus any federal funding that becomes available.

Training and Development

The authority must identify barriers to developing a permanent Connecticut-based solar workforce and provide for comprehensive training, accreditation, and certification programs through institutions and individuals accredited and certified to national standards.

Report

By January 1, 2014, and every two years thereafter through the program's duration, the authority must report to the Energy and Technology Committee on progress toward the 30 MW goal.

§§ 107 & 108 — ZERO EMISSION GENERATION PROGRAM

Electric Company Solicitation Plan

Starting January 1, 2012, each electric company must solicit and file with PURA for its approval, one or more long-term (15 year) power purchase contracts with owners or developers of zero-emission generation projects of less than 1,000 kilowatts (1 megawatt or MW) capacity. These systems must be located on the customer side of the meter and serve the electric

company's distribution system. PURA can give preferences to contracts for technologies that are manufactured, researched, or developed in the state.

The companies must submit a proposed six-year solicitation plan by January 1, 2012. The plan must include a timetable for soliciting proposals, with declining incentives during each year of the program.

Solicitations conducted by a company must be for the purchase of renewable energy credits (RECs) produced by eligible projects. (Owners of renewable generation facilities can sell the power they produce on the wholesale electric market as "green power" or can sell the RECs associated with this power separately from the power.)

The production of a megawatt hour of electricity from a solar energy source placed in service on or after July 1, 2011 creates one REC. The obligation to purchase credits must be apportioned to the companies based on their respective loads at the start of the procurement period, as determined by PURA. These credits count against the companies' obligations under the Renewable Portfolio Standard (RPS). A credit is in effect the year it is created and the following calendar year. Electric companies are not required to enter into a contract in 2012 that provides a payment of more than \$350 per REC. For contracts entered into between 2013 and 2017, at least 90 days before each annual electric company solicitation, PURA may lower the REC price cap by 3% to 7% annually. In doing so, PURA must (1) provide notice and an opportunity for public comment and (2) consider such factors as the actual bid results from the most recent solicitation and reasonably foreseeable reductions in the cost of eligible technologies.

The companies must spend the following amounts to buy RECs under the program: \$8 million in the program's first year (2012), increasing by \$8 million per year in each of the next three years.

After year four, PURA must review contracts entered into under the program. If the cost of the technologies included in the contracts has been reduced, PURA must seek to enter new contracts to extend the program for another two years, for the total of six years.

If PURA determines the cost has been reduced, the aggregate procurement of RECs by electric companies must (1) increase by an additional \$8 million per year in years five and six, (2) be \$48 million in years seven to fifteen, inclusive, and (3) decline by \$8 million per year in years 16 to 21, inclusive. If PURA determines the costs have not been reduced, the aggregate procurement of RECs by electric companies must (1) be \$32 million in years five to thirteen, inclusive, and (2) decline by \$8 million per year in years 14 to 19, inclusive. Under both scenarios, any money not allocated in any given year may roll into the next year's available funds.

The act requires each electric company, by January

1, 2012, to propose a six-year solicitation plan that includes a timetable and methodology for soliciting proposals for long-term RECs with declining incentives that will end in 2022 from in-state generators. PURA must review and approve the solicitation plan. The approved plan must be designed to foster a diversity of project sizes and participation among all eligible customer classes, subject to cost-effectiveness considerations.

Approval of Procurement Plans

The companies must conduct separate procurement processes for (1) systems up to 100 kilowatts (a typical residential PV system is 5 to 10 kilowatts), (2) systems between 100 and 250 kilowatts, and (3) systems between 250 and 1,000 kilowatts. PURA must give preference to competitive bidding for resources above 100 kilowatts, with bids ranked in order of the present value of their required REC price unless it determines that an alternative methodology is in the best interest of electric customers and the development of a competitive and self-sustaining market. Systems up to 100 kilowatts are eligible to receive a REC price equal to the weighted average accepted bid price in the most recent solicitation for systems of between 100 and 250 kilowatts, plus an additional 10%. Each electric company must execute its approved six-year solicitation plan. The RECs it purchases count towards its obligations under the Renewable Portfolio Standard, under which electric companies and competitive suppliers must get part of their power from renewable resources.

Each company must submit its preferred procurement plan to PURA for its review and approval. PURA must hold a hearing as an uncontested case to approve, reject, or modify an application for approval.

PURA may approve the plan only if it finds that (1) the company conducted the solicitation and evaluation by a fair, open, competitive, and transparent process; (2) approval of the solicitation plan would provide the greatest expected ratepayer value from energy or RECs at the lowest reasonable cost; and (3) the procurement plan satisfies other criteria established in the approved solicitation plan. PURA may not approve any proposal made under the procurement plan unless it determines that (1) the plan and proposals encompass all foreseeable sources of revenue or benefits and (2) the proposals, together with such revenue or benefits, would result in the greatest expected ratepayer value from energy or RECs.

If an electric company's solicitation does not result in proposed contracts totaling the mandated annual expenditure and PURA has reduced the cap price by more than 3%, PURA must issue a request for proposals for additional contracts within 90 days. PURA must

approve contract proposals on a least-cost basis, but an electric company need not enter into a contract that provides for a payment in any year of the contract that exceeds the prior year's renewable energy price cap minus 3%.

If the electric company fails to execute its approved solicitation plan, it may petition PURA for an extension of up to 90 days. If it does not submit this petition or it fails to cure the deficiency, PURA must assess a noncompliance fee of 125% of the difference between the annual expenditures the company is required to make under the act and its actual contractually committed expenditure for RECs from eligible projects in that year. PURA can waive the fee if it determines that meeting the program requirements would be commercially infeasible.

The electric company must collect noncompliance fees, keep them in a separate interest-bearing account, and disburse them to DEEP quarterly. This money must be used to support the deployment of zero emission generating systems installed in the state, with priority given to otherwise underserved market segments, such as low-income housing, schools and other public buildings, and nonprofit organizations.

Consultant

PURA may, in its discretion, retain an independent consultant with energy procurement expertise. The consultant must be unaffiliated with any electric company or its affiliates. It must not have benefited directly or indirectly from employment or contracts with the company or its affiliates in the preceding five years, except as an independent consultant. The electric company must (1) give the consultant immediate and continuing access to all documents and data it reviewed, used, or produced in its bid solicitation and evaluation process; (2) make all its personnel, agents, and contractors used in the bid solicitation and evaluation available for the consultant to interview; and (3) conduct any additional modeling requested by the consultant to test the assumptions and results of the bid evaluation process. The consultant may not participate in, or advise the company with respect to, any decisions in the bid solicitation or bid evaluation process.

Resale of RECs

The electric companies can resell or otherwise dispose of the energy or RECs they purchase, but they must net the cost of payments made to projects under the contracts against the proceeds of the sale of energy or solar RECs. The difference must be credited or charged to their customers through a reconciling component of electric rates, as determined by PURA, using a charge or credit that does not change when a

customer switches electric suppliers.

Cost Recovery

PURA's administrative costs in reviewing the procurement plan and the costs of the consultant must be recovered through a reconciling component of electric rates as determined by PURA. The electric company is entitled to recover its reasonable costs of complying with its approved procurement plan and prudently incurred fees through the same type of mechanism.

Report

Within 60 days after PURA approves the procurement plans submitted by January 1, 2013, it must report to the Energy and Technology Committee. The report must document, for each procurement plan: (1) the total number of RECs bid relative to the number of credits requested by the electric company, (2) the total number of bidders in each market segment, (3) the number and value of contracts awarded, (4) the total weighted average price of the RECs or energy purchased, and (5) the extent to which the technologies' costs have been reduced. PURA may not report individual bid information or other proprietary information.

§ 110 — LOW EMISSION GENERATION PROGRAM

The act establishes a similar program for low-emission generation technologies. These are generation projects that (1) are less than 2 MW in size, (2) are located on the customer side of the meter, (3) serve the distribution system of the electric company, and (4) use class I technologies that have emissions of no more than 0.07 pounds per megawatt-hour of nitrogen oxides, 0.10 pounds per megawatt-hour of carbon monoxide, 0.02 pounds per megawatt-hour of volatile organic compounds, and one grain (presumably of particulate matter) per one hundred standard cubic feet. PURA can give preference to contracts for technologies manufactured, researched, or developed in the state.

The obligation to purchase RECs must be apportioned to the electric companies based on their respective distribution system loads at the start of the procurement period, as determined by PURA. The maximum an electric company must pay for a REC is \$200 per megawatt-hour. The REC resale provision of the zero-emission program applies to the low-emission program, as does the ability of the electric company to count its purchase of the RECs towards its renewable portfolio standard obligations.

Solicitation Plan

Starting January 1, 2012, and within 180 days, each electric company must solicit and file with PURA for its approval one or more 15-year power purchase contracts. RECs are created in the same way as under the zero emission program.

Funding

The companies can spend up to \$4 million in year one (2012), increasing by \$4 million per year in each of the next two years. After year three, PURA must review the contracts entered into under this program. If the cost of the technologies eligible for the contracts has been reduced, PURA must seek to enter new contracts for a total of five years.

The aggregate procurement of RECs must (1) increase by an additional \$4 million per year in years four and five, (2) be \$20 million per year in years six through fifteen, and (3) decline by \$4 million per year in years 16 through 20.

If PURA determines that the costs have not been reduced, the aggregate procurement of RECs must (1) be \$12 million per year in years four through fifteen, and (2) decline by \$4 million in the last two years, provided any money not allocated in any given year may roll into the next year's available funds.

§ 111 — CONDOMINIUM PROGRAM

The act requires the Clean Energy Finance and Investment Authority, in consultation with DEEP, 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.

EFFECTIVE DATE: October 1, 2011

§ 112 — LOW-INCOME RATE DISCOUNTS

The act requires DEEP to conduct a proceeding, by June 30, 2012, to develop discounted rates for electric and gas company customers whose household income is not more than 60% of the state median. The proceeding must at least review the current and future availability of rate discounts for individuals who receive state or federal means-tested assistance, through (1) discounts through the electricity purchasing pool authorized to operate under the law, (2) Connecticut Energy Assistance Program benefits, (3) assistance funded or administered by the Department of Social Services (DSS) or DEEP, (4) other state-funded or state-administered programs, (5) conservation programs assistance, or (6) matching payment program benefits to help electric company customers pay off their

arrearages.

DEEP must (1) coordinate resources and programs, to the extent practicable; (2) develop rates that take into account indigency and allow these households to meet the costs of essential energy needs; (3) require single family households to have a home energy audit as a prerequisite to qualifying, with the cost subsidized from the Energy Efficiency Fund for low-income homeowners; (4) analyze the benefits and anticipated costs of the discounted rates; and (5) review utility rate discount policies or programs in other states.

DEEP must determine which, if any, of its programs should be terminated, modified, or have their funding reduced because program recipients would benefit more from a low-income rate. It must establish a rate reduction that is equal to the anticipated funds transferred from the programs it terminates, modifies, or reduces and the reduced cost of serving low-income households participating in the program, and other sources. DEEP may issue recommendations regarding programs administered by DSS.

DEEP must order (1) each electric company to file proposed rates consistent with its decision within 60 days after issuing the decision and (2) appropriate modifications to existing low-income programs.

The cost of discounted rates and related outreach activities must be paid (1) from normal rate-making procedures and (2) on a semi-annual basis through the systems benefits charge. The discounts must be funded solely from (1) the savings from the programs that DEEP terminates, modifies, or reduces, plus the reduced cost of providing service to those eligible for the discounted or low-income rates; (2) any available energy assistance; and (3) other sources of coverage for these rates, such as generation available through the electricity purchasing pool operated by DEEP.

By February 1, 2012, DEEP 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, DEEP must include steps to reach this goal in the report.

§ 113 — ELECTRIC SUPPLIER CODE OF CONDUCT

The act requires, beginning July 1, 2011, each supplier to file annually with PURA a list of any aggregator or agent working on its behalf (aggregators gather customers together but do not actually sell power to them).

Sales Solicitations

The act imposes rules governing sales and solicitations 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 (1) mail; (2) door-to-door sale; (3) telephone or other electronic means; (4) during a scheduled appointment at the premises of a customer; or (5) at a fair, trade or business show, convention, or exposition. These solicitations include those where the sale is solicited and the customer's agreement or offer to purchase is received at a place other than the seller's place of business. These sales must be conducted (1) in accordance with any municipal ordinances regarding door-to-door solicitations; (2) between 10 a.m. and 6 p.m., unless the customer schedules an earlier or later appointment; and (3) with both Spanish and English written materials available. Representatives of a supplier, aggregator, or agent must prominently display or wear a photo identification badge stating the name of their employer or the electric supplier they represent.

The act requires that any third-party agent who contracts with or is otherwise compensated by a supplier to sell electric generation services be the supplier's legal agent. Agents may not sell generation services for a supplier unless they are employees or contractors of the supplier and have received appropriate training directly from the supplier.

Any sale or solicitation, including from any person representing the supplier, aggregator, or agent must (1) identify the salesperson and the generation services company or companies he or she represents; (2) include a statement that they do not represent an electric company; and (3) explain the purpose of the solicitation and all rates, fees, variable charges, and terms and conditions for the services provided. No entity, including an aggregator or agent of a supplier or aggregator, that sells or offers for sale any electric generation services for or on behalf of a supplier, may engage in any deceptive acts or practices in the marketing, sale, or solicitation of these services.

By law, a supplier may not advertise or disclose the price of electricity in a way that would mislead a reasonable person into believing that the electric generation services portion of the bill will be the person's total electric bill. When advertising or disclosing the price for electricity, the supplier must disclose the electric company's current charges, including the competitive transition assessment and the systems benefits charge, for that customer class. Finally, suppliers must comply with the federal telemarketing law, which among other things restricts when they can call. The act extends these provisions to aggregators and to agents of suppliers and aggregators.

Required Disclosures

The act requires each supplier to disclose to PURA in a standardized format (1) the amount of additional

RECs the supplier will purchase beyond required credits, i.e., those required under RPS; (2) where the additional credits are being derived from; and (3) the types of renewable energy sources that will be purchased. Each supplier may only advertise RECs purchased beyond those required under the RPS and must report to PURA the renewable energy sources of such credits and whenever the mix of these sources changes.

Generation Services Contracts

The act requires each supplier to provide customers with a demand of less than 100 kilowatts with a written contract. Each contract for generation services must contain (1) all material terms of the agreement; (2) a clear and conspicuous statement explaining the rates that the customer will pay, including the circumstances under which the rates may change; and (3) information on how those rates compare with the customer's current electric generation service costs; and for how long those rates are guaranteed. The contract must also include a clear and conspicuous statement providing the customer's right to cancel the contract within three days of either signing it or receiving the supplier's notice, describing under what circumstances, if any, the supplier may terminate the contract, and describing any early termination penalty. Each contract must be signed by or otherwise agreed to by the customer.

Confirming Service Requests

Under prior law, a supplier could not begin serving a customer until he or she signed a service contract or agreed through one of four mechanisms to receive the service. These included the customer signing a document fully explaining the nature and effect of the service initiation. The act instead requires the customer to sign a contract that meets the act's requirements. It retains the other three options.

Right of Rescission

Under prior law, customers with demand up to 500 kilowatts could cancel a contract with a supplier within three business days of entering into it. The act gives the customer until three business days after (1) this date or (2) when the customer receives the supplier's written contract, whichever is later.

Changes to 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. But, a supplier may renew a contract by clearly informing the customer in writing, 30 to 60 days before the renewal date, of the

renewal terms and of the option not to accept the renewal offer. The supplier may not charge a residential customer a termination or early cancellation fee if the customer terminates or cancels the renewal within seven business days after receiving the first billing statement for the renewed contract.

Termination Fees

The act bars supplier contracts 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 customer an estimate of his or her average monthly bill when it offers a contract.

Record-keeping

The act requires suppliers to maintain records of signed service contracts or consents for at least two years from the contract's expiration date. The supplier must provide the records to DEEP or the customer on request.

Penalties for Violations

By law, a violation of the existing consumer protection provisions of the laws governing suppliers and aggregators is an unfair trade practice. The act also makes a violation of the protections it adds an unfair trade practice. It makes contracts void and unenforceable if PURA finds they resulted from unfair or deceptive marketing practices or violations of the act's consumer protection provisions. Any waiver of the act's provisions by a customer is void and unenforceable by the supplier.

In addition, the act allows DEEP to impose the following sanctions for any violation or failure to comply with existing law or the act's provisions: (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.

The act allows DEEP to adopt regulations on abusive switching practices, solicitations, and renewals by electric suppliers, among other things.

§§ 114 & 115 — BILLING

Direct Billing by Suppliers

Under prior law, competitive suppliers could provide billing and collection services for their customers with at least 100 kilowatts of demand. The act requires suppliers, starting July 1, 2012, to provide these services or obtain them from the electric company,

paying their pro rata share of these costs. A customer who is directly billed by a supplier and who paid the electric company the cost of billing and other services must receive a credit on his or her monthly electric bill.

By law, DPUC was required 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. Under the act, (1) these guidelines are effective until July 1, 2012 and (2) DEEP must adopt regulations governing direct billing.

Electric Company Bills

Under prior law, electric bills had to include a statement about the availability of the program under which electric companies provide information about competitive suppliers at certain times. The act limits this provision, as it applies to electric companies, to the bills of customers with demand of 500 kilowatts or less over the preceding 12 months.

The act eliminates the requirement that electric company bills indicate the generation service charge (the retail cost of power) for those customers who buy their power from suppliers (whether or not their supplier bills them directly).

Competitive Suppliers' Bills

The act modifies the billing information a supplier that chooses to provide billing and collection services to its customers must provide. It eliminates requirements that such bills include the:

1. distribution charge, including all applicable taxes;
2. systems benefits charge;
3. transmission rate as adjusted by law;
4. competitive transition assessment; and
5. conservation and renewable energy charges.

By law, these charges and rates are the same for all customers, whether they buy power from the electric company or supplier, and appear on electric company bills.

Under prior law, the bill had to show the customer's rate and usage for the current month and each of the previous 12 months in the form of a bar graph or other visual format, unless the customer is subject to a demand charge. The act eliminates this exception.

Report

The act requires PURA to review the costs and benefits of suppliers billing for all components of electric service, and report by February 1, 2012 to the

Energy and Technology Committee on the results of the review.

§ 115 — WEATHERIZATION PROGRAM

The act requires the DEEP commissioner to administer the federally-funded weatherization assistance program; under current practice DSS administers this program.

Under the act, the program must provide, within available appropriations, weatherization assistance in accordance with the provisions of the state plan implementing the federal weatherization and fuel assistance programs. DEEP must adopt regulations (1) establishing priorities for determining which households will receive weatherization assistance, (2) requiring that when assistance is for energy conservation measures other than the retrofitting of heating systems, it be provided only for dwellings for which an energy audit has been conducted, (3) requiring that the simple payback period (the time during which the energy savings equal the cost of the conservation measures) calculated for each energy conservation measure recommended in the audit be the only criterion for determining which measures will be implemented under this program, (4) establishing the maximum allowable payback period, and (5) establishing conditions for waiving these requirements in an emergency.

The program must also include weatherization assistance for emergency shelters for homeless individuals and victims of domestic violence. The commissioner may adopt regulations to implement and administer this aspect of the program.

§ 116 — REPLACEMENT HEATING SYSTEM AND CHP PROGRAMS

The act establishes programs to (1) finance the replacement of inefficient residential heating equipment and (2) provide financial incentives for such replacement equipment and combined heat and power (CHP) systems. By October 1, 2011, DEEP must establish a plan that includes procedures and parameters for these programs.

Financing Program

The act requires DEEP, by October 1, 2011, to establish a program to allow residential customers to finance the installation of energy efficient natural gas or heating oil burners, boilers, and furnaces to replace (1) existing inefficient equipment or (2) electric heating systems. The new equipment must replace boilers and furnaces that are at least seven years old with an efficiency rating of not more than 75%. Replacement fuel oil furnaces and burners must have an efficiency rating of at least 86% and burners must have thermal

purge or temperature reset controls. Replacement natural gas boilers must have an annual fuel utilization efficiency rating of at least 90% and a gas furnace must have an annual fuel utilization efficiency rating of at least 95%. To participate in the program, a customer must first have a home energy audit. The cost of the audit can be financed under the program.

A customer who participates in the program must repay the financing as part of his or her monthly gas or electric bill or by other means. The program may be funded by the residential financing program supported by the Connecticut Energy Efficiency Fund or the Clean Energy Fund.

Financial Incentive Program

The act also requires DEEP to establish an energy savings infrastructure pilot program providing financial incentives to eligible entities that install CHP systems, energy efficient heating oil burners, boilers, and furnaces, and natural gas boilers and furnaces. The entities include (1) any residential, commercial, institutional, or industrial customer of an electric or natural gas company, who employs or installs an eligible savings technology, (2) an energy service company that DEEP certifies as a Connecticut electric efficiency partner, or (3) an installer certified by the Clean Energy Finance and Investment Authority.

CHP Systems. By October 1, 2011, DEEP must begin accepting applications for financial incentives for CHP systems up to 1 MW. To qualify for the incentives, the system must reduce energy costs at an amount equal to or greater than the amount of the system's installation cost within 10 years of the installation. DEEP must review the current market conditions for such systems, including any existing federal or state financial incentives, and determine the appropriate financial incentives needed to encourage installation of the systems. The incentives may include providing private financial institutions with loan loss protection or grants to lower borrowing costs. Financial incentives may not exceed \$200 per kilowatt. A project accepted for the incentives also qualifies for a waiver of the (1) backup power rate charged by electric companies and (2) requirement to provide baseload electricity. Any purchase of natural gas for a CHP system installed under this program is exempt from the natural gas company's distribution charge.

Heating Equipment. By December 31, 2011, DEEP must begin accepting applications for financial incentives for the installation of more efficient fuel oil and natural gas boilers and furnaces meeting the efficiency standards described in the financing program. DEEP must review the current market conditions for such systems and equipment upgrades, including, but not limited to, any existing federal or state financial

incentives, and establish the appropriate financial incentives needed to encourage such upgrades. Financial incentives must provide private financial institutions with loan loss protection or grants to lower borrowing costs and, if DEEP deems it necessary, grants to the lending institution to lower borrowing costs and allow for a 10-year loan. The financial incentive package must ensure that the applicant's annual loan payment is no more than the projected annual energy savings less \$100. Any loan provided as a financial incentive must include the cost of any related incentives, as determined by DEEP. DEEP must arrange with an electric or gas company to provide for payment of any loan made as financial assistance through the loan recipient's monthly electric or gas bill, as applicable.

DEEP must develop a prescriptive one-page loan application. It must at least include: (1) detailed information, specifications, and documentation of the eligible energy technology's installed costs and projected energy savings and (2) for loan requests of more than \$100,000, certification by a licensed professional engineer, licensed contractor, installer, or tradesman with a state license held in good standing.

Loan applicants must (1) contract with Connecticut-based licensed contractors, installers, or tradesmen; (2) provide evidence of the cost of purchase and installation of the eligible technology; and (3) periodically provide evidence of the operation and functionality of the technology to ensure that it is operating as intended during the term of the loan.

By October 1, 2014, DEEP must report to the Energy and Technology Committee with regard to the projects assisted by the program, the amount of public funding, the energy savings from the technologies installed, and any recommendations for changes to the program. These may include incentives that encourage consumers to install more efficient fuel oil and natural gas boilers and furnaces prior to failure or gross inefficiency of their current heating system.

§ 118 — STATE AGENCY ENERGY CONSERVATION

The act makes DEEP, rather than OPM, responsible for planning and managing energy use in state-owned and -leased buildings and implementing related programs.

The act requires the DEEP commissioner, by July 1, 2012, to develop a plan in consultation with the Department of Administrative Services (DAS), to reduce energy use in state-owned or -leased buildings at least 10% from its current consumption by January 1, 2013 and by an additional 10% by July 1, 2018. The plan must at least (1) assess current energy consumption for all fuels used in state-owned buildings, (2) identify

at least 100 buildings with the highest aggregate energy costs in FY 11, (3) establish targets for conducting energy audits of these buildings, and (4) determine which energy efficiency measures are most cost-effective for them. The plan must provide for the financing of these measures through the use of energy performance contracting pursuant to the act, bonding, or other means.

The act allows any state agency or municipality to enter into an energy-savings performance contract with a qualified energy service provider to produce utility cost savings, or operation and maintenance cost savings, as these terms are defined below. Any energy-savings measure implemented under these contracts must comply with applicable building codes. A state agency or municipality may implement other capital improvements in conjunction with an energy-savings performance contract so long as the measures that are being implemented to achieve the cost savings and other capital improvements are in the aggregate cost-effective over the term of the contract.

By January 1, 2013, and annually thereafter, the DEEP commissioner must report on the status of plan implementation and provide recommendations on state buildings' energy use to the Energy and Technology Committee.

The act also requires the DEEP commissioner, in consultation with the Department of Public Works, to establish energy efficiency standards for building space leased on or after January 1, 2013 by the state.

§ 119 — DEEP OFFICE OF ENERGY EFFICIENT BUSINESSES

The act creates, within available appropriations, an office of energy efficient businesses within DEEP and requires it to provide in-state businesses (1) a single point of contact for any state business interested in energy efficiency, renewable energy, or conservation projects; (2) information on loans and grants for energy efficiency, renewable energy projects, and conservation; (3) audit and assessment services, including outreach to businesses by qualified entities; and (4) any other service the office considers relevant.

§ 120 — TERMINATION OF SERVICE FOR HOUSEHOLDS WITH HOSPITALIZED CHILDREN

The law bars electric and gas utilities, from November 1 through May 1, from terminating, or refusing to reinstate, service to residential customers who are "hardship cases" who cannot pay their bill. The act additionally prohibits the utilities from denying service during this period. It also makes the prohibition apply year-round in cases where such customers have a child up to 24 months old who (1) lives in the

customer's household, (2) has been admitted to the hospital, and (3) has received discharge papers on which the attending physician has indicated that utility service is needed for the child's health and well being.

§ 121 — VIRTUAL NET METERING

This act requires electric companies to provide their municipal customers with virtual net metering and make any needed interconnections, including installing metering equipment, for customers who need it. The act specifies how (1) the metering equipment must operate and (2) the electric companies must bill those who participate.

The law requires electric utilities to provide equipment and billing for net metering (CGS § 16-243h). In general, the net metering law allows a customer with an on-site electricity generator powered by a renewable energy resource to earn billing credits from an electric company when the customer generates more power than he or she uses, essentially "running the meter backwards." The "virtual net metering" authorized by the act allows the customer to share these credits to lower the electricity bills of other "beneficial accounts" the customer designates.

By February 1, 2012, DEEP must conduct a proceeding to develop the administrative processes and program specifications, including a program cap of \$1 million per year for the credits provided to the beneficial accounts, apportioned to each electric company based on its consumer load, to implement these provisions.

Virtual Net Metering Equipment

Under the act, electric companies must interconnect with and provide virtual net metering equipment to any "virtual net metering facility" that requests it. The act defines these facilities as a customer-owned class I renewable energy source (solar, wind, fuel cells, etc.) that can generate up to two megawatts of electricity. The customer must be one of the electric company's in-state retail end-users and within the same service territory as the other accounts to which it will distribute credits.

As under the current net metering law, the act requires the virtual net metering equipment to be able to (1) measure the electricity consumed from the electric company's facilities; (2) deduct the amount of electricity the customer produced, but did not consume; and (3) calculate the customer's net production or consumption for each monthly billing period.

Billing

Under the act, a customer participating in virtual net metering can designate "beneficial accounts" that

will receive the billing credits when the customer produces more electricity than he or she uses. These accounts must all be in-state retail end users and in the same electric company service territory as the customer. The customer must notify the electric company about the other accounts in writing at least 60 days before the generating facility begins operating. The customer can amend the list of accounts only once a year by providing another 60 days' written notice. The municipal customer host may not designate more than five beneficial accounts.

When the customer produces more electricity than he or she uses in a monthly billing period, the act requires the electric company to bill the customer for zero kilowatt hours (kwh). For each extra kwh produced, the electric company must assign a credit that equals the retail cost per kwh the customer would otherwise have been charged. The credits are then used to reduce the charges on the beneficial accounts in the next billing period, although no account can be reduced below zero kwh. However, the shared billing credit is only for the generation service charge (the cost of power as distinct from such costs as transmission and distribution.) Under prior law, the credit that a customer received for his own account applied to all of the charges on the bill.

If any unused credits remain after the electric company has reduced all of the beneficial accounts to zero kwh, the act requires the electric company to carry them forward from one monthly billing period to the next until the end of the calendar year. At the end of each year the company must pay the customer for any unused credits at the wholesale rate the company pays for the power it buys to serve its standard service customers.

Report

By January 1, 2013, and annually thereafter, each electric company must report to DEEP on the cost of its virtual net metering program. DEEP must combine this information and report it annually to the Energy and Technology Committee.

EFFECTIVE DATE: Upon passage

§§ 122 & 123 — ENERGY-SAVINGS PERFORMANCE CONTRACTING

The act allows any state agency or municipality to enter into an energy-savings performance contract with a qualified energy services provider to produce utility or operation and maintenance cost savings. A state agency or municipality may implement other capital improvements in conjunction with the contracts so long as (1) they are being implemented to achieve the required cost savings and (2) the other capital

improvements are in the aggregate cost-effective over the contract's term.

Definitions

Under the act, an energy-savings performance contract is one between a state agency or municipality and a qualified energy service provider to evaluate, recommend, and implement one or more energy savings measures. A performance contract must guarantee energy cost savings and include (1) the design and installation of equipment and, if applicable, operation and maintenance of any of the measures implemented and (2) guaranteed annual savings that meet or exceed the total annual contract payments the agency or municipality makes including financing charges incurred over the contract's life.

To be qualified, the provider must be a corporation approved by DAS with a record of successful energy performance contract projects that (1) is experienced in designing, implementing, and installing energy efficiency and facility improvement measures; (2) has the technical capabilities to ensure the measures generate energy and operational cost savings; and (3) can secure the financing needed to support energy savings guarantees.

The contract must reduce utility or operation and maintenance costs. Utility cost savings are utility expenses eliminated or avoided on a long-term basis as a result of equipment installed or modified or services performed by a qualified energy service provider. They do not include merely shifting personnel costs or similar short-term cost savings. Operation and maintenance cost savings means a measurable decrease in these costs and future replacement expenditures that result directly from implementing one or more utility cost savings measures. These savings must be calculated against an established baseline of operation and maintenance costs.

Under the act a measure, piece of equipment, activity, or facility is considered cost-effective if an agency or municipality reasonably expects that the present value of the energy it will save or produce over its useful life, including any compensation received from a utility, is more than the net present value of the costs of implementing, maintaining, and operating it over the same period, discounted at the cost of public borrowing.

The act defines "energy-savings measure" to include a wide variety of efficiency and renewable energy measures. These include, among others:

1. replacing or modifying lighting and electrical components, fixtures, or systems, improvements in street lighting efficiency, or computer power management software;
2. class I renewable energy;
3. cogeneration systems that produce steam or

forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings;

4. automated or computerized energy control systems;
5. heating, ventilation, or air conditioning system modifications or replacements;
6. replacement or modification of windows or doors;
7. insulation;
8. indoor air quality improvements; and
9. water conserving measures.

The act defines an “investment-grade audit” as a study by the provider selected for a particular project. It must include detailed descriptions of the recommended improvements for the project, their estimated costs, and the utility and operations and maintenance cost savings projected to result from them.

Agency Roles in Performance Contracting

DEEP, in consultation with OPM and ECMB, must help state agencies and municipalities identify, evaluate, and implement cost-effective conservation projects at their facilities and create promotional materials to explain the energy performance contract program. OPM, in consultation with ECMB and DEEP, must inform agencies and municipalities of opportunities to develop and finance energy performance contracting projects. It must provide technical and analytical support, including (1) procuring energy performance contracting services, (2) reviewing verification procedures for energy savings, and (3) assisting in structuring and arranging financing for energy performance contracting projects.

DEEP may charge fees to cover costs incurred for its administrative support and resources or services provided to the state agencies and municipalities that use its technical support services. The fees must be disclosed before services are rendered. Any participating municipality may opt out of the state performance contract process rather than incur the fees. Agencies and municipalities may add the costs of these fees to the total cost of the energy performance contract.

Initial administrative funding to establish the performance contracting process for agencies and participating municipalities must be recovered from the ECMB.

Standardized Procedures

The act requires DEEP, by July 1, 2012 and within available appropriations, to establish a standardized energy performance contract process for state agencies and municipalities. DEEP must work with ECMB and must consult with OPM and DAS in developing the

process. A municipality may use the standardized process or establish its own.

The standardized process must include standard procedures for entering into a performance contract and standard energy performance contract documents. The documents must include requests for qualifications (RFQs); RFPs; investment-grade audit contracts; energy savings performance contracts, including the form of the project savings guarantee; and project financing agreements.

Prequalification of Energy Performance Contractors

DAS, in consultation with DEEP, must issue an RFQ from companies that can offer energy performance contract services to create a list of qualified companies. State agencies must use the list; municipalities can use the list or establish their own qualification process.

When reviewing RFQs (apparently responses to the RFQ), DAS must consider a company’s experience with:

1. design, engineering, installation, maintenance, and repairs associated with performance contracts;
2. conversions to a different energy or fuel source associated with a comprehensive energy efficiency retrofit;
3. post-installation project monitoring, data collection, and reporting of savings;
4. overall project management and qualifications;
5. accessing long-term financing;
6. financial stability;
7. projects of similar size and scope;
8. in-state projects and Connecticut-based subcontractors;
9. U.S. Department of Energy programs;
10. professional certifications; and
11. other factors DAS determines to be relevant and appropriate.

Selection of Contractors

Before entering an energy performance contract, a state agency or municipality that uses the standardized procedures must issue an RFP to three or more qualified providers. The agency or municipality may award the performance contract to the provider that best meets its needs, which need not be the lowest cost provider.

A cost-effective feasibility analysis must be included in the responses to the RFP and serves as the selection document. The agency or municipality must use the analysis to select a qualified provider to engage in final contract negotiations. In making its final selection, the agency or municipality must consider:

1. contract terms,
2. the proposal’s comprehensiveness,

3. the provider's financial stability,
4. comprehensiveness of cost savings measures,
5. experience and quality of technical approach, and
6. overall benefits to the agency or municipality.

Energy Audit

The provider selected as a result of the RFP process must prepare an investment-grade energy audit. Upon acceptance, the audit becomes part of the final energy performance contract of the state agency or municipality. The audit must include estimates of how much utility and operation and maintenance cost savings would increase and estimates of all costs of the utility cost savings measures or energy-savings measures. These include:

1. itemized design costs,
2. engineering,
3. equipment and materials,
4. installation,
5. maintenance and repairs, and
6. debt service.

If the state or municipality decides not to execute an energy services agreement after the audit is prepared and the costs and benefits described in it are not materially different from those described in the feasibility study submitted in response to the RFP, the agency or municipality must pay the costs of preparing the audit. Otherwise, the audit costs are included in the costs of the energy performance contract.

Independent Review of Projected Costs Savings

The above guidelines may require that a licensed professional engineer review the cost savings projected by the qualified provider. The engineer must have at least three years experience in energy calculation and review. He or she may not be (1) an officer or employee of a provider for the contract under review or (2) otherwise associated with the contract.

In conducting the review, the engineer must focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. The engineer must maintain the confidentiality of any proprietary information he or she acquires while reviewing the contract.

Project Financing

A municipality may use funds designated for operating and capital expenditures or utilities for any energy-savings performance contract, including those authorized by the act. A contract may provide for

financing by a third party, including tax-exempt financing. The financing provision may be separate from the contract. An agency or municipality may use designated funds, bonds, lease purchase agreements, or a master lease for any energy-savings performance contracts, so long as their use is consistent with the purpose of the appropriation.

Energy-savings performance contracts must provide that (1) all payments between parties, except obligations on termination of the contract before its expiration, will be made over time and (2) the objective of the contract is implementation of cost savings measures and energy and operational cost savings.

An energy-savings performance contract, and payments under it, may extend beyond the fiscal year in which the contract became effective, subject to appropriations, if required by law, for costs incurred in future fiscal years. The contract may run for up to 20 years and the length of the contract may reflect the useful life of the cost savings measures. A contract may provide for payments over a period not to exceed deadlines specified in it from the date of the final installation of the cost savings measures.

Reconciliation and Annual Reports

The contract may provide that reconciliation of the amounts owed under it will occur in a period beyond one year, with final reconciliation occurring within the term of the contract. A contract must include contingency provisions if the actual savings do not meet predicted savings.

The contract must require the provider to give the agency or municipality an annual reconciliation of the guaranteed energy cost savings. If the reconciliation reveals a shortfall in annual savings, the provider is liable for the shortfall. If the reconciliation reveals an excess in annual energy cost savings, that excess remains with the agency or municipality but may not be used to cover potential energy cost savings shortages in subsequent contract years or savings shortages in prior years.

During the term of each contract, the provider must monitor the reductions in energy consumption and cost savings attributable to the cost savings measures installed under the contract. The provider must, at least annually, report to the agency or municipality documenting the performance of the cost savings measures. The report must comply with International Performance Measurement and Verification Protocols.

Modifications of Energy Savings Calculations

The provider and agency or municipality may agree to modify savings calculations based on any of the following:

1. subsequent material change to the baseline energy consumption identified at the beginning of the performance contract;
2. changes in the number of days in the utility billing cycle, the total square footage of the building, the facility's operational schedule, or its temperature;
3. material change in the weather or in the amount of equipment or lighting used at the facility; or
4. any other change that reasonably would be expected to modify energy use or energy costs.

Reporting Requirement and Use of Savings

Any agency or municipality participating in the standardized energy performance contract process that enters into an energy performance contract must report to OPM and DEEP the project's name and host, the investment on the project, and the expected energy savings when the contract is executed. It may direct the savings realized under the performance contract to contract payment and other required expenses and, when practicable, it may reinvest savings beyond that required for contract payment and other required expenses into additional energy saving measures.

§§ 124, 137, & 138 — GREEN CONNECTICUT LOAN GUARANTY PROGRAM

Program Requirements

Prior law required the Connecticut Health and Educational Facilities Authority (CHEFA) to establish the Green Connecticut Loan Guaranty Fund to help finance energy efficiency and renewable energy projects for individuals, non-profit organizations, and small businesses. The act transfers the responsibility for administering the program from CHEFA to the Clean Energy Finance and Investment Authority. The act also transfers the bond funding for this program from CHEFA to the new authority.

The act eliminates a requirement that CHEFA consult with OPM in identifying the types of projects that are eligible for the program and establishing priorities.

The act requires the Clean Energy Finance and Investment Authority, in consultation with CHEFA and ECMB to:

1. ensure that this program integrates with existing state energy efficiency and renewable energy programs;
2. establish program performance targets to ensure sufficient participation in the secondary financial markets and to coordinate with existing financing programs to enable efficiency improvements for at least 15% of state single-

- family homes by 2020;
3. enter into contracts with one or more entities to perform loan origination services; and
4. exercise other powers needed to properly administer the program.

Terms of Financial Assistance

The act requires the financial assistance to meet the following terms:

1. eligible energy conservation projects must meet cost-effectiveness standards adopted by the Clean Energy Finance and Investment Authority in consultation with ECMB and CHEFA;
2. loans must be at interest rates determined by the Clean Energy Finance and Investment Authority to be no higher than needed to have financial institutions participate in the program; and
3. the fee paid for an energy audit provided under the program may be added to the amount of the resulting loan and then reimbursed from the fund to the borrower.

§§ 125 & 126 — DISCLOSURE OF CONSUMPTION DATA

The act requires electric and gas companies, starting January 1, 2012, to maintain the energy consumption data of all typical nonresidential buildings they serve. They must make the data available to the public free of charge. They must maintain the data in a format that (1) is compatible for uploading to the U.S. Environmental Protection Agency's Energy Star portfolio manager (which allows consumers to compare their building's energy use to that of similar buildings) or similar system, for at least the most recent 36 months, and (2) preserves the customer's confidentiality.

Also starting January 1, 2012, the companies must provide aggregate town customer usage information that preserves the confidentiality of individual customers to any municipal legislative body that requests this information.

EFFECTIVE DATE: Upon passage

§ 127 — ELECTRIC COMPANY OWNERSHIP OF RENEWABLE GENERATION

Prior law generally barred electric companies from owning power generation facilities. The act allows an electric company, as well as the owner or developer of generation projects that do not pollute, to submit a proposal to DEEP to build, own, or operate up to an aggregate of 30 MW of generation capacity using class I renewable energy sources. The proposals must be submitted between July 1, 2011 and July 1, 2013. Each facility must be between one and five MW. The

aggregate ownership by an electric company is capped at 10 MW, and they can enter into joint ownership agreements with private developers. DEEP must evaluate the proposals under its general rate-setting principles and may approve one or more proposals if it finds that the proposal serves ratepayers' long-term interests. DEEP (1) may not approve any proposal supported in any form of cross subsidization by entities affiliated with the electric company and (2) must give preference to proposals that make efficient use of existing sites and supply infrastructure. An electric company may not, under any circumstances, recover more than the full costs identified in a proposal, as approved by DEEP.

The company must use the power, capacity, and related products produced by the facility to meet the needs of its standard service and last resort customers (the latter serves large customers who do not choose a supplier). The amount of renewable energy produced from the facilities counts towards the electric company's class I renewable portfolio standard obligations.

DEEP must evaluate the approved proposals and report to the Energy and Technology Committee on whether proposals should be accepted beyond July 1, 2013.

The act permits the resale or other disposition of energy or associated RECs purchased by the electric company so long as it nets the cost of payments made to projects under the long-term contracts against the proceeds of the sale of energy or RECs, and the difference is credited or charged to distribution customers through a reconciling component of electric rates as determined by PURA that is nonbypassable when switching electric suppliers.

§ 128 – BUILDING PERMIT FEE WAIVER

The act allows municipalities to adopt ordinances exempting class I renewable energy projects from municipal building permit fees.

§ 129 — RENEWABLE PORTFOLIO STANDARD STUDY

The act requires DEEP to analyze (1) options for minimizing the cost to electric ratepayers of procuring renewable resources under the RPS and (2) the feasibility of increasing the RPS. The analysis must consider the benefits, costs, and impacts of expanding the definition of a class I renewable energy source to include hydropower and other technologies that do not use nuclear or fossil fuels.

By February 1, 2012, DEEP must report the results of such analysis to the governor and the Energy and Technology Committee.

§ 132 — FEES FOR ENERGY AUDITS

The act requires that each electric, gas, or heating fuel customer, regardless of heating source, be assessed the same fees, charges, co-pays, or other similar terms to access any audits administered by the Home Energy Solutions program. The costs of subsidizing audits for ratepayers whose primary source of heat is not electricity or natural gas may not exceed \$500,000 per year.

§ 133 — STUDY ON RATE-BASING EFFICIENCY COSTS

The act requires PURA to conduct a proceeding to analyze the costs and benefits of allowing an electric company to earn a rate of return, subject to rate-making principles, on its long-term investments in energy efficiency. It requires PURA to report the results of the proceeding to the Energy and Technology Committee by February 1, 2012.

§ 134 — POWER PLANT SAFETY STUDY

The act establishes a 16-member task force to study power plant safety. It must examine developing regulations for power plant safety, training protocols, audits, reporting requirements, qualifications and potential licensing requirements for a power plant inspector or operator, penalties for failing to comply with the requirements, and the best practices of other states. It must also evaluate which agency should be responsible for plant safety oversight and given access to facilities and records. It must cover plants being built and those in operation.

The task force consists of the following members:

1. two appointed by the House speaker;
2. two appointed by the Senate president pro tempore;
3. one each appointed by the House and Senate majority and minority leaders; and
4. the chairpersons and ranking members of the Energy and Technology and Public Safety committees.

Any of the members may be a legislator. All appointments must be made no later than July 31, 2011. Any vacancy must be filled by the appointing authority.

The House speaker and Senate president pro tempore must select the chairpersons of the task force from among its members. The chairpersons must schedule the first meeting of the task force, which can be no later than August 30, 2011.

The administrative staff of the two committees must serve as administrative staff of the task force.

By February 1, 2012, the task force must report its findings and recommendations to the Energy and Technology and Public Safety committees. The task

force terminates when it submits its report on January 1, 2012, whichever is later.

§ 135 — HEATING SYSTEM CONVERSION PROGRAM

The act requires DEEP to establish, by October 1, 2011, a natural gas and heating oil conversion program to allow a gas or heating oil company to finance the conversion to gas or oil heat by potential residential customers who heat their homes with electricity. DEEP must adopt regulations to establish procedures and terms for the program. By January 1, 2012, and annually thereafter, it must report to the Energy and Technology and Environment committees on the program's progress.

§ 136 — CII RESPONSIBILITIES

The act eliminates the administration of the Clean Energy Fund from Connecticut Innovation, Inc.'s responsibilities.

§ 139 — ON-BILL FINANCING STUDY

The act requires DEEP, by January 1, 2012 and in consultation with utility companies, to analyze the potential of on-bill financing of renewable power and energy efficiency investments. DEEP must report its findings to the Energy and Technology Committee.

§ 140 — REPEALERS

The act repeals several obsolete energy statutes.

PA 11-176—sSB 973

Aging Committee

Human Services Committee

AN ACT CONCERNING THE DETERMINATION OF UNDUE HARDSHIP FOR PURPOSES OF MEDICAID ELIGIBILITY AND DISABILITY DETERMINATIONS FOR BENEFICIARIES OF A SPECIAL NEEDS TRUST

SUMMARY: This act generally prohibits the Department of Social Services (DSS) from imposing a penalty period for certain Medicaid eligibility related asset transfers when such a penalty will create an undue hardship for the person transferring the asset. And it specifies the circumstances under which DSS must impose the penalty even if doing so will result in such a hardship. The penalty period is a period during which a person is ineligible for Medicaid based on the uncompensated value of the transferred asset.

The act establishes and generally codifies a process that Medicaid applicants (defined as an applicant or recipient) and DSS must follow when an applicant disagrees with DSS' decision to impose a penalty period. DSS' policy manual already includes provisions concerning undue hardship but the act's provisions supersede any conflicting department policies.

Finally, the act requires the DSS commissioner to make an independent disability determination when someone who claims to have a disability and is a beneficiary of a special needs trust has not received such a determination from the Social Security Administration (SSA).

EFFECTIVE DATE: July 1, 2011, except the provision concerning DSS determinations of disability, which is effective upon passage.

TRANSFER OF ASSETS—UNDUE HARDSHIP EXEMPTION

When someone transfers assets for less than fair market value within five years of applying for long-term Medicaid benefits, the law presumes the transfer was made to qualify for Medicaid. Federal and state laws require DSS to impose a penalty period based on the uncompensated value of the transferred asset (see **BACKGROUND**). The penalty period can be waived if (1) the applicant can rebut the presumption by clear and convincing evidence that he or she transferred the assets for some purpose other than Medicaid eligibility, (2) DSS determines that imposing the penalty period will create an undue hardship, or (3) the applicant has dementia.

The act generally prohibits the DSS commissioner from imposing a penalty period if the penalty would

create an undue hardship. DSS policy similarly provides that no penalty period can be imposed if it would cause an undue hardship.

Undue Hardship Defined

Under the act, an "undue hardship" exists when:

1. the life or health of the Medicaid applicant would be endangered by the deprivation of medical care, or the applicant would be deprived of food, clothing, shelter, or other life necessities;
2. the applicant is otherwise eligible for Medicaid but for the imposition of the penalty period;
3. the applicant is (a) receiving long-term care services at the time the penalty period is imposed and the long-term care provider has notified the applicant that it intends to discharge or discontinue providing him or her such services due to nonpayment (Medicaid would stop paying during the penalty period) or (b) not receiving services at the time the penalty period is imposed and a long-term care service provider has refused to provide services due to the imposition of a penalty period; and
4. no other person or organization is willing and able to provide long-term care services to the applicant.

DSS policy sets conditions that must exist for it not to impose the penalty. Specifically, it will not impose the penalty period when:

1. the long-term care facility or medical institution has threatened to evict the individual due to nonpayment and the individual has exhausted all legal methods to prevent the eviction, or the medical provider has threatened to terminate home- and community-based services being provided under a Medicaid waiver;
2. the person transferring the asset establishes that the transferee no longer possesses the asset and has no other assets of comparable value with which to pay the care costs; and
3. no family member or other individual or organization is able and willing to provide care to the individual (DSS Uniform Policy Manual, § 3029.25) (see **BACKGROUND**).

When DSS Must Impose Penalty

The act requires the commissioner to impose a penalty period if the (1) applicant transfers or assigns assets to deliberately impoverish himself or herself to obtain Medicaid eligibility or (2) applicant's legal representative or the assets' joint owner transfers or assigns the assets even if the penalty will cause an

undue hardship.

The act essentially restates the law (CGS § 17b-261a(c)) that permits the commissioner to waive the imposition of the penalty period when the applicant (1) suffers from dementia or other cognitive impairment and cannot explain the transfer or assignment, (2) suffered from such an impairment at the time of the transfer or assignment of assets, or (3) was exploited into making the transfer due to such an impairment. And it adds a fourth condition: when the applicant's legal representative or the record owner of a jointly held asset made the transfer or assignment of assets without the applicant's authorization.

PROCESS FOR IMPOSING PENALTY PERIOD

Notice and Extensions

Under the act, if the commissioner intends to impose a penalty period as a result of an asset transfer or assignment, he must provide a preliminary notice to the applicant. (DSS policy already requires this.) The notice must include a statement that the applicant can contest the imposition of a penalty period by filing a claim of undue hardship or providing evidence to rebut the presumption, which the applicant must do within 15 days from the notice's postmark date. (DSS policy requires this within 10 days.)

The act requires the commissioner to grant one extension if the applicant requests it and to grant additional extensions, if "reasonable." (The policy allows for an extension if the request is reasonable.)

Failure to file a claim of undue hardship at this juncture does not, under the act, prevent an applicant from making an undue hardship claim at an administrative hearing.

DSS Decision Whether Undue Hardship Exists

Under the act, if the applicant contests the imposition of the penalty period, the commissioner must provide an interim decision notice to him or her within 10 days after the applicant files a claim or provides evidence. The notice must indicate whether the commissioner has decided to reverse or uphold the imposition of the penalty period. (This essentially mirrors DSS policy.) If the commissioner decides to uphold the penalty period's imposition, the interim notice must specify its projected starting and expiration dates.

The act requires the DSS commissioner to provide a final decision notice to the applicant when he determines the applicant's Medicaid eligibility. The notice must include a statement confirming any determination the commissioner has made with respect to the imposition of the penalty period and describing the applicant's appeal rights. (The DSS policy manual

states that DSS sends a final decision notice regarding the undue hardship claim or rebuttal issue at the time it sends notice of its disposition of the Medicaid application. The notice contains all the elements of the preliminary notice and a description of the individual's appeal rights.)

WHEN A LONG-TERM CARE PROVIDER INTENDS TO CEASE PROVIDING SERVICES

The act authorizes a Medicaid applicant to appeal if, during the penalty period, a long-term care provider notifies the applicant that it (1) intends to discharge the applicant or (2) refuses to provide or will no longer provide services due to a penalty period being imposed. The applicant can appeal the refusal by filing an undue hardship claim with DSS within 60 days after receiving the notice. Once he receives the claim, the commissioner has 10 days to provide a final decision notice to the applicant. The notice must inform the applicant whether undue hardship exists and the penalty will be waived.

UNDUE HARDSHIP CLAIM EXTENSIONS WHEN APPLICANT IS INCAPABLE OF MANAGING HIS OR HER AFFAIRS

The act authorizes a nursing home, on a Medicaid applicant's behalf, to request an extension of time to claim undue hardship if the (1) applicant is receiving nursing home services, (2) applicant has no legal representative, and (3) home provides certification from a doctor that the applicant is incapable of caring for himself or herself or incapable of managing his or her affairs. The DSS commissioner must grant this request to allow a legal representative to be appointed to act on the applicant's behalf.

The act requires the commissioner to accept any undue hardship claim that a nursing home files and allow the home to represent the applicant regarding the claim if the applicant or his or her legal representative gives the home permission to do so. (DSS policy allows the applicant to give permission for the long-term care facility to file an undue hardship claim on his or her behalf.)

DSS DETERMINATION OF DISABILITY FOR BENEFICIARIES OF SPECIAL NEEDS TRUSTS

The act requires the DSS commissioner to independently determine whether a beneficiary of a special needs trust has a disability as defined in federal law (see BACKGROUND) when the beneficiary has not received a disability determination from the SSA. The act prohibits the commissioner from requiring the trust beneficiary to apply for disability benefits or obtain a disability determination from the SSA.

DSS has a contract with Colonial Cooperative Care to conduct disability determinations on the agency's behalf. The contractor uses the same criteria for determining disability that the SSA uses.

BACKGROUND

Transfer of Assets — Federal Law

Until 2006, federal law allowed an exemption from the asset transfer penalty if it would cause undue hardship, but it did not establish procedures for determining hardship. The 2005 Deficit Reduction Act (DRA) provided more guidance to states. It requires penalty period waivers if states find that the penalty would deprive the applicant of medical care to the extent that his or her health or life would be endangered or he or she would be deprived of food, clothing, shelter, or other life necessities. The federal Centers for Medicare and Medicaid Services had previously provided these criteria to states in the State Medicaid Manual.

The 2005 act further requires states to provide for (1) notice to recipients that an opportunity for a hardship exception exists, (2) a timely process for determining whether a waiver will be granted, and (3) a process for appealing an adverse determination. It permits nursing facilities to file the hardship waiver applications on the resident's behalf, with his or her consent (42 USC § 1396p(c)(2)(D)).

Status of DSS Regulations and DSS Policy Manual

In April 2007, DSS published notice of intent to adopt regulations to carry out the DRA provisions, and included the provision defining undue hardship that the act changes. Based on concerns about a portion of the proposed regulations regarding waiving the penalty period, and advice from the Legislative Commissioners' Office as to the regulations' compliance with federal law, the Regulation Review Committee rejected the regulations. DSS never resubmitted them.

The legislature has granted DSS the authority to implement policies and procedures to carry out statutory requirements while in the process of adopting them in regulation (DSS Uniform Policy Manual, §§ 3029.25, 3029.30, and 3029.35).

Disability Definition

The federal Social Security Act generally provides that a person is considered to be disabled for purposes of eligibility for the Supplemental Security Income program if he or she is unable to engage in any substantial gainful activity (earn \$1,000 or more per month in 2011) by reason of any medically

determinable physical or mental impairment that can be expected to result in death or which has lasted, or can be expected to last, at least 12 months (42 USC § 1382c(a)(3)).

PA 11-224—sSB 365

Aging Committee

Human Services Committee

Judiciary Committee

Public Safety and Security Committee

AN ACT CONCERNING INVESTIGATIONS BY PROTECTIVE SERVICES FOR THE ELDERLY

SUMMARY: This act makes it a class A misdemeanor (see Table on Penalties) to willfully (1) make a fraudulent or malicious report in any elder abuse report to, or investigation by, the Department of Social Services (DSS) commissioner or (2) provide fraudulent testimony in any elder abuse judicial or administrative proceeding.

The act expands the circumstances under which the DSS commissioner may not interview an elderly victim of alleged abuse alone as part of an elder abuse investigation.

It also eliminates an exception from immunity for bad faith and malicious elder abuse reports, thereby immunizing people who make such reports from civil liability.

EFFECTIVE DATE: October 1, 2011

FALSE AND MALICIOUS ELDER ABUSE REPORTS

Criminal Liability

Under prior law, except for liability for perjury, a person making an elder abuse report or providing testimony in an administrative or judicial proceeding on one could be criminally liable only for acting in bad faith or maliciously. Instead, the act creates a new class A misdemeanor for making a fraudulent or malicious report or providing false testimony. A person commits this crime if he or she:

1. willfully makes a fraudulent or malicious report to the DSS commissioner;
2. conspires to make or cause such a report to be made; or
3. willfully testifies falsely in any administrative or judicial proceeding arising from such report about abuse, neglect, exploitation, or abandonment of, or need of protective services for, an elderly person.

As under prior law, a person can still be liable for perjury in reporting or testifying.

Civil Liability

Under prior law, anyone who testified in any administrative or judicial proceeding arising from an elder abuse report was immune from civil liability because of the report or testimony, except for liability for perjury, unless the person acted in bad faith or maliciously. The act eliminates the exception from immunity for bad faith and malicious actions, thereby immunizing from civil liability people who commit such actions in bad faith or for a malicious purpose.

ELDER ABUSE INTERVIEWS

By law, the DSS commissioner must investigate reports of alleged elder abuse. As part of the investigation, the commissioner must interview the victim alone unless the (1) victim does not consent or (2) commissioner determines that interviewing the victim alone is not in the victim's best interests.

The act also prohibits interviewing the victim alone if a physician provides a letter stating that, in his or her opinion, an interview with the elderly person alone is medically contraindicated. The physician must have examined the victim no more than 30 days before or after the date the commissioner gets the abuse report.

PA 11-233 — SB 1127
Appropriations Committee

AN ACT CONCERNING MISCELLANEOUS PROVISIONS INCLUDING NURSING HOME CLOSURES, STAFFING AT THE POLICE OFFICERS STANDARDS AND TRAINING COUNCIL, THE REPEAL OF PROVISIONS CONCERNING THE DIVISION OF SPECIAL REVENUE, HIGHWAY REST AREAS AND AN EXEMPTION TO THE ELECTRIC GENERATION TAX

SUMMARY:

This act makes various unrelated changes in statutes and 2011 public acts concerning:

1. exceptions to nursing home waiting list requirements,
2. the Police Officer Standards and Training Council's (POST) authority to recommend a training academy administrator,
3. the authority to appoint a chairperson for the Commission on Fire Prevention and Control,
4. the deadline for farmers to apply for certain property tax exemptions,
5. Medicaid rates for outpatient mental health services,
6. certain duties and responsibilities of the Division of Special Revenue (DSR) executive director,
7. an obsolete lottery settlement initiative program,
8. electronic service of wage withholding support orders,
9. a pilot employment opportunity program for people with child support obligations,
10. tourism services at the West Willington visitor welcome center, and
11. an exemption from the temporary electric generation tax in effect for FY 12 and FY 13.

The act also makes conforming and technical changes.

EFFECTIVE DATE: Various, see below.

§ 1 — NURSING HOME WAITING LIST

Although the law generally requires nursing homes to admit residents on a first-come, first-served basis, regardless of their payment source, nursing homes can bypass the waiting list law and admit someone who is being transferred directly from a nursing home that is closing.

The act also allows homes to bypass the waiting list and admit applicants (1) wishing to transfer from a home in which they were placed after the nursing home where they previously resided closes or (2) residing in a

nursing home where they were placed after a home in which they previously resided is placed in receivership after the anticipated closure of the home.

Nursing homes receiving these transferring applicants may do this only when (1) the transfer from the second to the third home occurs within 60 days from the date the applicant was transferred from the home that closed and (2) the applicant submitted an application to the receiving nursing home at the time of the first transfer.

EFFECTIVE DATE: Upon passage

§ 2 — POLICE OFFICER STANDARDS AND TRAINING COUNCIL (POST)

PA 11-51 eliminated POST's authority to employ personnel but allowed it to make staffing recommendations to the emergency services and public protection commissioner. This act allows POST to make recommendations concerning a training academy administrator and requires the commissioner to appoint the recommended person.

EFFECTIVE DATE: July 1, 2011

§ 3 — COMMISSION ON FIRE PREVENTION AND CONTROL

By law, the governor appoints the chairperson and executive director, if any, to every Executive Branch board or commission, with certain exceptions. This act restores an exception, eliminated by PA 11-61, for the Commission on Fire Prevention and Control and thus takes away the governor's authority to appoint that commission's chairperson.

EFFECTIVE DATE: July 1, 2011

§ 4 — DEADLINE FOR APPLYING FOR PROPERTY TAX EXEMPTIONS FOR FARM MACHINERY, HORSES, AND BUILDINGS

The act changes the date by which farmers must annually apply to town assessors for property tax exemptions for farm machinery, horses, and buildings, from 30 days after the assessment date to November 1. In doing so, it aligns this deadline with the existing deadline for submitting personal property tax declarations to town assessors.

EFFECTIVE DATE: Upon passage

§ 5 — MEDICAID RATES FOR OUTPATIENT MENTAL HEALTH SERVICES

Consistent with PA 11-44, the act requires the Department of Social Services (DSS) commissioner to establish a service-specific Medicaid fee schedule for hospital outpatient mental health therapy services, except for partial hospitalization and other services,

regardless of a separate state law that establishes Medicaid payments for outpatient clinics and emergency room visits. Under prior law, the Medicaid rate for these mental health services was that established for clinics and emergency room visits.

PA 11-44 authorizes the DSS commissioner to establish a uniform fee schedule for all Medicaid-covered outpatient hospital services. Under DSS' prior rate setting methodology, different hospitals were paid different rates for providing the same services.

EFFECTIVE DATE: July 1, 2011

§ 6 — DIVISION OF SPECIAL REVENUE PAMPHLET

Prior law required the DSR executive director to annually publish, on or before December 31st, a pamphlet containing all current DSR regulations and give copies to (1) every establishment authorized to engage in DSR-regulated activities and (2) any other person who wants one. The act eliminates the requirement that the director provide pamphlets to each establishment but continues to require that they be provided on request.

EFFECTIVE DATE: July 1, 2011

§§ 7-11 & 18 — DSR ORGANIZATIONAL UNITS

PA 11-51 eliminated DSR and transferred its responsibilities to the Department of Consumer Protection. The act repeals the statute requiring the DSR executive director to establish organizational units within the division and makes conforming changes.

EFFECTIVE DATE: July 1, 2011

§§ 12 & 18 — LOTTERY SETTLEMENT INITIATIVE PROGRAM

The act repeals an obsolete statute that required the DSR executive director to establish a settlement initiative program for lottery sales agents who owe the state money from lottery ticket sales and makes conforming changes. Under prior law, the program ran from October 1 to December 31, 2010.

EFFECTIVE DATE: July 1, 2011

§§ 13 & 14 — WAGE WITHHOLDING FOR SUPPORT ORDERS

Electronic Service

The act allows income withholding orders for the support of children, spouses, and former spouses that are served on employers on the state's behalf to be served electronically if the employer agrees to accept that form of service.

Defining "Issue"

The act also adds a definition of "issue" that applies to income withholding orders to support children, spouses, and former spouses. It defines the term as (1) completing an income withholding order form and serving it on the employer or other payer or (2) in the case of an income withholding order served electronically, transmitting electronic data sufficient to implement its withholding to an employer that agreed to receive electronic transmittal of such documents.

The act substitutes "enter" for "issue" in some provisions where the use of the term "issue" is inconsistent with the act's definition.

EFFECTIVE DATE: October 1, 2011

§ 15 — PILOT PROGRAM FOR PEOPLE WITH CHILD SUPPORT OBLIGATIONS

The act establishes a pilot program to provide employment opportunities for people legally obliged to provide child support. The program must operate in the Superior Court for family matters in Hartford, New Haven, and a third judicial district chosen by the chief court administrator. The act requires the administrator to report to the Judiciary Committee on the program's status and participation by July 1, 2012.

EFFECTIVE DATE: July 1, 2011

§ 16 — WEST WILLINGTON VISITOR WELCOME CENTER

This act restores the requirement, eliminated by PA 11-61, that the Department of Economic and Community Development station a full-time, year-round supervisor and a part-time assistant supervisor at the West Willington visitor welcome center to, among other things, provide tourism information and services.

EFFECTIVE DATE: July 1, 2011

§ 17 — ELECTRIC GENERATION TAX EXEMPTION

The act exempts electricity generated by customer-side distributed resources from the temporary electricity tax imposed by PA 11-6. The exemption applies to any generating unit with a rating of 65 megawatts or less located on a customer's premises within the electric transmission and distribution system. It includes fuel cells, photovoltaic systems, and small wind turbines.

The tax is $\frac{1}{4}$ of a cent per net kilowatt hour of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. It expires on June 30, 2013. PA 11-6 and PA 11-61 already exempt electricity generated through a fuel cell or an alternative energy system, such as a solar or wind system, or by a resources recovery facility.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Related Act

The wage withholding provisions of this act are identical to PA 11-219, §§ 9-10.

PA 11-237—HB 6595

*Appropriations Committee
Judiciary Committee*

AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

SUMMARY: This act changes how the Commission on Human Rights and Opportunities (CHRO) handles discrimination complaints.

It provides an automatic legal review of complaints dismissed during the merit assessment review process, except when the complainant has requested a release from jurisdiction. If a complaint is not dismissed after the merit review process, or dismissed but then reinstated after the legal review, the act requires a mandatory mediation conference within 60 days. If the complaint is not resolved through mandatory mediation, the act allows for a request of early legal intervention.

The act allows CHRO's executive director to recommend that an investigator find that there is no reasonable cause to believe that discrimination has occurred and specifies when the investigator must follow that recommendation. It specifies that a reasonable cause investigation may include any lawful method of fact-finding.

The act requires that a reconsideration request must state specifically why it should be granted and narrows the reasons for allowing someone to make such a request. It adds to the reasons that CHRO can dismiss a complaint or enter a default order against a respondent.

The act decreases the time period that a discrimination complainant must wait to request a release of jurisdiction from CHRO from 210 to 180 days, allowing complainants who wish to proceed in court to begin the process sooner. It makes other changes regarding when CHRO must or may grant a release from jurisdiction.

The act makes changes regarding the required recipients, form, and timing of various CHRO notices, including (1) requiring CHRO to notify respondents (i.e., the people accused of discrimination) of any determination or proceeding relating to the complaint and (2) eliminating certain certified mail requirements.

The act makes various changes regarding petitions brought to court to enforce CHRO orders. Among other

changes, it (1) allows all such petitions to be brought in the Hartford judicial district, (2) eliminates the requirement that CHRO file a complete transcript of the administrative proceedings, (3) eliminates the court's discretion to modify the administrative award, and (4) repeals provisions allowing the court to order additional evidence to be presented to the presiding officer in certain circumstances.

The act allows CHRO attorneys to be involved in proceedings alleging retaliation for making a whistleblower complaint.

The act prohibits attorney's fees in specified situations from being contingent on the amount of damages requested by or awarded to the complainant.

The act makes additional changes regarding housing discrimination. For example, it (1) eliminates the requirement that a CHRO commissioner concur with the attorney general or CHRO legal counsel before they can seek specified remedies in a housing discrimination case brought after a reasonable cause finding and (2) allows the complainant to intervene as a matter of right in such cases.

The act also makes various minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2011

§ 2 — WHISTLEBLOWER COMPLAINTS

The act allows CHRO's executive director, through the supervising attorney, to assign CHRO legal counsel to represent CHRO in any hearing or appeal on complaints by an employee of a state or quasi-public agency or large state contractor that action has been threatened or occurred in retaliation for whistleblowing (e.g., reporting corruption).

§ 6 — PROCEDURE AFTER FILING A DISCRIMINATION COMPLAINT WITH CHRO

Method of Service

Prior law provided that, within 20 days of receiving or issuing a complaint alleging discrimination (or an amendment to the complaint adding an additional respondent), CHRO had to serve the complaint on the respondent, together with a notice informing the respondent of his or her procedural rights and obligations and identifying the alleged discriminatory practice. The act specifies that the complaint and notice can be sent by first class mail, fax, electronic mail, or a file transfer protocol site, and eliminates the requirement that the notice identify the alleged discriminatory practice (which should appear in the complaint itself).

Merit Assessment Review (MAR) and Legal Review of Complaints Dismissed After MAR

By law, within 90 days of receiving the respondent's answer to the complaint, CHRO's executive director or his or her designee must review the case file. The act conforms to current practice by calling this review the merit assessment review (MAR).

By law, the executive director or designee must dismiss a complaint after this review if he or she determines that (1) the complaint does not state a claim for relief, is frivolous on its face, or there is no reasonable possibility that investigating it will result in a finding of reasonable cause (see below) or (2) the respondent is exempt from the antidiscrimination laws over which CHRO has jurisdiction. Under the act, when CHRO dismisses a complaint in this manner, it must send a notice of dismissal to both the complainant and respondent (see below). Prior law required that the notice be sent only to the complainant.

The act permits a complainant, within 15 days of CHRO sending a notice of dismissal after the MAR, to request a release of CHRO's jurisdiction, allowing the complainant to bring a lawsuit. If the complainant does not request a release of jurisdiction, CHRO legal counsel must conduct a legal review of any complaint dismissed after the MAR. In that case, within 60 days of CHRO's sending the notice of dismissal, CHRO legal counsel must reinstate the complaint or deny reinstatement. The executive director or designee must notify both the complainant and respondent of any action taken pursuant to the MAR or the legal review.

By law, different procedures apply to complaints alleging housing discrimination.

Mandatory Mediation

Under prior law, if a complaint was not dismissed after the MAR, CHRO's executive director or designee had to determine how to proceed. The options included mandatory mediation, expedited or extended fact-finding conferences, complete investigations, or any combination of these for fact-finding purposes, promoting the voluntary resolution of complaints, or determining if there was reasonable cause for believing that a discriminatory practice has been or was being committed.

The act makes mediation mandatory if a complaint is (1) not dismissed after the MAR or (2) is dismissed but then reinstated following the legal review by CHRO attorneys. The mediation can be conducted by an investigator or CHRO legal counsel, and the initial mediation conference must be held within 60 days of CHRO sending notice of the action taken pursuant to the MAR or legal review. The act specifies that the mandatory mediation conference may be scheduled to

coincide with the fact-finding conference described below. It also provides that (1) either the complainant or respondent can request additional mediation sessions and (2) the mediator has the discretion to hold additional mediation sessions to try to reach a settlement. The act eliminates a provision specifying that a mediator may recommend, but not order, a resolution of the complaint.

Early Legal Intervention and Reasonable Cause Investigation

The act allows either party or the commission to request early legal intervention for complaints that are not resolved after the mandatory mediation conference. In that case, CHRO's executive director or designee must determine within 90 days whether (1) the complaint should receive a hearing according to law, (2) the complaint should be referred to an investigator to determine if there is reasonable cause to believe that discrimination has occurred, or (3) the complainant should be released from CHRO's jurisdiction, allowing him or her to bring a lawsuit. The act specifies that, in making this determination, the executive director or designee may hold additional proceedings and use CHRO staff.

The act allows the executive director or designee, when deciding that a complaint should be referred to an investigator for a reasonable cause determination, to recommend to the investigator that he or she make a finding of no reasonable cause. In that case, the act requires the investigator to make such a finding, unless the investigator believes the executive director or designee made a mistake of fact. An investigator must consult with the executive director or designee if the investigator intends to make a reasonable cause finding contrary to the recommendation.

Under the act, when a complaint is not resolved after the mandatory mediation conference, or the executive director determines that the complaint should be referred to an investigator for a reasonable cause determination, the executive director or his designee must assign an investigator to process the complaint within 15 days after the mediation conference. The investigator may conduct a fact-finding conference, a complete investigation, or both, in making the reasonable cause determination. The act specifies that a complete investigation may include any lawful means of fact-finding, such as witness interviews, requests for voluntary information disclosure, subpoenas of witnesses or documents, requests for admission of facts, interrogatories, and site visits.

Dismissal of Complaint for Failure to Attend Fact-Finding Conference

The act allows the executive director or designee to dismiss a complaint if a complainant fails, without good cause, to attend a fact-finding conference after being notified of it. The act retains other grounds under prior law for a complaint to be dismissed at this stage; i.e., (1) similarly failing to attend a mandatory mediation conference or (2) the respondent has eliminated the discriminatory practice identified in the complaint, taken steps to prevent a similar future occurrence, and offered the complainant full relief, even though the complainant refused it.

Reconsideration Request

Prior law allowed a complainant to request reconsideration from CHRO within 15 days of the issuance of a finding of no reasonable cause, or dismissal for specified reasons. The act specifies that the request for reconsideration must be in writing and must specifically state the reasons why reconsideration should be granted.

The act continues to allow complainants to request reconsideration after a finding of no reasonable cause, but changes and narrows the reasons for dismissal that allow someone to request reconsideration. It allows someone to do so only for dismissals for failing, without good cause, to attend a fact-finding conference after the person was notified of it. Prior law allowed someone to request reconsideration if the complaint was dismissed due to (1) failure to state a claim for relief; (2) the complaint was frivolous on its face; (3) the respondent was exempt from the antidiscrimination laws over which CHRO has jurisdiction; (4) there was no reasonable possibility that investigating would result in a reasonable cause finding; (5) the complainant's failure, without good cause, to attend a mandatory mediation session after being notified of it; or (6) the respondent has eliminated the discriminatory practice identified in the complaint, taken steps to prevent a similar future occurrence, and offered the complainant full relief, even though the complainant refused it.

Order of Default Against Respondent

The act adds to the reasons the executive director or his designee can enter an order of default against a respondent by allowing such an order of default if the respondent, after notice and without good cause, fails to attend a fact-finding conference.

Housing Discrimination Complaints

Under prior law, after an investigator found reasonable cause that housing discrimination had occurred, either party to the complaint had 20 days after receiving notice of that finding to request a court resolution rather than an administrative hearing. The act changes this to 20 days after CHRO sends the reasonable cause finding.

In such a lawsuit, prior law allowed injunctive relief, punitive damages, or a civil penalty to be sought if the attorney general or a CHRO legal counsel, and a CHRO commissioner, believed it would be appropriate. The act eliminates the requirement of a commissioner's concurrence.

In such cases, the act allows a complainant to intervene as a matter of right, without permission of the court or parties. If the complainant intervenes, the complainant or his or her attorney can present all or part of the case in support of the complaint if the attorney general or CHRO legal counsel determines that doing so would not adversely affect the state's interests.

§§ 5, 7, & 14 — RELEASE FROM CHRO JURISDICTION

§ 7 — When Release Must or May Be Granted After Certain Dismissals

Prior law required the executive director to issue a release from CHRO's jurisdiction, allowing the complainant to bring a court action within 90 days of the release, if the complaint was dismissed for specified reasons and the complainant did not request reconsideration. Under the act, for complaints dismissed after the MAR as required by law (e.g., for failure to state to claim for relief), the executive director must grant a release of jurisdiction only if the complainant requests a release within 15 days of the sending of the dismissal notice. The act also requires the executive director to grant a release if the complainant does not request such a release in that situation and CHRO legal counsel denies reinstatement of the complaint following a legal review. In either case, the requirement only applies if the complainant does not request reconsideration.

The act deletes a provision allowing the executive director to grant a release from CHRO's jurisdiction when the complainant requests it, the complaint was dismissed after the MAR as required by law, and the complainant requested reconsideration.

§ 14 — Time Period to Request Release From Jurisdiction

The act decreases the time period that a complainant must wait to request a release of jurisdiction from CHRO. Prior law provided that the complainant had to wait at least 210 days from the date the complaint was filed. The act requires a complainant to wait at least 180 days from the date of the complaint's filing or the MAR, whichever is earlier. It also allows a complainant and respondent to jointly request a release at any time, rather than only within 210 days from the complaint's filing.

The act also requires CHRO's executive director or his designee to conduct an expedited MAR if CHRO receives a request for a release from jurisdiction from the complainant or complainant's attorney before 180 days have passed since the complaint was filed.

Generally, the law requires CHRO's executive director to authorize the complainant to sue if a request is submitted as provided above. The executive director may decline to issue a release if a case is scheduled for public hearing. He may also defer acting on the request for 30 days if he certifies that he has reason to believe that the complaint will be resolved within that time.

§ 5 — Form of Notice for Complaints Pending More Than 21 Months

Under prior law, if a complaint was pending for more than 21 months and CHRO had not issued a finding of reasonable cause or no reasonable cause, the executive director had to send a notice by certified mail, return receipt requested, advising the complainant of his or her right to request a release to bring a civil action. The act eliminates the requirement that this notice be sent by certified mail, instead allowing it to be sent by first class mail, fax, electronic mail, or a file transfer protocol site.

§§ 9 & 15 — ATTORNEY'S FEES

The law allows CHRO to award attorney's fees after a hearing upon a finding of specified types of discrimination. It also allows a court to award attorney's fees in cases alleging discriminatory conduct brought by a complainant who obtained a release to sue from CHRO. The act prohibits the amount of attorney's fees in either situation from depending on the amount of damages requested by or awarded to the complainant.

§ 10 — NOTICE OF CHRO DETERMINATIONS

The law requires CHRO to inform a complainant of any finding, closure, dismissal, or other determination or proceeding concerning the complaint. The act also

requires CHRO to notify respondents of any such determination or proceeding.

Prior law required this notice to be sent by mail. The act allows the notice to be sent by first class mail, fax, electronic mail, or a file transfer protocol site.

§ 12 — COURT ENFORCEMENT

The act allows petitions to enforce CHRO orders and for temporary relief to be brought in the Hartford judicial district, regardless of where the discriminatory practice occurred or where the person charged with discrimination lives or transacts business.

Prior law required CHRO to certify and file in the court a transcript of the entire record of the proceedings sought to be enforced, including the pleadings and testimony and the findings and orders of the presiding officer. The act requires CHRO to certify and file with the court the officer's order as part of the petition or if ordered to do so by the court. It eliminates the requirement that CHRO file a transcript of the entire record of the proceedings and makes conforming changes.

Under prior law, within five days of CHRO filing such a petition in court, CHRO had to send a notice of it by registered or certified mail, to all parties or their representatives. The act provides that either CHRO or the complainant can serve the notice. They must file an affidavit with the court, stating the date and manner of service regarding each party.

Prior law provided that the court had the power to grant such relief as it deemed just and suitable, by injunction or otherwise. The act specifies that the court must grant such relief.

The act eliminates the court's discretion to modify the presiding officer's award. It provides that any remand by the court must be limited to clarifying any ambiguity in the relief ordered. It also specifies that the court retains jurisdiction over the order while the presiding officer is complying with the remand.

It requires the court to order a noncompliant party to comply immediately with the presiding officer's order, unless the ordered relief is ambiguous. It also requires the court to award enforcement costs to CHRO or the complainant, including reasonable attorney's fees.

The act deletes a provision allowing a court to consider an objection that was not presented to the presiding officer when the failure to present it was excused due to extraordinary circumstances. It also specifies that petitions to enforce a presiding officer's order are limited to resolving whether the presiding officer's ordered relief is sufficiently clear to enforce. Such petitions are not considered to be an appeal of, or collateral attack on, the presiding officer's order.

The act eliminates provisions allowing (1) the court to order additional evidence to be presented to the

presiding officer and made part of the transcript under specified circumstances and (2) the presiding officer to modify his factual findings, or make new findings, due to such additional evidence. It also eliminates a provision specifying that a presiding officer's factual findings are conclusive if supported by substantial and competent evidence.

Prior law provided that the court's judgment and decree was final in cases to enforce CHRO orders, although the parties could appeal. The act specifies that cases remanded as provided above are an exception to this general rule of finality. It also makes minor and technical changes in the provisions specifying that such decrees can be appealed to the Appellate Court.

PA 11-246—HB 6515

*Appropriations Committee
Transportation Committee*

**AN ACT CONCERNING JOB CREATION AND
HABITAT RESTORATION**

SUMMARY: By law, the Department of Motor Vehicles (DMV) issues special Long Island Sound commemorative number plates to enhance public awareness of efforts to restore and protect the Sound. This act authorizes the DMV commissioner to request an additional \$15 voluntary donation when a motorist renews one of these number plates. Ten dollars of every \$15 donation must be placed in a habitat restoration matching subaccount, which the act creates. The subaccount is to be administered by the environmental protection (apparently the energy and environmental protection) commissioner. DMV may use the remaining \$5 for its administrative costs.

EFFECTIVE DATE: Upon passage

**HABITAT RESTORATION MATCHING
SUBACCOUNT**

The act creates, within the Long Island Sound account, a habitat restoration matching subaccount to hold money donated by Long Island Sound number plate holders, other public or private sources, and the federal and municipal governments. The energy and environmental protection commissioner must use this money to:

1. match federal and private habitat restoration and rehabilitation funds;
2. provide grants to municipalities and nonprofit organizations to restore and rehabilitate habitats in the Long Island Sound watershed;

3. complete projects to acquire, enhance, and manage wildlife habitats;
4. promote public habitat restoration, rehabilitation, and acquisition outreach within the watershed; and
5. support lobster fishermen harmed by regulatory actions taken to rebuild the Sound's lobster population.

The act authorizes the commissioner to also use money from sources other than the subaccount to restore and rehabilitate habitats in the watershed.

BACKGROUND

Long Island Sound Account

This is a separate, nonlapsing account in the General Fund. Money from the account is used for, among other purposes, restoring and rehabilitating tidal wetlands, acquiring public access to the Sound, educating the public about the Sound's natural resources, and providing research grants to enhance understanding and management of those natural resources (CGS § 22a-27v).

Long Island Sound Commemorative Plate

By law, the DMV commissioner charges a fee for this special number plate in addition to the regular fee or fees prescribed to register a motor vehicle. The additional fee varies, depending on the type of plate chosen (e.g., vanity, off-the-shelf, or current number).

PA 11-50—sSB 1109

Banks Committee

AN ACT CONCERNING BANKS

SUMMARY: This act makes various changes to the banking law. It:

1. authorizes a Connecticut bank to merge with its non-bank affiliates, as long as the result of the merger is a Connecticut bank;
2. changes reporting requirements for Connecticut banks, credit unions, and credit union service organizations that outsource electronic data processing services;
3. expands the types of agreements that the banking commissioner may enter into, alone or with federal agencies, regarding Connecticut banks, credit unions, and credit union service organizations that are insolvent or meet other specified criteria;
4. extends the existing \$500 fee for relocation of an in-state branch of a Connecticut bank to the relocation of an out-of-state branch of a Connecticut bank;
5. extends the application deadline for the conditional preliminary approval of expedited banks that are organized primarily to acquire failed banks, and makes other changes regarding such applications;
6. amends loan-to-value limits for installments made by Connecticut banks for construction loans;
7. clarifies the notice requirement for Connecticut banks that invest a controlling interest in entities that are limited to banking functions;
8. makes changes regarding collateral requirements for qualified public depositories and the procedures upon the failure of a qualified public depository;
9. authorizes the banking commissioner to require criminal background checks for specified individuals in nonbank corporations authorized to act as trustees and business and industrial development corporations; and
10. extends to credit union senior management the commissioner's authority to require fingerprints for criminal background checks of key personnel in Connecticut credit unions.

The act also makes minor and technical changes.

EFFECTIVE DATE: July 1, 2011 for the provisions regarding background checks; October 1, 2011 for the provisions regarding electronic data processing, construction loan installments, and certain technical changes; upon passage for the remaining provisions.

§ 1 — ELECTRONIC DATA PROCESSING

By law, Connecticut banks, credit unions, and credit union service organizations that outsource electronic data processing services must enter into a written contract with the data processor, whether the work is done on- or off-premises. Prior law required such entities to promptly send to the banking commissioner a copy of the contract. The act eliminates this requirement, instead requiring such entities to promptly notify the commissioner of any material change in their electronic data processing services.

§ 2 — BANKING COMMISSIONER AGREEMENTS FOLLOWING INVESTIGATION

By law, the banking commissioner may enter into various agreements with Connecticut banks, credit unions, or credit union service organizations, either alone or in conjunction with specified federal agencies, if the commissioner makes certain findings after examining or investigating the financial entity. The act expands the list of permissible agreements to include (1) consent orders for such financial entities and (2) the issuance of preliminary warning letters to Connecticut credit unions or credit union service organizations. It also adds the Federal Reserve Bank or its successor as a federal agency with which the commissioner may act in regards to an agreement or other specified arrangement with a Connecticut bank.

By law, the commissioner may take such actions upon finding that the entity (1) has failed to file a report on time; (2) is insolvent; (3) has violated any banking law, regulation, rule, or order; or (4) has engaged or participated in, or is engaging or participating in, an unsafe and unsound practice.

§ 4 — CONDITIONAL PRELIMINARY APPROVAL OF EXPEDITED BANKS

The act extends by two years the application deadline for the conditional preliminary approval of expedited banks that are organized primarily to acquire failed banks, from September 30, 2011 to September 30, 2013. It permits a single application for the conditional preliminary approval of more than one such bank. Prior law required a separate application for each conditional preliminary approval.

The act also applies the existing 18-month expiration of the conditional preliminary approval to all such banks, not just those that have not begun business or consummated an initial acquisition. By law, the commissioner can extend the approval beyond 18 months.

§ 5 — CONSTRUCTION LOANS BY CONNECTICUT BANKS

The law allows Connecticut banks to make construction mortgage loans in installments as the work progresses, at the lender's discretion. The law also sets loan-to-value ratio limits for such installments. Prior law prohibited the ratio of the installment total to the property's current value from exceeding the greater of (1) 50% or (2) the final loan's proportion to the completed property value. The act deletes the first option.

By law, these limits do not apply to loans of up to 24 months, or 36 months if approved by the banking commissioner. Different limits apply for loans insured by the Federal Housing Administration (CGS § 36a-261(k)). Different limits also apply to loans where the borrower has an agreement with a housing authority, secured by a commitment of the U.S. Department of Housing and Urban Development, to construct housing and sell the property to the housing authority upon completion (CGS § 36a-261(o)).

§ 7 — NOTICE REQUIREMENT FOR BANK INVESTMENTS IN CONTROLLING INTEREST IN ENTITIES LIMITED TO BANKING FUNCTIONS

By law, subject to certain restrictions, Connecticut banks may purchase or hold for their own accounts equity securities and equity mutual funds, including equity securities of another bank or holding company. A bank must notify the commissioner, in writing, 24 hours before making such an investment that would result in the bank having invested in the aggregate in 25% or more of a corporation's equity securities. The act explicitly excludes from the notice requirement a bank's investment in a controlling interest in an entity whose functions are limited to those that the bank may carry on directly in the exercise of its express or incidental powers. By law, such investments require the banking commissioner's approval.

For this purpose, the law defines a controlling interest as at least 51% of the equity securities issued by the entity, unless the commissioner determines that under the circumstances a lesser percentage constitutes effective working control of the entity.

§§ 8-10 — PUBLIC DEPOSITS AND QUALIFIED PUBLIC DEPOSITORIES

Definitions

The act adds two new definitions to the law's provisions regarding the protection of public deposits. It defines "business day" as any day other than a Saturday, Sunday, or day when a financial institution is closed as required or authorized by federal or state law. It defines

"close of business" as the time when a financial institution closes for regular business operations on a business day.

Collateral Requirement

By law, a qualified public depository is a bank, Connecticut or federal credit union, or out-of-state bank with a Connecticut branch that receives or holds public deposits and (1) segregates eligible collateral for such deposits or (2) arranges for a letter of credit to be issued.

The act adds to the list of regulatory orders or agreements that trigger higher collateral requirements for public depositories. The law requires qualified public depositories to maintain collateral equal to a specified percentage of their public deposits. The percentage is based primarily on their risk-based capital ratio. Qualified public depositories must maintain collateral equal to at least 120% of public deposits they hold if they are subject to a cease and desist order or have entered into a stipulation and agreement or a letter of understanding and agreement with a bank or credit union supervisor. The act also imposes this collateral requirement on qualified public depositories that are subject to a consent order or preliminary warning letter, or have entered into a memorandum of understanding with a bank or credit union supervisor.

The act changes the method for determining the amount of public deposits a depository holds. Under prior law, the amount had to be determined based on the greater of (1) the public deposits reported on the most recent written report filed with the banking commissioner pursuant to law or (2) the average of the public deposits reported on the four most recent written reports. The act instead provides that the amount must be determined at the close of business on the day the depository receives a public deposit. It further provides that deficiencies in the required collateral requirements must be cured by the close of business on the following business day.

Procedure Upon Loss

By law, the banking commissioner must pay public officers of public deposits, pursuant to specified procedures, when the commissioner determines that there has been (1) an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or (2) the appointment of a receiver for a qualified public depository.

The act adds to the list of factors the commissioner must consider upon the failure of a public depository. Among other required procedures after such an event, each public depositor having funds on deposit in the depository must provide the banking commissioner with verified statements of such deposits disclosed by its

records, plus information concerning letters of credit issued to the public depositor. The act also requires such public depositors to provide the commissioner with information about private insurance policies used to secure public deposits.

By law, the commissioner must then determine the net amount of such public deposits after deducting deposit insurance and amounts received or to be received by the public depositor pursuant to a letter of credit. The act also requires the commissioner to deduct amounts received pursuant to private insurance policies.

§§ 11, 12 & 14 — CRIMINAL BACKGROUND CHECKS

Nonbank Corporations Authorized to Act as Trustees and Business and Industrial Development Corporations

The act permits the banking commissioner to require criminal background checks for the principals, executive officers, and directors of nonbank corporations authorized to act as trustees and business and industrial development corporations. He may require them at any time, including when the corporations or organizations are applying for licenses. The commissioner may require fingerprinting or any other method of positive identification the State Police requires to conduct the background check. The background check must comply with existing law on procedures for background checks.

Connecticut Credit Unions

The act allows the banking commissioner to require fingerprints from a Connecticut credit union's senior management for use in criminal background checks. By law, the senior management includes the credit union's president or chief executive officer, vice president or vice CEO, chief financial officer, credit manager, and anyone occupying a similar status or performing a similar function (CGS § 36a-435b(18)). The law already authorizes the commissioner to require background checks of credit union organizers, directors, and appointed directors.

The law specifies that the commissioner may require the fingerprinting at any time, including in connection with an application to organize the credit union. The background check must comply with existing law on procedures for these checks.

§ 15 — MERGER OF BANK WITH NON-BANK AFFILIATE

Under the act, a Connecticut bank may merge with one or more of its non-bank affiliates, as long as the result of the merger is a Connecticut bank. The act provides that the merger must comply with existing law

on bank mergers, with the following exception: regarding corporate procedure, including the rights of dissenting members or shareholders asserting appraisal rights, the act requires the merging affiliate to comply with the laws of its state or jurisdiction of organization. The merging affiliate must also comply with other applicable laws regarding mergers in the affiliate's state or jurisdiction of organization.

PA 11-110—HB 6284

Banks Committee

AN ACT CONCERNING REVISIONS TO THE BANKING STATUTES TO REFLECT CHANGES MADE PURSUANT TO THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

SUMMARY: This act adds references to the federal Bureau of Consumer Financial Protection to various provisions of the banking laws and Uniform Commercial Code, as well as certain other sections of the general statutes concerning consumer credit transactions. For example, it specifies that the bureau is a supervisory agency for purposes of the banking laws. The addition of these references reflects the transfer of consumer financial protection functions from several federal entities to the bureau, which took place on July 21, 2011 (the act's effective date). The bureau was created as part of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (see BACKGROUND).

The act also allows the banking commissioner to exempt any person or class of people from registration requirements and related provisions of the Uniform Securities Act, upon finding that the exemption is in the public interest and consistent with investor protection and that act. Among other things, the Uniform Securities Act requires certain categories of investment professionals to register with the banking commissioner.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 21, 2011

REFERENCES TO BUREAU OF CONSUMER FINANCIAL PROTECTION

§ 1 — Supervisory Agency in Banking Statutes

The act adds the bureau to the list of entities defined as "supervisory agencies" for purposes of the banking statutes. The list of supervisory agencies already includes the state banking commissioner and various federal entities. By law, the banking commissioner may enter into agreements with other

supervisory agencies regarding the examination or supervision of specified entities that are regulated by the banking statutes.

§§ 3, 4 — *Mortgage Loan Originators*

Existing law includes within the definition of mortgage loan originator someone who only renegotiates terms for existing mortgages and does not otherwise act as an originator but whom the U.S. Department of Housing and Urban Development (HUD) or a court determines needs to be licensed under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act). The act adds to this someone whom the bureau determines needs to be licensed under the S.A.F.E. Act. It also makes conforming changes.

PA 11-216 (§ 8), effective October 1, 2011, adds the requirement that the person renegotiating terms for existing mortgages does so on a mortgagee's behalf.

§§ 5-8 — *Consumer Credit Protection Act and Truth in Lending Act*

The act provides that in specified provisions of the banking law (including the Connecticut truth-in-lending act and provisions concerning finance companies and retail installment sales financing) and specified laws regarding errors in retail credit account statements, unless the context requires otherwise, the federal Consumer Credit Protection Act (CCPA) includes regulations adopted by the bureau under that act. The law already specifies that for these purposes, the CCPA includes regulations adopted by the Federal Reserve under the federal act.

The truth-in-lending act provides criminal penalties (up to a year's imprisonment, up to a \$5,000 fine, or both) for anyone who willfully and knowingly uses a chart or table authorized by the Federal Reserve under the CCPA (§ 107) in a manner that consistently understates a loan's annual percentage rate determined under specified banking laws. This act extends the same penalties to anyone who does this using a chart or table authorized by the bureau.

The truth-in-lending act provides that specified liability provisions in it do not apply to acts or omissions made in good faith in conformity with the truth-in-lending act or certain other laws or determinations, including (1) the Federal Reserve's rules or regulations adopted under the CCPA or its interpretations of it or (2) interpretations or approvals by a duly authorized Federal Reserve official or employee, notwithstanding that after the act or omission has occurred, the law, rule, regulation, approval, or interpretation is amended, rescinded, or determined by a court or other authority to be invalid. This act adds to

these provisions the bureau's rules, regulations, or interpretations, or the interpretations or approvals of its authorized officials or employees.

Under the truth-in-lending act, an obligor has no rescission rights arising solely from the form of written notice a creditor uses to inform the obligor of such rights under the act and the CCPA if the creditor provided the obligor the appropriate form of written notice published and adopted by the Federal Reserve, or a comparable written notice, that was properly completed by the creditor, and otherwise complied with other specified requirements. This act provides that an obligor similarly has no rescission rights if the creditor provided notice in the form published and adopted by the bureau and met the other requirements.

§ 9 — *Credit Reports*

By law, a credit rating agency must disclose to a consumer the nature and substance of all information in its files about the consumer upon the consumer's written request and proper identification. This includes any credit score or predictor, as required by and in a form complying with the federal Fair Credit Reporting Act and commentary that the Federal Trade Commission adopts and enforces. The act adds to this the commentary adopted and enforced by the bureau.

§ 10 — *Home Mortgage Disclosure*

The act specifies that in the Connecticut home mortgage disclosure act, unless the context otherwise requires, the federal Home Mortgage Disclosure Act includes regulations promulgated by the bureau under that act. The law already specifies that for these purposes the federal act includes regulations adopted by the Federal Reserve. By law, unchanged by the act, the banking commissioner is the supervisory agency for purposes of the state home mortgage disclosure act.

§§ 12, 13 — *Consumer Leases*

The act specifies that in the state consumer leases act, the federal Consumer Leasing Act includes regulations issued by the bureau pursuant to the federal act. The law already refers to Federal Reserve regulations for this purpose.

Under the state consumer leases act, a lease holder is relieved from liability for statutory damages in certain circumstances. For example, a lease holder is not liable for damages concerning acts or omissions made in good faith conforming to the Federal Reserve's rules, regulations, or interpretations of the federal Consumer Leasing Act, even if after the act or omission occurred, the rule, interpretation, or approval was changed, rescinded, or held invalid by a court or other authority.

This act adds to this the bureau's rules, regulations, or interpretations of the federal act.

§§ 14-17 — *Uniform Commercial Code (UCC)*

Negotiable Instruments. The law provides that in the UCC's provisions concerning negotiable instruments (e.g., checks), Federal Reserve regulations and operating circulars of federal reserve banks supersede any inconsistent provision to the extent of the inconsistency. The act provides that bureau regulations supersede any inconsistent provision in the same manner.

Bank Deposits and Collections. By law, the effect of the UCC's bank deposits and collections provisions may be varied by agreement. The parties to the agreement cannot disclaim a bank's responsibility, or limit the measure of damage, for the bank's lack of good faith or failure to exercise ordinary care. But the agreement may determine the standards to measure the bank's responsibility, unless they are manifestly unreasonable.

By law, Federal Reserve regulations and operating circulars (among other rules) have the effect of the above agreements, even if not specifically agreed to by all parties interested in items handled. The act specifies that bureau regulations and operating circulars have the same effect.

The act specifies that action or nonaction pursuant to bureau regulations or operating circulars constitutes the exercise of ordinary care. The law already provides the same for action or nonaction pursuant to Federal Reserve regulations or operating procedures, among others.

The act also changes the definition of "agreement for electronic presentment." Existing law defined this to include an agreement, clearinghouse rule, or Federal Reserve regulation or operating circular, providing that an item's presentment may be made by transmitting its image or information describing it rather than delivering the item itself. The act adds bureau regulations or operating circulars to this list. By law, the agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to it.

Fund Transfers. The act specifies that bureau regulations supersede any inconsistent provision of the UCC's fund transfer provisions to the extent of the inconsistency. The law already provides the same for Federal Reserve regulations and operating circulars of the federal reserve banks.

§ 18 — *Sexual Orientation Discrimination in Credit Transactions*

By law, it is a discriminatory practice for any creditor to discriminate on the basis of sexual orientation or civil union status against anyone age 18 or older in any credit transaction. But no liability may be imposed for an act done or omitted in conformity with a regulation or declaratory ruling of the banking commissioner, the Federal Reserve, or any other governmental agency having jurisdiction under the Equal Credit Opportunity Act, notwithstanding that after the act or omission the regulation or declaratory ruling is amended, repealed, or determined to be invalid. The act specifies that actions or omissions that conform to the bureau's regulations or declaratory rulings also preclude liability.

§ 11 — EXEMPTION FROM UNIFORM SECURITIES ACT

Under the act, the banking commissioner can exempt any person or class of people from certain requirements of the Uniform Securities Act. To do so, he must find that the exemption is (1) in the public's interest and (2) consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Uniform Securities Act. The act specifies that the exemption may be by rule, regulation, or order, and may be conditional or unconditional.

Matters subject to the exemption include (1) registration requirements that apply to broker-dealers, agents, certain investment advisers, and investment adviser agents; (2) requirements that apply to issuers, broker-dealers, and investment advisers concerning the employment of agents; (3) requirements concerning branch offices, including registration, acquisition, and relocation of such offices; (4) required notice for broker-dealers or investment advisers who cease to transact business at a branch or main office; and (5) related matters.

BACKGROUND

Dodd-Frank Act

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act (P. L. 111-203, 124 Stat. 1376 (2010)) was signed into law on July 21, 2010. Among many other provisions, it created the Bureau of Consumer Financial Protection as a watchdog agency to oversee financial institutions and enforce compliance with consumer financial laws. The act also raised the threshold for federal regulation of investment advisers from \$25 million to \$100 million of assets under management, and created new categories of investment advisers who are exempt from federal registration.

Related Act

PA 11-119 explicitly authorizes the attorney general to bring a civil action in a court of competent jurisdiction to enforce the provisions of the Dodd-Frank Act that the federal act authorizes state attorneys general to enforce. It also allows the attorney general to seek any relief that the Dodd-Frank Act authorizes state attorneys general to seek.

PA 11-119—HB 6350*Banks Committee**Judiciary Committee*

AN ACT CONCERNING THE ATTORNEY GENERAL'S AUTHORITY TO ENFORCE PROVISIONS OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

SUMMARY: This act explicitly authorizes the attorney general to bring a civil action in a court of competent jurisdiction to enforce the provisions of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that state attorneys general are authorized to enforce. It also allows the attorney general to seek any relief that the Dodd-Frank Act authorizes state attorneys general to seek.

EFFECTIVE DATE: July 1, 2011

ATTORNEY GENERAL RESPONSIBILITIES

Under the act, the state attorney general is responsible for duties included in the Dodd-Frank Act (the 2010 federal financial services law). Specifically, the federal act authorizes a state attorney general to bring civil actions to enforce its consumer protection provisions or implementing regulations. Concerning suits against national banks or federal savings associations, the Dodd-Frank Act permits the attorney general to sue to enforce regulations prescribed by the Bureau of Consumer Financial Protection under the federal act's consumer protection provisions, but not to enforce that act's provisions themselves. The federal act also limits the states' ability to enforce its consumer protection provisions against merchants, retailers, or sellers of nonfinancial goods or services. The federal act permits a wide range of relief in proceedings under federal consumer financial law, but does not allow punitive damages.

The Dodd-Frank Act requires states, before bringing suit to enforce its consumer protection provisions or attendant regulations, to notify the bureau and the applicable federal regulator. If prior notice is not practicable, the state must notify them immediately after bringing the action. It authorizes the bureau to intervene.

In addition, the Dodd-Frank Act:

1. provides that the National Bank Act's provisions on a government's right to oversee corporate affairs of a national bank do not restrict the state's authority to bring an action against a national bank to enforce an applicable law;
2. extends the state's authority to bring suit concerning violations of rules on unfair or deceptive acts or practices regarding mortgage loans to rules that the bureau promulgates (federal law already allowed these suits to enforce rules that the Federal Trade Commission promulgates);
3. makes the bureau the primary authority to enforce provisions of the Real Estate Settlement Procedures Act related to kickbacks and unearned fees, while retaining the state's authority to enforce these provisions;
4. expands the state's authority to bring actions to enforce the federal Truth in Lending Act, including several provisions concerning residential mortgage loans; and
5. specifies that the attorney general (in addition to certain federal entities) may enforce federal regulations pertaining to quality control standards for automated valuation models used to estimate collateral value for mortgage lending purposes (but state enforcement authority does not extend to federally regulated financial institutions or subsidiaries).

BACKGROUND*Dodd-Frank Act*

The Dodd-Frank Act (P.L. 111-203, 124 Stat. 1376 (2010)) was signed into law on July 21, 2010. Among other things, it creates the Bureau of Consumer Financial Protection as a watchdog agency to oversee financial institutions and enforce compliance with consumer financial laws. It also establishes and strengthens consumer protection laws. The act includes several provisions authorizing enforcement by state attorneys general.

PA 11-165—SB 958

Banks Committee

Judiciary Committee

AN ACT CONCERNING CHILD IDENTITY THEFT

SUMMARY: This act expands the type of conduct that constitutes an identity theft crime.

Under prior law, this crime involved knowingly using another person's personal identifying information to obtain or attempt to obtain, in the person's name and without his or her consent, money, credit, goods, services, property, or medical information. The act removes the requirement that the perpetrator must use the person's name for the action to constitute a crime.

By law, identity theft is a class B, C, or D felony (see Table on Penalties) depending on the value of the property involved and age of the victim.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Personal Identifying Information

By law, "personal identifying information" includes any name, number, or other information that may be used, alone or with any other information, to identify a specific person. This information includes:

1. a person's name;
2. birth date;
3. mother's maiden name;
4. motor vehicle operator license, Social Security, employee identification, employer or taxpayer identification, alien registration, government passport, health insurance identification, demand deposit account, savings account, credit, or debit card number; or
5. unique biometric data such as a fingerprint, voice print, retina or iris image, or other unique physical representation.

PA 11-201—sHB 6351

Banks Committee

Judiciary Committee

AN ACT CONCERNING FORECLOSURE MEDIATION AND ASSISTANCE PROGRAMS, THE HIGHLY COMPENSATED EMPLOYEE EXEMPTION FOR MORTGAGE LOAN ORIGINATORS, GENERAL-USE PREPAID CARDS AND NEIGHBORHOOD PROTECTION

SUMMARY: This act makes changes in several programs and laws related to foreclosure as well as

other banking- and housing-related issues.

It makes various changes in the judicial branch's foreclosure mediation program, including (1) extending the program's sunset date by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009; (2) extending the program to properties owned by religious organizations; (3) generally prohibiting the parties from making motions, other than those related to the mediation, for the eight months following the return date; and (4) increasing documentation requirements.

The act creates a task force to study the Connecticut Housing Finance Authority's (CHFA) loss mitigation programs.

It excludes from the state's overtime pay requirements mortgage loan originators designated as highly compensated employees under federal regulations, other than originators who work solely from an employer's office.

The act codifies into state law the federal Protecting Tenants at Foreclosure Act, with a sunset date of December 31, 2017, that extends its protections beyond the federal act's December 31, 2014 expiration.

The act prohibits a general-use prepaid card from including an expiration date for the underlying funds redeemable through its use, but it allows an expiration date for the card itself if certain requirements are met. It also explicitly excludes general-use prepaid cards from the definition of "gift certificate," but it applies to them the same prohibition on inactivity charges, fees, or penalties and exemption from state escheat provisions as apply to gift certificates.

In 2009, the legislature created a registration system for tracking the owners of uninhabited one-to-four family residential property obtained through foreclosure. The act establishes a new registration requirement that applies to a broader class of buildings when the foreclosure process begins, and expands the scope of the existing registration requirement. It provides civil penalties for violations. It also makes other changes to the mechanics of the registration process.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Various, see below.

§§ 1 - 4 — FORECLOSURE MEDIATION PROGRAM

Extension of Program Sunset Date

The act extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009.

Extension to Religious Organizations

The act extends the foreclosure mediation program to religious organizations that own real property, starting with foreclosures with return dates on or after October 1, 2011. It defines “religious organizations” as organizations that meet the religious purposes test for tax exemption under the Internal Revenue Code. To be eligible for the program, as is the case with existing requirements for residential owners, the religious organization must be the borrower on a mortgage encumbering a property located in Connecticut. Existing law requires the loan that is the subject of the foreclosure action to be primarily for personal, family, or household purposes. The act specifies that the loan may also be primarily for religious purposes.

As under existing law, the mediation must address all issues of foreclosure and be conducted by trained Judicial Department employees.

Changes to Mediation Process: Actions with Return Dates on or After July 1, 2009

Except as specified below, the following changes apply to residential foreclosures with return dates on or after July 1, 2009 and foreclosures of properties owned by religious organizations with return dates on or after October 1, 2011.

Mediation Information Form and Other Documents. By law, when bringing a foreclosure action, the mortgagee (i.e., the original lender or servicer, or successor or assignee) must provide the mortgagor (i.e., the borrower) with a (1) notice of foreclosure mediation, (2) foreclosure mediation certificate form, and (3) blank appearance form. The act adds to the required documents that a mortgagee must provide a residential mortgagor for foreclosures with return dates on or after October 1, 2011. For such foreclosure actions, the act requires mortgagees to provide the mortgagor with a (1) mediation information form and (2) notice containing contact information for consumer credit counseling agencies that CHFA approves. As is the case with the documents required by existing law as described above, these must be attached to the front of the foreclosure writ, summons, and complaint and must be in a chief court administrator-prescribed form.

The act requires that the mediation information form be designed to elicit current financial information and other nonfinancial information from the mortgagor that will be useful in mediation, as the chief court administrator determines in consultation with banking industry representatives and consumer advocates. The form’s instructions must explain that the completed form, plus any accompanying documents reasonably requested in the instructions, must be delivered to the mortgagee’s counsel within 15 business days before the

first mediation session. The act specifies that the mediation information form and accompanying documentation may not be made public unless the mortgagor explicitly agrees in writing.

By law, the court must issue a notice of foreclosure mediation to the mortgagor within three business days of the mortgagee returning the writ to the court. Under the act, the notice must remind the mortgagor to deliver the completed mediation information form and the accompanying documents. The notice must also encourage the mortgagor to deliver the form and accompanying documents earlier than the law requires.

The act requires the notice to be accompanied by chief court administrator-prescribed materials from the Banking Department, which describe community-based resources available to the mortgagor. These resources must include CHFA-approved housing counseling agencies that may help the mortgagor (1) prepare the mediation information form and (2) apply for mortgage assistance programs.

First Mediation Session. The act provides that, on or after October 1, 2011, the first mediation session must be held within 35 calendar days, rather than 15 business days, of the court sending the notice to each appearing party scheduling the first mediation session.

Account History and Contact Information. Under the act, on and after October 1, 2011, the mortgagee must deliver to the mortgagor an account history identifying all credits and debits assessed to the mortgagor’s loan account in the immediately preceding 12 months. The mortgagee must do so at least 15 business days before the first session.

During this same time period, the mortgagee must also provide the mortgagor with specified contact information for an individual able to process requests to refinance or modify the mortgage or take other action to avoid foreclosure. The required contact information is the person’s name, business mailing address, electronic mail address, facsimile number, and direct telephone number. The act requires mortgagees, with reasonable promptness, to provide the mortgagors and their counsel with updates to this contact information.

Prohibition on Motions and Judgments. Under existing law, when the mediation period is required and available, a court cannot enter a judgment of strict foreclosure or foreclosure by sale until the mediation period has expired or otherwise ends, whichever is earlier. The act extends this restriction to 15 days after the mediation period has ended, if it ends fewer than eight months after the action’s return date.

The act further limits what can transpire during the litigation for a period up to eight months from the return date. During this period, the parties cannot make a motion, request, or demand with respect to each other, other than those relating to the mediation. This restriction does not apply to a mortgagor’s motion to

dismiss that challenges the court's jurisdiction, or to a mortgagee's response to such a motion. Under the act, if the mortgagor makes any other type of motion, request, or demand with respect to the mortgagee within the eight-month period, the restriction no longer applies to either party. These provisions do not affect any motions made, or defaults or judgments entered, on or before June 30, 2011.

Under the act, in foreclosure actions with return dates on or after July 1, 2011, after the eight-month or 15-day periods described above, mortgagees may simultaneously file (1) a motion for default and (2) a motion for judgment of strict foreclosure or foreclosure by sale with respect to the mortgagor. This applies despite any contrary law.

Failure Regarding Documents. Under the act, either party's failure to comply with any of the law's documentation requirements for the foreclosure mediation program is not grounds for ending the mediation period before a second session has been conducted.

Changes to Mediation Process: All Eligible Actions

The following changes apply to all foreclosure actions eligible for the mediation program, i.e., residential foreclosures with return dates on or after July 1, 2008 and foreclosures of properties owned by religious organizations with return dates on or after October 1, 2011.

Parties' Appearance at Mediation. By law, the mortgagor and mortgagee must appear in person at each mediation session and must have authority to agree to a proposed settlement. Prior law allowed the mortgagee's attorney to appear instead if he or she had the authority to agree to a proposed settlement and the mortgagee was available by telephone. The act adds the requirement that the mortgagee also be available to participate in the mediation session by speakerphone. In addition, it provides that, when a mortgagee's attorney appears instead of the mortgagee, there must be an opportunity for the mortgagee and his or her counsel to engage in confidential discussions.

The act provides that, when there are multiple mortgagors, only one must appear at mediation sessions after the first unless there is good cause for all to appear. If only one mortgagor appears, the others must be available during the session to participate by speakerphone, and there must be an opportunity for the mortgagors and their attorney to engage in confidential discussions.

By law, a court may not award attorney's fees to a mortgagee for time spent in a mediation session if it does not comply with the requirements for personal or attorney appearance described above, unless the court finds reasonable cause for the failure.

Referral to CHFA Mortgage Assistance Programs. By law, the mediator can refer the mortgagor to certain CHFA mortgage assistance programs at any time during the mediation. Under the act, this applies only to residential mortgagors, not religious organizations. EFFECTIVE DATE: July 1, 2011, except a conforming change is effective October 1, 2011.

§ 5 — TASK FORCE ON CHFA LOSS MITIGATION PROGRAMS

The act establishes a task force to review and evaluate the loss mitigation programs that CHFA administers. The members are the following, or their designees:

1. the governor,
2. the six legislative leaders,
3. the chairpersons of the Banks and Housing committees,
4. the banking commissioner, and
5. CHFA's chief housing officer.

The task force must elect a chairperson from among its members. The chairperson must schedule the first meeting, which must be within 60 days of the act's passage. The act requires the Banks Committee's administrative staff to also serve in that capacity for the task force.

The act requires the task force to submit a report on its findings and recommendations by January 1, 2012 to the Banks Committee. The task force terminates when it submits its report or on January 1, 2012, whichever is later.

EFFECTIVE DATE: Upon passage

§ 6 — MORTGAGE LOAN ORIGINATORS – EXCLUSION FROM OVERTIME REQUIREMENTS

The act excludes from the state's overtime pay requirements (time and one-half after 40 hours a week) mortgage loan originators considered to be highly compensated employees under federal regulations, except for people who perform the functions of an originator solely from their employer's office. It specifies that, for this purpose, an originator's home office is not considered an employer's office. The act applies the banking statute's existing definition of mortgage loan originator (see BACKGROUND).

Under federal regulations, someone with total annual compensation of at least \$100,000, whose primary duty includes office or non-manual work, and who customarily and regularly performs exempt duties or responsibilities of an executive, administrative, or professional employee as identified by regulation, is exempt from the minimum wage and overtime pay requirements of the federal Fair Labor Standards Act (29 C.F.R. § 541.601). The act provides that starting on

October 1, 2012, the total annual compensation of a mortgage loan originator for the purpose of determining whether the person meets this compensation threshold must be increased annually, effective each October 1. The increase must be based on the annual percentage increase in the average weekly earnings of all workers as the labor commissioner determines under law.

EFFECTIVE DATE: Upon passage

§§ 7-8 — PROTECTIONS FOR TENANTS OF FORECLOSED HOMES

The act provides protections for certain tenants of foreclosed homes. These provisions are nearly identical to those in the federal Protecting Tenants at Foreclosure Act (P.L. 111-22, Title VII). The federal act expires on December 31, 2014 but this act's provisions regarding tenants of foreclosed homes will sunset on December 31, 2017.

Tenants of Foreclosed Homes

The following provisions apply to foreclosures with return dates on or after the act's passage through December 31, 2017. The foreclosure must be on a federally related mortgage loan or on any dwelling or residential property. Under the act, a "federally related mortgage loan" has the same meaning as in the federal Real Estate Settlement Procedures Act (see BACKGROUND).

Under the act, an immediate successor in interest to any such foreclosed property takes the property subject to the rights of bona fide tenants, as specified below, as of the date absolute title vests in the successor in interest. A successor in interest must provide tenants with a notice to vacate 90 days before the notice is effective.

Under the act, tenants with a lease entered into before absolute title vests in the successor must generally be allowed to remain until the end of the lease term. But despite a lease, tenants can be evicted on 90 days' notice as provided above if (1) the successor in interest sells the unit to a buyer who will occupy it as his or her primary residence or (2) the lease was terminable at will. Tenants who did not have leases can also be evicted on 90 days' notice.

These protections apply only to "bona fide" leases or tenancies, which are those (1) in which the mortgagor or the mortgagor's child, spouse, or parent is not the tenant; (2) that were the result of an arms-length transaction; and (3) that require rent that (a) is not substantially less than fair market rent for the property or (b) is reduced or subsidized due to a federal, state, or local subsidy.

The act provides that these provisions do not affect (1) the termination requirements for any federal- or

state-subsidized tenancy (see below for changes regarding Section 8 tenants) or (2) any state or local laws that provide tenants with longer time periods or additional protections.

The act specifies that for these purposes, the date of a notice of foreclosure is considered to be the date when complete title to a property is transferred to a successor entity or person under a court order or under the provisions in a mortgage, deed of trust, or security deed.

Section 8 Tenants

The act also provides greater protections for tenants who are receiving assistance under the federal Housing Choice Voucher Program (i.e., Section 8 tenants).

The act limits the circumstances in which an owner who is an immediate successor in interest to a property following foreclosure may terminate the lease of a Section 8 tenant. On or before December 31, 2017, the act allows the owner to terminate the tenancy on the date of taking ownership, if the owner (1) will occupy the unit as his or her primary residence and (2) has provided the tenant a notice to vacate at least 90 days before its effective date. Otherwise, vacating the property before sale cannot be considered good cause for terminating the tenant's lease.

Under the act, on or before December 31, 2017, for foreclosures involving federally related mortgage loans (as specified above) or any residential property occupied by a Section 8 tenant, the immediate successor in interest takes the property subject to the (1) lease between the tenant and prior owner and (2) housing assistance payments contract between the prior owner and the public housing agency that administers the program.

The act provides that these provisions related to section 8 tenants do not affect any state or local law that provide tenants with longer time periods or other protections.

EFFECTIVE DATE: Upon passage

§§ 9-12 — GENERAL-USE PREPAID CARDS

Definition

The act specifically excludes general-use prepaid cards from the definition of gift certificate. A "general-use prepaid card" is a card, code, or other device issued to a consumer in exchange for payment, on a prepaid basis and in a specific amount, primarily for personal, family, or household purposes. It is redeemable when presented at multiple, unaffiliated merchants for goods or services, and can be used at automated teller machines.

By law, a "gift certificate" is a record evidencing a promise, made for consideration, by the seller or issuer of the certificate that goods or services will be provided

to the certificate's owner to the value shown in the certificate. It includes (1) a prefunded record containing a microprocessor chip, magnetic stripe, or other means to store information and for which an amount is deducted from the stored value upon each use; (2) a gift card or electronic gift card; and (3) a stored-value card or certificate, among others. It does not include prepaid calling cards or prepaid commercial mobile radio services (CGS § 3-56a(5)).

Existing law prohibits gift certificates from having a dormancy, abandoned property, unclaimed property, escheat, or inactivity fee or charge or any similar charge, fee, or penalty for inactivity. Language on them or in any agreement relating to them suggesting that there is a charge, fee, or penalty for inactivity, is also prohibited. Gift certificates are exempt from state escheat provisions. The act explicitly applies these fee, charge, and penalty prohibitions and the escheat exemption to general-use prepaid cards.

Expiration Date Requirements

Under the act, a general-use prepaid card itself can include an expiration date if it provides the following information:

1. that the underlying funds do not expire and a consumer can obtain a replacement card from the issuer and
2. a toll-free telephone number and an Internet website address, if one is available, that a card holder can use to replace it after it expires.

This information must be in writing. An issuer can satisfy this disclosure requirement by providing disclosures consistent with federal regulation (see BACKGROUND). The disclosure that the underlying funds do not expire and that a replacement general-use prepaid card can be obtained must be made with equal prominence and near the expiration date on the card.

The act also prohibits a general-use prepaid card from including an expiration date if a fee or charge is imposed on the holder for replacing it or providing the holder with its remaining balance, so long as it has not been lost or stolen. It requires the seller of a card with an expiration date to have policies and procedures that give consumers a reasonable opportunity to purchase a card with at least five years remaining until it expires.

EFFECTIVE DATE: October 1, 2011

§§ 13-15 — REGISTRATION REQUIREMENTS FOR FORECLOSURES

Properties Subject to Registration Requirement

The act expands the scope of the requirement that foreclosed properties be registered. Under prior law, the registration requirement applied only to vacant, one-to-four family residential properties. The act requires

registration of both vacant and occupied properties. It requires registration of all buildings containing at least one dwelling unit, including commercial buildings, when such properties are in foreclosure or someone takes title to them after foreclosure, as explained below. Under the act, a dwelling unit is a house, building, or portion of either that is occupied or designed to be occupied, or is rented, leased, or hired out to be occupied, exclusively as a home or residence for at least one person. The act exempts from the registration requirement foreclosures that were in process before its effective date.

The act excludes properties from registration when the mortgage being foreclosed is held by an individual. It also specifies that any individual or entity, including a government entity, that meets the act's requirements must register subject properties.

Registration Requirement

Registration by Plaintiffs in Foreclosure Action.

The act also requires that registration occur earlier in the foreclosure process. Prior law required registration after a person took title to the foreclosed property. The act additionally requires registration by people or entities who, on or after October 1, 2011, bring a foreclosure action concerning a subject property. The required registration information at this stage is generally similar to that required under prior law and the act for registration by those who take title to foreclosed properties (see below).

Anyone subject to this requirement must register the property with the town clerk in the municipality where the property is located. They must do so at the time and place that the notice of *lis pendens* regarding the property is recorded, according to the law's requirements for such a notice. The act specifies that the municipality must maintain the registration separate from the land records.

The act requires the registration to contain the name, address, telephone number, and electronic mail address ("contact information") of the plaintiff in the foreclosure action. Plaintiffs must indicate on the registration whether they prefer to be contacted by first class or electronic mail and the preferred addresses for such communications. If the plaintiff is an individual or entity residing out of state, it must provide contact information for a direct contact in Connecticut, if such a contact is available.

The act requires plaintiffs to also provide contact information for the local property maintenance company or other person or entity serving as the plaintiff's contact with the municipality for matters concerning the property. The registration must contain the following heading, in at least 10-point, boldface capital letters:

NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY BEING FORECLOSED.

Under the act, plaintiffs must report to the town clerk any change in the information provided on the registration within 30 days following the change. They may do so by mail or other delivery form. The act requires plaintiffs, when registering, to pay a land record filing fee to the municipality as specified in law. The land record filing fee is generally \$53 for the first page and \$5 for each additional page (see Related Acts).

Registration by Owners After Title Vests. Prior law required anyone in whom title to a subject property vested after October 1, 2009 through a foreclosure action (whether strict foreclosure or foreclosure by sale), to register the property with the town clerk of the municipality where the property is located or with the Mortgage Electronic Registration Systems (MERS), an online system the real estate finance industry created for originating, selling, and servicing rights.

The act modifies the registration requirement for anyone taking title to such a property following foreclosure on or after October 1, 2011. Under the act, registration must be with the municipality, not MERS. The registration must be mailed or delivered to the town clerk. Under prior law, the registration deadline depended on when the property became vacant. The act instead requires registration within 15 days of absolute title vesting in the person.

Under the act, if the registering owner was also the plaintiff in the foreclosure action, rather than registering anew, the person must update its prior registration with any change needed to comply with the act's requirements for other registrants who take title to foreclosed property, as specified below. This update must occur within 15 days of absolute title vesting in the person. The updated registration must include, in at least 10-point boldface capital letters, the following heading: **NOTICE TO MUNICIPALITY: UPDATED REGISTRATION FOR PROPERTY ACQUIRED THROUGH FORECLOSURE.**

Under prior law, a corporation or individual residing out of state who registered with a municipality rather than MERS had to provide contact information for a direct contact in Connecticut. The act extends this requirement to any out-of-state registrant (not just individuals or corporations), as long as an in-state direct contact is available. As under prior law, the act requires registrants to provide their own contact information.

Prior law required registrants to also provide contact information for the local property maintenance company responsible for the property's security and maintenance (or maintenance only if registration was with MERS), if there was one. The act also requires such information, and specifies that the responsible person or entity need not be a property maintenance company. The registration must indicate the date when

absolute title vested in the registrant. It must also contain the following heading, in the same form as the headings described above: **NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY ACQUIRED THROUGH FORECLOSURE.**

Prior law required those who registered with a municipality, but not with MERS, to pay a \$100 fee to the municipality. The act instead requires all registrants (including those who were plaintiffs in the foreclosure action and are updating their prior registration) to pay to the municipality a land record filing fee as specified by law.

The act also requires registrants, by mail or other delivery form, to report to the town clerk any change in registration information within 30 days of the change. Prior law required those who registered with municipalities to update their information within 10 days.

Prior law required those registering with municipalities to indicate their preferred contact method and address. The act eliminates this requirement, but as described above, it imposes the requirement on registering plaintiffs to foreclosure actions.

Violation Notices

Under prior law, if a registrant violated any state law or municipal ordinance on the repair or maintenance of real estate, the municipality could issue a notice citing the violating conditions. The act permits a municipality to issue such a violation notice only for registrations after title has vested following foreclosure, including updated registrations by those who previously registered as plaintiffs, as specified above.

By law, violation notices must be sent by first class or electronic mail, or both, to the registrant. Prior law also required a copy of the notice to be sent by first class or electronic mail to the local property maintenance company, if one was identified on the registration. The act instead requires a copy to be sent to the property maintenance company or other person or entity designated on the registration as responsible for the property's security and maintenance. By law, the notice must also meet the same standards as notices to remedy a health, housing, or safety code violation (i.e., notice must be sent to the lienholder).

Prior law required the notice to provide a date by which the registrant could remedy the conditions in question. The act instead requires a date by which the registrant must do so. By law, the date must be reasonable under the circumstances. Prior law also provided that if the registrant or property maintenance company failed to remedy the violating conditions, the municipality could enforce its rights under the relevant statute or ordinance. The act deletes this specific reference to property maintenance company and allows

the municipality to enforce its rights if the registrant, or its contact or agent, fails to remedy the violation.

Restriction on Other Registration Requirements

By law, municipalities may not impose additional registration requirements for foreclosed properties unless they were in effect before the passage of PA 09-144 (the act that instituted the registration requirements that this act amends). This act specifies that this prohibition applies in the same manner regarding other requirements for plaintiffs in foreclosure actions whom the act requires to register.

Civil Penalties

The act provides civil penalties for anyone who fails to register as it requires. For foreclosing plaintiffs, the penalty is \$100 per violation, up to a maximum of \$5,000. For those who take title to foreclosed properties and who fail to register within 30 days of absolute title vesting in them, the penalty is \$250 per violation, up to a maximum of \$25,000. In either case, the act specifies that each property for which someone fails to register is a separate violation. The act permits authorized municipal officials to bring a civil action to collect the penalties, which are payable to the municipality's treasurer.

The act specifies that these penalties do not create or constitute a lien against the property. It also provides that registration by a foreclosing party, or such a party's failure to register, does not imply or create any legal obligation on that party to repair, maintain, or secure the property before that party takes title to it.

Municipal Authority to Recover Expenses

By law, municipalities may recover from a property owner expenses incurred for the inspection, repair, demolition, maintenance, removal, or other disposition of real estate to secure the property, make it safe and sanitary, or remedy a blighted condition. Municipalities may place a lien on the owner's interest in the real estate or on an insurance policy covering the real estate, but the law limits the insurance provisions to property other than single- or two-family dwellings. Under prior law, the limitation did not apply to vacant residential properties subject to the registration requirements for foreclosed properties. The act deletes the requirement that the properties be vacant in order for the limitation not to apply.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Mortgage Loan Originators

The banking law defines "mortgage loan originator" as an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan, for or with the expectation of compensation or gain. The law specifically excludes:

1. an individual engaged solely as a loan processor or underwriter, except those acting as independent contractors (PA 11-216 (§ 8), effective October 1, 2011, deletes the exception for independent contractors);
2. a person who only performs real estate brokerage activities and is licensed under the statutes governing real estate brokers and salespersons, unless the person is paid by a mortgage lender, correspondent lender, broker, or other originator or by an agent of any such people;
3. a person solely involved in extensions of credit relating to timeshare plans; or
4. any individual who only renegotiates terms for existing mortgages and does not otherwise act as an originator, unless the U.S. Department of Housing and Urban Development (HUD) or a court of competent jurisdiction determines the individual needs to be licensed under the federal S.A.F.E. Act (PA 11-110 (§ 3), effective July 21, 2011, adds to this someone whom the federal Bureau of Consumer Financial Protection determines needs to be licensed under the S.A.F.E. Act. PA 11-216 (§ 8), effective October 1, 2011, adds the requirement that the person renegotiating terms for existing mortgages does so on a mortgagee's behalf.) (CGS § 36a-485(15)).

Related Federal Law

Federally Related Mortgage Loan Under RESPA. Under the federal Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. § 2602), a "federally related mortgage loan" includes any loan, other than temporary financing such as a construction loan, that is secured by a first or subordinate lien on residential property (including units of condominiums and cooperatives) designed principally for one-to-four family occupancy, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property. The loan must also:

1. be made in whole or part by any lender (a) whose deposits or accounts are insured by a federal agency or (b) that is federally regulated;
2. be made in whole or part, or insured, guaranteed, supplemented, or assisted in any way, by the HUD secretary or any other federal officer or agency, or under or in connection with a housing or urban development program administered by the HUD secretary or a housing or related program administered by any other federal officer or agency;
3. be intended to be sold by the originating lender to the Federal National Mortgage Association (Fannie Mae), the Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or a financial institution from which it is to be purchased by Freddie Mac; or
4. be made in whole or part by any creditor, as defined in federal law regarding consumer credit disclosure, who makes or invests in residential real estate loans totaling more than \$1 million annually, excluding any state agency or instrumentality.

General-Use Prepaid Cards. Federal regulations establish disclosure requirements for selling or issuing a general-use prepaid card with an expiration date (12 C.F.R. § 205.20). In general, they require:

1. an expiration date for underlying funds or a statement that the underlying funds do not expire;
2. a toll-free number and website address, if one is maintained, that a consumer can use to obtain a replacement card after it expires if underlying funds are available; and
3. a statement that (a) the card expires but the underlying funds do not or expire later than the card itself and (b) the consumer can contact the issuer for a replacement card.

These disclosures must be provided on the card.

Related Acts

PA 11-48 (§§ 133-135) makes permanent a \$10 increase in the fee people pay to town clerks when filing documents in land records, and rearranges the distribution formula for the fee proceeds.

PA 11-51 (§§ 31-32) also extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009.

PA 11-216—sSB 1110

Banks Committee

Judiciary Committee

Public Safety and Security Committee

AN ACT CONCERNING CONSUMER CREDIT LICENSES AND THE CONNECTICUT UNIFORM SECURITIES ACT

SUMMARY: This act makes numerous changes to the banking law. The act changes and expands licensing requirements for certain loan processors or underwriters, which the act treats as one group. The mechanics of the act's application and licensing requirements for loan processors or underwriters largely track existing requirements for mortgage loan originators. The act also applies to loan processor or underwriter licensees several provisions that currently apply to originators as well as other mortgage licensees, such as the banking commissioner's authority to suspend, revoke, or refuse to renew licenses and the prohibition against residential mortgage fraud and other specified activities.

The act makes several other changes affecting mortgage licensees. It adds to those excluded from licensing requirements. It also allows individuals or entities who are exempt from licensing to register for purposes of sponsoring a mortgage loan originator or loan processor or underwriter, without affecting the exempt status. It expands the reach of, and makes other modifications to, prelicensing education, testing, and continuing education requirements. It also increases the surety bond requirement, including setting a schedule for the required amount based on the value of mortgage loans the licensee or exempt sponsor originates. It makes changes regarding mortgage license abandonment and surrender. It also modifies exclusions from the definition of mortgage loan originator and makes other changes regarding the scope of the originator licensing requirement.

The act expands the requirement that applicants for various banking department licenses provide a history of their criminal convictions and those of certain individuals connected to the applicant. It:

1. allows the banking commissioner to conduct state and national criminal background checks of such applicants and individuals,
2. expands the commissioner's authority to deny such applications on the basis of criminal convictions, and
3. allows the commissioner to deem such applications abandoned if the applicant fails to respond to required information requests.

The act modifies the attorney exemption to debt adjuster or negotiator licensing and makes other changes regarding debt adjusters and negotiators.

The act makes several other changes, such as:

1. expanding the existing prohibition on fraudulent conduct,
2. changing the limit on the permissible number of certain bank transfers,
3. specifying that the existing prohibition on increases of mortgage interest rates due to default applies only to residential loans,
4. changing the definition of “nonprime home loan” for purposes of regulating such loans,
5. adding a definition of “influence residential real estate appraisals” for purposes of the prohibition on such activity, and
6. eliminating specified requirements for certain investment advisers who are exempt from state registration.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Various; see below.

LOAN PROCESSORS OR UNDERWRITERS

Except as noted, the following changes apply only to loan processors or underwriters. The section on mortgage licenses (see below) includes some provisions that affect these occupations as well as other types of mortgage licensees.

§ 7 — Definition

The act broadens the definition of loan processor or underwriter. It also specifies that “loan processor or underwriter” is a single term for purposes of the banking law.

Under prior law, a loan processor or underwriter was someone who performed specified clerical or support duties related to loan applications as an employee at the direction of and subject to the supervision and instruction of someone licensed or exempt from licensure as a mortgage loan originator, broker, lender, or correspondent lender (although other provisions of law contemplate loan processors or underwriters who are independent contractors). Under the act, anyone who performs such clerical and support duties is a loan processor or underwriter, regardless of whether they do so under someone licensed or exempted from licensing under mortgage law.

EFFECTIVE DATE: October 1, 2011

§ 10 — Licensing and Sponsorship

Prior law prohibited independent contractor loan processors or underwriters from processing or underwriting loans unless they were licensed as mortgage loan originators. The act instead requires loan processors or underwriters to obtain and maintain a loan processor or underwriter license if they are (1)

independent contractors or (2) employed by anyone other than (a) licensed lenders, correspondent lenders, or brokers or (b) a federally insured state, federal, or out-of-state bank or credit union, an operating subsidiary of a federal bank or federally-chartered out-of-state bank, or a wholly-owned subsidiary of a state bank or credit union. The act correspondingly prohibits licensed mortgage lenders, correspondent lenders, or brokers from engaging the services of an unlicensed loan processor or underwriter who is required to be licensed.

The act prescribes registration and sponsorship conditions for loan processors or underwriters that are the same as existing law for mortgage loan originators. It requires loan processors or underwriters to register with, and maintain a valid unique identifier issued by, the Nationwide Mortgage Licensing System and Registry (i.e., the system). Additionally, a loan processor or underwriter licensee cannot process or underwrite loans when he or she is not sponsored by (1) a licensed lender, correspondent lender, or broker or (2) a person who is exempt from mortgage licensing requirements and registered on the system as an exempt registrant for sponsoring purposes. The processor or underwriter’s license is also not effective when the sponsoring lender’s, correspondent lender’s, or broker’s license is suspended.

The act allows loan processors or underwriters, or their sponsors, to file a notification of termination of sponsorship with the system. It specifies that exempt registrant sponsors may file such a notification.

EFFECTIVE DATE: October 1, 2011

§ 13 — Application Requirements

The act specifies that (1) loan processor or underwriter or (2) originator licensees must be individuals rather than “persons,” which include entities.

The act outlines application requirements for loan processors or underwriters. The applicant must apply for a specified office or license renewal with the system on a form prescribed by the banking commissioner. The form must contain content as set forth by the commissioner, and the commissioner may change or update the form as necessary to carry out the law’s purposes as to mortgage licensing, participation in the system, and notice of discriminatory lending practices.

At a minimum, the applicant must provide the system, in a form prescribed by the system, information (1) concerning the applicant’s identity, including personal history and experience and (2) related to any government’s administrative, civil, or criminal findings. Applicants must also provide the system with fingerprints for submission to the FBI and any governmental entity authorized to receive such

information for a state, national, and international criminal background check. The foregoing application requirements are identical to existing law's requirements for originator applicants.

The act allows licensed mortgage loan originators to also act as loan processors or underwriters.

EFFECTIVE DATE: October 1, 2011

§ 15 — *Standards for License Issuance and Renewal*

The act requires loan processors or underwriters to be licensed under the same process as loan originators.

Minimum Standards for License Issuance. Under the act, the commissioner cannot issue an initial license for a loan processor or underwriter unless he, at a minimum, finds that the applicant has:

1. never had an equivalent license revoked in any government jurisdiction, except that a subsequent formal vacating of a revocation is not deemed a revocation;
2. regardless of the law on denial of employment based on prior criminal convictions, has not been convicted of, or pled guilty or nolo contendere to, a felony in any court (a) during the seven years before the application or (b) any time before the application if the felony involved fraud, dishonesty, breach of trust, or money laundering (for these purposes, convictions that are pardoned do not count as convictions);
3. demonstrated the financial responsibility, character, and general fitness to command community confidence and warrant a determination that the individual will operate honestly, fairly, and efficiently within the law's purposes as to mortgage licensing, participation in the system, and notice of discriminatory lending practices;
4. completed the prelicensing education requirement and passed a written test as required by the act;
5. met the surety bond requirement; and
6. has not made a material misstatement in the application.

If the commissioner denies a license application, he must notify the applicant, and may notify the sponsor or anyone else the commissioner deems appropriate, of the denial and the reasons for it.

Minimum Standards for License Renewal. The minimum standards for renewing are also the same as those for loan originators. At a minimum, the licensee must (1) continue to meet the minimum standards for license issuance outlined above; (2) have satisfied the annual continuing education requirements; and (3) have paid all required license renewal fees.

If these standards are not met, the license expires.

The commissioner may adopt procedures to reinstate expired licenses consistent with the system's standards.

EFFECTIVE DATE: October 1, 2011

§ 19 — *When Licenses Remain in Effect*

By law, mortgage lender, correspondent lender, broker, and originator licenses remain effective and in force until they have been surrendered, revoked, suspended, expire, or are no longer effective, in accordance with the banking law. The act extends these provisions to loan processor or underwriter licenses.

EFFECTIVE DATE: Upon passage

§ 20 — *License Expiration and Fee*

Under the act, loan processor or underwriter licenses expire under the same conditions as those for lenders, correspondent lenders, brokers, and originators. Unless renewed, a license expires on the close of business on December 31 of the year it was approved, but those licenses approved on or after November 1 expire at the end of December the following year. Applications for license renewal must be filed between November 1 and December 31 in the expiration year.

The act also extends to applicants for a loan processor or underwriter license the \$300 fee that applies to originators, in addition to any system-required fees (by law, lenders, correspondent lenders, and brokers pay higher licensing fees).

EFFECTIVE DATE: October 1, 2011

§ 22 — *Commissioner's Authority to Suspend, Revoke, or Refuse to Renew License*

The act authorizes the commissioner to suspend, revoke, or refuse to renew loan processor or underwriter licenses under the same conditions as loan originator licenses. The commissioner may take such actions, or other actions in accordance with the law, for any reason which would give him sufficient grounds to deny a license application under the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices.

He may also take such actions if he finds that the licensee has:

1. committed fraud;
2. misappropriated funds;
3. misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any material particulars of a residential mortgage transaction; or
4. violated any provision of the banking laws or regulations or other laws or regulations that apply to the licensee's business conduct.

EFFECTIVE DATE: October 1, 2011

§ 24 — *Unique Identifier on Documents*

The act requires any licensed loan processor or underwriter to clearly show his or her unique identifier (a number or other identifier assigned by system-established protocols) on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or websites, and any other documents as the banking commissioner establishes by rule, regulation, or order. By law, the same requirement applies for mortgage loan originators.

EFFECTIVE DATE: October 1, 2011

§ 25 — *Prohibited Acts*

The law prohibits anyone subject to the mortgage licensing law from taking numerous actions, including conducting any business in any of the mortgage licensee categories without a valid license or assisting or aiding and abetting any person in the conduct of such businesses without a valid license. The act extends these prohibitions to licensed processors or underwriters.

EFFECTIVE DATE: October 1, 2011

§§ 9, 26, 28 — *System-Related Requirements*

The law requires the commissioner to license and register mortgage lenders, correspondent lenders, brokers, and originators through the system. The act also requires him to license loan processors or underwriters through the system.

The act also extends to loan processors or underwriters various system-related requirements that already apply to other mortgage licensees. For example, under the act, the banking commissioner must require loan processors or underwriters to be licensed and registered through the system and allow the system to process applications for and maintain records on them. Loan processors or underwriters must submit to the system condition reports that contain information required by, and are in the form required by, the system.

EFFECTIVE DATE: October 1, 2011

§ 48 — *Residential Mortgage Fraud*

The act expands the reach of the criminal prohibition on residential mortgage fraud (see BACKGROUND) to include fraud committed by loan processors or underwriters. The law already applies the prohibition to (1) mortgage brokers, lenders, correspondent lenders, and loan originators and (2) anyone else who is a mortgagor on more than three mortgage loans or who purchases or sells more than three residential properties in 12 consecutive months.

EFFECTIVE DATE: October 1, 2011

§ 2 — *Confidentiality of Banking Department Records*

The law prohibits the Banking Department from disclosing certain records or subjecting them to public inspection or discovery. But this prohibition does not apply to records that are included in the system for public access relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators. The act extends this prohibition to the same types of records for loan processors or underwriters.

EFFECTIVE DATE: October 1, 2011

MORTGAGE LICENSES

§§ 3, 18 — *License Surrender*

By law, anyone issued a license by the banking commissioner (other than licenses issued under the securities and business investment laws) may surrender the license to the commissioner, in person or by registered or certified mail. The surrender does not affect (1) the licensee's civil or criminal liability or (2) the commissioner's ability to impose administrative penalties for acts committed before the surrender.

The act specifies that mortgage originators, brokers, lenders, correspondent lenders, and loan processors or underwriters seeking to surrender their licenses must file a request to surrender on the system in accordance with law. For purposes of the commissioner's authority regarding proceedings for license suspension, revocation, or refusal to renew, the act treats a request to surrender by such mortgage licensees the same as a surrender by other licensees.

Prior law required mortgage lender, correspondent lender, and broker licensees who intend to permanently leave the business of making residential mortgage loans or acting as a mortgage broker for any cause, including bankruptcy, license revocation, or voluntary dissolution, to file a license surrender request on the system for each office where the licensee intends to stop doing business. The act exempts licensees from filing the surrender request if they intend to stop doing business due to a license revocation.

The act applies similar requirements to mortgage loan originators and, effective October 1, 2011, loan processors or underwriters. It requires such licensees who intend to permanently stop originating loans or processing or underwriting them, respectively, during a license period for any cause, including bankruptcy, to file a license surrender request on the system. As is the case under the law for lenders, correspondent lenders, and brokers, the act (1) requires the licensees to file the surrender request within 15 days after stopping business, (2) provides that the requirement does not apply to those whose licenses have been suspended, and

(3) provides that a surrender is not effective until the commissioner accepts it.

EFFECTIVE DATE: Upon passage

§ 8 — Mortgage Loan Originator Definition

The banking law defines a mortgage loan originator, subject to certain exceptions, as someone who for compensation or gain, or the expectation of compensation or gain, (1) takes a residential mortgage loan application or (2) offers or negotiates residential mortgage loan terms. The act narrows the definition in one respect and broadens it in another.

Prior law excluded from the definition of mortgage loan originator people engaged solely as loan processors or underwriters, except for independent contractors. The act deletes this exception, thus providing that anyone engaged solely as a loan processor or underwriter is not a mortgage loan originator.

Prior law also excluded from the definition someone who only renegotiates terms for existing mortgages and did not otherwise act as an originator, unless the U.S. Department of Housing and Urban Development (HUD) or a court determined the individual needed to be licensed under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act). The act narrows this exclusion to individuals who renegotiate existing mortgage terms on a mortgagee's behalf. (PA 11-110 (§ 3), effective July 21, 2011, adds to this someone whom the federal Bureau of Consumer Financial Protection determines needs to be licensed under the S.A.F.E. Act).

EFFECTIVE DATE: October 1, 2011

§ 10 — Mortgage Loan Originator Licensing

With certain exemptions, existing law requires mortgage loan originators to be licensed. The act specifies that this requirement applies to those originating loans on a sponsor's behalf with respect to any loan primarily for personal, family, or household use that is secured by a mortgage or other consensual security interest on a dwelling, as defined in the federal Consumer Credit Protection Act (CCPA), or residential real estate upon which a dwelling, as defined in that act, is built or intended. Prior law applied the licensing requirement to those in the business of mortgage loan origination with respect to a dwelling as defined in the CCPA. The CCPA defines a dwelling as a residential structure or mobile home containing one to four family housing units or individual units of condominiums or cooperatives (15 U.S.C. § 1602).

Under prior law, a mortgage loan originator license was not effective during any period when the originator was not sponsored by a licensed lender, correspondent lender, or broker. The act also allows individuals or

entities who are exempt from mortgage licensing requirements, and who register on the system as exempt registrants for sponsoring purposes, to serve as sponsors.

EFFECTIVE DATE: October 1, 2011

§ 11 — Exemptions from Lender, Correspondent Lender, and Broker Licensing

By law, various financial institutions are exempt from mortgage licensing requirements. The exemption applies to any bank or out-of-state bank or Connecticut, federal, or out-of-state credit union, as long as the bank or credit union is federally insured, as well as to certain subsidiaries.

The act specifies that this exemption applies to licensing as a mortgage lender, correspondent lender, or broker. It also extends the exemption to (1) debt negotiation licensees, or people exempt from such licensure, who are negotiating or offering to negotiate residential mortgage terms as authorized by law and (2) anyone engaged solely in providing loan processing or underwriting services to licensed lenders, correspondent lenders, brokers, or financial entities exempt from such licensure as mentioned above.

The act also allows such exempt persons, as well as other individuals or entities that are exempt from lender or correspondent lender licensing requirements (see BACKGROUND) to register on the system as an exempt registrant to sponsor a mortgage loan originator or loan processor or underwriter without affecting the person's licensure exemption.

EFFECTIVE DATE: October 1, 2011

§§ 12, 18 — Application or Name Change Requirements for Lenders, Correspondent Lenders, and Brokers

In connection with an application for a mortgage lender, correspondent lender, or broker license, the act limits the need to file a bond with the commissioner to only an initial license application for the licensee's main office.

The act also specifies that when such licensees seek to change their name or address most recently filed in the system, they need to provide the commissioner with a bond rider or endorsement to the surety bond on file if the change relates to a main or branch office. The act also allows them to file an addendum to the surety bond. The bond rider, endorsement, or addendum must reflect the new name or address of the main or branch office (see § 21 for more changes to the surety bond requirement).

Existing law requires such applicants to submit information required by the commissioner on the background of the applicant as well as the applicant's principals, employees, and mortgage loan originators.

The act adds to this list background information pertaining to the applicant's loan processors or underwriters.

EFFECTIVE DATE: Upon passage

§§ 14, 15 — Automatic License Suspension

The act allows the commissioner to automatically suspend the license of a mortgage lender, correspondent lender, broker, originator, or loan processor or underwriter if the licensee receives a deficiency on the system indicating that the required license renewal payment was returned or not accepted. The commissioner must notify the licensee of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to law and an opportunity for a hearing in accordance with law. After such a suspension, the commissioner must also require the licensee to take or refrain from taking actions that, in his opinion, would effectuate the law's purposes.

EFFECTIVE DATE: October 1, 2011

§ 16 — License Abandonment

By law, the commissioner may deem mortgage lender, correspondent lender, broker, and originator license applications abandoned and keep the application fee if the applicant fails to respond to any request for information under the mortgage licensing statutes or regulations. The act extends this provision to applications for loan processor or underwriter licenses. It also extends it to requests for information under the law or regulations regarding participation in the system, notice of discriminatory lending practices, and certain other provisions pertaining to (1) mortgages, (2) prohibited acts by mortgage licensees, and (3) the banking commissioner's investigation and examination authority.

The law requires the commissioner to notify the applicant in writing that the application is deemed abandoned if the information is not submitted within 60 days. The act specifies that the notice must be on the system.

By law, abandonment in this manner does not prevent the applicant from submitting a new application.

EFFECTIVE DATE: Upon passage

§ 17 — Prelicensing Education, Testing, and Continuing Education

By law, mortgage lenders, correspondent lenders, and brokers seeking licensure must have qualified individuals at the main office and branch managers at each branch office who (1) meet certain experience requirements, (2) have completed prelicensing education requirements, and (3) have passed a written test developed by the system. Mortgage loan originator

applicants must also complete prelicensing education requirements and pass a written test to be licensed and meet continuing education requirements for license renewal.

The act makes several changes related to these requirements.

Extension of Requirements. The act extends to loan processor or underwriter applicants and licensees the requirements described above that apply for originator applicants and licensees, respectively. It also extends the annual continuing education requirement to qualified individuals and branch managers. By law, this continuing education requirement includes at least eight hours of instruction, including a minimum of (1) three hours on relevant federal law and regulation, (2) two hours on ethics (fraud, consumer protection, and fair lending) and (3) two hours on lending standards for the nontraditional mortgage marketplace.

Course or Test Site. The act specifies that prelicensing and education courses may be provided by the employer of the individual taking the test or the employer's subsidiary or affiliate, if such courses are approved by the system. It allows a system-approved test provider to administer a test at (1) the tested individual's employer, (2) a subsidiary or affiliate of the employer, or (3) any entity where the tested individual acts as a qualified individual or branch manager.

Retaking the Test. The act increases, from three to four, the number of consecutive times an individual may retake a test, with each test occurring at least 30 days after the previous one, before the individual must wait at least six months to retake the test.

Prior law required a licensed mortgage lender, correspondent lender, broker, or originator to retake the test if he or she failed to maintain a valid license for five years or longer, not counting the time an individual was a registered mortgage loan originator. The act instead requires the following people to retake the test:

1. a mortgage loan originator who (a) was licensed after the prelicensing and testing requirements took effect and (b) was not licensed as a mortgage loan originator within the five years before applying for an originator license, not counting any time he or she was a registered mortgage loan originator;
2. a qualified individual or branch manager, who (a) held that position after the prelicensing education and testing requirements took effect, and (b) did not hold that position within the five years before the filing on the system designating the individual as a qualified individual or branch manager, unless (c) he or she was a licensed mortgage loan originator during those five years, not counting time he or she was a registered mortgage loan originator; and

3. someone licensed as a loan processor or underwriter who applies to be licensed again, if he or she was not licensed as a loan processor or underwriter within the five years before the application, not counting the time he or she processed or underwrote loans but was not required to be licensed by the act.

Course Credit. The act allows qualified individuals, branch managers, and licensed loan processors or underwriters to receive credit for a continuing education course only in the year in which the course is taken and prohibits them from taking the same approved course in the same or successive years to meet the annual continuing education requirements.

It also allows qualified individuals, branch managers, or licensed loan processors or underwriters who are approved instructors of an approved continuing education course to receive credit for their own annual continuing education requirement at the rate of two hours credit per one hour taught. These provisions already apply to mortgage loan originators.

Renewal or Relicensing Requirements. The act requires previously licensed loan processors or underwriters to complete the continuing education requirements for the last year in which they held the license before they may receive or renew a license. This requirement already applies to mortgage loan originators.

The act imposes continuing education requirements on people who were licensed under the mortgage licensing statutes after the prelicensing and testing requirements took effect, are no longer licensed, and are applying for relicensing. Such people must prove that they completed the continuing education requirements for the year in which they last held the license.

The act requires a qualified individual or branch manager who no longer holds such a position to complete the continuing education requirements for the last year in which he or she held the position before the individual can hold such a position again. It also requires an individual who previously held a position as a qualified individual or branch manager after the effective date of the prelicensing and testing requirements to complete all continuing education requirements for the year in which the individual last held such a position, before the individual may hold such a position again.

EFFECTIVE DATE: Upon passage, except the requirements apply to loan processors or underwriters starting October 1, 2011.

§ 19 — Filing with the System or Commissioner

The law requires mortgage loan originator licensees to promptly file with the system or notify the commissioner in writing if certain events occur. The act

also requires such filing or notice for any change in the information most recently submitted in connection with the license, and extends these requirements to loan processor or underwriter licensees.

By law, the filing or notification is required upon:

1. the licensee's filing for bankruptcy;
2. the filing of a criminal indictment against the licensee; or
3. the licensee's receiving notice of the institution of license or registration denial, cease and desist, suspension, or revocation procedures, other formal or informal regulatory actions by a government agency, or actions by any state's attorney general against the licensee and the reasons for such proceedings.

EFFECTIVE DATE: Upon passage, except the requirements apply to loan processors or underwriters starting October 1, 2011.

§ 20 — Originator Licensing Fee Refunds

Prior law provided that originators could receive a refund for fees paid for a license that was not sponsored by a lender, correspondent lender, or broker. Otherwise, mortgage licensing fees are not refundable. The act deletes the exception for unsponsored originators, thus making nonrefundable all licensing fees for originators, as well as lenders, correspondent lenders, brokers, and loan processors or underwriters.

EFFECTIVE DATE: October 1, 2011

§ 21 — Surety Bonds

General Requirements. By law, mortgage lender, correspondent lender, and broker licensees must file surety bonds with the banking commissioner. Mortgage loan originators must also be covered by surety bonds, with the coverage provided through the sponsor's bond. The bonds must be written by a surety authorized to write bonds in the state, and the attorney general must approve the bonds' form.

The act specifies that each licensed mortgage lender, correspondent lender, and broker must file a single surety bond covering its main office, as well as an addendum to the bond covering any branch office. It also requires such bonds to cover all originators the licensee sponsors. It specifies that the bond runs concurrently with the period of the license for the licensee's main office.

The act allows originators to be covered by a surety bond through exempt registrant sponsors effective October 1, 2011, as well as lender, correspondent lender, and broker sponsors. For all exempt registrants, the act requires the bond to cover all originators they sponsor.

The act requires the principal on a bond to confirm annually that it maintains the required penal sum as established by the act. For exempt registrants, the requirement is effective October 1, 2011. By September 1, 2011 for licensees, and September 1, 2012 for exempt registrant sponsors, and every September first after that, the principal must file information as the commissioner requires. By September 1 of the applicable year, or another date the commissioner requires, the principal must file a bond rider or endorsement to the surety bond on file to reflect any changes necessary to maintain the act's required surety bond coverage.

Penal Sums for Specified Groups. Under prior law, the penal sum of the required bonds had to be maintained in an amount that reflected the amount of loans originated by the licensee or originator, as determined by the commissioner. The act changes the required bond penal sums, in the following minimum amounts.

For applicants for an initial mortgage lender or correspondent lender license, the required amount is \$100,000. For initial mortgage broker applicants, the required amount is \$50,000. For all such applicants, the amount is in connection with its application for its main office.

Effective October 1, 2011, individuals or entities who are exempt from licensure, and who register on the system as an exempt registrant for purposes of sponsoring a mortgage loan originator or loan processor or underwriter, must file bonds in the following penal sums:

1. federally insured banks or credit unions, as well as certain subsidiaries of such entities, that are exempt from mortgage lender, correspondent lender, or broker licensing requirements (see § 11 above): \$100,000, required the first time the registrant sponsors a mortgage loan originator; and
2. various individuals or entities that are exempt from mortgage lender or correspondent lender licensing requirements, such as anyone making five or fewer residential mortgage loans in a year and various entities that make mortgages for specified and limited purposes (see BACKGROUND): \$50,000, required the first time the registrant sponsors a mortgage loan originator.

The required amounts increase depending on the amount of originated loans. For (1) mortgage lender, correspondent lender, and broker licensees and (2) after October 1, 2011, the exempt registrants described above who are sponsoring and bonding at least one originator, the act ties the required bond amount to the aggregate dollar amount of the residential mortgage loans the licensee or exempt registrant originated in the preceding 12-month period ending July 31 of the current year, as

shown in Tables 1 and 2. The act specifies that for licensees, the aggregate amount includes all loans originated by the licensee at all licensed locations.

Table 1: Required Bond Amounts for Mortgage Lender Licensees, Correspondent Lender Licensees, and After October 1, 2011, Financial Entity Exempt Registrants

<i>Aggregate Amount of Residential Mortgage Loans Originated in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$100,000
\$30 million or more but less than \$100 million	\$200,000
\$100 million or more but less than \$250 million	\$300,000
\$250 million or more	\$500,000

Table 2: Required Bond Amounts For Mortgage Broker Licensees And After October 1, 2011, Specified Other Exempt Registrants

<i>Aggregate Amount of Residential Mortgage Loans Originated in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$50,000
\$30 million or more but less than \$50 million	\$100,000
\$50 million or more	\$150,000

(See § 44, below, for bond requirements applying to licensed debt negotiators, or those exempt from such licensure, who negotiate or offer to negotiate residential mortgage terms and are exempt from mortgage lender, correspondent lender, or broker licensing requirements.)

The act provides that the aggregate amount of all residential mortgage loans originated by a licensee, or, after October 1, 2011, by an exempt registrant, includes the aggregate amount of all closed residential mortgage loans that the licensee or exempt registrant originated, brokered, or made, as applicable.

The act requires principals to file with the commissioner, as he requires, financial information needed to verify the aggregate amount of residential mortgage loans originated. This information must also be reported on the system when and in a form the system requires.

The act allows the commissioner to require a change in the penal sum of the bond if he determines that the aggregate dollar amount of all residential mortgage loans originated warrants such a change.

Bond Cancellation. By law, a surety company can cancel a bond. The act makes a conforming change to reflect that the company must notify the principal on the bond before cancelling, whether the principal is a licensee or exempt registrant. Before cancelling, the surety company also must notify the commissioner, who must then provide written notice of the cancellation date to the principal. The act specifies that this notice counts as notification to each originator licensee that the principal sponsors.

Under existing law, the commissioner must automatically suspend a lender, correspondent lender, or broker's license on the bond cancellation date unless the licensee, before that date, (1) submits either a letter of bond reinstatement from the surety company or a new bond or (2) the licensee has stopped business and surrendered its license according to law. The act provides that on the bond cancellation date, the commissioner must also inactivate the licenses of the mortgage originators that the licensee or exempt registrant sponsors. This requirement applies to exempt registrants on and after October 1, 2011. The inactivation does not occur if the principal complies with provision (1) above or the licensee sponsor complies with provision (2) above by surrendering all licenses.

The license of a mortgage loan originator who was sponsored by (1) a licensee whose license was automatically suspended or (2) after October 1, 2011, an exempt registrant who failed to provide the required bond, is not inactivated if the sponsorship has ended and a new sponsor had been requested and approved.

Effective October 1, 2011, the act allows the commissioner to provide information to the exempt registrant about actions he takes related to a bond cancellation against an originator licensee for which the exempt registrant has provided sponsorship and a bond. EFFECTIVE DATE: July 1, 2011

§ 27 — Challenges to System Information

Prior law required the commissioner to establish a process for mortgage lenders, correspondent lenders, brokers, and originators to challenge information the commissioner enters into the system. The act deletes the reference to a commissioner-established process, and instead provides that such mortgage professionals, as well as loan processors or underwriters, may challenge information the commissioner enters into the system.

The act specifies that the challenge to the commissioner must be in writing. The challenge must include the specific challenged information and evidence supporting the challenge. The act limits the challenge to the factual accuracy of information within the system. It requires the commissioner to promptly correct information entered into the system that he determines is factually inaccurate.

The act specifies that these provisions do not allow someone to challenge the merits or factual basis of an administrative action the commissioner takes pursuant to the banking laws.

EFFECTIVE DATE: Upon passage, except the provision is effective for loan processors or underwriters on October 1, 2011.

OTHER LICENSES

§§ 29, 32, 34, 35, 38, 40, 47 — License Abandonment for Failure to Provide Information

The act allows the banking commissioner to deem an application for specified licenses abandoned if the applicant fails to respond to any request for information required under the applicable statutes or regulations. The licenses are for sales finance companies, small loan lenders, check cashing businesses, money transmission businesses or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agencies.

The act requires the commissioner to notify the applicant in writing that the application is deemed abandoned if the information is not submitted within 60 days. It allows the Banking Department to keep the application fee for abandoned applications but provides that abandonment does not prevent the applicant from submitting a new application.

EFFECTIVE DATE: October 1, 2011

§§ 29, 32, 34, 35, 38, 40, 47 — Criminal History Information and Background Checks

The act requires applicants for sales finance companies, small loan lenders, check cashing businesses, money transmission businesses or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agency licenses to include a complete history of criminal convictions for themselves and specified individuals connected with them. Prior law required a history of criminal convictions for only the 10-year period preceding the application.

The act also authorizes the banking commissioner to conduct state and national criminal background checks on applicants for these licenses and certain other individuals connected to the applicants. For example, for check cashing businesses, he may require background checks of the applicant as well as each member, officer, director, authorized agent, and shareholder owning at least 10% of the applicant's outstanding stock. The criminal background check must comply with current requirements for background checks.

By law, state background checks are conducted by the State Police Bureau of Identification. National background checks are conducted by the FBI.

EFFECTIVE DATE: October 1, 2011

*§§ 30, 31, 34, 36, 38, 40, 47 — Banking
Commissioner's Authority to Deny Application Based
on Criminal Convictions*

By law, the banking commissioner may deny license applications for sales finance companies, small loan lenders, check cashing businesses, money transmission businesses or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agencies if he finds that the applicant or specified individuals connected with the applicant have been convicted of (1) a misdemeanor involving any aspect of the business for which the applicant seeks licensure or (2) a felony. The act extends this to any such conviction, not just those falling within the 10 years preceding the application. By law, any such license denial, when applicable, must comply with existing law on license denials due to criminal convictions.

EFFECTIVE DATE: October 1, 2011

*§ 36 — Money Transmission Businesses or Connecticut
Payment Instrument Issuer Applicant Misdemeanor
Convictions*

The act expands the type of misdemeanor that could lead to denial of a license for money transmission businesses or payment instrument issuer applicants. Prior law specified that the misdemeanor must involve an aspect of the money transmission business or the business of issuing Connecticut payment instruments. The act allows the commissioner to deny a license for a misdemeanor involving the business of issuing any payment instrument, not just a Connecticut instrument.

EFFECTIVE DATE: October 1, 2011

*§ 47 — Consumer Collection Agency Applicant
Criminal History Information*

The act adds to the list of people required to submit criminal history information in connection with an application for a consumer collection agency license. Depending on the form of the proposed business, the act requires partners, members, officers, directors, and principal employees, as well as applicants, to submit a history of their criminal convictions. Prior law required only applicants to submit this information. The act also requires applicants and such other people to submit sufficient information about their criminal history in a form acceptable to the banking commissioner.

The act also requires the commissioner to inquire into these individuals' qualifications, and allows him to deny an application due to any such individual's criminal conviction. Prior law imposed these requirements only for applicants. (But he may deny a renewal application only for an applicant's conviction, and not those of such other people.)

The act also allows the commissioner to require all such individuals to submit to criminal background checks, as outlined above.

EFFECTIVE DATE: October 1, 2011

§ 5 — Debt Negotiation — Examination Costs

The act adds debt negotiators to the list of licensees who must pay to the banking commissioner the actual cost of any examination of the licensee, as determined by the commissioner. As with other licensees specified by law, the act allows the commissioner to suspend a debt negotiation license for failure to pay for an examination within 60 days of receiving the commissioner's demand for payment.

EFFECTIVE DATE: Upon passage

*§ 15, 40, 41 — Debt Negotiation — Scope and Mortgage
Origination*

The law generally requires someone who is engaging or offering to engage in debt negotiation in the state to be licensed.

Under prior law, someone whose place of business was located outside Connecticut was considered to be engaging in debt negotiation in Connecticut if (1) the debtor was a Connecticut resident who negotiated or agreed to the terms of the services contract in person, by mail, by telephone, or via the Internet while physically present in this state or (2) the contract concerned a debt that was secured by property located in Connecticut. The act deletes the requirement that the debtor be physically present in Connecticut when negotiating or agreeing to terms. It also deletes the requirement of a contract under both options, referring to services instead.

The act prohibits anyone who is not a licensed mortgage loan originator, or exempt from such licensure, from engaging or offering to engage in debt negotiation of a residential mortgage loan on a mortgagor's behalf, for or with the expectation of compensation or gain. The act also prohibits debt negotiation licensees, or those exempt from such licensure, from allowing anyone who is not a licensed originator or exempt from such licensure to engage or offer to engage in such activity for or with the expectation of compensation or gain.

The act provides that anyone who engages in debt negotiation as specified above and who is required to be licensed as a mortgage loan originator must comply with the law's requirements for originator licensees. Such individuals must also meet the surety bond requirements that apply to originators and debt negotiators.

EFFECTIVE DATE: October 1, 2011

§ 37, 43 — Debt Adjustment and Negotiation – Modification of Attorney Exemption

Prior law exempted attorneys admitted to practice in Connecticut from debt adjustment or negotiation licensing when engaged in such activities. The act narrows this exemption by specifying that it only applies if the attorney engages in debt adjustment or negotiation as an ancillary matter to the attorney's representation of a client.

EFFECTIVE DATE: October 1, 2011

§ 42 — Debt Negotiation – Commissioner Enforcement

By law, the banking commissioner may suspend, revoke, or refuse to renew a debt negotiation license or take any other action in accordance with the applicable banking statutes in specified circumstances. These include any reason sufficient for the commissioner to deny a license application under the debt negotiation laws. The act allows the commissioner to suspend, revoke, or refuse to renew a license under the same conditions he may deny a license under the provisions above concerning mortgage loan originators (or those exempt from such licensure) who engage or offer to engage in debt negotiation of a residential mortgage loan on a mortgagor's behalf, for or with the expectation of compensation or gain.

Additionally, the commissioner may take action against the person or licensee under his general powers under the banking statutes whenever (among other reasons) it appears that a person has violated, is violating, or is about to violate the debt negotiation laws. The act adds to this list the provisions on originators in the previous paragraph. It also specifies that for purposes of those provisions as well as other provisions of the debt negotiation laws, each engagement and offer to engage in debt negotiation constitutes a separate violation.

Prior law allowed the commissioner, upon complaint, to review fees or charges assessed by a person offering debt negotiation services and order a reduction or repayment of the amount that the commissioner deems excessive, taking into consideration the fees that others performing similar debt negotiation services charge for them and the benefit of the services to the consumer. He can do this under his general investigative power. The act allows the commissioner to review any fees or charges assessed by a person engaging or offering to engage in debt negotiation services (rather than just offering such services).

EFFECTIVE DATE: Upon passage

§ 44 — Debt Negotiation – Surety Bond

Prior law required applicants for a debt negotiation license or renewal to file with the commissioner a surety bond in the aggregate amount of \$40,000 for all licensed locations in order for a license or renewal to be granted. The act increases the amount of the required bond, as specified below. It requires the surety bond in connection with the license application or licensing of the main office, and requires applicants and licensees to identify branch offices as bonded locations by addendum to the required main office surety bond.

Under the act, initial applicants for a debt negotiation license must file a bond in a penal sum of \$50,000.

Debt negotiation licensees who are (1) sponsoring and bonding at least one mortgage loan originator; (2) exempt from licensing as a mortgage lender, correspondent lender, or broker; and (3) registered as exempt registrants for sponsoring purposes, must file a bond in the amounts shown in Table 3. The amounts are tied to the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated by all sponsored mortgage loan originators during the preceding 12-month period ending July 31 of the current year. The act specifies that the aggregate amount of all residential mortgage loans negotiated or offered to be negotiated is the aggregate underlying dollar amount of all residential mortgage loans for which a sponsored mortgage loan originator provides debt negotiation services.

Table 3: Required Bond Amounts for Debt Negotiation Exempt Registrant Sponsors

<i>Aggregate Amount of Negotiated Residential Mortgage Loans in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$50,000
\$30 million or more but less than \$50 million	\$100,000
\$50 million or more	\$150,000

Under the act, the bond principal must annually confirm that it maintains the required penal sum. Annually, beginning September 1, 2012, a licensee must file with the commissioner such information as the commissioner requires to confirm that the penal sum of the bond remains consistent with the amount the act requires. By September 1 of the applicable year, or another date the commissioner requires, the principal must file any bond rider or endorsement to the surety bond on file to reflect any necessary changes to maintain the required bond coverage.

Existing law specifies that any filed surety bond must be conditioned upon the debt negotiation licensee faithfully performing any and all written agreements with debtors and conducting such business according to the debt negotiation laws. The act extends these requirements to originator licensees that the debt negotiation licensee sponsors. It also extends these requirements to the faithful performance of all written agreements and commitments with or for the benefit of debtors and mortgagors, as applicable. This includes truly and faithfully accounting for funds the bond principal or sponsored originator receives from a debtor or mortgagor. It also extends these requirements to conducting business consistent with the law regarding mortgage licensing, participation in the system, and notice of discriminatory lending practices.

The act specifies that mortgagors, as well as other debtors, can proceed on any such surety bond against the principal or surety, or both, to recover damages for the failure to meet these requirements. It also allows debtors or mortgagors to take such actions to recover damages for the wrongful conversion of funds that a debtor or mortgagor paid to a debt negotiation or originator licensee.

By law, the commissioner can proceed on any such surety bond against the principal or surety, or both, to collect any civil penalty imposed on the licensee under the banking statutes. The act also allows him to do this to collect any unpaid examination costs of a licensee as determined by the banking statutes.

The act requires the principal to notify the commissioner of the commencement of an action on the bond. When an action is begun, the commissioner may require the principal to file a new bond. The principal must file a new bond immediately on recovery on any action on a bond. The act allows any mortgagor or prospective mortgagor damaged by a debt negotiation or originator licensee's failure to satisfy a judgment against the licensee arising from the negotiation of or offer to negotiate a nonprime home loan to proceed on the bond against the principal or surety, or both, to recover the judgment amount.

The law allows a surety to cancel the bond at any time by notifying the licensee in writing stating the effective date of the cancellation. The notice must be sent at least 30 days before the cancellation date. The surety must also give 30 days' notice to the banking commissioner. The law requires the commissioner, after the surety notifies him of the effective date of a bond cancellation, to give written notice to the licensee of the cancellation date. The act specifies that these notifications must be given to the debt negotiation licensee.

Prior law required the commissioner to automatically suspend someone's debt negotiation license on the bond cancellation date, unless before then the licensee (1) submitted a new bond or a letter of bond reinstatement from the surety or (2) surrendered the license. The act requires the commissioner to suspend the licenses of the debt negotiation licensee, and inactivate the sponsored originator's license, unless the debt negotiation licensee takes actions (1) or (2) above (including surrendering all licenses), or for sponsored originators, the sponsorship has ended and a new sponsor has been requested and approved.

The act requires financial information needed to verify the aggregate amount of residential mortgage loans negotiated or offered to be negotiated to be (1) filed with the commissioner as he requires and (2) reported on the system when and in the form the system requires. The commissioner may require a change in the penal sum of the bond if he determines that the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated warrants such a change.

The act also allows the commissioner to adopt regulations with respect to the law's requirements for debt negotiation surety bonds.

EFFECTIVE DATE: October 1, 2011

§ 49 — INVESTMENT ADVISERS

State law requires investment advisers to register with the banking commissioner, unless they meet specified criteria. One exemption is for investment advisers who are excepted from the definition of investment adviser under federal law. The act exempts these advisers from requirements that they (1) file with the commissioner a notice of exemption from state registration along with a consent to service of process and (2) pay a \$250 fee. The act also eliminates the commissioner's authority to require full state registration if such advisers fail to pay this fee.

State law defines an investment adviser as anyone who, for compensation, (1) engages in the business of advising others, either directly or through publications or writings, on the value of securities or the advisability of investing in, buying, or selling securities or (2) as part of a regular business, issues or promulgates analyses or reports about securities. This definition tracks that in federal law. Both federal and state law also specify several exclusions from the definition (e.g., banks that meet certain criteria; publishers of financial newspapers or magazines; and lawyers, accountants, engineers, or teachers whose performance of such services is solely incidental to their profession).

EFFECTIVE DATE: Upon passage

GENERAL REQUIREMENTS

§ 1 — Scope of Banking Laws

The act specifies that Connecticut's banking laws apply to loan processors or underwriters as well as people offering or engaging in debt negotiation. The banking law already applies to several categories of businesses and occupations (including several categories of mortgage professionals) as well as to other people who subject themselves to its provisions or who, by violating any of its provisions, become subject to its penalties.

EFFECTIVE DATE: October 1, 2011

§ 4 — Fraudulent Conduct

Prior law prohibited individuals licensed or registered with the banking commissioner, in connection with activities for which they are licensed or registered, from (1) using methods to defraud, (2) making a false statement or omitting a material fact, or (3) engaging in any fraudulent activity. The act extends these prohibitions to any individuals, companies, or other legal entities in connection with any activity subject to the commissioner's jurisdiction.

By law, violators face fines of \$25 to \$1,000 per offense. If the violation is willful and deliberate, the penalty for each offense is up to a year's imprisonment, up to a \$1,000 fine, or both (CGS § 36a-57).

EFFECTIVE DATE: October 1, 2011

FINANCIAL TRANSACTIONS

§ 6 — Limitation on Bank Transfers

Under prior law, a Connecticut bank could permit transfers by negotiable withdrawal order from savings accounts in which a for-profit organization held a beneficial interest, if the deposit contract allowed the depositor to make no more than three transfers by negotiable withdrawal order or check during any month or statement cycle of at least four weeks. The act applies the limitation to any types of transfers, including the following that prior law exempted:

1. preauthorized or automatic transfers made by other means;
2. telephone transfers;
3. transfers to the bank where the savings account is held to repay loans and associated expenses and to cover overdrafts; and
4. transfers to another account the depositor has at the bank and withdrawals when the transfers or withdrawals are made by mail, messenger, automated teller machine, or in person.

The act also changes the limit on the number of permitted transfers from three to the number permitted by the applicable Federal Reserve regulation. The Federal Reserve allows up to six transfers or withdrawals per calendar month or four-week statement cycle (12 C.F.R § 204.2(d)(2)).

The act provides that the transfer limitation may be in the bank's practice as well as the terms of the deposit contract.

EFFECTIVE DATE: Upon passage

§ 23 — Increases of Mortgage Interest Rate Due to Default

For mortgage applications received on or after October 1, 2009, the law generally prohibits mortgage lenders and correspondent lenders from including in a mortgage a provision that increases the interest rate as a result of default. The act specifies that this prohibition applies only to residential mortgage loans.

By law, this prohibition does not apply if (1) the default is a failure to comply with a provision to maintain an automatic electronic payment feature, (2) the provision was provided in return for an interest rate reduction, and (3) the increase is no greater than the reduction.

EFFECTIVE DATE: Upon passage

§ 45 — Nonprime Home Loans

The law sets criteria for what constitutes a nonprime home loan, imposes various requirements on making these loans, and restricts allowable provisions in such loans. In practice, a nonprime home loan is one generally made to a relatively risky borrower and thus has a higher interest rate and stricter repayment terms. The law provides a method for identifying these loans.

Among various other requirements, the law specifies that a nonprime home loan is one in which the difference, at the time of consummation, between the loan's annual percentage rate (APR) and the conventional mortgage rate is at least 1.75% for a first mortgage or 3.75% for a second mortgage. The conventional mortgage rate is the contract interest rate on commitments for fixed-rate mortgages published by the Federal Reserve during the week before the week in which the loan's interest rate is set. The act provides that the conventional mortgage rate is the most recent contract rate as determined above. It also specifies that the first day of each such week is the effective date of the applicable prime offer rate, as of the date the interest rate is set.

The law also provides that a nonprime home loan is one in which the difference, at the time of consummation, between the APR and the average prime offer rate for a comparable transaction, as of the date the

interest rate is set, is greater than 1.5% if the loan is a first mortgage loan or 3.5% if the loan is a secondary mortgage loan.

The act specifies that for these purposes, the date the loan's interest rate is set is the last date on which the rate is set, provided the rate is adjusted on or before consummation.

The act reinstates the banking commissioner's authority to increase these interest rate parameters after considering relevant factors, which expired on August 31, 2010.

EFFECTIVE DATE: Upon passage

§ 46 — *Influencing Residential Real Estate Appraisals*

The law prohibits anyone from influencing residential real estate appraisals and provides examples of prohibited actions related to influencing such appraisals. The act defines "influence residential real estate appraisals" as directly or indirectly coercing, influencing, or otherwise encouraging an appraiser to misstate or misrepresent the value of residential property.

EFFECTIVE DATE: Upon passage

BACKGROUND

Exemption from Mortgage Lender or Correspondent Lender Licensing

In addition to those listed above who are exempt from mortgage licensing requirements, the following are exempt from licensure as a mortgage lender or correspondent lender:

1. people or entities making five or fewer residential mortgage loans within a 12-month period;
2. bona fide nonprofit corporations making residential mortgage loans to promote home ownership for economically disadvantaged people;
3. federal, state, municipal, or quasi-governmental agencies making residential mortgage loans under the authority of federal or any state's law;
4. people or entities licensed as small loan lenders when making residential mortgage loans authorized by law;
5. people or entities owning real property who take back from the buyer of such property a secondary mortgage loan in lieu of any portion of the purchase price;
6. a corporation or its affiliate that makes residential mortgage loans exclusively for its employees' or agents' benefit;
7. a licensed insurance company or health care center, or its affiliate or subsidiary, that makes

residential mortgage loans to promote home ownership in urban areas;

8. people or entities acting as fiduciaries for any employee pension benefit plan qualified under the Internal Revenue Code, who make residential mortgage loans solely to plan participants from plan assets; and
9. people making secondary mortgage loans to individuals related to them by blood or marriage (CGS § 36a-487(b)).

Residential Mortgage Fraud

Residential mortgage fraud is either a class D felony (for a single act) or a class C felony (multiple acts) (see Table on Penalties).

By law, a person commits residential mortgage fraud when, for financial gain and with the intent to defraud, the person:

1. knowingly makes a material written misstatement, misrepresentation, or omission during the mortgage lending process with the intention that a mortgage lender, correspondent lender, broker, borrower, or anyone else involved in the mortgage lending process will rely on it;
2. knowingly uses, facilitates the use, or attempts to use or facilitate the use of a written misstatement, misrepresentation, or omission during the mortgage lending process with the intention that a mortgage lender, correspondent lender, borrower, or anyone else involved in the mortgage lending process relies on it;
3. receives or attempts to receive proceeds or other funds in connection with a residential mortgage closing that the person knew or should have known resulted from an act or acts constituting residential mortgage fraud; or
4. conspires with or solicits another to engage in an act or acts constituting residential mortgage fraud (CGS § 53-379a).

PA 11-241—sHB 6497

Banks Committee

Appropriations Committee

AN ACT CREATING JOBS BY ENHANCING CONNECTICUT'S CORPORATE AND SECURITIES LAWS

SUMMARY: This act creates a mechanism for specified business entities to change their entity type through mergers, conversions, and interest exchanges. It also allows domestications, through which a business entity becomes an entity of the same type in

Connecticut or another jurisdiction. Subject to various conditions, the act allows these transactions to involve both domestic and foreign entities. The act is based on the Model Entity Transactions Act (see BACKGROUND).

The act does not affect existing law for transactions involving the same entity types (for example, a share exchange between two corporations or the merger of two partnerships). However, it generally replaces prior law's provisions for changing from one entity type to another (for example, provisions allowing a partnership to merge with a limited liability company (LLC)).

Prior law authorized some, but not all, of the transactions covered by the act. In most cases, the act's mechanism replaces prior law. But the act does not repeal a provision in existing law regarding domestic corporations' power to acquire interests in other entities. It permits certain transactions not covered by prior law, but bars certain mergers prior law permitted. The act standardizes procedures for transactions involving different entity types.

To enter into one of these transactions, specified parties must approve a transaction plan. The act sets the plan's contents as well as which entities must approve it and how they must do so. The approval method is largely tied to existing law for approval of such transactions. The act also provides how parties may amend or abandon a plan.

For the transaction to take effect, the act requires specified parties to the transaction to file documents with the secretary of the state and outlines their procedures and contents. The act also outlines the various consequences of the transactions, including how the parties succeed to the rights and liabilities of the entities involved in the transaction.

The act's procedural requirements are generally similar to those for transactions already permitted by law (for example, mergers or share exchanges of business corporations). In many cases the act's requirements are more detailed than those under existing law.

EFFECTIVE DATE: January 1, 2014

§ 9 — ENTITIES COVERED BY THE MODEL ENTITY TRANSACTIONS ACT

The act permits transactions involving both domestic and foreign entities, subject to limitations for particular transactions. It generally defines a domestic entity as one whose internal affairs are governed by Connecticut law.

The act generally applies to transactions involving the following entities:

1. business corporations;
2. professional service corporations;

3. general partnerships, including limited liability partnerships (LLPs);
4. limited partnerships, including limited liability limited partnerships; and
5. LLCs.

The act prohibits various other types of entities with a separate legal identity from participating in the transactions the new mechanism governs, and specifies that it must not be used to effect a transaction involving any of these prohibited entities. These prohibited entities include:

1. business corporations formed under special act;
2. cooperative associations formed under chapter 595;
3. cooperative marketing corporations formed under chapter 596;
4. electric cooperative corporations formed under chapter 597;
5. worker cooperative corporations formed under chapter 599a;
6. insurance companies, health care centers, and other corporations formed under chapters 697 and 698;
7. health care centers, related service groups, hospital service corporations, medical service corporations, and other corporations formed under chapter 698a;
8. prepaid legal service corporations formed under chapter 698b;
9. risk retention groups formed and organized under chapter 698;
10. fraternal benefit societies formed under chapter 700d;
11. banks, related organizations, and other corporations formed under chapters 664, 664b, and 666;
12. credit unions formed under chapter 667;
13. public service companies formed under chapter 277;
14. title insurance companies formed under chapter 700a;
15. out-of-state banks formed under chapter 666;
16. nondepository institutions formed under chapter 668;
17. nonprofit or not-for-profit corporations;
18. religious corporations and societies formed under chapter 598;
19. nonstock corporations formed under chapter 602;
20. unincorporated nonprofit associations;
21. cooperatives;
22. business trusts or statutory trust entities; and

23. any person, other than permitted entities, with a separate legal existence or the power to acquire an interest in real property in its own name other than (a) an individual; (b) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust entity, or similar trust; (c) an association or relationship that is not a partnership solely by reason of the law of any other jurisdiction; (d) a decedent's estate; or (e) a government, a governmental subdivision, agency, or instrumentality or quasi-governmental instrumentality.

The act does not apply to conversions, mergers, consolidations, interest exchanges, divisions, or other transactions governed by the act between or among entities of the same type. Existing law, unchanged by the act, permits mergers or other consolidations involving certain entities that are not covered by the act—for example, chapter 664c allows mergers involving banks and specified other financial entities.

PERMITTED TRANSACTIONS

§ 10 — Merger

The act defines a merger as a transaction in which two or more merging entities are combined into a surviving entity pursuant to a filing with the secretary of the state. A merging entity is a party that exists immediately before the merger takes effect. A surviving entity is one that continues in existence after a merger or that is created by a merger.

Subject to the exceptions outlined below, the act provides a mechanism for the merger of (1) one or more domestic entities with one or more domestic or foreign entities into a domestic or foreign surviving entity and (2) two or more foreign entities into a domestic entity. The act specifies that, as long as the merger is authorized by the law where a foreign entity is organized, that entity may be a party to, or the surviving entity of, the merger.

The act does not apply to mergers (1) involving entity types not covered by the act or (2) governed by existing law between:

1. two or more domestic corporations, or one or more domestic corporations and one or more foreign corporations;
2. two or more domestic limited partnerships, or one or more domestic limited partnerships and one or more foreign limited partnerships;
3. two or more partnerships or LLPs; or
4. two or more domestic LLCs, or one or more domestic LLCs and one or more foreign LLCs.

The existing law regarding such mergers is similar to the act's provisions.

§ 16 — Interest Exchange

The act creates a mechanism for interest exchanges between (1) a domestic entity and (2) another domestic entity or a foreign entity (but not between two foreign entities). Through such an interest exchange, one entity (the acquiring entity) acquires all of one or more of the other entity's (acquired entity) classes or series of interests, in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, other property, or any combination of these.

A foreign entity that complies with the act's requirements may be a party to an interest exchange, as long as the exchange is authorized by the law where it is organized.

The act defines an interest, unless the context otherwise requires, as a (1) governance or transferable interest in an unincorporated entity or (2) share or membership in a corporation.

By law, (1) a domestic corporation can acquire shares in another corporation or interests in another type of entity and (2) a foreign corporation can acquire the shares of a domestic corporation using a similar mechanism.

§ 22 — Conversion

The act creates a mechanism for a domestic entity to convert into (1) a domestic entity of a different type or (2) a foreign entity of a different type, as long as the conversion is authorized by the law of the foreign jurisdiction.

A foreign entity that complies with the act's requirements may convert into a domestic entity of a different type, as long as the conversion is authorized by the law where the entity is organized or the entity's organic rules.

The converting entity that continues in existence after a conversion is called the converted entity.

§ 28 — Domestication

The act also creates a mechanism for a domestic entity to become a domestic entity of the same type in a foreign jurisdiction, as long as the domestication is authorized by the law of the foreign jurisdiction. A foreign entity that complies with the act's requirements may become a domestic entity of the same type in Connecticut if the domestication is authorized by the law of its jurisdiction of organization.

For the act's provisions on domestications, a domestic entity means, with respect to a foreign jurisdiction, an entity whose internal affairs are governed by the law of that jurisdiction.

Under the act, the domesticating entity as it continues in existence after a domestication is called the domesticated entity.

§§ 11, 17, 23, 29 — PLAN REQUIREMENT AND CONTENTS

The act requires specified domestic entities seeking to enter a permitted transaction to approve a plan of merger, interest exchange, conversion, or domestication. The required approving parties are: for mergers, a party to the merger; for interest exchanges, the acquired entity; for conversions, a converting entity; and for domestications, a party becoming a foreign entity. For all four transaction categories, the plan must be in a record. Under the act, a record is information that is (1) inscribed on a tangible medium or (2) stored in an electronic or other medium and retrievable in perceivable form.

The act requires the following information in a plan, but the plan may contain other provisions that are not prohibited by law.

Identifying Information

Under the act, plans must contain:

1. for a merger: each merging entity's name, jurisdiction of organization, and type; and if the surviving entity is created in the merger, a statement to that effect and the entity's name, jurisdiction of organization, and type;
2. for an interest exchange: the acquired entity's name and type and the acquiring entity's name, jurisdiction of organization, and type;
3. for a conversion: the converting entity's name and type and the converted entity's name, jurisdiction of organization, and type; and
4. for a domestication: the domesticating entity's name and type and the domesticated entity's name and jurisdiction of organization.

Public Organic Documents and Private Organic Rules

Under the act, a public organic document is a public record whose filing creates an entity, as well as any amendment to or restatement of that record. Private organic rules are the rules, whether or not in a record, that govern an entity's internal affairs, are binding on its interest holders, and are not part of its public organic document, if any.

Plans must contain:

1. for a merger: if the surviving entity exists before the merger, any proposed amendments to that entity's public organic document or private organic rules that are, or are proposed to be, in a record; if the survivor is to be

created in the merger, that entity's proposed public organic document, if any, and the full text of its private organic rules that are proposed to be in a record;

2. for an interest exchange: any proposed amendments to the public organic document or private organic rules that are, or are proposed to be, in a record of the acquired entity;
3. for a conversion: the converted entity's proposed public organic document, if it will be a filing entity (meaning an entity that is created by filing a public organic document); and the full text of the converted entity's private organic rules that are proposed to be in a record; and
4. for a domestication: the domesticated entity's proposed public organic document if it is a filing entity, and the full text of its private organic rules that are proposed to be in a record.

For each type of transaction, the plan must also contain any other provisions required by the organic rules of a merging, acquired, converting, or domesticating entity, as applicable.

Other Required Laws

Under the act, plans must contain:

1. for a merger: any other provisions required by the law of a merging entity's jurisdiction of organization and
2. for other transaction categories: any other provisions required by Connecticut law.

Manner of Conversion and Other Terms

For each type of transaction, plans must also contain:

1. the manner of converting the interests in each merging party, acquired entity, converting entity, or domesticating entity into interests, securities, obligations, rights to acquire interests or securities, cash, other property, or any combination of these and
2. the transaction's other terms and conditions.

§§ 12, 18, 24, 30 — PLAN APPROVAL

Definitions

Under the act, "approve" means an entity's governors and interest holders taking whatever steps are necessary under its organic rules, organic law, and other law to (1) propose a transaction subject to the act, (2) adopt and approve the transaction's terms and conditions, and (3) conduct any required proceedings or

otherwise obtain any required votes or consents of the governors or interest holders.

A governor is a person by or under whose authority an entity's powers are exercised and under whose direction the entity's business and affairs are managed pursuant to its organic law and rules. An interest holder is a direct holder of an interest. An entity's organic rules are its public organic document and private organic rules. An entity's organic law refers to statutes (other than the act), if any, governing the entity's internal affairs.

Under the act, interest holder liability is:

1. personal liability for an entity's liability that is imposed on a person (a) solely because of the person's status as an interest holder or (b) by the entity's organic rules authorized by the organic law making one or more specified interest holders or categories of them liable in their capacity as interest holders for all or specified liabilities; or
2. an interest holder's obligation under an entity's organic rules to contribute to the entity.

Approval Process

The act provides that plans are not effective until approved, as specified below.

Under the act, approval must be in a record by each interest holder of a domestic merging, acquired, converting, or domesticating entity, as applicable, that has interest holder liability for liabilities that arise after the transaction takes effect. This requirement does not apply to an entity that is not a business corporation or, except for interest exchanges, not a nonprofit corporation if (1) the entity's organic rules provide in a record for the approval of an applicable transaction or a merger in which some or all of the entity's interest holders become subject to interest holder liability by the vote or consent of fewer than all interest holders and (2) the interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the provision was adopted.

The following additional requirements apply to specific transactions.

Merger

Under the act, for a domestic merging entity that is not a business corporation, the plan of merger must be approved in accordance with the requirements, if any, in its organic law and organic rules for merger approval. For example, the act requires a Connecticut LLC merging with a different entity type to approve the transaction as provided by Connecticut law for LLC mergers (CGS § 34-194) and the LLC's organic rules for merger approval.

For a domestic merging business corporation, the plan must be approved in accordance with any requirements in its organic law and rules for approval of a merger requiring approval by a vote of the corporation's interest holders.

If the entity's organic law and rules do not provide for approval of a merger requiring approval by the interest holders' vote, the plan must be approved by all of the entity's interest holders entitled to vote on or consent to any matter.

Interest Exchange

The plan must be approved by a domestic acquired entity, as follows:

1. in accordance with the requirements, if any, in its organic law and organic rules for approval of an exchange of interests;
2. if the organic law and rules do not provide for approval of an exchange of interests, then in accordance with the requirements, if any, in its organic law and rules for merger approval, as if the interest exchange were a merger; or
3. if the organic law and rules do not provide for approval of an exchange of interests or a merger, by all of the entity's interest holders entitled to vote on or consent to any matter.

The act specifies that, except as otherwise provided in its organic law or rules, an acquiring entity's interest holders do not have to approve the transaction.

Conversion

The plan must be approved by a domestic converting entity, as follows:

1. in accordance with the requirements, if any, in its organic rules for approval of a conversion;
2. if the organic rules do not provide for approval of a conversion, then in accordance with the requirements, if any, in its organic law and rules for approval of (a) for all entities other than a business corporation, a merger, as if the conversion were a merger or (b) for corporations, a merger requiring approval by a vote of the corporation's interest holders, as if the conversion were such a merger; or
3. if the organic law and rules do not provide for approval of a conversion or a merger as specified above, by all of the entity's interest holders entitled to vote on or consent to any matter.

Domestication

The plan must be approved by a domestic domesticating entity, as follows:

1. in accordance with the requirements, if any, in its organic rules for approval of a domestication;
2. if the organic rules do not provide for approval of a domestication, then in accordance with the requirements, if any, in its organic law and rules for approval of (a) for all entities other than a business corporation, a merger, as if the domestication were a merger or (b) for business corporations, a merger requiring approval by a vote of the corporation's interest holders, as if the domestication were such a merger; or
3. if the organic law and rules do not provide for approval of a domestication or a merger requiring approval by the interest holders' vote, by all of the entity's interest holders entitled to vote on or consent to any matter.

Foreign Entity Approval

Under the act, a transaction involving a foreign merging, acquired, converting, or domesticating entity is not effective unless it is approved by that entity in accordance with the law where it is organized. For a conversion, the act provides that alternatively, the transaction can be approved by the foreign entity in accordance with its organic rules.

§§ 13, 19, 25, 31 — PLAN AMENDMENT

The act outlines procedures for amending the plans of a domestic merging, acquired, converting, or domesticating entity. For all transaction categories, a plan may be amended in the same manner as it was approved, as long as the plan does not specify a different manner of amendment.

Alternatively, the plan may be amended by the entity's governors or interest holders in the manner provided in the plan. However, interest holders entitled to vote on or consent to approval of the transaction are entitled to vote on or consent to amendments that change:

1. the amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, other property, or any combination of these, to be received by the interest holders of any party to a merger or the acquired, converting, or domesticating entity;
2. the surviving, acquired, converted, or domesticated entity's public organic document or private organic rules that will be in effect immediately after the transaction takes effect, except for changes that do not require approval of that entity's interest holders under its organic law or rules; or

3. other plan terms or conditions, if the change would adversely affect the interest holder in a material respect.

§§ 13, 19, 25, 31 — PLAN ABANDONMENT

After a domestic merging, acquired, converting, or domesticating entity, as applicable, approves a plan, and before a transaction filing document (such as a certificate of merger) becomes effective, the plan may be abandoned (1) as provided in the plan or (2) in the same manner as it was approved, unless the plan prohibits it.

The act specifies procedures for a plan to be abandoned after a transaction filing document has been filed with the secretary of the state but before the filing takes effect. If this happens, a statement of abandonment (for mergers or domestications) or certificate of abandonment (for interest exchanges or conversions) must be filed with the secretary of the state before the transaction filing document takes effect. The statement or certificate of abandonment takes effect upon its filing.

The statement or certificate of abandonment must be signed on the entity's behalf and contain:

1. the entity's name (for mergers, the name of each merging or surviving entity that is a domestic or qualified foreign entity),
2. the transaction filing document filing date, and
3. a statement that the transaction has been abandoned in accordance with the act's requirements.

A qualified foreign entity is a foreign entity that is authorized to transact business in Connecticut pursuant to a filing with the secretary of the state.

§§ 14, 20, 26, 32 — TRANSACTION FILING DOCUMENTS

For each transaction category, the act requires a document to be filed with the secretary of the state. The documents are referred to as a certificate of merger (the act also refers to a statement of merger), certificate of interest exchange, certificate of conversion, or statement of domestication, as applicable. The documents take effect on the date and time of filing or when specified in the document. They must be signed on behalf of each merging entity or a domestic acquired, converting, or domesticating entity, as applicable.

Transaction filing documents must contain the following information. They may also contain any other lawful provision.

Effective Date

If the transaction filing document is not to be effective upon filing, the document must specify when it takes effect, which except for conversions, must be no later than 90 days after the filing date.

Identifying Information

The filing document must contain:

1. for a merger: the name, jurisdiction of organization, and type of (a) the surviving entity and (b) each merging entity that is not the survivor;
2. for an interest exchange: the acquired entity's name and type and the acquiring entity's name, jurisdiction of organization, and type;
3. for a conversion: both the converting and converted entity's name, jurisdiction of organization, and type; and
4. for a domestication: the domesticating entity's name, jurisdiction of organization, and type, and the domesticated entity's name and jurisdiction of organization.

Statements of Approval

The filing document must contain:

1. for a merger: a statement that the merger was approved by (a) each domestic merging entity, if any, according to the act's requirements and (b) each foreign merging entity, if any, according to the law of its jurisdiction of organization;
2. for an interest exchange: a statement that the plan of interest exchange was approved by the acquired entity, in accordance with the act's requirements;
3. for a conversion: if the converting entity is domestic, a statement that the conversion plan was approved according to the act's requirements; or if the converting entity is foreign, a statement that the conversion was approved by it according to the law of its jurisdiction of organization; and
4. for a domestication: if the domesticating entity is domestic, a statement that the domestication plan was approved according to the act's requirements; or if it is foreign, a statement that the domestication was approved in accordance with the law of its jurisdiction of organization.

Public Organic Documents

The filing document must contain:

1. for a merger: if the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic document approved as part of the merger plan; if the surviving entity is created by the merger and is a domestic filing entity, its public organic document, attached to the certificate (a domestic LLP created by the merger must attach its certificate of limited liability partnership);
2. for an interest exchange: any amendments to the acquired entity's public organic document approved as part of the plan of interest exchange;
3. for a conversion: if the converted entity is a domestic filing entity, the text of its public organic document, as an attachment; if it is a domestic limited liability partnership, the text of its LLP certificate, as an attachment; and
4. for a domestication: if the domesticated entity is a domestic filing entity, its public organic document, as an attachment; if it is a domestic LLP, its LLP certificate, as an attachment.

If the surviving entity of a merger, or the converted or domesticated entity, as applicable, is domestic, its public organic document, if any, must satisfy the requirements of Connecticut law, except it (1) need not be signed and (2) may omit any provisions that are not required to be included in a restatement of the public organic document.

Address for Service of Process

If the surviving entity of a merger, converted entity, or domesticated entity is a foreign entity that is not a qualified foreign entity, the filing document must contain a mailing address to which the secretary of the state may send any process served on the secretary pursuant to the act's requirements for the collection and enforcement of liabilities.

§§ 15, 21, 27, 33 — RESULT OF TRANSACTIONS TAKING EFFECT

The act specifies several results that follow when transactions the act authorizes take effect. While there is considerable overlap among the four transaction categories, there are also differences between each category.

Entities' Existence, Conversion of Interests, Property, Powers, Liabilities, etc.

After a transaction takes effect:

Merger. The surviving entity continues to exist or comes into existence, and each merging entity that is not the surviving entity ceases to exist. The interests in each merging entity that are to be converted in the merger are converted.

Each merging entity's property vests in the surviving entity without assignment, reversion, or impairment, and each merging entity's liabilities become liabilities of the survivor.

If the surviving entity exists before the merger, its property continues to be vested in it without reversion or impairment, and it retain its rights, privileges, immunities, powers, and purposes. It also remains subject to its liabilities.

Except as provided by other law or the merger plan, each merging entity's rights, privileges, immunities, powers, and purposes vest in the surviving entity.

Interest Exchange. The acquired entity's interests that are the subject of the exchange cease to exist or are converted or exchanged. The acquiring entity becomes the interest holder of the interests in the acquired entity stated in the plan.

Conversion. After a conversion, the converting entity's interests are converted, and the converted entity is organized under and subject to its organic law. The converted entity is the same entity as the converting entity without interruption. A conversion does not require the entity to wind up its affairs and does not constitute or cause the entity's dissolution.

The converting entity's property continues to be vested in the converted entity without assignment, reversion, or impairment. The converting entity's liabilities continue as liabilities of the converted entity. Except as provided by other law or the conversion plan, the converting entity's rights, privileges, immunities, powers, and purposes remain in the converted entity.

Domestication. The act's provisions are similar to those for conversions. It specifies that the interests in the domesticating entity are converted to the extent and in the manner approved in connection with the domestication.

Interest Holder and Other Rights

After a transaction takes effect, the merging, acquired, converting, or domesticating entity's interest holders are entitled only to the rights provided to them under the plan and to any appraisal rights they have under the act (see below) and the entity's organic law.

Under the act, except as otherwise provided in the merging, acquired, converting, or domesticating entity's organic law or rules, the transaction does not give rise to

any rights that an interest holder, governor, or third party would otherwise have upon the entity's dissolution, liquidation, or winding-up.

Interest Holder Liability That Arises Due to Transaction

Under the act, when a transaction takes effect, a person that did not have interest holder liability with respect to a merging, acquired, converting, or domesticating entity, as applicable, and that becomes subject to such liability with respect to a domestic entity as a result of the transaction, has such liability only to the extent provided by the entity's organic law and only for those liabilities that arise after the transaction becomes effective.

Substitution in Pending Actions

When a merger becomes effective, the surviving entity's name may be substituted for that of any merging entity that is a party to a pending action or proceeding. The act has similar provisions regarding conversions and domestications.

Public Organic Documents

Merger. If the surviving entity exists before the merger, its public organic document, if any, must be amended as provided in the statement of merger and is binding on its interest holders. If the surviving entity is created by the merger, any public organic document is effective and binding on its interest holders.

Interest Exchange. The act's provisions regarding public organic documents for acquired entities are similar to those for surviving entities that existed before the merger, as specified above.

Conversion or Domestication. If the converted or domesticated entity is a filing entity, its public organic document is effective and binding on its interest holders. If it is an LLP, its LLP certificate is effective simultaneously.

Private Organic Rules

Merger. If the surviving entity exists before the merger, any private organic rules that are to be in a record must be amended as provided in the merger plan and are binding on and enforceable by (1) its interest holders and (2) for surviving entities that are not business corporations, any other party to an agreement that is part of the surviving entity's private organic rules.

If the surviving entity is created by the merger, its private organic rules are effective and binding on and enforceable by (1) its interest holders and (2) for surviving entities that are not business corporations, any other party to an agreement that was part of the organic

rules of a merging entity if that person has agreed to be a party to an agreement that is part of the surviving entity's private organic rules.

Interest Exchange. The act's provisions regarding private organic rules for acquired entities are similar to those for surviving entities that existed before a merger, as specified above.

Conversion or Domestication. The converted or domesticated entity's private organic rules that are to be in a record, if any, approved as part of the plan are effective and binding on and enforceable by (1) its interest holders and (2) for an entity that is not a business corporation (or for conversions, not a nonprofit corporation), any other party to an agreement that is part of the entity's private organic rules.

Liability of Former Interest Holder

Under the act, when a merger becomes effective, the interest holder liability of a person that no longer holds an interest in a domestic merging entity with respect to which the person had such liability is as follows:

1. the merger does not discharge any interest holder liability under the domestic merging entity's organic law to the extent it arose before the merger became effective;
2. the person does not have interest holder liability under the domestic merging entity's organic law for any liability arising after the merger becomes effective;
3. the domestic merging entity's organic law continues to apply to the release, collection, or discharge of any interest holder liability preserved under (1) above as if the merger had not occurred and the surviving entity were the domestic merging entity; and
4. the person has whatever contribution rights from any other person as provided by the domestic merging entity's organic law or rules with respect to any interest holder liability preserved under (1) above as if the merger had not occurred.

The act has similar provisions regarding interest holder liability for acquired, converting, or domesticating entities, as applicable.

Foreign Entities and Service of Process

When a merger becomes effective, a foreign entity that is the surviving entity may be served with process in Connecticut for the collection and enforcement of any liabilities of a domestic merging entity. The entity must appoint the secretary of the state as its agent for service of process for collecting or enforcing such liabilities. The act has similar provisions for converted and

domesticated entities.

After a merger takes effect, the certificate of authority or other foreign qualification of any foreign merging entity that is not the surviving entity is canceled.

For conversions or domestications, if the converting or domesticating entity, as applicable, is a qualified foreign entity, its certificate of authority or other foreign qualification is canceled when the transaction becomes effective.

Comparison to Prior or Existing Law

In general, the above provisions are similar to those in existing or prior law for similar transactions, but in some cases the act's requirements are more detailed. For example, existing law on the effect of a business corporation's share exchange does not address some of these topics, but does include similar provisions regarding (1) the rights of former shareholders and (2) the non-release of liabilities that arose prior to the share exchange (CGS § 33-820).

For another example, the act's provisions on the results of a conversion taking effect are much more detailed than prior law for the effect of a partnership converting into a limited partnership, or vice versa. Under that repealed law, the new entity was for all purposes the same entity as it was before the conversion. When the conversion took effect:

1. all property owned by the converting entity remained vested in the converted entity;
2. all of the converting entity's obligations continued as obligations of the converted entity; and
3. a pending action or proceeding against the converting entity could be continued as if the conversion had not occurred.

§§ 34-58 — REPEAL OF EXISTING PROVISIONS

The act generally deletes provisions in prior law for mergers, conversions, and interest exchanges involving more than one entity type (prior law did not generally provide for domestications), and makes related minor and conforming changes. The deleted provisions include the following:

1. mergers or interest exchanges of domestic business corporations with partnerships, limited partnerships, LLPs, LLCs, joint ventures, joint stock companies, business trusts, statutory trusts, real estate investment trusts, or other associations or legal entities (other than corporations) organized to conduct business (§§ 35-40);

2. mergers of domestic limited partnerships with corporations, general partnerships, LLPs, LLCs, joint ventures, joint stock companies, business trusts, statutory trusts, real estate investment trusts, or other associations or legal entities (other than limited partnerships) organized to conduct business (§§ 41-44);
3. conversion of a professional association into a professional service corporation (see below for additional changes regarding professional service corporations) (§§ 45, 54);
4. mergers of LLCs with corporations, general partnerships, LLPs, limited partnerships, joint ventures, joint stock companies, business trusts, statutory trusts, real estate investment trusts, or other associations or legal entities (other than LLCs) organized to conduct business (§§ 46-49) (see below for additional changes regarding LLCs organized to render professional services);
5. mergers of partnerships with corporations, limited partnerships, LLPs, LLCs, joint ventures, joint stock companies, business trusts, statutory trusts, real estate investment trusts, or other associations or legal entities (other than partnerships) organized to conduct business (§§ 50-52);
6. conversion of a domestic general or limited partnership into an LLC (§ 58); and
7. conversion of a partnership into a limited partnership, or vice versa (§ 58).

§ 34 — Professional Service Corporations

The act makes additional changes regarding professional service corporations. Prior law provided that a professional service corporation could consolidate or merge only with another professional service corporation, LLC, partnership, LLP, or medical foundation, and only if the other entity was organized to render the same specific professional service. The act deletes this restriction on the entities with which a professional service corporation may consolidate or merge, but retains the requirement that the entities be organized to render the same professional service if the consolidation or merger is with another professional service corporation.

Prior law also prohibited the merger or consolidation of a professional service corporation with various foreign entities, including foreign corporations, LLCs, partnerships, or LLPs. The act retains this prohibition only regarding foreign corporations.

§ 46 — Limited Liability Companies Organized To Render Professional Services

Prior law provided that an LLC organized to render professional services could merge or consolidate only with another domestic LLC, professional service corporation, partnership, or LLP, and only if the other entity was organized to render the same professional service. Under the act, an LLC organized to render professional services may merge or consolidate only with another domestic LLC. The act eliminates the restriction that the merger or consolidation is permitted only if the other entity is organized to render the same professional service.

The act retains the prohibition in existing law prohibiting an LLC organized to render professional services from merging or consolidating with a foreign entity of any type.

§ 53 — Transfer Act

The act repeals a provision exempting from the Transfer Act conversions of a general or limited partnership to an LLC. The Transfer Act regulates conveyances of businesses that handle hazardous waste.

GENERAL PROVISIONS

§ 2 — Other Law

The act specifies that principles of law and equity supplement it, unless particular provisions of the act displace them. It also specifies that it does not authorize any illegal action or affect the application or requirements of law.

Transactions under the act do not create or impair rights or obligations on the part of anyone under a provision of Connecticut law relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, converting, or domesticating corporation unless either of the following occur: (1) the transaction satisfies the requirements of such provisions, provided the corporation does not survive the transaction or (2) the plan approval is by a sufficient vote of shareholders or directors to create or impair the right or obligation directly under the provision, provided the corporation survives the transaction.

§ 3 — Government Notification or Approval

Under the act, if an entity needs to notify or obtain the approval of a governmental agency or officer to be a party to a merger, it must provide such notice or obtain such approval to be a party to an interest exchange, conversion, or domestication. The requirement applies to both domestic and foreign entities.

§ 3 — *Charitable Property*

If an entity holds property for a charitable purpose under Connecticut law immediately before a transaction under the act takes effect, the act provides that generally, the transaction does not divert that property from the objects for which it was donated, granted, or devised. However, this does not apply if the entity obtains an appropriate order of the attorney general specifying how the property is to be disposed, to the extent required by or pursuant to Connecticut law concerning cy pres (see BACKGROUND) or other law concerning nondiversion of charitable assets.

The act specifies that these rules apply to both domestic and foreign entities.

§ 4 — *Public Organic Document*

Under the act, a filing that is signed by a domestic entity becomes part of the entity's public organic document, as long as the entity's organic law provides that similar filings under such law become part of its public organic document.

§ 5 — *Other Manner of Accomplishing Results*

The fact that a transaction under the act produces a certain result does not preclude the same result from being accomplished in another lawful manner.

§ 6 — *Facts Outside of Plan*

Under the act, plans of merger, interest exchange, conversion, or domestication may refer to facts ascertainable outside of the plan, as long as the plan specifies the manner in which the facts operate on the plan. The facts may include an event's occurrence or a person's determination or action, whether or not a party to the transaction controls the event, determination, or action.

§ 7 — *Transaction Approval*

The act provides that, except as otherwise provided by a domestic entity's organic law or rules, the unanimous vote or consent of an entity's interest holders approving a transaction under the act satisfies the act's requirements for transaction approval.

§ 8 — *Appraisal Rights*

Similar to existing law regarding corporate mergers and interest exchanges, the act specifies when interested parties are entitled to appraisal rights. The act's appraisal rights provisions apply to transactions governed by the act, while existing law's appraisal rights provisions continue to apply to other transactions

governed by existing law (for example, a merger of two corporations).

Under the act, an interest holder of a domestic merging, acquired, converting, or domesticating corporation is entitled to appraisal rights in connection with the transaction, as long as the interest holder would have been so entitled under the entity's organic law in connection with a merger in which the interest holder's interests were changed, converted, or exchanged. However, this does not apply if the entity's (1) organic law allows the organic rules to limit the availability of appraisal rights and (2) the organic rules provide a limit.

An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to contractual appraisal rights in connection with a transaction under the act, to the extent provided (1) in the entity's organic rules; (2) in the plan; or (3) for a business corporation, by action of its governors. If an interest holder is entitled to contractual appraisal rights and the entity's organic law does not provide procedures for conducting an appraisal rights proceeding, the law's procedures for appraisal rights in business corporations apply, to the extent practicable or as otherwise provided in the entity's organic rules or the plan.

§§ 16, 22, 28 — *Protected Agreements*

Under the act, a protected agreement is:

1. a record evidencing indebtedness and any related agreement in effect on or after October 1, 2011 (although the act is not effective until January 1, 2014);
2. an agreement binding on an entity, or on any of an entity's governors or interest holders, on or after that date; or
3. an entity's organic rules in effect on or after October 1, 2011.

If a protected agreement contains a provision that applies to a domestic entity's merger but does not refer to an interest exchange, conversion, or domestication, the provision applies to such a transaction as if it were a merger until such time after October 1, 2011, as the provision is amended. For interest exchanges, the act specifies that this only applies when the domestic entity is the acquired entity.

§ 1 — OTHER DEFINITIONS

In addition to terms defined above, the following definitions apply in the act:

Governance Interest: The right under an entity's organic law or organic rules, other than as a governor, agent, assignee, or proxy, to (1) receive or demand access to the entity's books or records or information concerning the entity; (2) vote for the election of the entity's governors; or (3) receive notice of or vote on

any or all issues involving the entity's internal affairs.

Jurisdiction of Organization (of an Entity): The jurisdiction under which the law includes the entity's organic law.

Liability: A debt, obligation, or any other liability arising in any manner, regardless of whether it is secured or contingent.

Person: An individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

Sign or Signature: Includes any manual, facsimile, conformed, or electronic signature.

Transferable Interest: The right under an entity's organic law to receive distributions from the entity.

Type: With regard to an entity, this means a generic entity form (1) recognized at common law or (2) organized under an organic law, whether or not an entity organized under such law is subject to the provisions of that law creating different categories of the entity form.

BACKGROUND

Model Entity Transactions Act (META)

META was drafted by the National Conference of Commissioners on Uniform State Laws and the American Bar Association. It was created in 2005 and amended in 2007.

Cy Pres

The cy pres doctrine allows a court to amend the terms of a charitable trust as closely as possible to the original intention of the deceased when the original objective becomes impossible, impracticable, or illegal to perform.

PA 11-66—sSB 983

*Select Committee on Children
Public Safety and Security Committee*

AN ACT CONCERNING CHILDREN AFFECTED BY DISASTER AND TERRORISM

SUMMARY: This act requires the commissioner of the Department of Emergency Management and Homeland Security (DEMHS) to amend the state’s civil preparedness plan and program to include planning and activities specifically for children and youth in the event of natural or man-made disasters and terrorism. Starting by January 1, 2012, the commissioner must annually report to the General Assembly on homeland preparedness and emergency response plans and activities for children. The act specifies the provisions that the report and updated and amended plan and programs must address and include.

EFFECTIVE DATE: Upon passage

PROVISIONS IN THE PLAN AND REPORT

Civil Preparedness Plan

By law, the DEMHS commissioner must prepare a comprehensive civil preparedness plan and program, subject to the governor’s approval. All state and local government agencies must perform the duties and functions assigned in the plan and program. The commissioner may amend the plan and program as needed.

The act requires the commissioner to amend and update them to address the needs of children during natural or man-made disasters and terrorism. The changes must be developed within available appropriations and in consultation with the Commission on Children and the commissioners of children and families, education, mental health and addiction services, public health, and social services. The DEMHS commissioner may also consult with parents, child care providers, and local emergency service providers when amending the plan and program.

The act requires the amended plan to require that all schools and licensed child day care services have written multi-hazard disaster response plans. Their plans in the event of a disaster or terrorism must address:

1. the children’s evacuation and removal to a safe location,
2. notification of parents,
3. reunification of parents with their children, and
4. care for children with special needs.

Report to the General Assembly

The DEMHS commissioner’s report to the General Assembly must address:

1. the health needs distinct to children associated with bioterrorism and other public health emergencies;
2. public education and communication for families on public safety issues related to disasters and terrorism;
3. safety and security training measures and multi-hazard response plans for child care providers, school personnel and personnel in before- and after-school programs, family homeless shelters, summer camps, and juvenile justice system facilities;
4. coordination of school health and mental health strategies; and
5. amendments to the state civil preparedness plan and program described above.

PA 11-105—sHB 6227

*Select Committee on Children
Human Services Committee
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING A REGIONAL STRUCTURE FOR THE DEPARTMENT OF CHILDREN AND FAMILIES AND MISCELLANEOUS CHANGES TO THE GENERAL STATUTES CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES

SUMMARY: This act requires the Department of Children and Families (DCF) commissioner to appoint up to two program directors and up to six regional directors in the unclassified service. Under prior law, she appointed directors as necessary, in the classified service, and with duties she determined. By law, unchanged by the act, she must make the appointments after consulting with the State Advisory Council on Children and Families (SAC). The act replaces the department’s structure of area directors, offices, and advisory councils in prior law with regional directors, offices, and advisory councils.

The act conforms state law to federal requirements for foster care programs, making the state eligible for federal reimbursement of subsidized guardianship assistance funds (see BACKGROUND). It also removes obsolete language.

The act eliminates the Connecticut Juvenile Training School's (CJTS) public safety committee and transfers responsibility for reviewing safety and security issues that affect CJTS host municipality (Middletown) to the CJTS advisory committee.

Finally, the act repeals two DCF reporting requirements.

EFFECTIVE DATE: July 1, 2011

DCF ORGANIZATION

Program Directors

Under prior law, the DCF commissioner appointed and removed directors as she deemed necessary, after consulting with SAC. The act identifies them as "program directors," limits their number to two, removes them from the classified service, and authorizes them to oversee community programs and services and the operation of DCF institutions and facilities.

Regional Directors

The act requires the commissioner to consult with SAC and then appoint up to six regional directors, and it gives her authority to remove them in a like manner. Each regional director must have skill and experience in providing and administering children's services. At the commissioner's direction, they are responsible for the operation and administration of DCF services in regions the commissioner creates. They replace area directors. The act authorizes the commissioner to create distinct service regions with offices, rather than areas and area offices. It makes a corresponding change by renaming area advisory councils as regional advisory councils.

REPEALED REPORTS

The act eliminates DCF's annual reports:

1. to the Human Services Committee regarding the Kinship Navigator Program, which helps relative caregivers find services and become foster parents and is not changed by the act; and
2. to the governor and the Human Services and Judiciary committees on the status of (a) the children committed to DCF's custody as of January 1, and (b) the central registry on children for whom a permanency plan has been formulated and a monitoring system on plan implementation.

BACKGROUND

Federal Law

The 2008 Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351, 42 U.S.C. § 670 *et seq.*) provides federal Title IV-E of the Social Security Act support for relatives caring for foster children. Among other things, it gives states the option for federal reimbursement for guardianship subsidy payments, promotes permanency, and requires states to make reasonable efforts to keep siblings together in foster care.

PA 11-109—sHB 6282

Select Committee on Children

Human Services Committee

Government Administration and Elections Committee

AN ACT REQUIRING AN ANNUAL RESULTS-BASED ACCOUNTABILITY REPORT CARD EVALUATING STATE POLICIES AND PROGRAMS IMPACTING CHILDREN

SUMMARY: This act requires the Children's Committee to (1) maintain an annual report card evaluating the progress of state policies and programs affecting children; (2) develop, with a working group, progress indicators and measures related to issues affecting children; and (3) consult with the Appropriations Committee's results-based accountability (RBA) subcommittee to identify child welfare system programs that must prepare their own annual report cards. The act specifies (1) the progress indicators that must be included in the Children's Committee's report card along with relevant data and (2) the report card's distribution requirements. It identifies the participants in the working group, the issues for which indicators and measures must be developed, and the subsequent review process the committee must conduct.

EFFECTIVE DATE: July 1, 2011

REPORT CARD

The Children's Committee, in consultation with the offices of Fiscal Analysis and Legislative Research and the Commission on Children, must maintain an annual "report card" that evaluates state policies and programs that affect children.

Indicators

The report card must use progress measures based on those previously identified in the Legislative Program Review and Investigations Committee's *RBA Pilot Project Study 2009: DCF Family Preservation and Supports* and *The Social State of Connecticut 2008*.

The Program Review report's five indicators are the rates of child abuse, low birth weight, child poverty and third-grade reading proficiency, and an overall indicator of well-being, which is referred to as Connecticut's social health index. The five social health report index indicators for children and youth are infant mortality, child abuse, youth suicide, high school dropouts, and teenage births. The act requires that the data for each indicator be presented by ethnicity or race; gender; geography; and, where appropriate, age and other characteristics.

Distribution

The committee must complete its first report card by January 15, 2012, and prepare one annually after that. The report must be available on the General Assembly's website, and on the Internet, and sent electronically to:

1. members of the Appropriations and Human Services committees;
2. the children and families, education, and public health commissioners;
3. the child advocate;
4. the Office of Policy and Management secretary; and
5. the chief court administrator.

WORKING GROUP

Responsibilities

By January 15, 2012, the Children's Committee must consult with a working group to identify or develop:

1. an indicator to measure whether children are living with their families in stable environments;
2. secondary well-being indicators to measure progress in children's health, safety, stability, education, and future success, including food security; and
3. performance measures for the state's child welfare system that include (a) rates of repeat maltreatment among victims of child abuse and neglect, (b) out-of-home placements for children at risk of abuse and neglect, (c) child fatalities involving child abuse and neglect, (d) rates of reunification and permanency for

children removed from their homes, and (e) the developmental and health status and educational progress of children served by the child welfare system and other appropriate measures of well-being and success in life.

At least once per year, the Children's Committee, with the working group's assistance, must review the primary and secondary indicators and performance measures described above and their data resources to determine whether there are more appropriate ways to monitor progress toward the result that all the state's children grow in a stable living environment, safe, healthy, and prepared to lead successful lives.

Composition of Working Group

The working group must include representatives of:

1. state agencies and departments,
2. community organizations,
3. private provider agencies operating programs for children and families,
4. parents and other child caretakers,
5. child advocacy organizations,
6. health care professionals that serve children and families,
7. schools, and
8. child care providers.

CHILD WELFARE SYSTEM PROGRAMS

The act also requires the Children's Committee to consult annually with the Appropriations Committee's RBA subcommittee to identify programs within the child welfare system that significantly contribute to achieving the result described above. The entities that administer these programs, in turn, must prepare annual report cards using the RBA format.

PA 11-116—sHB 6336

Select Committee on Children

Human Services Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING KINSHIP CARE

SUMMARY: This act authorizes the Department of Children and Families (DCF) commissioner to waive any standard for separate bedrooms and room-sharing arrangements (see BACKGROUND) when placing a child in foster care with an unlicensed relative if doing so is in the child's best interest. The law, unchanged by the act, bars the commissioner from waiving any standard or procedure related to safety.

The act also requires DCF to (1) report to the Superior Court, rather than simply make a determination, on the appropriateness of a placement when the court has identified a relative who might serve as a child's foster parent or temporary custodian and (2) convene a working group to determine how to maximize kinship care for children in the department's care and custody.

EFFECTIVE DATE: October 1, 2011, except for the working group provision, which is effective upon passage.

REPORT TO THE COURT

By law, the Superior 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. Among them is to identify any relation, either by blood or marriage, living in the state who might serve as a licensed foster parent or temporary custodian and order the DCF commissioner to investigate the appropriateness of placing a child with such a relative. The act requires the commissioner to report to the court within 30 days of the hearing, rather than simply make a determination on the matter within that time.

KINSHIP CARE WORKING GROUP

By October 1, 2011, the DCF commissioner must convene a working group to examine DCF practices and policies that affect kinship care. Using existing resources, the group must consider agency regulations, cultural competence in recruiting relative homes, outreach practices, and family conferencing. The group must submit a report by January 1, 2012 to the Human Services and Children's committees summarizing existing policies and practices affecting kinship care, and recommending ways to increase such care.

BACKGROUND

Children's Bedroom Regulations

DCF regulations bar a child age three or older from sharing a bedroom with (1) another child of the opposite sex or (2) one of the same sex who is a disparate age. No child over age one can share a room with an adult without the department's permission (Conn. Agencies Reg. § 17-145-139(a)(6)).

PA 11-120—HB 6352

Select Committee on Children

Human Services Committee

Government Administration and Elections Committee

AN ACT CONCERNING THE MEMBERSHIP OF THE ADVISORY COUNCIL ON CHILDREN AND FAMILIES AND MODIFICATIONS TO STATUTES CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES

SUMMARY: This act adds two members to the State Advisory Council on Children and Families (SAC) and adds foster parents to its membership. It deletes the Department of Children and Families' (DCF) duty to prepare a plan on (1) delinquent children to be placed in the Connecticut Juvenile Training School and (2) an approach to juvenile rehabilitation. It also deletes the requirement that DCF adopt regulations concerning discharge planning for, and ongoing DCF involvement with, high-risk newborns. Instead, it requires DCF to coordinate with birthing hospitals to disseminate information on the care of high-risk newborns.

EFFECTIVE DATE: July 1, 2011, except for the provision on SAC membership, which is effective October 1, 2011.

STATE ADVISORY COUNCIL ON CHILDREN AND FAMILIES

The governor appoints all members of the council (see BACKGROUND), which the act increases from 17 to 19 members. By law, at least 50% of the members must be parents or family members of children who are receiving or have received behavioral health, child welfare, or juvenile services. The act adds foster parents to this portion of the membership.

PLAN FOR DELINQUENT CHILDREN

The act eliminates the requirement, enacted in 1999, that DCF prepare a plan for convicted delinquents committed to the department and placed in the then-new Connecticut Juvenile Training School for at least one year. The plan had to include provisions for a comprehensive approach to juvenile rehabilitation.

CARE OF HIGH-RISK NEWBORNS

The act eliminates the requirement that DCF adopt regulations on the procedures principal providers (e.g., nurses and nursing assistants) of daily direct care for high-risk newborns in birthing hospitals must follow to participate in the discharge planning process and ongoing DCF functions concerning these newborns. Instead, DCF must coordinate with birthing hospitals to disseminate information on these procedures. (Birthing hospitals care for women during delivery of a child or for women and their newborns following birth.)

BACKGROUND

State Advisory Council on Children and Families

By law, SAC makes recommendations to DCF about programs, legislation, and other matters to improve services; annually advises the commissioner on her proposed budget; explains DCF's policies, duties, and programs to the public; issues reports to the governor and commissioner as needed; helps to develop, and reviews and comments on, DCF's strategic plan; receives quarterly reports from the commissioner on DCF's progress in carrying out the strategic plan; independently monitors DCF's progress in achieving the plan's goals; and offers DCF assistance and an outside perspective to help it achieve its goals.

DCF provides the council with funding for administrative support and to facilitate participation by council members representing families and youth.

PA 11-166—SB 980

*Select Committee on Children
Human Services Committee*

**AN ACT CONCERNING PLACEMENT OF
CHILDREN WITH SPECIAL STUDY FOSTER
PARENTS**

SUMMARY: This act eliminates the minimum age requirement with which the Department of Children and Families (DCF) must comply to temporarily place a child with a special study foster parent. Previously, only children 10 years old or older could be placed in such care. A special study foster parent is at least 21 years old and not licensed by DCF to provide foster care.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Special Study Foster Homes

By law, a child may be placed with a special study foster parent for up to 90 days when the placement is in the child's best interest. The placement is made once the department conducts and completes a satisfactory home visit and a basic family assessment, and the special study foster parent attests that he or she and any adult living in the household has not been convicted of a crime or arrested for any of specified felonies or for the possession, use, or sale of a controlled substance. A special study foster parent is subject to the licensure requirement if the placement exceeds 90 days.

PA 11-167—sSB 1043

*Select Committee on Children
Judiciary Committee
Human Services Committee*

**AN ACT CONCERNING ACCESS TO RECORDS
OF THE DEPARTMENT OF CHILDREN AND
FAMILIES**

SUMMARY: By law, the Department of Children and Families (DCF) may not disclose its records to anyone unless (1) state law or federal regulations require or allow the disclosure or (2) the subject of the record or his or her authorized representative consents to the disclosure. This act generally expands the list of individuals and entities to whom DCF must, or may, disclose its otherwise confidential records, while broadening the circumstances in which the department can deny access. Also, in a number of instances, it limits or changes the use the recipient may make of materials contained in a record. By law, unauthorized disclosures are subject to imprisonment for up to one year, a fine of up to \$1,000, or both.

Under the act, a child is a person 15-years-old or younger; a youth is a 16- or 17-year-old.

The act also makes conforming, minor, and technical changes.

EFFECTIVE DATE: October 1, 2011

DISCLOSURE OF RECORDS

By law, many of the records DCF maintains are confidential and may not be disclosed. A "record" is information DCF created or obtained as a result of its child protection activities or other activities related to a child who is or was in its care or custody. Records include information in DCF's child abuse registry and information the department obtained from other sources while a child was receiving services from the department. The act eliminates a restriction on DCF's disclosing records that it did not create, other than those that the law mandates to be disclosed, thus increasing the volume of materials that either must or can be shared. On the other hand, the act limits the scope of allowable disclosures of DCF and other records to only those portions that pertain to the requestor or that person's minor child. This was not the case under prior law.

CONSENT TO RELEASE RECORDS

Under prior law, the only people who could consent to a record's release were: (1) the person named in the record who (a) is or was committed to DCF; (b) received services from DCF, or (c) is, or was, the subject of a child abuse or neglect investigation; (2) the requestor's authorized representative or attorney; (3) the

authorized representative of a deceased person, including an attorney, who was committed to DCF; or (4) the parent of someone currently or previously committed to DCF, if that person is still a minor.

The act eliminates the ability of people whose parental rights have been terminated to consent to a record's disclosure or have access to it. It adds a child's guardian ad litem (GAL - a person representing a child's best interests) and attorney to the list of authorized representatives, thus giving them express authority to consent to a record's disclosure. (In practice, an attorney already may authorize release of records on his or her client's behalf.)

MANDATORY DISCLOSURES

By law, DCF must disclose records to certain parties regardless of whether it has the consent of the person who is the subject of the record or his or her authorized representative. The act changes, in certain cases, the scope of information subject to mandatory disclosure and how this information must be used.

Mandatory Disclosures With Modified Scope

The act modifies how certain parties can use the information in the disclosed record. These include, among others, (1) individuals named in a record, (2) DCF employees, and (3) certain state agencies.

Individuals Named in a Record. Under prior law, any person named in DCF records, or an authorized representative, was entitled to see or copy any record DCF made or kept on file that pertained to or contained information or materials concerning him or her. But the person could not obtain information that would identify the person who reported the alleged child abuse, except in limited situations (see below).

The act limits such mandatory disclosures to those portions of the record that pertain to the individual making the request, rather than access to the entire record. The same is true for parents of a minor child whose rights have not been terminated.

DCF Employees. The act broadens required disclosure to DCF employees by requiring disclosure to any employee for any job-related purpose.

Attorneys General. Under prior law, DCF had to give state attorneys general and assistant attorneys general access to DCF records to provide legal counsel to the department. The act narrows this purpose to representing DCF in a legal proceeding involving the department or a department employee.

Law Enforcement Officers. Prior law required DCF to disclose its records to law enforcement agencies and placed no limits on how these agencies used the information in these records. The act instead requires disclosure to state and federal law enforcement officers;

it does not mandate disclosure to municipal officers. The act also limits these disclosures to investigations of allegations of child abuse or neglect.

Prosecutors. Prior law also gave the chief state's attorney or a designee access to DCF records for the limited purpose of investigating or prosecuting abuse or neglect cases. Under the act, the state's attorney no longer has automatic access for this purpose. When a record he or she seeks concerns a juvenile who is a defendant in an unrelated matter not involving child abuse, the prosecuting official is only entitled to access (1) after obtaining a release (the act does not specify from whom) and (2) for as long as the abuse or neglect case is being prosecuted.

Department of Developmental Services (DDS). Under prior law, DCF was required to provide DDS with a written summary of any abuse or neglect investigation it conducted of a child involved with DDS for purposes of eligibility determinations or developing a service plan. The act removes this limitation, thus permitting DCF to give DDS access to the child's complete file.

Department of Public Health (DPH). Prior law gave DPH access to DCF records for use in connection with licensure of any individual to care for children or to determine their suitability for licensure. The act specifies that the licensure involved is limited to day care facilities DPH licenses. But it adds access for investigations conducted jointly by DPH and the Department of Social Services (DSS).

Chief Child Protection Attorney. Among other things, the chief child protection attorney (CCPA) contracts with other attorneys for legal and GAL services involving child abuse and neglect. Under prior law, she had access to DCF records to monitor billing. Under the act, she is entitled to full disclosure of all department records and can use them for any purpose. (PA 11-61 and PA 11-51 eliminate the CCPA position and transfer her functions to the chief public defender.)

Mandatory Disclosures That Were Previously Prohibited

In some cases, the act requires that DCF disclose records to people and entities to whom access was prohibited in the past. These are: foster and potential adoptive parents, the Department of Mental Health and Addiction Services (DMHAS), and the Human Services Committee.

Foster and Adoptive Parents. Foster and potential adoptive parents were neither entitled nor permitted access to information about a foster or adoptive child under prior law. The act gives them access to records relating to social, medical, psychological, or educational needs of a child currently placed with them or being considered for placement. But information provided

cannot identify a biological parent without that parent's consent.

DMHAS. The act gives DMHAS access to records for making treatment plans for young adults with behavioral health needs who have transitioned from DCF to DMHAS.

Probate Court Judges and Employees. The act requires DCF to release records that a probate judge or employee needs to perform official functions.

Superior Court Judges. Aside from their inherent authority to order that the department release records, Superior Court judges are entitled to access under the act in types of cases where disclosure was not statutorily authorized under prior law. These are:

1. criminal prosecutions, for an in camera (private) inspection when (a) the court has ordered that the record be provided to it or (b) a party to the proceeding has subpoenaed the record;
2. in family violence proceedings, when the records concern family violence with respect to the child who is the subject of the proceeding or the child's parent (under the act, copies of the record also go to all necessary parties); and
3. when a person charged with child abuse seeks the name of the reporter, and the court must examine the record to determine whether there is reasonable cause to believe that (a) the reporter knowingly filed a false report or (b) the interest of justice requires it, either of which are reasons for the court to order disclosure. This includes taped child abuse hotline calls and oral reports.

Department of Motor Vehicles (DMV). The act requires disclosure to DMV of information obtained in child abuse investigations, in addition to the already required disclosure of information from the child abuse registry. DMV may use this information for criminal background checks for people applying for license endorsements involving school buses, student transportation, and student activity vehicles.

Human Services Committee. The act adds the Human Services Committee to the legislative committees that must receive records in the course of their official functions. The Judiciary, Program Review, and Children's committees (and governor) can already obtain them in this situation. Under existing law, the committees cannot disclose individually identifying information unless necessary.

Mandatory Disclosure of Records That Were Previously Permissive

Auditors of Public Accounts. The act requires, rather than allows, disclosure of records to the auditors of public accounts. By law, information identifying the

record's subject can only be disclosed if this is essential to the audit.

PERMITTED DISCLOSURES

Permitting Disclosures Previously Prohibited

The act gives the DCF commissioner the discretion to release information to some entities and people to whom access was not previously permitted. These are (1) foster care and adoption contractors; (2) people searching for relatives; (3) abuse and neglect reporters; (4) anyone interviewed in the course of an abuse or neglect investigation; (5) a court of competent jurisdiction when a DCF employee is subpoenaed to testify about the record; and (6) a Superior Court judge for the purpose of deciding on the disposition of an abuse, neglect, or status offense case.

Adoption Agencies. The act permits adoption agencies under contract with DCF to obtain records, so long as no information identifying the child or youth's biological parent is disclosed without that parent's consent.

Missing Relatives. Under the act, DCF can disclose records to relatives looking for a missing parent or youth. Disclosure is limited to information that assists in finding them.

DCF Contract Employees. The act permits DCF to disclose records, without limitation, to individuals it contracts with to perform functions and activities on its behalf, including data analysis, processing, or the administration of utilization reviews; quality assurance; practice management; consultation; data aggregation; and accreditation services. Such access was not permitted under prior law.

Permitted Disclosures Previously Required

The act allows, rather than requires, DCF to disclose records to:

1. law enforcement agencies and prosecutors in cases where criminal activity is suspected and
2. any individual when alleged abuse or neglect results in a child fatality or near-fatality.

Law Enforcement Officers and Prosecutors. The act makes permissive, rather than mandatory, disclosure of record information when law enforcement officers and prosecutors have reasonable cause to believe that a child or youth is, or is at risk of, being abused or neglected as a result of any suspected criminal activity by any person. It appears that this provision includes federal, state, and municipal law enforcement personnel. The only prosecuting officials covered by this provision are the state's attorney for the judicial district in which the child resides or the alleged abuse occurred, or his or her designee.

This disclosure provision appears largely to overlap another provision in the act that requires DCF to disclose information to federal and state police officers for the purpose of investigating an allegation of child abuse (see above).

Child Fatalities. The act makes discretionary, rather than mandatory, DCF's disclosure of information about abuse or neglect cases involving child fatalities or near-fatalities. It eliminates the requirement that a physician certify the child's condition but extends its reach to 16- and 17-year-olds. It continues to limit such disclosures to general information that does not jeopardize a pending investigation.

Employee Grievances. The act makes record disclosures for employee grievances permissive rather than mandatory but, as under existing law, leaves it to the commissioner to determine which documents are relevant. But access is expanded to cover (1) former, rather than just current employees; and (2) materials needed for court and administrative proceedings. Prior law did not authorize disclosure for administrative or court proceedings.

Records Already Subject to Permissive Disclosure

Some provisions modify the approved uses for permissively disclosed records. Those subject to these disclosures are:

1. child abuse or neglect matters that are likely to become known to the public;
2. out-of-state abuse and neglect agencies;
3. physicians determining whether to put a child in an emergency placement;
4. child treatment and diagnostic service providers;
5. mental health service providers treating perpetrators or people who will not or cannot protect their children; and
6. bona fide researchers.

Publicly Disclosed Information. Under prior law, the DCF commissioner could disclose information to any individual about an incident of abuse or neglect that the public was likely to find out about. Disclosure was limited to (1) whether the department received an abuse or neglect report and (2) in general terms, any action DCF took, provided the names or identifying information about the minor victim or family members was not disclosed, nor was the name of the suspect unless he or she had been arrested for the crime.

Under the act, she can disclose such information and keep identifying information confidential, even if that information has been disclosed by other sources. She can also (1) confirm or deny the accuracy of the public report and (2) describe, in general terms, the legal status of the case. She cannot disclose information that could jeopardize a pending investigation.

Out-of-State Agencies. Prior law permitted disclosure to any agency in another state that was responsible for investigating or protecting children from abuse and neglect, solely for the purpose of their investigation. The act specifies that the covered entities are out-of-state courts, agencies, and federally recognized tribes that are responsible for investigating abuse or neglect, preventing it, or providing services to at-risk families.

Physicians Authorized to Take Abused and Neglected Children into Custody. By law, DCF can disclose records to physicians who need the information to determine whether to place a victim of suspected abuse or neglect who is under age 16 in an emergency DCF placement. The act appears to extend this provision to cases involving 16- and 17-year-olds.

Child Treatment and Diagnostic Service Providers. By law, DCF can provide records to professionals to whom the department had referred an abuse victim for diagnosis; care or treatment; supervision; or education. The record's content is limited to that related to the individual's or agency's responsibilities.

The act expands this provision to permit DCF to disclose records to any provider of professional services to a child, youth, or family who DCF has referred to the provider.

Perpetrator's Treatment Provider. The act limits the records medical or mental health agencies or individual providers can obtain in the course of treating an abuser or person not willing or able to protect a child from abuse and neglect. Under the act, they cannot get records unless a DCF investigation indicates that the person seeking treatment was responsible for abuse or neglect. And disclosure is limited to records necessary for the objectives of the diagnosis and treatment.

Bona Fide Researchers. Prior law permitted DCF to disclose information to researchers for approved projects, but the researchers were not given access to information identifying subjects unless (1) it was essential for the research and (2) each person named in a record or his or her authorized representative consented in writing to the disclosure. The act eliminates the need to get consent.

Confidentiality of Identity of Abuse or Neglect Reporter and Cooperating Witness. The act changes restrictions on DCF's disclosure of the name of a person who reports abuse or neglect by applying to these individuals the confidentiality protections that existing law applies to people who cooperate with abuse and neglect investigations.

Under prior law, DCF could not disclose the name of an abuse reporter without the person's written consent, except to:

1. a DCF employee responsible for child protective services or the abuse registry;

2. a law enforcement officer, an appropriate state's attorney, or assistant attorney general;
3. a Superior Court judge and all necessary parties in abuse and neglect proceedings; a criminal prosecution involving abuse or neglect; when a court determined that the reporter had knowingly filed a false report; or when disclosure was required in the interests of justice; or
4. a state child care licensing agency, executive director of any institution, school or facility, or superintendent of schools.

The act permits (1) an abuse reporter to request confidentiality or (2) DCF to determine that disclosing the reporter's name might be detrimental to her or his safety or interests. But DCF must disclose the name (and the names of people who cooperated with an investigation) to:

1. a DCF employee, for reasons reasonably related to DCF business;
2. a law enforcement officer or a state's attorney, for purposes of investigating or prosecuting a report; or
3. an assistant attorney general representing DCF.

FURTHER DISCLOSURE OF RECORD

Prior law prohibited information disclosed from a person's record from being further disclosed without consent unless it was disclosed in response to a court order in a pending case involving criminal prosecution or an abuse, neglect, commitment, or termination of parental right proceedings. The act also permits further disclosure (1) based on an order issued by any court of competent jurisdiction or (2) for DPH day care licensing and DSS child care payment decisions.

DENYING ACCESS TO RECORDS

Under existing law, the DCF commissioner can refuse to disclose a record to anyone, including the person who is its subject or his or her attorney. Under prior law, the sole basis for the commissioner to do this was her determination that disclosure was not in the best interest of the person or his or her authorized representative. She had to inform the requestor of her decision, its basis, and how to challenge it in court. The act eliminates the consideration of the requestor's best interests as an express reason, thus apparently eliminating any restriction on the commissioner's reasons for denying disclosure. When she refuses a request, the act requires her to notify the requestor that she is withholding records and their general contents, in addition to providing her reasons and notice of judicial review options.

AGGRIEVEMENT

The act authorizes people who disagree with some of the DCF commissioner's decisions or actions to file a Superior Court appeal. Under prior law, aggrievement could be established based on allegedly improper disclosures or non-disclosures of:

1. information in the abuse and neglect registry;
2. information concerning a child abuse reporter or cooperating witness;
3. records that the commissioner was permitted, but not required, to release and those whose release was mandatory;
4. information needed for bookkeeping purposes; or
5. records bearing a stamp stating that further disclosure was not allowed.

The act eliminates as sources of aggrievement the improper disclosures or non-disclosures of (1) records for which disclosure is mandated, (2) records involving fee calculations or disputes, and (3) department determinations that disclosure is not in the requestor's best interest.

It adds as a source of aggrievement the scope of the commissioner's disclosure of information involving child fatalities and near-fatalities.

Court Appeals

The act expands the reasons on which courts may rely to uphold DCF's non-disclosure decisions. Previously, after a hearing and private review of the records, the court had to order disclosure unless it determined that this could be contrary to the requestor or requestor's representative's best interests. Under the act, the court may also uphold DCF's decisions when it determines that disclosure (1) would be contrary to the best interests of the person who is the subject of the record, (2) could reasonably result in the risk of harm to any person, or (3) would contravene the state's public policy.

CORRECTION OF RECORD ERRORS

The act limits the right of a person named in a record to submit a statement for inclusion in the record concerning what he or she believes is inaccurate information. Under prior law, this entitlement was unqualified. The act removes the reference to "unqualified."

PA 11-177—sSB 982

*Select Committee on Children
Judiciary Committee
Education Committee*

**AN ACT CONCERNING A PILOT TRUANCY
CLINIC IN WATERBURY**

SUMMARY: This act authorizes the probate court administrator to establish a pilot truancy clinic in Waterbury, within available appropriations. The Waterbury Regional Children's Probate Court administrative judge must administer the clinic. The purpose of the clinic is to identify and resolve the systemic causes of school absenteeism using nonpunitive procedures.

The act requires the truancy clinic to establish participation protocols and programs and relationships with schools and other individuals and organizations in the community to provide support services to clinic participants.

The probate court administrator must establish implementation policies and procedures and measure effectiveness. The clinic administrator must report to the probate court administrator, by September 1, 2012 and annually after that, on the clinic's effectiveness. By January 1, 2015, the probate court administrator must report on the clinic's effectiveness to the Judiciary and Education committees.

The act also authorizes (1) the administrative judge to refer any truancy clinic matter to a probate magistrate or attorney probate referee and (2) probate magistrates or attorney probate referees to hear these matters (see BACKGROUND).

EFFECTIVE DATE: Upon passage

TRUANCY CLINIC PROCESS

Under the act, an elementary or middle school principal or his or her designee can refer the parent or guardian of a truant child, or one at risk of becoming a truant, to the truancy clinic. The school attendance officer or a police officer in the case of a habitual truant must deliver a copy of the school's referral and the court's citation and summons to appear. A parent's or guardian's participation is voluntary after his or her appearance as required by the court's citation and summons.

BACKGROUND

Waterbury Truancy Clinic

Since 2008, the Waterbury Regional Children's Probate Court and the Waterbury public schools have jointly operated voluntary truancy clinics for elementary school children and their parents. The truancy clinic is a

non-judicial, voluntary, nonpunitive proceeding involving the parent or guardian of a student who is a truant or at risk of becoming a truant.

Truant

A truant is a child age five to 18, enrolled in a public or private school, who has four unexcused absences from school in any one month or 10 in a school year (CGS § 10-198a). A habitual truant has 20 unexcused absences in a school year (CGS § 10-200).

Probate Magistrates and Attorney Probate Referees

The positions of probate magistrate and attorney probate referee were created in the probate court reform legislation enacted in 2009 (PA 09-114). The probate court administrator nominates qualified attorneys and former probate judges. The chief justice of the Supreme Court considers and appoints them. They serve three-year terms. A probate magistrate is paid and hears matters authorized by law. An attorney probate referee hears matters referred by probate court judges and is unpaid.

PA 11-180—sSB 1044

*Select Committee on Children
Judiciary Committee
Human Services Committee*

**AN ACT CONCERNING NOTIFICATION BY
THE DEPARTMENT OF CHILDREN AND
FAMILIES WHEN A YOUTH IS ARRESTED FOR
PROSTITUTION AND OUT-OF-STATE
PLACEMENTS OF CHILDREN AND YOUTH**

SUMMARY: This act requires a police officer who arrests a 16- or 17-year-old on prostitution charges to report suspected child abuse or neglect to the Department of Children and Families (DCF).

It also requires the court to make certain findings of compliance with the Interstate Compact on the Placement of Children (ICPC) in connection with (1) an out-of-state adoption when terminating parental rights or (2) an out-of-state placement after committing a child to DCF in neglect and abuse cases.

EFFECTIVE DATE: October 1, 2011

ARREST ON PROSTITUTION CHARGES

When a 16- or 17-year-old is arrested on prostitution charges, the act requires the police officer to report to DCF in accordance with the child abuse reporting law, which outlines report contents and imposes filing deadlines. By law, a police officer is a mandated reporter who must report suspected child

abuse or neglect to DCF and is subject to penalties for failure to do so.

Under the act's requirement for a report on a prostitution arrest, an officer must make an oral report as soon as practicable, but within 12 hours (presumably of the arrest), and a written report within 48 hours after making the oral report.

COURT FINDINGS REGARDING CHILD PLACEMENT

Under the act, before a Superior or probate court places or approves a child for adoption outside the state or a Superior Court commits an abused or neglected child to an out-of-state DCF placement, the court must find that the placement complies with the ICPC (see BACKGROUND). In either case, the court's findings must include:

1. a finding that the state has received written notice from the receiving state that the proposed placement does not appear to be contrary to the child's interests,
2. the court has reviewed the notice,
3. whether the receiving state has completed the home study the compact requires or another home study, and
4. whether the receiving state's study supports the placement.

Under the act, the Superior Court finding must be on the record; the probate court finding does not.

BACKGROUND

Interstate Compact on the Placement of Children

The ICPC governs placement of children into and out of Connecticut for adoption, foster care, and residence with relatives after court action. Its purpose is to facilitate home studies in the receiving state before placement and supervision after placement (CGS § 17a-175).

Under Article III (d) of the compact, "[t]he child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child."

PA 11-193—sHB 6224

*Select Committee on Children
Public Health Committee*

AN ACT EXEMPTING CERTAIN NONPROFIT ORGANIZATIONS THAT OPERATE DROP-IN PROGRAMS FOR CHILDREN FROM THE STATE'S CHILD DAY CARE LICENSURE REQUIREMENTS

SUMMARY: This act exempts from daycare licensing requirements child daycare services administered by the Cardinal Shehan Center in Bridgeport, as long as the center informs the enrolled children's parents and guardians that its programs are not licensed by the Department of Public Health (DPH) to be daycare service providers. It does this by adding the center to a list of other exempt programs and organizations, such as boys' and girls' clubs. By law, DPH regulates and licenses child daycare centers and group and family daycare homes.

EFFECTIVE DATE: July 1, 2011

PA 11-194—sHB 6226

*Select Committee on Children
Environment Committee
Planning and Development Committee
Human Services Committee*

AN ACT CONCERNING CROSS-REPORTING OF CHILD ABUSE AND ANIMAL CRUELTY

SUMMARY: This act requires state, regional, and municipal animal control officers (ACOs) and Department of Children and Families (DCF) employees to report to the Department of Agriculture (DOAG) commissioner when they reasonably suspect that an animal is being treated cruelly, harmed, or neglected. The DOAG commissioner must forward the information he or she receives from the ACOs to the DCF commissioner in a monthly report. The DCF commissioner must then determine whether any address in an animal cruelty report corresponds to an address where there is an open investigation of a child in response to a report of child abuse or neglect.

The DCF commissioner must develop and implement training for her department's employees on how to identify cruelty or harm to or neglect of animals and their relationship to child welfare case practices. She must also train ACOs concerning identifying and reporting child abuse and neglect. All training must be accomplished within available appropriations.

EFFECTIVE DATE: October 1, 2011

REPORT TO THE AGRICULTURE COMMISSIONER

Animal Control Officers

Under the act, when a state, regional, or municipal ACO, in the course of his or her work, reasonably suspects that an animal has been harmed, neglected, or treated cruelly in violation of the law and files the requisite petition in Superior Court, the ACO must also report in writing to the DOAG commissioner. The ACO must file the report as soon as practicable but no later than 48 hours after filing the court petition. The report must include the following information, if known:

1. the address where the animal was seen and the name and address of its owner or caretaker;
2. the animal's name and description;
3. the nature and extent of the harm, neglect, or cruelty and the approximate date and time it occurred;
4. any information about any prior harm, neglect, or cruelty to the animal;
5. how the ACO learned of the harm, neglect, or cruelty; and
6. the name and address of everyone the ACO reasonably suspects to be responsible.

DCF Employees

The act requires DCF employees who, in the course of their work, reasonably suspect that an animal has been harmed, neglected, or treated cruelly in violation of the law, to report orally to the DOAG commissioner.

Like ACO, the DCF employee must make the report as soon as practicable but no more than 48 hours after observing the suspected harm, neglect, or animal cruelty. The DCF report must include the information in 1 to 3 listed above.

DOAG COMMISSIONER'S RESPONSIBILITIES

Monthly, beginning November 1, 2011, the DOAG commissioner must report all the information he or she receives from ACOs for the preceding month to the DCF commissioner. The act does not require the DOAG commissioner to forward any information he or she receives from a DCF employee; but presumably, the DOAG could take action on the animal abuse reports received from DCF.

DCF COMMISSIONER'S RESPONSIBILITIES

Within a week of receiving the DOAG report, the DCF commissioner must determine whether an address linked to an animal abuse report is the same as a location where DCF has opened a child welfare investigation. If so, the commissioner must give the department's investigator the relevant information from the DOAG report on the matter and include it in the DCF record on the child.

By October 1, 2012, the commissioner must develop and implement, in consultation with the DOAG commissioner, training for DCF employees on identifying harm, neglect, and cruelty to animals and its relationship to child welfare case practice. The training must be provided annually and within available appropriations.

The DCF commissioner must also make training available to all ACOs on the accurate and prompt identification and reporting of child abuse and neglect.

PA 11-84 — sSB 1003

Commerce Committee
Transportation Committee
Labor and Public Employees Committee
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee
Appropriations Committee

AN ACT CONCERNING THE CONNECTICUT AIRPORT AUTHORITY

SUMMARY: This act establishes the Connecticut Airport Authority (CAA) to develop, improve, and operate Bradley International Airport, the state’s five other general aviation airports (Danielson, Groton/New London, Hartford Brainard, Waterbury-Oxford, and Windham airports), and any other general aviation airports CAA subsequently owns, operates, and manages. The act authorizes DOT, which exercises most airport-related powers, duties, and functions, to transfer them to CAA, but DOT continues to exercise them until the transfer. The act automatically transfers to CAA the powers, duties, and functions previously assigned to specified agencies.

The act establishes an 11-member board to govern CAA. The new board, which consists of gubernatorial and legislative appointees and state officials, replaces the Bradley International Airport Board of Directors. It has many of the Bradley board’s powers plus the power to hire staff, retain consultants, procure goods and services, apply for federal and state funds, enter into contracts, borrow money, and issue CAA’s bonds.

The act makes CAA a successor employer to the state and requires it to recognize existing state bargaining units and collective bargaining agreements. It requires existing DOT aviation employees to be transferred, with their positions, to CAA. The act prohibits any DOT employee in a bargaining unit from being laid off because of CAA’s creation.

The act makes many conforming changes.
 EFFECTIVE DATE: July 1, 2011

§§ 1, 2, 3, 16, 18, & 19 — QUASI-PUBLIC AGENCY

The act establishes CAA as a quasi-public agency to develop, maintain, and operate Bradley International Airport, the state’s general aviation airports, and other airports — functions DOT and the Bradley International Airport Board of Directors currently perform. In establishing CAA, the act (1) distinguishes Bradley International Airport from the other CAA-owned and -operated airports by designating the latter “general aviation airports” and (2) requires CAA to comply with all federal obligations the state incurred with respect to both types of airports.

As a quasi-public agency, CAA has perpetual succession as a body politic and corporate and must continue operating until it repays its bonds and meets its other obligations. It may adopt and alter an official seal and adopt bylaws to conduct business and regulate its affairs.

CAA must meet the same statutory conditions and requirements as other quasi-public agencies. Consequently, it must obtain the state treasurer’s approval before it can issue bonds or incur other debt guaranteed by the state or backed by a state-capitalized or -guaranteed capital reserve fund. Its accounts must be audited by the state auditors. CAA’s employees must comply with the state code of ethics. They enjoy the same indemnity as state employees.

§§ 12 & 15 — TRANSFERRING AIRPORT-RELATED POWERS, DUTIES, AND FUNCTIONS

Agency-Specific Requirements

Prior law assigned airport-related powers, duties, and functions to several agencies. The act’s provisions for transferring them to CAA vary depending on the agency. The act automatically transfers to CAA all powers and duties previously assigned to the Office of Policy and Management (OPM), Department of Administrative Services, Department of Information Technology, State Property Review Board (SPRB), and Contracting Standards Board.

The act does not transfer to CAA those airport-related powers, duties, and functions the law assigns to DOT. Rather, it allows the DOT commissioner to decide which ones to cede to CAA. In the meantime, DOT must continue operating Bradley and the other general aviation airports. DOT’s authority regarding Bradley includes setting rates, rents, and fees and preparing its annual operating budget.

Transfer Mechanisms

The act specifies how the DOT commissioner must transfer the powers and duties he cedes to CAA. He must do so by entering into one or more memoranda of understanding (MOU) with CAA specifying the transferred powers and duties. If the transfer affects outstanding bonds, the treasurer must be a party to the MOU. The commissioner cannot reclaim any powers, duties, assets, funds, accounts, contracts, or liabilities he cedes under a MOU.

The commissioner must also establish a Bureau of Aviation (BOA) to bring about CAA’s ownership, jurisdiction, or authority over Bradley, the general aviation airports, and any other airports. (DOT’s organizational elements already include a Bureau of Aviation and Ports.) BOA must do so under those arrangements specified in the MOU and that CAA

deems to be in its best interest. The arrangements include deeds, leases, management contracts, agency agreements, or assumptions. DOT can receive no compensation for these arrangements. When implementing an MOU, BOA must comply with existing contracts and applicable federal and state laws, regulations, or rules.

MOU

The MOU must conform to the act. It cannot grant CAA powers and duties that exceed those the act provides. Nor can it assign CAA administrative support functions that can be implemented only by expanding those powers and duties.

The MOU must provide for an orderly transfer and transition of ownership, jurisdiction, and authority from DOT to CAA. It must specify:

1. each party's powers regarding Bradley, the general aviation airports, and other airports;
2. assets, funds, accounts, contracts, liabilities, and powers and duties DOT will transfer to CAA and the mechanism for doing so (e.g., deeds, leases, management contracts, agency agreements, assignments, or assumptions);
3. the party responsible for meeting federal obligations;
4. the employees DOT will transfer to CAA;
5. schedules for completing the transfers;
6. the administrative services DOT will provide to CAA; and
7. how CAA will reimburse the state for these services.

If the treasurer and the Bond Commission approve, a MOU may allow CAA to assume the state's obligation for any outstanding bonds, notes, and other debt and indemnify and release the state from any accompanying liabilities and expenses. In assuming the obligation, CAA must comply with the indenture securing the debt.

The act imposes certain restrictions on MOUs. MOUs cannot require CAA to provide administrative services to the general aviation airports without allowing it to use the money appropriated for them. Nor can they authorize actions that would contravene any contract between the state and another party unless the parties agree to allow the action. This restriction specifically applies to MOU provisions transferring or granting powers, resources, and liabilities to CAA and bond contracts, trust indentures, or other bond-related agreements.

After the parties approve a MOU, CAA may accept a transfer, assignment, or lease the MOU authorizes by notifying DOT that it is ready to do so. DOT cannot unreasonably delay or withhold these actions. When these actions take effect and jurisdiction and control of the airports pass to CAA, DOT's

regulations become CAA's regulations and procedures, and CAA must make any necessary additions and modifications as the law provides. This requirement applies to those regulations governing airport fees; aeronautics and aviation; and airport licenses, uses, and operations.

The comptroller may establish funds and accounts to implement CAA's MOU or the act. CAA must deposit all licensing and user fee revenue it receives from airport operations in a fund established for such operations. CAA may tap the fund to cover budgeted expenses for authorized purposes.

Bradley Enterprise Fund

The act allows CAA to tap the Bradley Enterprise Fund to pay for the functions it must perform at Bradley under a MOU. CAA may do so by entering into a MOU with the treasurer regarding the fund's use. The MOU may transfer the fund to CAA to operate and maintain Bradley.

§§ 2-4 — ORGANIZATION STRUCTURE

Board of Directors

Composition. The act creates an 11-member board to govern CAA. The top four legislative leaders each appoint one member and the governor appoints four. The three remaining members are the treasurer and DOT and Economic and Community Development commissioners, or their designees, who serve on the board *ex officio*. Members may not designate others to act in their absence, and they are deemed to have resigned if they miss (1) three consecutive meetings or (2) at least half of all board meetings in a calendar year. Appointing authorities must fill any vacancies occurring before a term expires, and the people they appoint must serve only for the term's balance.

Qualifications. Appointed board members must have business and management experience and expertise in financial planning, budgeting and assessment, marketing, master planning, aviation, and transportation management.

Bonds. The board members and the executive director must post bonds. The board chairman can execute a blanket bond covering all members, the director, and CAA's employees, or each member can post a \$50,000 surety bond and the executive director a \$100,000 bond. In both cases, the bonds must be conditioned on the parties faithfully performing their official duties. CAA must pay for the bonds.

Terms. The initial appointees serve four-year terms, except for two of the governor's appointees, who serve two-year terms. They may begin serving upon appointment, but not past the sixth Wednesday of the legislature's next regular session unless they are

nominated and confirmed under the statutory procedure for nominating and confirming department heads (CGS § 4-7).

After the initial appointees' terms expire, all the subsequent appointees serve four-year terms, which begin on July 1 of the year appointed. These appointees must be nominated and confirmed under the statutory procedure for filling vacancies when the legislature is not in session (CGS § 4-19).

Officers. The governor appoints the chairperson, who serves a four-year term. The board elects from its members the vice chairperson and other necessary officers. It must fill vacancies among the officers within 30 days after the vacancy occurs the same way it filled the position.

Conflict of Interest. The act specifies how board members can serve without incurring a conflict of interest. Members with a financial interest in a person, firm, or corporation or who serve as trustees, directors, partners, or officers of these entities can avoid such conflicts by not deliberating, acting, or voting on any matter affecting their respective entities.

The act does not preclude people from serving on the board based on their profession or business, but requires them to comply with (1) the board's code of conduct and (2) all applicable federal or state ethics or conflict of interest laws, regulations, and rules. Members are not compensated for serving on the board, but must be reimbursed for expenses they incur while performing official duties.

Conducting Business. The board can meet and conduct business if at least six members are present and may decide matters by a majority of those present. It can also delegate powers and duties to six or more members. It must adopt bylaws to conduct business and appoint necessary committees and advisory boards.

It must adopt written procedures for:

1. adopting annual budgets and operating plans;
2. hiring, dismissing, and compensating employees;
3. acquiring real and personal property and procuring personal services;
4. contracting for professional services;
5. issuing and retiring bonds and other debt;
6. awarding financial assistance; and
7. using surplus funds to the extent the act allows.

The procurement procedures must require the board to approve nonbudgeted expenditures over \$5,000; the personnel procedures must include an affirmative action policy and require the board to approve each new position and hiring.

Removing Members. Any member's appointing authority can remove a member for misconduct, inefficiency, or failure to perform. But the appointing authority must first give the member a written copy of the charges and an opportunity to be heard. The hearing

must occur within 10 days after receiving the appointing authority's notice. If the appointing authority removes the member, it must file with the secretary of the state a (1) report stating the charge and the findings and (2) complete record of the proceedings.

Executive Director

The board appoints the CAA executive director, who cannot be a CAA member. The director must generally direct and supervise CAA's administrative affairs and technical activities and perform the administrative and managerial tasks the act specifies. The board determines the director's compensation.

§ 3 — ADMINISTRATIVE POWERS

The act gives CAA powers needed to develop, maintain, and operate Bradley, the general aviation airports, and the other airports it acquires. Many of these powers are similar to those exercised by other quasi-public agencies and include:

1. maintaining offices,
2. acting in its own name,
3. entering into contracts and agreements needed to perform its duties,
4. acquiring real and personal property,
5. borrowing money,
6. issuing bonds and incurring other debt,
7. entering into currency and interest rate swaps and credit enhancements and liquidity agreements,
8. preparing plans and budgets,
9. hiring employees and retaining consultants,
10. accepting aid and contributions from any source,
11. adopting policies and procedures,
12. auditing and accounting for its funds and those of its recipients, and
13. reporting annually to the governor and the Transportation and Commerce committees.

The act allows CAA to acquire, lease, and dispose of real property and acquire personal property. It exempts CAA's real estate transactions from review and approval of any state agency, but prohibits it from conveying any airport land under its jurisdiction and control without the SPRB's and the attorney general's approval.

The other powers are more related to operating airports and include:

1. developing organizational and management structures;
2. establishing operational rules and procedures;
3. setting rates, rents, fees, and charges;
4. approving airport master plans and marketing policies;

5. approving airport-related safety, security, and federal certification plans, procedures, and specifications;
6. managing and administering federal aviation funds and special obligation bonds issued to finance airport improvements;
7. establishing customer service standards and similar measures; and
8. approving community relations policies.

The act also allows CAA to:

1. ensure that Bradley, the general aviation, and other airports serve as regional and state economic development resources;
2. license airports and heliports consistent with state and federal rules and regulations; and
3. manage and administer the state's aircraft registration program.

§§ 14 & 22 — AIRPORT PROPERTY

The act gives CAA broad powers to manage airport property. CAA has undivided control over any airport or land area it owns, leases, controls, operates, or manages. It can sell or lease its property or grant an interest in it — an authorization that applies to airports, airport sites, hangars, shops, and buildings. But CAA cannot grant any exclusive rights to use any airway, airport, restricted landing area, or other navigation facility under its jurisdiction.

CAA can also acquire title, interest, or rights in any such facilities in private or municipal airports. And it can purchase or acquire any interest in any land, building, equipment, or facility it leased or granted in an airport or airport site. CAA can accept any interest or right in any DOT-owned airport, restricted landing area, or other navigation facility.

By law, the DOT commissioner can acquire or take by eminent domain aviation-related property. The act allows him to transfer interests and rights in such property to CAA with its approval and that of the SPRB and the attorney general. It also allows him to take or acquire an interest in real and personal property CAA sells, leases, or grants in any airport or airport site.

CAA can also manage and operate its property. It can provide parking, limit motor vehicle speeds, control traffic flow, designate crosswalks, and erect signs. It can also execute mutual fire protection agreements with municipalities.

§§ 6-9 — FISCAL POWERS

§§ 6-8 — *Bonding*

The act authorizes CAA to issue bonds backed only by its own revenue to finance improvements at Bradley, the general aviation airports, and the other airports it

acquires. CAA must repay the bonds no later than 40 years after issuing them. It can (1) issue bonds to finance general improvements and back them with some or all of its revenue or (2) it can issue bonds to finance a specific improvement, such as a parking garage, and back them only with the revenue the improvement generates.

CAA may use the proceeds from the bond sales to:

1. cover construction costs, including administrative, labor, and material expenses;
2. acquire land and interests needed to construct or operate facilities and any subsequent damage costs;
3. purchase machinery and equipment needed for these purposes; and
4. capitalize reserve funds for repaying the bonds.

The bonds do not count toward the state's bond cap, and only CAA is liable for them. The act explicitly exempts the state, municipalities, and other political subdivisions from any obligation to repay the bonds. It exempts the principal and interest payments to the bondholders from all taxes except the estate and gift tax, but requires them to include these payments when computing excise and franchise taxes.

The act allows CAA to determine how it will issue and repay the bonds and specifies the kinds of terms and conditions it may include in its agreements with the bondholders. It also declares the bonds negotiable instruments under the Uniform Commercial Code subject only to their registration requirements. The act makes the bonds securities in which governments and private entities may invest. CAA may sell the bonds (1) at a public sale on sealed proposals at a price and time it chooses or (2) by negotiating with investors.

The act authorizes or requires several actions to assure bondholders that CAA will repay them. It specifies that the state will not limit or alter CAA's rights until CAA repays its outstanding bonds and authorizes CAA to create and maintain special capital reserves to back them. It also appropriates from the General Fund any amount needed to maintain these special capital reserves at the required minimum level. The funds must be appropriated as needed on or before December 1. CAA's chairperson or vice chairperson must certify the amount to the treasurer and the OPM secretary.

The act also allows CAA to secure that pledge by entering into agreements with a trustee representing the bondholders' interests (i.e., trust of indenture). The act requires CAA to secure principal and interest payments by pledging its revenue, which is also immediately subject to lien without any action on the bondholders' part.

The act allows CAA to issue bonds to refund its outstanding bonds and specifies conditions for doing so. It also allows CAA to use its funds to purchase its bonds

and those of the state and dispose of the bonds as the bond agreements allow.

By law, the State Bond Commission can issue bonds to finance capital improvements at Bradley and back them with airport-related revenue (CGS § 15-101f). But it can do so only if the Bradley board of directors adopts a resolution requesting bonds and the DOT commissioner presents it to the treasurer. By eliminating the board, the act prevents the commissioner from requesting bonds.

§ 8 — *Investments*

The act allows CAA to manage its funds, including bond proceeds. CAA can invest and reinvest its funds in obligations, securities, and other investments. It can also deposit and redeposit them in banks. But, in either case, it must comply with the bond agreements.

§ 9 — *Airport Revenue*

Under prior law, DOT covered the capital and operating costs of running Bradley and the general aviation airports by imposing rates, fees, rents, and charges on the people and entities that use airport facilities. The act authorizes CAA to do the same, setting the rates, fees, rents, and charges so that they generate enough revenue to maintain, improve, repair, and operate airport facilities; repay bonds and other obligations; and create and maintain reserves.

The act specifically requires CAA to set aside enough revenue for the purposes specified in its bond and trust agreements. These agreements may require CAA to (1) maintain reserves at specified levels or (2) periodically improve or maintain property. The act allows CAA to tap this revenue only as the agreements allow.

§ 9 — *Budgeting*

The act requires CAA to manage Bradley's finances, but only after the DOT commissioner cedes his comparable statutory powers and duties to CAA under a MOU. Those powers include preparing Bradley's annual operating budget, which DOT must submit to the OPM secretary for approval; estimating rate, rental, and fee revenue and operating costs; specifying scheduled bond payments and required reserves and sinking fund amounts.

The act requires CAA to designate its fiscal year and adopt, at least 30 days before the start of that year, an annual operating budget for Bradley, the general aviation airports, and any other airports it acquires. Besides providing funds to cover operating expenses, debt obligations, and reserves, the budget must estimate the revenue CAA expects to receive from rates, rents,

fees, and charges. The act specifies how and when CAA must transfer revenue into operating accounts.

In preparing the budget, CAA must comply with the laws that currently apply to state employees and state property. Regarding the former, the act specifies that all pension, retirement, and other similar benefits continue as though they were funded out of the state's General Fund.

§§ 13 & 15 — PERSONNEL

Successor Agency

The act makes the authority a successor employer to the state and requires it to recognize existing state bargaining units and collective bargaining agreements. The Aviation Bureau must consolidate all existing airport-related positions pending DOT's transfer to CAA. These include fiscal, administrative, management, operational, maintenance, aircraft rescue, and firefighting personnel, including those that are not part of a collective bargaining unit.

The act deems CAA's employees to be state employees for collective bargaining purposes (§ 13(a)) and health and retirement benefits (§ 13(g)). CAA must reimburse the appropriate state agencies for the costs they incur providing these benefits to CAA's employees.

Hiring

The act allows CAA to create and fill unclassified positions without having to comply with Executive Branch policies and procedures. Under the act, CAA's employees covered by a collective bargaining agreement are in the classified service; managerial employees and other employees not covered by a collective bargaining agreement are exempt from the classified service. The act allows CAA to establish compensation and incentive plans for employees exempt from classified service.

Transfers

The act requires existing DOT aviation employees to be transferred, with their positions, to CAA if and when the DOT commissioner transfers the functions they perform to CAA. If CAA does not create enough positions for all of them, offers to transfer employees must be based on statutes or the collective bargaining provisions governing seniority. Anyone covered by a collective bargaining agreement who transfers to CAA retains his or her position and remains in the same bargaining unit to which he or she belonged.

No DOT employee in a bargaining unit can be laid off because of CAA's creation, unless he or she chooses to be. This rule applies to employees who decline

transfer to CAA and those for whom CAA has no slots. Employees no longer employed by DOT must be retained by DOT or assigned, with their position, to another state agency, based on seniority according to the State Employees Bargaining Agreement. The OPM secretary must approve all transfers.

Employees who choose to be laid off are entitled to be rehired according to their respective union contracts and the collective bargaining agreement. Laws concerning quasi-public agencies, the Division of Special Revenue, and the Connecticut Lottery Corporation will not affect DOT employees' collective bargaining rights.

New Classifications

CAA's board of directors may create new employee classifications, which under the act are neither part of the classified service nor comparable to those in it. Starting July 1, 2011, the authority may hire employees into unclassified positions and set the initial terms and conditions of employment without regard to a collective bargaining agreement.

Collective Bargaining

Under the act, the Executive Branch negotiates for the CAA and represents it in collective bargaining, but CAA may have a representative at the bargaining meetings.

Arbitrators dealing with CAA employees must consider the laws governing arbitration for state employees and the laws concerning quasi-public agencies, the Division of Special Revenue and Gaming Policy Board, and Connecticut Lottery Corporation; the authority's entrepreneurial mission; and the need for flexibility and innovation.

§§ 11 & 5 — REPORTS

CAA must annually submit a performance report to the governor and the Transportation and Commerce committees by December 15. The report must summarize CAA's activities, include complete operating and financial statements, and recommend legislation to promote CAA's purposes.

CAA's board of directors must also submit a copy of CAA's independent audit to the governor and the legislature within seven days after receiving it. It must send copies to the Appropriations, Commerce, and Transportation committees.

PA 11-86—sSB 1001

Commerce Committee

Finance, Revenue and Bonding Committee

AN ACT CREATING THE FIRST FIVE PROGRAM

SUMMARY: This act authorizes "substantial financial assistance" under existing economic development programs for business development projects that can create jobs and invest funds within specified timeframes. The Department of Economic and Community Development (DECD) commissioner may provide this assistance to up to five businesses per year in FY 12 and 13, respectively (i.e., "First Five" Program).

The act allows her to provide the assistance only if the governor consents. It exempts First Five projects from having to obtain legislative approval, which the law requires for financial assistance and certain tax credits above specified amounts.

The act also increases the total amount of business tax credits available under the (1) job creation tax credit program, from \$11 million to \$20 million, and (2) Urban and Industrial Sites Reinvestment program, from \$500 million to \$750 million.

EFFECTIVE DATE: July 1, 2011

SUBSTANTIAL FINANCIAL ASSISTANCE

Two-Year Time Period

The act authorizes the DECD commissioner to provide substantial financial assistance to up to five businesses per year in FY 12 and 13, respectively, and to work with the Connecticut Development Authority (CDA) and Connecticut Innovations, Inc. (CII) to secure financing for the project. CDA makes and guarantees loans for different business development projects; CII provides venture capital for developing new products and techniques.

Manufacturing Assistance Act (MAA)

The act does not explicitly specify the programs the commissioner may use to fund First Five projects, but suggests she may use MAA funds, which businesses can use to develop land and purchase machinery and equipment. The law limits the amount of MAA funds a project may receive based on its location. Projects in the 17 targeted investment communities qualify for up to 90% funding while those in the other municipalities generally qualify for up to 50% funding. The act exempts First Five projects from these limits, thus qualifying them for up to 100% funding regardless of their location.

Insurance Premium Tax Credit Waivers

The act also suggests that parties investing in First Five projects qualify for business tax credits. It does so by allowing the commissioner to waive the annual statutory limit on the total amount of credits insurers may claim against the insurance premium tax. The limit is 70% of a taxpayer's pre credit liability for that year. The commissioner may waive this limit for taxpayers claiming credits for investments made under these programs:

1. Urban and Industrial Sites Reinvestment Act (CGS § 32-9t),
2. Job Creation (CGS § 12-217ii),
3. Small Business Job Creation (CGS § 12-217nn),
4. Vocational Rehabilitation Job Creation (CGS § 12-217oo),
5. Film Production Tax Credit (CGS § 12-217j),
6. Film Production Infrastructure (CGS § 12-217kk),
7. Digital Animation Production (CGS § 12-217ll), and
8. Insurance Reinvestment Fund (CGS § 38a-88a).

Increase Credit Authorizations

PA 11-6 increased the total combined cap for credits under the Job Creation, Small Business Job Creation, and Vocational Rehabilitation Job Creation programs from \$11 million to \$20 million. This act sets the cap for the Job Creation program at \$20 million on its own, but does not eliminate conflicting references to a combined \$20 million cap for the three programs in other statutes.

EXEMPTION FROM LEGISLATIVE APPROVAL

The act exempts First Five projects from laws requiring legislative approval for large-scale economic development projects. It exempts them from the law requiring such approval for projects receiving over \$10 million over a two-year period (\$20 million for biotechnology projects). And it exempts them from the law requiring legislative approval for projects requesting over \$20 million in tax credits under the Urban and Industrial Sites Reinvestment Program, which provides credits for (1) building, expanding, or rehabilitating facilities in state-designated municipalities or (2) cleaning up and redeveloping contaminated property in any municipality.

ELIGIBILITY CRITERIA

Business development projects qualify for First Five funding if they commit to creating jobs or investing funds within the act's timeframes. Thus, a project qualifies if it:

1. creates at least 200 new jobs within 24 months after the commissioner approved assistance or
2. invests at least \$25 million and creates at least 200 new jobs within five years after the commissioner approved the assistance.

The act allows the commissioner to give business development projects preference for assistance if they are also "redevelopment projects," which the act does not define. The commissioner can do this if she believes a project can create at least 200 jobs sooner than 24 months or, for projects investing at least \$25 million, sooner than five years.

TERMS AND CONDITIONS FOR FINANCIAL ASSISTANCE

The act authorizes the commissioner to take any steps she deems necessary to ensure that a business development project meets its job creation and investment goals. The steps include imposing terms and conditions on repaying state assistance.

APPROVAL

The commissioner must certify to the governor that a project meets the act's criteria. She may award the assistance only if the governor consents in writing.

REPORTS

The commissioner must report to the Commerce and Finance, Revenue and Bonding committees on the projects receiving assistance under the act. The reports must indicate the number of jobs created and how they affect the economy. They are due on January 1, 2012, January 1, 2013, and September 1, 2013.

PA 11-103—HB 6221*Commerce Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING THE ELIMINATION OF CERTAIN SUNSET DATES**

SUMMARY: This act makes permanent two Connecticut Development Authority (CDA) programs that provide bond financing for large-scale development projects. Prior law prohibited CDA from approving new projects under both programs on or after July 1, 2012.

Both programs use tax revenue, including incremental tax revenue, to repay the bonds. One uses property tax and other specified revenues to repay bonds CDA issues on a municipality's behalf for cleaning up and redeveloping contaminated property or developing land for information technology uses. The revenue may include some or all of the increase in the property tax revenue these improvements generate (i.e., tax incremental financing).

The other program uses incremental sales, hotel, dues, cabaret, and admission tax revenue to repay bonds CDA issues for projects that create jobs or stimulate significant business activity.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Related Act

PA 11-141 also eliminates the sunset date for the CDA program that uses incremental sales, hotel, dues, cabaret, and admission tax revenue to repay bonds for projects creating jobs or stimulating significant business activity.

PA 11-104—HB 6222

Commerce Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL CORRECTIONS TO COMMERCE STATUTES

SUMMARY: This act makes technical changes in various economic development statutes.

EFFECTIVE DATE: Upon passage

PA 11-131—HB 6455

Commerce Committee

AN ACT REPEALING CERTAIN STATUTES RELATED TO THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

SUMMARY: This act eliminates the State Economic Development Advisory Board, Connecticut Economic Conference Board, the Small Business Advisory Council, and Connecticut Economic Information Steering Committee, which are defunct, and makes a conforming technical change.

With respect to the Small Business Advisory Council, the act repeals the statute establishing the council and designating its members, but not the statutes

specifying its powers and duties (CGS §§ 32-97 to -100).

The act also repeals obsolete, redundant, and duplicative statutes.

EFFECTIVE DATE: July 1, 2011

PA 11-140—sHB 6525

Commerce Committee

Appropriations Committee

AN ACT CONCERNING THE CONTINUANCE OF THE MAJORITY LEADERS' JOB GROWTH ROUNDTABLE

SUMMARY: This act establishes and modifies several economic development programs, makes structural and procedural changes to two quasi-public state development agencies, and requires two studies. It provides tax incentives for (1) small manufacturers to save money for training workers and acquiring facilities and equipment (§§ 4-7) and (2) graduates from Connecticut colleges and universities and regional vocational-technical school to save money toward buying their first home in Connecticut (§§ 30-32).

The act modifies several existing economic development programs.

1. It revamps the eligibility criteria for student loan reimbursements for Connecticut residents graduating from public colleges and universities with degrees in specified fields and eliminates the reimbursements for nondegree training certificates in these fields. Among other things, the act expands the range of eligible degrees, but limits eligibility to residents working for a business related to their degree. Under prior law, residents had to hold a job related to their degree, but the job could have been in business, government, or the nonprofit sector (§ 1).
2. The act makes changes to the Neighborhood Assistance Act (NAA), including extending NAA tax credit eligibility to companies subject to the state's business entity tax and doubling the total amount of credits that a company may claim annually under the NAA (§§ 27-28). It also allows business taxpayers to transfer insurance reinvestment tax credits to their affiliates (§ 2).
3. The act allows the Office of Brownfield Remediation and Development (OBRD) to enter into cooperative funding agreements with other entities (§ 10), changes the Department of Economic and Community Development's (DECD) role in establishing the Innovation Network for Economic Development (§ 11),

and expands eligibility for tax benefits under several DECD programs and makes many technical and programmatic changes (§§ 13-26).

4. Lastly, the act extends enterprise zones benefits to parts of Plainville (§ 29).

The act makes the DECD commissioner the chairperson of the boards of the Connecticut Housing Finance Authority (CHFA) (§ 8) and the Connecticut Development Authority (CDA) and changes a CDA reporting requirement (§ 12). It eliminates the 21-member Connecticut Competitiveness Council, which PA 10-75 established to promote the state's industry clusters.

Lastly, the act establishes a task force to identify and study the barriers facing Connecticut businesses (§ 9) and requires the transportation (DOT) and administrative services (DAS) commissioners to analyze the costs and benefits of converting a portion of the state's auto fleet to alternative energy sources (§ 3).

EFFECTIVE DATE: Various, see below.

§ 1 — STUDENT LOAN REIMBURSEMENTS

Eligible Academic Backgrounds

PA 10-75 authorized student loan reimbursements and training grants for Connecticut residents graduating from public colleges and universities, based on their educational fields, subsequent occupations, and incomes. The act revamps the eligibility criteria.

It expands the range of educational fields. Under prior law, residents qualified for reimbursements if they graduated from a Connecticut college or university on or after May 1, 2010 with a degree related to life science, green technology, or health information technology. Life science encompassed the study of genes, cells, tissues, and the chemical and physical structures of living organisms. The act expands this field to include biomedical engineering and medical device manufacturing.

Eligible Occupations

The act also expands the range of eligible occupations. Under prior law, graduates had to be employed in jobs related to the eligible academic fields for at least two years after graduation. Graduates meeting these criteria qualified for reimbursements regardless of whether they worked for businesses, government agencies, or nonprofit organizations. Under the act, they qualify for reimbursement only if they are employed in a business related to these eligible fields regardless of their jobs. Those employed by government agencies or nonprofit organizations do not qualify.

Income Criterion

The act changes the income criterion for receiving loan reimbursements. Under prior law, a resident who met the educational and occupational criteria qualified for reimbursement if his or her expected family contribution, as determined by the federal Free Application for Federal Student Aid, was no more than \$35,000 for the most recent full academic year. (Income is one of the factors that affect family contribution.) Under the act, a resident who meets these criteria qualifies if his or her federal adjusted gross income is no more than \$150,000 for the year before the initial reimbursement year.

Reimbursements

The act eliminates prior law's maximum \$250 grants for residents with nondegree training certificates and jobs in eligible fields. It makes no changes to the student loan reimbursements, which vary depending on the resident's degree. Residents with a bachelor's degree qualify for up to \$2,500 per year or 5% of the loan amounts, whichever is less, for up to four years. Those with an associate's degree qualify for the same amount, but only for up to two years. The law caps the total value of reimbursements a resident can receive under this and any other state program at \$10,000 for those holding a bachelor's degree and \$5,000 for those holding an associate's degree.

EFFECTIVE DATE: Upon passage

§ 2 — INSURANCE REINVESTMENT FUND PROGRAM

This program authorizes insurance premium, corporation business, and personal income tax credits for taxpayers investing in insurance businesses through a state-certified insurance reinvestment fund. Under prior law, taxpayers could only apply credits against their tax liability or sell them (i.e., assign them) to another taxpayer. The act also allows them to transfer the credit to an affiliated business or entity.

EFFECTIVE DATE: Upon passage

§ 3 — AUTO FLEET CONVERSION STUDY

The act requires the DOT and DAS commissioners to jointly study the costs of converting up to 25% of the state's auto fleet to alternative energy sources. They must do this by July 1, 2011 within available appropriations and submit their findings and recommendations to the governor and the Commerce, Energy and Technology, Environment, and Transportation committees by February 1, 2012.

The study must include DOT's vehicles; identify the costs and environmental benefits of converting the fleet to electric power, alternative fuels, or natural gas; and establish deadlines for completing the conversion.

The law already sets goals for converting the state fleet to alternative energy sources. It requires all cars and light duty trucks purchased or leased on or after January 1, 2012 to be alternative fuel, hybrid electric, or plug-in vehicles. As of January 1, 2008, all alternative-fueled vehicles and all gas-powered light duty and hybrid vehicles had to be certified to the California Air Resources Board's Low Emission Vehicle II Ultra Low Emission Vehicle Standard.

EFFECTIVE DATE: Upon passage

§§ 4-7 — MANUFACTURING REINVESTMENT ACCOUNT

Eligible Businesses

The act requires the DECD commissioner to establish a program encouraging small manufacturers with 50 or fewer employees to save money for (1) training, developing, and expanding their workforce or (2) purchasing machinery, equipment, or facilities. In doing so, she must establish criteria and guidelines for selecting up to 50 manufacturers, which include any business that changes the form, composition, quality, or character of tangible personal property for retail sale or making a product for such sale. The manufacturers must be liable for corporation business or personal income taxes (although the act's tax benefits apply only to manufacturers subject to the corporation business tax.)

Savings Incentive

The act provides two incentives to manufacturers for saving money for worker training and capital improvements, including machinery and equipment purchases. It allows them to defer the corporation business taxes on the amounts they save for these purposes until they spend some or all of the savings. It also taxes the amounts they spend at a lower rate. Manufacturers can access these incentives only by establishing a manufacturing reinvestment account and complying with the act's rules for depositing and spending funds.

Manufacturing Reinvestment Account

A manufacturer may establish a manufacturing reinvestment account only in a Connecticut bank, which can act as the account's trustee or custodian. Neither the bank nor the manufacturer can invest the money in the account in life insurance contracts or comingle it with other property. The bank must close the account five

years after the manufacturer established it and return the balance to the manufacturer.

The manufacturer or an affiliated business may deposit up to \$50,000 annually, or 100% of their domestic gross receipts, whichever is less, on a corporation tax-deferred basis for up to five years, if they use the funds for these purposes.

The manufacturer (or the affiliate) may defer taxes on the deposits by deducting them from its corporation business taxes until it withdraws the money. It must pay taxes on each withdrawal, but at a reduced rate of 3.5%, regardless of its corporate or business structure. Any balance remaining after five years is taxed at the full rate (currently 7.5%, plus 10% surcharge). Under the act, the bank must return the balance to the manufacturer, which then has up to 60 days to pay the taxes on this amount.

Eligible Expenditures

A manufacturer may withdraw funds from the account to train its workers or purchase machinery, equipment, or manufacturing facilities. Machinery includes the basic machine and its component parts plus equipment and devices used or needed to control, regulate, or operate it. Equipment includes separate devices needed to manufacture, process, or fabricate things.

Annual Report

The act requires the banking commissioner to annually report on banks acting as trustees or custodians for manufacturers establishing reinvestment accounts. He must include this information in the annual report he submits to the Banks Committee under existing law. Under prior law, that report, among other things, summarized the actions he took to let Connecticut-chartered banks engage in certain activities closely related to banking and those permitted for federally chartered banks and approve uninsured banks that did not take retail deposits.

The act eliminates the requirement that the report include information on the commissioner's action with respect to Connecticut-chartered banks engaging in closely related activities.

EFFECTIVE DATE: July 1, 2011 and applicable to income years on or after January 1, 2011.

§ 8 — DECD COMMISSIONER AS CHAIRPERSON OF CHFA'S BOARD

By law, the DECD commissioner is an *ex officio* member of CHFA's board of directors. The act makes the commissioner the board's chairperson. Under prior law, the chairperson was appointed by the governor, with the General Assembly's advice and consent.

EFFECTIVE DATE: Upon passage

§ 9 — TASK FORCE ON BUSINESS AND INDUSTRY BARRIERS

Purpose

The act establishes a 19-member task force to study Connecticut's businesses and industries and identify the barriers they face. The act implicitly defines those barriers as those confronting innovative business leaders. It requires the task force to examine issues related to:

1. establishing links between Connecticut and international businesses and colleges and universities;
2. cultivating the state's next generation of business innovation leaders;
3. establishing international competitions that provide incentives for attracting such leaders to Connecticut and encouraging those who are here to remain and contribute to innovation and technological growth;
4. developing a global business plan for staging international competitions offering prizes, stipends, and first-year investment capital to businesses and industry workers relocating to Connecticut and establishing their businesses here;
5. energy-related job growth, economic and workforce development, research and development, and information sharing between manufacturers and colleges and universities;
6. the number of manufacturers that used remedial measures for addressing Department of Environmental Protection (DEP)-imposed noncriminal penalties and whether such penalties could be waived based on the remediation;
7. other states' programs for waiving environmental penalties imposed on businesses;
8. offering fellowships to top entrepreneurs who spend one year in Connecticut developing their businesses; and
9. using social media and other technology to encourage socially useful community-based projects to compete for stipends and corporate support and funding.

Task Force Appointments

The governor and legislative leaders appoint 11 members. The governor appoints three members, the House speaker and Senate president pro tempore each appoint two, and House and Senate majority and

minority leaders each appoint one. The appointing authorities may appoint legislators. They must make their appointments within 30 days of the act's effective date and fill any subsequent vacancies.

The act names the chairpersons and ranking members of the Commerce and Higher Education committees to the task force, bringing the total membership to 19.

Operations

The task force has two chairpersons, one each selected by the House speaker and the Senate president pro tempore. The chairpersons must call the first meeting by September 6, 2011. The administrative staff of the Commerce and Higher Education and Employment Advancement committees must provide the administrative support.

Report

The task force must report its findings and recommendations to the governor and the Commerce and Higher Education and Employment Advancement committees by February 1, 2012. It terminates on this date or when it submits the report, whichever is later.

EFFECTIVE DATE: Upon passage

§ 10 — OFFICE OF BROWNFIELD REMEDIATION AND DEVELOPMENT (OBRD)

The act expands OBRD's powers by allowing it to enter into cooperative agreements with "qualified implementing agencies," which the act does not define. It also allows OBRD to award grants, where appropriate, to these agencies for designing, implementing, and supervising brownfield assessment and remediation and sub-grants to the agencies as long as they comply with the original grant's terms and conditions.

EFFECTIVE DATE: Upon passage

§ 11 — INNOVATION NETWORK

Revamp Mission

The act revamps the Innovation Network for Economic Development's structure and mission. (PA 11-48, §303, repeals the network.) Under prior law, the economic development agencies and the University of Connecticut had to develop the network's plan and budget in consultation with the Governor's Competitiveness Council, the education and higher education commissioners, the community-technical colleges' chancellor, the Office of Workforce Competitiveness' director, and leading technology-focused organizations. The act allows, rather than

requires, the economic and community development commissioner to establish the network; makes her solely responsible for it; and changes its focus.

Among other things, prior law required the agencies responsible for developing the network to (1) create endowed chairs and hire leading academic professionals in targeted fields and (2) aggressively solicit federal research funds. The act eliminates the requirement that the network include endowed chairs. It allows it to:

1. convene leaders of technology-focused economic development organizations,
2. create a networking system for entrepreneurs and others,
3. develop benchmarks based on the best programs that promote innovation in economic development,
4. develop a statewide innovation database,
5. assess current programs and recommend changes benefiting the state's innovation competitiveness,
6. investigate issued patents, and
7. pursue other initiatives the commissioner deems appropriate to maintain the state's innovative competitiveness.

The act eliminates the requirement for the agencies establishing the network to complete the following tasks and instead allows them to review and comment on the issues the tasks address:

1. increasing corporate-sponsored research,
2. establishing at least one innovation center linked to the universities,
3. strengthening existing university-based technology transfer and entrepreneurship programs,
4. encouraging collaboration between universities and industry- or federally sponsored technology centers, and
5. creating links to Connecticut-based incubators and groups that generally invest in support start-up companies in their early stages.

Tapping Existing Resources

Under the act, the commissioner may tap other organizations' resources, including the Labor Department, the Connecticut State University System, other higher education institutions, and federally funded research centers.

The act specifies that the commissioner must use up to \$500,000 appropriated by PA 11-16 for the Innovation Challenge Grant Program.

EFFECTIVE DATE: July 1, 2011

§ 12 — RECIPIENTS OF CDA FINANCIAL ASSISTANCE

By law, the CDA must file an annual report on its financial assistance programs that, among other things, identifies each company receiving financial assistance and its gross revenue for its most recent fiscal year. The act requires CDA to report gross revenue only for companies that make the information public in the normal course of business. It requires CDA to report the gross revenue of other companies separately while concealing their names and identities. In doing so, CDA must be consistent with the law that already exempts from the Freedom of Information Act certain information that applicants submit to CDA.

The act allows the governor and chairpersons and ranking members of the Appropriations; Commerce; and Finance, Revenue and Bonding committees, after a request to CDA, to examine the detailed report data in confidence, including the specific revenue data for each company not listed by name in the report. It allows the committee chairpersons and ranking members to disclose the data to other committee members and requires that they also keep the data confidential.

EFFECTIVE DATE: July 1, 2011

§ 12 — CONNECTICUT DEVELOPMENT AUTHORITY BOARD CHAIRPERSON

By law, the DECD commissioner serves as an *ex officio* member of CDA's board of directors. The act names the commissioner the board's chairperson. Under prior law, the governor appointed the chairperson with the legislature's advice and consent.

EFFECTIVE DATE: July 1, 2011

§§ 13-26 — DECD STATUTORY REVISIONS

§§ 13-17, 19, & 26 — North American Industrial Classification (NAIC)

The act replaces references to an obsolete business classification code DECD used under prior law to determine if a business qualified for tax and financial incentives under different programs. That code, the Standard Industrial Classification System (SIC), was based on the goods a business makes, the service it provides, or the methods and techniques it employs.

The federal government replaced SIC with a different classification scheme, the NAIC, needed to implement trade agreements creating a common North American market. The NAIC groups businesses that use the same or similar processes to make goods or deliver services. Consequently, NAIC reflects the greater role services play in the economy.

The act mostly substitutes the comparable NAIC code for the SIC with respect to:

1. enterprise zone and targeted investment property tax exemptions and job creation grants (§§ 13, 15, 16, & 17),
2. financial services property tax exemptions (§ 16),
3. local option tax abatement for communication companies (§ 14), and
4. urban and industrial sites remediation tax credits (§ 19).

§§ 15-18 — Extension of Economic Development Incentives

The act extends several economic development incentives to more types of businesses. The law targets certain property tax exemptions, corporation business tax credits, and job creation grants to enterprise zones and targeted investment communities and further limits these geographically targeted incentives to manufacturers and specified service and retail businesses operating in these designated areas.

The act extends the incentives to the same range of businesses that qualify for financing under DECD's Manufacturing Assistance Act (MAA) program. These include two overlapping groups of businesses:

1. those that create or retain jobs, export most of their products and services out of the state, encourage innovation in products and services, add value to them, or otherwise support and enhances activity important to the state's economy (i.e., economic-base businesses) and
2. those within one of the nine DECD-designated industry clusters (i.e., aerospace components, manufacturing, agriculture, bioscience, insurance and financial services, maritime, metal manufacturing, plastics and plastics manufacturing, software and information technology, and tourism).

The act also extends the incentives to the establishments, auxiliaries, or operating units of both groups, as the NAIC system defines these terms.

It also extends the incentives to businesses in the following NAIC categories:

1. Line-haul railroads (482111) and short line railroads (482112);
2. Software publishers (511210);
3. Motion picture and video production (512110) and motion picture and video distribution (512120);
4. Teleproduction and other post production services (512191);
5. Colleges, universities, and professional schools (611310);
6. Business and secretarial schools (614010);

7. Computer training (611420);
8. Professional and management development training (611430);
9. Apprenticeship training (611513);
10. Other technical and trade schools (611710); and
11. Educational support services (611710).

The act similarly extends the incentives to establishments, auxiliaries, or operating units of the businesses that qualify for them based on the NAIC codes.

The act makes direct satellite telecommunications businesses eligible for the local option tax abatement for communications companies. It eliminates waste collection businesses (NAIC code 5621) from eligibility for the property tax incentives. It also eliminates the eligibility of the following types of businesses for these incentives and the job creation grants:

1. Transportation by air (NAIC 4811 and 4812),
2. Accounting (NAIC 5412), and
3. Engineering (NAIC 5413).

§ 18 — Service Businesses' Eligibility for Enterprise Zone and Targeted Investment Community Incentives

The law requires the DECD commissioner to adopt regulations for certifying whether a business qualifies for enterprise zone or targeted investment community incentives. Under prior law, service businesses qualified if they were classified as such in the SIC manual.

Under the act, the regulations must extend the incentives to any service business that supports the economic competitiveness of manufacturers or other economic-base businesses or furthers the state's interests. Under the act, these businesses include those providing day care, job training, education, transportation, employee housing, energy conservation, pollution control, and recycling.

§ 17 — Bradley Airport Development Zone Benefits

The act removes the "distressed municipalities" designation from those sections of Granby, Suffield, Windsor, and Windsor Locks that are in the Bradley Airport Development Zone. PA 10-98 designated these sections the Bradley Airport Development Zone (BADZ) while simultaneously designating them as distressed.

The BADZ designation qualifies businesses for property tax exemptions and corporation business tax credits while the distressed municipality designation affects the towns' eligibility for funds under various programs.

The distressed municipality designation qualifies municipalities for open space, planning, and development grants. But it disqualifies them for grants

under the Small Town Economic Assistance Program (STEAP). Removing the distressed municipality designation restores the towns' eligibility for STEAP funds.

DECD annually designates distressed municipalities based on demographic and economic criteria. It scores and ranks each municipality and designates the top 25 as distressed, a group that currently does not include the BADZ towns.

§§ 20 & 21 — *Energy Conservation Loan Repayments*

The act requires all principal payments for all loans made from the Energy Conservation Loan Fund to go directly back into the fund and makes a conforming technical change. Under prior law, the payments were deposited in the Housing Repayment and Revolving Loan Fund.

§ 24 — *Entrepreneurial Training for Specified Groups*

The act qualifies dislocated workers and displaced homemakers for DECD-funded entrepreneurial training. The law already allows the commissioner to fund such training programs for former recipients of temporary family assistance, general assistance, and aid to families with dependent children. The training programs can also assist ex-offenders and high school dropouts.

§ 25 — *Small Business and Nonprofit Loans*

The act allows more businesses and nonprofit organizations to qualify for DECD's Connecticut Credit Consortium program loans. PA 10-75 established this revolving loan program for those businesses and nonprofit organizations with up to 49 employees. The act raises the maximum threshold to 100 employees.

EFFECTIVE DATE: July 1, 2011, except for the changes to the (1) property tax exemptions, which take effect October 1, 2011 and apply to assessment years beginning on or after that date; (2) criteria for accessing the exemptions, which take effect October 1, 2011; and (3) Connecticut Credit Consortium, which takes effect upon passage.

§§ 27-28 — NEIGHBORHOOD ASSISTANCE ACT

The act makes changes to the NAA, which provides business tax credits to companies that invest in certain municipally approved community activities and programs.

The act extends NAA tax credit eligibility to companies subject to the state's \$250 business entity tax. These companies include S corporations, limited liability companies, limited liability partnerships, and limited partnerships.

The act increases, from \$75,000 to \$150,000, the total amount of credits that a company may claim per year under the NAA. By law, a company generally receives a credit of 60% of its investment up to the annual maximum.

The act eliminates an eligibility requirement. Under prior law, a company's total contributions eligible for the NAA credit had to equal or exceed its total charitable contributions for the prior year. The act eliminates this requirement.

EFFECTIVE DATE: October 1, 2011

§ 29 — ENTERPRISE ZONE

The act extends the benefits of an enterprise zone to certain businesses and commercial properties in sections of Plainville within specified census tracts and blocks. Specifically, it extends the benefits to (1) 53 acres of property zoned Technology Park and (2) 75 acres of raw land zoned Restricted Industrial (40 acres within one specified census tract and block and 35 acres in another specified tract and block).

By law, enterprise zone benefits include property tax exemptions, business tax credits, and sales tax exemptions.

By 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 bioscience, biotechnology, pharmaceutical, or photonics research, development, or production in the state. 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 DECD commissioner or Connecticut Innovations, Inc. has certified as newly constructed or substantially renovated and expanded primarily for occupancy by one or more eligible businesses.

EFFECTIVE DATE: July 1, 2011

§§ 30-32 — LEARN HERE, LIVE HERE PROGRAM

The act allows the DECD commissioner, in consultation with the commissioners of the departments of Revenue Services (DRS) and Higher Education (DHE), to create an incentive program for certain graduates to stay in Connecticut after graduation and buy a first home here. The program is called the Learn Here, Live Here program.

Program Eligibility and Mechanics

The program is open to students who graduate on or after January 1, 2014 from (1) public colleges or universities in Connecticut who qualified as in-state students and paid the in-state tuition rate and (2) regional vocational-technical schools.

Beginning with the January 1, 2014 taxable year, the DRS commissioner can segregate eligible graduates' income tax payments, upon their request, into a Connecticut first-time homebuyer's account that the act establishes (see below), for up to 10 years after graduation. The annual maximum of segregated tax payments for a graduate is \$2,500 and the annual total for all program participants is \$1 million.

Participants can withdraw the segregated amounts to buy a first home in the state within 10 years after they graduated, with the DECD commissioner issuing payments to participants accordingly.

Within 10 years after graduating, a participant may also apply to the DECD commissioner for a payment on the participant's behalf for a down payment on a house, which must be the first one the participant buys, either alone or with someone else. The payment may equal the participant's segregated funds in the account. If the payment is less than that amount, the excess is deposited in the General Fund.

Repayment Schedule

The act requires participants who move out of Connecticut within five years of graduating to repay part of the amount they receive under the program for purchasing or putting a down payment on a home. If a participant moves out of state within the first year after graduating, he or she must repay 100% of the received amount. The repayment percentage decreases by 20% each year after that, until reaching zero after five years (someone who moves out in year two must repay 80%, in year three 60%, etc.). Repayments must be deposited in the General Fund.

Education Program

The act allows the DECD commissioner, by December 1, 2012, to develop a comprehensive public education program, within available appropriations, to inform recent graduates who would be eligible about the Learn Here, Live Here program. If developed, the program must include information on lifetime savings plans and home buying and DECD must begin to implement it by January 1, 2014.

First-time Homebuyers Account

The act creates a Connecticut first-time homebuyers account as a separate, nonlapsing General Fund account. The account is for funds the DRS commissioner segregates as specified above. The DECD commissioner can use an amount equal to the deposited amount for paying program participants as specified.

The act requires the state treasurer to invest the account proceeds. Investment earnings (minus costs for account administration) must be credited to the General

Fund. On or before September 1, 2014 and annually after that, the treasurer must notify the DECD commissioner of the account balance. The act provides that any segregated funds not used to buy a first home must be transferred to the General Fund.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Related Act

PA 11-48 also designates the DECD commissioner as chairperson of CDA's board of directors and eliminates the Connecticut Competitiveness Council.

PA 11-141—sHB 6526

Commerce Committee

Environment Committee

Finance, Revenue and Bonding Committee

Judiciary Committee

AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT AS AN ECONOMIC DRIVER

SUMMARY: This act makes many changes in the laws and programs governing how contaminated property (i.e., brownfields) must be investigated and remediated. It specifically:

1. updates the Office of Brownfield Remediation and Development's (OBRD) powers and duties (§ 1);
2. makes permanent the municipal brownfield pilot program (§§ 1-3);
3. exempts "certifying parties" under the Transfer Act from investigating and remediating a release of hazardous substances that occurs after the property was remediated (§ 4);
4. allows the Department of Energy and Environmental Protection (DEEP, formerly, Department of Environmental Protection) commissioner to reclassify surface and ground water beginning March 1, 2011 (§ 5);
5. requires the DEEP commissioner to evaluate the state's brownfield programs and laws (§ 6);
6. makes more brownfields eligible for state funds and subject to regulatory requirements (§ 7);
7. exempts government agencies and private organizations from paying DEEP fees when cleaning up brownfields (§ 8);
8. expands the range of benefits and eligible entities under the Abandoned Brownfield Cleanup (ABC) Program (§§ 9-11);

9. exempts municipalities and the bankruptcy court from the Transfer Act when transferring titles to nonprofit organizations (§ 10);
10. allows the DEEP commissioner to waive some of the requirements for recording environmental use restrictions and releasing parties from their requirements (§§ 12-14);
11. extends the term of the brownfield working group (§ 15);
12. eliminates the sunset date for funding new projects under the Connecticut Development Authority's (CDA) tax increment financing program (§ 16);
13. establishes a program protecting parties investigating and remediating brownfields from liability to the state and third parties (§ 17);
14. allows Bridgeport's special taxing district to issue bonds to finance property improvements backed by the revenue the improvements generate (§ 18);
15. limits the liability of municipalities, special taxing districts, and metropolitan districts when they allow the public to use their land without charge for recreation purposes (§ 19); and
16. exempts large municipalities from clean-up costs, fines, and penalties when they acquire an easement over a property and allow the public to use it without charge for recreation (§ 20).

EFFECTIVE DATE: Various, see below.

§ 1 — OBRD

OBRD is an organizational unit of the Department of Economic and Community Development (DECD). The act explicitly requires OBRD to promote and encourage people and organizations to develop and redevelop brownfields. It also updates OBRD's statutory duties, requiring it to:

1. maintain an informational website;
2. cooperate with state and local agencies and individuals developing and administering brownfield programs, reaching out to the community, coordinating regional brownfield clean-up efforts, seeking federal funds, and implementing other brownfield redevelopment initiatives; and
3. expand its communication and outreach efforts to include state programs for redeveloping and remediating brownfields.

The act requires the Office of Policy and Management (OPM) secretary to help OBRD fulfill its mission. Under prior law, the CDA executive director and the commissioners of the departments of Environmental Protection, Economic and Community Development, and Public Health had to execute a

memorandum of understanding (1) specifying their respective duties with respect to the office and (2) assigning one or more staff members to act as liaisons with OBRD. The act requires the OPM secretary to become part of the agreement and assign staff liaisons to OBRD.

Besides requiring state agencies to help OBRD fulfill its mission, the law allows OBRD to recruit private sector volunteers for that purpose. Prior law allowed OBRD to recruit volunteers to help it achieve its statutory goals. The act limits the recruits' role to marketing brownfield programs and redevelopment activities.

EFFECTIVE DATE: July 1, 2011

§§ 1-3 — MUNICIPAL BROWNFIELD PROGRAM

Assistance

The act makes permanent the pilot program providing grants and protection from liability to municipalities for investigating and remediating brownfields and renames the program the Municipal Brownfield Grant Program. Prior law authorized the program to fund brownfield projects in five municipalities, four based on population criteria and one without regard to population.

In making the program permanent, the act explicitly makes the DECD commissioner responsible for approving projects, allows her to approve more projects, and expands the range of eligible projects.

Prior law required the program to identify brownfield remediation projects in five municipalities. The act allows the commissioner to annually identify brownfield remediation projects in at least six municipalities per funding round, a process the act does not describe. She must choose projects in four municipalities based on population criteria and two, rather than one, without regard to population. As under prior law, she must fund the projects within available appropriations.

Besides increasing the number of projects the commissioner may approve, the act expands the range of eligible projects. The program had been open to abandoned and underused sites where the need to remediate contaminated soil and ground water complicated their restoration, redevelopment, and reuse.

The act expands the program in several ways. It makes potentially contaminated sites eligible for assistance and specifies that the real or potential contamination must complicate a site's development. It also specifies that the real or potential contamination must be investigated as well as remediated before the site can be expanded, as well as restored, redeveloped, or reused.

Lastly, the act transfers control over the program's fund account from OBRD to the DECD commissioner.

Verification of Remediation

The act narrows the grounds for determining if a brownfield was properly remediated under the program. By law, municipalities investigating and remediating brownfields under the program must have DEEP or a licensed environmental professional (LEP) supervise the work. When the work was completed, prior law required DEEP to indicate if the remediation meets DEEP standards and no further work is needed, except on-site monitoring or recording an environmental land use restriction.

The act explicitly requires a LEP to make these findings when he or she supervises the work. It also requires environmental land use restrictions to be recorded before the LEP or DEEP can decide if further work is needed.

The act allows the DEEP commissioner to audit remediation done under a voluntary agreement. By law, he must notify the municipality whether the work meets the remediation standards or additional remediation is needed within 90 days after receiving the LEP's report verifying the remediation was implemented. The act also requires the commissioner to notify the municipality if he will not audit the work.

EFFECTIVE DATE: July 1, 2011

§ 4 — CERTIFYING PARTY'S RESPONSIBILITY UNDER THE TRANSFER ACT

The act exempts certifying parties under the Transfer Act from investigating and remediating contamination that occurs after they remediated the property. By law, parties to the sale or transfer of a potentially contaminated property must notify DEEP about the transaction and submit forms describing its condition. They must submit a "Form III" if the property is contaminated or they do not know if it is. The form must also identify the party that will investigate the property's condition (i.e., "the certifying party") and, if necessary, clean up the contamination. The parties submit a "Form IV" if the property was contaminated and the contamination was investigated and remediated according to DEEP standards.

The act specifies that the certifying party does not have to investigate or clean up any real or potential contamination that occurs (1) after data was collected at the site (i.e., completed Phase II investigation) or (2) from the date when the Phase II investigation was completed or after the Form III or Form IV was filed, whichever is later.

EFFECTIVE DATE: Upon passage

§ 5 — SURFACE AND GROUND WATER RECLASSIFICATION

The act allows the DEEP commissioner to reclassify surface and ground water beginning March 1, 2011, consistent with the state's water quality standards and in compliance with applicable federal requirements. It specifies the reclassification procedures, which vary depending on whether he initiates the reclassification or responds to a person requesting it. In either case, the commissioner must hold a public hearing, which, under the act, is not a contested case. (A contested case is a proceeding in which an agency must determine a party's rights, duties, or privileges after a hearing.)

Commissioner-initiated Reclassifications. If the commissioner initiates the reclassification, he must hold a hearing on the proposal after (1) publishing a newspaper notice about its time, date, and place and (2) notifying each affected municipality's chief executive officer and public health director by certified mail at least 30 days before the hearing. The notice must identify the surface or groundwater the proposed reclassification affects and describe how the public can obtain additional information about the reclassification.

After the hearing, the commissioner must provide notice of his decision in the *Connecticut Law Journal* and to the affected municipalities' chief elected officials and health directors.

People-initiated Reclassifications. People requesting a reclassification must apply to the commissioner and provide any information he requests. The commissioner must publish a newspaper notice about the hearing at the requestor's expense at least 30 days before the hearing. The notice must identify the requestor and the affected waters; specify how the public can obtain additional information about the proposed reclassification and indicate the commissioner's tentative decision about it; and specify the hearing's time, date, and place. The notice must be mailed to the chief executive officers and the public health directors of the affected municipalities at least 30 days before the hearing. In conducting the hearing, the commissioner must allow all interested parties to comment orally or in writing. He must also keep a record of the hearing.

After the hearing, the commissioner must provide notice of his decision the same way he provides notice of decisions regarding the reclassifications he initiates.

EFFECTIVE DATE: Upon passage

§ 6 — EVALUATING REMEDIATION PROGRAMS

By July 15, 2011, the DEEP commissioner, within available appropriations, must begin evaluating the state's brownfield remediation programs and the laws affecting brownfield remediation. He must report his

findings to the governor and the Commerce and Environment committees by December 15, 2011. The report must address these points:

1. the factors that influence the time it takes to investigate and remediate a brownfield under existing programs;
2. the number of properties in each remediation program, the rate at which they enter it, and the number that complete each program's requirements;
3. the use of LEPs in expediting the remediation process;
4. audits of verifications LEPs complete;
5. statutory programs providing liability relief to existing and potential landowners;
6. comparison of existing remediation programs to states with a single program;
7. the commissioner's use of studies and other resources available from various academic and research organizations; and
8. recommendations to address issues the report raises or to streamline or expedite the remediation process.

EFFECTIVE DATE: Upon passage

§ 7 — DEFINITION OF BROWNFIELDS

The act expands the statutory definition of brownfields, thus making more types of property (1) eligible for state and local assistance and (2) subject to regulatory requirements. Prior law defined a brownfield as an abandoned or underused property that is not being redeveloped or reused because of real or potential contamination requiring remediation. The contamination can be in the ground water, soil, or buildings and must be cleaned up before the property can be restored, redeveloped, or reused or while these activities are occurring. The act broadens the definition of brownfields to include abandoned or underused property where real or potential contamination must be investigated or remediated before it can be redeveloped, reused, or expanded.

EFFECTIVE DATE: July 1, 2011

§ 8 — DEEP FEE EXEMPTIONS

The act sets conditions under which parties are exempt from paying DEEP fees for Transfer Act and environmental condition assessment forms and covenants not to sue. It exempts any public, private, or nonprofit entities from paying these fees if they have received state funds for investigating and remediating brownfields. The act also exempts state agencies, authorities, or higher education institutions from paying the fees when remediating a brownfield for siting a state facility.

The act also exempts parties from paying any DEEP fees when they intend to investigate and remediate brownfields without state assistance. In these cases, they pay no fees for contamination other parties caused before they acquired the property.

EFFECTIVE DATE: Upon passage

§§ 9-11 — ABANDONED BROWNFIELD CLEANUP (ABC) PROGRAM

Expanded Benefits

The act expands the range of benefits and eligible entities and properties under the ABC program, which exempts its participants from investigating and remediating contamination that emanated from a property before they acquired it. The act adds another benefit; it limits the entities' liability to the state or any third party for this contamination to anything they do to cause or contribute to it or negligently or recklessly exacerbate it.

The act exempts entities remediating property under the program from filing the required Transfer Act forms. The exemption applies only if the property was used to generate or handle hazardous waste. The act also designates the entities innocent third parties, and specifies conditions exempting them from liability to the DEEP commissioner and other parties implementing abatement orders under the statutes and common law. But this exemption does not extend to anything they do that negligently and recklessly exacerbates the contamination.

The act also exempts them from paying the covenant not to sue fee and allows them to transfer the covenant to subsequent owners as long as the property is being or was remediated according to DEEP standards.

Eligible Property

The act expands the range of property eligible to participate in the program. Under prior law, a brownfield qualified if it had been unused or significantly underused since October 1, 1999. Under the act, it qualifies if it has been in either condition for at least five years before the participant applied to have the property admitted into the program.

The act allows the DECD commissioner to waive this five-year criterion if the applicant can show that the property otherwise qualifies for the program and demonstrates the value of redeveloping it.

Lastly, the act adds a criterion a property must meet to be admitted into the program. Under prior law, the property qualified if the party that contaminated it could not be determined, no longer exists, or could not remediate it (i.e., responsible party criteria). Under the act, it also qualifies if the responsible party must

remediate the contamination, including any that emanates from the property.

Eligible Applicants

The act opens the ABC program to municipalities, their economic development agencies, and private entities (nonprofit and for-profit) acting on a municipality's behalf. It also allows them to nominate property for the program regardless of whether they own it. The act also exempts municipalities from having to meet the responsible party criteria described above for property they own.

The act eliminates two conditions an applicant must meet before the commissioner can admit the property into the program. Prior law required an applicant to hold the property's title. The act allows the commissioner to admit the applicant regardless of whether it holds the title. Prior law also required the applicant to enter into DEEP's voluntary remediation program, agree to investigate and remediate the contamination according to the applicable standards and regulations, and eliminate contamination emanating or migrating from the property. Further, it prohibited the commissioner from admitting the applicant if it was the certifying party under the Transfer Act (i.e., the party that must certify the property's condition before and after remediation). The act eliminates the latter condition.

Program Administration

The act requires parties acquiring property in the program to do so by submitting an application to the DECD commissioner, which she must prescribe and use to determine if they meet the program's eligibility requirements. The act specifies that the program's liability relief and other benefits apply only if the DECD commissioner accepts the property into the program.

EFFECTIVE DATE: July 1, 2011, except for the Transfer Act and covenant not to sue provisions (§§ 10 and 11, respectively), which take effect upon passage.

§ 10 — TRANSFER ACT EXEMPTIONS

The act exempts from the Transfer Act titles a municipality or bankruptcy court transfers to a nonprofit organization and makes two changes conforming to Transfer Act exemptions authorized under other sections of the act. It exempts brownfields that were remediated or undergoing remediation under the ABC program (§ 9) and those admitted into the act's new liability protection program (§ 17). The latter qualify for the exemption under the following circumstances:

1. the property is being investigated and remediated according to its investigation plan and remediation schedule,

2. the DEEP commissioner received a verification or interim verification and responded by issuing a no audit letter or successful audit closure letter, or
3. 180 days have passed since the verification or interim verification was submitted without the commissioner requiring the remediation to be audited.

EFFECTIVE DATE: Upon passage

§§ 12-14 — ENVIRONMENTAL USE RESTRICTIONS (EUR)

The act allows the DEEP commissioner to waive some of the requirements for recording EURs and releasing parties from them. An EUR is an easement a property owner records in the municipal land records prohibiting specific uses or activities at a property that could harm human health or the environment.

Recording EURs

The law prohibits an owner from recording an EUR unless other parties with an interest in the property accept the restriction. The owner must record a document to that effect when he or she records the EUR (i.e., subordination agreement). Existing law, unchanged by the act, allows the commissioner to waive this requirement if the party's interest in the land is so minor as to be unaffected by the EUR. The act requires the commissioner to waive the requirement that the owner obtain subordination agreements from those parties whose interest in the land, if acted upon, would not create the conditions the EUR prohibits.

Releasing Parties from an EUR

The act changes the conditions under which the commissioner can release parties from the EUR's restrictions. Prior law allowed him to release a party for conducting an activity on all or part of the property if the owner remediated the entire property or the section where the activity was to have occurred. The commissioner's approval had to be in writing and consistent with the regulations governing EURs. The owner also had to record the release in the land records, unless the commissioner waived this requirement, which he could do if the activity did not affect the EUR's purpose or change the size of the area subject to the EUR (§ 12).

The act distinguishes between permanent and temporary releases. In doing so, it allows the commissioner to approve temporary releases for unremediated property. It also sets conditions allowing him to waive the recording requirement for these releases for activities that affect an EUR's purpose. Under the act, the commissioner may do so if the

activity is limited in scope and duration and does not change the size of the area subject to the EUR. The act specifically authorizes the attorney general and the DEEP commissioner to enforce the statutes authorizing EURs. Prior law allowed them to enforce EURs without reference to the authorizing statutes.

The act also specifies that the commissioner's regulations governing EURs may cover fees, financial surety, monitoring, and reporting requirements.

EFFECTIVE DATE: Upon passage

§ 15 — BROWNFIELDS WORKING GROUP

The act extends the term of this working group to January 15, 2012, from January 15, 2011. The group was formed under PA 10-135, which required it to study how the state's brownfields were being cleaned up and remediated and report its findings to the Commerce Committee by its expiration date. The act requires the group to submit another report on this issue by January 15, 2012, to the governor and the Commerce and Environment committees.

The act allows current members to continue serving, but increases the group's membership from 11 to 13, requiring the governor to appoint the two new members by August 7. It also allows the members to appoint the group's chairperson from among all the members, including the OPM secretary and the DECD and DEEP commissioners.

EFFECTIVE DATE: Upon passage

§ 16 — CDA TAX INCREMENT BOND FINANCING PROGRAM SUNSET

The act makes CDA's tax increment financing program permanent by eliminating the July 1, 2012 sunset date for funding new projects. Under this program, CDA issues bonds on behalf of a municipality and backs them with new or incremental property tax revenue a completed project generates. The law allows CDA to issue these bonds for (1) cleaning up and redeveloping brownfield projects anywhere in the state and (2) financing information technology projects in economically distressed municipalities.

EFFECTIVE DATE: July 1, 2011

§ 17 — LIABILITY PROTECTION PROGRAM

Overview

The act authorizes the DECD commissioner to establish a program protecting developers from liability to the state and third parties for cleaning up brownfields according to the act's requirements. But the protection is not absolute; participants are liable for any contamination they cause, including exacerbating the contamination that was there before they acquired the

brownfield. The act extends the protections during or after remediation to a brownfield's immediate prior owner and the party that subsequently acquires the brownfield from a participant.

The act requires the DECD commissioner to establish the program within available appropriations but divides the administrative duties between her and the DEEP commissioner: the DECD commissioner must select brownfields for participating in the program; the DEEP commissioner must monitor and audit their remediation.

EFFECTIVE DATE: July 1, 2011

Type and Scope of Benefits

The program protects participants from liability to the state and third parties only for contamination that existed before they acquired the property. It does not protect them from liability for any contamination they caused, contributed to, or exacerbated. Further, participants must clean up the property according to DEEP standards. They or their successors must also comply with any remediation orders DEEP may issue under the act after the property is remediated.

The participants are exempt from complying with the Transfer Act when they convey their property. But this exemption does not relieve them from complying with any other laws requiring parties to certify a property's environmental condition.

Lastly, the DECD commissioner's decision to accept the property into the program has no bearing on other municipal, state, and federal programs. Her decision does not automatically approve the property for funds under those programs, nor does it prevent the participant sponsoring the property from applying to them for funds.

Eligibility

Property. DECD may admit a property into the program if the property and its owners meet the act's application requirements. The property must be a "brownfield" whose redevelopment will benefit the economy (see § 7), and the applicant must show that the contamination levels exceed DEEP's standards for protecting the environment, health, and public welfare.

DECD may also admit into the program a property that is voluntarily being investigated and remediated under DEEP's voluntary site remediation and covenant not to sue programs. But it cannot admit into the program a property that is subject to a state or federal enforcement action, included on a state or federal list of contaminated property, or subject to a corrective action under federal law. Property contaminated by polychlorinated biphenyls (PCB), a chemical formerly used in manufacturing, can be accepted into the

program, but acceptance does not relieve the owners from complying with PCB regulations. The same applies to property where petroleum and chemicals leak from underground tanks.

Applicants. The program is open to people, businesses, nonprofit organizations, municipalities, public and private municipal economic development agencies, and state agencies. These entities may apply to have a property admitted into the program if they are “innocent landowners,” “bona fide prospective purchasers,” or contiguous property owners.

An innocent landowner is a person or entity that owns property another party contaminated. A bona fide prospective purchaser is a person or entity that acquires a brownfield after July 1, 2011 and shows, by a preponderance of the evidence, that it:

1. acquired the property after it was contaminated;
2. is complying with any environmental use restrictions imposed on the property and federal law requiring purchasers to inquire about a property’s previous owner and how such owner used the property;
3. has provided the notices required after discovering or releasing hazardous substances and taken appropriate steps to stop the release, prevent future releases, and prevent or limit harm to people and the environment;
4. is cooperating with people authorized to contain or clean-up the contamination; and
5. is providing the information DEEP requests.

A contiguous property owner is a person or entity that owns property next to a brownfield owned by another party. Contiguous owners can participate in the program if they:

1. addresses the contamination on their property as the act specifies,
2. helps people responding to contamination at their property or the adjacent one,
3. comply with environmental use restrictions, and
4. provides any information DEEP requests and all required notices regarding the contamination on their property.

In addition to these affirmative steps, the owner cannot do anything that prevents any institutional control (e.g., EURs) imposed on the owner’s property or the adjacent property from working.

Innocent landowners, bona fide prospective purchasers, and contiguous property owners can participate in the program only if they did not contaminate the property and are unaffiliated with the parties that did.

Acceptance in the Program

Method. DECD can accept a brownfield into the program by application or nomination. Eligible applicants may submit applications to the DECD commissioner on forms she provides. Municipalities and economic development agencies may nominate brownfields they do not own for acceptance into the program, but the act does not specify whether they can do so without the owner’s permission or the process they must follow.

The commissioner may accept up to 32 brownfields per year into the program.

Application Content. The application must include:

1. a title search,
2. a DEEP-prescribed Phase I Environmental Site Assessment prepared by or for a bona fide prospective purchaser,
3. a current property inspection,
4. proof that the applicant and the property qualify for the program,
5. information the commissioner needs to select brownfields based on the act’s statewide portfolio factors (see below), and
6. other information she requests.

(A Phase I Environmental Site Assessment evaluates a property’s historical and current uses and the activities conducted there. The information helps identify potentially contaminated areas.)

Certifications. When applying for the program, applicants must certify that they meet the program’s eligibility criteria. Specifically an applicant must certify, on a form the commissioner provides, that it is:

1. an innocent landowner, a bona fide prospective purchaser, or a contiguous property owner;
2. did not contaminate the property and is not affiliated with the party that did; and
3. did nothing to pollute the state’s waters.

The applicant must also certify the property’s condition. It must show that the property is a brownfield and that the contamination exceeds DEEP’s remediation standards. The applicant must also show that the brownfield is not subject to federal or state enforcement action or on the state or national lists of contaminated sites.

The commissioner, in consultation with the DEEP commissioner, must determine if the certifications are accurate and consider only those that are.

Statewide Portfolio Factors. The DECD commissioner must select applications to create a diverse portfolio of brownfield projects from around the state. She must do this in consultation with the DEEP commissioner based on the following “statewide portfolio factors”:

1. a brownfield's capacity to create or retain jobs and generate the revenue needed to sustain itself,
2. the applicant's readiness to investigate and remediate the property,
3. the portfolio's geographic distribution,
4. the populations of the municipalities represented in the portfolio,
5. the brownfield's size and the project's complexity,
6. the time and extent to which the brownfield has been underused,
7. the extent to which its remediation will increase the municipality's grand list,
8. the extent to which the remediated brownfield is consistent with municipal and regional planning objectives and addresses smart growth and transit-oriented development principles, and
9. other factors the DECD commissioner chooses to consider.

Fees

The act imposes fees on parties accepted into the program (i.e., acceptance fees) and on those that subsequently acquire property from them (i.e., transfer fees).

Acceptance Fees. Applicants accepted into the program (i.e., participants) must pay the DEEP commissioner a fee equal to 5% of the brownfield's assessed value as of the municipality's most recently completed grand list. (Municipalities annually update their grand lists on October 1.) A participant must pay the fee in two equal installments, but the act allows the commissioner to reduce or eliminate the installment amounts if an applicant meets specified conditions.

The participant must pay the first installment within 180 days after the DECD commissioner approves the application and the second within four years after that date. DEEP must deposit the fee in the Special Contaminated Property Remediation and Insurance Fund, which provides low-interest loans for investigating and remediating contaminated property. (DECD administers the fund in cooperation with DEEP).

The DEEP commissioner must reduce the installment amounts if the participant finishes investigating and remediating the brownfield ahead of the act's deadlines for completing these tasks. He must reduce the first installment by 10% if the participant finishes investigating the property within 180 days after the DECD commissioner approves its application. (As discussed below, the act gives participants up to two years to investigate the property.) The participant must document this fact on a form the DEEP commissioner

provides and whose content an LEP approved in writing.

The DEEP commissioner must eliminate the second installment if the participant cleans up the property within four years after the application's approval date and submits the remedial action report and the verification or interim verification. The act gives participants up to eight years to remediate a property.

The commissioner must extend the four-year deadline if the participant requests his approval for a remediation standard and he takes over 60 days to reply. The extension must equal the number of days it took the commissioner to respond after the 60-day deadline, but not including the days it took the participant to respond to the commissioner's request for more information. Under the act, the commissioner can request information anytime while the property is in the program.

Participants that do not remediate property within four years may still qualify for relief from paying the second installment. If a participant investigates contamination that migrated from the property, the commissioner must reduce the installment or give the participant a refund equal to twice the reasonable environmental service costs it incurred for investigating the off-site contamination, up to the installment amount. The participant must provide information showing that it investigated the contamination according to DEEP standards. The information must be approved by an LEP and submitted on a DEEP form.

The act exempts municipalities and economic development agencies from paying the application fee, but requires them to collect and remit to DEEP the fee for transferring property for development.

The act allows municipalities and economic development agencies acting on their behalf to request fee waivers for property others own and allows the DEEP commissioner to grant them based on:

1. the property's location within a distressed municipality,
2. the extent to which the municipality or the economic development agency demonstrates the project's economic impact and community benefits, and
3. proof that the property owner is eligible and paying the fee will undermine the project's success.

Transfer Fee. Parties acquiring property in the program must pay the DEEP commissioner a \$10,000 transfer fee. As with the acceptance fee, DEEP must deposit the fee revenue in the Special Contaminated Property Remediation and Insurance Fund. The act exempts municipalities and municipal economic development agencies from paying this fee when they acquire property in the program, but it requires them to collect and remit the fees to DEEP if they transfer the

property to another party for development.

Participant Duties and Obligations

Although the act protects participants from liability to the state and third parties for contamination caused by others, it requires them to investigate and remediate the contamination according to DEEP standards. They must characterize, abate, or remediate the contamination on the property according to prevailing standards and guidelines and clean up the property according to the plan and schedule they must submit to DEEP for this purpose.

But participants may become liable for this contamination if the DEEP commissioner subsequently learns that the decisions accepting the property into the program and approving its remediation plan were based on incomplete or inaccurate information. The commissioner can take any appropriate action, including requiring additional remediation if:

1. he can show that the participant or its successor knew or had reason to know that the information in the documents attesting to the property's remediation was false or misleading;
2. new information confirms the existence of previously unknown contamination that resulted from a release that occurred before the property was accepted into the program;
3. the participant failed to comply with its remediation plan and schedule; and
4. conditions have changed and now endanger the environment or human health, such as a change in the property's use from business or other nonresidential use to residential use.

Participants are not obligated to characterize, abate, or remediate hazardous plumes or substances beyond the property's boundaries (except if they caused them), but they must comply with the notification requirements the law imposes on property where the contamination spreads beyond its boundaries.

Participants are liable for any contamination they cause or contribute to and must investigate and remediate it.

Investigation and Remediation Process

Preparing Brownfield Investigation Plan and Remediation Schedule. The act specifies the process and timeframes for investigating and remediating contaminated property. Participants must submit an investigation plan and remediation schedule for these purposes to the DEEP commissioner within 180 days after their applications were approved. These documents must be signed and stamped by an LEP.

The plan and schedule must show that:

1. the investigation will be completed within two years of the application's approval date,
2. remediation will be started within three years of that date, and
3. remediation will be completed within eight years of the approval date.

The plan and schedule must show that the property will be sufficiently remediated to support "verification" or "interim verification." Verification is the standard signifying that the property has been investigated and remediated according to state standards. Interim verification is the standard signifying that the soil has been remediated but that the ground water still requires remediation under a "long-term remedy."

The plan and schedule must address only the contamination that exists within the property's boundaries, unless the participant caused it to spread to other property. In any case, the participant must still comply with the notice requirements the law imposes on parties owning contaminated property.

The plan and schedule must include a deadline for notifying specified parties and the public before the remediation begins.

Implementing the Plan and Schedule. Before implementing the plan and schedule, the participant must notify adjacent property owners about its intent to remediate the property by posting a notice on the brownfield advising them about the planned remediation or mailing a notice about it to them. It must also notify the affected municipality's public health director and the general public. Lastly, the participant must publish a notice about the remediation in a newspaper serving the affected municipality.

The public has 30 days from the last notice to comment on the proposed remediation. The act implicitly requires the participant to respond to the public comments by allowing the participant to start cleaning up the property only after it submits those comments and its responses to the DEEP commissioner.

As the participant begins implementing the plan, it must submit all permit applications to the DECD permit ombudsman.

The participant must document when it completes a task and notify the DEEP commissioner to that effect. It must document that an investigation has been completed according to prevailing standards and guidelines on a form the commissioner must provide. An LEP must approve the documentation in writing.

The participant must also document and notify the commissioner on a DEEP form when the remedial work begins. The documentation must be accompanied by an LEP-approved remedial action plan.

The participant must also document that the property was remediated, which under the act must occur under an LEP's supervision. The participant must

document the remediation by submitting a remedial action report in which the LEP describes the remedial work, states that it meets the remediation standards, and issues a verification or interim verification. The LEP must sign and stamp the report. The participant must submit the report to the DEEP and DECD commissioners.

A participant submitting an interim verification and its successors must continue remediating the ground water until the remediation standards are met. It must:

1. operate and maintain the long-term remedy as the remedial action report, the interim verification, and the commissioner's orders require;
2. prevent the land from being exposed to contaminated ground water plumes exceeding the remediation standards;
3. take all reasonable steps to contain any ground water plumes on the property; and
4. submit annual status reports to the DEEP and DECD commissioners.

Lastly, participants must keep the records that were created while the property was being investigated and remediated for at least 10 years and make them available upon request to the DEEP and DECD commissioners.

Before approving the verification or interim verification, the DEEP commissioner may enter into a memorandum of understanding with the participant requiring further remedial action and monitoring needed to protect the environment and human health.

Extending the Deadlines. The DEEP commissioner may extend the eight-year remediation deadline only if the participant can show that reasonable progress was made toward remediating the property but that forces beyond the participant's control delayed the work.

Audits

Timing. The act authorizes audits to verify if a property was properly investigated and remediated under two scenarios. The DEEP commissioner can audit an investigation and remediation anytime he requests information from the participant and does not receive a response within 60 days.

He can also audit the investigation and remediation after the participant submits the remedial action report and the verification or interim verification. In either case, he must first notify the participant about whether he will do so within 60 days after receiving the documents. If he decides to audit the actions, he must conduct the audit within 180 days after receiving the documents. In most cases, he may conduct an audit only within 180 days of receiving the remedial action report and the verification or interim verification.

The commissioner can request additional information anytime during the audit period. If he does not receive it within 14 days after requesting it, the audit is suspended and the 180-day clock stops until the participant provides the information. But the commissioner may restart the audit if the participant fails to respond to the commissioner within 60 days after his request.

The commissioner may audit the remediation more than 180 days after receiving the verification or interim verification if he believes:

1. it was based on inaccurate, erroneous, or misleading information;
2. material misrepresentations were made when the verification was submitted;
3. the law was violated in a way that is material to the verification; or
4. information exists showing that the remediation may have failed to prevent a substantial threat to public health or the environment.

The commissioner may also audit a verification or interim verification after 180 days if:

1. the post verification monitoring and other actions have not been taken or
2. verification relying on an environmental land use restriction was not recorded in the land records.

Audit Findings and Reply. Within 14 days after completing the audit, the DEEP commissioner must send the audit findings to the participant, the LEP, and the DECD commissioner. The audit findings may approve or disapprove the remedial action report and, if they do the latter, explain why.

If the DEEP commissioner disapproves the remedial action report and the verifications, the participant must submit to him and the DECD commissioner a "report of cure of noted deficiencies" within 60 days after receiving the commissioner's disapproval notice. The DEEP commissioner has up to 60 days to disapprove this report or issue a successful audit closure letter.

Onset of Liability Protections

The act's liability protections begin after the DEEP commissioner notifies the participant that he will not audit the process or that his audit findings have been addressed. They also begin if the commissioner fails to act on a remedial action report and the accompanying verifications within 180 days after receiving them.

In either case, the participant is not liable to the state or third parties for the costs incurred to remediate the contamination identified in the plan. Nor is it liable for the costs for equitable relief or damages resulting from the contamination. The protection also applies to

any historical off-site impact, including air deposition, waste disposal, impact on sediments, and damage to natural resources.

But the protection does not extend to contamination that must be addressed under the regulations governing PCBs and underground storage tanks. Nor does it stop the commissioner from requiring further remediation after the liability protections begin. As noted above, the act specifies conditions under which he may do so.

Liability Protection After Transfers

Participants. The act protects participants from liability to the state and third parties after they transfer a property as long as they comply with its provisions. The protections apply when they transfer a property before the DEEP commissioner issues a no audit letter or a successful audit closure letter or 180 days expires after the remedial action report and verification or interim verification was submitted.

In these situations, a participant is not liable for the costs incurred to clean the property, equitable relief related to the contamination addressed in the investigation plan and schedule, or damages resulting from that contamination. Nor is the participant liable for any historical offsite impacts, including air deposition, waste disposal, impact on sediments, and natural resource damages.

The act's protection does not extend to contamination that must be addressed under the regulations governing PCBs and underground storage tanks.

Prior and Subsequent Owners. The liability protection extends to the party that owned the property immediately before the participant acquired it (i.e., immediate prior owner). But they do not extend to contamination emanating from the property or to penalties, fines, costs, expenses, and obligations that the immediate prior owner incurred while it owned the property. Nor do they extend to an owner that failed to fulfill any legal obligation to investigate and remediate the contamination at or from the property.

The liability protection extends to the party that acquires the property from the participant if (1) that party is eligible to participate in the program and pays the \$10,000 transfer fee and (2) the participant submitted the remedial action report and the verification or interim verification as the act requires.

§ 18 — BRIDGEPORT SPECIAL TAXING DISTRICT

The act expands the bonding powers of Bridgeport's special taxing district. PA 05-289 authorized the district's formation to finance roads, sewers, and other infrastructure and pay for the services needed to maintain it. It authorized the district to issue

up to \$190 million in bonds secured by the district's full faith and credit; fees, revenues, and benefit assessments; or a combination of its full faith and credit and fees, revenues, and benefit assessments.

The act allows the district to issue bonds, without limit, to (1) finance property acquisition and improvements and back them only with fees, revenue, benefit assessments, or charges the district imposes on the property and (2) refund outstanding bonds, notes, and other obligations.

EFFECTIVE DATE: July 1, 2011

§ 19 — LANDOWNER RECREATIONAL LAND IMMUNITY

The act extends to municipalities the liability protections the law provides to landowners who allow the public to use their land without charge for recreational purposes. By law, these owners owe no duty of care to (1) keep the land safe for recreational purposes or (2) give any warning of a dangerous condition, use, structure, or activity on the land to those entering for recreational purposes.

Additionally, the law provides that such a landowner does not thereby (1) make any representation that the land is safe for any purpose, (2) confer on the person using the land a legal status entitling the person to duty of care by the owner, or (3) assume responsibility for any injury to a person or property that is caused by the landowner's act or omission.

The statutory immunity from liability does not apply to (1) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or (2) injuries suffered in any case where the landowner charges people who use the land for recreational purposes.

For purposes of these liability protections, prior law defined "owner" as the possessor of a fee interest, tenant, lessee, occupant, or person in control of the premises. The Connecticut Supreme Court ruled that municipalities are not "owners" under these provisions (*Conway v. Wilton*, 238 Conn. 653 (1996)). The act expands the statutory definition to include any (1) town, city, borough; (2) special taxing district; and (3) metropolitan district created by special act or under the statutes. It also includes railroad companies in the definition. (PA 11-61, § 139, repeals these provisions extending liability protection to municipal entities and railroad companies.)

By law, "charge" means the admission price or fee asked in return for an invitation or permission to use the land. The act specifies that any state or local taxes collected under state law are not considered a charge for using the property. (PA 11-61 repeals this provision.)

EFFECTIVE DATE: October 1, 2011

§ 20 — MUNICIPAL LIABILITY PROTECTIONS FOR CONTAMINATED PROPERTY

The act sets conditions protecting large municipalities from liability to the state for pollution or hazardous waste on or spreading from property for which they have an easement. The protection applies to anything discharged or deposited in any public or private sewer, or that otherwise comes into contact with any water, that contaminates state waters, makes them impure or unclean, or causes significant and harmful temperature changes. It also applies to waste posing a present or potential threat to human health or the environment when improperly handled.

The protection covers municipalities with a population over 90,000 that acquired and recorded an easement allowing the public to use the land for recreation without charge. (Under PA 11-61, § 140, charges do not include tax revenue municipalities or other owners collect with respect to the property.)

But the act does not relieve municipalities from ensuring that the contamination poses no risks to the public based on how they may use the land.

Under the act, these municipalities are not liable to the state for any fines, penalties, or costs associated with investigating or remediating the property. Municipalities are exempt from the clean-up costs, fines, and penalties if:

1. the contamination occurred before a municipality acquired the easement;
2. the municipality or its agent did not cause, create, or contribute to the contamination; and
3. the municipality or members of the public using the land covered by the easement do not contribute or exacerbate the contamination or prevent others from investigating and remediating it.

The act's protection extends only to the municipalities and the land subject to the easement. But the municipalities must allow people investigating and remediating the contamination to enter the property and not interfere with their work.

The act does not limit or affect the liability of landowners or operators under any law, including those requiring them to address pollution and pay fines and penalties.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Related Acts

PA 11-103 eliminates the sunset date for the CDA program that uses property tax and other specified revenues to repay bonds CDA issues on a municipality's behalf for cleaning up and redeveloping contaminated

property or developing land for information technology uses. (It also eliminates the sunset date for the CDA program that uses incremental sales, hotel, dues, cabaret, and admission tax revenue to repay bonds CDA issues for projects that create jobs or stimulate significant business activity.)

Among other things, PA 11-61 repeals the act's extension of liability protections to municipalities, special taxing districts, and metropolitan districts that allow the public to use their land for recreation without charging admission fees. It also repeals the provision excluding state and local taxes from the definition of charges.

PA 11-61 also makes a conforming technical change to the act's provisions setting conditions under which municipalities are protected from liability to the state with respect to contaminated property for which they have an easement.

PA 11-142—sHB 6529 (VETOED)

Commerce Committee

Transportation Committee

Finance, Revenue and Bonding Committee

Planning and Development Committee

AN ACT PROMOTING ECONOMIC DEVELOPMENT IN THE AREA SURROUNDING OXFORD AIRPORT

SUMMARY: This act creates a second airport development zone in specified census tracts as assigned on October 1, 2011 in the towns of Middlebury, Oxford, and Southbury. (The zone includes a census tract in Southbury that is outdated as of the 2010 Census.) It extends to this Oxford Airport Development Zone the same tax exemptions and corporation business tax credits that apply to the previously authorized Bradley Airport Development Zone.

PA 10-98 created a development zone around Bradley International Airport and extended enterprise zone property tax exemptions and corporation business tax credits to manufacturers and other specified businesses that develop or acquire property in the zone.

EFFECTIVE DATE: October 1, 2012

AIRPORT DEVELOPMENT ZONE PROPERTY TAX EXEMPTIONS AND CORPORATION BUSINESS TAX CREDITS

Eligible Business Facilities

The act extends the existing enterprise zone property tax exemptions and corporation business tax credits to the Oxford Airport Development Zone, but for a narrower range of businesses. These same exemptions

and credits apply in the Bradley zone.

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 from an unrelated seller after it was idle for at least a year, although the Department of Economic and Community Development (DECD) may waive the idleness requirement in specified circumstances.

The business qualifies for the exemption if it uses the facility for manufacturing, warehousing and motor freight distribution, and certain 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 an enterprise zone qualify for the exemption without qualification.

Facilities housing business services, including information technology, also qualify for the incentives if the DECD commissioner determines they depend on or are directly related to the airport. Certain facilities are excluded, such as those housing car dealerships and retailers. Facilities in the enterprise zones that house a wide range of services qualify for the incentives. (PA 11-140, §§ 13-18, expanded the enterprise zone benefits to more types of businesses and replaced references to an obsolete business classification code DECD uses to determine if a business qualifies for these tax and financial incentives under different programs.)

Property Tax Exemptions

The act extends the enterprise zone tax exemptions for real and personal property to eligible businesses in the Oxford Airport Development Zone. The same exemptions apply in the Bradley zone.

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 an airport development zone 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 state must reimburse the municipalities for half of the forgone revenue.

The enterprise zone program's administrative processes are used to administer the property tax exemptions and the state reimbursements. Thus, a business must apply to 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 is granted an extension as the law allows.

To receive reimbursements, a municipality must submit its claims to the Office of Policy and Management 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 also extends the enterprise zone's corporation business tax credits to the Oxford zone. The same credits apply in the Bradley zone. 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 qualify for the credit under similar terms and conditions as businesses in the enterprise zone.

PA 11-218—SB 1173

Commerce Committee

Higher Education and Employment Advancement Committee
Appropriations Committee

AN ACT CONCERNING QUALIFIED PRIVATE INVESTMENTS FOR CONNECTICUT INNOVATIONS, INCORPORATED'S PRESEED PROGRAM

SUMMARY: By law, Connecticut Innovations, Inc. (CII) must create a program to provide eligible Connecticut businesses with up to \$150,000 in financial

assistance for developing new concepts and support services. To be eligible, businesses must be principally located in the state, have at least 75% of their employees work here, and show that they received private investments equaling at least half the CII funds they seek. This act specifies that “private investments” for this purpose include funds from a public institution of higher education that are (1) not state-appropriated funds or funds from student tuition and fees and (2) used to help commercialize public university-owned technology.

EFFECTIVE DATE: Upon passage

PA 11-254—sHB 6399

Commerce Committee

Government Administration and Elections Committee

**AN ACT CONCERNING APPLICATIONS FOR
ANGEL INVESTOR TAX CREDITS**

SUMMARY: This act eliminates a requirement businesses must meet before they can accept “angel investments” under PA 10-75, which provides personal income tax credits for people investing at least \$100,000 in start up, technology-based Connecticut businesses approved for such credit-eligible investments.

To be approved, a business must apply to Connecticut Innovations, Inc.—the state’s quasi-public venture capital agency—to be included in the list it maintains of eligible businesses. (Investors use the list to identify the businesses in which they wish to invest.) Under prior law, the application had to include a description of the business’ proprietary technology, product, or service. The act eliminates this requirement.

EFFECTIVE DATE: July 1, 2011 and applicable to taxable years beginning on or after January 1, 2011.

PA 11-17—HB 6319

Education Committee

Public Safety and Security Committee

AN ACT CONCERNING HIGH SCHOOL DIPLOMAS FOR KOREAN WAR VETERANS

SUMMARY: This act expands local or regional school boards' authority to award high school diplomas to veterans who did not receive them because they left high school for military service. Previously, boards could do so only for World War II veterans. Under the act, they may also do so for veterans of the Korean hostilities. The act covers honorably discharged veterans who served actively from June 27, 1950 to October 27, 1953, in the United States Army, Navy, Marine Corps, Coast Guard, or Air Force or any of their reserve components, including the Connecticut National Guard.

EFFECTIVE DATE: July 1, 2011

PA 11-27—SB 933

Education Committee

AN ACT CONCERNING SUBSTITUTE TEACHERS

SUMMARY: This act gives the education commissioner authority to waive a statutory requirement that substitute teachers employed by local and regional boards of education have a bachelor's degree. The commissioner may do so for good cause at the request of a school superintendent.

The act also eliminates an obsolete restriction allowing school districts to employ substitute teachers without bachelor's degrees only in assignments lasting 10 or fewer school days.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Required Substitute Teacher Authorization

State Board of Education regulations require school districts to request a substitute teacher authorization from the education commissioner before employing, for more than 40 school days in the same assignment, a substitute teacher who lacks the proper teaching certificate for the subject and grade the substitute is teaching. To receive authorization, (1) the substitute must have at least 12 semester hours of credit in the

subject or elementary grades to be taught and (2) the employing school board must attest that no properly certified teacher is available for the position (Conn. Agencies Reg. § 10-145d-420).

PA 11-28—sSB 1025

Education Committee

AN ACT CONCERNING THE RECOMMENDATIONS BY THE LEGISLATIVE COMMISSIONERS FOR TECHNICAL REVISIONS TO THE EDUCATION STATUTES

SUMMARY: This act makes technical and grammatical changes to education statutes.

EFFECTIVE DATE: Upon passage

PA 11-60—sSB 1104

Education Committee

AN ACT CONCERNING CHARTER SCHOOLS

SUMMARY: This act establishes a charter school educator permit and allows the State Board of Education (SBE) to issue such a permit to someone who (1) is employed by a charter school as a teacher or administrator, (2) lacks state certification for the position, and (3) meets the act's qualifications. Starting with the 2011-2012 school year, it allows the education commissioner to waive certification requirements to allow permit holders to work in charter schools as teachers or administrators, but limits the number who may hold the permit in any school year to no more than 30% of a charter school's teachers and administrators combined.

The act also (1) makes anyone holding a charter school educator permit a member of the appropriate teachers' or administrators' unit for collective bargaining purposes and (2) requires a permit holder to become a member of the Teachers' Retirement System when he or she obtains a state educator certificate.

Under prior law, all charter school teachers and administrators had to be certified, with at least half of those providing instruction or pupil services at a charter school required to hold the proper state certification for their positions and the rest required to hold temporary 90-day or nonrenewable temporary certificates.

EFFECTIVE DATE: July 1, 2011

CHARTER SCHOOL EDUCATOR PERMIT

Permit Qualifications

To receive a permit, a person must:

1. either pass the state reading, writing, and math competency test for teacher certification candidates or meet SBE criteria for a testing waiver;
2. pass the same state test as a teacher or administrator certification candidate seeking to work in the same subject or administrative area; and
3. demonstrate effectiveness as a teacher or school administrator, as appropriate.

Permit Renewals

The act allows the commissioner to renew permits, at the charter school's request and for good cause, when SBE renews the charter for the school where the teacher or administrator is employed. By law, most charters are renewable every five years.

Collective Bargaining Units

Under prior law, only professional employees holding state administrator or teaching certificates or durational shortage area permits were included in bargaining units under the Teacher Negotiation Act (TNA), the state law that governs teacher collective bargaining.

This act adds those holding charter school educator permits and employed by charter schools to TNA administrator and teacher bargaining units, thus including them in collective bargaining agreements governing wages, hours, and working conditions. As with board of education employees, it requires a charter school employee to be a member of the administrators' unit if his or her position requires (1) holding a charter school educator permit or state intermediate administrator or supervisor certificate or its equivalent and (2) spending at least 50% of his or her assigned time on administrative or supervisory duties. To be a member of a teachers' unit, a charter school employee must hold, and be employed in a position requiring, a state teaching certificate, durational shortage area permit, or charter school educator permit.

BACKGROUND

Temporary Certificates

Temporary 90-day teaching certificates are issued at the written request of an employing board of education or charter school to applicants who successfully complete SBE-approved alternative route

to certification programs. Nonrenewable temporary teaching certificates, good for one year, are issued to applicants who (1) are certified and taught successfully in another state, or graduated from an out-of-state teacher preparation program, and meet all requirements for Connecticut certification except the required tests; or (2) are hired by a charter school after July 1 and are reasonably expected to meet Connecticut certification requirements by the start of the following school year.

Charter Schools

A charter school is 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.

Related Act

PA 11-234 includes the same provisions as this act and also allows administrators who hold charter school educator permits to supervise and evaluate anyone providing instruction or pupil services at the charter school where he or she is employed.

PA 11-85—sSB 929

Education Committee

Appropriations Committee

AN ACT CONCERNING CLOSING THE ACADEMIC ACHIEVEMENT GAP

SUMMARY: This act requires or authorizes a number of steps intended to help the state and local school districts address the academic achievement gap between racial and ethnic student groups.

It:

1. creates an achievement gap task force and specifies its membership, duties (including creation of a master plan to close the achievement gap), and reporting requirements;
2. creates an interagency council for ending the achievement gap and states its membership and responsibilities;

3. permits school boards with low-achieving schools to increase the number of school sessions each year and the number of school hours each day;
4. changes laws regarding kindergarten reading assessments, school district student objectives, and elementary teacher certification;
5. authorizes the education commissioner to conduct a best practices literacy pilot study;
6. requires the State Department of Education (SDE) to approve and distribute model curricula and frameworks in reading and mathematics for grades prekindergarten to four; and
7. requires the SDE's School Reform Resource Center to provide professional development for teachers and develop strategies for students in danger of failing and culturally relevant teaching methods for students' whose primary language is not English.

EFFECTIVE DATE: July 1, 2011, except for the provision creating the achievement gap task force, which is effective upon passage.

§ 1 — ACHIEVEMENT GAP TASK FORCE

The act establishes an 11-member task force to address academic achievement gaps between Connecticut students and consider effective approaches to closing those gaps in elementary, middle, and high schools.

By July 1, 2012, the task force must develop a master plan to eliminate the academic achievement gaps in consultation with the SDE, the Connecticut State University System, the Interagency Council for Ending the Achievement Gap that the act establishes, and the Education Committee. The task force terminates on January 1, 2020. It also must submit annual progress reports starting January 1, 2013.

In addition to the education commissioner, or the commissioner's designee, the task force consists of members appointed by the following:

1. the House speaker and the Senate president pro tempore, two each;
2. the House and Senate majority leaders, one each;
3. the House and Senate minority leaders, one each;
4. the General Assembly Black and Puerto Rican Caucus chairperson, one; and
5. the governor, one.

Any task force member, except the education commissioner and the member the governor appoints, may be a state legislator.

All task force appointments must be made no later than August 6, 2011. Vacancies must be filled by the appointing authority.

The House speaker and the Senate president pro tempore must select the chairpersons from among the 11 task force members. The chairpersons must schedule the first meeting of the task force, which must be held by September 5, 2011. The Education Committee's administrative staff must serve as the task force's administrative staff.

§ 1 — MASTER PLAN TO CLOSE THE ACHIEVEMENT GAP

The act requires the master plan to:

1. identify the achievement gaps that exist among and between (a) racial groups, (b) ethnic groups, (c) socioeconomic groups, (d) genders, and (e) English language learners and students whose primary language is English;
2. focus efforts on closing identified achievement gaps;
3. establish annual benchmarks for implementing the master plan and closing the achievement gaps;
4. make recommendations regarding the creation of a secretary of education; and
5. develop a plan for (a) changing the kindergarten entrance age requirement from age five by January 1 to age five by October 1 of the school year and (b) creating spaces in school readiness programs for those children who reach age five after October 1 and are not eligible to enroll in kindergarten for that year.

The task force may amend the master plan at any time.

Definition of Achievement Gaps

For purposes of the task force's master plan and other parts of the act, "achievement gaps" mean the existence of a significant disparity in the academic performance of students among and between (1) racial groups, (2) ethnic groups, (3) socioeconomic groups, (4) genders, and (5) English language learners and students whose primary language is English.

Deadline and Progress Reports

The task force must submit the master plan to the Education Committee, the Interagency Council for Ending the Achievement Gap, and the House and Senate clerks by July 1, 2012. Beginning no later than January 1, 2013 and annually until January 1, 2020, the

task force must submit progress reports on the master plan's implementation and related recommendations to the Education Committee and the House and Senate clerks.

§ 2 — INTERAGENCY COUNCIL FOR ENDING THE ACHIEVEMENT GAP

The act establishes a nine-member Interagency Council for Ending the Achievement Gap that must:

1. assist the act's achievement gap task force in developing the achievement gap master plan described above;
2. implement the plan's provisions and, if necessary, recommend legislation related to the plan to the Education Committee; and
3. submit annual progress reports to the Education Committee and the achievement gap task force on implementing the plan.

The council consists of the following officials or their designees: (1) lieutenant governor; (2) the education, children and families, social services, public health, higher education, economic and community development, and administrative services commissioners; and (3) Office of Policy and Management secretary. The lieutenant governor, or her designee, must serve as the council chairperson.

The council is within the SDE for administrative purposes only and must meet at least quarterly.

§ 3 — EXTENDED SCHOOL DAYS AND INCREASED SCHOOL SESSIONS

State law requires school districts to provide at least 180 days of sessions in a school year. The act specifically permits local or regional boards of education for schools designated as low-achieving under state law to increase the number of school sessions each year and the number of school hours each day in order to improve student performance and remove the school from the list of low-achieving schools.

§ 4 — KINDERGARTEN STUDENTS AND THE SUMMER READING PROGRAM

The act makes several changes to the law requiring all priority school districts to provide a summer reading program for kindergarten students, reading assessments of young students, and individual reading plans to improve literacy.

Prior law required priority school districts to evaluate the reading level of students in grades one through three in the middle and at the end of the school year. Starting with the 2011-12 school year, the act requires the reading level of all (1) students in grades one through three to be assessed at the beginning, middle, and end of the year and (2) kindergarten

students to be assessed at the end of the year. It changes the criterion for kindergarten students to go into the summer reading program from the teacher's determination that they need additional help, to the school's determination that they are substantially deficient in reading based on measures established by the State Board of Education.

It also allows a priority school district to require kindergarten students who are substantially deficient in reading to attend summer school. Prior law only allowed a district to require students in grades one to three who are reading deficient to go to summer school.

When a student is determined to be reading deficient, the school must develop a personal reading plan for that student. The act changes this to an individual reading plan and requires the plan to include assessment results and applicable federal requirements. The act permits these assessments to be at the beginning, middle, or end of the year, rather than just at the middle or end of the year as under prior law.

By law, the plan must include additional instruction, within available funds, such as tutoring or an after-school, school vacation, weekend, or summer school intensive intervention reading program as described in law.

The act adds the requirement that school literacy teams monitor each student's individual reading plan. It requires the literacy team to include, at a minimum, teachers, school reading specialists, internal or external reading consultants, the school principal, and the provider of the additional instruction. Under prior law, the school had to discuss the plan with the provider of the additional instruction.

By law, decisions to promote students to the next grade who have individual reading plans because they were found to be deficient in reading must be based on documented progress. Under prior law, this standard applied only to students in grades one through three. The act extends it to kindergarten and expands the applicability to all educational and instructional decisions, not just the decision to promote to the next grade. It makes the conforming change that the school principal must justify in writing to the superintendent any decision to promote a kindergarten student who is deficient in reading.

By law, each superintendent must report to the education commissioner on the number of students who are reading deficient and are promoted to the next grade for grades one through three. The act requires the superintendent to also report on kindergarten students in this group.

It also makes conforming and technical changes.

§ 5 — LITERACY BEST PRACTICES PILOT STUDY

The act authorizes the education commissioner to (1) conduct a pilot study to promote best practices in early literacy and closing academic achievement gaps and (2) identify schools to participate in the study.

The pilot study may use various assessment tools, including those used in the summer reading program, and may assess students more frequently than otherwise required (the act increases the minimum number of assessments to three). The act also permits the education commissioner to waive the summer reading program assessments for certain grade levels in participating schools. It specifies that schools participating in the pilot must comply with federal assessment requirements. The commissioner may accept funds from private or public sources for this pilot. SDE can research and evaluate participating schools and this may be done with the help of external groups or organizations.

For purposes of this pilot study, “achievement gaps” means the existence of a significant disparity in the academic performance of students among and between (1) racial groups, (2) ethnic groups, (3) socioeconomic groups, (4) genders, and (5) English language learners and students whose primary language is English.

SDE must report the pilot study’s findings to the Education Committee by October 1, 2013.

§ 6 — SCHOOL DISTRICT STUDENT OBJECTIVES

By law, all school districts must craft educational goals that are consistent with the state’s educational goals and student objectives that relate to the goals. The act requires local and regional boards of education to annually establish the student objectives for each school year.

§ 7 — MATH ASSESSMENT FOR ELEMENTARY EDUCATION CERTIFICATION

The act requires that, effective July 1, 2011, anyone seeking certification as an elementary education teacher must achieve a satisfactory evaluation on the appropriate SDE-approved math assessment.

§ 8 – MODEL CURRICULA FOR READING AND MATH

The act requires SDE, by July 1, 2012, to approve and make available model curricula and frameworks in reading and mathematics for grades prekindergarten to four for use by local and regional school districts or individual schools that SDE identifies as having academic achievement gaps. The curricula and frameworks must be culturally relevant, research-based,

and aligned with student achievement standards adopted by the SDE.

§ 9 – SCHOOL REFORM RESOURCE CENTER’S ADDITIONAL DUTIES

By law, SDE’s Connecticut School Reform Resource Center, located within the State Education Resource Center, must provide a program of professional development activities for administrators and school board members. The act expands this to teachers and requires it to include research-based child development and reading instruction tools and practices.

The act requires the center to develop (1) strategies for assisting students who are in danger of failing and (2) culturally relevant methods for educating students whose primary language is not English.

PA 11-114—sHB 6318

Education Committee

Judiciary Committee

Appropriations Committee

AN ACT CONCERNING DONATIONS OF EQUIPMENT TO THE REGIONAL VOCATIONAL-TECHNICAL SCHOOL SYSTEM

SUMMARY: This act allows the education commissioner to indemnify those who donate certain tangible personal property to the State Department of Education (SDE) or regional vocational-technical (V-T) schools for instructional purposes. The donated property must have a fair market value of more than \$1,000.

The act covers donations by individuals, sole proprietorships, trusts, corporations, limited liability companies, unions, associations, firms, partnerships, committees, clubs, and other organizations or groups. Indemnification applies only to damages arising from the property’s use. It does not extend to any liability for (1) a donor’s deliberate misconduct or (2) hidden defects the donor knew about but failed to disclose to SDE or the V-T system when making the gift.

EFFECTIVE DATE: Upon passage

PA 11-115—sHB 6325

Education Committee

Judiciary Committee

Human Services Committee

AN ACT CONCERNING JUVENILE REENTRY AND EDUCATION

SUMMARY: This act:

1. expands a student’s right to re-enroll in his or

her old school district after being sent to a juvenile detention center, the Connecticut Juvenile Training School, or another residential placement for committing an offense for which he or she could be expelled from school;

2. requires school districts to immediately enroll or re-enroll a student transferring from either of the unified school districts (USDs) run by the departments of Correction and Children and Families (USD #1 and USD #2, respectively);
3. requires a school district to re-enroll such a student in his or her former school, if the student went to school in the district before attending school in a USD and the former school has appropriate grades for the student;
4. establishes a deadline for a new school district or charter school to notify a transfer student's previous district or charter school of a student's enrollment, and extends to USD #2 the required deadlines for a new school district or charter school to notify USD #1 of a student's transfer; and
5. requires school districts and charter schools to give students credit for instruction received in USD #2 within 30 days after receiving the student's records, as they already have to do for instruction received in USD #1.

EFFECTIVE DATE: July 1, 2011

RE-ENROLLING IN SCHOOL AFTER RELEASE FROM JUVENILE DETENTION

Prior law barred a school district from preventing the return of, or expelling for additional time for the same offense, a student who committed an expellable offense, was sent to juvenile detention for the offense for at least a year, and seeks to return to school in the district. The act extends this prohibition to students who commit an expellable offense for which they are sent to juvenile detention for less than a year. Under the act, the school district may expel the student for the offense, and if it does so, the expulsion and detention periods must run concurrently. But, if the district does not expel the student for the offense, it must allow him or her to re-enroll in school after the detention period ends and cannot expel him or her for any additional time for that offense.

DEADLINES FOR NOTICE OF STUDENT TRANSFERS

By law, when a student enrolls in a new school district or charter school, the new district or school must send written notice of the transfer to his or her previous district or charter school. The act requires the new school district or charter school to send the notice

within two business days after the student enrolls, unless the student transfers from a USD.

For a student transferring from USD #1, the law already required the new district or charter school to send the notice to USD #1 within 10 days after the student enrolls. The act applies the same 10-day deadline for notifying USD #2 of a student's transfer from that district.

BACKGROUND

School Expulsions

By law, boards of education can expel students whose conduct (1) on school grounds or at a school-sponsored activity violates a publicized board policy, is seriously disruptive of the educational process, or endangers people or property or (2) off school grounds violates board policy and is seriously disruptive of the educational process.

The law mandates an expulsion of one calendar year for students found to possess firearms or other dangerous weapons on school grounds or at school-sponsored activities, or off school grounds if they (1) have no permit to carry them or (2) use them when committing a crime. The law also requires a one-year expulsion for students who offer illegal drugs for sale on or off school grounds (CGS § 10-233d(a)).

PA 11-125—sHB 6422

Education Committee

AN ACT CONCERNING THE NOTIFICATION OF MEDIATION AND ARBITRATION DECISIONS IN DISPUTES BETWEEN BOARDS OF EDUCATION AND TEACHERS BARGAINING UNITS

SUMMARY: This act adds the legislative body of a town to the list of officials and entities to which an education arbitrator must send a copy of a teacher or administrator binding arbitration award. In a town in which the legislative body is a town meeting or representative town meeting, the notice must be sent to the board of selectmen. By law, the arbitrator must already send the notice to the union, education commissioner, town clerk, and board of education.

EFFECTIVE DATE: July 1, 2011

PA 11-126—HB 6433*Education Committee***AN ACT CONCERNING ADULT EDUCATION**

SUMMARY: By law, a student who has been expelled for the first time and is at least 16 years old may attend adult education as part of an alternative educational opportunity during the expulsion. This act specifies that such a student is not required to withdraw from regular public school to do so. It also expressly allows such an expelled student to enroll in an adult education program without the approval of his or her school principal. That approval is still required for students who have not been expelled.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2011

BACKGROUND*Alternative Education Programs for Expelled Students*

With certain exceptions, school districts must offer alternative education programs to students who are expelled. For students between the ages of 16 and 18 who are expelled for the first time, the alternative education program may include placement in an adult education program. Districts are not required to offer an alternative education program to any student between the ages of 16 and 18 who is expelled for possessing a weapon or selling drugs on school property or at a school-sponsored activity.

PA 11-127—sHB 6434*Education Committee***AN ACT CONCERNING NONPUBLIC SCHOOL TEACHING EXPERIENCE AND PROFESSIONAL CERTIFICATION**

SUMMARY: Connecticut's three levels of educator certification (initial, provisional, and professional) require applicants to, among other things, have certain amounts of successful teaching experience. In addition, those holding professional (highest-level) certificates must complete continuing education requirements to maintain certification and candidates for initial certificates must complete a program of student teaching under the supervision of an experienced, certified classroom teacher called a "cooperating teacher."

This act (1) allows teachers to continue to use, or in the case of student teaching to start using, teaching experience at a State Board of Education (SBE)-approved private school to obtain Connecticut

certificates; (2) requires teachers holding professional certificates who work in private schools to meet the same continuing education requirements as public school teachers; and (3) allows certified teachers working in private schools approved by the education commissioner to be cooperating teachers.

EFFECTIVE DATE: July 1, 2011

§ 1 — PRIVATE SCHOOL TEACHING EXPERIENCE AND CONTINUING EDUCATION REQUIREMENTS FOR A PROFESSIONAL CERTIFICATE*Experience*

To obtain a professional educator certificate, a teacher must have from three to eight years of successful teaching experience while holding a provisional certificate. Under prior law, starting July 1, 2012, only public school teaching experience could be used to qualify for a professional certificate, although provisional certificate holders could use private school teaching experience to renew a provisional certificate. The act eliminates these restrictions and continues to allow experience at an SBE-approved private school to count towards obtaining a professional certificate.

Continuing Education

The law requires public school teachers holding professional certificates to complete 90 hours of continuing education (CEUs) every five years in order to maintain their certification. The act imposes the same CEU requirements on private school teachers holding such certificates. It requires the supervisory agent of an SBE-approved private school to determine whether its certified teachers have completed the CEU requirements and to attest that fact to the SBE, as local and regional school boards must already do.

§ 2 — STUDENT TEACHING IN PRIVATE SCHOOLS

Starting July 1, 2011, the act allows student teaching in private schools to count towards the preparation and eligibility requirements for an initial teaching certificate. To qualify, the student teaching must be (1) at a private school approved by SBE, (2) offered through a teacher preparation program at a higher education institution, and (3) completed through the state's cooperating teacher program.

§§ 3 & 4 — COOPERATING TEACHERS AT PRIVATE SCHOOLS

The State Department of Education's (SDE) cooperating teacher program uses experienced, certified

teachers to supervise, train, and evaluate student teachers. SDE provides funds to school districts to (1) hire substitutes when cooperating teachers are released from regular classroom responsibilities to participate in the program and (2) provide professional development for cooperating teachers.

By law, cooperating teachers must be certified teachers working in public schools, private special education facilities approved by the education commissioner, or other facilities the commissioner designates. The act also allows certified teachers working in private schools to participate in the program as long as (1) they pay to participate and (2) private schools receive no state funds for cooperating teacher professional development activities. It also gives public school teachers first priority to enroll in the cooperating teacher program.

By law, local and regional boards of education designate the cooperating teachers working in public schools and the authorities that operate private special education and other designated facilities choose the cooperating teachers at those facilities. The act also allows authorities that operate private schools to designate cooperating teachers for those schools. As with other such teachers, the selections must be based primarily on classroom experience and recognized success as a teacher.

PA 11-135—sHB 6498

Education Committee

Appropriations Committee

AN ACT CONCERNING IMPLEMENTATION DATES FOR SECONDARY SCHOOL REFORM, EXCEPTIONS TO THE SCHOOL GOVERNANCE COUNCIL REQUIREMENT AND THE INCLUSION OF CONTINUOUS EMPLOYMENT IN A COOPERATIVE ARRANGEMENT AS PART OF THE DEFINITION OF TEACHER TENURE

SUMMARY: This act delays by two years the implementation of the secondary school reforms enacted in 2010 that (1) increase the minimum number of credits required to graduate from high school from 20 to 25, (2) require students to pass state exams in certain courses and complete a senior project in order to graduate, (3) require school districts to offer students support and alternative ways to meet the new graduation requirements, and (4) require the State Department of Education (SDE) to develop end-of-year exams in various subjects. It:

1. eliminates state grants to help districts implement the new graduation requirements and instead requires SDE to offer technical assistance to districts wishing to start

implementing them;

2. requires districts to establish a student success plan for each student starting in grade six; and
3. revises and delays by one year the start of biennial status reports on the implementation of the new graduation requirements.

The act also modifies requirements enacted in 2010 that school districts establish school governance councils for schools whose students do not meet academic performance standards. It:

1. exempts boards of education with low-achieving schools or schools in need of improvement that have only a single grade or that already have substantially similar school governance councils from the requirement to establish school councils according to the existing law and
2. reorganizes and clarifies the sequence and contents of required SDE reports on the implementation and effectiveness of school governance councils.

Finally, the act:

1. preserves teachers' tenure and credited service toward tenure when their employing board enters a cooperative arrangement to provide educational services and their employment is transferred to a committee administering the arrangement;
2. moves up, to July 1, 2012 from July 1, 2013, the deadline for the State Board of Education (SBE), in consultation with the Performance Evaluation Advisory Council (PEAC), to adopt guidelines for a model teacher evaluation program (see BACKGROUND);
3. establishes a task force to address implementation issues arising from enhanced high school graduation requirements; and
4. makes technical changes.

EFFECTIVE DATE: Upon passage, except for the new deadline for adopting teacher evaluation guidelines and the tenure provisions for teachers working for cooperative arrangements, which are effective July 1, 2011.

§§ 1-4 — SECONDARY SCHOOL REFORM PROVISIONS DELAYED AND MODIFIED

§ 1 — High School Graduation Requirements

Starting with the class graduating in 2018, prior law required students to earn 25 credits in specified subjects, pass end-of-year examinations in five subjects, and complete a senior demonstration project to graduate from high school. It required school districts to provide adequate support and remedial services for students, starting with students in the 7th grade in the 2012-13

school year.

The act postpones the effective dates of these requirements by two years. It requires the increased high school graduation requirements to take effect with the class of 2020 instead of the class of 2018 and requires school districts to provide support and remedial services for 7th graders starting in 2014-15 rather than 2012-13.

§ 4 — *End-of-Year Exams*

The enhanced high school graduation standards require students to pass state-developed or -approved end-of-year exams in algebra I, geometry, biology, American history, and 10th grade English. Prior law required SDE to develop or approve these exams over two years starting by July 1, 2012 and finishing by July 1, 2014. The act postpones this process to July 1, 2014 to July 1, 2016.

§ 2 — *Student Success Plans*

Instead of requiring school districts, starting in the 2012-13 school year, to collect information on students' career and academic choices every year beginning in grade six and continuing through grade 12, the act requires districts to create an annual student success plan for each student, starting in grade six. The plans must include the student's career and academic choices in 6th through 12th grades.

§ 3 — *Technical Assistance and Reporting*

For FY 13 through FY 18, prior law required the SDE to provide grants, within available appropriations, to help school districts implement the new high school graduation standards and student support services. The act instead requires SDE, within available appropriations, to provide technical assistance in FY 12 and FY 13 to boards of education that begin to implement the new standards and services.

In addition, instead of requiring all districts seeking grants to submit biennial status reports to SDE on secondary school reform starting by November 1, 2012, the act requires such reports only from districts that receive the technical assistance. It delays the first report to November 1, 2013 and eliminates the requirement that a district explain in each report why it needs funds for the next biennium to implement the new standards and supports.

It also postpones the start of biennial implementation reports from SDE to the Education Committee from February 1, 2013 to February 1, 2014.

§§ 5, 6, & 11 — SCHOOL GOVERNANCE COUNCILS

Exemptions

Prior law required boards of education that have jurisdiction over schools designated as low-achieving, and allowed boards with jurisdiction over schools designated as "in need of improvement," to establish a school governance council for each such school. The act exempts the schools from the school governance council statutes if they:

1. have only one grade or
2. adopted a school governance council model on or before July 1, 2011 that (a) is similar to the statutory model; (b) consists of parents, teachers from each grade level or subject area, administrators, and paraprofessionals; and (c) is being administered at the school at the time it is designated a low-achieving school or a school in need of improvement (see BACKGROUND).

Council Powers

Statutory councils 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 recommend that the school be reconstituted according to models specified in the law. The act gives the similar councils described above some of the same statutory powers and responsibilities, including the power to review and advise on the school's improvement plans and implementation reports; receive appropriate training and instruction from the local or regional board of education; and, if they are councils for low-achieving schools, vote to reconstitute the school during the third year after being established.

Reports on School Governance Council Implementation and Effectiveness

By law, SDE must monitor and report to the Education Committee on the activities and effectiveness of the councils. The act reorganizes the sequence and content of the required reports and specifies that they must be submitted biennially. The report sequence under prior law and the act is shown in Table 1.

Table 1: Reporting Requirements and Deadlines

Report Content	Due Dates	
	Prior Law (one-time)	The Act (biennial starting)
Number of school governance councils established. (This was also part of a required report due January 1, 2011, which the act repeals, see below.)	January 1, 2012	December 1, 2011
Evaluation of effectiveness of councils established before January 15, 2011, including a recommendation whether to change the possible reconstitution models. (The act changes this to an evaluation of the establishment and effectiveness of all councils and eliminates the recommendation.)	October 1, 2014	December 1, 2013
The number of councils recommending or initiating school reconstitution; the reconstitution models chosen; and a recommendation whether to continue allowing councils to recommend school reconstitutions. (The latter recommendation was also required as part of the above report, but the act eliminates it from that report. The act also eliminates requirements that this report include (1) a recommendation on changing the possible reconstitution models, (2) a comparison of the models adopted, and (3) levels of school progress in adopting the models.)	January 1, 2012 and January 1, 2013	December 1, 2015
Monitor and evaluate reconstituted schools according to various measures	No specified reporting date	December 1, 2017

The act also eliminates a separate requirement that SDE report on (1) a comparison of the councils that have initiated reconstitutions with those that have not and (2) whether there is increased parental involvement at schools with governance councils. Prior law required the department to start this reporting by July 1, 2011.

§ 10 — TEACHER TENURE UNDER COOPERATIVE ARRANGEMENTS

The act allows teachers working for cooperative arrangements recognized in statute (see BACKGROUND) to combine their service with a participating board of education and the cooperative arrangement for the purpose of earning and maintaining tenure. It requires nontenured teachers working under cooperative arrangements to count their credited service toward tenure with a board of education if their employment is transferred to a committee administering

a cooperative arrangement and the board is part of the committee. It also allows a teacher who already has tenure in a district to continue it without a break if the district participates in such a cooperative arrangement and the teacher is employed by the arrangement's administering committee.

§ 8 — HIGH SCHOOL GRADUATION ISSUES TASK FORCE

The act establishes a task force to examine issues arising from the enhanced high school graduation requirements and mandatory courses taking effect with the Class of 2020. The group must address, at least, special programming needs, requirement waivers, and appropriate placements for courses under the required subject areas. It must report its findings and recommendations to the Education Committee by January 1, 2013. The task force terminates on that date or the date it submits its report, whichever is later.

The task force members must include the education commissioner or his or her designee; two appropriate people appointed by the education commissioner, including teachers; and one member each designated by the (1) Connecticut Association of Boards of Education, (2) Connecticut Association of Public School Superintendents (CAPSS), (3) Connecticut Association of Schools, (4) Connecticut Federation of School Administrators, (5) Connecticut Education Association; and (6) American Federation of Teachers-Connecticut.

Members must be appointed by August 7, 2011. The CAPSS representative is the task force chairperson and he or she must schedule the first meeting by September 6, 2011. The Education Committee's administrative staff serves as the task force's administrative staff. Appointing authorities fill any vacancies.

BACKGROUND

Model Teacher Evaluation Program Guidelines

The law requires local and regional boards of education to develop and implement new teacher evaluation programs consistent with model program guidelines adopted by the SBE in consultation with the PEAC. The model guidelines must include (1) ways to assess students' academic growth; (2) consideration of state-tracked "control factors" that may influence teacher performance, including student characteristics, attendance, and mobility; and (3) minimum requirements for evaluation instruments and procedures.

Schools in Need of Improvement and Low-Achieving Schools

Under the state education accountability law,

schools are designated in “need of improvement” if their students as a whole or one of the identified subgroups of their students (minority students, students with disabilities, or students with limited English) fail, for two years in row, to make adequate yearly progress (AYP) toward proficiency in specified academic subjects, as determined under the federal No Child Left Behind Act. A school is considered “low-achieving” if it has been designated as “in need of improvement” and requires corrective action under the federal law. Such schools are those whose students have failed to make AYP for at least five years in a row. These schools are subject to intensified SBE supervision (CGS § 10-223e).

Cooperative Arrangements

The cooperative arrangement law allows two or more boards of education to agree, in writing, to establish contracts to cooperatively provide school accommodation services, programs, or activities; special education services; or health care services to carry out the duties required by law. This authority includes the ability to employ teachers and other staff to carry out the programs and services (CGS § 10-158a).

PA 11-136—sHB 6499

Education Committee

Appropriations Committee

AN ACT CONCERNING MINOR REVISIONS TO THE EDUCATION STATUTES

SUMMARY: This act makes various changes in the education statutes. It:

1. reclassifies American Sign Language as a world language and eliminates signed English from public school instruction offering options;
2. adds genocide education and awareness to the subjects for which the State Board of Education (SBE) must provide curriculum materials and encourage school districts to offer in courses for students and in-service training for certified personnel;
3. allows the education commissioner, at a school board’s request, to permit an otherwise qualified teacher with an elementary education endorsement to teach a specialized subject in a kindergarten-through-grade-eight (K-8) school;
4. changes the schedules for filing various education-related reports, generally requiring them to be filed less frequently;
5. eliminates a statutory deadline for school districts participating in the school breakfast program to file expenditure reports and requires districts that use their grants for

6. unauthorized purposes to repay the state;
6. gives school districts an extra month to notify nontenured teachers that their contracts for the following school year will not be renewed;
7. allows school superintendents or their designees to access the state’s public school information system to obtain mastery test information about individual students enrolled in or transferring to their districts;
8. requires school districts to take additional measures to address truancy and to report annually on their truancy reduction activities;
9. requires SBE to adopt uniform definitions of excused and unexcused absences for districts to use in implementing required truancy policies and filing truancy data reports; and
10. expands the types of courses school districts may offer to meet an existing requirement that they offer an advanced placement (AP) course program that allows students to earn college credit in high school.

The act also makes technical changes (§§ 13, 19, and 20).

EFFECTIVE DATE: July 1, 2011, except for the provision on AP course programs and the technical changes, which are effective on passage.

§ 1 & 2 — INSTRUCTIONAL PROGRAMS AND TEACHER IN-SERVICE TRAINING

§ 1 — American Sign Language

The law specifies the subjects public schools must offer. They include language arts and, at least on the secondary level, one or more foreign languages. The act (1) changes the term “foreign language” to “world language,” (2) classifies American Sign Language as a world language instead of as an optional offering within language arts, and (3) eliminates signed English as an optional offering.

American Sign Language is a complete language with its own syntax that employs hand signs and other movements, including facial expressions and body postures. Signed English is a form of sign language based on English and uses English syntax.

§§ 1 & 2 — Genocide Education and Awareness

The act requires the SBE, within available appropriations and resource materials, to make curriculum and other materials on genocide education and awareness available to, and encourage its inclusion in, school districts’ (1) instructional programs for students and (2) in-service training programs for certified teachers, administrators, and other pupil personnel.

§ 3 — WAIVER OF CERTIFICATION ENDORSEMENT LIMITATION

The act authorizes the education commissioner, at a school board's request, to allow a certified teacher who holds an elementary education endorsement to teach a specialized course, such as computer and information technology, in a K-8 school in the district. The teacher must be otherwise qualified to teach the specialized course and must be employed in the K-8 school by the school board making the request.

An elementary education endorsement covers kindergarten through grade six. Endorsements for grades six-12 authorize a teacher to teach a particular subject. There is no K-8 endorsement.

§§ 4-11 — REPORTING SCHEDULES AND DEADLINES

The act changes the schedules and filing dates for various statutorily required education reports to, in general, reduce their filing frequency.

§ 4 — *After-School Program Reports*

Starting with the 2011 report, the act changes the submission deadline, from October 1 to December 1, for a biennial report from the State Department of Education (SDE) to the Education Committee on performance outcomes for entities receiving after-school program grants. The report must include measurements of the programs' impact on student achievement, attendance, and behavior.

§§ 5 & 6 — *Youth Service Bureau Reports*

Starting with the report due by December 1, 2011, the act changes, from annual to biennial, the schedule for SDE to submit to the General Assembly a report on diverting children from the juvenile justice and court systems to youth service bureaus. By law, the report must include the number of times any child is diverted, the number of children diverted, the types of services provided, the ages of the children diverted, and other statistical information as requested.

§ 7 — *Charter School Reports*

The act changes, from annual to biennial, the schedule for the education commissioner, within available appropriations, to submit to the Education Committee a report on the operations of charter schools, including recommendations for statutory changes to facilitate expanding their number, a compilation of the schools' strategic profiles, an assessment of the adequacy of state funding for such schools, and the adequacy and availability of suitable facilities for them.

The act requires the commissioner to start submitting the biennial reports by January 1, 2012. Prior law did not specify a reporting deadline.

§§ 8 & 9 — *School Readiness Reports*

The act changes the schedule, from twice a year to once every two years, for local school readiness councils' reports to SDE on (1) the number and location of school readiness spaces and estimates of future needs; (2) the need for school readiness programs and the number of children not being served; and (3) for priority school districts, the number of children not being served and the estimated cost of serving those children. It also changes SDE's schedule for reporting a summary of the local reports to the Education Committee from annual to biennial. The first biennial report to the committee is due by December 15, 2012.

§ 10 — *School Facilities Report*

Starting July 1, 2011, the act changes, from biennial to triennial, the schedule for school districts to report to the education commissioner and the commissioner to the Education Committee on the condition of school facilities and actions taken to implement each district's long-term school building, indoor air quality, and green cleaning programs.

§ 11 — *School Paraprofessional Advisory Council Reports*

The act reduces, from at least quarterly to annually, the schedule for the School Paraprofessional Advisory Council to advise the education commissioner of, and report to the Education Committee on, training needs and the effectiveness of the content and delivery of training for school paraprofessionals. It also requires the council to meet quarterly.

§ 12 — SCHOOL BREAKFAST PROGRAM GRANTS

The act requires school districts to repay school breakfast program grant funds not spent for allowable purposes. Prior law gave the education commissioner discretion over whether to require repayment. It also requires school districts participating in the program to file financial statements of their expenditures annually and in a manner the commissioner requires rather than by September 1 of the fiscal year following the year the district participated.

§ 14 — NOTICE TO NONTENURED TEACHERS OF CONTRACT NONRENEWAL

The act delays, from April 1 to May 1, the annual

deadline for school districts to notify teachers who do not have tenure that their contracts will not be renewed for the following year. By law, unless it terminates a nontenured teacher for cause, a school district must continue the teacher's contract for the following year if it fails to notify him or her in writing of nonrenewal by the statutory deadline.

§ 15 — PUBLIC SCHOOL INFORMATION SYSTEM ACCESS

The act requires the education commissioner to give school superintendents or their designees access to students' mastery test information in the state's public school information system. The access must be limited to determining examination dates, scores, and levels of achievement only for those students enrolled in or transferring into a superintendent's school district. The act applies to statewide mastery tests administered in grades three through eight and the 10th grade Connecticut Academic Performance Test.

§§ 16-18 — TRUANCY POLICIES

§ 16 — *Additional Requirements for School Districts*

By law, each school board must adopt policies and procedures for dealing with truants that include certain specific actions. Among these are that (1) school personnel or volunteers under their direction make a reasonable effort to notify parents by phone when their child fails to appear for school and there is no indication that the parent knows of the child's absence; (2) school officials meet with a child's parents within 10 school days after the child's fourth unexcused absence in a month or 10th in a school year; and (3) when a parent does not attend the required meeting or otherwise fails to cooperate in addressing the truancy, the superintendent of schools file a written complaint with the Superior Court alleging that the child's family is a Family With Service Needs (FWSN) (see BACKGROUND).

The act requires:

1. school personnel or volunteers to notify the parent of a child's absence by mail as well as by phone,
2. the mailed notice to warn that two unexcused absences in a month or five in a year could lead the school superintendent to file a FWSN complaint, and
3. the superintendent to file a FWSN complaint within 15 days after a parent fails to attend the meeting with school officials or otherwise fails to cooperate in addressing his or her child's school absences. Prior law imposed no deadline for filing the FWSN complaint.

§ 17 — *Information on Truancy Reduction Activity*

By law, superintendents must include truancy data in the school and school district profiles they must submit to SDE each year. The act also requires superintendents to include, in the narrative part of the profiles, a description of their school board's actions to reduce truancy.

§ 18 — *Excused and Unexcused Absences*

By July 1, 2012, the act requires the SBE to define an "excused" and "unexcused" absence and requires school boards to use the definitions to (1) report required truancy data on school profiles and (2) implement required truancy policies and procedures. There was formerly no requirement for a uniform statewide definition of these terms.

§ 21 — ADVANCED PLACEMENT COURSES

The act allows school districts to choose additional types of programs to meet an existing state requirement that, starting in the 2011-12 school year, they offer an "advanced placement course program" that allows students to earn college credit in high school. Under prior law, districts could offer only advanced placement (AP) courses for which the College Board offers an AP examination. Under the act, they may provide any high school course, including those for which AP exams are available, that (1) offers college- or university-level instruction for which students may earn college credit and (2) is approved by the SBE.

BACKGROUND

Family With Service Needs (FWSN)

A FWSN complaint may be filed with the Superior Court when a child under age 17 runs away without good cause, is truant or beyond control of his or her parents or school authorities, or engages in certain forms of sexual or immoral conduct. The complaint must be referred to a juvenile probation officer who investigates and recommends that the child receive a program of services through the court.

PA 11-179—sSB 1039
Education Committee
Public Health Committee

AN ACT CONCERNING EDUCATION ISSUES

SUMMARY: This act changes education laws relating to (1) health professionals authorized to perform school health assessments; (2) mandates on regional education service centers; (3) school district reporting on efforts to address racial, ethnic, and economic isolation in schools; (4) the education commissioner's authority to renew international teacher permits; (5) the contents of annual school district expenditure reports; (6) the payment schedule for state interdistrict magnet school operating grants; (7) annual financial audits for interdistrict magnet schools; (8) the qualifications of Junior Reserve Officer Training Corps (JROTC) instructors and assistant instructors working in schools; (9) approving applications and funding priorities for charter schools; and (10) a program allowing national teacher corps training program graduates to teach under special state-issued durational shortage area permits in certain school districts.

EFFECTIVE DATE: Upon passage, except for the provisions concerning (1) annual financial audits for interdistrict magnet schools and (2) the national teacher corps training program graduates, which are effective July 1, 2011.

§ 1 — SCHOOL HEALTH ASSESSMENTS BY MEDICAL PROFESSIONALS AT MILITARY BASES

The act allows advanced practice registered nurses (APRNs) and physician assistants stationed on military bases to perform required health assessments for students attending public schools. Under prior law, such APRNs and physician assistants could perform student assessments only if they were licensed in Connecticut.

The act does not change existing law that allows any legally qualified medical practitioner but only Connecticut-licensed registered nurses to perform student health assessments.

§ 2 — REGIONAL EDUCATION SERVICE CENTER MANDATES ELIMINATED

The act eliminates requirements that each regional education service center (RESC) (1) spend at least 6.25% of its annual state operating grant to help school boards implement State Board of Education-identified educational goals and objectives and (2) support data collection and analysis on school district efforts to reduce racial, ethnic, and economic isolation. RESCs must continue to support regional efforts to recruit and retain minority teachers.

§ 3 — REPORTING ON EFFORTS TO REDUCE RACIAL, ETHNIC, AND ECONOMIC ISOLATION IN SCHOOLS

The act simplifies the process and changes the schedule for required biennial school district reports on programs and activities to reduce racial, ethnic, and economic isolation. Instead of requiring school districts to report to RESCs and RESCs to report to the education commissioner, the act requires districts to report directly to the commissioner and eliminates the RESC reports. It also changes the filing deadline for the district reports from July 1 to October 1 biennially, starting October 1, 2011.

By law, reports must include (1) information on the number of school district programs to reduce racial, ethnic, and economic isolation; how long they last; and the number of students and staff involved and (2) evidence that the district is making progress in reducing such isolation.

§ 4 — INTERNATIONAL TEACHER PERMIT RENEWALS

The act removes the limit on the number of times the education commissioner can renew a temporary international teacher permit at the request of a local or regional board of education. It allows the commissioner to renew a permit as long as, at the time of the renewal, the foreign teacher maintains a valid J-1 visa. The maximum renewal period continues to be one year. Under prior law, the commissioner was limited to two one-year renewals in the two years after issuing the permit.

An international teacher permit allows a qualified foreign teacher to teach in a public school in a subject shortage area identified by the education commissioner. The permit is valid for one year and is issued only at a school board's request.

§§ 5-7 — SCHOOL DISTRICT ANNUAL EXPENDITURE REPORTS

School districts must report specified annual education expenditures to the state for purposes of Education Cost Sharing (ECS) and other state education grants. Among the expenditures they must include when reporting net current, regular, and current program expenditures are debt service payments.

The act eliminates an obsolete requirement that districts adjust reported debt service expenditures to amortize principal payments according to a State Department of Education (SDE)-approved schedule based on substantially equal installment payments over the life of the debt. The amortized debt payments were used in calculating district ECS minimum expenditure requirements (MERS) but the MER was replaced by the

minimum budget requirement (MBR) in 2005.

§ 8 — PAYMENT SCHEDULE FOR INTERDISTRICT MAGNET SCHOOL GRANTS

The act adjusts the payment schedule for state operating grants for interdistrict magnet schools. It requires SDE to pay 70%, rather than 50%, of the grant by September 1, and the balance on May 1, instead of January 1, annually. Under both prior law and the act, if a magnet school's actual enrollment is lower than projected in its approved grant application, SDE must adjust the second payment to reflect actual enrollment on the preceding October 1. But, under the act, SDE must base the adjustment on revisions of October 1 enrollment data as of the following March 1.

In cases where the magnet school's annual financial audit shows a grant overpayment, the act also requires SDE to adjust the May payment based on the difference between the prior year's total grant and the current year's preliminary grant amount.

§ 9 — INTERDISTRICT MAGNET SCHOOL ANNUAL FINANCIAL AUDITS

The act requires all interdistrict magnet schools, not just those operated by RESCs, to file annual financial audits with the education commissioner.

§ 10 — JROTC PROGRAM INSTRUCTORS WORKING IN SCHOOLS

The act overrides statutory requirements requiring a public school teacher to be state certified to allow a board of education to employ in a school as a JROTC Program instructor or assistant instructor, anyone who is certified as such by the U.S. armed forces.

§ 11 — TIME LIMIT FOR REVIEWING STATE CHARTER SCHOOL APPLICATIONS

The act extends, from 75 to 90 days after it receives the application, the deadline for the SBE to review and vote to approve or disapprove an application to establish a state charter school.

§ 12 — NEW CHARTER SCHOOL FUNDING PRIORITIES

By law, SBE must approve new charter schools before they can begin taking students. If in any year it approves more than one, it must prioritize those that receive funding according to several factors the law lists in priority order. The act adds a new prioritization factor to the list, gives the new factor the highest priority, and applies the priority requirements to local as well as state charter schools.

Prior law required SBE to determine the order in which newly approved charter schools were funded by applying the following factors in the following order of importance:

1. whether the applicant has a demonstrated record of student academic success;
2. whether the school is located in a district with a demonstrated need for student improvement; and
3. whether the applicant has plans for preparing facilities, staff, and outreach to students.

The act adds, as the most important factor, the quality of the school's proposed program as measured against criteria required by the statutory charter school application process. It does not change the existing factors or their priority in relation to one another.

§ 13 — DURATIONAL SHORTAGE AREA PERMITS FOR NATIONAL TEACHER CORPS GRADUATES

The act extends, from July 1, 2011 to July 1, 2015, the sunset date for a program allowing qualified graduates of a national teacher corps training program, such as Teach for America, to work under special durational shortage area permits (DSAPs) issued by SDE in certain school districts.

The special DSAPs for teacher corps graduates allow them to work at the elementary or secondary level in regular public and charter schools in Bridgeport, Hartford, and New Haven and in state charter schools in Stamford. By law, when issuing the special DSAPs, SBE must first meet the needs of schools run by the Bridgeport, Hartford, and New Haven boards of education and second, the needs of charter schools in those districts plus Stamford.

BACKGROUND

J-1 Visa

A J-1 visa is a non-immigrant visa provided to foreign visitors who fall under the "Exchange Visitor" designation and are allowed to come to the United States to promote mutual educational and cultural exchanges. The visitor's sponsor must be accredited through the U.S. State Department's Exchange Visitor Program. Among those who qualify for J-1 status through the program are high school, college, and graduate students; business and flight aviation trainees; primary and secondary school teachers; college professors; research scholars; and medical residents and interns receiving U.S. medical training.

JROTC Instructors and Assistant Instructors

JROTC instructors and assistant instructors are retired military members and must meet standards for such positions established by their service branch. Instructors must be retired officers and have at least a bachelor's degree, with a master's degree and teaching experience preferred. Assistant instructors must be retired noncommissioned officers with at least 20 years of active duty, a high school diploma or equivalent, and must obtain an associate's degree within five years of JROTC employment.

Durational Shortage Area Permit (DSAP)

A DSAP is a temporary public school teaching credential issued by SBE at the request of a local board of education. It allows an uncertified person to teach in a particular position for which no suitable certified teacher is available. The special DSAPs for national teacher corps graduates are valid for one year and can be renewed once. To qualify for the special permit, graduates must (1) be enrolled in an SBE-approved teacher preparation or alternative route to certification program in the subject they are teaching and (2) have completed at least 12 semester hours of credit in, or passed the SBE-approved test for, the subject they are teaching.

Charter Schools

A charter school is 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.

PA 11-181—sSB 1103

Education Committee
Human Services Committee
Appropriations Committee
Government Administration and Elections Committee

AN ACT CONCERNING EARLY CHILDHOOD EDUCATION AND THE ESTABLISHMENT OF A COORDINATED SYSTEM OF EARLY CARE AND EDUCATION AND CHILD DEVELOPMENT

SUMMARY: This act creates, by July 1, 2013, a coordinated system of early care and education and child development (i.e., "system"). It requires the governor, by July 15, 2011 to appoint a planning director within the Office of Policy and Management (OPM) to develop a plan to implement the system. The

act lists the system's duties and the things the planning director must consider in developing the implementation plan. It requires various state agencies to help him or her develop the plan.

It (1) requires the system to collaborate with local and regional early childhood councils to implement the system at the local level and (2) lists the childhood council's duties in the collaboration.

It requires the planning director to report to the Early Childhood Education Cabinet and several legislative committees, at various times, on the progress in planning and implementing the system.

The act eliminates the State Department of Education's (SDE) Office of Early Childhood Planning, Outreach and Coordination and all of its duties.

It also changes the membership of the Early Childhood Education Cabinet and expands it from 17 to 20.

EFFECTIVE DATE: July 1, 2011

§ 3 — EARLY CARE AND EDUCATION AND CHILD DEVELOPMENT SYSTEM PLANNING DIRECTOR

The act requires the governor to appoint, in consultation with the early childhood cabinet, a planning director within OPM to plan and develop the system. The appointment must be made (1) within available appropriations or funded by donations from private sources or federal funds and (2) by July 15, 2011.

§ 3 — SYSTEM PLAN

The director must develop a plan for the system that consolidates existing early childhood education and child care programs and services for children from birth to age eight into a coordinated system that attempts to:

1. reduce the academic achievement gap;
2. increase participation in early childhood education programs;
3. increase parent engagement, family literacy, and parenting skills;
4. increase oral language development and social competence;
5. decrease special education placements; and
6. support parents and guardians of young children on finding and retaining employment and encourage such parents and guardians to attend work training programs.

Consolidation may include school readiness programs, Head Start, the family resource center program established in law, child care facilities, state-contracted child care center program guidelines, the birth-to-three program, professional development activities relating to early childhood education, and any

other relevant early childhood programs and services.

The act requires the planning director, when developing the plan, to:

1. consider opportunities for inter- and intra-agency consolidation to reduce redundancy and improve the focus on positive outcomes for children and families;
2. provide for the creation of memoranda of agreement (MOA) between the coordinated system and nonprofit and philanthropic organizations;
3. identify opportunities to align services and meet the holistic needs of children and families;
4. implement an accountability framework to measure program and service outcomes;
5. identify common requirements for funding from various sources and identify waiver provisions related to these requirements that can be used to improve service delivery in the state;
6. identify barriers under state or federal law that inhibit effective consolidation of functions or use of interagency agreements;
7. consult with qualified local and regional planning groups; and
8. focus the MOA to relevant program areas, such as maternal and child health, literacy, family support, financial planning, and early care and education.

For purposes of the system plan development, the planning director may enter into a MOA with and accept donations from nonprofit and philanthropic organizations.

The departments of Education, Social Services (DSS), Public Health (DPH), Children and Families (DCF), Developmental Services, and Higher Education must help the director plan and develop the system.

§ 2 — EARLY CARE AND EDUCATION AND CHILD DEVELOPMENT SYSTEM

The act creates, by July 1, 2013, a coordinated system of early care and education and child development that must consist of comprehensive and aligned policies, responsibilities, practices, and services for young children and their families, including prenatal care and care for children from birth to age eight to ensure optimal health, safety, and learning for each child. The policies, practices, and services must be in accordance with the plan the planning director develops under the act.

This system must:

1. create a unified set of reporting requirements for (a) school readiness; (b) Head Start; (c) family resource centers; (d) child care

programs, facilities, and licensing; (e) the Birth to Three program; (f) professional development activities relating to early childhood education; and (g) other relevant early childhood programs and services, in order to collect data necessary for quality assessments and longitudinal analysis;

2. compare and analyze the data collected in (1) above with the data collected in the statewide public school information system for population-level analysis of children and families;
3. develop and update (a) appropriate early learning standards and assessment tools for children from birth to age five that are age and developmentally appropriate and aligned with existing learning standards as of July 1, 2013 and (b) assessment tools for students in grades kindergarten to 12;
4. monitor and evaluate all early childhood education and child care programs and services, focusing on program outcomes in satisfying the health, safety, developmental, and educational needs of all children;
5. develop indicators that assess strategies designed to strengthen the family through parental involvement in a child's development and education, including children with special needs;
6. increase the availability of early childhood education and child care programs and services and encourage providers to work together to create options that allow families to participate in programs that serve individual needs;
7. provide information and technical assistance to people seeking such programs and services;
8. help state agencies and municipalities obtain available federal funding for early childhood education and child care programs and services;
9. provide technical assistance and consultation to licensed providers of early childhood education and child care programs and services and help any potential provider obtain licensure and certification;
10. create, implement, and maintain a quality rating and improvement system that covers home-based, center-based, and school-based early child care and learning;
11. maintain an accreditation system to help early childhood education and child care programs and services achieve national standards and improve the programs;
12. create partnerships between state agencies and philanthropic organizations to help implement the system;

13. align the system's policy and program goals with those of the Early Childhood Education Cabinet and the Head Start advisory committee;
14. ensure a coordinated and comprehensive statewide system of professional development for providers of early childhood education and child care programs and services;
15. develop family-centered services that assist families in their communities;
16. provide families with opportunities to choose services, including quality child care;
17. integrate early childhood education and special education services;
18. emphasize targeted research-based interventions;
19. organize services into a coherent system;
20. coordinate a comprehensive and accessible delivery system for early childhood education and child care services;
21. focus on performance measures to ensure that services are accountable, effective, and accessible to the consumer;
22. promote universal access to early childhood care and education;
23. ensure non-duplication of monitoring and evaluation;
24. encourage, promote, and coordinate funding to establish and administer local and regional early childhood councils that implement local and regional birth-to-eight systems; and
25. perform any other activities to assist in providing early childhood education and child care programs and services.

§ 2 — SYSTEM IMPLEMENTATION

The act requires the system to collaborate with local and regional early childhood councils to implement the system at the local level.

The early childhood councils must:

1. develop and implement a comprehensive plan for an early childhood system for the community the council serves;
2. develop policy and program planning;
3. encourage community participation by emphasizing substantial parental involvement;
4. collect, analyze, and evaluate data focusing on program and service outcomes;
5. allocate resources; and
6. perform any other functions to help provide early childhood programs and services.

The early childhood councils may enter into MOAs with the local or regional school readiness council of the town or region the early childhood council serves to perform the duties and functions of a school readiness

council. If no such local or regional school readiness council exists for the town or region of such early childhood council, the early childhood council may perform the duties and functions that a local readiness council would perform.

The system may enter into MOAs with and accept donations from nonprofit and philanthropic organizations to implement the system at the local level.

§ 3 — REPORTING ON PLANNING AND IMPLEMENTATION PROGRESS

The act imposes various reporting requirements on the planning director. From October 1, 2011 to July 1, 2013, the planning director must report quarterly to the early childhood cabinet. The report may include:

1. recommendations on agency consolidation to improve coordination within the system;
2. suggestions on how to combine federal, state, and local resources to maximize system efficiencies and outcomes for children and families;
3. suggestions to improve the coordination of state and local early childhood education initiatives to provide holistic, affordable, high quality, early education for young children;
4. recommendations for system improvements; and
5. assurances that the statutory guidelines for state-contracted child care center programs are being preserved in the planning and development of the coordinated system.

From January 1, 2012, to July 1, 2013, the planning director must semiannually report to the Appropriations, Human Services, and Education committees. The report may include the same items listed above for quarterly reports to the early childhood cabinet.

By January 30, 2013, the planning director must report to the Appropriations, Human Services, and Education committees with recommendations on which department should serve as the lead agency and where the staff of the coordinated system should be located.

§ 4 — AGENCIES BASED IN THE SDE

The act requires the early childhood cabinet, director of the Connecticut Head Start Collaboration Office, Head Start advisory committee, and Accreditation Facilitation Project of Connecticut Charts-A-Course to be based in the SDE for purposes of (1) system planning and development and (2) working with nonprofit and philanthropic organizations.

§ 5 — OFFICE OF EARLY CHILDHOOD PLANNING ELIMINATED

The act eliminates the Office of Early Childhood Planning and its duty to:

1. plan, develop, and coordinate, with other agencies, the delivery of services to children from birth to age nine;
2. coordinate the implementation of an Early Childhood Education Information System capable of tracking numerous elements of school readiness programs and the children they serve;
3. develop and report on an early childhood accountability plan, in consultation with the cabinet;
4. implement a communications strategy for outreach to families, service providers, and policymakers;
5. start a statewide longitudinal evaluation of early childhood programs, in consultation with DSS; and
6. develop, coordinate, and support public and private partnerships to aid early childhood initiatives.

§ 1 — EARLY CHILDHOOD CABINET MEMBERSHIP

The cabinet is made up the heads or representatives of various departments, including SDE, DSS, and DPH, plus legislators and representatives of prekindergarten programs.

The act changes and expands the cabinet membership. It:

1. replaces the mental health and addiction services commissioner with the DCF commissioner,
2. changes the House minority leader's appointment from a Head Start program representative to a parent of a child attending a school readiness program,
3. adds the House majority leader's appointment of a Connecticut Family Resource Center Alliance representative,
4. adds the Senate majority leader's appointment of a state-funded child care center representative, and
5. increases the gubernatorial appointments from one to two by adding a representative of the Connecticut Head Start Association.

BACKGROUND

School Readiness

School readiness programs provide nonsectarian developmentally appropriate learning for three- and four-year-olds (and five-year-olds who are not eligible to enroll in school or choose school readiness instead according to statute). The programs must provide at least 450 hours over at least 180 days, with some exceptions, and must meet state standards (CGS § 10-16p).

Early Childhood Cabinet's Duties to Satisfy Federal Head Start

The cabinet carries out various coordination and planning duties and submits annual reports to the legislature with respect to children from birth to age nine (CGS § 10-16z(b)). These duties are required to satisfy the 2007 federal Head Start Act (P.L. 110-134).

PA 11-232—sSB 1138

Education Committee

Judiciary Committee

Appropriations Committee

AN ACT CONCERNING THE STRENGTHENING OF SCHOOL BULLYING LAWS

SUMMARY: This act expands the types of conduct that constitute school bullying and the situations where it can occur. It expressly identifies as bullying (1) any targeting of a student based on the student's actual or perceived "differentiating" characteristics, such as race, gender, sexual orientation, or physical appearance and (2) actions taken through electronic communications or devices that otherwise qualify as bullying and are known collectively as "cyberbullying."

The act (1) makes the school principal responsible for investigating or designating someone to investigate and address bullying whether it occurs in- or out-of-school, if it affects the school or students in the school or school district and (2) requires all school employees, not just teachers and administrators, to report bullying incidents they see or that are reported to them to the principal or his or her designee.

It requires schools and school districts to adopt safe school climate plans, rather than policies, to address bullying. It adds to the requirements for such plans that they, among other things, (1) establish deadlines for reporting, investigating, and notifying parents and guardians about bullying incidents; (2) prohibit retaliation against those who report bullying; and (3) require school officials to notify police when they

believe bullying conduct constitutes a crime.

The act requires certified and noncertified employees, as well as certain contractors, working in public schools to receive annual training in how to identify, intervene, and prevent bullying and suicide among students. It also requires beginning teachers and teacher candidates to complete training on these topics. It grants immunity to school boards, school employees, students, parents, and others against damage claims arising from good faith reports of bullying and responses to bullying in accordance with a district's safe school climate plan.

The act requires:

1. each school to carry out a biennial assessment of its school climate, using instruments disseminated by the State Department of Education (SDE);
2. school superintendents and principals to designate staff members and school committees to be responsible for school climate and responses to bullying in each school and district; and
3. SDE to establish a statewide network to provide resources, materials, and training on school bullying to school districts in the state.

EFFECTIVE DATE: July 1, 2011

DEFINITIONS

Bullying

Under prior law, "bullying" consisted only of overt acts by one or more students that are (1) directed at another student; (2) intended to ridicule, humiliate, or intimidate; and (3) repeated more than once against any student during the school year. The act expands this definition to cover (1) repeated written, oral, and electronic communications by one or more students directed at or referring to another student and (2) physical acts and gestures by one or more students that are repeatedly directed against another student and that:

1. cause the student physical or emotional harm or damage his or her property,
2. put the student in reasonable fear of harm or property damage,
3. create a hostile school environment for the student,
4. infringe on the student's rights at school, or
5. substantially disrupt the education process or a school's orderly operation.

The act defines a "hostile environment" as one in which bullying among students is so severe or pervasive that it alters the school's climate. It also specifies that the student against whom the bullying is directed must be attending school in the same district as the students engaged in the bullying.

Bullying Based on Differentiating Characteristics

In defining bullying, the act explicitly includes conduct targeting a student's actual or perceived possession of, or association with others possessing or perceived as possessing, any differentiating characteristic based on race; color; religion; ancestry; national origin; gender; sexual orientation; gender identity or expression; socioeconomic or academic status; physical appearance; or mental, physical, developmental, or sensory disability.

Cyberbullying

The act expands bullying to include "cyberbullying," which it defines as acts of bullying carried out through mobile electronic devices or electronic communications, the Internet, interactive and digital technologies, or cell phones.

Under the act, an "electronic communication" is any transfer of signs, signals, writing, sounds, images, data, or other intelligence wholly or partly by wire; a radio; or an electromagnetic, photoelectronic, or photo-optical system. A "mobile electronic device" is any portable device that can send data between or among users. Examples include text messaging and paging devices, personal digital assistants, laptops, video gaming devices, digital video disk (DVD) players, and digital cameras.

School Employees

The act expands the responsibilities of school employees other than teachers and school administrators to respond to school bullying incidents. It also requires annual training for all school employees.

Under the act, a school employee is anyone who (1) is employed by a local or regional board of education or works in a public school as a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional, or coach or (2) provides services to or on behalf of students in a public school under a contract with the school board and whose duties involve regular student contact.

SCHOOL DISTRICT SAFE SCHOOL CLIMATE PLANS

Prior law required each local and regional board of education to develop and implement a policy to address bullying in its schools. The act adds several required elements and renames the policies as "safe school climate plans."

Prohibited Conduct

The act requires district plans to prohibit bullying both in and outside of school. Schools must address bullying taking place (1) at a school-sponsored or school-related activity either on or off school grounds; (2) at a school bus stop; (3) on a school bus or any other vehicle the school board owns, leases, or uses; or (4) through an electronic device the school board owns, leases, or uses. Schools must also address bullying that occurs outside these locations if it: (1) creates a hostile environment for a student at school, (2) infringes on a student's rights at school, or (3) substantially disrupts the education process or the school's orderly operation.

Under prior law, school bullying policies could, but were not required to, address bullying outside of school but only if it had a direct, negative effect on a student's academic performance or safety at school.

Reports, Investigations, and Meeting with Parents

District plans must establish certain deadlines for (1) filing reports of, investigating, and holding meetings with involved parents regarding, bullying incidents and (2) notifying parents of actions taken to prevent further incidents. The act eliminates a requirement that a school district's bullying policy identify appropriate school personnel responsible for taking and investigating reports of bullying. Instead, it assigns the responsibility for these duties to a safe school climate specialist in the school, who must be either the school's principal or his or her designee (see below).

Reports. Under prior law, school district policies had to allow students to report bullying incidents anonymously to teachers and school administrators and notify students every year of the process for making the reports. The act requires plans to (1) enable students to make such reports to any school employee and (2) require students' parents and guardians, as well as the students themselves, to be notified every year of the process by which students may make such reports.

The act requires a school employee who witnesses bullying or receives a report of bullying to notify either the school climate specialist or, if that person is not available, another school administrator, orally within one school day. The employee must follow up with a written report within two school days after providing oral notice. Under prior law, the notice to the school administrator had to be in writing and there was no deadline for sending it in.

Investigations. The act requires the specialist, rather than any school administrator, to investigate, or supervise an investigation of, the report. After the specialist receives the written report, he or she must complete the investigation promptly. The specialist must also review any anonymous reports.

Notice to and Meetings with Parents. As under prior law, the school must (1) notify both the parents of a student who commits a verified act of bullying and those of the target of the activity and (2) invite them to a meeting. The act requires the school to notify parents within 48 hours after completing the investigation. Existing law requires the notice to parents to describe the school's response to the incident and the consequences for further bullying. The act requires this information to also be included in the meeting invitation. At the meeting, the act requires the school to describe to the parents the measures it is taking to ensure the targeted student's safety and prevent further bullying.

Other Plan Requirements

The act also requires the district plan to:

1. prohibit retaliation or discrimination against those who report or help investigate bullying,
2. develop plans addressing what the school will do to protect the targeted student from further bullying, and
3. require a school principal or his or her designee to notify the police when they suspect that an act of bullying constitutes a crime.

Model Plans

Prior law required SDE to develop model policies for school districts to use to address bullying in kindergarten through grade 12. The act instead requires SDE to develop or recommend a single safe school climate plan to districts for grades K-12.

Records

In addition to existing requirements for each school to maintain a publicly available list of the number of verified bullying incidents, the act requires district plans to establish procedures for schools to document and maintain records of bullying investigations. It continues to require schools to report annually to the SDE the number of verified bullying incidents at the school, but eliminates the proviso that it be done within available appropriations.

Adoption, Posting, and Submission to SDE

The act requires school boards to approve their plans by January 1, 2012, and submit them to SDE. It also requires school boards, within 30 calendar days after adopting their plans, to post them on the board's and each school's website. Boards must also provide all school employees with a written or electronic copy of the plan at the start of each school year.

TRAINING REQUIREMENTS FOR TEACHERS AND OTHER SCHOOL EMPLOYEES

The act requires all school employees, not just those who are certified, to complete annual training on (1) identifying, preventing, and responding to school bullying and (2) preventing and responding to youth suicide. It also requires beginning teachers and those participating in teacher preparation programs to receive such training.

In-Service Training for Certified Employees

Under prior law, school districts had to offer their certified employees in-service training on bullying prevention. The act expands the scope of this training to include identifying and responding to bullying and preventing and responding to youth suicide.

Under prior law, districts were not required to offer in-service training regarding bullying if they implemented an evidence-based model approach to the problems. The act preserves the existing exception, but only if the model approach is approved by SDE.

Training for Noncertified School Employees

The act requires SDE, within available appropriations, to provide annual training to noncertified school employees. The training may include (1) developmentally appropriate methods to prevent and effectively intervene to stop bullying; (2) information about the relationship and interaction among bullies, targets, and witnesses; (3) research findings, including types of students who are at-risk of being bullied in school; (4) information about cyberbullying or Internet safety as it relates to cyberbullying; or (5) information on the incidence of youth suicide, how to identify at-risk students, and strategies for effectively intervening to prevent it.

Required training can be presented in various ways, including in person via mentors, online, or through statewide workshops.

Training for Beginning Teachers

By law, teachers holding initial (first-level) certificates must complete a two-year Teacher Education and Mentoring (TEAM) program that requires them to complete five training modules, one of which deals with classroom management and climate. The act requires that module to include training in preventing, identifying, and responding to school bullying and preventing and responding to youth suicide.

Teacher Preparation Programs

The act requires, rather than encourages, teacher candidates to complete a component on school violence, bullying, suicide prevention, and conflict resolution as part of their teacher preparation program.

IMMUNITY FOR SCHOOL EMPLOYEES, BOARDS OF EDUCATION, AND OTHERS

The act bars damage claims against school employees who, in accordance with a school district safe school climate plan, report, investigate, or respond to bullying. It extends the same protection to:

1. a local or regional board of education that implements a safe school climate plan and reports, investigates, or responds to bullying and
2. parents, students, and others who report bullying incidents to a school employee according to a safe school climate plan.

To be immune, these parties must act in good faith and, in the case of a school employee or board of education, within the scope of their duties. The immunity does not cover gross, wanton, reckless, or willful misconduct.

By law, school boards must already indemnify their members, teachers, school employees, and certain volunteers against financial loss and expense resulting from damage claims for actions taken in the course of their duties that are not wanton, reckless, or malicious. Indemnification, unlike immunity, still allows a claim to proceed.

SCHOOL CLIMATE ASSESSMENTS

Every two years, starting July 1, 2012, the act requires each school to assess its school climate using assessment instruments, including surveys, approved and disseminated by SDE in collaboration with the Connecticut Association of Schools. Under the act, “school climate” encompasses the character of an entire school and the quality of the relationships among and between its students and adults.

Districts must collect and report the school assessments to SDE. SDE must use the assessments to monitor bullying prevention efforts over time and compare districts’ efforts to statewide trends.

Under prior law, SDE had to report to the Education and Children’s committees by February 1, 2010, on its school climate improvement and anti-bullying efforts and recommend additional activities and funding to enhance them. The act makes the report biennial and adds a requirement that it include the number of verified acts of bullying in the state and an analysis of school district responses. It eliminates

requirements that SDE analyze school districts' bullying policies and examine the relationship between bullying, school climate, and student outcomes.

SAFE SCHOOL CLIMATE COORDINATORS, SPECIALISTS, AND COMMITTEES

The act establishes a hierarchy of people within schools and school districts to be responsible for developing and implementing the safe school climate plans, biennial school climate assessments, and the act's reporting requirements.

District Safe School Climate Coordinator

Starting with the 2012-13 school year, the act requires each school superintendent to appoint a district safe school climate coordinator from existing staff. The coordinator must:

1. implement the safe school climate plan;
2. collaborate with safe school climate specialists (see below), the school board, and the school superintendent to prevent, identify, and respond to bullying in district schools;
3. in collaboration with the superintendent, provide data and information derived from the safe school climate assessments to SDE; and
4. meet with the school specialists at least twice during the school year to discuss bullying issues in the district and recommend changes in the district's plan.

Safe School Climate Specialist

Starting with the 2012-13 school year, the act requires each school principal to serve, or designate someone to serve, as the safe school climate specialist for the school. Specialists must (1) investigate bullying reports according to the district's safe school climate plan; (2) collect and maintain records of the school's bullying reports and investigations; and (3) be the primary person responsible for preventing, identifying, and responding to bullying reports in the school.

Safe School Climate Committee

Starting with the 2012-13 school year, the act requires each school principal to establish or designate at least one new or existing committee to be responsible for fostering a safe school climate and addressing school bullying. The committee must include at least one parent or guardian of a school student, appointed by the principal.

The committee must:

1. receive copies of completed bullying investigation reports;
2. identify and address bullying patterns;

3. review and amend school bullying policies;
4. review the district plan and make recommendations to the district coordinator based on issues at the school;
5. educate students, parents, and others about bullying;
6. collaborate with the district coordinator to collect data on bullying; and
7. perform other related duties as the principal determines.

The act excludes parent members from the first two activities and from any other committee activities that may compromise student confidentiality.

STATEWIDE SAFE SCHOOL CLIMATE RESOURCE NETWORK

The act requires SDE to consult with the State Education Resource Center, the Governor's Prevention Partnership, and the Commission on Children to establish a statewide safe school resource network for identifying, preventing, and educating people about school bullying in Connecticut. The network must make resources, information, and training materials available to schools to improve their climate and reduce bullying. SDE must establish the network within available appropriations and may seek state, municipal, and federal funds and accept private funds to administer the network.

ALLOWABLE BULLYING PREVENTION STRATEGIES

The act adds student peer training, education, and support to the existing prevention and intervention strategies districts may use to address bullying. It also eliminates school surveys and establishment of bullying prevention teams from these optional strategies.

PA 11-234—sSB 1160

Education Committee

Appropriations Committee

Labor and Public Employees Committee

AN ACT CONCERNING REVISIONS TO THE STATUTES REGARDING THE MINIMUM BUDGET REQUIREMENT AND CHARTER SCHOOL EDUCATOR PERMIT

SUMMARY: By law, in order to receive an Education Cost Sharing (ECS) grant, towns must budget at least a minimum amount for education known as the minimum budget requirement (MBR). PA 11-48 establishes the MBR for FYs 12 and 13 with exceptions for districts (1) with decreasing enrollment or (2) that closed one or

more schools due to decreasing enrollment.

This act makes two changes to the MBR for FYs 12 and 13 that affect a limited number of school districts while leaving in place the MBR provisions of PA 11-48.

The act allows a town that has no high school and pays tuition for residents to attend high school in other districts to reduce its MBR within certain limits if it is paying tuition for fewer students than in the prior year. It also bars a town from reducing its MBR below the amounts appropriated for education in the prior year if it has a poverty rate for school-aged children that exceeds 10%.

The act also establishes a charter school educator permit that the State Board of Education (SBE) may issue to a teacher or administrator who lacks certification and who is employed by a charter school if the person meets the act's qualifications. It also allows the education commissioner, starting in the 2011-12 school year, to waive state certification requirements for a charter school teacher or administrator who holds the permit. But the act limits the number of teachers and administrators who may hold permits in any year to no more than 30% of a charter school's teachers and administrators combined.

Under the act, a charter school educator permit allows a person to work in a charter school as a teacher or administrator and, if working as an administrator, to supervise and evaluate anyone providing instructional or pupil services in the school that employs the administrator.

The act makes anyone holding a charter school educator permit a member of the appropriate teachers' or administrators' unit for collective bargaining purposes. It also requires any permit holder who becomes certified to participate in the Teachers' Retirement System (TRS). By law, only certified teachers and administrators may participate in the TRS. EFFECTIVE DATE: July 1, 2011

§ 1 — MINIMUM BUDGET REQUIREMENT FOR EDUCATION

Towns Without High Schools

For FYs 12 and 13, PA 11-48 allows most towns whose school districts have fewer students enrolled than in the previous school year to reduce their MBR by \$3,000 times the enrollment reduction but no more than 0.5% of their prior year's budget appropriation for education.

This act also allows any town that (1) does not have its own high school, (2) pays tuition for its high-school-aged residents to attend high school in other districts, and (3) has fewer students attending high school in the 2011-12 or 2012-13 school year than it did the year before, to reduce its MBR by the difference in the

number of students multiplied by the annual per-student tuition. But, as under PA 11-48, such towns may not reduce their MBRs by more than 0.5% of their prior year's budget appropriation for education.

Districts with High Poverty Rates for School-Age Children

PA 11-48 bars any MBR reduction for FY 12 or FY 13 by towns whose school districts, as a whole, have failed for at least three straight years to meet annual state and federal student achievement standards or met them only through an alternate method known as "safe harbor" (see BACKGROUND). This act, in addition, bars any MBR reduction by a town whose school district has failed to meet annual state and federal student achievement standards and has a poverty rate for school-age children greater than 10%. Under the act, the poverty rate must be calculated by dividing the number of the district's children age five to 17 who live in poor families by its total school-age population according to the Census Bureau's 2009 population estimate.

§§ 2-4 — CHARTER SCHOOL EDUCATOR PERMIT

Certification Waiver

Prior law required all teachers and administrators working in charter schools to hold either (1) the proper state certification for their positions or (2) a temporary 90-day or a temporary nonrenewable state certificate. Under prior law, at least half of those providing instruction or pupil services at a charter school must have had the proper certification for the positions they held and no more than half could be working under the temporary certificates.

Under the act, the SBE issues the permit at the request of the charter school governing council. The education commissioner may waive the certification requirements for a charter school teacher or administrator who holds a SBE-issued charter school educator permit. No more than 30% of the aggregate number of teachers and administrators working in a school in any year may work under the permit.

Permit Qualifications

To receive a permit, the teacher or administrator must:

1. either pass the state reading, writing, and math competency test for teacher certification candidates (currently Praxis I) or meet SBE criteria for a testing waiver;
2. pass the same state test as a teacher or administrator certification candidate seeking to work in the same subject or administrative area (currently the appropriate Praxis II subject

- test); and
3. demonstrate effectiveness as a teacher or school administrator, as appropriate.

Permit Renewals

The act allows the commissioner to renew permits, at the charter school's request and for good cause, when SBE renews the charter for the school where the teacher or administrator is employed. By law, most charters are renewable every five years.

Collective Bargaining Units

Under prior law, only professional employees holding a state administrator certificate, a teaching certificate, or a durational shortage area permit were included in bargaining units under the Teacher Negotiation Act (TNA), the state law that governs teacher collective bargaining.

The act adds those holding charter school educator permits and employed by charter schools to TNA administrator and teacher bargaining units, thus including them in collective bargaining agreements governing wages, hours, and working conditions. To be a member of the administrators' unit, a charter school employee must also hold a position requiring (1) a charter school educator permit or state intermediate administrator or supervisor certificate or its equivalent and (2) that the administrator spend at least 50% of his or her assigned time on administrative or supervisory duties. To be a member of a teachers' unit, a charter school employee must hold, and be employed in a position requiring, a state teaching certificate, durational shortage area permit, or charter school educator permit.

BACKGROUND

"Safe Harbor" under the No Child Left Behind (NCLB) Act

Connecticut's education accountability law (CGS § 10-223e) and the federal NCLB Act (P.L. 107-110) impose sanctions on schools and school districts that fail to make adequate yearly progress (AYP) towards proficiency in specified subjects for all students, including those in identified subgroups (economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency (LEP)). The determination of AYP is based on measurable objectives, including student performance on annual statewide tests.

Under the federal law, in order for a school or a school district to make AYP, both of the following must happen each year:

1. all students and the students in each subgroup must meet or exceed the state's measurable objectives and
2. at least 95% of both the school's total enrollment and the students in each subgroup must take the tests (with allowable accommodations and alternative assessments for certain LEP and disabled students).

The so-called "safe harbor" provision provides an exception to the first of these requirements. It provides that, if any of the subgroups does not meet the objectives, the school must still be considered to have made AYP for the year if (1) the percentage of those in the subgroup who did not reach proficiency declined at least 10% from the year before and (2) the subgroup also made progress on one or more of the state's other non-test indicators.

Related Act

PA 11-60 contains most of the provisions regarding charter school educator permits included in this act, except for the provision giving permit holders who are charter school administrators the explicit authority to supervise and evaluate anyone providing instructional or pupil services in the school where the administrator is employed.

PA 11-235—sHB 6501

Education Committee

AN ACT CONCERNING DELAYS IN THE EVALUATION AND DETERMINATION PROCESS FOR STUDENTS SUSPECTED OF REQUIRING SPECIAL EDUCATION SERVICES AND THE MEMBERSHIP OF THE ADVISORY COUNCIL FOR SPECIAL EDUCATION

SUMMARY: By law, school districts must evaluate children to determine their eligibility for special education and related services. This act requires the evaluation to be conducted without delay and according to state and federal special education laws and regulations. Federal special education regulations require school districts to promptly request parental consent to evaluate a child and, once the consent is granted, complete the evaluation within 60 days (see BACKGROUND).

The act expands the membership of the Advisory Council for Special Education by adding one representative each from the (1) Office of Protection and Advocacy for Persons with Disabilities, (2)

Commission on Children's Parent Leadership Training Institute, and (3) Department of Social Services' Bureau of Rehabilitation Services (recently renamed the Bureau of Rehabilitative Services). It does not specify when the new appointments must be made, but by law, unchanged by the act, all appointments must be made by July 1, 2010.

EFFECTIVE DATE: July 1, 2011, except for the provision regarding the special education advisory council expansion, which is effective upon passage.

BACKGROUND

Federal Regulations

Federal Individuals with Disabilities Education Act regulations set requirements for evaluating children who may need special education services.

Parental consent regulations require that the school district "promptly request parental consent to evaluate the child to determine if the child needs special education and related services. . . ." (34 CFR § 300.309(c)). The district must also, with limited exceptions, adhere to the 60-day deadline to conduct evaluations (34 CFR § 300.301(c)). The exceptions include situations in which a parent does not produce the child for evaluation or the child is enrolled in another school district during the evaluation period (34 CFR § 300.301(d)).

PA 11-107—sHB 6250 (VETOED)*Energy and Technology Committee**Judiciary Committee**Planning and Development Committee***AN ACT CONCERNING THE SITING COUNCIL**

SUMMARY: This act changes the standard of review for power plants and telecommunications towers seeking a certificate from the Siting Council.

The act requires that telecommunications tower developers begin consulting with potentially affected municipalities 90, rather than 60, days before applying for a Siting Council certificate. It also expands the scope of this consultation.

It limits the circumstances in which the council can approve a tower proposed for installation near a school or commercial day care center. Under the act, the council cannot approve a proposed tower located within 250 feet of these facilities unless (1) the location is acceptable to the municipality's chief elected official or (2) the council finds that the tower will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood where the school or day care center is located.

This act expands the factors the Siting Council must consider in granting a certificate for a telecommunications tower by requiring it to consider the manufacturer's recommended safety standards for any equipment, machinery, or technology. It requires the council to examine the latest facility design options intended to minimize aesthetic and environmental impacts. The act also requires the council to consider neighborhood concerns regarding the factors it must already take into account, including public safety.

By law, the Siting Council can deny an application for a tower if it finds that it would substantially affect the scenic quality of its site and that public safety concerns do not require that it be built there. The act expands this authority to include cases where the tower would substantially affect the scenic quality of the surrounding neighborhood and public safety concerns do not require that it be built at the proposed site.

The law requires certificate applicants, other than applicants for telecommunications towers, to pay municipal participation fees of up to \$25,000 and requires the fees to be deposited in a nonlapsing "municipal participation account" in the General Fund. The act modifies how this money is distributed to municipalities.

The act allows the council to request, upon a motion of a party or intervenor in a case of a proposed tower or on its own determination in such cases that any party or intervenor has intentionally omitted or misrepresented a material fact in the course of a council proceeding, to request the attorney general to bring a

civil action. The council must do so by a majority vote. In the action, the attorney general may seek any legal or equitable relief the Superior Court considers appropriate, including injunctive relief or a civil penalty of up to \$10,000 and reasonable attorney fees and related costs.

EFFECTIVE DATE: July 1, 2011 except for the pre-application consultation and municipal participation account provisions, which are effective upon passage

STANDARD OF REVIEW

By law, various energy and telecommunications facilities generally require a Siting Council certificate to be built. Under prior law, except for power plants, the council had to find that there is a need for the facility in order to grant it a certificate. In the case of power plants, the council had to find that the plant would produce a public benefit. In practice, the public benefit standard is less rigorous than the public need standard.

The act applies the public benefit standard, rather than the public need standard, to telecommunications towers. It requires power plants to meet the public need rather than public benefit standard.

PRE-APPLICATION CONSULTATION

Under prior law, with limited exceptions, the developer of any facility under the council's jurisdiction had to consult with potentially affected municipalities at least 60 days before filing its application with the council. By law, consultations must include any municipality where the developer proposes to locate the facility, or an alternative site for the facility, and any adjoining municipality with a boundary within 2,500 feet of the proposed facility. The consultation must at least include good faith efforts to meet with the municipality's chief elected official. The applicant must provide the official with any technical reports concerning the need for, and environmental effects of, the facility and the site selection process. The municipality can hold hearings, and within 60 days of its initial consultation, issue its recommendations to the council. Within 15 days after submitting its application, the applicant must give the council the materials it provided the municipality and a summary of the consultations, including the municipality's recommendations.

In the case of proposed telecommunications towers, the act requires that the consultation begin at least 90 days before the developer files the application. It requires the technical reports the developer provides the municipality to include:

1. a map showing the area of need;
2. the location of existing surrounding facilities;
3. a description of the site selection process

including a detailed description of the proposed and alternate sites being considered and a list of other sites considered and rejected;

4. the location of schools near the proposed site, an analysis of the aesthetic impact of the tower on these schools, and a discussion of measures to be taken to mitigate these impacts; and
5. the proposed facility's potential environmental effects.

The act also requires that copies of the technical reports be provided to the municipality's planning and zoning commissions and its inland wetland agency.

The municipality must present the applicant with proposed alternative sites, which may include municipal parcels, within 30 days after the initial consultation. The applicant must evaluate the alternative sites and include the results of its evaluation in its application to the council. The applicant can present any of these alternatives to the council for formal consideration in its application.

MUNICIPAL PARTICIPATION ACCOUNT

By law, payments from this account are made to municipalities that participate in Siting Council proceedings, upon authorization of the state treasurer. Under prior law, the treasurer had to make these payments within 60 days after the Siting Council received a certificate application. The act instead requires municipalities to apply for reimbursement within 60 days after the certificate proceeding ends. Under prior law, any money left over from reimbursements had to go back to the applicant at the end of the proceeding. The act instead requires that this take place after the municipalities are paid. The act eliminates a requirement that a municipality that received more money from the account than it incurred in participating in the certification proceeding, as determined by the Siting Council, refund the excess to the account.

PA 11-221—sSB 98

Energy and Technology Committee
General Law Committee
Judiciary Committee

AN ACT CONCERNING CRIMINAL IMPERSONATION BY MEANS OF AN ELECTRONIC DEVICE

SUMMARY: This act expands the definition of criminal impersonation to include the use of an electronic device to impersonate another person with intent to defraud, deceive, or injure, that results in personal injury, financial loss, or the initiation of

judicial proceedings. It does not apply to law enforcement officers performing their official duties. Under existing law, unchanged by the act, criminal impersonation is a class A misdemeanor (see Table on Penalties).

EFFECTIVE DATE: October 1, 2011

PA 11-245—sHB 6249

Energy and Technology Committee
Planning and Development Committee
Appropriations Committee

AN ACT REQUIRING THE ADOPTION OF REGULATIONS FOR THE SITING OF WIND PROJECTS

SUMMARY: This act requires the Connecticut Siting Council by July 1, 2012, in consultation with the departments of Public Utility Control and Environmental Protection, to adopt regulations concerning the siting of wind turbines. The regulations must at least consider (1) setbacks, including tower height and distance from neighboring properties; (2) flicker; (3) a requirement for the developer to decommission the facility at the end of its useful life; (4) different requirements for different size projects; (5) ice throw; (6) blade shear; (7) noise; and (8) impact on natural resources. The regulations must also require a public hearing for wind turbine projects.

By law, the council can approve proposals for electric generating facilities by (1) granting a certificate of environmental compatibility and public need or (2) issuing a declaratory ruling, depending on the facility's characteristics. The act bars the council from acting on any application or petition for siting a wind turbine until the regulations are adopted.

EFFECTIVE DATE: July 1, 2011

PA 11-24—SB 828
 Environment Committee
 Judiciary Committee

AN ACT ESTABLISHING A PAINT STEWARDSHIP PROGRAM

SUMMARY: This act establishes a “paint stewardship program” for managing unused and unwanted architectural paint in the state (“postconsumer paint”). It defines “architectural paint” as interior and exterior architectural coatings sold in containers of five gallons or less excluding industrial, original equipment, or specialty coatings. The program is funded through an assessment on each container of architectural paint sold in Connecticut.

Under the act, paint producers are responsible for managing the program through the establishment of and participation in a paint stewardship representative organization. The organization must develop a plan to minimize public sector involvement in managing unused and unwanted architectural paint. The plan must be submitted to the Department of Environmental Protection (DEP) for approval.

The act provides immunity to producers and the representative organization from claims of antitrust violations under certain circumstances.

Under the act, consumers must be provided information about the program and retailers may voluntarily participate as paint collection points in accordance with applicable laws or regulations. The act also establishes reporting requirements related to the program.

EFFECTIVE DATE: Upon passage

PAINT STEWARDSHIP PROGRAM

Program Establishment and Purposes

By March 1, 2013, the act requires (1) each manufacturer of architectural paint who sells, offers for sale, distributes, or contracts to distribute architectural paint in Connecticut (a “producer”) to join the representative organization, a nonprofit created by producers to implement the paint stewardship program, and (2) the representative organization to submit a plan for establishing a paint stewardship program to the DEP commissioner for approval. The act defines “sell” or “sale” as any transfer of title for consideration, including remote sales through sales outlets, catalogues, the Internet, or any other similar electronic means.

Under the act, the paint stewardship program must minimize public sector involvement in managing unused and unwanted paint by (1) reducing the amount generated; (2) promoting reuse and recycling; and (3) negotiating and executing agreements to collect,

transport, reuse, recycle, burn for energy recovery, and dispose of postconsumer paint through “environmentally sound management practices.” Environmentally sound management practices are procedures for collecting, storing, transporting, reusing, recycling, and disposing of architectural paint to ensure compliance with applicable laws, regulations, and ordinances and the protection of human health and the environment. These practices include record keeping, tracking and documenting the fate of postconsumer paint in and out of the state, and environmental liability coverage for professional services and contractors working on behalf of the representative organization.

The program must also (1) provide for statewide postconsumer paint collection with collection rates and convenience at least equal to the collection programs available to consumers prior to the paint stewardship program, (2) propose a paint stewardship assessment (see below), and (3) include a funding mechanism requiring each producer participating in the representative organization to remit to the organization payment of the assessment for each container of architectural paint the producer sells in Connecticut.

Plan Components and DEP Approval

The representative organization’s plan must (1) identify each participating producer and the covered brands of architectural paint sold in the state and (2) address the program’s coordination with existing household hazardous waste collection infrastructure, to the extent feasible and mutually agreeable.

The act authorizes the DEP commissioner to approve the plan if it meets the act’s requirements. The commissioner must determine whether to approve the plan within two months of its submission. The representative organization must implement the paint stewardship program within two months of DEP’s approval.

By the program’s implementation date, DEP must list on its website the names of participating producers and the brands of paint covered by the program.

UNIFORM PAINT STEWARDSHIP ASSESSMENT

By March 1, 2013, and every two years thereafter, the act requires the representative organization to propose a uniform paint stewardship assessment for all architectural paint sold in the state. The paint stewardship assessment is the amount added to the purchase price of architectural paint sold in the state necessary to cover the representative organization’s cost of collecting, transporting, and processing postconsumer paint.

Independent Auditor

An independent auditor must review the proposed assessment to assure that it does not exceed the cost of the program and recommend an assessment amount to DEP, which is responsible for approving it.

DEP must select the auditor and review the auditor's work product, including the auditor's evaluation of the bid and purchase procedures used by the representative organization to implement the program. DEP can terminate the auditor's services. The act requires DEP to select a different auditor at least once every five years. The paint stewardship assessment pays for the auditor.

Assessment Added to Paint Purchase Price

Under the act, the assessment must be added to the cost of all architectural paint sold by producers to Connecticut retailers and distributors beginning on the date of the program's implementation. Once implementation begins, each retailer or distributor must add the assessment to the purchase price of all architectural paint sold in the state. "Retailers" offer architectural paint for sale at retail in the state and "distributors" are companies that have contractual relationships with one or more producers to market and sell architectural paint to Connecticut retailers.

Once the program is implemented, a producer, distributor, or retailer is prohibited from selling or offering for sale architectural paint in the state if the paint producer is not a member of the representative organization. The DEP commissioner may seek civil enforcement of this requirement.

The act specifies that a retailer or distributor does not violate the prohibition if the paint producer or brand of paint was listed on DEP's website in accordance with the act on the date the paint was ordered from the producer or its agent.

CONSUMER INFORMATION

The act requires producers or the representative organization to give consumers educational materials about the program and assessment. The materials must include information (1) concerning end use management options for architectural paint offered through the program and (2) notifying consumers that a charge to operate the program is included in the purchase price of all architectural paint sold in Connecticut.

LIABILITY PROTECTION

Under the act, to the extent a producer or the representative organization is exercising authority according to the act's provisions, it is immune from liability for any claim of antitrust law violation or unfair

trade practice if such conduct is a violation of antitrust law (see BACKGROUND).

REPORTS

By August 15, 2014, and annually thereafter, the representative organization must report to the DEP commissioner on the program. The report must include:

1. a description of the methods used to collect, transport, and process postconsumer paint in the state;
2. the volume of postconsumer paint collected;
3. the volume and type of postconsumer paint collected by method of disposition, including (a) reuse, (b) recycling, and (c) other processing methods;
4. the total cost of implementing the program, as determined by an independent audit performed by the independent auditor and funded by the assessment;
5. an evaluation of the operation of the program's funding mechanism; and
6. samples of educational materials provided to consumers and an evaluation of the methods used to disseminate them.

By January 15, 2015, and biennially thereafter, the DEP commissioner must submit a report to the Environment Committee on program results and any recommended changes to improve the program's functioning and efficiency.

BACKGROUND

Antitrust

With limited exceptions, state and federal law prohibit restraint of any part of trade or commerce, including contracts, combinations, and conspiracies intended to, or that have the effect of:

1. price fixing;
2. fixing, controlling, maintaining, limiting, or discontinuing the production, manufacture, mining, sale, or supply of any part of trade or commerce;
3. allocating or dividing customers or markets, either functionally or geographically in any part of trade or commerce; or
4. refusing to deal or coercing, persuading, or inducing third parties to refuse to deal with another person.

PA 11-59—HB 6159*Environment Committee***AN ACT CONCERNING TECHNICAL REVISIONS TO ENVIRONMENT RELATED STATUTES**

SUMMARY: This act excludes water cooler system bottles from a ban on the manufacture, sale, offering for sale, or distribution in the state of reusable food or beverage containers containing bisphenol-A. By law, the ban takes effect October 1, 2011.

The act modifies the Agricultural Experiment Station's January board meeting requirements. Under prior law, the board was required to meet in Hartford on the third Tuesday in January. Under the act, the board must meet in January at a place designated by its president.

It also makes many technical changes in environmental laws.

EFFECTIVE DATE: October 1, 2011, except for the technical changes, which are effective upon passage.

BACKGROUND*Bisphenol-A (BPA)*

BPA is an industrial chemical used to make certain plastics and resins, such as polycarbonate plastics and epoxy resins. Polycarbonate plastics are often used in food and beverage containers, such as water and baby bottles. Epoxy resins can be used to coat the inside of metal products, such as food and baby formula cans, bottle tops, and water supply lines. BPA is also found in certain thermal paper products. Laboratory animal studies have found BPA to have harmful effects on reproduction and development.

PA 11-74—sSB 1112*Environment Committee
Judiciary Committee***AN ACT CONCERNING BOATING UNDER THE INFLUENCE AND OTHER REVISIONS TO ENVIRONMENT RELATED STATUTES**

SUMMARY: This act makes numerous changes to the boating under the influence statutes, including (1) specifying that a conviction for reckless boating results in the suspension of a person's boating rights; (2) reducing the minimum time between chemical analysis tests from 30 to 10 minutes; (3) adding to the blood and urine samples that are permissible evidence; and (4) requiring prosecutors to specify reasons for a reduced, nulled, or dismissed boating under the influence charge.

It allows sworn environmental protection conservation officers to administer oaths for affidavits, statements, depositions, complaints, or reports made to or by the officers.

The law requires a person to obtain a fishing license in order to take, attempt to take, or assist in taking any fish or bait species. The act exempts a first time violator from the \$87 fine and requires the case to be dismissed if the person provides proof of purchasing the required license after the violation but before the fine is imposed.

The act requires, instead of authorizes, the environmental protection commissioner to designate one day a year when no license is required for recreational fishing.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2011, except for the environmental protection conservation officer and fishing provisions, which are effective October 1, 2011.

BOATING UNDER THE INFLUENCE*Suspension of Boating Rights*

The act specifies that a conviction for 1st or 2nd degree reckless boating under the influence will result, in addition to fines, imprisonment, or both, in the suspension of the person's (1) safe boating certificate or certificate of personal watercraft operation (which are required for legal boating) or (2) right to operate a vessel that requires a safe boating certificate.

Time Between Tests

The law specifies the circumstances under which chemical test results (blood, urine, or breath) are admissible in criminal prosecutions for boating under the influence (1st and 2nd degree), reckless boating under the influence, 2nd degree manslaughter with a vessel, and hunting under the influence. Under prior law, a second similar test had to be performed at least 30 minutes after the initial test. The act reduces the time period between tests to a minimum of 10 minutes.

Blood and Urine Samples as Admissible Evidence

Under existing law, blood samples collected at a hospital after an accident are competent evidence to establish probable cause for a person's arrest under the boating under the influence law.

The act makes blood or urine samples collected at an accident scene or on the way to the hospital and urine samples collected at the hospital, permissible evidence that may be seized and used in prosecutions for boating under the influence, reckless boating, and manslaughter in the 2nd degree with a vessel.

Prosecutor Must State Reasons for Reduction, Nolle, or Dismissal

By law, if a person is charged with boating under the influence, the charge cannot be reduced, nolle, or dismissed unless the prosecuting attorney states in open court his or her reasons for the action. The act extends this requirement to a person charged with 2nd degree manslaughter with a vessel and 1st or 2nd degree reckless boating under the influence.

PA 11-90—HB 5300

*Environment Committee
Transportation Committee*

AN ACT CONCERNING THE SPEED LIMITS OF BOATS ON THE MYSTIC RIVER

SUMMARY: This act repeals the law regarding the speed of vessels on specified rivers, including related penalties, thereby allowing vessel speed limits to be regulated under Department of Environmental Protection (DEP) boating safety regulations.

The act establishes a “slow-no-wake zone” on two portions of the Mystic River. It makes a violation of the zone an infraction and requires the DEP commissioner to administer the provision. It authorizes various people to enforce the slow-no-wake zone, including harbor masters, deputy harbor masters, conservation officers, police officers, town marine officers certified for marine police duty, and lake patrolmen.

EFFECTIVE DATE: Upon passage

MYSTIC RIVER SLOW-NO-WAKE ZONE

The act prohibits people from operating vessels in excess of “slow-no-wake” on the Mystic River within the following two areas: (1) between the entrance to the Mystic Harbor and Red Navigation Marker No. 22, excluding Beebe Cove, where the entrance to Mystic Harbor is a line beginning at the southernmost tip of Mouse Island, then east to Red Navigation Buoy “4,” known as Whale Rock, then generally northeasterly to Green Navigation Buoy “9” to the northern tip of Ram Island and to the southernmost tip of Mason Point, and (2) from Red Navigation Buoy “26” northward to Green Navigation Buoy “53.”

“Slow-no-wake” is defined in DEP boating safety regulations. It means that a vessel must not (1) produce more than a minimum wake and (2) attain speeds greater than six miles per hour over the ground unless a higher minimum speed is necessary to maintain steerageway when traveling with a strong current. In no case can the wake produced by the vessel be such that it creates a danger of injury to people or damage to vessels

or structures (Conn. Agencies Regs. § 15-121-A1(j)).

PA 11-161—sSB 212

Environment Committee

AN ACT SIMPLIFYING CERTAIN REPORTING REQUIREMENTS UNDER THE BOTTLE BILL

SUMMARY: This act allows an authorized agent of a manufacturer who bottles and sells no more than 250,000, 20-ounce or smaller containers of noncarbonated beverages in a calendar year, to:

1. apply to the Department of Environmental Protection commissioner for an exemption from the bottle redemption law for these beverage containers, and
2. sign the sworn affidavit accompanying the exemption application certifying that the manufacturer bottles and sells 250,000 or fewer of these beverage containers in a calendar year.

Prior law required that a manufacturer apply for the exemption and sign the sworn affidavit.

By law, noncarbonated beverages are water, flavored water, nutritionally enhanced water, and any beverage whose label identifies it as a type of water, but excluding juice and mineral water.

EFFECTIVE DATE: Upon passage

PA 11-162—SB 227

*Environment Committee
Planning and Development Committee*

AN ACT CONCERNING REMEDIATION STANDARDS UNDER A CONSENT ORDER

SUMMARY: This act prohibits the Department of Environmental Protection (DEP) from modifying the remediation standards and requirements of a consent order entered by DEP and a party that is wholly or partly about land remediation unless both parties agree to the modification. The prohibition applies notwithstanding any other statute.

By law, the DEP commissioner has the power to enter into contracts and orders and institute legal proceedings to enforce statutes, regulations, and DEP orders or permits, among other things.

EFFECTIVE DATE: October 1, 2011

PA 11-182—sHB 5008

Environment Committee

AN ACT CONCERNING THE QUARANTINE OF BITING GUIDE DOGS

SUMMARY: The law authorizes an animal control officer to quarantine or otherwise restrain or dispose of an animal that bites someone. If a person fails to comply with a quarantine or restraining order, the officer may seize the animal.

This act exempts certain guide dogs from these provisions. To be exempt, the guide dog must be (1) owned by or in the custody and control of a blind person or person with mobility impairment; (2) under the direct supervision, care, and control of the person; (3) currently vaccinated; and (4) receiving routine veterinary care.

Under prior law, police dogs were exempt from the quarantine and seizure provisions if they were (1) under the direct supervision, care, and control, of an assigned police officer; (2) receiving routine veterinary care; and (3) annually vaccinated. The act changes the third criterion from annually to currently vaccinated.

EFFECTIVE DATE: October 1, 2011

PA 11-184—sHB 5068

Environment Committee

Planning and Development Committee

AN ACT CREATING A REBUTTABLE PRESUMPTION FOR THE APPROVAL OF AN INLAND WETLANDS PERMIT FOR A DRY HYDRANT

SUMMARY: By law, the Department of Environmental Protection and municipal inland wetlands agencies regulate certain activities that take place in wetlands and watercourses.

This act allows water to be withdrawn for fire emergency purposes from a wetland or watercourse without obtaining an inland wetlands permit. It also allows a municipal fire department to install a dry hydrant in an inland wetland or watercourse if (1) the dry hydrant will be used for firefighting purposes only; (2) there is no available alternative access to a public water supply; and (3) the installation will not disturb the natural or indigenous character of the wetland or watercourse by removing or depositing material, altering or obstructing water flow, or polluting.

Under the act, a dry hydrant is a non-pressurized pipe system that (1) is readily accessible to fire department apparatus from a nearby public road; (2) provides for water withdrawal by suction to the apparatus; and (3) is permanently installed into an

existing lake, pond, or stream that is a dependable water source.

The act also makes minor technical changes.

EFFECTIVE DATE: October 1, 2011

PA 11-187—sHB 5368

Environment Committee

Finance, Revenue and Bonding Committee

AN ACT EXTENDING CERTAIN PET SHOP LICENSEE REQUIREMENTS TO PERSONS AND ORGANIZATIONS THAT IMPORT ANIMALS FOR ADOPTION

SUMMARY: This act makes several changes affecting animal importers. Among other things, the act requires animal importers to (1) register with the Department of Agriculture (DoAg) commissioner; (2) have imported animals examined by a state-licensed veterinarian; and (3) notify DoAg and local zoning officials before offering the animals for sale, adoption, or transfer.

The act's registration and notice provisions do not apply to an animal importer who offers a dog or cat for sale to a licensed pet shop, if the animal is delivered directly to the pet shop.

The act establishes fines for violations.

EFFECTIVE DATE: October 1, 2011

ANIMAL IMPORTER

The act defines "animal importer" as a person who brings any dog or cat into Connecticut from another sovereign entity to (1) offer it for sale, adoption, or transfer or (2) give it to anyone in exchange for a fee, sale, voluntary contribution, service, or other consideration. An animal importer includes a commercial or nonprofit animal rescue or adoption, humane relocation, or delivery organization that is not required to be licensed under state law. (By law, commercial kennels, pet shops, grooming facilities, and training facilities must be licensed by the agriculture commissioner.)

REGISTRATION

The act prohibits the importation of dogs or cats into Connecticut unless the importer registers with the DoAg commissioner and pays a \$100 fee. The registration must be on a form the commissioner prescribes and include the (1) registrant's name, mailing and business addresses, telephone number, and Internet address and (2) number of animals imported in the prior year and each animal's state or country of origin. Out-of-state residents also must include the name, Connecticut address, and telephone number of a local

agent for service of process.

A registration is valid until the following December 31. An importer must renew the registration annually, if the commissioner determines the importer complies with any applicable regulation relating to the health, safety, and humane treatment of animals.

Employees or volunteers of a registered animal importer or person holding a commercial kennel, pet shop, grooming facility, or training facility license are not required to register if they are not otherwise animal importers.

Violators of the registration requirement are subject to a fine of up to \$500.

MISCELLANEOUS REQUIREMENTS

Event Notification

The act requires an animal importer who intends to offer a dog or cat for sale, adoption, or transfer at a public or outdoor location to notify DoAg and the appropriate municipal zoning officer at least 10 days before the event. The notice must include the event date, exact location, and expected number of animals involved. Violators are subject to a fine of up to \$100 per animal.

Agriculture Commissioner Inspection Authority

The act authorizes the DoAg commissioner to inspect an animal importer's imported animals or required records. But this inspection authority does not give the commissioner permission to enter an animal importer's residence.

Veterinarian Services and Records Required

The act requires an animal importer, within 48 hours of importing a cat or dog into Connecticut and before offering it for sale, adoption, or transfer, and every 90 days until the sale, adoption, or transfer is complete, to have a state-licensed veterinarian examine the animal. The importer cannot sell, transfer, or give an imported animal up for adoption unless a state-licensed veterinarian examined it within 15 days before the transaction and issued the animal importer a certificate attesting to the animal's good health. An animal importer who violates these provisions is subject to a fine of up to \$500 for each unexamined or uncertified animal.

The importer must maintain records of the veterinarian services for three years after they were rendered. Violators are subject to a \$500 fine.

Very Young Animals

By law, a person, firm, or corporation may not (1) import or export for sale a dog or cat under eight weeks old without its mother or (2) sell a dog or cat that is under eight weeks old. Under prior law, violators were subject to a fine of up to \$100, imprisonment for up to 30 days, or both.

The act extends the prohibitions to the adoption or transfer of dogs or cats under eight weeks old. It increases the maximum fine for sales from \$100 to \$500 and applies the fine and imprisonment to adoptions and transfers. The maximum term of imprisonment remains the same.

Fine for Lack of Health Certificate

By law, a dog or cat imported into the state must be accompanied by a health certificate issued within 30 days before the importation by a licensed graduate veterinarian. The certificate must state that the animal is not diseased and, if over three months old, is currently vaccinated for rabies. A dog or cat from a rabies quarantine area must have the state veterinarian's permission before importation. Under prior law, violators were subject to a fine of up to \$100, imprisonment for up to 30 days, or both. The act increases the fine to up to \$500. The maximum term of imprisonment remains the same.

BACKGROUND

Related Law

By law, a person obtaining a dog or cat for resale must hold a pet shop license. Violators are subject to a fine of up to \$1,000, imprisonment for up to 30 days, or both (CGS § 22-344e).

PA 11-189—sHB 5508

Environment Committee

Government Administration and Elections Committee

AN ACT CONCERNING THE GOVERNOR'S COUNCIL FOR AGRICULTURAL DEVELOPMENT

SUMMARY: This act reshapes the Governor's Council for Agricultural Development. It establishes the membership at 15 rather than 30 members and specifies members' qualifications.

The act requires the council to recommend to the Department of Agriculture (DoAg) ways to increase the percentage of consumer dollars spent on Connecticut-grown fresh produce and other farm products. The recommendations must include ways to increase, by

2020, the amount Connecticut residents spend on locally grown farm products to at least 5% of all money spent on food.

By law, the council advises DoAg on the development, diversification, and promotion of agricultural products, programs, and enterprises and provides for an exchange of ideas among the commodity groups and organizations it represents.

EFFECTIVE DATE: October 1, 2011

COUNCIL MEMBERSHIP

The act sets the council’s membership at 15 instead of permitting up to 30 members. It requires, instead of allows, the governor to fill any vacancy.

Under the act, the members include the (1) agriculture commissioner, who serves as chairperson, as under existing law; (2) dean of the College of Agriculture and Natural Resources at UConn or the dean’s designee; and (3) Connecticut Milk Promotion Board’s chairperson or the chairperson’s designee. Members also include 12 appointees, as described in Table 1.

Table 1: Appointed Members

<i>Appointing Authority</i>	<i>Appointees under Prior Law</i>	<i>Appointees under the Act</i>
Governor	12 members from a list the Department of Agriculture prepares	Six members actively engaged in agricultural production
House speaker	Two members	One member who engages in agricultural processing
Senate president pro tempore	Two members	One member who engages in agricultural marketing
House majority leader	Two members	One member who engages in agricultural sales
Senate majority leader	Two members	One member from a trade association
House minority leader	Two members	One member from the green industry
Senate minority leader	Two members	One member who actively engages in agricultural education

By law, the council must meet at least once each calendar quarter. A member who is absent from more than two meetings per year is deemed to have resigned. Members serve without compensation or reimbursement for expenses.

PA 11-190—sHB 5526

Environment Committee

AN ACT REQUIRING A PERMIT FOR CERTAIN COMMERCIAL PROJECTS THAT INVOLVE QUARRYING

SUMMARY: This act requires the environmental protection commissioner to establish a permitting program for any commercial project that involves proposed quarrying on property of 100 acres or less and located in a municipality with (1) a town meeting form of government and (2) a population of between 2,000 and 3,000. Quarrying involves the surface excavation of stone or minerals.

The act requires anyone seeking to engage in such a project to obtain a permit from the commissioner before starting any work. The applicant must (1) provide any information the commissioner requests, including a statement about the project’s environmental compatibility with the nature of the property and all neighboring properties, and (2) submit a statement indicating why the property is the most suitable place for the project.

The act prohibits the commissioner from granting a permit for any such commercial project involving quarrying that he determines may adversely affect the quantity or quality of surface water or groundwater.

EFFECTIVE DATE: Upon passage

PA 11-191—HB 6156

Environment Committee
Public Health Committee

AN ACT CONCERNING FARMERS' MARKETS

SUMMARY: This act makes a farmer’s permit or license to operate a food service establishment at a Department of Agriculture-certified farmers’ market portable from health district to health district under specified conditions. It requires the farmer to notify a local health department or district in advance if he or she will begin operating a food service establishment in that jurisdiction.

EFFECTIVE DATE: Upon passage

FARMERS’ MARKETS

Portable Permit or License

The act makes any food service establishment permit or license issued by a municipal health department or district to a farmer to participate in a certified farmers’ market in that jurisdiction valid for operating a food service establishment at any certified

farmers' market in the state. The operation must (1) be in accordance with the approved menu items and food preparation processes or (2) use menu items or food preparation processes that are substantially similar to those approved.

A permit or license is valid for the calendar year in which it is issued.

Notice to Health Department or District

At least 14 days before operating a food service establishment in a town that did not issue a permit or license to the farmer, the farmer must send a notice of intent to begin the operation to that town's health department or district. The notice must include a copy of the farmer's permit or license and any approved food service plan.

Health Director Authority

A local health director may take regulatory action against a farmer who operates a food service establishment within the health director's jurisdiction to ensure that the farmer complies with the public health code. But a local health director cannot require a farmer to apply for or purchase a permit or license to operate a food service establishment if the farmer (1) already holds a valid one from another district and (2) complies with the act.

Exemption from Local Ordinance

A farmer who operates a food service establishment in a certified farmers' market and whose menu items and food preparation processes were approved by a health department or district, or who uses menu items or food preparation processes that are substantially similar, is exempt from any local ordinance concerning the operation of a food service establishment. A local health department or district cannot require a farmer who applies for a permit or license to operate a food service establishment at a certified farmers' market to submit information on his or her ability to comply with any such local ordinance.

PA 11-192—sHB 6157

Environment Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING STATE FORESTRY PROGRAMS

SUMMARY: By law, the Department of Environmental Protection (DEP) commissioner may harvest timber from state-owned land and sell it for at least \$10 per cord. This act establishes a "timber harvest

revolving account" as a separate, nonlapsing General Fund account to receive the proceeds from harvesting timber.

The commissioner must use the account funds for (1) developing forest management plans and (2) reasonable direct expenses for administering and operating the plans. He may accept, on DEP's behalf, gifts, donations, loans, or bequests for the account. Any loans from a nonprofit organization must be repaid from the account within two years or as agreed upon by the commissioner and the organization.

The account cannot exceed \$100,000. Any proceeds over that amount must be deposited to the General Fund.

EFFECTIVE DATE: Upon passage

PA 11-198—HB 6263

Environment Committee

Planning and Development Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE TRANSITION FROM THE TEN MILL PROGRAM

SUMMARY: This act allows an owner of forest land enrolled in the state's "10 mill program" to convert to the state's forest preservation program ("490 program") without penalty, including penalties for the value of standing timber, if a sale or donation of the land to a nonprofit land preservation organization or a permanent conservation easement on the land occurs before the conversion.

Alternatively, the act specifies that woodlands retaining a 10 mill classification on their 50th-year revaluation will be assessed at a tax rate not to exceed the similar properties classified as "forestland" under the 490 program. Any landowner who elects to discontinue participation in the 10 mill program will be subject to applicable penalties.

EFFECTIVE DATE: Upon passage

BACKGROUND

Ten Mill Program

By law, a property owner may enroll in the "10 mill program" (1) property with a minimum of 25 acres that, excluding timber, has a value of up to \$100 per acre; (2) timber land of more than 10 years' growth; and (3) land stocked with trees up to 10 years old. Land classified under this law is taxed based on 100% of the true valuation established by the assessors at the time of classification. The valuation is frozen for a 50-year period, provided the land use does not change. The law establishes the tax rate for such land at up to 10 mills.

At the end of the 50-year period, the land is revalued and is again taxed at a rate up to 10 mills for another 50 years. The 10-mill classification does not terminate upon sale or transfer of the land and is tied to the land, not the owner.

If the 10-mill classification is cancelled before the end of the 50-year period, the land will be taxed as other land and a penalty assessed. The penalty is equal to five mills per year on the difference between the land and timber's valuation at the time of classification and the current valuation (CGS § 12-99).

490 Program

If approved by a municipality's legislative body, the owners of designated forest land can have the property assessed as open space under the state's "490 program" (CGS §§ 12-107d and 107e).

By law, farm, open space, and forest land is assessed at its current use value for property tax purposes. The classification terminates when (1) the land's use is changed to something other than was described in the owner's application or (2) the land is sold or transferred. Under the 490 program, property is subject to a conveyance tax on its fair market value if it is sold or its use is changed within 10 years of the classification. The tax rate starts at 10% of the total sales price if it is sold within one year of classification and declines by 1% annually if it sold within 10 years (CGS §§ 12-107a, 12-504a, and 12-504e).

PA 11-217—sSB 1116

*Environment Committee
General Law Committee*

AN ACT CONCERNING THE RECYCLING OF ORGANIC MATERIALS BY CERTAIN FOOD WHOLESALERS, MANUFACTURERS, SUPERMARKETS AND CONFERENCE CENTERS

SUMMARY: This act requires large generators of source-separated organic materials to begin separating and recycling the materials at a permitted source-separated organic material composting facility. The act specifies that this must occur within six months after at least two such facilities with a combined capacity to accept the generators' materials are established to conduct business in Connecticut. The act does not require notice of the permitting.

Under the act, "source-separated organic materials" include food scraps, food processing residue, and soiled or unrecyclable paper that are separated, at generation, from nonorganic materials. A "composting facility" is land, appurtenances, structures, or equipment where

organic materials originating from another process or location and separated at generation from nonorganic material are recovered, using a process of accelerated biological decomposition of organic material under controlled aerobic or anaerobic conditions.

The act requires source-separated organic material composting facilities to include a summary of the fees they charge for receiving source-separated organic materials in their reports to the environmental protection commissioner. By law, these quarterly reports contain any information the commissioner deems necessary, including the amount of waste received from each customer.

EFFECTIVE DATE: October 1, 2011

SOURCE-SEPARATED ORGANIC MATERIAL RECYCLING

The act requires commercial food wholesalers or distributors, industrial food manufacturers or processors, supermarkets, resorts, and conference centers that generate an average of at least 104 tons of source-separated organic materials a year to (1) separate the organic materials from non-organic materials and (2) recycle the organic materials at a source-separated organic material composting facility permitted to receive such materials located within 20 miles of the generation site. The act does not specify what happens if there is no facility within 20 miles of the generation site.

Under the act, commercial food wholesalers or distributors, industrial food manufacturers or processors, supermarkets, resorts, and conference centers are deemed to have complied with this requirement if they compost source-separated organic materials on-site or treat it on-site with organic treatment equipment as permitted by state or federal law.

PA 11-222—sSB 210

*Environment Committee
General Law Committee*

AN ACT PROHIBITING THE USE OF BISPHENOL-A IN THERMAL RECEIPT PAPER

SUMMARY: This act prohibits the manufacture, sale, offer for sale, or distribution of thermal receipt or cash register receipt paper containing bisphenol-A (BPA) in Connecticut. The prohibition takes effect October 1, 2013 if the U.S. Environmental Protection Agency identifies a safe, commercially available alternative to using BPA in these papers by June 30, 2013. Otherwise, it takes effect July 1, 2015.

The act defines these papers as any paper a commercial entity uses to issue a mechanically

produced record of a consumer transaction.

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

EFFECTIVE DATE: October 1, 2013

BACKGROUND

Bisphenol-A (BPA)

BPA is an industrial chemical used to make certain plastics and resins, such as polycarbonate plastics and epoxy resins. Polycarbonate plastics are often used in food and beverage containers, such as water and baby bottles. Epoxy resins can be used to coat the inside of metal products, such as food and baby formula cans, bottle tops, and water supply lines. BPA is also found in certain thermal paper products, such as cash register receipts. Laboratory animal studies have found BPA to have harmful effects on reproduction and development.

PA 11-231—sSB 1111

Environment Committee

Public Health Committee

AN ACT CONCERNING THE SALE AND DISTRIBUTION OF CERTAIN SILVER OXIDE BATTERIES

SUMMARY: Starting July 1, 2011, the law prohibits offering for sale or distributing for promotional purposes button cell batteries containing mercury or any product containing them. This act creates certain exceptions to this prohibition. Specifically, it allows (1) mercury batteries described as Hg-silver oxide batteries used exclusively in a medical device to automatically deliver insulin to a person to be sold or distributed for promotional purposes until January 1, 2015 and (2) silver oxide batteries and any product containing these batteries to be offered for sale or distributed for promotional purposes until July 1, 2012.

The law also requires manufacturers producing or selling button cell batteries containing mercury or products containing them to notify retailers about the prohibition and how to properly dispose of remaining inventory according to law. The act excludes from this requirement (1) mercury batteries described as Hg-silver oxide batteries used exclusively in a medical device to automatically deliver insulin to a person and (2) silver oxide batteries and any product containing these batteries.

EFFECTIVE DATE: Upon passage

PA 11-249—sHB 6262

Environment Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE PERFORMANCE OF CERTAIN FEDERAL REQUIREMENTS BY THE CONNECTICUT MILK PROMOTION BOARD

SUMMARY: This act requires the Connecticut Milk Promotion Board to undertake duties required by the federal Dairy Production Stabilization Act. In so doing, it requires the board to assess a fee of 10 cents per hundredweight (cwt.) of milk delivered by Connecticut milk producers or a fee commensurate with the credit allowed for producer contributions to state qualified programs under the federal law.

The act specifies that the fee is payable to the board by the last day of the month following the month in which the milk was produced. Dealers who purchase milk directly from producers must withhold from each Connecticut milk producer the fee on all milk produced and forward the fee to the board. Producer dealers must pay the board the fee.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Dairy Production Stabilization Act

The Dairy Production Stabilization Act of 1983 (P.L. 98-180, Title I) authorized the Dairy Promotion Program, a national producer program for dairy product promotion, research, and nutrition education as part of a comprehensive strategy to increase human consumption of milk and dairy products. Dairy farmers fund this program through a mandatory 15-cent per cwt. assessment on all milk produced and marketed commercially. Dairy farmers can direct up to 10 cents of this assessment for contributions to qualified regional, state, or local dairy product promotion, research, or nutrition education programs.

PA 11-30—SB 1155

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE DISCLOSURE OF INFORMATION IN A TOBACCO ARBITRATION PROCEEDING

SUMMARY: This act allows the revenue services (DRS) commissioner to disclose certain tax information to the attorney general if (1) it is relevant to an arbitration or other dispute resolution proceeding under the tobacco master settlement agreement or any amendment to it, and (2) the state is a party to the proceeding. It also allows the attorney general to disclose the information to others in the course of the proceeding. The authorized disclosures apply to tax returns and return information the DRS commissioner receives while implementing the state’s master settlement agreement, cigarette tax, or tobacco products tax laws.

Existing law already allows the DRS commissioner to disclose to the attorney general, upon request, any information the commissioner receives in the course of implementing the master settlement agreement law. The commissioner may make the disclosures so that the attorney general may determine compliance with, and enforce, that law.

EFFECTIVE DATE: Upon passage

BACKGROUND

Returns and Return Information

By law, a “return” is any of the following filed with the DRS commissioner by, on behalf of, or with respect to, any person: (1) a tax or information return; (2) an estimated tax declaration; (3) a refund claim; or (4) any license, permit, registration, or other application. It includes any amendments or supplements, including supporting schedules, attachments, or lists that supplement or are part of a filed return.

“Return information” is (1) a taxpayer’s identity; (2) the nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, under- or over-reporting, or tax payments; (3) whether the return is being, was, or will be examined or investigated; or (4) any other data received, recorded, prepared, or collected by or furnished to the DRS commissioner regarding a return or regarding any determination of liability for a tax, penalty, interest, fine, forfeiture, or other imposition or offense.

Tobacco Settlement Agreement

Tobacco product manufacturers that sell cigarettes in Connecticut must either (1) enter into, and perform

financial obligations under, the master settlement agreement between Connecticut and four leading tobacco companies or (2) pay into a qualified escrow account a specified amount for each cigarette they sell in the state. All manufacturers whose cigarettes are directly or indirectly sold in Connecticut must certify, under penalty of false statement, to the DRS commissioner and the attorney general by April 30 annually that, as of the certification date, they are either participating in the master settlement agreement or complying with escrow requirements for nonparticipating manufacturers.

PA 11-78—sSB 1216

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE URBAN REINVESTMENT ACT AND THE FEDERAL NEW MARKETS TAX CREDIT PROGRAM AND CORRECTING AN EFFECTIVE DATE

SUMMARY: Business taxpayers investing in certain business development projects may qualify for both state Urban and Industrial Sites Reinvestment (UISR) tax credits and federal New Markets tax credits. This act aligns some of the rules for the state tax credits with the federal ones for projects receiving investments eligible for both credits. It requires these projects to meet the state and federal eligibility criteria and subjects them to the federal rules for recapturing (i.e., repaying) tax credits.

The act also corrects an effective date in PA 10-98, which created the Bradley Airport Development Zone.

EFFECTIVE DATE: July 1, 2011

URBAN AND INDUSTRIAL SITE REINVESTMENT TAX CREDITS

Eligible Investments

By law, businesses that invest in an eligible urban and industrial sites project qualify for up to \$100 million in state UISR tax credits, depending on the amount of total tax revenue the project is projected to generate. The law allows businesses to invest directly or indirectly in a project through a state-registered investment fund or a qualified community development entity (CDE). A CDE is a business entity created to receive New Markets tax credits. Under prior law and the act, a CDE does not need to have received an allocation of New Markets tax credits to qualify for UISR credits.

The act creates a separate category of CDEs through which investors may claim UISR and New Markets credits for the same investment. These

“contractually-bound” CDEs qualify for UISR credits if (1) they have entered into an allocation agreement with the Community Development Financial Institutions (CDFI) Fund for a share of New Markets tax credits and (2) their respective service areas in the allocation agreement include Connecticut.

Eligible Activities

By law, developers receiving investment capital eligible for UISR tax credits may use it to fund a wide range of costs and activities, including those associated with acquiring or leasing property, demolishing buildings, and cleaning up contaminated soil. The act limits the types of projects for which contractually-bound CDEs may receive UISR credits to only the activities, costs, and services (1) the law allows and (2) specified in the allocation agreement for the federal credits.

A contractually-bound CDE must still apply to the Department of Economic and Community Development (DECD) commissioner and meet the existing geographic criteria and economic impact requirements to qualify for the UISR credits.

Recapture Requirements

By law, investments qualify for UISR credits based on a project’s capacity to generate enough state tax revenue to cover the value of the credits. To determine whether the project accomplishes this, the DECD commissioner must conduct an annual economic impact study and, if the project has not generated sufficient tax revenue, may (1) revoke its eligibility certificate and (2) require each taxpayer to recapture its pro rata share of the credits claimed according to a statutory schedule.

By law, the commissioner may charge the entity that made the investment for the cost of conducting this study. The act extends this requirement to contractually-bound CDEs that receive UISR credits, but exempts them from the law’s credit recapture provisions. The act instead makes these CDEs subject to the recapture provisions specified in (1) the allocation agreement with the CDFI Fund or, (2) if the agreement does not include any recapture provisions, federal regulations for New Markets tax credits.

The federal rules for recapturing credits are different than the state’s rules. State law requires taxpayers to recapture UISR tax credits over a 10-year period, according to a statutory schedule, when a project fails to generate enough tax revenue to cover the foregone corporate business tax revenue.

The federal rules for recapturing New Markets tax credits are based on whether the CDE maintains its investment in qualified low-income communities. The U.S. Treasury Department monitors CDEs, tracks their

investments, and requires investors to repay the credits based on a seven-year schedule if the CDE (1) ceases to exist, (2) fails to invest a substantial portion of its equity investment in a qualified low-income community business, or (3) redeems or otherwise cashes out its investment.

BRADLEY AIRPORT DEVELOPMENT ZONE CORPORATION TAX CREDIT

PA 10-98 created the Bradley Airport Development Zone and made businesses improving property in the zone eligible for the same corporation business tax credits available to businesses in the state’s 17 enterprise zones. Under PA 10-98, the provisions authorizing the credits take effect October 1, 2011 and apply to income years beginning January 1, 2013, but also specify that businesses may begin claiming the credits on or after January 1, 2012. The act corrects this inconsistency by making the provision applicable to income years beginning on or after January 1, 2012.

BACKGROUND

New Markets Tax Credits

The New Markets tax credit program uses federal income tax credits to attract private capital for business projects in low-income areas. Investors seeking credits must access them through federally certified for-profit CDEs, which must annually apply for them to the CDFI Fund, administered by the U.S. Treasury Department. The credits equal 39% of the invested amount, and investors must claim them over seven years according to a statutory schedule.

CDEs must lend to or invest the funds in business projects or use them for other specified activities. Business projects include mixed residential and commercial real estate developments where the housing units generate no more than 80% of the project’s income.

CDEs

In order to qualify for the urban and industrial sites reinvestment program, a CDE must be federally certified to receive New Markets tax credits. It must also be qualified to do business in the state and registered with the DECD commissioner. Its purpose must be to provide investment capital or financing for eligible projects, and it must be accountable to the residents of two or more designated towns through its governing board. Designated towns are those where taxpayers investing in urban reinvestment projects qualify for credits. They are the 17 towns with enterprise zones, 25 state-designated distressed municipalities (11 of which have enterprise zones), and

the five towns with populations over 100,000 (all of which have enterprise zones).

PA 11-145—HB 6561

Finance, Revenue and Bonding Committee

**AN ACT CONCERNING A WAIVER FROM
REQUIRED ELECTRONIC REPORTING AND
PAYMENT OF TAXES**

SUMMARY: This act allows the Department of Revenue Services (DRS) commissioner to waive electronic tax filing or payment requirements if he finds, based on information a waiver applicant provides, that it would be an undue hardship for a taxpayer to comply with the requirement. Tax return preparers are not eligible for the waivers.

By law, the commissioner can require taxpayers and employers to pay taxes by electronic funds transfer if they have (1) \$4,000 or more in annual tax liability or (2) more than \$2,000 in annual withholding tax payments. Taxpayers must also pay by electronic funds transfer if DRS regulations require them to file tax returns and other documents electronically.

Under the act, a taxpayer must file a written waiver application with the commissioner at least 30 days before the filing or payment due date. The commissioner must inform the applicant promptly of his decision, which is final and not subject to review or appeal. A hardship waiver is effective for 12 months from the date the commissioner grants it and allows a person to file a signed paper return or make payments other than by electronic funds transfer.

EFFECTIVE DATE: October 1, 2011, and applicable to tax periods starting on or after than date.

PA 11-212—HB 6559

*Finance, Revenue and Bonding Committee
Planning and Development Committee*

**AN ACT CONCERNING THE MUNICIPAL
OPTION TO ADOPT ASSESSMENT RATES
LIMITING PROPERTY TAX INCREASES ON
RESIDENTIAL PROPERTIES**

SUMMARY: Beginning with the 2011 assessment year, this act requires a municipality that meets certain conditions to make annual adjustments to the assessment ratios for residential and apartment property, as long as the assessment ratio for any property class does not exceed 70%. It applies to any municipality that, in the 2010 assessment year, was implementing the law that allows towns to provide a special property tax relief program (see BACKGROUND). Hartford is the

only municipality that used this program and is thus the only municipality that must make these assessment ratio adjustments. The act supersedes the law requiring that all property be assessed for property tax purposes at 70% of its fair market value.

The act defines “residential property” as any building, land, and accessory buildings and improvements having one to three dwelling units, and “apartment property” as having four or more.

The act also allows voters in Hartford to petition for a referendum on any budget that increases the tax levy by more than 2.6% over that for the prior fiscal year.

EFFECTIVE DATE: Upon passage, and applicable to assessment years beginning on or after October 1, 2011.

**PROPERTY TAX ASSESSMENT RATIO
ADJUSTMENTS**

Residential Property

For the 2011 assessment year (which begins October 1, 2011, with taxes due in FY 13), the act requires Hartford’s assessor to calculate an assessment ratio for residential property that (1) produces an average annual property tax increase attributable to a revaluation of 3.5% over the 2010 assessment year and (2) is at least 23%.

The act also requires an additional adjustment to residential property assessments. For each assessment year, the assessor must adjust the assessment ratio for residential property for the following grand list to reflect the growth in property taxes levied over the previous fiscal year. He must do so by January 31st or upon completing the grand list, whichever is later.

To determine the adjustment, the assessor must annually calculate the difference between the total amount of taxes the city levied in the current and prior fiscal years, adjusted for inflation using the consumer price index for urban consumers in the northeast region. As Table 1 shows, the assessment ratio adjustment depends on this difference. The assessor must apply the adjustment to the assessment ratio for the next grand list. Thus, the first such adjustment would apply to the 2012 assessment year, for taxes due in FY 14.

Table 1: Residential Property Assessment Ratio Adjustments

<i>If Tax Levy in the Current Fiscal Year (adjusted for inflation)</i>	<i>Increase in Residential Property Assessment Ratio</i>
Exceeds that of the prior FY by more than 100% of the inflation rate	5%
Exceeds that of the prior FY by between 50% and 100% of the inflation rate	3.5%
Exceeds that of the prior FY by 50% of the inflation rate or less	2.5%
Is equal to or up to 0.5% less than that of the prior FY	1.5%
Is less than that of the prior FY by at least 0.5%	None

Apartment Property

The act requires Hartford to assess apartment property at 50% of its fair market value for the 2011 assessment year. Beginning with the 2012 assessment year, the assessor must proportionately increase this assessment ratio so that it is 70% by the 2015 assessment year.

BUDGET REFERENDUM

If the current tax levy increases by more than 2.6% over that of the prior fiscal year, the act requires a referendum on the budget that established the increase (i.e., the current budget) if 1% of Hartford voters petition for one by June 15th. While the act specifies that the budget does not take effect unless a majority of voters approve it, it authorizes a referendum on the current budget near the end of the fiscal year. Thus, it appears voters would be voting on a budget that has already taken effect.

The act allows only one referendum, which must be held within 10 days after the town clerk receives the petition. If voters do not approve the budget, the city must limit the tax levy increase to 2.6% or less over the prior fiscal year.

BACKGROUND

Hartford's Property Tax Relief Program

PA 06-183 allowed Hartford to implement a special property tax relief program for residential and apartment property from 2006 to 2010. Instead of assessing all real property at 70% of fair market value, the act allowed Hartford to assess different types of property at different rates. It required the Hartford assessor to calculate two annual assessment ratios, one for the

residential and apartment property classes and one for all other classes. The two ratios had to produce, in the revaluation year and each of the four following years (2006 through 2010), an average annual property tax increase attributable to the revaluation of 3.5% for the residential and apartment classes.

PA 06-183 required the city to use the revenue from the tax increases on residential and apartment property to proportionately reduce the 15% tax surcharge on the other property classes that had been in place since Hartford instituted its property "tax cap" program in 1990. The surcharge had to be no more than 7.5% in the October 1, 2010 assessment year. PA 06-183 repealed the statute authorizing the surcharge as of the same assessment year.

PA 11-239—sSB 1162

Finance, Revenue and Bonding Committee

AN ACT CONCERNING FILING DEADLINES FOR CERTAIN PROPERTY TAX EXEMPTIONS AND DELAYS IN REVALUATION FOR CERTAIN TOWNS, AND MAKING A TECHNICAL CORRECTION

SUMMARY: This act allows six towns, with the approval of their respective legislative bodies, to delay a revaluation that is scheduled to occur prior to the 2012 assessment year.

It allows taxpayers in specified towns to receive property tax exemptions even though they missed the statutory filing deadlines for the exemptions. The exemptions are for manufacturing machinery and equipment (MME), commercial trucks, and nonprofit organization property. It also allows taxpayers in specified towns to request that the Office of Policy and Management (OPM) secretary reconsider assessors' modifications or denials of MME tax exemptions, even though they missed the deadline for filing such requests.

The act requires Middletown to waive interest and penalties due on property tax owed by a nonprofit organization for property that it operates as affordable senior housing.

It also makes a technical correction to PA 11-61.

EFFECTIVE DATE: Upon passage, except for the technical correction, which is effective July 1, 2011.

REVALUATION DELAY

The act allows Cromwell, East Windsor, Orange, Farmington, Stamford, and Windham to delay a revaluation to the October 1, 2012 assessment year. Thus, 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 six 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.

FILING DEADLINE WAIVERS

Machinery (MME) and Commercial Vehicle Exemptions

The act allows taxpayers in six towns to receive certain property tax exemptions for particular grand list years even though they missed the statutory filing deadlines for the exemptions. The exemptions are five-year exemptions for eligible:

1. machinery and equipment used for manufacturing, biotechnology, or recycling (CGS § 12-81 (72)) and
2. commercial trucks and other vehicles used to transport freight for hire (CGS § 12-81 (74)).

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 grand lists shown in Table 1, if the property owners apply for the exemption by August 11, 2011 and pay the statutory late fee. In each case, the local assessor must (1) verify eligibility for and approve the exemption and (2) refund any taxes paid on the property.

Table 1: Exemption Application Deadline Waivers

<i>Town</i>	<i>Grand List</i>	<i>Type of Property</i>
Bloomfield	2009	Manufacturing machinery and equipment
Franklin	2009, 2010	Commercial trucks
Hartford	2006, 2007, 2008	Manufacturing machinery and equipment
New Haven	2007	Manufacturing machinery and equipment
Windsor	2008, 2010	Manufacturing machinery and equipment
Danbury	2006	Manufacturing machinery and equipment

Requests to Reconsider Denial or Modification of MME Exemption

The act allows taxpayers in Sprague and Seymour to file written requests to the OPM secretary to

reconsider his modification or denial of the towns' respective assessors' decisions to exempt certain MME, despite the taxpayers having missed the deadline for filing such requests. The requests pertain to property on each town's grand list for the 2008 assessment year.

The act gives the taxpayers until August 11, 2011 to file a request together with all documentation and information the secretary requested in the original modification or denial letter. The secretary has 30 days from the date he receives the request and supporting documentation to reconsider and send the taxpayers his decision in writing. If the taxpayers are aggrieved by the decision, they can ask for a hearing according to the regular statutory procedure. If the secretary finds that the taxpayers are eligible for the exemption, he must notify them and the towns' assessors. Sprague and Seymour must reimburse the taxpayers for any taxes paid, in an amount equal to the exemption.

Exemption for Nonprofit Organization Property

The act allows a nonprofit organization (i.e., an organization organized exclusively for scientific, educational, literary, historical, or charitable purposes or to preserve land for open space) to receive an exemption for real property on Middletown's 2009 grand list even though it missed the deadline for filing the required property tax exemption statement (November 1, quadrennially). The organization must apply for the exemption by August 11, 2011 and pay the statutory late fee to be considered to have filed the statement in a timely manner.

It requires the Middletown assessor to approve the exemption after confirming the fee payment and the property's eligibility for the exemption. Middletown must refund any excess taxes, interest, and penalties the organization paid on the exempt property.

INTEREST AND PENALTY WAIVER FOR NONPROFIT ORGANIZATION IN MIDDLETOWN

The act requires the city of Middletown to waive any interest and penalties due on property tax owed for the 2009 assessment year by any nonprofit organization that, relying on a statement by the Middletown assessor that the property would be tax-exempt:

1. owns and operates affordable senior housing in Middletown and
2. was not assessed property tax for the 2002 through 2009 assessment years.

By law and with certain exceptions, government subsidized low- and moderate-income housing is ineligible for the property tax exemption for real property owned by or held in trust for a nonprofit organization.

PA 11-37—sHB 6299
General Law Committee

**AN ACT CONCERNING CHAIN STORE
CIGARETTE DISTRIBUTORS**

SUMMARY: This act allows certain franchisors to be licensed as cigarette distributors and to qualify as chain stores for purposes of the cigarette tax and minimum mark-up laws. Under prior law, franchisors were licensed as cigarette dealers and subject to a higher cigarette tax and minimum mark-ups.

EFFECTIVE DATE: July 1, 2011

DISTRIBUTOR

By law, a person who operates five or more retail stores and buys cigarettes at wholesale exclusively for sale to those stores is licensed as a distributor for cigarette tax purposes. The act allows a franchisor to be licensed as a distributor if it (1) franchises at least five retail stores, (2) buys cigarettes at wholesale exclusively for those stores, and (3) splits the gross profits generated by the stores.

CHAIN STORE

For purposes of the cigarette minimum mark-up requirements, the act also extends the definition of a “chain store” to franchisors of five or more retail stores. Distributors who sell to chain stores have lower minimum mark-up requirements on those sales than on sales to dealers.

By defining qualifying franchisors as chain stores, the act exempts them, when applying for a distributor’s license, from having to provide the revenue services commissioner with three affidavits from recognized cigarette manufacturers that the manufacturers intend to supply them with cigarettes. The act also eliminates the requirement that chain stores be under common ownership and control.

LICENSE FEE

Finally, the act extends existing annual distributor’s license fees to qualifying franchisors. These fees are \$315 for those with fewer than 15 stores, \$625 for those with 15 to 24 stores, and \$1,250 for those with 25 or more stores. Under prior law, franchisors paid \$50 annually for a dealer’s license.

BACKGROUND

Cigarette Tax

Cigarette distributors and dealers pay the tax by buying tax stamps from the Department of Revenue

Services. They must affix a stamp to each cigarette pack as proof of payment. Distributors get a 1% discount on stamps; dealers must pay face value (CGS § 12-298).

Minimum Mark-up

The law requires different types of cigarette sellers to mark up their cigarettes by different percentages representing their cost of doing business. It prohibits selling cigarettes below cost. At a minimum, sellers must charge their basic cost plus a percentage representing their cost of doing business computed as it would be for federal income tax purposes.

PA 11-81—sSB 863
General Law Committee

Judiciary Committee
Finance, Revenue and Bonding Committee

**AN ACT CONCERNING THE LICENSING OF
SWIMMING POOL INSTALLERS, ELECTRONIC
NOTICE OF PROPOSED AGENCY
REGULATIONS AND MINOR AND TECHNICAL
CHANGES TO DEPARTMENT OF CONSUMER
PROTECTION STATUTES**

SUMMARY: This act (1) creates a new swimming pool builder's license and (2) extends existing licensing penalties to swimming pool builders and swimming pool maintenance and repair contractors who work without a license. Although these maintenance and repair contractors are already required to be licensed, there was previously no penalty for doing such work without one. The act specifies that swimming pool maintenance and repair work includes tiling and coping.

The act also:

1. eliminates the requirement for state agencies to deliver notice for proposed regulations by mail, thereby allowing them to send such notices electronically;
2. gives state agencies the option of providing paper or electronic versions of proposed regulations to those requesting them;
3. eliminates the requirement that the Department of Consumer Protection (DCP) send notice of license expiration by mail, thereby allowing DCP to deliver notices electronically; and
4. repeals a 6.25% liquor administrative fee on package store, grocery store, and druggist permits, and creates an equivalent flat fee and adds it to the existing annual fees for these permits.

EFFECTIVE DATE: Upon passage for the swimming pool builder’s license, October 1, 2011 for the electronic delivery and liquor permit fee provisions, and July 1,

2012 for the penalties and repair work definition.

SWIMMING POOL BUILDER'S LICENSE

The act defines a "swimming pool builder" as someone who, for monetary gain, excavates, grades for, and constructs and builds a swimming pool, including tiling, coping, decking, and installing associated circulation equipment such as pumps, filters, and chemical feeders. It also defines a "swimming pool" as a permanent spa or any in-ground or partially above-ground structure intended for swimming that is more than 24 inches deep.

The act requires the DCP commissioner to adopt regulations, by July 1, 2012, to establish the amount and type of experience, training, and continuing education and examination requirements for obtaining and renewing a swimming pool builder's license. The initial license fee is \$150 and the license is renewable annually for \$100.

Upon the adoption of regulations, the act bans anyone from building a swimming pool, except on his or her own property, without being both a DCP-licensed swimming pool builder and a registered home improvement contractor. It also prohibits anyone licensed as a swimming pool builder from performing electrical; plumbing and piping; or heating, piping and cooling work, unless he or she is licensed to do such work.

From the adoption of the regulations until January 1, 2014, DCP must issue a swimming pool builder's license without examination to anyone who applies and demonstrates experience and training equivalent to that required to qualify for a license under DCP's regulations.

LICENSE PENALTIES

The act extends to swimming pool builders and swimming pool maintenance and repair contractors the existing penalties for contractors who work without a license. Under prior law, swimming pool maintenance and repair contractors were required to be licensed, but there was no penalty for doing such work without a license.

The law prohibits unlicensed persons from willfully engaging in work that requires an occupational license. The prohibition also applies to willfully employing or supplying someone without a license, willfully and falsely pretending to qualify to practice a licensed trade, or willfully doing such work after license expiration.

By law, the DCP commissioner may impose civil penalties for licensure violations. In addition, violators are guilty of a class B misdemeanor (see Table on Penalties), an unfair or deceptive trade practice, and must pay restitution. If they cannot pay the restitution in

full, a court may sentence them to probation for up to five years.

BACKGROUND

Civil Penalties

Civil penalties for working without a license consist of a fine of up to (1) \$1,000 for a first violation, (2) \$1,500 for a second violation, and (3) \$3,000 for subsequent violations occurring within three years after a previous violation.

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.

PA 11-117—HB 6338

General Law Committee

Finance, Revenue and Bonding Committee

Judiciary Committee

AN ACT CONCERNING LANDSCAPE ARCHITECTS, PENALTIES FOR UNLICENSED OCCUPATIONAL WORK AND DEPARTMENT OF CONSUMER PROTECTION RETIREMENT STATUS LICENSES

SUMMARY: This act (1) makes several changes in the landscape architect statutes, including allowing corporations and limited liability companies (businesses) to register to practice landscape architecture and broadening the penalties for specified violations; (2) specifically prohibits deceptive or misleading advertising by unlicensed tradespersons; and (3) authorizes the Department of Consumer Protection (DCP) to issue retirement status licenses.

EFFECTIVE DATE: July 1, 2011 for the landscape architect provisions, October 1, 2011 for the unlicensed tradespersons provisions, and January 1, 2012 for the DCP retirement license provisions.

§§ 1, 2 — LANDSCAPE ARCHITECTS

Registration Certificates

The act allows the practice of landscape architecture by licensed incorporated landscape architects and businesses if the (1) landscape architects for the business are either licensed or exempt from regulation under existing law and (2) State Board of Landscape Architects has authorized DCP to issue a certificate of registration.

A qualifying business must apply to the board for a certificate of registration on an application form prescribed by DCP and pay an initial application fee of \$80. Certificates expire annually and are renewable for a \$200 fee. If the requirements are met, the board must authorize DCP to issue a certificate of registration within 30 days of the application unless there are grounds to suspend or revoke an existing certificate, such as the use of fraud or misrepresentation to obtain it.

Each business must designate at least one Connecticut-licensed individual to be in charge of landscape architecture and file his or her name(s) with the board. The business must notify the board within 30 days of any change in designation.

The act requires landscape architects working for registered businesses to sign, date, and seal all final plans, drawings, specifications, reports, and other related documents they prepare or approve for use or delivery to anyone or for public record in the state.

The act specifies that it does not relieve businesses that comply with the act of the responsibility for the conduct or acts of their agents, employees, or officers. Conversely, landscape architects are not relieved of responsibility for services they perform solely because they are employed by, or have relationship with, a business engaging in landscape architecture.

Penalties

The act extends the board's enforcement authority to cover registered businesses. It also broadens the penalties the board may impose on people who (1) obtain a license or registration through fraud or misrepresentation, (2) engage in fraud or deceit in their professional practice, (3) violate any laws or regulations on the practice of landscape architecture, and (4) are found guilty of ordinary negligence or incompetence in their work. Under prior law, the board could not take disciplinary action for ordinary negligence or incompetence. Among other things, prior law allowed the board to suspend a license for a definite period of up to one year and officially censure any licensee. The act (1) eliminates the one year suspension maximum and the requirement that the suspension period be for a

definite period; thus allowing the board to impose unlimited suspensions and (2) removes the board's authority to censure. It also applies all penalties to both licenses and registrations and authorizes the board to (1) issue a letter of reprimand, (2) place license and registration holders on probationary status with certain conditions, (3) impose a civil penalty of up to \$1,000, or (4) impose a combination of any penalties listed. It authorizes the board to modify or discontinue any action it takes. The act also allows the board to authorize DCP to reissue any registration that has been revoked. Previously, it could only reissue licenses.

The act eliminates the requirement that the board notify the secretary of the state when a license is suspended or revoked. It also authorizes parties to appeal a final board decision in the Superior Court for the judicial district in which they live, instead of only in New Britain Superior Court.

§§ 3, 4 — UNLAWFUL UNLICENSED ADVERTISING

The law prohibits anyone from (1) willfully and falsely pretending to qualify to practice a licensed trade or (2) offering to practice or practicing a licensed trade without a license or registration. The act specifies that the prohibition covers people who offer to perform work they are not licensed to perform in a print, electronic, television, or radio advertisement or listing. The covered trades are: electrical; plumbing; heating, piping, and cooling; elevator installation and repair; solar electrical; solar thermal; fire protection sprinkler systems; gas hearths; irrigation; medical gas and vacuum systems; sheet metal; and automotive and flat glass.

By law, the DCP commissioner and the licensing boards overseeing these trades may impose civil penalties (see BACKGROUND) for licensure violations, including the advertising ban the act establishes. In addition, violators commit a class B misdemeanor (see Table on Penalties), an unfair or deceptive trade practice, and are liable for restitution. If they cannot pay restitution, courts may sentence them to probation.

§ 5 — RETIREMENT STATUS LICENSE

The act allows anyone age 65 or older who holds a DCP-issued professional or occupational license, to pay \$20 to obtain a retirement status license instead of paying the full license renewal fee. The DCP commissioner may, for good cause, grant a retirement status license to a person under age 65. The act bars a retirement status licensee from practicing or offering to practice the occupation or trade for which he or she was licensed.

An applicant must submit his or her original license to DCP, along with a letter (1) requesting the retirement status, (2) expressing the licensee's current retirement status, and (3) agreeing not to actively engage in the practice of the occupation or trade for which he or she was originally licensed.

If DCP issues a retirement status license, it must return the original license to the applicant with "Retired" designated or stamped on it.

A licensee may have his or her original license restored by (1) submitting a DCP form requesting reinstatement and (2) paying the current annual license fee.

BACKGROUND

Civil Penalties

By law, the DCP commissioner may impose fines of up to (1) \$1,000 for a first violation, (2) \$1,500 for a second violation, and (3) \$3,000 for subsequent violations occurring less than three years after a previous violation.

PA 11-121—HB 6354

General Law Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE PHARMACY PRACTICE ACT AND PRACTITIONER CONTROLLED SUBSTANCE REGISTRATION

SUMMARY: This act makes several changes in the licensing requirements for pharmacists. It:

1. eliminates the statutorily defined pharmacy test and allows the Department of Consumer Protection (DCP) commissioner to determine the exam a pharmacist must pass to be licensed;
2. requires applicants to be age 18 when they apply for a license instead of age 18 when they take the exam; and
3. makes the pharmacy license expire biennially rather than annually, and correspondingly increases the renewal fee from \$60 to \$120. (The act retains a conflicting reference to a \$60 annual renewal fee.)

The act also changes some of the requirements for the certificate of registration for controlled substances. It (1) expands the circumstances when an applicant must verify his or her license, (2) adds a factor the DCP commissioner must consider before issuing a certificate, and (3) adds that factor to the list of reasons for taking disciplinary action against a certificate.

EFFECTIVE DATE: January 1, 2012

PHARMACIST EXAMINATION

Prior law required applicants to pass an exam given by the Pharmacy Commission, which determined its content; subject matter; and the place, time, and date it was held. The commission held the exam at least twice a year and charged a \$190 fee payable on the date of application. The DCP commissioner approved the exam's content and subject matter.

In practice, neither the commission nor DCP administered the statutory exam. Instead, applicants had to pass the National Association of Boards of Pharmacy's test. The act conforms the law to practice by allowing the commissioner to determine the exams a pharmacist must pass to be licensed and eliminates the statutory exam.

CERTIFICATE OF REGISTRATION FOR CONTROLLED SUBSTANCES

The law requires individuals and institutions to provide proof of licensure or authorization to practice to the DCP commissioner before he issues a certificate of registration allowing them to dispense controlled substances. The act extends this requirement to maintaining and renewing the certificate.

It also adds a factor the DCP commissioner must consider when registering an applicant. By law, the commissioner must determine if the registration would be inconsistent with the public interest based on statutory factors, ranging from complying with state and federal laws to adhering to prescribed schedules for administering substances. Under the act, the DCP commissioner must also consider if any professional license or registration the applicant holds has expired; been suspended, revoked, or surrendered; or had other disciplinary action taken against it.

By law, the commissioner may, for sufficient cause, suspend, revoke, or refuse to renew a registration; place a registration on probation or put conditions on it; and assess a civil penalty of up to \$1,000 for each violation. Under prior law, sufficient cause included the restriction, suspension, revocation, or limitation of a professional license or certificate as a result of a proceeding. Under the act, sufficient cause instead includes the suspension, revocation, expiration, or surrender of, or other disciplinary action against, any professional license or registration.

PA 11-164—sSB 462
General Law Committee

AN ACT AUTHORIZING THE SALE OF CONNECTICUT WINE AT FARMERS' MARKETS AND ESTABLISHING A FARMERS' MARKET WINE PERMIT

SUMMARY: This act creates a farmers' market wine sales permit that allows farm wineries to sell wine they manufactured on their premises under a manufacturer's permit and other specified conditions. Under the act, a municipality may choose to prohibit wine sales at a farmers' market held there by ordinance or zoning regulation.

The law allows liquor permittees to only hold one permit, unless specifically exempted. Under prior law, a farm winery manufacturer permittee could hold an in-state transporter's permit, a wine festival permit, or any combination of such permits. The act adds the farmers' market wine sales permit to the exemption, thus allowing a farm winery manufacturer permittee to concurrently hold any of these permits.

EFFECTIVE DATE: July 1, 2011

FARMERS' MARKET WINE SALES PERMIT

The act requires the consumer protection commissioner to issue a farmers' market wine sales permit when the permittee submits proof he or she is in compliance with the farm winery manufacturing permit statute. The farmers' market wine sales permit authorizes the farm winery to sell wine it manufactures at up to three farmers' market locations a year for an unlimited number of appearances. The permittee must (1) have an invitation from the farmers' market; (2) sell wine only by the bottle; and (3) be present, or have an authorized representative present, anytime wine is sold.

The permit is valid for one year and requires a \$250 annual fee, with a \$100 nonrefundable filing fee.

Under the permit, wine sales are allowed from 8:00 a.m. to 9:00 p.m. on Monday through Saturday, but not on Sunday or when the farmers' market is not open to the public. A town may reduce the allowable wine selling hours through a town meeting vote or ordinance.

BACKGROUND

Farmers' Markets

A farmers' market is a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout a season or for any given day or event. It must operate principally as a marketplace for a group of farmers, with at least two of them selling Connecticut-grown fresh produce, to sell Connecticut-grown farm products in conformance with applicable

regulations. Farm products that are sold must be produced by farmers with the sole purpose of generating a portion of household income.

PA 11-227—SB 464
General Law Committee
Transportation Committee

AN ACT ESTABLISHING A CONNECTICUT BREWERY TRAIL AND REQUIRING THE CONNECTICUT COMMISSION ON CULTURE AND TOURISM TO SUBMIT A REPORT REGARDING THE ESTABLISHMENT OF A CONNECTICUT ANTIQUES TRAIL

SUMMARY: This act allows the Department of Transportation to permit directional and other official signs or notices about facilities where Connecticut beer is made or sold, including signs or notices containing the words "Connecticut Brewery Trail." It allows private persons or entities affiliated with Connecticut-made beer manufacturers or sellers to pay for the design and production of these signs.

The act also requires the Connecticut Commission on Culture and Tourism, by January 1, 2012, to submit a report to the Commerce Committee on the impact of establishing a Connecticut Antiques Trail or Trails on state tourism and economic health.

The commission must solicit public input for locations considered for trail routes. The report must include the (1) criteria for designating proposed routes, (2) costs associated with establishing and marketing such trails, and (3) projected economic impact such trails would have on the state.

EFFECTIVE DATE: Upon passage

PA 11-230—sSB 911
General Law Committee

AN ACT CONCERNING HOMEMAKER SERVICES AND HOMEMAKER-COMPANION AGENCIES

SUMMARY: This act requires homemaker service and homemaker-companion agency registries to notify a consumer within seven days of providing a referral or placement, that he or she may be considered the employer of the homemaker or companion and thus responsible for withholding applicable taxes or making other payments.

The act allows the consumer protection commissioner to (1) revoke, suspend, or refuse to issue or renew a certificate of registration of a homemaker-companion agency; (2) place an agency on probation; or

(3) issue a letter of reprimand for any agency, acting as a registry, that fails to comply with the notice requirement.

A homemaker-companion agency that supplies, refers, or places an independent contractor with a consumer is also considered a registry and must meet the act's notice requirement.

EFFECTIVE DATE: January 1, 2012

REGISTRY

Definition

The act defines a "registry" as any person or entity engaged in the business of supplying or referring an individual to, or placing an individual with, a consumer to provide homemaker or companion services when the homemaker or companion is either (1) directly compensated, in whole or in part, by the consumer or (2) treated, referred to, or considered by the supplying person or entity as an independent contractor.

Notice Requirement

The act requires a registry to provide written notice to the consumer, specifying the registry's legal liabilities to the companion or homemaker. The registry must provide the notice for the consumer to sign within seven days after it supplies, refers, or places an individual with the consumer. If the registry maintains an Internet website, it must post a sample of the notice.

The notice must be written in plain language and include a statement identifying the registry as an employer, joint employer, leasing employer, or non-employer, as applicable. It must advise the consumer that he or she may be legally considered an employer. If such is the case, the consumer may be liable to withhold federal and state taxes, and to comply with labor laws regarding Social Security, overtime, minimum wage, unemployment and workers' compensation insurance payments, and any other applicable payment required under state or federal law. The notice must also include a statement that the consumer should consult with a tax professional if he or she is uncertain about his or her responsibility for these taxes or payments.

PA 11-244—HB 5567

General Law Committee

Judiciary Committee

AN ACT REQUIRING MINORS TO WEAR HELMETS IN COMMERCIAL, NONPROFIT AND MUNICIPALLY OPERATED BASEBALL BATTING CAGES

SUMMARY: This act requires any person under age 18 to wear protective headgear before entering a

commercial, nonprofit, or municipal batting cage to hit baseballs from an automated pitching machine. The headgear must meet the National Operating Committee on Standards for Athletic Equipment's performance standards.

Failure to wear the required headgear in a batting cage is not a violation or offense, nor does it give rise to a statutory cause of action.

EFFECTIVE DATE: Upon passage

PA 11-247—HB 5021

General Law Committee

Higher Education and Employment Advancement Committee

AN ACT CONCERNING CONTINUING PROFESSIONAL EDUCATION FOR ELECTRICIANS AND DONATION BIN NOTICE REQUIREMENTS

SUMMARY: This act requires the Department of Consumer Protection (DCP) commissioner to amend the department's regulations to reduce, from seven to four, the minimum continuing education hours electricians must take annually before renewing their license. The commissioner may increase the minimum hours to a maximum of seven if requested by the Electrical Work Board.

The act also requires a donation bin owner to put his or her name on the bin if the donations are for a charitable purpose and the bin is in a public place.

The law requires publicly placed donation bins to contain a notice in block letters at least two inches high stating whether the donations are for a charitable purpose. If they are, the notice must also state (1) the name of the nonprofit organization that will benefit from the donation and (2) that the public may contact the DCP for more information. The notice must be on the side of the bin where the donation is likely to be made.

The act subjects anyone who fails to (1) obtain permission from the owners before placing a bin in a public place or (2) provide proper notice, to a fine of up to \$500.

EFFECTIVE DATE: July 1, 2011 for the electrician provision and October 1, 2011 for the donation bin provision.

PA 11-250—sHB 6267

General Law Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE SALE OF WINE WITH GIFT BASKETS

SUMMARY: This act establishes a gift basket retailer permit, with an annual \$200 permit fee, that allows the retail sale and shipment of wine in gift baskets to both in-state and out-of-state consumers. It requires the permittee to take certain steps when selling these baskets to in-state consumers.

The act allows the Department of Consumer Protection (DCP), in consultation with the Department of Revenue Services (DRS), to adopt regulations to assure compliance with its in-state delivery provisions.

It requires a permittee to clearly include his or her gift basket retailer permit number in all online advertising to ship wine.

The act does not affect what a package store may sell.

EFFECTIVE DATE: October 1, 2011

GIFT BASKET RETAILER PERMIT

Under the act, the gift basket retailer permit allows wine to be sold at retail as part of a gift basket. The permittee must be located in-state and the wine (1) must be purchased from a package store or farm winery, (2) cannot be consumed on the premises, and (3) can only be sold during the same hours a package store is allowed to sell alcohol. The permittee must not sell gift baskets on another alcohol permittee's premises.

The permittee may sell gift baskets that include (1) up to four bottles of wine; (2) food items; (3) nonalcoholic beverages; (4) concentrates used to make mixed alcoholic beverages; (5) wine-making kits and related products; (6) ice; (7) clothing with advertising related to the alcoholic liquor industry or the permittee's gift basket business; (8) flowers, plants, and garden-related items; (9) drinking glasses, bottle openers, and wine literature; or (10) gift certificates.

DIRECT SHIPMENT

A gift basket retailer permit allows the sale and delivery or shipment of gift baskets containing wine directly to a consumer. If a consumer is out-of-state, the permittee is subject to that state's applicable laws. If the consumer is in Connecticut, the permittee must:

1. ensure the shipping labels on gift baskets containing wine conspicuously state: "CONTAINS ALCOHOL—SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY;"
2. ensure that someone who is at least age 21, as shown on a driver's license or identity card, signs for the delivery;
3. obtain a seller's permit and pay DRS all required sales taxes;
4. report to DCP a separate and complete record of all sales and shipments to consumers in Connecticut on a ledger or similar document that presents a chronological account of the dealings;
5. permit DCP and DRS, separately or jointly, to audit his or her records upon request; and
6. not ship to any address in the state where the sale of alcoholic liquor is prohibited by local option.

PA 11-20—sHB 6330

*Government Administration and Elections Committee
Judiciary Committee*

**AN ACT CONCERNING TECHNICAL AND
MINOR REVISIONS TO ELECTIONS RELATED
STATUTES**

SUMMARY: This act (1) makes technical, minor, and conforming election law changes to reflect the change from lever to optical scan voting machines (i.e., tabulators) and (2) repeals provisions and procedures rendered obsolete by this change.

The act also narrows the circumstances under which a person may be imprisoned for tampering with voting equipment (i.e., tabulators, appliances used in connection with them, and ballots). Generally under prior law, a person could be imprisoned for up to five years for tampering with or destroying voting equipment before or during an election. The act specifies that this provision applies only when a person intends to cause a vote to register improperly (§ 22).

EFFECTIVE DATE: Upon passage

**CONFORMING, TECHNICAL, AND MINOR
CHANGES**

To reflect the change in voting technology, the act makes several conforming and technical changes. Among other things it:

1. substitutes “tabulator” for “machine” and “ballot” for “ballot label” throughout the General Statutes, but primarily in Title 9, which governs elections;
2. eliminates obsolete references to “voting tabulator technicians” and “machine mechanics” (see BACKGROUND) (e.g., §§ 12, 13, 27, and 39);
3. eliminates references to the specific characteristics of the lever voting machine, such as “pointers” and “counters” (e.g., §§ 13, 18, and 28); and
4. eliminates procedures applicable to lever voting machines only, replacing them with parallel provisions for voting tabulators (e.g., §§ 7, 13, 17, 21, 25, and 27).

Concerning procedures, the act, for example, requires registrars to furnish voting privacy booths, rather than lever voting machines, based on the number of electors in the district. For a primary, they must provide one voting booth for every 500 electors (or fraction thereof), rather than one voting machine for every 2,400 electors (or fraction thereof) (§ 27).

The act also eliminates a requirement that town clerks annually report to the secretary of the state on the number of voters on the active registry list and their

affiliation (§ 7). The centralized voter registration system renders this reporting requirement obsolete.

The act repeals:

1. a requirement that the secretary of the state convene a conference before each regular election to train machine mechanics (§ 39);
2. provisions for administering paper ballot elections, including referenda, when lever voting machines are unusable (if a voting tabulator malfunctions, regulations set the procedure for hand counting ballots (Conn. Agency Reg. § 9-242a-23)) (§ 39); and
3. the obsolete Voting Technology Standards Board, which was established to develop standards for electronic voting systems and required to terminate after submitting its report in January, 2006 (§ 39).

Finally, the act makes certain minor changes. It:

1. conforms statute to practice by transferring certain duties from town clerks to registrars of voters (e.g., prepare and furnish supplies before an election) (§ 13);
2. requires town clerks to file notice of a primary for municipal office or town committee members with the secretary of the state within three business days after receiving it from the registrars of voters (§ 26);
3. changes the required number of primary day poll workers by giving the registrar of voters the option to appoint one or two official checkers, instead of requiring two, and giving registrars the same discretion concerning ballot clerks (these provisions already apply to general elections) (§ 27); and
4. gives registrars the option to appoint a single certified moderator per polling place when more than one political party holds a primary on the same day, if the registrars both agree to the designation (§ 27).

BACKGROUND

Machine Mechanics and Technicians

According to the Office of the Secretary of the State, the optical scan voting tabulator self-tests before it is used. The registrars of voters additionally test the tabulators. If a tabulator jams or otherwise malfunctions, the tabulator tender notifies the appropriate election official, who replaces it (Conn. Agencies Reg. §§ 9-242a-9 and -16). Voting tabulator technicians, formerly machine mechanics, do not repair the machines and, in practice, several towns do not have the position.

PA 11-46—sSB 942

*Government Administration and Elections Committee
Appropriations Committee*

AN ACT CONCERNING THE INTEGRITY OF ELECTIONS

SUMMARY: This act establishes procedures to address issues that may arise at polling places during a primary or election. Namely, it requires registrars of voters to (1) develop a municipal emergency contingency plan addressing, for example, ballot shortage solutions and (2) certify to the secretary of the state the number of ballots they order for each polling place, demonstrating that they have considered relevant factors. In the absence of a certification or a waiver approved by the secretary of the state, the act requires registrars to order one ballot for each registered voter. Before a primary or election, registrars must also certify polling place locations to the secretary and provide moderator contact information.

The act authorizes the secretary of the state to (1) access polling places, unless she is a candidate on the ballot, and review them for election law compliance and (2) disqualify moderators under certain circumstances. The act reduces, from four to two years, the duration of a moderator's certification received on or after October 1, 2011.

It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

ELECTION ADMINISTRATION*§ 2 — Emergency Contingency Plans and Regulations*

The act requires the secretary of the state to adopt regulations to implement the act's emergency contingency plan provisions and requires these regulations to include a model plan that municipalities may adopt. The act does not establish a deadline by which the secretary must adopt these regulations.

The act requires registrars of voters, in consultation with town clerks, to create the emergency contingency plan. It must address (1) solutions for ballot shortages and (2) strategies for addressing certain situations. These include:

1. a shortage or absence of poll workers,
2. a loss of power,
3. a fire or fire alarm within a polling place,
4. voting machine malfunctions,
5. weather or other natural disasters,
6. the need to remove and replace a poll worker or moderator, and
7. disorder in and around the polling place.

Within six months after the secretary adopts regulations, registrars of voters must submit the plans to

their legislative body for approval (the board of selectmen in a town with a town meeting form of government). Once the local legislative body approves the plan, it must remain on file with the town clerk until it is amended. A municipality that fails to develop and adopt a plan is deemed to have adopted the secretary's plan.

If a municipality activates its emergency plan, it must submit a written report to the secretary of the state no more than 30 days later. The report must include the (1) reason for activating the plan, (2) procedures followed, and (3) outcome.

§ 4 — Polling Place Certification

No later than 31 days before each municipal, state, or federal election or primary, the act requires registrars of voters to certify in writing to the secretary of the state the polling places that the municipality will use. The certification must provide the name; address; relevant contact information; and corresponding federal, state, and municipal districts associated with each polling place. Under prior law, the secretary was not notified of polling place locations, only town clerks and voters were.

§ 4 — Moderator Information

The act requires registrars of voters to provide a written report to the secretary before each municipal, state, or federal election or primary with the name and address of the moderator for each polling location disclosed under the certification described above.

§ 5 — Ballot Certification

No later than 31 days before an election or 21 days before a primary, the act requires registrars of voters and town clerks to jointly certify to the secretary the number of ballots they ordered for each polling place. The secretary must provide a form for the certification and include questions on, among other things, historical turnout for each polling place over the past four elections or primaries of a similar nature. Registrars and clerks must also include other relevant factors unique to each polling place.

If registrars and clerks do not jointly submit this certification, the act requires them to order one ballot for each registered voter.

The act authorizes the secretary to reject a certification. In that case, (1) the secretary must provide a written response with the reasons for rejection and (2) the municipality must order one ballot for each registered voter. If the secretary does not notify a municipality within seven days after receiving its certification that she has rejected it, the certification is deemed accepted.

The act allows registrars and clerks to jointly, for good cause, apply to the secretary of the state for a waiver from the certification requirements. They must submit a waiver application no later than 45 days before an election or 30 days before a primary. Within five days after receiving the application, the secretary must notify the clerk in writing of her decision concerning the waiver.

ELECTION OFFICIALS

§ 3 — *Secretary of the State*

The act allows the secretary of the state, or her designee, access to each polling place during a municipal, state, or federal election, primary, or recanvass to review it for compliance with state and federal law. If the secretary is a candidate in that election, only her designee must be allowed access.

§§ 1 & 4 — *Moderators*

Certification. By law, moderators must be certified to serve by the secretary of the state. The act reduces, from four to two years, the duration of a moderator's certification received on or after October 1, 2011. It authorizes the secretary to adopt regulations as she deems necessary concerning the moderator certification process.

Disqualification. The act authorizes the secretary to disqualify any moderator if, after consultation with both registrars of voters, she determines the moderator has committed material (1) misconduct, (2) neglect of duty, or (3) incompetence in the discharge of duties. If the secretary disqualifies a moderator, she must share her findings with the registrars.

PA 11-82—sSB 881

*Government Administration and Elections Committee
Human Services Committee*

AN ACT CONCERNING THE POWERS OF THE STATE TREASURER, DIVESTMENT OF STATE FUNDS INVESTED IN COMPANIES DOING BUSINESS IN IRAN AND SUDAN, AND THE MEMBERSHIP OF A MEDICAL EXAMINING BOARD AND THE CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION

SUMMARY: This act makes various changes to laws affecting the Office of the State Treasurer, including those on personnel appointments, appointments to the Investment Advisory Council (IAC), and investment policies concerning companies doing business in Iran or Sudan.

Generally, the act:

1. authorizes the state treasurer to appoint officers and other investment-related personnel with the approval of the Department of Administrative Services (DAS) and the Office of Policy and Management (OPM);
2. eliminates a requirement that the IAC provide advice and consent for all investment-related appointments the treasurer makes;
3. requires the treasurer to redeem obligations no later than two years after issuance and the governor to notify certain legislative committees of the amounts he authorizes;
4. makes the treasurer an ex-officio, non-voting member of the State Employees Retirement Commission;
5. allows retired state employees who are physicians to serve on the Medical Examining Board for Disability Retirement;
6. requires the treasurer to divest existing, and halt further, investments in any security or instrument issued by Iran;
7. allows her to divest existing, or decide against further or future, investments of state funds in companies doing business in Iran; and
8. expands a similar law on divestment from companies doing business in Sudan.

The act also eliminates an obsolete provision concerning American hostages in Iran.

EFFECTIVE DATE: Upon passage, except the provisions concerning (1) the State Employees Retirement Commission and the medical examining board are effective July 1, 2011 and (2) the treasurer's authority to appoint additional investment-related personnel and her temporary borrowing authority are effective October 1, 2011.

§§ 1-2 & 6 — STATE TREASURER

Personnel

By law, the treasurer can appoint (1) a deputy; (2) an assistant treasurer for debt management; (3) a chief investment officer, deputy chief investment officer, principal investment officers, investment officers, and other personnel for the Connecticut retirement pension and trust funds; and (4) agents to manage state property.

In addition to the treasurer's appointments under existing law, the act authorizes her to appoint officers and other investment-related personnel, with the approval of the DAS commissioner and OPM secretary, to any division in her office. The appointees serve at the pleasure of the treasurer.

The act eliminates the requirement that the IAC approve the treasurer's appointees for principal investment officers, investment officers, and other

personnel to assist the chief investment officer. It maintains the requirement for chief investment officer and deputy chief investment officer appointees.

Temporary Borrowing Authority

The law authorizes the treasurer to borrow funds and issue obligations with the governor's approval. The act requires the treasurer to redeem the obligations whenever, in her opinion, there are funds available or no later than two years after the issuance date, whichever is earlier. Prior law did not impose the two-year deadline.

The act requires the governor to (1) specify the amount he approves for temporary borrowing and (2) at the same time, provide notice of the approval to the chairpersons and ranking members of the Finance, Revenue, and Bonding and Appropriations committees.

§ 5 — CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION

The act increases, from six to seven, the size of the State Employees Retirement Commission by adding the treasurer, or her designee, as an ex-officio, non-voting member. The commission administers the State Employees Retirement System, the Municipal Employees Retirement System, and all other state retirement and pension plans, except the Teachers' Retirement System.

§ 7 — MEDICAL EXAMINING BOARD FOR DISABILITY RETIREMENT

The act allows physicians who are retired, not just current, state employees to be members of the medical examining board for disability retirement. By law, the medical examining board consists of seven physicians whom the governor appoints. The board determines whether applicants are entitled to state disability retirement.

§§ 3 & 4 — DIVESTMENT FROM COMPANIES DOING BUSINESS IN IRAN OR SUDAN

With respect to Iran, prior law required the state treasurer to review the state's major investment policies to ensure that state funds were not invested in corporations engaged in business in Iran that could be considered contrary to U.S. national interests. With respect to Sudan, existing law (1) allows the state treasurer to divest, or decide against further or future investments of, state funds in any company doing business in Sudan and (2) requires her to divest and halt further investments in any security or instrument issued by Sudan.

The act makes the law on Iran parallel to the law on Sudan. It requires the treasurer to review major investment holdings, instead of policies, for purposes of divesting and halting further investments in any security or instrument issued by Iran. It allows her to divest, or decide against further or future investments of, state funds in any company engaged in commerce in Iran, including maintaining equipment, facilities, personnel, or other business or commerce apparatus there such as leasing or owning real or personal property or engaging in any business activity with its government (i.e., companies doing business in Iran).

A "company" is any for-profit corporation, utility, partnership, joint venture, franchisor, franchisee, trust, entity investment vehicle, financial institution, or other entity or business association, including its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates.

Iran Divestment

The act requires the treasurer to (1) determine the extent of the state's investment in companies doing business in Iran and (2) encourage such companies in which the state is invested to act responsibly and not take actions that promote or otherwise enable Iran's development of nuclear weapons or terrorism. The treasurer must offer the encouragement whenever feasible and in a manner consistent with her fiduciary duties. The treasurer may determine the companies doing business in Iran from the U.S. Treasury's Office of Foreign Assets Control or her own review.

The treasurer must divest and not invest further in any Iranian-issued security or investment. She may divest, or decide against future investments of, state funds in any company doing business in Iran after various considerations. Among other things, she must consider:

1. revenue the company paid directly to the Iranian government;
2. whether the company demonstrates complicity with an Iranian organization that the U.S. government identifies as terrorist;
3. whether the company knowingly obstructs lawful inquiries into its operations and investments in Iran;
4. whether the company attempts to circumvent any applicable U.S. sanctions;
5. the extent of any humanitarian activities the company undertakes in Iran;
6. whether the federal government authorizes the company to do business in Iran; and
7. any other factor the treasurer deems prudent.

If the company's business in Iran involves (1) oil-related activities, (2) mineral extraction activities, (3) investments that directly and significantly contribute to

the development of Iran's petroleum resources, or (4) any other activity on which the U.S. government has imposed economic sanctions, the treasurer must consider if its transactions involve (1) contracts with, or the provision of supplies or services to, the Iranian government; (2) companies in which the Iranian government has any direct or indirect equity share; (3) consortia or projects commissioned by the Iranian government; or (4) companies involved in consortia or projects commissioned by the Iranian government.

If the treasurer decides to divest the state's funds, she must give the company notice that the state will divest as long as the company continues to do business in Iran.

As used above, "mineral extraction activities" are activities such as exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals, associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, silver, tungsten, uranium, and zinc; as well as facilitating these activities, including providing supplies or services in their support. "Oil-related activities" include (1) owning rights to oil blocks (areas with oil fields); (2) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading oil; (3) constructing, maintaining, or operating a pipeline, refinery, or other oil field infrastructure; and (4) facilitating these activities, including providing supplies and services to support them. Oil-related activities do not include selling retail gasoline and related consumer products. "Petroleum resources" are petroleum, petroleum byproducts, or natural gas.

At least once per fiscal year the treasurer must report to the IAC on her actions regarding companies doing business in Iran.

These provisions have no effect if (1) the U.S. State Department removes Iran from its State Sponsors of Terrorism List (see BACKGROUND) and (2) the U.S. president certifies to the appropriate Congressional committee that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology.

Sudan Divestment

The act makes changes to definitions under the parallel law concerning divestment of state funds from companies doing business in Sudan. In doing so, it expands "doing business in Sudan" to mean commerce in any form, including leasing property, and "companies" to include an entity, its wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, and affiliates that exist to make a profit.

BACKGROUND

State Sponsors of Terrorism

Countries that the U.S. Secretary of State determines have repeatedly provided support for acts of international terrorism are designated "state sponsors of terrorism." Such a designation results in four main sanctions: (1) restrictions on U.S. foreign assistance; (2) a ban on defense exports and sales; (3) certain controls over exports of dual-use items; and (4) miscellaneous financial and other restrictions. In addition, other sanctions penalize persons and countries engaging in certain trade with state sponsors. There are currently four designated countries: Cuba, Iran, Sudan, and Syria.

PA 11-139—HB 6513

Government Administration and Elections Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE GOVERNMENT ADMINISTRATION AND ELECTIONS STATUTES AND PUBLIC ACTS

SUMMARY: This act makes technical changes to the government administration and elections statutes and a 2010 public act.

EFFECTIVE DATE: Upon passage

PA 11-143—sHB 6532

Government Administration and Elections Committee

AN ACT CONCERNING THE PRESIDENTIAL PREFERENCE PRIMARY

SUMMARY: This act delays the date of Connecticut's presidential preference primary from the first Tuesday in February to the last Tuesday in April to conform state law to recent rule revisions by the Democratic and Republican national committees. To effectuate this change, the act alters the number of days before the presidential preference primary when:

1. the secretary of the state must announce publicly the list of candidates whose names will appear on the ballot (from 78 to 74 days before the primary);
2. a candidate may ask the secretary to remove his or her name from the ballot (from 40 to 36 days before the primary);
3. petitioning candidates may begin circulating nominating petitions and must file them with the registrar of voters (from 78 to 74 days and 50 to 53 days, respectively, before the primary);

4. registrars must verify the signatures and forward the petitions to the secretary (from 46 to 49 days before the primary); and
5. the secretary must finish calculating the number of signatures on the petitions to determine whether each candidate has enough for his or her name to be placed on the ballot (from 36 to 46 days before the primary).

These changes also accommodate the federal Military and Overseas Voter Empowerment (MOVE) Act (P.L. 111-84). Among other things, the MOVE Act requires states to transmit validly requested absentee ballots to overseas and military voters no later than 45 days before a federal election, unless they request and receive a hardship waiver from the Department of Defense.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

National Democratic and Republican Committee Rules

In August 2010, the Democratic National Committee and the Republican National Committee both adopted rules prohibiting states, other than Iowa, New Hampshire, South Carolina, or Nevada from holding a presidential preference primary before the first Tuesday in March in the year in which a national convention is held (Democratic National Committee, Delegate Selection Rules 11(A) and Republican National Committee, Revised Rule No. 15(b)).

PA 11-150—sHB 6600

Government Administration and Elections Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PAPERLESS TASK FORCE AND THE TASK FORCE TO STUDY THE REDUCTION OF STATE AGENCY PAPER AND DUPLICATIVE PROCEDURES

SUMMARY: This act makes several changes in the laws to reduce state agencies’ paper usage. It allows (1) fewer printed copies of several legislative documents and publications to be produced and (2) bills and amendments to be posted to the legislature’s website rather than placed on legislators’ desks before they are voted on. It generally provides for more limited distribution of several printed documents and publications and, in some cases, requires an individual to make a specific request to receive a printed copy.

The act also requires agencies to electronically submit their proposed regulations to the Regulations Review Committee. It allows agencies to respond to

Freedom of Information Act (FOIA) requests electronically or by facsimile in certain circumstances and reduces the number of copies of required reports they must file with the State Library.

Lastly, the act requires numerous one-time reports by agencies. The reports generally must include recommendations for reducing costs and paper usage.

EFFECTIVE DATE: July 1, 2011, except the sections requiring (1) reports by agencies, conversion of applications and forms to electronic format, and standards and guidelines for electronic records, which are effective upon passage, and (2) electronic submissions of proposed regulations, which are effective October 1, 2011.

LEGISLATIVE PUBLICATIONS AND DOCUMENTS

The act reduces the number of printed copies of several legislative publications, as shown in Table 1.

Table 1: Printing Requirements for Legislative Publications

<i>Publication</i>	<i>§ in Act</i>	<i>Prior Law</i>	<i>The Act</i>
Legislative Record Index	1	Unspecified number of copies made available to the press, State Library, governor, secretary of the state, attorney general, and other persons designated by the House speaker or Senate president.	Must be made available electronically; no more than 25 printed copies produced.
Bills	4	Bills must be on legislators’ desks at least two legislative days prior to passage.	Bills must be available on the legislature’s website at least two legislative days before passage. (The act maintains existing law’s exception for emergency certified bills.)
House and Senate Journals	6	375 printed copies of each journal, 50 copies transmitted to both the secretary of the state and the State Library.	Number of printed copies produced and distributed determined by the Legislative Management Committee, in consultation with the House and Senate clerks.

Table 1: Continued

<i>Publication</i>	<i>§ in Act</i>	<i>Prior Law</i>	<i>The Act</i>
Program Review and Investigations (PRI) Committee Reports	7-9	Required to establish policies and procedures for printing, reproducing, and distributing its reports.	Reports are to be produced electronically and posted to the committee's website.
Statutes	10	The State Library receives 500 printed copies and the Judicial Department receives 400.	The Legislative Management Committee determines the number of printed copies.
Public and Special Acts	10	The State Library receives 350 printed copies of both the public and special acts while the Judicial Department receives 400 copies of the public acts and 150 copies of the special acts.	The Legislative Management Committee determines the number of printed copies.

PA 11-61, § 131 eliminates the provision requiring the Legislative Management Committee to determine how many printed copies of the revised statutes, public acts, and special acts of the secretary of the state must distribute to the State Library and the Judicial Department (§ 10). It thus leaves this determination to the secretary.

Other Distribution Requirements

The act requires a specific request before printed copies of the House and Senate journals are provided to legislators, state officers, and county bar libraries (§ 6). Similarly, it requires a specific request before printed copies of statutes and public and special acts are provided to legislators, probate courts, police departments, assistant attorneys general, and county law libraries (§ 10). It also specifies that veterans' organizations in state-furnished office space in Hartford must make a specific request to receive annotated copies of the revised statutes and supplements (§ 14).

The act specifies that House and Senate journals and calendars will be reproduced only on regular session days. It also requires (1) the Legislative Commissioners' Office (LCO) to distribute only a limited number of engrossed bills and resolutions and (2) LCO, not the printer, to assign a bill's file number (§§ 2 & 3).

The act requires each bill reported favorably to be posted on the legislature's website. It eliminates the requirement that the secretary of the state send a printed copy of all bills reported favorably to the Library of Congress; UConn, Wesleyan University, and

Quinnipiac University libraries; and Yale University's law library. She must still send a printed copy to the State Library and UConn law library. The act also reduces, from seven to two, the number of copies of each printed bill that the House and Senate clerks must reserve for her use (§ 5).

The act eliminates a requirement that the secretary of the state distribute to town and Superior Court clerks printed copies of each public act that takes effect upon passage (§§ 15 & 29). It allows the House and Senate clerks to send municipalities electronic rather than printed legislative bulletins and record indexes (§ 2). It also requires the State Library to send, upon request, electronic, rather than printed, copies of (1) bills to high schools and colleges and (2) various legislative documents to law libraries (§§ 11 & 13).

AGENCY REQUIREMENTS

The act requires agencies to send their proposed regulations to the Regulation Review Committee electronically, rather than sending 18 paper copies as prior law required. It also requires electronic, rather than paper, submission of the proposed regulations and accompanying fiscal notes to the (1) Office of Fiscal Analysis and (2) committees of cognizance of the proposed regulation's subject matter (§§ 18 & 19).

The act requires each executive branch agency to (1) use email to notify and correspond with clients whenever possible and permitted by law and to request statutory changes where it is not permitted, (2) explore the feasibility of converting all applications and forms used by the public to electronic format, and (3) create an inventory of all forms the agency uses (§§ 23 & 25).

The act permits an agency to provide records electronically or by fax in response to an FOIA request, unless the requestor (1) does not have access to a computer or fax machine or (2) requests a certified copy (§§ 21 & 22).

By law, if (1) a task force, commission, or committee is appointed by the governor, the General Assembly, or both and required to report its findings or (2) a state agency is required to submit a report to the General Assembly or a legislative committee, that report must be submitted to the Senate and House clerks, state librarian, and Office of Legislative Research (OLR). The act requires electronic submission of reports to the House and Senate clerks and OLR. It eliminates the requirement that the submitting entity file as many copies with the state librarian as it and the librarian jointly agree are appropriate and instead requires that only one copy be filed with the library (§ 12).

The act also requires the state librarian, by January 1, 2012, to develop standards and guidelines for preserving and authenticating electronic records. In doing so, he or she must consult with the Department of

Administrative Services (DAS) commissioner, the chief information officer (CIO) of the Department of Information and Technology (DOIT), the Legislative Management Committee’s executive director, and the chief court administrator (§ 28).

REPORTING REQUIREMENTS

The act requires several one-time agency reports that generally must include recommendations for reducing costs and paper usage. Table 2 identifies these reports.

Table 2: Reports Required by the Act

<i>Reporting Entity</i>	<i>§ in Act</i>	<i>Requirement</i>	<i>Recipient(s) and Due Date</i>
DAS, in consultation with the CIO of DOIT and the comptroller	16	Project the cost of implementing additional CORE-CT modules and the cost savings they would produce over a four-year period.	Governor, secretary of the state, Office of Policy and Management (OPM) secretary, House speaker, Senate president pro tempore, and the Appropriations and Government Administration and Elections (GAE) committees. January 1, 2012
All executive branch agencies, departments, boards, councils, commissions, institutions, and quasi-public agencies	17	(1) List all federal and state statutory reporting requirements (with citations); (2) issue recommendations for (a) consolidating required reports, (b) eliminating obsolete reports, and (c) using federally mandated reports to satisfy duplicative state reporting requirements, along with the reasons for doing so and associated cost savings.	Each agency submits the report to its committee of cognizance; all agencies submit reports to the governor and GAE Committee. January 1, 2012
PRI Committee NOTE: This requirement was repealed by PA 11-61, § 182.	20	(1) Study the current process for adopting agency regulations and (2) report on potential cost-saving modifications.	GAE and Regulations Review committees. February 1, 2012

Table 2: Continued

<i>Reporting Entity</i>	<i>§ in Act</i>	<i>Requirement</i>	<i>Recipient(s) and Due Date</i>
Department of Social Services	24	Determine the feasibility of using address-matching software to reduce the amount of returned mail.	Governor and OPM secretary. Three months after concluding investigation.
OPM Secretary	26	Review and make recommendations for converting all bond commission documents to electronic format, including the projected costs and savings.	Governor, comptroller, treasurer, and the chairpersons and ranking members of the Finance, Revenue, and Bonding Committee. January 1, 2012
Department of Environmental Protection	27	Develop a model policy for promoting green practices within state agencies, including paper usage reduction and improved recycling and solid waste management.	Governor and OPM secretary. January 1, 2012

PA 11-173—sSB 939

*Government Administration and Elections Committee
Planning and Development Committee*

AN ACT CONCERNING REVISIONS TO ELECTIONS RELATED STATUTES

SUMMARY: This act makes changes to election laws affecting voter registry lists, the conduct of primaries and elections, election officials, voting equipment and polling places, post-election procedures, and certain campaign finance forms. Concerning voter registry lists, the act generally eliminates processing deadlines and duplication requirements rendered obsolete by the centralized voter registration system (CVRS).

With respect to the conduct of primaries and elections, the act, among other things, establishes a procedure for assigning unknown votes in the event that electors vote for a cross-endorsed candidate under more than one party designation. The act authorizes towns to publish joint notices of elections and primaries in a newspaper with general circulation in the towns (§§ 57-58). It also eliminates the requirement that town clerks submit to the secretary of the state a list of offices to be filled at regular state elections, but retains the requirement for municipal elections (§ 16).

The act conforms statute to practice by transferring several duties from town clerks to registrars of voters. It establishes a deadline by which town clerks must file a notice of a primary for municipal office candidates and town committee members: within three business days of receiving notice from the registrars that primary petitions have been received and verified (§ 22). In addition, the act authorizes the State Elections Enforcement Commission (SEEC) to conduct investigations based on statements that registrars of voters file alleging election violations, not just allegations that the secretary of the state or town clerks file (§ 28).

The act changes the form that political committees (known as PACs) use to indicate that they are allowed to receive lobbyist contributions while the General Assembly is in session.

It makes technical changes to reflect the switch from lever voting machines to optical scan voting tabulators, which primarily include substituting “tabulator” for “machine” and “ballot” for “ballot label.” It eliminates obsolete references to “voting tabulator technicians” and “machine mechanics” and conforms the law to practice by requiring registrars to perform their duties (e.g., retaining custody of voting tabulator keys (§ 54)) (see BACKGROUND). It similarly requires that a demonstrator device, rather than a spare machine, be available in each polling place to instruct electors how to properly cast their votes (§ 18).

The act repeals the statute establishing the obsolete Voting Technology Standards Board and eliminates all references to it (§ 69). The board was required to terminate after submitting its report in January 2006. It also repeals a provision authorizing polling place observers (§ 69).

The act makes several other technical and conforming changes.

EFFECTIVE DATE: Upon passage, except provisions concerning (1) joint notices of elections and primaries and how municipal office candidates’ names appear on the ballot are effective July 1, 2011; (2) permanent absentee ballot status is effective January 1, 2012; and (3) the authority of towns with two voting districts to have two registrars of voters per district is effective January 1, 2012 and applicable on and after January 9, 2013.

§§ 2-6, 8, 9, 12, 25, 29 & 61-63 — VOTER REGISTRY LISTS

By law, registrars of voters keep track of active and inactive voters. Prior to the CVRS, they accomplished this by maintaining voter registry lists, which they updated as required by law. Because the CVRS is computerized and updated continually, the act makes several changes affecting the completion, distribution,

and retention of preliminary, final, and supplementary voter registry lists. Primarily, it eliminates most (1) obsolete deadlines associated with completing these lists and (2) printing, copying, and distribution requirements.

For example, it:

1. eliminates the deadline by which the preliminary registry list must be completed and provided to town clerks, and instead requires it to be available in the registrars’ office;
2. eliminates the requirement for registrars to notice and hold sessions to correct the preliminary list before primaries and elections, and instead requires them or assistant registrars to be available for at least one of the 14 days preceding a primary or election to make corrections and to post their office hours before all elections;
3. extends the deadlines by which registrars must file the final and updated lists (i.e., names to be transferred, restored, or added) with town clerks from the second Friday and five days before a regular election, respectively, to the day after the last day to make changes to a registration;
4. removes the requirement that registrars compile a list of changes to the active and inactive registry lists on a monthly basis;
5. requires registrars to make the complete and corrected enrollment list available to the public upon request, rather than requiring them to make several copies;
6. requires registrars to give a copy of the preliminary and final registry lists to candidates for any office, not just the General Assembly;
7. requires the enrollment lists to be available in another municipal office when registrars are not in their office; and
8. eliminates references to a supplementary list.

Existing law, unchanged by the act, requires the final voter registry list to be kept for two years after each regular election. The act gives registrars the option of maintaining each final registry list on paper or electronically.

§ 6 — *Restoration of a Name to the Registry List*

The act amends the process for restoring an elector’s name to the voter registry list by requiring the elector to submit a voter registration card, rather than a written request. By law, registrars of voters must restore the name to the active list if it was omitted due to clerical error. On election day, both registrars must consent before a name may be restored to the active registry.

Prior law required registrars to also restore the name to the active list if the individual submitted a written request, signed under penalty of false statement, stating that he or she was still a town resident and (1) it appeared the name was formerly on the active registry list or (2) on election day, the name appeared on the inactive list. The act maintains the reasons for restoration but requires the elector to submit a voter registration card, rather than a written request.

§ 25 — CVRS

The act removes the authority registrars had under prior law to maintain a separate town-specific voter registry list (in addition to the statewide centralized list). It also establishes a specific deadline by which registrars of voters must update the CVRS after each election or primary, indicating whether each eligible voter voted and if so, whether in person or by absentee ballot. Under the act, they must do so no later than 60 days after the election or primary rather than “promptly” afterward, as under prior law.

§ 29 — Notice of Duplicate Registration

If a person is registered to vote in more than one town based on the list of possible duplicate registrations that the secretary of the state compiles, the law requires registrars of voters to send a notice of duplicate registration. Under prior law, registrars from the person’s previous town sent the notice. The act requires registrars in the person’s town of residence to send the notice.

§§ 23, 51, 60 & 65 — NOMINATIONS

The act establishes earlier deadlines for certain nominating petitions. Specifically, it requires party endorsements for candidates petitioning under a reserved party designation to be filed with the secretary of the state one week earlier: by 4 p.m. on the 62nd, rather than the 55th, day before the election. The 62nd day is the deadline for filing the certified list of minor party candidates.

The act also expands the information that minor parties must include in the list of nominations that they certify to the secretary of the state or town clerk, as appropriate. It requires the certification to include not only a list of nominated candidates, but also (1) their names as they authorize them to appear on the ballot, (2) their signature, (3) their full address, and (4) the office and district for which each is nominated.

The act specifies an enrollment deadline and narrows a residency requirement for district office candidates. Under the act, a nomination is valid only when the candidate’s name appears on the party’s enrollment list (1) for the district in which he or she will

run and (2) by the last day preceding the party convention. Under prior law, the nomination was valid when the candidate’s name was on the enrollment list of a municipality that formed part of a district.

Finally, the act requires the secretary of the state to notify registrars of voters, not just the town clerk, when a primary for state office must be held in the municipality.

BALLOTS

§§ 14, 33 & 50 — Form, Layout, and Printing Requirements

The act eliminates the requirement that ballots be printed in black ink and on clear white material (i.e., paper) (see BACKGROUND). It requires ballots to indicate, for each office, how many candidates an elector may vote for. Previously, ballots had to show this information only when an elector could vote for two or more candidates for the same office.

The act maintains the requirement that town clerks prepare and print absentee ballots, including those for a referendum. But it authorizes registrars of voters to provide comments to clerks concerning their content and form before the ballots are printed. The act is silent on whether the clerks have to consider the comments.

§ 19 — Write-In Votes

Prior law prohibited counting write-in votes for nominated major and minor party candidates and petitioning candidates when electors could vote for more than one candidate for a particular office. The act allows these write-ins to be counted and recorded if the identity of the candidate can be determined.

§ 20 — Paper Ballot Elections

The act expands the circumstances under which registrars of voters may discontinue the use of voting tabulators and allow votes to be cast on paper ballots (which are different from those used with voting tabulators). Under the act, these ballots may be used for any election, primary, or referendum if (1) there is insufficient space on the tabulator ballot for the number of candidates, (2) the number of tabulators is insufficient, or (3) using tabulations would be impracticable. Under prior law, paper ballots (1) could be used only at a general election for the above-stated reasons, (2) could not be used at a primary, and (3) could be used at a referendum only if space for the question on the voting machine was insufficient.

The act requires that the procedures for securing and counting paper ballots comply as closely as possible with those for counting absentee ballots.

§§ 7, 24, 51 & 66 — *Candidates' Names on the Ballot*

The act allows candidates for municipal office, including minor and petitioning party candidates, to determine how their names appear on the ballot in a primary or general election. It does this by extending to municipal office candidates the same rights possessed by statewide and legislative office candidates, whose names appear on the ballot as they appear on the candidate's endorsement certificate or statement of consent. By law, a candidate's endorsement certificate or statement of consent must contain his or her name, signature, full street address, and the title and district of the office being sought.

Under prior law, the name of a candidate for municipal office, other than the office of state senator or representative, appeared on the ballot as it appeared on the municipality's registry list.

The act makes a conforming change by eliminating a provision allowing municipal office candidates who change their name on the registry list up to 29 or 55 days preceding a primary or election, respectively, to have the change reflected on the ballot.

§ 39 — *Unknown Votes*

The act establishes a procedure for assigning "unknown votes" (i.e., votes cross-endorsed candidates receive when electors vote for them under more than one party designation for the same office). For each cross-endorsed candidate, the head moderator must (1) determine how many unknown votes the candidate received, (2) determine what percentage of his or her known votes was received under each endorsing party, and (3) attribute the unknown votes to each endorsing party based on this percentage. (For example, if a candidate receives 70 votes under Party X and 30 votes under Party Y, 70% of his or her unknown votes goes to Party X and 30% to Party Y.)

The act requires fractions to be rounded to the nearest whole number and specifies that endorsing parties receiving a percentage greater than zero must receive at least one vote, provided the remaining parties receive a proportional reduction in unknown votes if necessary. If any vote cannot be equally attributed, the act requires that it go to the endorsing party that received the most votes.

POLLING PLACES AND VOTING EQUIPMENT

§ 13 — *Transporting, Preparing, Repairing, and Maintaining Voting Tabulators*

Prior law prohibited candidates and their immediate family members from transporting, preparing, repairing, or maintaining a voting tabulator. The act extends this prohibition to a business entity of which a candidate or a

candidate's immediate family member is an owner, employee, director, officer, member, or limited or general partner.

§ 26 — *Ensuring Privacy*

The act codifies a voter privacy regulation. To prevent anyone from seeing how an elector votes, the act requires registrars of voters to ensure that each ballot clerk (1) offers each elector a privacy sleeve into which he or she can insert his or her ballot or (2) places a privacy sleeve in each voting booth.

§ 37 — *Compliance with the Help America Vote Act*

The act eliminates an obsolete provision requiring lever voting machines to be delivered to polling places by 6 p.m. the evening before an election. Instead, it requires each voting system, which the secretary of the state must have approved for use in an election, to be (1) delivered to the polling place no later than one hour before the polls open, (2) ready for use when it arrives there, and (3) tested and operable. The voting systems covered include those equipped for individuals with disabilities to comply with the Help America Vote Act (P. L. 107-252). The change to the delivery deadline applies also to furniture and appliances necessary for conducting the election.

VOTERS

§ 41 — *Voting Assistance*

By law, individuals may receive voting assistance from anyone other than their employer, employer's agent, or union representative. With one exception, the act adds candidates whose names appear on the ballot to those prohibited from providing such voting assistance. It allows a candidate to provide assistance if the elector making the request is an immediate family member. Under the act, "immediate family" means the candidate's spouse, child, parent, or dependent relative residing with the candidate.

§ 56 — *Permanent Absentee Ballot Status*

The act makes electors with permanent disabilities eligible for permanent absentee ballot status. Until they are removed from the permanent absentee ballot list pursuant to the act or from the town's official registry list, or request not to receive the ballots, they receive an absentee ballot application for each election, primary, and referendum in the municipality in which they are eligible to vote.

Eligibility. To be eligible for permanent absentee ballot status, electors must file an absentee ballot application together with a doctor's certificate stating

that they have a permanent disability and are unable to appear in person at their polling place.

Annual Notice to Determine Eligibility. The registrars of voters must send an annual written notice in January, on a form the secretary of the state prescribes, to determine if electors with this status continue to reside at the address on their permanent absentee ballot application. The registrars must:

1. remove electors from permanent absentee ballot status if they do not return the notice within 30 days or the notice is returned as undeliverable,
2. remove from the municipal registry list and send a voter registration application to electors who state that they have moved out of town, and
3. leave on permanent absentee ballot status and change the address of electors who indicate that they have moved within the same municipality.

Under the act, registrars cannot remove from the official municipal registry an elector who fails to return the notice.

§ 59 — *Online Voting System for Military Personnel*

Within available appropriations, the act requires the secretary of the state to recommend an online voting method for military personnel stationed out of state. The secretary must (1) look at what other states have done to reduce potential fraud and (2) determine whether any such system may be appropriate for Connecticut.

By January 1, 2012, the act requires the secretary to report to the Government Administration and Elections Committee on her progress in recommending the online system.

ELECTION OFFICIALS

§§ 17, 27, 30-32, 34, 40, 42-46, 53, 65, 68 & 69 — *Registrars of Voters*

The act transfers certain election-related duties from town clerks to registrars, generally conforming law to practice. For example, it requires registrars of voters, instead of town clerks, to (1) submit sample ballots to the secretary of the state for approval and provide them to each polling place and (2) provide ballots for an adjourned primary resulting from a tie vote. The act similarly requires the secretary to direct registrars, rather than town clerks, to cancel an adjourned primary when one of the candidates withdraws or become disqualified.

The act requires the secretary of the state to (1) send the explanatory text for proposed constitutional amendments to registrars, not just town clerks, and (2) send posters explaining these amendments to registrars,

rather than clerks. It also makes registrars responsible for displaying the posters at polling places and other required locations.

The act eliminates a requirement that registrars who are at the polling place during polling hours (1) be available by telephone and notify all registrars of voters' offices in the state of their phone number, (2) be connected to the CVRS, and (3) have all voter-card files in the polling place for reference. It instead specifies that either the registrars or their designees must be in their office.

Two per Town. Beginning January 9, 2013, the act eliminates the authority of legislative bodies in towns with two voting districts to elect two registrars of voters per district, thus capping at two the number of registrars in each municipality under most circumstances.

The act retains existing law's provision that permits the election of more than two registrars per municipality if the top two vote-getters are not major party candidates. By law, the two candidates for registrar receiving the most votes are elected. If a major party candidate is not one of them, he or she is also elected. This means a municipality could have up to four registrars of voters if both of the top two vote-getters are minor party or petitioning candidates. For purposes of selecting registrars of voters, a "major party" is one with the largest or next largest number of enrolled members in the state, according to the latest enrollment list that the secretary of the state maintains.

Until January 9, 2013, in any municipality divided into two voting districts:

1. registrars of voters must continue to hold voter registration sessions in each district, as required by law;
2. registrars or assistant registrars must remove an elector's name from the enrollment list when he or she moves between the municipality's districts and report it to the registrar or assistant registrar of the same political party representing the new district so that they may add it to their list;
3. registrars of voters in the first district must submit to the secretary of the state the total number of electors added to and removed from the registry list; and
4. registrars in each district may appoint unofficial checkers.

The act makes a conforming change by eliminating the provision under which such municipalities must compensate only two registrars of opposite political parties, even if they have more, for the two training conferences they attend per year.

§ 17, 47 & 52— *Poll Workers*

The act allows a municipality with one voting district to hire poll workers who reside outside the district, as long as they are state electors. Municipalities with more than one voting district already have this option.

The law permits registrars of voters to replace certain poll workers whom they find to be incompetent. With respect to registrars' replacement authority, the act (1) extends it to allow for the replacement of assistant registrars and ballot clerks; (2) eliminates it with respect to challengers; and (3) maintains it for moderators, tabulator tenders, and official checkers.

Finally, for presidential preference primaries held at the same time, the act removes the requirement that polling place moderators be enrolled in one of the parties holding the primary, thus allowing registrars to appoint unaffiliated moderators if they jointly agree. Existing law, unchanged by the act, requires head moderators for presidential preference primaries to be enrolled members of one of the parties in the primary.

§ 36 — *Unofficial Checkers*

The act lifts the in-town residency requirement for certain unofficial checkers. Prior law required unofficial checkers for groups of three or more candidates whom the same minor party nominated to be electors of the town. Under the act, they need only be state electors.

POST-PRIMARY AND -ELECTION PROCEDURES

§§ 10 & 11 — *Counting Absentee Ballots*

The act eliminates the requirement that absentee ballots be counted at specified times throughout the day of a primary, election, or referendum (i.e., 12 p.m., 6 p.m., and at the close of the polls). It instead permits these ballots to be counted once during the day and authorizes registrars to designate the time when absentee ballot counters must arrive at each polling place or central counting location, whichever applies.

Existing law, unchanged by the act, requires town clerks to deliver absentee ballots to registrars for checking at specified times throughout the day of a primary, election, or referendum.

§ 52 — *Transmitting Presidential Primary Returns Electronically*

The act conforms the process for submitting presidential primary returns to the process for submitting election returns. Specifically, it gives moderators the option of electronically transmitting their presidential preference primary returns to the secretary of the state provided they send them no later

than 11:59 p.m. on the day of the primary or mail or hand deliver a copy no later than 2 p.m. the day after the primary.

Under prior law, moderators could only hand deliver their returns to the secretary or state police (for delivery to the secretary) by 2 p.m. on the day after a primary.

§ 21 — *Recanvass Procedures*

By law, election officials must recanvass an election when there is a discrepancy, close vote, or tie. The act establishes a deadline by which moderators must notify the town committee chairperson and, in a state election, the secretary of the state, of a recanvass: 24 hours after determining one is needed.

The act eliminates the requirement for town clerks to serve as recanvass officials and transfers most of their responsibilities concerning recanvasses to registrars of voters, including maintaining possession of the voting tabulator keys. It also authorizes (1) the moderator to use as many other recanvass officials as necessary, in addition to the checkers, absentee ballot counters, and registrars who serve under existing law and (2) town committee chairs to send any number of representatives, not just two, to witness a recanvass.

§ 55 — CAMPAIGN FINANCE

The law imposes a ban on lobbyist contributions to committees associated with candidates for statewide or legislative office while the General Assembly is in session. Prior law banned a PAC established by two or more individuals from accepting lobbyist contributions during session unless the PAC filed a certification with the SEEC demonstrating that it was not (1) established for an assembly or senatorial district; (2) established by or in consultation with a state officer, member of the General Assembly, or their agent; or (3) controlled by such a member, officer, or agent.

The act (1) extends the sessional ban to PACs established for ongoing political purposes associated with candidates for legislative or statewide offices and (2) removes the certification requirement. It instead prohibits a PAC established by two or more individuals or for ongoing political purposes from accepting lobbyist contributions during the legislative session unless, by November 15, 2012, it files a registration statement with the SEEC. By law, campaign treasurers must file these registration statements within 10 days of the PAC's organization and include in it information on the PAC's purpose and who established or will control it.

Under the act, the SEEC must evaluate existing registration statements, rather than the separate certification forms, to determine whether a PAC

established by two or more individuals or for ongoing political purposes is subject to the sessional ban on lobbyist contributions. The act requires these PACs to submit a registration statement by November 15 of each even-numbered year, even if the information stays the same. In the absence of a biennial registration, the PAC is subject to the sessional ban.

BACKGROUND

Ballot Form and Layout

According to the Office of the Secretary of the State, it is the general practice to print regular ballots on white paper and absentee ballots on yellow paper. If there is a mistake on a ballot and it requires reprinting, the reprint will usually be on a different color paper. In addition, the office sometimes prints demonstration ballots in red ink.

Machine Mechanics and Technicians

The optical scan voting tabulator self-tests before it is used. If a tabulator jams or otherwise malfunctions, the tabulator tender notifies the appropriate election official, who replaces it (Conn. Agencies Reg. §§ 9-242a-9 and -16). Voting tabulator technicians, formerly machine mechanics, do not repair the machines and, in practice, towns generally do not have the position.

PA 11-208—HB 6514

Government Administration and Elections Committee

AN ACT CONCERNING THE LEGISLATIVE INTERN PROGRAM

SUMMARY: This act makes several changes to the statutes governing the legislative intern program to reflect its current operation. It provides that the cochairpersons of the internship committee be appointed by (1) either the House speaker or minority leader, as appropriate, and (2) either the Senate president pro tempore or minority leader, as appropriate, and not by the committee members themselves. By law, the committee's cochairpersons (1) may not be from the same party and (2) must be from alternate parties in the respective houses in each successive term.

With respect to interns' service, the act specifies that they (1) are only assigned to legislators, not to legislative committees or agencies, and (2) serve during the spring semester for the duration of the regular session or any subsequent special sessions and not for a nine- to 12-month term as under prior law.

Lastly, the act specifies that the internship committee report on the program's operation to each house of the General Assembly annually, rather than

biennially, before the last day of each regular session. Under prior law, the committee reported to the legislature on or before January 2 of odd-numbered years. The act also eliminates a requirement that the committee appoint a secretary from either the legislative department or the state library.

EFFECTIVE DATE: July 1, 2011

PA 11-220—SB 38

*Government Administration and Elections Committee
Judiciary Committee*

AN ACT CONCERNING ACCESS TO INFORMATION CONCERNING THE DIVISION OF PUBLIC DEFENDER SERVICES AND SECRET BALLOTS OF VOLUNTEER FIRE DEPARTMENTS UNDER THE FREEDOM OF INFORMATION ACT

SUMMARY: This act exempts from disclosure under the Freedom of Information Act (FOIA) personnel, medical, or similar files of current or former employees of the Division of Public Defender Services to people in the custody or supervision of the Department of Correction (DOC) or confined in a facility of the Whiting Forensic Division of Connecticut Valley Hospital. The exemption includes records of the division's (1) security investigations of such employees and (2) investigations of discrimination complaints by or against the employees.

The act also requires public agencies to waive any fees for providing records requested under FOIA if the requestor (1) is a member of the Division of Public Defender Services or court-appointed special assistant public defender and (2) certifies that the records pertain to his or her duties. It specifies that, for purposes of FOIA, the Division of Public Defender Services is considered a judicial office. By law, a judicial office is subject to FOIA only with respect to its administrative functions.

Lastly, the act specifically exempts from disclosure under FOIA secret ballots used for volunteer fire department officer elections.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Disclosure of Personnel, Medical, or Similar Files

By law, unless specifically exempted, personnel, medical, and similar files are subject to disclosure under FOIA unless disclosure would constitute an invasion of personal privacy (CGS § 1-210(b)(2)). Under case law, disclosing these files is an invasion of privacy if the (1) records are not of legitimate public concern and (2)

information in the files would be highly offensive to a reasonable person (*Perkins v. FOIC*, 228 Conn. 158 (1993)).

Administrative Functions

In *Clerk of the Superior Court, Geographical Area Number Seven et al. v. Freedom of Information Commission*, 278 Conn. 28 (2006), the Connecticut Supreme Court ruled that, for purposes of FOIA, a judicial office's administrative functions consist of activities relating to its budget, personnel, facilities, and physical operations.

PA 11-229—sSB 882

*Government Administration and Elections Committee
Judiciary Committee
Labor and Public Employees Committee*

AN ACT CONCERNING THE STATE SET-ASIDE PROGRAM, FILING REQUIREMENTS OF STATE CONTRACTORS, EVALUATION OF CONTRACTORS AND SUBCONTRACTORS AND A PROGRAM TO INCREASE CONTRACTS AWARDED TO RESIDENT BIDDERS

SUMMARY: This act makes several changes to state contracting laws. It generally eliminates requirements for contractors and bidders to affirm that they are in compliance with state ethics laws each time they enter into a state contract. Instead, the act generally requires contractors to provide these affirmations only when there is a change to the information contained in previously filed affirmations. It also allows the affirmations to be provided electronically. State ethics laws covered by the affirmations include gift bans, anti-discrimination laws, and laws banning collusion.

Additionally, the act:

1. eliminates the requirement that a prequalification applicant's financial statements be prepared by a certified public accountant (CPA) if the applicant is being assisted by a certified community development financial institution;
2. potentially allows more people and businesses to qualify for the state set-aside program;
3. extends liability protections for people who complete evaluations of contractors or subcontractors;
4. requires the Department of Administrative Services (DAS) to submit a report on in-state contracting and develop and implement a program to increase the number of state contracts awarded to in-state firms; and
5. repeals an obsolete statute.

EFFECTIVE DATE: October 1, 2011, except for the DAS report and the repeal of the obsolete statute, which are effective upon passage.

§§ 1-5 & 10 — CONTRACTOR AFFIRMATIONS AND CERTIFICATIONS

The act changes the frequency for filing certain affirmations with state contracting agencies or quasi-public agencies. Under prior law, contractors and bidders had to file them each time they entered into a state contract. Such affirmations concern (1) state ethics laws, (2) gifts, (3) nondiscrimination policies, and (4) consulting agreements. Contractors had to provide the appropriate affirmations to be awarded state contracts.

The act generally requires contractors to file these affirmations only when the information contained in previously filed affirmations has changed. If there is a change, the contractor must file the updated information (1) within 30 days of the change or (2) upon the submittal of a new bid or proposal (for anti-discrimination affidavits it is upon the execution of a new contract), whichever is earlier.

The act also requires the gift and anti-discrimination affirmations to be resubmitted no later than 14 days after the 12-month anniversary of the most recent submission.

§ 1 — Ethics

By law, contractors and bidders for large state construction or procurement contracts (i.e., those costing more than \$500,000) must affirm (1) their receipt of a summary of state ethics laws and (2) that key personnel have read and understand the summary and agree to comply with the ethics laws. Large state construction or procurement contractors must obtain these affirmations from their subcontractors and consultants and provide them to the state contracting agency.

The act requires contractors to file such affirmations only when there is a change to the information contained in previously filed affirmations. Presumably, the contractor would have to report changes if key personnel are hired and they refuse to read or agree to comply with state ethics laws.

For subcontractors and consultants, the act specifies that the contractor must (1) obtain the affirmations before entering into a contract with the subcontractors and consultants, (2) provide them to state institutions and quasi-public agencies in addition to state agencies, and (3) provide them no later than 15 days after the request by the agency, institution, or quasi-public agency.

§ 2 — *Gifts*

In addition to the changes regarding the frequency with which affirmations are filed, the act broadens the scope of and changes the law requiring contractors, in order to be awarded a large contract with a state agency, to certify that they have not made gifts to the awarding agency.

Under prior law, the recipient of a large state contract had to certify that no gifts were given between the date the agency began planning the contract and the date it was executed to (1) any public official or state employee who participated substantially in preparing the bid or request for proposal or negotiating or awarding the contract or (2) any official or employee of any agency that supervises or makes appointments to the contracting agency. The certification covered the person; business; or any officer, director, shareholder, member, partner, managerial employee of the business or their agent who participated substantially in preparing the bid or contract proposal or negotiating the contract.

By law, any bidder or proposer who does not make these or related certifications must be disqualified and the agency must either (1) award the contract to the next-highest-ranked proposer or the next-lowest responsible qualified bidder or (2) seek new bids or proposals.

The act:

1. allows any official of the firm authorized to sign state contracts to make the certification, rather than just the one authorized to sign the specific large contract;
2. expands the scope of the gift ban in the certification, requiring all personnel substantially involved in preparing bids or proposals or negotiating any state contracts to certify that they have not given gifts, at any time, to state contracting personnel or their supervisors; and
3. requires contractors to generally certify that all of their bids or proposals are without fraud or collusion, instead of just the present bid or proposal.

Under prior law, the person authorized to execute a large state contract for a state or quasi-public agency had to certify that the selection process was devoid of collusion, gifts (either promised or received), compensation, fraud, or inappropriate influence. The act allows any official or employee of the agency authorized to sign state contracts (including those valued at less than \$500,000) to make this certification. It also eliminates a requirement for bid specifications or requests for proposals to include the beginning date of the project's planning.

§§ 3, 4 — *Anti-discrimination*

By law, all contractors with state or municipal contracts must file a representation and documentation that they comply with state anti-discrimination laws. The act eliminates a requirement to file such information for each new contract and instead requires contractors to update the information within 30 days after any change or upon the execution of a new contract, whichever is earlier. Additionally, the act requires the affirmations to be resubmitted no later than 14 days after the 12-month anniversary of the most recent submission. It specifically prohibits the state or a political subdivision from awarding a contract unless the contractor has provided the representation and documentation.

§ 5 — *Consulting*

The act broadens the scope of the law that requires agencies, in certain cases, to obtain an affidavit regarding the use of consultants before awarding a contract to purchase goods or services worth \$50,000 or more in a calendar or fiscal year. Under prior law, the chief official of the bidder awarded the contract had to submit an affidavit on whether any consulting agreements had been entered into in connection with the contract. The act (1) allows any principal or key person (and not just the chief official) to submit the affidavit; (2) extends the requirement to apply to all bidders, not just those awarded the contract; (3) requires the bidder to attest to whether it has ever entered a consulting agreement on any state contract for the purchase of goods or services worth \$50,000 or more; and (4) eliminates the requirement that the affidavit be written.

Under prior law, the affidavit had to indicate whether the consultant's duties included any direct or indirect communication concerning the business of the contracting agency. The act extends the scope of the affidavit to include communications concerning the business of any state agency, not just the contracting agency.

§ 6 — *PREQUALIFICATION APPLICATION*

By law, with certain exceptions, contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition of a public building or other public work estimated to cost more than \$500,000 must be awarded through competitive bidding to the lowest responsible prequalified bidder. The act eliminates the requirement that a prequalification applicant's financial statements be prepared by a CPA if the applicant is being assisted by a certified community development financial institution. Instead, the act requires such applicants to provide only the financial documents required by the institution to qualify for the program. It

also eliminates a requirement that the financial statements contain information on the applicant's plant and equipment and bank and credit references.

The act defines a "certified community development financial institution" as a community development bank, credit union, or loan or venture capital fund that (1) provides financial products and services in economically distressed markets and (2) is certified by the U.S. Department of the Treasury's Certified Development Financial Institution Fund.

The act also specifies that each applicant must provide a bonding company letter that states its aggregate work capacity and single project limit bonding capacity. Under prior law, the bonding company statement and maximum bonding capacity were included in the applicant's financial statements.

§ 7 — SET-ASIDE PROGRAM

By law, state agencies and political subdivisions, other than municipalities, must set aside 25% of the total value of all contracts they let for construction, goods, and services each year for certified small contractors. The agencies must further set aside 25% of the set-aside value (6.25% of the total) for exclusive bidding by certified small minority-owned businesses.

The act potentially expands the people and businesses that may be certified as small businesses by eliminating the requirement that (1) a small contractor do business under the same ownership or management for a year before it is certified and (2) at least 51% of a small contractor's ownership is held by someone with authority over daily operations, management, and policies and who receives beneficial interests. It eliminates the requirement that DAS maintain a pre-certification list of small contractors that do not meet the one-year requirement for certification since the act eliminates the need for the list.

The act prohibits a small contractor from receiving certification if it is affiliated with another person and together their revenues exceed \$15 million. By law, "affiliated" means one person, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person. "Control" means having the power to direct or cause the direction of any person's management and policies, whether through the ownership of voting securities, by contract, or through any other direct or indirect means. Control is presumed to exist if a person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing, 20% or more of the voting securities of another person.

§ 8 — CONTRACTOR EVALUATIONS

By law, public agencies must, after completing a contract, evaluate the performance of contractors and, to the extent known, subcontractors. Political subdivisions may rely on the contractor's evaluation of subcontractors. Existing law protects public agencies and their employees and certifying officials from losses or injuries a contractor suffers as a result of the evaluation unless they acted willfully, wantonly, or recklessly.

The act extends this protection to any person, not just government officials, for any loss or injury sustained by a contractor or subcontractor resulting from the evaluation, thus protecting contractors who complete evaluations of subcontractors.

§ 9 — RESIDENT BIDDERS

Report

The act requires the DAS commissioner, by January 1, 2012, to submit a report on the use of resident bidders to the governor and Labor Committee. The report must (1) analyze any laws or economic factors that disadvantage resident bidders in submitting the lowest responsible qualified bid (presumably for a state contract), (2) determine why any laws intended to give preference to state citizens for employment on public works projects are not being enforced, and (3) recommend administrative or legislative action to increase the number of state contracts awarded to resident bidders. Such recommendations must be within the confines of the U.S. Constitution's Commerce Clause (Article 1, Section 8, Clause 3). The commissioner must consult with the transportation, public works, and labor commissioners and the UConn president, or their designees.

Program

By July 1, 2012, DAS must consider the report's findings and develop and implement a program to increase the number of state contracts awarded to resident bidders. The program may include preferences for in-state firms but must not violate the Commerce Clause.

HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT COMMITTEE

329

PA 11-43—sHB 6390

Higher Education and Employment Advancement Committee

AN ACT CONCERNING ACCESS TO POSTSECONDARY EDUCATION

SUMMARY: This act extends in-state tuition benefits to post-secondary students, including those without legal immigration status, who reside in Connecticut and meet certain criteria. By law, with limited exceptions, eligibility for in-state tuition is based on an applicant's domicile, that is, his or her "true, fixed and permanent home" and the place where he or she intends to remain and return to when he or she leaves.

Under the act, a person, except a nonimmigrant alien (someone with a visa permitting temporary entrance to the country for a specific purpose), qualifies for in-state tuition if he or she:

1. resides in Connecticut;
2. attended any educational institution in the state and completed at least four years of high school here;
3. graduated from a high school or the equivalent in Connecticut; and
4. is registered as an entering student, or is currently a student at, UConn, a Connecticut State University, a community-technical college, or Charter Oak State College.

By law, "resides" means continuous and permanent physical presence within the state. Residence is not affected by temporary absence for short periods of time.

People without legal immigration status who meet the above criteria must file an affidavit with the college stating that they have applied to legalize their immigration status or will do so as soon as they are eligible to apply. (Currently, such persons who apply for student visas or lawful permanent resident status are subject to deportation under federal law. Thus, they are not eligible to apply to legalize their status unless federal law is changed to allow them to do so.) Under federal law, an alien not lawfully present in the U.S. is eligible for certain state and local public benefits, including postsecondary education benefits, only through the enactment of a state law that affirmatively provides for such eligibility (8 USC § 1621(d)).

EFFECTIVE DATE: July 1, 2011

PA 11-54—sSB 927

*Higher Education and Employment Advancement Committee
Education Committee
Appropriations Committee*

AN ACT CONCERNING REQUIREMENTS FOR EARLY CHILDHOOD EDUCATORS

SUMMARY: This act makes several changes to the required qualifications for early childhood educators. It modifies the (1) staff qualification requirements that are in effect until July 1, 2015 and (2) criteria for eligible degree programs and certifications. It specifies that, on and after July 1, 2015, the staff qualification requirements apply to all preschool programs accepting state funds, including school readiness or childcare services funds and funds from the Department of Social Services (DSS).

The act also, with certain exceptions, delays, from July 1, 2015 until July 1, 2020, the requirement that programs have a person in each classroom with a teaching certificate or bachelor's degree in certain fields. It instead requires (1) at least 50% of early childhood educators with primary responsibility for a classroom to meet this requirement by July 1, 2015 and (2) the remaining individuals to have an associate's degree. It requires the Department of Higher Education (DHE) to develop a plan to meet these requirements.

The act specifically allows up to \$500,000 in unexpended school readiness funds each fiscal year to be used in the subsequent fiscal year to help early childhood education programs' staff members meet the degree requirements. It allows staff members to receive up to \$5,000 per year for this purpose.

EFFECTIVE DATE: July 1, 2011

STAFF QUALIFICATIONS

Requirements until July 1, 2015

Until July 1, 2015, prior law required each school readiness classroom to have an individual with a (1) credential, associate's degree, or bachelor's degree that included 12 credits or more in early childhood education or child development or (2) a teaching certificate with an endorsement in early childhood education or special education. The credentialing organization had to be approved by the education commissioner, and the early childhood education or childhood development credits had to be from an institution accredited by the Board of Governors of Higher Education (BGHE) or regionally accredited.

The act specifies that the (1) credential must be a childhood development associate credential or equivalent and (2) early childhood education or child development credits must be determined by the DHE commissioner, in consultation with the education and social services commissioners.

Requirements from July 1, 2015 to June 30, 2020

Under prior law, after July 1, 2015, each school readiness classroom had to have an individual who has (1) a bachelor's degree from an institution accredited by BGHE or regionally accredited in early childhood education, childhood development, or a related field approved by the education commissioner or (2) a teaching certificate with an endorsement in early childhood or special education.

The act instead requires, from July 1, 2015 to June 30, 2020, that 50% of individuals with primary responsibility for a classroom of children meet the above requirement. Early childhood educators who do not meet this requirement must hold an associate's degree in an eligible field.

The act also (1) extends this requirement to cover all early childhood education programs accepting state funds, including school readiness or childcare services funds and DSS funds, and (2) specifies that everyone with primary responsibility for a classroom with children must meet the requirement. Prior law required only one such individual to be in the classroom.

In addition, the act:

1. eliminates the ability to meet the degree requirement by attending a regionally accredited institution (i.e., one that is out-of-state);
2. specifies that early childhood special education (rather than special education) is a qualifying endorsement for a teaching certificate;
3. specifies that eligible degree programs and concentrations are early childhood education, child study, child development, or human growth and development; and
4. requires the programs to be approved by the Department of Education (SDE) and DHE.

Requirements Beginning July 1, 2020

Effective July 1, 2020, the act requires that all, rather than only 50%, of the individuals with primary responsibility for a classroom of children meet the requirement to have a bachelor's degree or teaching certificate.

Exceptions

The act exempts from the requirements taking effect on July 1, 2015 and July 1, 2020 individuals who (1) hold a bachelor's degree and are employed as teachers on or before June 30, 2015 by an early childhood education program accepting state funds and (2) meet the qualification requirements that are in effect until June 30, 2015. It prohibits early childhood education programs from terminating such individuals from employment to meet the staff qualification requirements that take effect on July 1, 2015 and July 1, 2020.

Additionally, if an individual has a bachelor's degree in a field other than early childhood education, child study, child development, or human growth and development, the act allows him or her to apply to SDE to determine whether the degree has a sufficient concentration in early childhood education to meet the requirements for early childhood educators.

Plan Required

The act requires DHE to develop a plan to meet the bachelor's degree and teaching certificate requirements, including strategies for retaining individuals who do not meet them. It must consult with SDE; DSS; the Office of Workforce Competitiveness; and representatives from (1) public and independent institutions of higher education in Connecticut, (2) early childhood education programs accepting school readiness funds, and (3) any other group or organization DHE deems appropriate.

DHE must submit the plan by February 1, 2012 to the Education and Higher Education committees. From 2013 to 2015, it must submit annual reports on the plan's implementation (by February 1 each year) to the committees.

SCHOOL READINESS FUNDS

By law, the education commissioner may use unexpended school readiness funds for several purposes, including professional development for school readiness staff. The act specifically allows up to \$500,000 in unexpended school readiness funds each fiscal year to be used in the subsequent fiscal year to help early childhood education programs' staff members meet the act's qualification requirements. It allows staff members to receive up to \$5,000 in assistance per year for courses leading to a bachelor's degree or, before December 31, 2013, an associate's degree in the fields listed above up to the extent of their financial need. Staff members must (1) have first applied for all available federal and state scholarships and grants and (2) attend an in-state public or a Connecticut-based for-profit or nonprofit institution of higher education.

Under the act, FY 13 is the first year that unexpended funds may be used for this purpose. The SDE commissioner, in consultation with the DHE commissioner, must determine how the unexpended funds are distributed, and local school readiness programs must apply for unexpended funds in their school readiness grant application.

PA 11-70—sSB 858

Higher Education and Employment Advancement Committee

AN ACT CONCERNING THE KIRKLYN M. KERR PROGRAM, A STRATEGIC PLAN FOR HIGHER EDUCATION, CHEFA, THE TRACKING OF UNIQUE IDENTIFIERS BY INSTITUTIONS OF HIGHER EDUCATION AND TECHNICAL REVISIONS TO THE HIGHER EDUCATION STATUTES

SUMMARY: This act (1) modifies the requirements of the strategic master plan for higher education required by existing law; (2) renames the Blue Ribbon Commission originally formed to develop and implement the plan as the Planning Commission for Higher Education; (3) specifies that the commission must develop the plan and ensure its implementation, rather than develop and implement it as under prior law; and (4) restates and expands some existing plan requirements while eliminating others.

Additionally, the act eliminates the repayment requirements of the Department of Higher Education's (DHE) Kirklyn M. Kerr veterinary medicine grant program for in-state residents enrolled in an accredited veterinary graduate school. Under prior law, a student in the program had to either work as a veterinarian in Connecticut for a five-year period beginning no later than six months after graduation or repay some or all of his or her award. The act also eliminates the statutory grant limits, which were up to \$20,000 per year and \$80,000 for a four-year period.

The act allows the Connecticut Health and Educational Facilities Authority (CHEFA) to issue bonds, notes, or other obligations that may be eligible for (1) tax credits or exemptions or payments from the federal government or (2) any other desired federal income tax treatment.

The act also requires the Department of Education to require school districts to include unique identifiers or state-assigned student identifiers on student transcripts. Under existing law, such identifiers are assigned to all students tracked by the Early Childhood Information System. The act requires DHE to require public and independent higher education institutions receiving state funding to track such identifiers for all in-state students enrolled at the institution until the

student graduates or is no longer enrolled.

Lastly, the act makes technical changes to the higher education statutes.

EFFECTIVE DATE: (1) Upon passage for the provisions concerning the strategic plan and CHEFA bonds, (2) July 1, 2011 for the Kerr program, (3) August 31, 2011 for the unique identifiers, and (4) October 1, 2011 for the technical changes.

STRATEGIC MASTER PLAN REQUIREMENTS

The act restates existing requirements in the strategic master plan concerning degree attainment, the number of people entering the workforce, and the achievement gap. It requires the plan to establish numerical goals for 2015 and 2020 that (1) eliminate the postsecondary achievement gap between minority students and the general student population and (2) increase the number of people who (a) earn a bachelor degree, associate degree, or certificate; (b) complete coursework at community colleges; and (c) enter the state's workforce. The plan must also provide specific strategies for meeting these goals and consider the impact of education trends on higher education in Connecticut.

The act expands the existing requirement for the commission to examine higher education funding policies. It requires the commission to examine and make recommendations concerning:

1. the alignment of funding policies and practices with certain statutory goals, including an evaluation of the use of strategic and performance-based incentive funding, and
2. transparent and thorough annual reporting by the constituent units to the General Assembly and the public of their expenditures, staffing, state appropriation, personnel expenses and fringe benefits, capital improvement bonds, and state financial aid to students.

The act also allows the commission, when developing policies to measure retention and graduation rates, to consider graduation rates for students who transfer among constituent units or public higher education institutions.

The act eliminates a requirement for the strategic master plan to promote five overall goals for higher education in Connecticut. The goals relate to postsecondary access and opportunity, student achievement, economic competitiveness, and funding. Under the act, the strategic master plan addresses these issues without specifically promoting them as goals. The act also eliminates requirements for the plan to consider (1) the unique missions of each constituent unit and independent institution of higher education and (2) the report "New England 2020: A Forecast of Educational Attainment and its Implications for the

Workforce of New England States.”

Reporting Requirements

The act requires the commission to submit (1) a preliminary report on the development of the strategic master plan by January 1, 2012 and (2) the plan by October 1, 2012. It allows the commission periodically to suggest changes to the goals as necessary and eliminates its January 1, 2021 termination date and outdated and redundant reporting requirements.

Additionally, it requires (1) annual, rather than biennial, reports on the plan’s implementation and progress toward achieving the goals and (2) separate reports to the governor and legislature. Such reports must be submitted annually (1) beginning January 1, 2014, to various legislative committees and (2) beginning October 1, 2014, to the governor. Under prior law, a single report was submitted biennially.

PA 11-75—sSB 1152

*Higher Education and Employment Advancement Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING THE UNIVERSITY OF CONNECTICUT HEALTH CENTER

SUMMARY: This act increases previously authorized funding to construct a new bed tower and renovate academic, clinical, and research space at UConn’s John Dempsey Hospital (see BACKGROUND). It increases existing bond authorizations by \$254.9 million by (1) authorizing \$262.9 million in new bonding under the UConn 2000 infrastructure program and (2) reducing, by \$8 million, existing general obligation (GO) bond authorizations for UConn health network initiatives. It also requires the UConn Health Center (UCHC) to (1) contribute at least \$69 million from operations, special eligible gifts, or other sources toward the new construction and renovation project and (2) provide for the construction of a new ambulatory care center through private financing.

Additionally, the act eliminates a requirement that UConn obtain at least \$100 million in federal, private, or other nonstate money before the bonds are issued and construction commences. However, it retains a requirement that the State Bond Commission allocate the GO bonds for UConn health network initiatives before UConn may expend funds for new construction and renovation. It also extends, by six months, a notification date concerning the possible transfer of neonatal intensive care units (NICU) beds from John Dempsey Hospital (JDH) to the Connecticut Children’s Medical Center (CCMC). Lastly, the act makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

PROJECT AUTHORIZATIONS AND FUNDING SOURCES

The act increases existing bond authorizations by \$254.9 million by (1) authorizing \$262.9 million in new bonding under the UConn 2000 infrastructure program and (2) reducing, by \$8 million, existing GO bond authorizations for UConn health network initiatives (see Table 1).

Table 1: Changes to Existing Bond Authorizations

<i>Project</i>	<i>Description of funds</i>	<i>Prior Authorization (in millions)</i>	<i>Authorization Under the Act (in millions)</i>	<i>Change (in millions)</i>
UCHC Main Building Renovation	UConn 2000 bonds	\$50	\$125	\$75
UCHC New Construction and Renovation	UConn 2000 bonds	207	394.9	187.9
UConn health network initiatives	State GO bonds, outside of UConn 2000	30	22	(8)
TOTAL CHANGE				254.9

Bonding Conditions

Under prior law, the funding plan for the new construction and renovation at UCHC included the \$207 million in UConn 2000 bonds described above and an additional (1) \$25 million in UConn 2000 bonds for planning and design costs and (2) at least \$100 million in federal, private, or other nonstate money. The law also authorized \$30 million in state GO bonds to fund the UConn health network initiatives. The issuance of the \$207 million in UConn 2000 bonds for new construction and renovation and \$30 million in state GO bonds was contingent on UConn securing the nonstate money.

The act eliminates requirements that (1) the \$100 million in nonstate money be secured before issuing both the UConn 2000 and the GO bonds and (2) UCHC follow the specific funding plan described above. It retains a requirement that the State Bond Commission allocate the GO bonds for UConn health network initiatives before UConn may expend funds for new construction and renovation. The act also removes a

provision that made a \$3 million bond authorization to the Department of Public Health for enhancements to the accessibility and efficiency of health care services in Hartford contingent on securing the \$100 million in nonstate money.

Additionally, the act requires UCHC to contribute at least \$69 million from operations, special eligible gifts, or other sources toward the new construction and renovation project, but this contribution is not a prerequisite for issuing the bonds.

UConn 2000 Bonds

To conform to the increased bond authorizations, the act adjusts the annual bond limit caps for the UConn 2000 infrastructure program for FY 14 through FY 17 as shown in Table 2. 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 2: 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>
2014	\$140.0	\$198.0	\$58.0
2015	128.5	208.5	80.0
2016	119.5	199.5	80.0
2017	116.0	160.9	44.9
TOTAL CHANGE			262.9

New Ambulatory Care Center

The act directs UCHC to provide for the construction of a new ambulatory care center through debt or equity financing obtained from one or more private developers who contract with UConn to build the center.

UConn Health Center Network Initiatives

Under prior law, the UConn health network initiatives included eight projects, listed in Table 3. The act eliminates two of these projects, the Connecticut Institute for Nursing Excellence and the institute for clinical and translational science, along with \$8 million in related bond funding. It specifies that \$5 million is allocated for the comprehensive cancer center and the UConn-sponsored health disparities institute.

Table 3: Changes to UConn Health Network Initiative Projects

<i>Project</i>	<i>Prior Bond Authorization (in millions)</i>	<i>Authorization Under the Act (in millions)</i>
Simulation and conference center on the Hartford Hospital Campus	\$5	\$5
Primary care institute at St. Francis Hospital and Medical Center	5	5
Institute for clinical and translational science at UCHC	10	0
Comprehensive cancer center		5
UConn-sponsored Health disparities institute		
Hospital of Central Connecticut improvements	5	5
Institute for nursing excellence at the UConn School of Nursing	3	0
Bristol Hospital patient room renovations	2	2
TOTAL	30	22

NEONATAL INTENSIVE CARE UNIT BED TRANSFER

Existing law establishes provisions for transferring, from JDH to CCMC, licensure and control of 40 NICU beds. The act extends, from December 30, 2010 to June 30, 2011, the time by which CCMC and JDH must notify the Office of Policy and Management secretary (1) jointly, of their intent to proceed with the NICU transfer or (2) jointly or individually, that they will not pursue the transfer.

BACKGROUND

PA 10-104

PA 10-104 provided funding, under certain conditions, for the (1) construction of a new bed tower

and renovation of academic, clinical, and research space at JDH and (2) development of regional health network initiatives.

The total cost was \$362 million. The act authorized the issuance of \$237 million in new state bonds of which \$207 million would be issued under the UConn 2000 infrastructure improvement program. It also reallocated \$25 million in existing UConn 2000 funds to pay for planning and design costs of the new JDH bed tower and required a contribution of \$100 million in federal, private, or other nonstate money. The act prohibited the \$237 million in new bonds from being issued and construction of the bed tower from commencing until the \$100 million was received. It established June 30, 2015 as the deadline for receiving the \$100 million.

“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 also established provisions for transferring, from JDH to CCMC, licensure and control of 40 NICU beds. It conferred the benefits of an enterprise zone on certain businesses in Hartford and parts of Bristol, Farmington, and New Britain, and it required UConn to report biennially on the progress of the health network initiatives and JDH construction and renovation.

PA 11-92—sHB 5415

Higher Education and Employment Advancement Committee

AN ACT REQUIRING FULL DISCLOSURE TO PROSPECTIVE ATHLETES BEING RECRUITED TO INSTITUTIONS OF HIGHER EDUCATION

SUMMARY: This act requires Connecticut colleges and universities with intercollegiate athletic programs to disclose certain information to recruited student athletes. Beginning January 1, 2012, any institution with an intercollegiate athletic program that recruits student athletes by soliciting them to apply to, enroll in, or attend the institution for the purpose of participating in intercollegiate athletics must (1) provide a hyperlink entitled “Student Athletes’ Right to Know” on the front page of its official athletics website and (2) include a direct link to its web page in any written materials regarding the athletic program provided to student athletes. The hyperlink must link to a web page that contains information regarding (1) athletic scholarships, (2) the renewal of and release from scholarships, and (3) sports-related medical expenses.

The act defines student athletes as individuals who attend an elementary, middle, or secondary school program of education or an institution of higher education and participate in any interscholastic athletic program in Connecticut, regardless of whether or not they receive a scholarship for doing so.

EFFECTIVE DATE: July 1, 2011

SCHOLARSHIP INFORMATION

With respect to athletic scholarships, the act requires the “Student Athletes’ Right to Know” website to include the:

1. institution’s most recent cost of attendance for the academic year and summer school session, as published by its financial aid office, and the amount the National Collegiate Athletic Association (NCAA) prohibits from being covered in a full scholarship (see BACKGROUND);
2. institution’s policy on providing scholarships for summer school sessions and whether they are proportional to those provided for the regular academic year;
3. full grant-in-aid scholarship payment received by all student athletes who live on campus during the academic year and off campus during summer school sessions; and
4. institution’s policy on signing more recruited student athletes than there are available scholarships and how that affects scholarship opportunities for recruited and current student athletes.

The website must also include information on NCAA rules regarding the National Letter of Intent (NLI), including that:

1. it is a binding agreement under which the institution agrees to provide athletics aid for one academic year in exchange for the prospective student athlete’s agreement to attend the institution for one academic year;
2. it must be accompanied by an institutional financial aid agreement; and
3. signing an NLI and not enrolling at the institution for a full academic year may subject a student athlete to specific penalties, including loss of a season of eligibility and a mandatory residence requirement.

The website must also state that, per NCAA rules, a verbal commitment is not binding on the student athlete or the institution.

Renewal and Release

The act requires the website to contain the institution’s policy regarding the renewal or nonrenewal

of athletic scholarships, specifically as it applies to (1) a temporary or permanent sports-related injury suffered by a student athlete in good standing, (2) a coaching change, and (3) athletic performance that is below expectations. The website must also contain the NCAA's policy regarding scholarship duration.

With respect to an athletic release, the website must include NCAA and institution policies on whether an institution may refuse to grant a release to a student athlete who wishes to transfer.

SPORTS-RELATED MEDICAL EXPENSES

The act requires the website to include the following information concerning sports-related medical expenses:

1. the NCAA's policy regarding whether athletic programs must pay for such expenses and the institution's policy concerning whether it will pay for such expenses, including deductibles, copayments, and coinsurance, or any expenses that exceed maximum insurance coverage limits;
2. the institution's policy on who must pay for required sports-related insurance premiums for student athletes without insurance coverage;
3. how long an institution will pay for sports-related medical expenses after a student athlete's athletic eligibility expires; and
4. whether an athletic program's medical policy covers services provided by a physician not associated with the program, including the provision of a second opinion for a sports-related injury.

BACKGROUND

Value of Full Scholarship

The NCAA defines a "full grant-in-aid" (i.e., a full scholarship) as financial aid that consists of tuition, fees, room, board, and required course-related books (NCAA Bylaw 15.02.5). It does not include other items that institutions typically use to calculate the cost of attendance, such as transportation and miscellaneous personal expenses. An institution may only provide financial aid to student-athletes for such expenses if the provision of aid is unrelated to athletic ability (NCAA Bylaw 15.1).

PA 11-133—sHB 6485

*Higher Education and Employment Advancement Committee
Government Administration and Elections Committee
Education Committee
Labor and Public Employees Committee*

AN ACT CONCERNING THE ALIGNMENT OF POSTSECONDARY EDUCATION AND EMPLOYMENT

SUMMARY: This act requires the Office of Workforce Competitiveness (OWC), every two years, to identify and report on the sectors or subsectors in which workforce shortages exist, the workforce skills needed in those sectors or subsectors, and which career pathways should be established. The OWC must (1) develop its report in consultation with the Connecticut Employment and Training Commission and the departments of Economic and Community Development, Education, Higher Education, and Labor and (2) submit the report to the Board of Governors of Higher Education.

The act also requires the Department of Education to electronically distribute information on teacher shortage areas for at least the previous five-year period. This information must be distributed annually, by March 1, to the president of every higher education institution in Connecticut that offers teacher preparation programs. By law, the education commissioner must annually, by December 1, determine subject and geographic areas in which teacher shortages exist and certify them to the Connecticut Housing Finance Authority.

EFFECTIVE DATE: July 1, 2011, except the provisions relating to the OWC are effective October 1, 2011.

PA 11-42—sHB 6462
Housing Committee

AN ACT ESTABLISHING A PRIORITY CATEGORY FOR THE RENTAL HOUSING REVOLVING LOAN FUND

SUMMARY: This act requires the Department of Economic and Community Development (DECD) commissioner to establish a priority category under the Rental Housing Revolving Loan Fund for low-interest loans made to owner-occupants of buildings with between two and four residential units, including the unit the owner occupies. By law, this fund provides low-interest loans to owners of eligible buildings in distressed municipalities for eligible costs.

Loans made under the act’s priority category may, at the commissioner’s discretion, include (1) interest-free loans; (2) deferred payment loans, due when the building is sold or transferred; and (3) forgivable loans under which the principal balance is reduced based on how long the owner occupies the building. Existing law, unchanged by the act, authorizes the commissioner to establish certain priorities under the fund for low cost loans, including the (1) type of repair, (2) building location, (3) owner’s ability to repay, and (4) extent to which repairs will extend a building’s life.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Rental Housing Revolving Loan Fund: Eligibility and Funding Sources

The Rental Housing Revolving Loan Fund provides building owners with low-interest loans to renovate and repair apartment buildings in distressed municipalities to (1) comply with the State Building Code or other state or municipal health codes or (2) otherwise make buildings suitable for tenants. To be eligible, a building must have no more than 20 residential units, and may include an owner-occupied unit.

The fund consists of (1) money the DECD commissioner may allocate from an affordable housing assistance program established in 2001, (2) money available to the commissioner or the revolving loan fund from other sources, (3) the fund’s investment earnings, (4) fund balances carried forward from prior years, and (5) loan payments.

Distressed Municipalities

Table 1 shows the distressed municipalities designated by DECD for 2010, the most recent year available.

Table 1: Distressed Municipalities — 2010

Ansonia	Meriden	Putnam
Bridgeport	Naugatuck	Sprague
Bristol	New Britain	Torrington
Brooklyn	New Haven	Waterbury
Derby	New London	West Haven
East Hartford	North Canaan	Winchester
Enfield	Norwich	Windham
Hartford	Plainfield	
Killingly	Plymouth	

PA 11-72—sSB 1076
Housing Committee

AN ACT CONCERNING RESIDENT PARTICIPATION IN THE REVITALIZATION OF PUBLIC HOUSING

SUMMARY: This act requires housing authorities planning to transform or dispose of property to involve their residents in these activities. Specifically, it requires a housing authority intending to undertake a major physical transformation or disposition of property it owns or operates to (1) notify residents of its intention as soon as practicable, (2) implement a resident participation plan, and (3) make reasonable efforts to enter into a signed agreement with any duly elected tenant organization.

“Signed agreement” means a resident participation plan that is signed by (1) the housing authority; (2) a duly elected and constituted tenant organization; (3) the developer undertaking the major physical transformation, if any; and (4) the entity that will own, lease, or control the property.

A housing authority that does not adopt and implement a resident participation plan is not eligible to apply to the Department of Economic and Community Development (DECD) or the Connecticut Housing Finance Authority (CHFA) for financial assistance for a property’s major physical transformation.

The act requires DECD and CHFA to fully consider giving preference, in a manner consistent with their procedures, to applications for financial assistance from authorities that have entered into a signed agreement.

EFFECTIVE DATE: October 1, 2011

DEFINITIONS

Under the act, “resident participation plan” means a written description of a specific and ongoing process to enable meaningful resident participation during the planning, implementation, and monitoring of major physical transformation or disposition activities, beginning with the earliest stages of concept and design.

“Major physical transformation” means any (1) renovation, rehabilitation, revitalization, or redevelopment of real property or a part of the property for which the estimated cost exceeds 50% of its estimated replacement value or (2) complete or partial demolition of real property resulting in the loss of one or more housing units. “Disposition” means a sale, lease, transfer, or other change in ownership or control.

RESIDENT PARTICIPATION PLAN

A housing authority must implement a resident participation plan after it notifies residents that it intends to undertake a major physical transformation or disposition of property it owns or manages. It must do so in conjunction with the residents and any duly elected and constituted tenant organization representing them. It must negotiate the plan’s provisions in good faith. If a duly elected and constituted tenant organization exists, the authority must make all reasonable efforts to enter into a signed agreement.

A resident participation plan must include certain provisions geared toward providing residents with information, and others geared toward engaging them in the process. Concerning information for residents, the plan must include:

1. notice to all residents explaining their rights to organize and participate in tenant organizations without interference from, or adverse action by, the authority;
2. a requirement that the authority give residents and tenant organizations information about other groups and organizations that may serve as a resource on matters such as housing policy and resident outreach, training, organizing, and legal rights; and
3. a provision requiring the authority to make all significant documents related to the major transformation or disposition activities, including copies of design plans and financial assistance applications, available for inspection by residents at a readily accessible location.

To engage tenants, the plan must include:

1. identification, if applicable, of opportunities for residents to participate in selection panels to choose development partners and consultants, provided residents do not comprise a majority of any selection panel;
2. provisions for regular and substantial involvement in its implementation by any representatives of any duly elected and constituted tenant organization;
3. provisions allowing the residents to include tenant advocates or other tenant assistance providers as participants; and

4. provisions assuring opportunities for resident involvement, advice, and recommendations concerning the major physical transformation or disposition activities.

A plan’s provisions assuring opportunities for resident involvement, advice, and recommendations may cover, where applicable, the following areas:

1. transformation or disposition activity details and the projected timeline;
2. the design of housing units, buildings, amenities, or common areas, including the number, size, and configuration of housing units;
3. architectural design and landscaping;
4. resident employment or the use of resident-owned businesses in transformation or disposition activities and in future property management operations;
5. future resident services, property management, security, or enrichment features affecting residents' quality of life;
6. the occupancy level that will be maintained before the major physical transformation or disposition activities;
7. new rent levels, affordability for current residents, and the duration of any affordability restrictions;
8. homeownership opportunities;
9. displacement of current residents, temporary and permanent relocation plans, and relocation benefits;
10. the number of housing units that will be lost due to transformation or disposition activities and any replacement plans;
11. plans, procedures, and qualifications for unit occupancy by current and new residents, including preferences, if any, for current residents; and
12. information on how the entity that will own, lease, or control the property is governed and how its governance may affect residents, including changes to grievance procedures and residents’ rights and opportunities to participate in management decisions.

PA 11-203—sHB 6461

Housing Committee

Planning and Development Committee

AN ACT CONCERNING THE SELECTION OF TENANT COMMISSIONERS

SUMMARY: This act:

1. increases, from five to seven, the maximum number of commissioners who may sit on

- municipal housing authority boards of commissioners under certain circumstances;
2. expands the types of tenants eligible to (a) participate in a tenant commissioner election or (b) serve on the housing authority’s board of commissioners;
 3. provides a mechanism for housing authority tenants to petition for a tenant commissioner election;
 4. establishes requirements for a housing authority’s recognized jurisdiction-wide tenant organization with the authority to select a tenant commissioner in the absence of an election petition;
 5. establishes procedures under which this organization selects a tenant commissioner; and
 6. allows tenant commissioners to vote to establish or revise rents.

Under the act, “tenant of the authority” means someone who receives housing assistance in a housing program that the authority directly administers (e.g., Section 8 recipients renting from private landlords), as well as someone who lives in housing that the authority owns or manages. The act removes a requirement under which tenants qualify for commissioner only if they currently live or previously lived in authority housing for at least one year.

The act also makes technical changes.
EFFECTIVE DATE: October 1, 2011

BOARD OF COMMISSIONERS MEMBERSHIP

By law, a housing authority in a municipality other than a town (e.g., a city) operating more than 3,000 units must have a five-member board of commissioners comprised of municipal residents and may have up to two additional members. At least two must be tenant members. Under prior law, a housing authority in a town or other municipality with 3,000 or fewer units had to have a five-member board comprised of municipal residents, including at least one tenant member.

The act authorizes boards of commissioners in towns or in cities operating 3,000 or fewer units to have two more members if, after a tenant commissioner is elected or selected under the act’s provisions, additional commissioners are necessary to achieve compliance with (1) federal rules specifying that a board must have at least one resident board member who directly receives federal assistance from the housing authority (i.e., no state assistance) or (2) state minority representation requirements (see BACKGROUND).

Table 1 shows the maximum number of commissioners in towns and other municipalities under prior law and the act; the appointing authority, if any; and the selection method.

Table 1: Board Membership under Prior Law and The Act

<i>Type of Municipality</i>	<i>Prior Law</i>	<i>The Act</i>
Towns	Governing body appoints five commissioners, including at least one tenant commissioner.	Governing body appoints up to five members and may appoint two more as necessary to achieve compliance with federal rules and state law. If the board has five members, at least one must be a tenant commissioner who may be elected. If the board has seven members, at least two must be tenant commissioners who may be elected.
Other municipalities where housing authority operates 3,000 or fewer units	Chief executive officer appoints five commissioners, including at least one tenant commissioner.	Chief executive officer appoints up to five members and may appoint two more as necessary to achieve compliance with federal rules and state law. If the board has five members, at least one must be a tenant commissioner who may be elected. If the board has seven members, at least two must be tenant commissioners who may be elected.
Other municipalities where housing authority operates more than 3,000 units	Chief executive officer must appoint five members and may appoint at least two additional members. At least two must be tenant commissioners.	Chief executive officer appoints up to five members and may appoint two more. At least two must be tenant commissioners who may be elected.

RECOGNIZED JURISDICTION-WIDE TENANT ORGANIZATION

The act codifies the process for recognizing a jurisdiction-wide tenant organization with the power to elect or select tenants for the board of commissioners. 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 explicitly allows tenants to establish a recognized jurisdiction-wide tenant organization. The housing authority must recognize a jurisdiction-wide tenant organization if it determines that (1) the governing board members were elected through a jurisdiction-wide election and (2) with one exception, it satisfies the U.S. Department of Housing and Urban Development (HUD) regulations for elected jurisdiction-wide resident councils (see BACKGROUND). The exception allows tenants who receive state or federal assistance, not just those who receive federal assistance, to vote for, and be, jurisdiction-wide tenant organization members.

TENANT COMMISSIONER SELECTION

Under prior law, the municipality's chief executive officer or governing body (i.e., appointing authority) appointed housing authority commissioners, including the tenant commissioners. In doing so, they had to consider for appointment tenant commissioners suggested by any existing tenant organization.

The act (1) provides a mechanism for tenants to petition for a tenant commissioner election and (2) requires an existing jurisdiction-wide tenant organization to select the tenant commissioner in the absence of such a petition. If these provisions are not used, then the appointing authority selects the appointee or appointees.

Notice of Upcoming Vacancy

The act requires a housing authority to notify its tenants and any existing tenant organizations no later than 60 days before a tenant commissioner (1) appointment or (2) term expiration, whichever is sooner. The notice must include information on how tenants may petition for an election.

Election by Housing Authority Tenants

The act allows tenants to petition for an election up to 30 days after the housing authority notice. Ten percent of the tenants or 75, whichever is less, must sign the petition.

At least 30 days before an election, the housing authority must provide written notice to all housing authority tenants. It must use its best efforts (in agreement with the recognized jurisdiction-wide tenant organization, to the extent practicable) to arrange for an impartial entity to administer the election. In the event of a dispute over election procedures or results, the act specifies that anyone may petition the entity administering the election for a resolution.

Selection by Recognized Jurisdiction-Wide Tenant Organization

If tenants do not petition for an election, the recognized jurisdiction-wide tenant organization, if any, must select the tenant commissioner according to its adopted by-laws. Among other things, the method may include (1) a fair election by authority tenants or (2) selection by the organization's governing board.

Selection by Appointing Authority

If a tenant commissioner is not elected or chosen under the act's provisions within 90 days after the housing authority notice, then the appointing authority must make the appointment by considering tenants that any tenant organization suggests, as under prior law.

TENANT COMMISSIONER QUALIFICATIONS AND AUTHORITY

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 rent the authority subsidized).

The act (1) extends eligibility to individuals who receive housing assistance from the authority but who never lived in authority-owned or -managed housing and (2) eliminates the length-of-residency requirement.

When a tenant commissioner is elected to a five-member board, in either a town or other municipality, the act authorizes the housing authority to set the qualifications for a second tenant commissioner to achieve compliance with (1) federal rules specifying that a board must have at least one resident board member who directly receives federal assistance from the housing authority (i.e., no state assistance) and (2) state minority representation requirements.

BACKGROUND

Minority Representation

The minority representation law restricts the number of members of one political party who can serve on certain state and municipal boards and commissions. Once candidates from the same political party fill the maximum allowable slots, the highest vote getters from any other party or parties, or unaffiliated candidates, fill the remaining positions. Table 2 provides the minority representation requirement.

Table 2: Minority Representation Requirement

<i>Total Board Membership</i>	<i>Maximum from One Party</i>
3	2
4	3
5	4
6	4
7	5
8	5
9	6
More than 9	Two-thirds of total membership

Federal Regulations

Direct Federal Assistance. Under federal regulations, the governing board of each public housing agency receiving federal assistance must have at least one eligible resident. An “eligible resident” is a person (1) who is directly assisted by a public housing agency, (2) whose name appears on the lease, and (3) who is age 18 or older.

Someone is “directly assisted” when he or she is a public housing resident or a recipient of housing assistance in the tenant-based Section 8 program. Direct assistance does not include any state-financed housing assistance or Section 8 project-based assistance (24 CFR 964.410 and 964.415).

Elected Jurisdiction-Wide Resident Councils. Under HUD regulations, resident councils must adhere to certain minimum standards regarding election procedures. Among other things, they must:

1. assure fair and frequent elections of resident council members (at least once every three years);
2. adopt and issue election and recall procedures in their by-laws;
3. include in their election procedures qualifications to run for office, frequency of elections, procedures for recall, and term limits if any; and
4. give residents at least 30 days notice for nomination and election.

A resident council must use an independent third-party to oversee an election or recall (24 CFR 964.105 and 964.130).

PA 11-18—sHB 6358
Human Services Committee

AN ACT CONCERNING THE CARE 4 KIDS STATUTES

SUMMARY: Existing law requires the Department of Social Services (DSS) to post a notice on its website and provide written notice to Care4Kids (the state’s subsidized day care program) families and providers when it closes the program to new applicants, adopts eligibility standards that make it more difficult to qualify, or changes program benefits.

The act requires DSS to also give notice, in the same manner and to the same entities, when it makes any other change to the program’s status or terms. As under existing law, DSS must give 30 days notice before the changes become effective.

The act also repeals a duplicative statute (CGS § 17b-749l).

EFFECTIVE DATE: Upon passage

PA 11-25—SB 851
Human Services Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE HUMAN SERVICES STATUTES

SUMMARY: This act makes technical changes to the human services statutes. It also makes a technical change clarifying that the public health commissioner (1) determines where a medical home pilot program takes place and (2) can solicit federal and private funds for the program.

EFFECTIVE DATE: October 1, 2011

PA 11-29—SB 1041
Human Services Committee
Public Safety and Security Committee

AN ACT REPEALING A STATUTE CONCERNING FEDERAL AID FOR EMERGENCY RELIEF

SUMMARY: This act repeals an obsolete law that designates the Department of Social Services as the state agency for administering or supervising the administration of federal financial aid for emergency relief. By law, the governor, through his emergency management agency (see BACKGROUND) is authorized to administer any federal emergency aid related to disasters.

The act also repeals other obsolete language.
EFFECTIVE DATE: Upon passage

BACKGROUND

Individuals and Households Program

By law, the governor can make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by disasters if there is no other insurance, or inadequate insurance, to cover any losses. This would apply only when the president, at the governor’s request, has declared a disaster in the state (CGS § 28-9d).

State Emergency Management Agency

Apparently since 2005, the Office of Emergency Management and Homeland Security (OEMHS) has administered federal financial aid for emergency relief. PA 11-51 eliminates OEMHS and creates the Department of Emergency Services and Public Protection as a successor agency to it. Presumably, the new agency will continue this function.

PA 11-93—sHB 5431
Human Services Committee
Education Committee
Appropriations Committee

AN ACT CONCERNING THE RESPONSE OF SCHOOL DISTRICTS AND THE DEPARTMENTS OF EDUCATION AND CHILDREN AND FAMILIES TO REPORTS OF CHILD ABUSE AND NEGLECT AND THE IDENTIFICATION OF FOSTER CHILDREN IN A SCHOOL DISTRICT

SUMMARY: This act expands the law governing the reporting and investigation of suspected child abuse and neglect, with particular focus on school employees who are the alleged perpetrators and the local or regional school district’s response.

The act expands the state’s “mandated reporter” law, which generally requires specified professionals to report to the Department of Children and Families (DCF) or local law enforcement when they suspect that children have been abused or neglected.

It requires:

1. DCF, in consultation with the State Department of Education (SDE), to craft a model mandated reporter policy for school boards to use to train school personnel;
2. the DCF commissioner to (a) offer a refresher reporter training program; (b) within available funding, provide training to all new school employees; and (c) develop a policy for

investigating the school's mandated reporters who either fail to report or report late; and

3. school boards to take certain steps to ensure that school districts offer reporter training.

The act also establishes additional steps to be followed when the alleged perpetrator of the abuse or neglect is a school employee, including notification of certain school personnel and SDE. It adds to the responsibilities school boards have when assisting DCF with investigations as well as performing their own, and requires DCF to do random quality assurance reviews of reports involving school employees.

The act makes several changes in the use of, and reporting to, the child abuse registry that DCF must maintain. It:

1. requires school boards to require applicants for any position in the public schools to submit to a registry check;
2. requires DCF to develop a plan to implement this requirement and submit it to the legislative committees of cognizance;
3. requires teachers, when first applying or renewing their state teaching certification, to submit to registry checks; and
4. allows disclosure of certain information in the registry.

The act also eliminates criminal attempt as a crime, the conviction of which requires the State Board of Education (SBE) to deny or revoke a teaching certificate or other educator credential.

The act requires DCF, when asked by school boards that have foster children from other towns attending school under the boards' jurisdiction, to provide the foster child's name, birth date, and school of origin.

Finally, the act makes technical changes.

EFFECTIVE DATE: July 1, 2011, except the provisions concerning the criminal attempt language and the DCF plan for implementing the requirement that school position applicants submit to the child abuse registry are effective upon passage, and the provision requiring DCF to provide school boards information about foster children is effective October 1, 2011.

MANDATED REPORTERS—SCHOOL EMPLOYEES AND OTHERS

School Employees (§ 3(b))

By law, certain individuals must report suspected child abuse or neglect to DCF or a law enforcement agency. Existing law makes many school and school district employees mandated reporters, including coaches, principals, teachers, superintendents, paraprofessionals, psychologists, nurses, and guidance counselors. The act adds (1) substitute teachers; (2) school administrators; (3) coaches employed by schools

rather than all coaches, including intramural or interscholastic coaches; and (4) any other person who has a contract with the school and regular contact with students in grades K-12 and provides services to or on behalf of students in the course of his or her duties.

Model Mandated Reporting Policy for School Boards (§ 3(e))

By October 1, 2011, the act requires DCF, in consultation with SDE, to develop a model mandated reporter policy for use by school boards. The policy must state applicable state law regarding mandated reporting and any relevant information to help school districts report suspected child abuse and neglect.

The policy, which must be updated and revised as necessary, must include the following information:

1. the people working for the school districts who are mandated reporters;
2. the type of information to be reported;
3. the timeframe for both written and verbal mandated reports;
4. a statement that the school district may conduct its own investigation into abuse or neglect allegations against a school employee, provided that investigation does not impede DCF's investigation; and
5. a statement that retaliation against mandated reporters is prohibited.

Training (§ 3(c))

DCF Responsibility. By law, the DCF commissioner must develop an educational training program for accurate and prompt reporting of abuse and neglect, which must be made available to all mandated reporters at various times and locations throughout the state. The act requires her to also develop a refresher training program.

The act also requires the commissioner, within available appropriations, to provide the training program to all new school employees.

School Board Responsibility. The act requires all school employees hired by school boards on or after July 1, 2011 to complete the training program. All employees must complete the refresher program no later than three years after completing the initial training and at least once every three years.

Employees hired before that date must complete the refresher training program by July 1, 2012, and must retake it once every three years.

In-Service Training for School Employees (§ 5). The act requires the law's mandatory in-service training program for school districts to include the requirements and obligations of mandated reporters.

Written Policies for Schools (§ 4(e))

The act establishes a February 1, 2012 deadline for school boards to adopt written policies on mandated reporting. It requires the policy, which must be in accordance with the act's model reporting policy, to be distributed annually to the school board's employees. Boards must document that employees have received the policy and completed the training and refresher training programs.

Penalties and Referrals to Chief State's Attorney for Failure to Report (§ 8)

By law, mandated reporters who fail to report must pay a fine of between \$500 and \$2,500 and attend an education and training program. The act also applies the penalty and mandatory education and training requirements to reporters who fail to report within the law's prescribed timeframes. The act requires the DCF commissioner to promptly notify the chief state's attorney when there is reason to believe that a mandated reporter has failed to make a required report or makes a late report. By law, the chief state's attorney must notify the SDE commissioner in writing when individuals holding SBE-issued credentials are fined under the mandated reporter law (CGS § 10-149a).

DCF Investigations and Database of Nonreporting by Mandated Reporters (§ 7)

The act requires the DCF commissioner to develop a policy for investigating delayed reports by mandated reporters. (By law, mandated reporters must make oral reports to DCF or a law enforcement agency as soon as practicable but no later than 12 hours after the reporter has reasonable cause to suspect abuse or neglect, and must follow up with a written report within 48 hours.) The policy must include when (1) DCF must report the delay to the appropriate law enforcement agency and (2) DCF must require these reporters to participate in the law's mandated education and training program. The law already requires any mandated reporter who fails to report to DCF to participate in DCF's education and training program.

When the Mandated Reporter is a School District Employee. Under the act, if the DCF commissioner suspects or knows that a mandated reporter employed by a school district has failed to make a required report within the prescribed time period, she must (1) record the delay, (2) develop and maintain a database of these records, and (3) investigate the delay. The investigation must be conducted in accordance with the above policy and include the school board's or superintendent's action in response to the employee's failure to report.

Copies of Report to SDE Commissioner (§ 9)

By law, when a mandated reporter submits to DCF a written report of suspected abuse or neglect involving an employee of a public or private school or institution, the reporter must also submit a copy of the report to the person in charge of the school. Under prior law, if the report concerned a school employee who held a state certificate, authorization, or permit, the person in charge of the school had to send a copy of the report to the SDE commissioner or his designee. The act instead requires the DCF commissioner to send SDE the copy.

Previously, if the employee in question worked for a state-licensed facility or institution that provided care for a child, the mandated reporter also had to send a copy of the report to the "executive head of the state licensing agency." The act requires the DCF commissioner to send it instead.

Notification When Suspected Perpetrator is Staff Member of School, Institution, or Child Care Facility (§ 11)

By law, when a mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected by a staff member of a public or private school or institution, or facility that provides child care, he or she must follow the law's reporting requirements. In these instances, the DCF commissioner or her designee must notify the person in charge of the school, institution, or facility or that person's designee, unless that person is the alleged perpetrator.

The act specifies that the person in charge includes the school, institution, or facility's principal, headmaster, or executive director. When the suspected perpetrator works for a public school, the act requires the commissioner to also notify the school superintendent.

Content of Reports (§ 15)

The act requires oral and written reports of all mandated reporters to contain, if known, the reasons the reporter believes the person or persons are suspected of causing the child's injuries, maltreatment, or neglect and any information concerning any prior cases in which the alleged perpetrator has been suspected of causing the child harm. The law already requires the reports to include, among other things, the child's and his or her caretaker's name and address, the child's age, and the nature and extent of the child's injuries.

Reports from Nonmandated Reporters to SDE (§ 10)

Under the act, if the DCF commissioner receives a report of suspected abuse or neglect from someone who is not designated as a mandated reporter, the

commissioner must send a copy to the SDE commissioner. This applies when the reporter has reasonable cause to suspect or believe that a minor (1) has been abused or neglected; (2) has been nonaccidentally physically injured or has been injured in a way that varies with the history given; or (3) is placed at imminent risk of serious harm by certain school employees holding a SBE-issued certification, license, or permit (e.g., teachers, administrators) and coaches. This information sharing mirrors that in the mandated reporter law.

Providing Information to DCF (§ 17)

The act requires anyone reporting abuse or neglect, including nonmandated reporters, to provide an authorized investigator all information that the reporter possesses related to the investigation, except information that state or federal law expressly prohibits.

WHEN SUSPECTED ABUSE OR NEGLECT IS PERPETRATED BY A SCHOOL EMPLOYEE

Public Schools (§ 4)

By law, after the DCF commissioner makes a finding of abuse or neglect, she has up to five working days to notify the school superintendent and provide records concerning the investigation if she (1) has reasonable cause to believe that a school employee holding a state teaching certificate, permit, or authorization is the perpetrator and (2) has recommended that the employee's name be placed on the child abuse and neglect registry (see below).

Under the act, the school employee must be entrusted with the care of a child. Also, DCF must either (1) substantiate abuse or neglect by the employee or (2) recommend placing the employee's name on the registry, instead of both, for DCF to be required to notify the superintendent. The act requires the notification and records of the investigation to also go to the SDE commissioner.

By law, when these events occur, the superintendent must suspend the employee until the school board acts in accordance with the teacher tenure law. If a certified school employee's contract is terminated, the superintendent must notify the SDE commissioner within 72 hours of the termination. The act also requires notification when the employee resigns under these circumstances. By law, such notice can trigger SDE's certification revocation proceedings.

Private Schools and Private and Public Institutions (§ 4(b))

Under prior law, after the DCF commissioner completed an investigation substantiating a report that a

child had been abused (but not neglected) by a staff member of a public or private institution or facility providing care for children or a private school, she had to notify and provide investigation records to the school or institution's executive director. The school or institution could suspend the staff person when this occurred.

Instead, under the act, within five days after completing her investigation, if the commissioner (1) substantiates a report that the child has been abused or neglected and (2) recommends that the staff member be placed on the registry, the school or institution must suspend the staff person with pay. The act eliminates the requirement that the DCF commissioner notify and provide records to the facility's executive director.

Under prior law, when the staff person was suspended, he or she remained so until the incident of abuse was satisfactorily resolved by the staff person's employer. The act also provides that the suspension can be lifted if the staff person successfully appeals and the appeal results in a finding that the staff person was not responsible for the abuse or neglect or does not pose a risk to the health, safety, or well-being of children.

Under existing law, if the staff person against whom an adverse finding has been issued has a state-issued license, certification, authorization, or permit, the commissioner has to immediately notify the issuing agency and furnish investigation records. Under the act, the commissioner must also notify the issuing agency and provide records if the school or institution has a state-issued license or approval.

Records of Abuse and Neglect Incidents (§ 6 (a) and (f))

The act requires all school boards to maintain in a central location all records of allegations, investigations, and reports that a child has been abused or neglected by an employee of the school district. These records must include any reports made to DCF. The act grants SDE access to these records.

DCF Access to Teacher Records (§ 12)

The act requires school boards to provide the DCF commissioner, upon her request and for the purpose of investigating suspected child abuse or neglect by a teacher the board employs, any records the board maintains or keeps on file, regardless of another law (CGS § 10-151c) that provides that records kept by school boards generally are not subject to disclosure under the Freedom of Information Act. These must minimally include (1) supervisory records; (2) competence, personal character, and efficiency reports kept in the teacher's personnel file with reference to evaluation of performance as a professional employee of the board; and (3) misconduct records. (Records

involving teacher personal misconduct are public and can be disclosed without the teacher's consent.) Under the act, a teacher includes each certified professional employee below the rank of superintendent that the school board employs in a position requiring an SBE certificate.

School Boards to Give Priority to DCF Investigations and Perform Their Own Investigations (§ 13)

The act requires school boards to permit and give priority to any child abuse or neglect investigation that DCF or local law enforcement is conducting. The board must conduct its own investigation and take disciplinary action in accordance with the law (e.g., suspension) when it receives notice from the DCF commissioner or the law enforcement agency that the board's investigation will not interfere with either of the other entity's investigations.

Quality Assurance Reviews and Information Sharing with SDE (§ 14)

The act requires DCF, at least annually, to conduct random quality assurance reviews of reports and investigations of abuse and neglect involving school employees. If, as a result of the review, DCF discovers any "issues" in the report or investigation, it must take any necessary action to correct or satisfy "such problem or issue." (The act does not specify what would constitute an issue or problem.) DCF must use these reviews to assess the investigations' conduct and quality. (It is not clear whether DCF reviews only its own investigations or also those done by school boards.)

The act also requires DCF, at least annually, to review with SDE all records and information relating to school investigations to ensure that both are being shared properly. The departments must address and correct any omissions or other problems in their records and information-sharing process.

DCF Report to State Agencies Licensing and Approving Employees (§ 16)

The act requires DCF, when it receives reports of suspected abuse or neglect and the alleged perpetrator is a school employee or is employed by an institution or facility licensed or approved by the state to provide care to children (this would include child care providers licensed by the Department of Public Health), to notify SDE, the state agency that issued the license or approval, or the institution or facility of (1) the report and (2) the beginning of DCF's investigation of it.

CHECKS OF CHILD ABUSE REGISTRY

By law, the DCF commissioner must maintain a registry of individuals who have abused or neglected children or youth. The information in the registry is confidential, subject to the law's provisions regarding access. DCF must (1) notify the person when it intends to place his or her name on the registry and (2) alert the person to his or her ability to appeal the placement.

Applicants for Any School Job (§§ 1(a) & 20)

Starting July 1, 2011, the act mandates that school boards require applicants for positions requiring a state certificate, authorization, or permit to submit to a registry check. Beginning July 1, 2012, boards must require applicants for positions not requiring state certification to submit to checks before the boards can hire them.

The law already requires boards to (1) require applicants to state whether they have ever been convicted of a crime or whether criminal charges are pending against them and (2) require them to submit to state and national criminal record checks. Checks are not required of district students who work for the district, nor are they required of individuals required to submit to a criminal history records check.

The act requires DCF, by January 1, 2012, to develop a plan to implement this requirement and submit it to the Education and Human Services committees. (The plan must be developed after the July 1, 2011 start of checks for job applicants requiring state credentials.)

Teachers (§ 1(g))

The act also requires the SBE to require each applicant for a new or renewed teaching certification, authorization, or permit, to submit to a check of the abuse and neglect registry. If the board receives notice that the applicant is listed as an abuse or neglect perpetrator, it must deny the application or may revoke the certification, authorization, or permit of a teacher it has already approved.

Revocations must be done in accordance with the law governing the board's authority to revoke teaching certification, authorizations, or permits. This law requires the board to prove by a preponderance of evidence that the revocation should occur.

Disclosure of Records (§ 2)

In general, DCF records are confidential and can be disclosed only with the consent of the persons named in them. But the law requires the commissioner to disclose records without the person's consent in certain circumstances. Previously, it required her to provide

copies of records to school boards, provided they were limited to educational records created or obtained by DCF's Unified School District #2. The act also allows these records to include those in the registry that pertain to nondisclosure of findings of responsibility for abuse and neglect.

The act also requires the commissioner, when requested, to promptly provide records without consent to the superintendent of schools for any school district for the purpose of determining the suitability of someone to be employed by the district. This could include registry records and any other DCF records pertaining to child protection activities.

TEACHING CERTIFICATE DENIALS AND REVOCATIONS FOR CERTAIN CRIMES (§§ 18-19)

The act eliminates "criminal attempt" (CGS § 543a-49) from the list of crimes the conviction of which requires the SBE to deny or revoke a teaching certificate or other educator credential. In practice, a person charged with this crime is often convicted of another crime, although not one that necessarily results in a credential denial or revocation.

BACKGROUND

Related Act

PA 11-93 revises information DCF must report to the Department of Public Health (DPH) about child abuse or neglect occurring in a DPH-licensed child care facility or camp and makes related changes.

PA 11-122—HB 6356

Human Services Committee

AN ACT CONCERNING A CLARIFICATION OF THE DEPARTMENT OF SOCIAL SERVICES' REQUIREMENT TO GIVE NOTICE REGARDING REPAYMENT OF SERVICES

SUMMARY: This act fills a gap in the Department of Social Services' (DSS) procedure to inform potential legally liable relatives to repay the state for the assistance it provided to another person, often a spouse or child. Under existing law, DSS has to notify the relatives within 30 days after awarding the assistance. Under the act, when DSS learns the identity of the legally liable relatives only after awarding the assistance, it must notify them of their liability within 30 days of learning who they are.

By law, notices must be written in plain language, in an easily readable and understandable format, and whenever possible in the first language of the recipient.

The repayment obligation applies to DSS-administered programs, including medical assistance, state supplement, Temporary Family Assistance (cash welfare), and state-administered general assistance programs.

EFFECTIVE DATE: July 1, 2011

PA 11-137—sHB 6357

Human Services Committee

Judiciary Committee

AN ACT CONCERNING ADMINISTRATIVE HEARINGS UNDER THE MEDICAID ELECTRONIC HEALTH RECORD INCENTIVE PROGRAM AND RETURN RECEIPTS FOR AGENCY NOTICES

SUMMARY: This act requires the Department of Social Services (DSS) commissioner, in accordance with a provision in the federal 2009 American Recovery and Reinvestment Act (ARRA, P.L. 111-5 § 4201), to develop and implement a Medicaid health information technology plan. He must also establish a Medicaid health record incentive program that provides incentive payments to qualifying hospitals and health care providers that adopt and meaningfully use electronic health records to improve patient health and the quality and efficiency of health care service delivery.

Under the state act, hospitals and providers aggrieved by certain incentive program decisions are entitled to an initial review by the DSS commissioner. If still not satisfied, they may request contested case hearings in accordance with the Uniform Administrative Procedures Act (UAPA).

Existing UAPA provisions require administrative agencies, including DSS, to send declaratory rulings and final agency decisions by certified or registered mail, return receipt requested. The act updates the manner in which proof of service may be verified to include mail, electronic and digital methods, and all methods identified by the U.S. Postal Service.

EFFECTIVE DATE: Upon passage

DEFINITIONS

Under the act, a "hospital" is an establishment where people may stay and receive care and treatment for disease or other abnormal physical or mental conditions. It includes inpatient psychiatric services in general hospitals.

"Health care providers" are persons, corporations, limited liability companies, organizations, partnerships, firms, associations, facilities, or institutions that are state-licensed or certified to provide health care services and contract with DSS to provide such services to

Medicaid recipients.

ARRA regulations use a results-based accountability format to determine if a hospital or provider is demonstrating “meaningful use” of electronic health record technology. Measured objectives include:

1. automating information about patients’ drug allergies,
2. maintaining an active medication list,
3. generating lists of patients having specific conditions, and
4. filing insurance claims electronically (CFR § 495.6).

ADMINISTRATIVE HEARINGS ON INCENTIVE PROGRAM GRIEVANCES

Under the act, the issues that may be decided in contested case hearings are the hospital’s or provider’s:

1. eligibility for incentive payments;
2. incentive payment amounts;
3. demonstrated ability to adopt, implement, or upgrade an electronic health record; and
4. fulfillment of reasonable use criteria.

BACKGROUND

Related Federal Law — Reasonable Use

The 2009 federal “Health Information Technology for Economic and Clinical Care Act,” will provide incentive payments under Medicaid and Medicare to eligible providers and hospitals for the “meaningful use” of certified electronic health record (EHR) technology. The payment program begins in 2011. These incentive programs are designed to support providers making the transition to health information technology and encourage the use of EHRs to help improve patient health care delivery and outcomes.

PA 11-236—sHB 6552

Human Services Committee

Public Health Committee

AN ACT CONCERNING THE TRANSFER AND DISCHARGE OF NURSING FACILITY RESIDENTS AND AUDITS OF CERTAIN LONG-TERM CARE FACILITIES

SUMMARY: This act changes the process that the Department of Social Services (DSS), nursing homes, and their residents or representatives must follow when nursing homes transfer or discharge residents, or hold beds for residents who are hospitalized (i.e., a “bed-hold”).

With respect to transfers and discharges, the act:

1. grants residents an explicit right to appeal these moves and shortens the deadline for the DSS commissioner to issue appeal hearing decisions for moves, and requires the home to readmit the resident when DSS determines that the move violates the law;
2. establishes the circumstances in which DSS must stay a move;
3. explicitly allows residents to request hearings when informed that they no longer need nursing home care, including residents with mental disabilities in homes that transfer or discharge them when the homes cannot provide needed services;
4. refines the definition of “self-pay” residents for purposes of applying the law to them; and
5. requires nursing homes in receivership to comply with its transfer and discharge notice requirements.

Regarding bed-holds, the act sets up a consultation process for homes and residents when the home is concerned about readmitting a resident because it cannot meet the resident’s needs or the resident may be a danger to himself, herself, or others. It requires the home to (1) meet one of three criteria in order to be able to refuse to readmit a resident and (2) provide notice when it decides not to readmit. The notice must include the resident’s right to a hearing to appeal the refusal. The act requires DSS to hold hearings on possible bed-hold law violations and changes how homes are assessed penalties for violations.

The act requires hospitals to provide nursing homes with patient records and access to the patients when they refer patients to nursing homes or when patients request the referral.

The act also exempts certain long-term care facilities from the general DSS audit provisions and sets up a similar statutory process (which apparently mirrors current practice) for auditing long-term care providers that receive DSS payments.

Lastly, the act makes technical changes.

EFFECTIVE DATE: Upon passage

§ 1 — RESIDENT TRANSFERS AND DISCHARGES

Notice and Appeal Rights

By law, nursing homes must notify residents or a responsible party when they intend to transfer the residents to another facility or discharge them to a noninstitutional setting. Under the act, the transfer can include one made to a facility or institution that either admits or provides care to the resident for more than 24 hours. The facility or institution can include a hospital emergency room.

By law, the notice must include (1) the reasons for the move; (2) the date the move is effective; (3) where the resident will be going; (4) the resident's right to appeal, procedures for initiating an appeal, and the date by which the appeal must be initiated in order to stay the transfer or discharge (under prior law, 10 days from the notice date); (5) the resident's right to representation at an appeal hearing; and (6) the home's bed-hold and readmission policies, when appropriate.

The act explicitly grants residents the right to appeal these moves and gives them a 60 calendar-day deadline for doing so. To have the discharge or transfer stayed, the act requires an appeal to be initiated within 20 days from the date the resident receives the notice but allows this deadline to be extended if the resident demonstrates good cause for not meeting it. The act requires the notice to include both deadlines and the possibility of an extension of the 20-day deadline.

The act also specifies that the notice's bed-hold and readmission information must be provided whenever a resident is transferred to a hospital, instead of "when appropriate."

Hearing Decision — Shorter Time for DSS Commissioner to Issue Decision

When transfers and discharges are appealed, the DSS commissioner must hold a hearing between 10 and 30 days from the date he receives the request. Under prior law, he had to issue a decision within 60 days from the end of the hearing or 90 days from the date the hearing was requested, whichever occurred sooner. The act reduces these time frames to 30 days and 60 days, respectively.

Stays For Insufficient Notice

Except for an emergency or when the resident is not physically present in the nursing home, the act requires the commissioner, when he receives a transfer or discharge hearing request and the home's notice does not comply with the law as amended by the act, to order a stay of the transfer or discharge within 10 days "after the date of receipt of the notice" (presumably, the date DSS receives the notice) and return the notice to the home. Once the home receives the notice, it must issue a revised notice that complies with the amended law. (Presumably, once it does, the stay is lifted.)

Emergency Transfers and Discharges

By law, the transfer and discharge requirements are different when a home has to make an emergency transfer or discharge. For example, the home must provide the notice as soon as practicable, rather than 30 to 60 days before the move. Residents transferred or discharged on an emergency basis or who receive notice

of such transfers or discharges can request a hearing to appeal the transfer or discharge. Previously, they had to request the hearing within 10 days of the notice or action. Under the act, they have 20 days. The act also permits the appeal to be considered after the deadline if the residents can demonstrate that they failed to meet the deadline for good cause.

The act also increases, from seven to 15, the number of business days the commissioner has from the date he receives the hearing request to hold the hearing. And it requires the commissioner, or his designee, to issue a decision within 30 days from the date the hearing record is closed.

When a Home Moves a Resident in Violation of Law

Under the act, if the DSS commissioner or his designee determines, after a hearing, that a home has transferred or discharged a resident in violation of the law, he can require the home to readmit the resident to a bed in a semi-private room, or if medically necessary, a private room. This can be done regardless of whether the resident (1) has already accepted placement in another home pending the hearing decision or (2) is awaiting a bed in the home that transferred or discharged him or her.

Decisions

By law, the commissioner or his designee must send the nursing home a copy of its hearing decision. Under the act, he must also send a copy to the resident; the resident's guardian or conservator, if any; legally liable relative; or other responsible party, if known.

By law, the nursing home is deemed to have received the notice within five days from when it was mailed unless the resident or his or her guardian, conservator, legally liable relative, or other responsible party proves otherwise by a preponderance of the evidence. The act permits the facility to rebut this presumption by the same level of evidence.

Notice When Resident No Longer Needs Nursing Home Care

Under the act, residents who receive notice from DSS or its agent stating that they no longer need the level of care that the nursing home provides (medical necessity determination) and as a result, the resident's coverage for facility care (presumably Medicaid) will stop, can request a hearing before the date Medicaid coverage is to end. Coverage must continue pending the hearing's outcome.

If the resident receives a separate notice of Medicaid denial for lack of medical necessity and of discharge from the home and requests a hearing to contest both actions, DSS can schedule one hearing for

the resident to contest both.

Exemption When a Resident Has Mental Illness or a Developmental Disability

The act also explicitly exempts from the general ban on transferring and discharging residents those nursing homes that by law must move residents with a diagnosis of mental illness or developmental disability who may require specialized services that the home cannot provide. Consequently, the act applies all of the law's notice and hearing protections to these residents.

By law, nursing homes must notify the departments of Mental Health and Addiction Services or Developmental Services when a resident who is mentally ill or has a developmental disability, respectively, undergoes a change in condition that may require specialized services. When the home cannot provide those services, the law generally requires that the resident be (1) transferred to a facility that can provide him or her with the services or (2) discharged when the resident does not require the services.

Self-Pay Residents

The act refines the definition of "self-pay" residents for purposes of the transfer and discharge law. By law, they are defined as residents who are not receiving state or municipal assistance to pay for their care. The act excludes from this definition a resident who has (1) applied for Medicaid, (2) responded in a timely fashion to DSS requests for information that it needs to determine the resident's eligibility, and (3) not been determined eligible for benefits.

The law generally allows nursing homes to discharge self-pay residents for nonpayment of the home's daily rate or an arrearage of more than 15 days.

§ 3 — When A Home is in Receivership

By law, a nursing home receiver may not transfer all of a home's residents and close the home without a court order and without preparing a discharge plan for its residents. The act also requires the receiver to comply with its notice provisions before taking these actions.

It requires the receiver to notify each resident and resident's guardian or conservator, if any, legally liable relative, or other responsible party, if known, when a home is placed in receivership, regardless of whether it is medically contraindicated. Under prior law, the receiver had to notify the residents and family, except where medically contraindicated.

§ 2 — BED-HOLDS WHEN NURSING HOME RESIDENT IS HOSPITALIZED

By law, nursing homes generally must reserve the bed of a nursing home resident when he or she must be hospitalized or goes home for a visit and expects to return to the nursing home. The law establishes deadlines for notice when this occurs and requires Medicaid to pay the homes that reserve the beds.

Bed Type for Residents Whose Hospitalization Period Exceeds Bed-Hold Period

By law, if a nursing home resident's hospitalization exceeds the period of time the home must hold his or her bed (generally, 15 days), or the home otherwise is not required to hold the same bed for the resident, the home must take certain actions. Under prior law, the home had to provide the resident with the first bed available when it received notice that the hospital was discharging the resident. The act instead requires the home to provide the resident with the first bed available in a semi-private or, if medically necessary, a private room. The home must do this once it receives notice from the hospital that the resident is "medically ready" for discharge.

The law, unchanged by the act, also requires the home to grant the resident priority admission over a new applicant.

When a Home Refuses Readmission

The act provides that, if the DSS commissioner or his designee finds that a resident has been refused readmission in violation of the bed-hold law, the resident has the right to be readmitted, as described above, regardless of whether the resident has accepted placement in another facility while awaiting readmission.

Consultation. If a home is concerned about a readmission because it is unable to meet the resident's care needs or the resident presents a danger to himself, herself, or others, the act requires it to request a consultation with the hospital and the resident or the resident's representative within 24 hours of receiving the hospital's notice that the resident is medically ready to leave. The purpose of the consultation is to develop an appropriate care plan to safely meet the resident's nursing home care needs, including determining a readmission date that best meets these needs.

The consultation must begin as soon as practicable after the home requests it. The hospital must participate, grant the nursing home access to the resident in the hospital, and permit the home to review the resident's hospital records. The resident's wishes and the hospital's recommendations must be considered as part of the process. The consultation must be completed

within three business days after the home requests it and the home must reserve the bed until the process is complete.

When a Home May Refuse to Readmit. The act provides that a nursing home may refuse to readmit a resident only if (1) it cannot meet the resident's needs, (2) the resident no longer needs the home's services due to improved health, or (3) readmitting the resident would endanger other residents' health and safety.

If a nursing home decides not to readmit a resident either without requesting or following a consultation, it must notify the hospital; resident; and resident's guardian, conservator, legally liable relative, or other responsible party within 24 hours of making the decision. The notice must be written and indicate:

1. the refusal and reasons for it;
2. the resident's right to appeal and procedures for initiating the appeal (as the DSS commissioner determines);
3. that the resident has 20 days from the date he or she receives the notice to initiate an appeal, which can be extended for good cause;
4. contact information, including the name, mailing address, and telephone number for the long-term care ombudsman; and
5. the resident's right to represent himself or herself or be represented by counsel, a relative, a friend, or other spokesperson.

If the resident is, or the nursing home alleges a resident is, mentally ill or developmentally disabled, the notice must include the contact information, including the name, mailing address, and telephone number of the Office of Protection and Advocacy for Persons with Disabilities.

Right to Hearing for Violation of Bed-Hold Law

The act requires the commissioner or his designee to hold a hearing to determine whether the home has violated the bed-hold law. The commissioner or his designee must (1) convene the hearing within 15 days from the date the request is received and (2) issue a decision within 30 days of the date the hearing record is closed.

The act authorizes the commissioner or his designee (presumably only after a hearing is held) to require the home to readmit the resident to a semi-private room or, when medically necessary, a private one.

By law, these types of hearing decisions can be appealed to Superior Court. The act requires the court to consider these appeals as privileged in order to dispose of them with the least possible delay. (The court must already do this with appeals of transfers and discharges.)

If a home does not readmit a resident after a consultation, the act permits the resident to file a complaint with the DSS commissioner. If the resident has already requested a hearing under the act, the commissioner must stay an investigation of the complaint until he issues a decision following the hearing.

Penalties

Under the act, each day a nursing home fails to readmit a resident in violation of the bed-hold law is considered a separate violation for purposes of determining a penalty. When a resident who has been through a consultation requests a hearing, no penalty can accrue from the date the consultation is requested until the hearing decision is issued, if DSS finds that the nursing home acted in good faith in refusing to readmit the resident.

If a resident files a complaint but does not request a hearing, no penalty can accrue while DSS conducts an investigation, provided the commissioner finds the home's refusal to readmit was done in good faith.

The current maximum penalty DSS may impose is \$8,500 per violation.

§ 4 — HOSPITAL REFERRALS TO NURSING HOMES

The act requires a hospital to make copies of a patient's hospital record available to a nursing home whenever it refers the patient to a home as part of its discharge planning process or when the patient requests such a referral. The hospital must also give the home access to the patient for care planning and consultation purposes.

§§ 5 & 6 — AUDITS OF LONG-TERM CARE INSTITUTIONAL PROVIDERS

The act requires the DSS commissioner to audit nursing homes, residential care homes (RCHs), and intermediate care facilities for people with mental retardation (ICF-MRs) that receive Medicaid or other state payments. It establishes an audit process for these institutions that is similar to the audit process for other health care providers that receive DSS payments. (This process apparently codifies existing practice.)

Audit Scope and Notice

The act requires the commissioner to give at least 30 days written notice of the audit to the institution. This notice is not required if he or the audit agency makes a good faith determination that (1) a service recipient's health or safety is at risk or (2) the provider is engaging in vendor fraud.

Clerical Errors

Under the act, a clerical error discovered in a record or document produced for the audit by itself does not constitute a willful violation of DSS medical assistance program rules unless proof of an intent to commit fraud or otherwise violate program rules is established. (It is not clear whether State Supplement payments, which is what RCHs receive, fall into this category.) Under the act, a “clerical error” includes recordkeeping, typographical, writer’s, or computer error.

Extrapolation

The act prohibits DSS from finding that an overpayment or underpayment was made to a facility based on extrapolated projections, unless (1) the facility has a sustained or high level of payment error, (2) documented educational intervention has failed to correct the error levels, or (3) the aggregate claims’ value exceeds \$150,000 on an annual basis.

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 and (2) multiplying this 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 period. The facility must make repayments to DSS based on these extrapolated errors.

Provider’s Right to Provide Documents Addressing Discrepancies

The act gives a facility at least 30 days to provide documentation related to a discrepancy discovered and brought to its attention during an audit.

Preliminary Report and Exit Conference

The act requires the commissioner to produce a preliminary written audit report and give it to the facility within 60 days after the audit’s conclusion. The commissioner must hold an exit conference with the facility to discuss the preliminary report once it is issued.

Final Report

The commissioner or audit agency must produce a final written report and give it to the facility within 60 days after the exit conference unless the commissioner and the facility agree to a later date or there are other pending referrals or investigations concerning the provider.

Appeals

Under the act, a facility aggrieved by a final report can request a rehearing and the commissioner, or his designee, must hold the hearing provided the facility provides a detailed written description of all items of grievance in the final report within 90 days of the date of the commissioner’s decision (presumably one related to the audit). The hearing must be held within 30 days after the filing date of the detailed written description of each specific item of grievance.

Binding Arbitration

The commissioner must issue a final decision by the later of 60 days after the close of evidence or the date on which final briefs are filed. Items not resolved at the rehearing to either party’s satisfaction must be submitted to binding arbitration by an arbitration board consisting of three members—one appointed by the facility, one by the DSS commissioner, and one by the chief court administrator from among the Superior Court’s retired judges. A judge must be compensated for serving on the board in the same manner as a state referee.

The arbitration board’s proceedings and any decisions it renders must be conducted in accordance with the federal Medicaid Act and the Uniform Administrative Procedure Act.

Penalties for False Information

The act provides that submitting false or misleading fiscal information or data to the DSS commissioner is grounds for suspending payments to facilities (including those not subject to the act’s audits, such as hospitals) in accordance with regulations the commissioner adopts. Any person, including a corporation, that knowingly (1) makes or causes to make false or misleading statements or (2) submits false or misleading fiscal information or data on forms DSS approves is guilty of a Class D felony (see Table on Penalties).

Authority for DSS Commissioner When Conducting Investigations and Hearings

The act grants the commissioner, or any agent he authorizes to conduct an inquiry, investigation, or hearing under the audit provisions, the power to administer oaths and take testimony under oath in the inquiry or investigation. At any such hearing, the commissioner or his agent, if the agent has the legal authority to issue process, can subpoena witnesses and require the production of records, papers, and documents pertaining to the inquiry.

If anyone disobeys the process or refuses to (1) answer pertinent questions the commissioner or his agent asks him or her or (2) produce records and papers related to the inquiry, the act allows the commissioner or his agent to apply to the Hartford Superior Court or the court in the judicial district where the person lives or his or her business is located (or to a judge if the court is not in session) and explain the disobedience to process or refusal to answer. The court or judge must cite the person to appear to answer questions or produce the records and papers.

BACKGROUND

Preadmission Screening and Resident Reviews

Federal law prohibits a Medicaid-certified nursing home from admitting applicants with serious mental illness or mental retardation (developmental disability) or a related condition unless they are properly screened, thoroughly evaluated, found to be appropriate for a nursing home placement, and will receive all specialized services necessary to meet their unique needs. Once admitted, these residents must be reviewed when there is a significant change in their physical or mental condition to determine if the home is still the most appropriate placement. Ascend Management Innovations, LLC contracts with DSS to perform these reviews.

PA 11-238—sHB 6612

*Human Services Committee
Appropriations Committee*

AN ACT CONCERNING RECOMMENDATIONS FROM THE COMMISSION ON NONPROFIT HEALTH AND HUMAN SERVICES RELATING TO PURCHASE OF SERVICE CONTRACTS

SUMMARY: This act requires the Office of Policy and Management (OPM) secretary to report annually to the General Assembly on the state's purchase of service (POS) contracting activity. The report must include an assessment of the aggregate financial condition of nonprofit community-based health and human service agencies that enter into POS contracts. A POS contract is one between a state agency and a private provider organization or municipality to purchase ongoing direct health and human services for agency clients.

The act also requires the OPM secretary, in consultation with the nonprofit liaison to the governor and representatives of nonprofit, community-based health and human service providers and within available appropriations, to study the feasibility of establishing a statewide data warehouse. The purpose of the

warehouse is to store public and private health and human services data to enable state agencies to track data trends, operate more efficiently, and recommend policy changes. The secretary must report on the study to the Human Services and Government Administration and Elections committees by January 1, 2012.

Finally, the act eliminates obsolete language.
EFFECTIVE DATE: July 1, 2011

PA 11-240—sSB 1199

Human Services Committee

AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES' DIFFERENTIAL RESPONSE AND POVERTY EXEMPTION AND A REPORT ON EPISODES OF UNAUTHORIZED ABSENCES OF CHILDREN AND YOUTH IN THE DEPARTMENT'S CARE

SUMMARY: This act authorizes the Department of Children and Families (DCF) commissioner to establish a "differential response program" for cases that the department classifies as lower-risk. Accordingly, it allows the commissioner or a designee, when the department receives reports of alleged child abuse or neglect, to refer to community providers for family assessments and services, rather than investigate, those cases that it classifies as presenting a lower risk. It permits the DCF commissioner to establish such a differential response system for the type of referral the act authorizes. Under the act, when warranted, cases referred for family assessments can be referred for standard child protection services and vice versa.

The act prohibits DCF from finding a child or youth neglected solely because his or her parents are impoverished. It also eliminates children or youth who have been abused from the definition of "neglect."

The act also changes the definition of "abuse" of children and youth by providing that a child or youth can be found to be abused, rather than deemed to be abused, if he or she is found to have statutorily specified adverse conditions.

The act also removes the definition of "dependent" children in the law governing petitions for commitment to DCF and makes technical changes in this law.

Finally, the act requires DCF, in its annual report on children and youth in its custody, to include specific information about children and youth who have unauthorized absences from DCF's care.

EFFECTIVE DATE: July 1, 2011, except for the duplicate definitions sections that were revised as part of 2009 changes to the juvenile justice ("raising the age") law, which are effective July 1, 2012.

DIFFERENTIAL RESPONSE TO LOWER RISK CASES

Referrals to Family Assessments

By law, DCF classifies and immediately evaluates reports it receives of child abuse or neglect and the alleged perpetrator is a person (1) responsible for the child's health, welfare, or care; (2) given access to the child by the person responsible for the child; or (3) entrusted with the child's care.

If a report contains sufficient information to warrant an investigation and indicates that there is imminent risk of physical harm to the child or some other emergency, DCF must begin the investigation within two hours. For all other reports, it has 72 hours to start investigating.

Under the act, if the DCF commissioner or her designee classifies a report as lower-risk, it can refer the case for family assessment and services and not investigate (see below). But such reports can be referred any time after that for standard child protective services (presumably, after an investigation) if concerns for the child's safety are evident. Reports referred for standard child protective services can likewise be referred for family assessment and services at any time DCF determines that there is a lower risk to the child.

Differential Response Program

The act permits the commissioner to establish a differential response program in which DCF, when it receives reports of child abuse and neglect, can make referrals to appropriate community providers for family assessment and services, either when DCF decides not to investigate a case that it classifies as presenting a lower risk or, if it decides to investigate, at any time during the investigation. These referrals can only occur when there has been an initial safety assessment of the family's circumstances and criminal background checks have been performed on all adults involved in the report.

The commissioner may adopt regulations to establish a method for DCF to (1) monitor the progress of the children and families referred to community providers and (2) set standards for reopening investigations. (The act appears to require the regulations to set standards for reopening any DCF investigation, not just those related to differential response cases.)

Disclosure of Records

The act requires DCF, subject to the law governing the confidentiality of its records, to disclose all relevant information it possesses concerning the child and family, including previous child protection activity, to

each provider that receives a report from DCF for use in assessing, diagnosing, and treating the family's unique needs and the prevention of future reports.

Each provider receiving a report, consistent with the records confidentiality law, must disclose to DCF all relevant information it gathers during this process. DCF may use the information only to monitor and ensure the child's or children's continued safety and well-being.

In general, records maintained by DCF are confidential and may not be disclosed unless the department receives written consent from the person named in the record. But the law permits disclosure without consent in a number of situations.

REVISING AND ELIMINATING CERTAIN DEFINITIONS

Neglected

Previously, children or youth could be found to be "neglected" if they were (1) abandoned; (2) denied proper care and attention; (3) allowed to live under conditions, circumstances, or associations injurious to their well-being; or (4) abused. The act eliminates abuse as a possible basis for finding a child or youth neglected (existing law has a separate definition of abuse). And it provides that no child or youth can be found neglected solely because the child or youth is impoverished.

Dependent

The act removes the statutory definition of a "dependent" child or youth in juvenile court matters. These children and youth were defined in prior law as those whose home was a suitable one for them except for the financial inability of their parent, guardian, or other person maintaining the home to provide for the child's or youth's specialized care needs. This change appears to eliminate DCF authority over claims of dependency unless they also satisfy the definition of either abuse or neglect.

ANNUAL REPORT ON CHILDREN AND YOUTH

By law, the DCF commissioner must submit an annual report to the Human Services and Children's committees indicating, for the preceding calendar year, a variety of information about children and youth in out-of-home care. Previously, the report had to include (1) the number and age of children and youth who were runaways or homeless and the (2) number of days that each child or youth had been a runaway or homeless. The act eliminates the second requirement and instead requires that the report also include:

1. the number of episodes of unauthorized absence from DCF care for a full day or more;

2. the total number of children and youth involved in such episodes and of these, how many have one, two, three, or more episodes;
3. the average number of children and youth who, without authorization, are absent from DCF care each day;
4. the number of children and youth without such authorization by the following age ranges: (a) under six, (b) six to nine, (c) 10 to 12, (d) 13 to 15, and (e) 16 and 17; and
5. the number of unauthorized absences according to the duration of absences as follows: (a) less than two days, (b) three to seven days, (c) eight to 14 days, (d) 15 to 30 days, (e) 31 to 60 days, (f) 61 to 120 days, (g) 121 to 180 days, and (h) more than 180 days.

The act also requires the report to include a description of strategies DCF employs and policies it implements to address runaways and homelessness and reduce the number and duration of absences.

PA 11-19—sSB 849

Insurance and Real Estate Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS AND MINOR CHANGES TO THE INSURANCE AND RELATED STATUTES

SUMMARY: This act broadens the applicability of various health insurance benefit requirements. It also makes numerous technical changes in the insurance statutes.

EFFECTIVE DATE: January 1, 2012, except for some technical changes, which are effective July 1, 2011 or October 1, 2011.

HEALTH INSURANCE BENEFITS

The act broadens the applicability of various health insurance benefits required by law, as summarized in Table 1. By doing so, the act applies the listed benefit requirements to individual and group health insurance policies delivered, issued, renewed, amended, or continued in the state. Most of the provisions apply to (1) individual and 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 cover limited benefits. (Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.)

Table 1: Applicability of Health Insurance Benefits Expanded

Act §	Benefit Requirement	Existing Law Applies to Policies	Act Expands Law to Apply to Policies
33-34	Continuation of coverage of handicapped children	Delivered, Issued	Renewed, Amended, Continued
35	Coverage of newly born child – individual policies	Delivered, Issued, Renewed, Amended	Continued
36	Coverage of newly born child – group policies	Delivered, Issued, Amended	Renewed, Continued
37-38	Coverage for hypodermic needles and syringes	Delivered, Issued, Renewed	Amended, Continued
39-40	Coverage for off-label prescription drugs	Delivered, Issued, Renewed	Amended, Continued

Table 1: Continued

Act §	Benefit Requirement	Existing Law Applies to Policies	Act Expands Law to Apply to Policies
41-44	Coverage for home health care services	Delivered, Issued, Renewed	Amended, Continued
45-46	Coverage for occupational therapy	Delivered, Issued, Renewed	Amended, Continued
47-48	Coverage for services of physician assistants and certain nurses	Delivered, Issued, Renewed	Amended, Continued
49-50	Direct access to obstetrician-gynecologist	Delivered, Issued, Renewed, Amended	Continued
51-52	Coverage for maternity care	Delivered, Issued, Renewed, Amended	Continued
53-54	Coverage for prescription contraceptives	Delivered, Issued, Renewed, Continued	Amended
55-56	Coverage for chiropractic services	Delivered, Issued, Renewed	Amended, Continued
57 and 62	Coverage for cancer clinical trials	Delivered, Issued, Renewed	Amended, Continued

BACKGROUND

Related Acts

PA 11-172 expands the existing requirement for health insurance policies to cover cancer clinical trials. It requires policies delivered, issued, renewed, amended, or continued in Connecticut to cover costs associated with clinical trials for the treatment of disabling or life-threatening chronic diseases.

PA 11-171 expands the existing requirement for health insurance policies to cover newborns. It requires policies delivered, issued, renewed, amended, or continued in Connecticut to cover newborns for 61 days, instead of 31 days, after birth.

PA 11-38—sHB 6310

Insurance and Real Estate Committee

AN ACT CONCERNING CONTRACTS WITH OPHTHALMOLOGISTS AND OPTOMETRISTS

SUMMARY: This act requires an HMO or preferred provider network (PPN) that provides benefits for ophthalmologic and optometric services to provide ophthalmologists (licensed physicians specializing in ophthalmology) and optometrists equal access to all

health plans and policies it offers. It prohibits an HMO or health insurer contracting with a PPN from restricting participation in a plan or policy based on the service limitations of individual optometrists or ophthalmologists. It also specifies that providing equal access to all health plans and policies does not permit any such provider to perform or provide services outside of his or her scope of practice.

Existing law requires an HMO or PPN providing ophthalmologic care benefits to also provide optometric care. If ophthalmologic care can be legally provided by an optometrist, then the HMO or PPN must provide the same eye care coverage and benefits for services they perform. HMOs and PPNs must contract with both types of specialists in a fair and sufficient manner and equally inform enrollees of the availability of ophthalmologic and optometric services.

EFFECTIVE DATE: January 1, 2012

PA 11-45—sSB 28

*Insurance and Real Estate Committee
Public Safety and Security Committee
Finance, Revenue and Bonding Committee
Judiciary Committee*

AN ACT CONCERNING SURETY BAIL BOND AGENTS AND PROFESSIONAL BONDSMEN

SUMMARY: This act makes changes to, and adds new, requirements for surety bail bond agents and professional bail bondsmen. (A surety bail bond agent, through a contract with an insurer, sells bail bonds in criminal cases and is regulated by the insurance commissioner. A professional bondsman puts up personal assets as bond security and is regulated by the public safety commissioner.)

The act expands surety bail bond licensing and appointment requirements. It establishes (1) bail bond solicitation, record retention, and reporting standards and (2) premium financing, build-up funds, and collateral security requirements and restrictions. It requires agents to certify under oath to the insurance commissioner that they charged the bond premium rates the commissioner approved (i.e., did not discount or increase them).

It authorizes the insurance commissioner to (1) suspend or revoke a bail bond agent's license, impose a penalty of up to \$5,000, or both for violating the act and (2) adopt implementing regulations.

The act also (1) restricts bail bond solicitation by professional bondsmen in the same way as it does for surety bail bond agents, (2) establishes collateral security requirements for them, and (3) allows the public safety commissioner to examine professional bondsmen records and adopt implementing regulations.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2011

§§ 1 & 15 — SURETY BAIL BOND AGENT LICENSING, APPOINTMENTS, AND EXAMINATION OF BOOKS

By law, it is illegal to act as a surety bail bond agent unless licensed by the insurance commissioner and appointed by an insurer. To obtain a license, a person must file a completed application, pay an application fee, pass a written examination, and submit to a criminal history records check. By law, anyone acting as an agent without a license is guilty of a class D felony (see Table on Penalties).

The act prohibits a person engaged in law enforcement or vested with police powers from being licensed as a surety bail bond agent.

Disqualifying Offense

The act expands the list of convictions that disqualify a person from being licensed as an agent to include convictions for any misdemeanor involving dishonesty or misappropriation of money or property. The law already disqualifies a person if he or she was convicted of any felony or any of the following misdemeanors:

1. illegal drug possession;
2. criminally negligent homicide;
3. 3rd-degree assault;
4. 3rd-degree assault of an elderly, blind, disabled, pregnant, or mentally retarded person;
5. 2nd-degree threatening;
6. 1st-degree reckless endangerment;
7. 2nd-degree unlawful restraint;
8. 2nd-degree failure to appear;
9. 1st- or 2nd-degree rioting or inciting others to riot; or
10. 2nd-degree stalking.

The act requires an insurer, managing general agent, or agent to notify the commissioner in writing within five days of learning that an agent was arrested for, pleaded guilty or no contest to, or was found guilty of a disqualifying offense in Connecticut or a similar offense in another state, whether a court entered or withheld judgment.

The act defines "managing general agent" as a person an insurer appoints or employs to supervise the bail bond business that the insurer's appointed surety bail bond agents write in Connecticut.

Appointments

By law, an agent must have an insurer's notice of appointment on file with the commissioner to act on the insurer's behalf.

The act specifies that, by appointing an agent, an insurer is (1) certifying that, to the best of its knowledge and belief, the person is competent, financially responsible, and suitable to serve as the insurer's representative and (2) bound by the person's acts within the scope of his or her actual or apparent authority as the agent. The act prohibits agents from representing that they have authority to act on an insurer's behalf until the insurer has appointed them.

By law, an appointment continues in force until the agent's license terminates or the insurer, its representative, or the agent files a termination notice. The act specifies that the appointment notice is filed with the insurance commissioner.

The act prohibits agents from acting, or attempting to act, on the insurer's behalf after their appointment is terminated. However, it permits an insurer that terminates an agent's appointment to authorize the agent to (1) take into custody a person who has absconded and for whom a bail bond was written before the appointment was terminated and (2) try to have forfeitures and judgments discharged.

Examination of Books and Records; Examination Fee and Account

The act permits the insurance commissioner to examine a surety bail bond agent's books and records as often as he deems necessary to enforce the act. He already has this power with respect to license eligibility.

The act requires agents to pay the commissioner a \$450 fee by January 31 each year to cover the costs of these examinations. The commissioner must deposit the fees in a surety bail bond agent examination account, which the act creates as a separate, nonlapsing account in the Insurance Fund. The account must contain any money required to be deposited in it. The commissioner must use the money in the account for examinations. Any money remaining in the account at the end of each fiscal year must be transferred to the General Fund.

Notification of Bankruptcy or Change in Address or Telephone Number

The act requires an agent to give written notice to the commissioner within 30 days after (1) changing his or her name or residence address or (2) any bankruptcy proceeding by the agent or any administrative action or order against the agent in this or another state. (The notice must also include all supporting documentation.) The act requires an agent to give written notice within 30 days of changing his or her business name, principal

business address, or telephone number to the commissioner, appointing insurer, and managing general agent.

License Fees

The act sets the surety bail bond agent licensing fees at (1) \$150 for filing an initial license application and (2) \$100 for issuing or renewing a license. Under prior law, the commissioner set these fees. The act requires license applicants to pay the fees before the commissioner issues the license. It specifies that a license expires on January 31 in even-numbered years.

§ 2 — NOTICE TO COURTS AND POLICE DEPARTMENTS

By law, the insurance commissioner must give all courts and police departments in Connecticut a list of licensed surety bail bond agents and notify them of any change in the agent's status. The act requires him to also (1) provide the agent's principal business address and telephone number and (2) notify them of a change in the agent's business name, principal business address, or telephone number.

§ 3 — PREMIUM REQUIREMENTS

The act prohibits agents from executing a bail bond unless they charge the premium rate the insurance commissioner approved. It specifies that it does not prohibit or limit a premium financing arrangement that complies with its provisions (see § 4).

Premium Certifications

Monthly. The act requires agents, by the 10th of each month, to certify under oath to the commissioner, on a form he prescribes, that the premium for each surety bail bond executed during the prior month did not differ from the approved premium rate. If an agent files a false certification, the commissioner may, after notice and hearing, suspend or revoke the agent's license, impose a penalty of up to \$5,000, or both.

Annual. By January 31 each year, the act requires insurers to file a statement with the commissioner certifying the total amount of bail bonds executed and the total amount of premiums collected in the preceding calendar year.

Audit Requirement

The act requires insurers transacting surety bail bond business in Connecticut to audit their appointed agents twice per year to ensure each is charging the approved premium rate. The audits must cover (1) January 1 to June 30 and (2) July 1 to December 31.

Within 45 days after each audit period ends, insurers must notify the commissioner of any agent who failed to charge the approved premium rate. The notice must include the:

1. agent's name;
2. case docket number, if assigned;
3. total bond amount;
4. date the bond was executed,
5. insurer's National Association of Insurance Commissioners identification code; and
6. date the premium was due.

§ 4 — PREMIUM FINANCING ARRANGEMENTS

The act allows surety bail bond agents to enter into premium financing arrangements with a principal or indemnitor where the agents extend credit. If they enter into such arrangements, they must require the principal on the bond or any indemnitor to (1) make a minimum down payment of 35% of the approved premium rate and (2) execute a promissory note for the remaining premium due. The promissory note must require payment in full within 15 months of its execution.

If the balance owed is not paid in full by its due date or a payment is more than 60 days past due, the act requires the agent to (1) file a civil court action seeking appropriate relief within 75 days of when the balance was due and (2) make a diligent effort to obtain judgment, unless good cause is shown for failing to do so (e.g., the principal or indemnitor files for bankruptcy or service of process failed despite good faith efforts).

§ 5 — RECORD KEEPING AND ACCOUNTING FOR FUNDS

The act deems premiums, return premiums, or other funds an agent receives that belong to insurers or others to be trust funds received in a fiduciary capacity. The agent must account for and pay the funds to the insurer or person entitled to them according to the agent's contract with the insurer or managing general agent. The act prohibits any fees, expenses, or charges of any kind from being deducted from the return premiums, unless otherwise allowed under the act. ("Return premium" is any part of a premium that a surety bail bond agent is obligated to return to a principal or indemnitor.)

The act requires an agent to keep, and make available to the commissioner or his designee, books, accounts, and records as necessary to enable the commissioner to determine whether the agent is complying with the act. An agent must keep books, accounts, and records relating to premium payments for at least three years after payments are made. The act permits photographic and digital reproductions of records.

An agent who unlawfully diverts or appropriates trust funds for his or her own use is guilty of larceny. (Larceny ranges from a Class C misdemeanor to a Class B felony, depending on the amount involved (see Table on Penalties).)

§ 6 — RECORD MAINTENANCE AND EXAMINATION

The act requires agents to maintain all records of bonds they executed or countersigned for at least three years after the insurer's liability ends. The records must be open at all times for the Insurance Department's, insurer's, or managing general agent's examination, inspection, and copying. The commissioner may require agents to provide the department information concerning their surety bail bond business at any time and in a way he specifies.

§ 7 — BUILD-UP FUNDS

The act requires a surety bail bond agent or managing general agent to post "build-up funds" with an insurer or managing general agent according to (1) his or her contract with the insurer or managing general agent or (2) the managing general agent's contract with the insurer, whichever is applicable. The act defines "build-up funds" as a percentage of the premium the agent receives to execute a bail bond that is held in a trust account by the insurer or managing general agent.

The insurer or managing general agent must establish an individual build-up trust account for the agent in a federally insured bank or savings and loan association located in Connecticut. It must be in (1) the name of the agent and the insurer or managing general agent or (2) a trust for the agent. The account must be open to the Insurance Department's inspection and examination at all times. The insurer or managing general agent must maintain an accounting of all build-up funds that designates the amounts collected on each bond executed.

Under the act, build-up funds must be used to compensate the insurer or managing general agent for any losses incurred in apprehending a defendant or paying forfeited bail bonds. The act prohibits build-up funds from exceeding 40% of the surety bail bond premium the insurer contractually authorizes the agent to write. Build-up funds received must be immediately deposited to the build-up trust account, and interest earned on the deposits must accrue to the surety bail bond agent.

The act specifies that build-up funds become due to the agent when the (1) agent's bail bond contract ends and (2) liabilities on the bail bonds for which the funds were posted are discharged. It requires an insurer or managing general agent to pay the funds, minus any

expenses incurred, to the agent within six months after they are due.

§§ 8 & 9 — COLLATERAL SECURITY OR INDEMNITY

Requirements and Restrictions

The act allows a surety bail bond agent to accept collateral security or other indemnity on a bail bond and specifies related requirements and restrictions. The collateral or indemnity must (1) be reasonable in relation to the bond amount, (2) not be used for the agent's personal benefit or gain, and (3) be returned in the same condition as received.

Acceptable forms of collateral or other indemnity include (1) cash or its equivalent, (2) a promissory note, (3) an indemnity agreement, (4) a real property mortgage in the insurer's name, or (5) any Uniform Commercial Code filing. If the agent receives collateral or other indemnity exceeding \$50,000 in cash, he or she must make the cash amount payable to the insurer using a cashier's check, U.S. postal money order, certificate of deposit, or wire transfer. But the act also specifies that when an agent receives bond collateral exceeding \$50,000 in cash or its equivalent, he or she must promptly forward the entire amount to the insurer or managing general agent.

The agent must provide the person putting up the collateral or indemnity a written, numbered receipt that includes a detailed description of the collateral or indemnity provided, along with copies of any documents rendered. The agent must hold the collateral or indemnity in a fiduciary capacity. Before any bond forfeiture, the agent must keep the collateral or indemnity separate and apart from any other funds or assets.

The act allows the agent to deposit collateral or other indemnity in an interest-bearing account in a federally insured bank or savings and loan association located in Connecticut. The interest accrues to the benefit of the person putting up the collateral or other indemnity. The act prohibits the agent, insurer, or managing general agent from receiving any pecuniary gain on the deposited collateral or other indemnity.

The act makes the insurer liable for all collateral or indemnity an agent receives. If, upon final termination of liability on a bond, the surety bail bond or managing general agent fails to return the collateral or other indemnity to the person that put it up, the act requires the insurer to (1) return the actual collateral or indemnity to that person or (2) if it cannot be located, pay the person its value. The insurer's liability survives the termination of a surety bail bond agent's appointment with respect to bonds the agent wrote before the termination.

If a bail bond is forfeited, the agent or insurer must give the bond's principal and the person who put up collateral or other indemnity 30 days' written notice that it will be converted into cash to satisfy the forfeiture. The notice must be sent by certified mail, return receipt requested, to their last-known addresses. If the court orders a stay of execution on the forfeiture in accordance with law, the agent or insurer must send the written notice at least 30 days before the stay expires.

The act requires the agent or insurer to convert the collateral or other indemnity into cash within a reasonable period of time and return to the principal or person who posted it any amount that exceeds the bail bond's face value, minus the actual and reasonable conversion expenses, which must not exceed 10% of the face value. If an agent spends more than 10%, he or she may file a civil court action to recover the full amount of actual and reasonable expenses upon motion and proof that expenses exceeded 10%. If a bond is forfeited and the insurer paid the bond, the insurer must pay the person who put up the collateral or indemnity its value minus the actual and reasonable expenses that can be recovered.

Under the act, an agent or insurer cannot enter into any agreement as to the collateral's or indemnity's value that does not reflect its actual value. Any agreement that violates the act is void.

Appointment Requirement

Before an insurer appoints surety bail bond agents who are currently or were previously appointed by another insurer, the agents must file a sworn and notarized affidavit with the commissioner, on a form he prescribes, stating that:

1. they have not lost, misappropriated, converted, or stolen any collateral or indemnity they hold in trust for an appointing insurer;
2. all collateral or indemnity they hold in trust and all records for any appointing insurer are available for the commissioner's, insurer's, or managing general agent's immediate audit and inspection; and
3. they will, upon the commissioner's or insurer's demand, transmit the records to the insurer for whom the collateral or indemnity is being held in trust.

Returning Collateral or Indemnity

Under the act, if an agent accepted collateral or indemnity on a bond and the bond is terminated, the surety bail bond agent, managing general agent, or insurer must return it, except a promissory note or an indemnity agreement, within 21 days after (1) receiving a court's written report that the bond was terminated or

(2) becoming aware that the bond was terminated even if, despite a managing agent's or insurer's diligent inquiry, the court does not issue a written report. The collateral or indemnity must be returned to the person who provided it, unless the right to receive it was legally assigned to another person.

The act prohibits an insurer or agent from deducting a fee or other charge, other than one the act authorizes, from the collateral or indemnity due. Actual expenses incurred in apprehending a defendant because of a forfeiture of bond or judgment, if accounted for, may be deducted.

A person who violates the act's provisions regarding returning collateral or indemnity is guilty of larceny.

§ 10 — GIVING BAIL BOND SUPPLIES TO UNLICENSED PERSON PROHIBITED

The act prohibits an insurer, managing general agent, or surety bail bond agent from giving any blank form, application, stationery, business card, or other supplies used in soliciting, negotiating, or executing bail bonds to a person not licensed and appointed as a surety bail bond agent. But this does not prohibit an unlicensed employee under the direct supervision and control of a licensed and appointed agent from possessing or working with any form used in the agent's or insurer's daily business activities, other than a power of attorney, bond appearance form, or collateral security or indemnity receipt.

Insurer Liable

The act makes an insurer that (1) gives supplies to an agent or other person the insurer has not appointed and (2) accepts bail bond business from or executes bail bond business for that person, liable on the bail bond to the same extent and in the same manner as if the insurer had appointed him or her to act on its behalf.

§ 11 — PROHIBITED PRACTICES

The act prohibits an agent or insurer from:

1. suggesting, advising, or giving the name of, a particular attorney to represent the principal (i.e., bail bond client) in exchange for a fee or other consideration;
2. "soliciting" business (see below) (a) in, or on the grounds of a correctional institution, community correctional center, or other detention facility where arrested people are confined or (b) in a police station or courthouse (PA 11-152 allows solicitation in a police station);

3. wearing or displaying any identification, other than an Insurance Department-issued or insurance commissioner-approved license or identification, in or on the grounds of a correctional institution, community correctional center, other detention facility where arrested people are confined, or courthouse (PA 11-152 eliminates this prohibition);
4. acting as an attorney at a principal's proceeding in violation of law;
5. executing a bond in Connecticut (a) on the agent's or insurer's own behalf, (b) if a bond the agent executed is forfeited and the forfeiture has remained unpaid for at least 60 days after payment was due, unless the full amount of the forfeited bond is paid to the chief state's attorney's office, or (c) if the arrested person or someone authorized to act on the person's behalf has not authorized the agent to do so (the agent must keep the written authorization); and
6. accepting anything of value from a principal for providing a bail bond, other than the approved premium and an expense fee, except that the agent may accept collateral or indemnity.

The act permits an agent, upon written agreement with a third party, to receive a fee or other compensation for returning to custody a person who fled the court's jurisdiction or caused a bond forfeiture.

The act specifies that, for purposes of item 2 above, "solicit" includes distributing business cards, print advertising, or any other written information directed to arrested persons or potential indemnitors, unless an arrestee or indemnitor initiates contact. (PA 11-152 adds to this list, a person with actual or apparent authority to act on behalf of an arrestee.) The act limits permissible print advertising in, or on the grounds of a correctional institution, community correctional center, other detention facility where arrested people are confined, police station, or court, to a (1) telephone directory listing and (2) posting of the surety bail bond agent's name, address, and telephone number in a prominent, designated location.

The act also prohibits an agent or insurer from paying a fee or rebate or giving or promising anything of value to:

1. a law enforcement officer, judicial marshal, Department of Correction employee, other person who has power to arrest or hold a person in custody, or public official or employee to secure a bail bond compromise, remission, reduction, or estreatment (i.e., enforcement of a bond forfeiture);

2. an attorney in a bail bond matter, except in defense of a bond action; or
3. the principal or anyone on his or her behalf.

Forfeiture

If a bond written by an agent is forfeited and the forfeiture remains unpaid for at least 60 days after payment was due, the agent and the appointing insurer are prohibited from writing a bail bond in Connecticut until the full amount of the forfeited bail bond is paid to the Office of the Chief State's Attorney.

§ 12 — REPORTING REQUIREMENTS

The act requires each insurer and surety bail bond agent executing bail bonds in Connecticut to maintain and report certain information to the Insurance Department upon request. An agent must (1) report the information to the department separately for each insurer he or she represents and (2) give a copy to each such insurer.

An insurer and agent must report the number and total dollar amount of:

1. bail bonds executed;
2. bail bonds ordered forfeited;
3. forfeitures discharged, remitted, or otherwise recovered before payment for any reason, including the agent's apprehension of the principal;
4. forfeited bonds not reinstated under law;
5. forfeitures paid and subsequently recovered by the Chief State's Attorney's Office; and
6. bail bonds for which collateral or other indemnity was received.

They must also report:

1. a list of every outstanding or unpaid forfeiture, estreature, and judgment, including the case number and court for each, and the name of each agency or firm employing the surety bail bond agent;
2. the actual value of collateral security or other indemnity converted, excluding the cost of converting it;
3. the cost of converting collateral security or indemnity; and
4. additional information the Insurance Department may require to evaluate the (a) reasonableness of rates, ensuring that rates are not excessive, inadequate, or unfairly discriminatory, (b) financial condition or trade practices of agents and insurers executing bail bonds, and (c) performance of the surety bail bond agents and insurers executing bonds in accordance with appropriate criminal justice system goals and standards.

An insurer must also report:

1. commissions paid,
2. underwriting gain or loss, and
3. net investment gain or loss allocated to funds associated with Connecticut business.

Annual Meeting

The act requires the commissioner to meet at least annually with a group of agents, insurers, and any other representatives he deems necessary to discuss these reporting requirements.

§ 13 — PENALTY AND APPEALS

The act extends to its provisions, the commissioner's existing authority to suspend or revoke an agent's license, impose a penalty of up to \$5,000, or both, for violating the law.

When an agent's license is surrendered, suspended, or revoked, the act requires the appointing insurer or managing general agent to designate immediately a licensed and appointed agent to administer the bail bonds the former agent executed.

By law, a person whose license the commissioner suspended or revoked, or whom the commissioner fined, may appeal. The act transfers the appeal venue from Hartford to the New Britain judicial district.

§ 14 — REGULATIONS

The act authorizes the insurance commissioner to adopt regulations to implement the act's provisions relating to surety bail bond agents. Prior law required him to adopt regulations implementing licensing and appointment requirements.

§§ 16-22 — PROFESSIONAL BAIL BONDSMEN

Licensing and Notice to Courts and Others

By law, a professional bail bondsman is someone who furnishes bail in five or more criminal cases a year, whether or not for compensation. A professional bondsman must be licensed by the Department of Public Safety (DPS), be a resident elector, and submit to a criminal history records check. A license applicant must provide DPS with personal information, including name, age, residence, and occupation. The act requires an applicant to also provide his or her telephone number.

The act requires a professional bondsman to give DPS written notice of a change in name, address, or telephone number within 30 days after the change.

By law, the DPS commissioner must give all courts and municipal departments authorized to accept bail a list of licensed professional bondsmen and notify them

of any change in a bondsman's status. The act requires him also to (1) provide the bondsman's address and telephone number and (2) notify them of a change in the bondsman's name, address, or telephone number.

By law, anyone who violates these provisions is subject to a fine of up to \$1,000, imprisonment of up to two years, or both and his or her license is permanently forfeited.

Examination of Books

The act permits the DPS commissioner to (1) examine a professional bondsman's books and records as often as he deems necessary and (2) consult with the insurance commissioner to carry out such inspections. It also authorizes the DPS commissioner to adopt regulations to (1) establish inspection procedures, (2) determine the content and form of books and records bondsmen must keep, and (3) require bondsmen to pay a fee to cover the cost of the inspections.

Regulations

The act authorizes the DPS commissioner to adopt regulations to implement its provisions relating to professional bondsmen.

Prohibited Practices

The act restricts bail bond solicitation by professional bondsmen in the same way as for surety bail bond agents (see § 11 on prohibited practices above), with two differences.

A professional bondsman cannot:

1. wear or display any identification, other than a DPS commissioner-approved or -issued license or identification, in or on the grounds of a correctional institution, community correctional center, other detention facility where arrested people are confined, or courthouse (PA 11-152 eliminates this prohibition) and
2. accept anything of value from a principal for providing a bail bond, other than the commission or fee authorized by law and collateral or indemnity in accordance with the act.

By law, a bondsman may charge up to \$50 for bond amounts up to \$500, 10% for amounts of \$500 to \$5,000, and 7% for amounts over \$5,000.

Forfeiture

If a bond written by a bondsman is forfeited and the forfeiture remains unpaid for at least 60 days after payment was due, the bondsman is prohibited from writing a bail bond in Connecticut until the full amount

of the forfeited bail bond is paid to the Office of the Chief State's Attorney.

Collateral Security and Indemnity

The act allows a professional bondsman to accept collateral security or indemnity on a bail bond.

Under the act, if a bondsman accepted collateral or indemnity on a bond and the bond is terminated, he or she must return the collateral or indemnity, except a promissory note or an indemnity agreement, within 21 days after (1) receiving a court's written report that a bond was terminated or (2) becoming aware that a bond was terminated even if, despite diligent inquiry, the court does not issue a written report. The collateral or indemnity must be returned to the person who provided it, unless the right to receive it was legally assigned to another person.

The act prohibits a bondsman from deducting a fee or other charge from the collateral or indemnity due, but actual and reasonable expenses incurred in apprehending a defendant because of a forfeiture of a bail bond or judgment, if accounted for, may be deducted.

A bondsman who violates these requirements is guilty of larceny.

§ 23 — VERIFICATION OF OUTSTANDING WARRANTS

At the request of a licensed professional bondsman, surety bail bond agent, or bail enforcement agent during regular business hours, the act requires the Judicial Branch to verify whether a rearrest warrant or *capias* issued by a court after forfeiting a bond for failure to appear is still outstanding.

§ 24 — PRINCIPAL INCARCERATED IN ANOTHER JURISDICTION

The act requires the court to vacate an order forfeiting a bond and release the professional bondsman, surety bail bond agent, and insurer when the (1) principal is detained or incarcerated in another state, territory, or country; (2) professional bondsman, agent, or insurer provides the court and prosecutor with proof of detention or incarceration; and (3) prosecutor declines to seek extradition.

By law, when the court orders a bail bond forfeited and issues a rearrest warrant for failure to appear, the court stays execution of the bond forfeiture for six months.

PA 11-53—SB 921

*Insurance and Real Estate Committee
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee
Appropriations Committee*

AN ACT ESTABLISHING A STATE HEALTH INSURANCE EXCHANGE

SUMMARY: This act establishes the Connecticut Health Insurance Exchange as a quasi-public agency to satisfy requirements of the federal Patient Protection and Affordable Care Act (“PPACA”). Under the act, a 14-member board manages the exchange, including operating an online marketplace where individuals and small employers (i.e., those with up to 50 employees) can compare and purchase health insurance plans that meet federal requirements beginning in 2014.

EFFECTIVE DATE: Upon passage

§§ 2, 15-18 — EXCHANGE CREATION

The act creates the Connecticut Health Insurance Exchange (exchange) as a quasi-public agency and adds the exchange to the statutes governing quasi-public agencies. The exchange is not a state department, institution, or agency.

Board Membership

The act vests the powers of the exchange in a 14-member board of directors, which includes the (1) insurance and public health commissioners and the healthcare advocate, or their designees, as ex-officio, nonvoting members and (2) social services commissioner, special advisor to the governor on healthcare reform, and Office of Policy and Management (OPM) secretary, or their designees, as ex-officio, voting members. The remaining eight voting board members must be appointed by the governor and the legislative leaders by July 1, 2011. If an appointing authority fails to make an appointment, the appointed board members can make the appointment by majority vote. Table 1 shows appointees and their respective qualifications and initial term.

Table 1: Appointed Exchange Board Members

<i>Appointing Authority</i>	<i>Required Expertise</i>	<i>Initial Term</i>
Governor	Individual health insurance coverage	Three years
Governor	Small employer health insurance coverage	Two years
Senate president pro tempore	Health care finance	Four years
House speaker	Health care benefits plan administration	Four years

Table 1: Continued

<i>Appointing Authority</i>	<i>Required Expertise</i>	<i>Initial Term</i>
Senate majority leader	Health care delivery systems	Two years
House majority leader	Health care economics	One year
Senate minority leader	Self-employed individuals' healthcare access issues	Three years
House minority leader	Barriers to individual health care coverage	Two years

After the initial terms expire, all subsequent terms are four years. Vacancies must be filled by the appointing authority for the rest of the term. Members can be reappointed. Members can be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty. Members are not compensated, but may be reimbursed for expenses incurred in performing official duties. Appointed members may not designate a representative to perform in their absence.

Qualifications

While serving in their positions, appointees cannot be employed by, serve as a consultant to, or be affiliated with an insurer, insurance producer or broker, health care provider, health care facility, or health or medical clinic. Board members cannot be a member of, a board member, or an employee of, a trade association of insurers, insurance producers or brokers, health care providers, health care facilities, or health or medical clinics. They cannot be health care providers unless they do not receive compensation as providers and do not have an ownership interest in a professional health care practice.

As a condition of qualifying for the board of directors, an appointee must take the state Constitution oath or affirmation. A record of the oath must be filed in the Secretary of the State's Office.

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

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

Surety Bond

The act requires (1) each board member to execute a \$50,000 surety bond or (2) the chairperson to execute a blanket position bond covering each board member,

the chief executive officer (see below), and employees of the exchange. Each bond must be (1) conditioned on the faithful performance of duties, (2) written by a surety company authorized to transact business in Connecticut, (3) approved by the attorney general, and (4) filed with the secretary of the state. The exchange must pay the cost of each bond.

Noncompete Clause

A board member cannot, for one year after serving on the board, accept a job with any health carrier that offers a qualified health benefit plan through the exchange. (“Health carrier” is an entity that provides, delivers, pays for, or reimburses the costs of health care services. It includes an insurer, HMO, fraternal benefit society, hospital or medical service corporation, or other entity subject to Connecticut’s insurance laws and regulations or the insurance commissioner’s jurisdiction.)

Chairperson and Meetings

The act requires the governor to select a board chairperson from among the members. The board members must annually select a vice-chairperson. The chairperson must hold the first board meeting by August 1, 2011. Meetings must be held at times specified in the bylaws adopted by the board and at other times as the chairperson deems necessary. Any member who fails to attend at least three consecutive meetings or half of all meetings during a calendar year is deemed to have resigned.

Quorum

The exchange may act by majority vote at any meeting at which there is a quorum. Six board members constitute a quorum to transact business or exercise any power of the exchange. A vacancy in the board membership does not impair the board’s rights to transact business. Any board action taken may be authorized by resolution approved by a majority of the board members present and the resolution takes effect immediately, unless it provides otherwise.

Chief Executive Officer

The act requires the board to nominate three candidates for the initial chief executive officer (CEO) to the governor, who must choose one of the nominees. The board will select and appoint future CEOs. The CEO administers the exchange’s programs and activities in accordance with the board’s policies and objectives. The CEO may hire other employees as designated by the board.

Employees of the Exchange

Qualifications. An exchange employee cannot be a member of, a board member, or an employee of a trade association of insurers, insurance producers or brokers, health care providers, health care facilities, or health or medical clinics. They cannot be health care providers unless they (1) receive no compensation as providers or the CEO approves the hiring because the provider fills an area of needed expertise for the exchange and (2) do not have an ownership interest in a professional health care practice.

Noncompete Clause. An exchange employee cannot, for one year after working with the exchange, accept a job with any health carrier that offers a qualified health benefit plan through the exchange.

Licensed Producer. An exchange employee who sells, solicits, or negotiates insurance, or will do so, to individuals and small employers must be licensed as an insurance producer as required by law, within one year after starting to work with the exchange. (PA 11-61, § 142 instead requires exchange employees whose primary purpose is to assist individuals or small employers in selecting health insurance plans offered on the exchange to become licensed insurance producers within 18 months of starting work for the exchange.)

Consultation

The act allows the board to consult with public or private parties it deems necessary or desirable in performing its duties.

Advisory Committees

The act authorizes the board to create advisory committees it deems necessary to provide input on issues, including customer service needs and insurance producer concerns.

§ 3 — WRITTEN PROCEDURES

The board must adopt written procedures in accordance with quasi-public agency law, which requires published notice before action, for:

1. adopting an annual budget and plan of operations, including a requirement for board approval before either may take effect;
2. hiring, dismissing, promoting, and compensating the exchange’s employees, including an affirmative action policy and a requirement for board approval before a position may be created or vacancy filled;
3. acquiring real and personal property and personal services, including a requirement for board approval of any nonbudgeted expenditure over \$5,000;

4. contracting for financial, legal, bond, underwriting, and other professional services, including a requirement that the exchange solicit proposals at least once every three years for each service it uses;
5. issuing and retiring bonds, bond anticipation notes, and other obligations of the exchange;
6. establishing requirements for certifying qualified health plans, including minimum standards for marketing practices, network adequacy, essential community providers in underserved areas, accreditation, quality improvement, uniform enrollment forms and coverage descriptions, and quality measures for health benefit plan performance; and
7. implementing the act or other provisions of state law, provided they do not conflict with regulations adopted by the U.S. Health and Human Services (HHS) secretary.

§ 4 — FORWARDING COPY OF AUDIT

The act requires the board to submit to the Insurance and Real Estate Committee a copy of each audit of the exchange conducted by an independent auditing firm within seven days of receiving the audit.

§ 5 — PURPOSES OF THE EXCHANGE

The act specifies the purposes of the exchange and permits public funds to be spent to carry them out. It specifies that the exchange's goals are to reduce the number of people without health insurance in Connecticut and help individuals and small employers obtain health insurance by, among other things, offering easily comparable and understandable information about health insurance options.

Under the act, the exchange can:

1. have perpetual succession as a body politic and corporate;
2. adopt bylaws;
3. adopt an official seal and alter it;
4. establish a state office;
5. employ staff, including assistants, agents, and managers, as necessary;
6. acquire, own, manage, hold, and dispose of real and personal property and lease, convey, deal, or enter into agreements concerning such property on any terms necessary to carry out the exchange's purposes, except acquisitions of real property that use state-appropriated funds or bond proceeds backed by the state's full faith and credit are subject to the OPM secretary's approval and in accordance with state law (CGS § 4b-23);

7. receive and accept aid or contributions of any kind from any source;
8. charge assessments or user fees to health carriers capable of offering a qualified health plan through the exchange or otherwise generate funding necessary to support the exchange;
9. obtain insurance against loss concerning its property and other assets;
10. invest its funds in U.S.- or state-issued or -guaranteed obligations and in obligations that are legal investments for savings banks in Connecticut;
11. issue, fund, or refund bonds, bond anticipation notes, and other obligations of the exchange to fund any of its corporate purposes;
12. borrow money to obtain working capital;
13. account for and audit exchange funds and any recipients of exchange funds;
14. enter into contracts or agreements necessary to perform its duties, but such contracts are not subject to approval of any state agency as long as they are made public records, subject to the proprietary rights of any party to the contract;
15. if permitted under its contracts, agree to any termination, modification, forgiveness, or other change of any term of any contractual right, payment, royalty, contract, or agreement;
16. award grants to "navigators" (see § 9);
17. limit the number of plans offered, using selective criteria in determining which plans to offer through the exchange, provided there is an adequate number and selection;
18. with the Sustinet Health Care Cabinet (created by PA 11-53), evaluate the feasibility of implementing a basic health program option as provided for in federal law;
19. sue, be sued, implead, and be impleaded;
20. adopt procedures that do not conflict with state law; and
21. do all acts necessary and convenient to carry out its purposes, provided they do not conflict with the PPACA or related regulations and guidance.

§ 6 — DUTIES OF THE EXCHANGE

Under the act, the exchange must:

1. administer the exchange for both qualified individuals and qualified employers;
2. survey individuals, small employers, and health care providers on health care and health care coverage issues;
3. implement procedures for certifying, recertifying, and decertifying health benefit plans as qualified health plans, consistent with

- the act and HHS guidelines;
4. operate a toll-free consumer assistance hotline;
 5. provide for enrollment periods as provided in the PPACA;
 6. maintain an Internet website through which people may obtain standardized comparative information on qualified health plans, including enrollee satisfaction survey information and other tools to assist in evaluating the plans;
 7. publish on its website the average costs of licensing, regulatory fees, and any other payments the exchange requires and the exchange's administrative costs, including information on amounts lost to waste, fraud, and abuse;
 8. rate each qualified health plan offered through the exchange and determine each plan's level of coverage in accordance with HHS criteria and regulations;
 9. use a standardized format for presenting health benefit options in the exchange;
 10. screen applications to determine if applicants are eligible for Medicaid, the State Children's Health Insurance Program, or other state public insurance programs and enroll eligible applicants in such programs;
 11. to the extent possible, collaborate with the Department of Social Services (DSS) to allow a person to stay enrolled in his or her plan and provider network if he or she loses premium tax credit eligibility and becomes eligible for Medicaid;
 12. establish and make available electronically a calculator that allows individuals to determine their actual cost of coverage, taking into consideration any applicable federal premium tax credit and cost-sharing reduction;
 13. establish a program for small employers through which qualified employers may access coverage for their employees and specify a level of coverage so that their employees may enroll in any qualified health plan offered through the exchange at that specified level of coverage;
 14. offer enrollees and small employers the option of having the exchange collect and administer premiums, including by allocating premiums among the various insurers and qualified health plans;
 15. certify if an individual is exempt from the PPACA requirement to carry health insurance or from the penalty for not doing so;
 16. provide to the U.S. Treasury secretary the name and taxpayer identification number of each individual who (a) was granted an exemption, (b) was eligible for the premium tax credit because his or her employer did not provide minimum essential health benefits coverage or provided coverage that was unaffordable or did not meet the required actuarial value, (c) notifies the exchange that he or she has changed employers, and (d) ceases coverage under a qualified health plan during a plan year and the effective date of that cessation;
 17. give each employer the name of each employee who was eligible for a premium tax credit and ceases coverage under a qualified health plan during a plan year and the effective date of the cessation;
 18. determine eligibility for premium tax credits, reduced cost-sharing, or insurance purchase mandate exemptions as required by HHS or the treasury department;
 19. select entities qualified to serve as navigators under PPACA and under the act (see § 9);
 20. review the rate of premium growth within and outside the exchange and consider that information when developing recommendations on whether to continue limiting qualified employer status to small employers;
 21. credit the amount of any "free choice voucher" that may be available under PPACA to the monthly premium of the plan in which a qualified employee is enrolled and collect the amount credited from the offering employer; and
 22. seek to include the most comprehensive health benefit plans that offer high quality benefits at the most affordable price in the exchange.

Stakeholders

The exchange must consult with stakeholders relevant to implementing the act, including:

1. enrollees in qualified health plans who are knowledgeable about the health care system and have background and experience in making informed decisions on health, medical, and scientific matters;
2. people and entities experienced in facilitating enrollment in qualified health plans;
3. representatives of small employers and self-employed individuals;
4. DSS; and
5. advocates for enrolling hard-to-reach populations.

Financial Integrity and Reporting

The exchange must meet the following financial integrity requirements:

1. accurately account for all activities, receipts, and expenditures and annually report on these to HHS, the governor, insurance commissioner, and legislature;
2. fully cooperate with any HHS investigation and allow HHS to (a) investigate the exchange's affairs, (b) examine its properties and records, and (c) require periodic reports of its activities; and
3. ensure that its funds are not spent for staff retreats, promotional giveaways, excessive executive compensation, or state or federal lobbying.

Adverse Selection Report

The exchange must report at least annually to the legislature on the effect of adverse selection on the exchange's operations and make legislative recommendations, if needed, to reduce the negative impact of adverse selection on the exchange's sustainability. The recommendations must include ways to ensure that the regulation of insurers and health benefit plans are similar for qualified health plans offered through the exchange and health benefit plans offered outside the exchange. The exchange must evaluate whether adverse selection is occurring with respect to health benefit plans that are grandfathered under the PPACA, self-insured plans, plans sold through the exchange, and plans sold outside the exchange.

§§ 7 & 8 — QUALIFIED HEALTH PLANS

The act requires the exchange to make qualified health plans available to qualified individuals and employers by January 1, 2014. The exchange cannot make plans available unless they are qualified health plans.

The act defines a "qualified health plan" as a health benefit plan certified as meeting criteria outlined in the PPACA and this act. A "qualified individual" is a state resident seeking to enroll in a qualified health plan offered to individuals through the exchange who is a U.S. citizen, national, or lawful alien and not incarcerated (except for pretrial inmates). A "qualified employer" is a small employer with its principal place of business in Connecticut that elects to make its full-time employees eligible for one or more qualified health plans offered through the exchange. The employer also may elect to make some or all part-time employees eligible. The employer must provide coverage through

the exchange to either all its eligible employees wherever they work or all its eligible employees employed in Connecticut.

The exchange must allow a health carrier to offer a limited scope dental plan, either separately or as part of a qualified health plan, if it covers pediatric dental benefits.

Under the act, the exchange or a health carrier offering plans through the exchange cannot charge an individual a coverage termination fee or penalty if the individual enrolls in another type of minimum essential coverage because he or she is newly eligible for the coverage or the individual's employer-sponsored coverage has become affordable under federal standards.

Certifying Qualified Health Plans

The act authorizes the exchange to certify a health benefit plan as a qualified health plan if:

1. the plan provides the federally designated essential health benefits (but a plan does not have to contain all essential health benefits if it is a qualified dental plan and the health carrier prominently discloses that (1) the plan does not provide all essential pediatric benefits and (2) qualified dental plans with those benefits are offered through the exchange);
2. the insurance commissioner has approved the premium rates and contract language;
3. the plan provides at least a "bronze" level of coverage (covering 60% of the cost of essential health benefits) unless it is certified as a catastrophic plan and offered only to people eligible for such plans (e.g., under age 30 or exempt from the PPACA's requirement to carry health insurance);
4. the plan complies with federal limits on out-of-pocket costs;
5. the plan meets the exchange's certification requirements and those in HHS regulations; and
6. the exchange determines that making the plan available is in the interests of qualified individuals and employers in the state.

Under the act, the exchange cannot refuse to certify a plan (1) because it is a fee-for-service plan, (2) by imposing premium price controls, or (3) because it believes the plan provides treatments to prevent patients' deaths in circumstances that are too costly or inappropriate.

The exchange cannot exempt any health carrier from state licensure or reserve requirements and must apply the certification criteria in a way that assures a level playing field among health carriers participating in the exchange.

Health Carrier Requirements

To be eligible to offer qualified health plans through the exchange, a health carrier must:

1. be licensed and in good standing to offer health insurance in Connecticut;
2. offer through the exchange at least one plan at the “silver” coverage level (covering 70% of the cost of essential health benefits) and one plan at the “gold” coverage level (covering 80% of the cost of essential health benefits) through each exchange in which it participates (i.e., the exchange for individuals and the exchange for small employers);
3. charge the same premium rate for each qualified health plan whether offered (a) through the exchange or outside it or (b) directly by the carrier or through an insurance producer;
4. charge no coverage termination fee or penalty if an individual enrolls in another type of minimum essential coverage because he or she is newly eligible for the coverage or his or her employer-sponsored coverage has become affordable under federal standards; and
5. comply with HHS regulations and any other requirements the exchange may establish.

A health carrier must agree to submit (presumably to the exchange) and post on its website a justification for any premium increase before implementing the increase. (The act does not specify how long before implementing an increase the carrier must submit this information.) The exchange must consider such justification, along with (1) any additional information from the insurance commissioner and (2) any excess premium growth outside the exchange as compared to the rate of such growth inside the exchange, when determining whether to allow the carrier to continue making the plan available through the exchange.

A health carrier must disclose information in plain language to the public, the exchange, HHS, and the insurance commissioner, including information on claims, finances, enrollment, rating practices, out-of-network coverage cost sharing, enrollee rights under PPACA, and other information HHS requires.

A health carrier also must inform individuals, upon request, of the amount of cost sharing (e.g., deductibles, copayments, and coinsurance) they are responsible for under their plans for specific services.

Qualified Dental Plans

The act applies to qualified dental plans, except as modified by the exchange’s adopted, written procedures or the following:

1. a health carrier seeking certification of a dental plan as a qualified dental plan must be licensed in Connecticut to offer dental coverage but does not need to be licensed to offer other health benefits;
2. qualified dental plans are limited to dental and oral health benefits and must include, at a minimum, the essential pediatric dental benefits defined by HHS and other dental benefits as the exchange or HHS may specify; and
3. health carriers may jointly offer a comprehensive plan through the exchange in which dental benefits are provided by one carrier and health benefits by another carrier, as long as the plans are qualified plans and priced and made available for purchase separately.

§ 9 — NAVIGATORS

The act requires the exchange to establish a “navigator” grant program to award grants to certain entities to market the exchange. The exchange must establish performance standards, accountability requirements, and maximum grant amounts.

Purpose

A navigator must:

1. educate the public about the availability of qualified health plans sold through the exchange;
2. distribute fair and impartial information about enrollment in qualified health plans and the availability of premium tax credits and cost-sharing reductions under the federal PPACA;
3. facilitate enrollment in qualified health plans;
4. refer individuals with a grievance, complaint, or question about a plan, a plan’s coverage, or a determination under a plan’s coverage to the healthcare advocate or any customer relations unit the exchange establishes; and
5. provide information in a culturally and linguistically appropriate manner.

Entities Allowed as Navigators

The act requires the exchange board to award navigator grants at the board’s sole discretion to any of the following:

1. a trade, industry, or professional association;
2. a community and consumer-focused nonprofit group;
3. a chamber of commerce;
4. a labor union;

5. a small business development center; or
6. an insurance producer or broker licensed in Connecticut.

Under the act, a navigator cannot be an insurer or receive any consideration directly or indirectly from an insurer for enrolling people in a qualified health plan.

To be considered for a navigator award, an entity must demonstrate to the board's satisfaction that it has, or could develop, relationships with small employers, their employees, and individuals, including underinsured, uninsured, or self-insured individuals.

Miscellaneous

The act requires a navigator to comply with the PPACA and related federal regulations and guidance and it requires the exchange to collaborate with HHS to develop standards that ensure the information navigators provide is fair and accurate.

§ 10 — STATE PLEDGE REGARDING CONTRACTUAL OBLIGATIONS

Under the act, the state pledges that it will not limit or alter any rights vested in the exchange until the exchange's contractual obligations to any person are fully met. But nothing precludes limitation or alteration if the law adequately protects those entering into contracts with the exchange.

§ 11 — TAX EXEMPTION

The act exempts the exchange from state and municipal franchise, corporate business, and property taxes. But it does not exempt (1) a person entering into a contract with the exchange from the taxes or (2) the exchange from any manufacture or sales taxes.

§ 12 — ANNUAL REPORTING REQUIREMENTS

The act requires the exchange's CEO to report to the governor and legislature annually by January 1, 2012, 2013, and 2014, on the exchange in Connecticut. The report must address whether to:

1. establish separate exchanges for individuals and small employers or one combined exchange,
2. merge the individual and small employer health markets,
3. revise the definition of "small employer" from 50 to 100 employees,
4. allow large employers to participate in the exchange starting in 2017,
5. require qualified health plans to provide only the federally defined essential health benefits package or to also include additional state mandated benefits, and

6. list dental benefits separately on the exchange's website where a qualified health plan includes dental benefits.

The report also must address:

1. the relationship between the exchange and insurance producers;
2. the exchange's capacity to award navigator grants;
3. ways to ensure the exchange is financially sustainable by 2015 (as required by PPACA), including assessments or user fees charged to carriers; and
4. ways to independently evaluate consumers' experience, including hiring "secret shoppers."

The act also requires the exchange's CEO to report to the governor and legislature annually, beginning January 1, 2012, on:

1. any private or federal funds received during the prior calendar year and how they were spent,
2. the adequacy of federal funds for the exchange before January 1, 2015,
3. the amounts and recipients of any grants awarded (presumably navigator grants), and
4. the exchange's current financial status.

§ 13 — MISCELLANEOUS REQUIREMENTS

Exchange's Legal Authority

The exchange continues as long as it has legal authority to exist under the general statutes and until it is terminated by law. Upon termination, all its rights and properties pass to and are vested in the state.

Freedom of Information Act

The exchange is subject to the Freedom of Information Act, except the following information is not subject to disclosure:

1. the names and applications of individuals and employers seeking coverage through the exchange;
2. individuals' health information; and
3. information shared between the exchange and the departments of Social Services, Public Health, and Revenue Services; the Insurance Department; the comptroller; or any other state agency that is subject to confidentiality agreements under contracts entered into under the act.

Insurance Commissioner's Authority

Unless expressly specified, the act and the exchange's actions do not preempt or supersede the insurance commissioner's authority to regulate

insurance in Connecticut. All health carriers offering qualified health plans in Connecticut must comply with all applicable state health insurance laws and regulations and the insurance commissioner's orders.

§ 14 — ESSENTIAL HEALTH BENEFITS PACKAGE

The Office of Health Reform and Innovation (created by PA 11-58), in consultation with the exchange's board of directors and the Appropriations and Insurance and Real Estate committees, must prepare (1) an analysis of the cost impact on Connecticut and (2) a cost-benefit analysis of the essential health benefits package, as described in the PPACA and coverage requirements under chapter 700c of the general statutes. The analysis must consider regulations issued by the HHS secretary and any applicable health benefit review report performed by the Insurance Department pursuant to state law.

Within 60 days after the HHS secretary publishes the essential health benefits, the Office of Health Reform and Innovation must submit its analysis to the governor, the exchange's board of directors, and the Appropriations and Insurance and Real Estate committees.

PA 11-58—sHB 6308

Insurance and Real Estate Committee
Labor and Public Employees Committee
Planning and Development Committee
Appropriations Committee
Finance, Revenue and Bonding Committee
Government Administration and Elections Committee

AN ACT CONCERNING HEALTHCARE REFORM

SUMMARY: This act:

1. requires the comptroller to offer employee and retiree coverage under "partnership plans" to (a) nonstate public employers beginning January 1, 2012 and (b) nonprofit employers beginning January 1, 2013 (§§ 1-8);
2. requires certain municipal employers that sponsor fully insured group health insurance policies or plans for their active employees and retirees to submit, by October 1 annually, certain information to the comptroller (§ 9);
3. allows municipal employers to give certain claims data they request from health insurers to the comptroller upon his request and requires that the information be kept confidential (§ 10);
4. establishes the (a) Office of Health Reform and Innovation (OHRI) (§ 11) and (b) SustiNet

Health Care Cabinet in the lieutenant governor's office (§ 14);

5. requires OHRI to convene a working group concerning a statewide multipayer data initiative (§ 13);
6. requires (a) hospitals to submit patient-identifiable and emergency department data to the Office of Health Care Access (OHCA) which must keep it confidential, (b) certain facilities providing outpatient services to provide data to OHCA, and (c) OHCA to convene a working group addressing patient-identifiable data reporting in the outpatient setting (§ 12);
7. makes a variety of changes in laws relating to contracts between health care providers and health insurers (§§ 15-19);
8. requires the Insurance Department to license and regulate third-party administrators (TPA) (§§ 20-36);
9. changes various health insurance statutes to conform with the 2010 federal Patient Protection and Affordable Care Act (PPACA), including covering dependents until age 26, not denying coverage to children under age 19 because of preexisting conditions, and eliminating lifetime benefit maximums (§§ 37-53); and
10. revises the health insurance utilization review, grievance, and external appeal statutes to comply with the PPACA (§§ 54-89).

EFFECTIVE DATE: Various, see below.

§ 1 — DEFINITIONS

The act defines terms used throughout §§ 1-8. It defines "nonstate public employer" as a municipality or other state political subdivision, including a board of education, quasi-public agency, or public library. A municipality and a board of education may be considered separate employers. A "nonstate public employee" is an employee or elected officer of a nonstate public employer.

A "nonprofit employer" is a (1) nonprofit corporation organized under federal law (26 USC 501) that (a) has a purchase of service contract or (b) receives 50% or more of its gross annual revenue from government grants or funding or (2) tax-exempt labor or agricultural organization under federal law (26 USC 501(c)(5)).

A "partnership plan" is a health care benefit plan offered by the comptroller to nonstate public employers or nonprofit employers under the act.

EFFECTIVE DATE: July 1, 2011

§ 2 — PARTNERSHIP PLANS

The act requires the comptroller to offer coverage under a partnership plan to certain employer groups that submit an application that is approved under the act's provisions. He must offer coverage to:

1. nonstate public employers and their retirees beginning January 1, 2012 and
2. nonprofit employers and their retirees beginning January 1, 2013.

The act specifies that the comptroller does not have to offer coverage from every partnership plan offered to every employer. It allows the comptroller to offer partnership plans on a fully-insured or risk-pooled basis at his discretion. Any insurer, health maintenance organization (HMO), or entity with which he contracts and any fully insured plan offered is subject to state insurance laws.

Coverage Term, Renewal, and Withdrawal

In order for an employer group to participate in a partnership plan, the group must agree to benefit periods lasting at least two years. An employer may apply for renewal before the end of each benefit period.

The act requires the comptroller to develop procedures for an employer group to (1) apply to participate in the plan, (2) apply for renewal, and (3) withdraw from participation. The procedures must include the terms and conditions (1) under which a group can withdraw before the benefit period ends and (2) on how to obtain a refund for any unearned premiums paid or premium equivalent payments made in excess of incurred claims. The procedures must provide that nonstate public employees covered under a collective bargaining agreement must withdraw in accordance with any applicable state collective bargaining laws for municipal employees and teachers.

The act allows the comptroller to collect payments and fees for unreported claims and expenses.

Open Enrollment

Under the act, initial open enrollment for nonstate public employers must be for coverage that begins July 1, 2012, and subsequent enrollment periods must begin each July 1. Initial open enrollment for nonprofit employers must be for coverage beginning January 1, 2013. Subsequent enrollment periods must begin each July 1 and January 1.

Application Form

The act requires the comptroller to create an application for employer groups seeking coverage under a partnership plan and for renewal of such plans. The employer must disclose in the application whether it

will offer any other plan to the employees offered the partnership plan.

Taft-Hartley Exception

The act prohibits an employee from enrolling in a partnership plan if he or she is covered through his or her employer under a health insurance plan or arrangement issued to, or in accordance with, a trust established through collective bargaining under the federal Labor Management Relations Act (i.e., the Taft-Hartley Act).

Status as a Governmental Health Plan Under Federal ERISA

The act requires the comptroller to take any necessary actions to ensure that providing coverage to an employer under a partnership plan will not affect the state employee health plan's status as a "governmental plan" under the federal Employee Retirement Income Security Act (ERISA) (see BACKGROUND). ERISA sets certain fiduciary and disclosure standards for private-sector health plans and exempts governmental plans from these requirements.

The act authorizes the comptroller to cancel an employer's coverage with notice and stop accepting applications from nonprofit employers if he determines that providing this coverage affects the state plan's ERISA status. He must create the form and time frame for the cancellation notice.

The comptroller must resume accepting applications from these employers if he determines that granting them coverage will not affect the state employee plan's ERISA status. The act does not set criteria for these decisions.

The comptroller must publicly announce any decision to discontinue or resume (1) coverage or (2) accepting applications under a partnership plan.

Patient-Centered Medical Homes and Claims Data

The act requires the comptroller to consult with the Health Care Cost Containment Committee (HCCCC) to:

1. develop and implement patient-centered medical homes for the state employee plan and partnership plans that will reduce these plans' costs and
2. review claims data for these plans to target high-cost health care providers and medical conditions and monitor costly trends.

EFFECTIVE DATE: July 1, 2011

§ 3 — EMPLOYER GROUP PARTICIPATION

Permissive and Mandatory Collective Bargaining for Nonstate Public Employers

The act makes a nonstate public employer group's initial and continuing participation in a partnership plan a permissive subject of collective bargaining. If the union and the employer sign a written agreement to bargain over the participation, then the decision to join the plan is subject to binding arbitration.

Application and Decision Process for All Eligible Employers

The act establishes two different processes for determining whether a nonstate public or nonprofit employer group's application for coverage will be accepted, depending on whether the application covers all or some of the employees.

If the application covers all employees, the act requires the comptroller to accept the application for the next enrollment period, based on the partnership plan's applicable terms and conditions. The comptroller must give the employer written notice of when coverage begins, pending the employer's acceptance of the plan's terms and conditions. But if the application covers only some employees or it indicates the employer will offer other health plans to employees offered the partnership plan, the comptroller must forward the application to a health care actuary within five days of receiving it.

Within 60 days of receiving an application from the comptroller, the actuary must determine whether it will shift a significant part of the employer group's medical risks to the partnership plan. (The act does not define the term "significant.") If so, the actuary must provide this in writing to the comptroller and include the specific reasons for the decision and the information relied upon in making it.

Under the act, if the comptroller receives a significant risk shift finding from the actuary, he must deny the application and give the employer and HCCCC written notice that includes specific reasons for denial. If the actuary's finding does not indicate such a shift, the comptroller must accept the application and give the employer written notice of when coverage begins, pending the employer's acceptance of the plan's terms and conditions.

The act requires the comptroller to consult with a health care actuary to develop actuarial standards for (1) assessing the shift in medical risks of an employer's employees and retirees to the partnership plan and (2) determining the administrative and fluctuating reserve fees and the premium amounts or premium equivalent payments needed to cover anticipated claims and claim reserves. The comptroller must present the standards to

the HCCCC for its review, evaluation, and approval before the standards are used. (Presumably the comptroller will contract with an actuary for these services although the act does not specify this.)

Exceptions to Actuarial Review

The act prohibits the comptroller from forwarding to the actuary an application that proposes to cover fewer than all employees because (1) the employer will not cover temporary, part-time, or durational employees or (2) individual employees decline coverage.

Regulations Regarding Actuarial Review

The act authorizes the comptroller to adopt regulations establishing procedures for the reviews and the standards used in them.

EFFECTIVE DATE: July 1, 2011

§ 4 — RETIREES

Employer groups whose applications for coverage under a partnership plan are accepted also may seek coverage for their retirees. The act states that Sections one to 14 do not diminish any right to retiree health insurance under a collective bargaining agreement or state law.

The act requires the employer to remit premiums for retirees' coverage to the comptroller in accordance with its provisions.

Application and Decision Process

The application process and decision notice requirements with respect to covering an employer's retirees, including actuarial review if the employer proposes to cover fewer than all retirees (even if it covers all employees), is the same as for employees (described in § 3 above).

Exceptions to Actuarial Review

The act prohibits the comptroller from forwarding an application to the actuary when the only retirees an employer excludes from the proposed coverage are those who (1) decline coverage or (2) are Medicare enrollees.

EFFECTIVE DATE: July 1, 2011

§ 5 — PREMIUMS, FEES, COST SHARING, AND PARTNERSHIP ACCOUNT

Premiums

The act requires an employer to pay monthly premiums to the comptroller in an amount he determines for providing coverage for the group's

employees and retirees.

It permits an employer to require a covered employee or retiree to pay part of the coverage cost, subject to any applicable collective bargaining agreement.

Administrative Fee, Fluctuating Reserves Fee, and Employee Contribution

The act authorizes the comptroller to charge employers an administrative fee calculated on a per member, per month basis. In addition, the comptroller is authorized to charge a fluctuating reserves fee that he deems necessary to ensure an adequate claims reserve. He must do this in accordance with the actuarial standards developed in consultation with the HCCCC.

Penalties for Late Payment of Premiums

Interest. If an employer does not pay its premiums by the 10th day after the due date, the act requires the employer to pay interest, retroactive to the due date, at the prevailing rate the comptroller determines.

State Money Withheld. If a nonstate public employer fails to make premium or premium equivalent payments, the act authorizes the comptroller to direct the state treasurer, or any state officer who holds state money (i.e., grant, allocation, or appropriation) owed the employer, to withhold payment. The money must be withheld until (1) the employer pays the comptroller the past due premiums or premium equivalents and interest or (2) the treasurer or state officer determines that arrangements, satisfactory to the treasurer, have been made for paying the premiums or premium equivalents and interest.

The act prohibits the treasurer or state officer from withholding state money from the group if doing so impedes receiving any federal grant or aid in connection with it.

Terminate Plan Participation. With respect to a (1) nonstate public employer that is not owed state money or from which money is not withheld and (2) nonprofit employer, the act allows the comptroller to terminate the group's participation in the partnership plan for failure to pay premiums or premium equivalents if he gives it at least 10-days' notice. The group can avoid termination by paying premiums or premium equivalents and interest due in full before the termination effective date.

The act allows the comptroller to ask the attorney general to bring an action in Hartford Superior Court to recover any premiums, premium equivalents, and interest owed, or seek equitable relief from a terminated group.

Partnership Plan Premium Account

The act establishes a separate, nonlapsing partnership plan premium account in the General Fund. The comptroller must (1) deposit the premiums collected from employers, employees, and retirees into this account and (2) administer the account to pay claims and administrative fees to entities providing coverage or services under partnership plans.

EFFECTIVE DATE: July 1, 2011

§ 6 — ADVISORY COMMITTEES

Nonstate Public Health Care Advisory Committee

The act establishes a 12-member Nonstate Public Health Care Advisory Committee, which must make recommendations to the HCCCC regarding health care coverage for nonstate public employees.

The committee consists of three representatives each of (1) municipal employers, (2) municipal employees, (3) board of education employers, and (4) board of education employees. Of the three representatives in each category, one must represent each of the following types of towns: (1) one with 100,000 or more people, (2) one with at least 20,000 but fewer than 100,000 people, and (3) one with fewer than 20,000 people. The comptroller appoints the committee members.

Nonprofit Health Care Advisory Committee

The act establishes a six-member Nonprofit Health Care Advisory Committee, which must make recommendations to the HCCCC regarding health care coverage for nonprofit employees.

The committee consists of three representatives each of (1) nonprofit employers and (2) nonprofit employees. The comptroller appoints the committee members.

EFFECTIVE DATE: July 1, 2011

§ 7 — REGULATIONS

The act authorizes the comptroller to adopt regulations to implement and administer the partnership plans and allows him to implement policies and procedures to administer the plans while adopting the regulations. 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.

EFFECTIVE DATE: July 1, 2011

§ 8 — SEBAC CONSENT

The act prohibits the comptroller from offering coverage under the partnership plan until (1) the HCCCC provides the comptroller written approval of the act's provisions and (2) the State Employees Bargaining Agents Coalition (SEBAC) provides the House and Senate clerks written consent to incorporate the act's terms into its collective bargaining agreement. (Presumably, SEBAC's written consent goes to the clerks for legislative action. By law, if the legislature does not act within 30 days, the agreement is deemed approved (CGS § 5-278(b)).)

It specifies that nothing in the act's partnership plan provisions modifies the state employee health plan without the written consent of SEBAC and the Office of Policy and Management (OPM) secretary.

EFFECTIVE DATE: Upon passage

§ 9 — MUNICIPAL HEALTH PLANS

By October 1, 2011, and annually thereafter, the act requires municipal employers of more than 50 people to electronically submit to the comptroller, in a form he prescribes, information for any fully-insured group health plan they sponsor for active employees or retirees covering (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) hospital or medical services, including coverage under an HMO plan; and (5) single-service ancillary health coverage plans, including dental, vision, and prescription drug plans.

The required information is the percentage increase or decrease in group health insurance policy or plan costs in the immediately preceding two policy years. To calculate the percentage change, the employer must divide the total premium costs, including any premiums or contributions the employees or retirees paid, by the total number of covered employees and retirees.

Under the act, the covered employers are towns; cities; boroughs; and school, taxing, and fire districts.

EFFECTIVE DATE: July 1, 2011

§ 10 — HEALTH INSURANCE CLAIMS DATA

By law, insurers, health care centers (i.e., HMOs), hospital or medical service corporations, or other entities that deliver, issue, renew, amend, or continue 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, must provide, at the request of a municipal employer with more than 50 employees sponsoring the policy:

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 categories.

The act extends the requirement to insurers and entities that deliver, issue, renew, amend, or continue any group health insurance policy covering single-service ancillary health coverage plans, including dental, vision, and prescription drug plans. It requires all the insurers and entities to provide this and the other information free of charge by October 1 annually.

By law, the information provided (1) can be used only to get competitive quotes for group health insurance or promote employee wellness initiatives and (2) is confidential and not subject to disclosure under the Freedom of Information Act (FOIA). The act allows employers to give the information to the comptroller upon request. The comptroller must keep it confidential.

EFFECTIVE DATE: July 1, 2011

§ 12 — OCHA DATA COLLECTION

Hospital Data

By law, hospitals must provide the Office of Health Care Access (OHCA) division of the Department of Public Health (DPH) with hospital discharge and patient billing data. Prior law required OHCA to keep individual patient and billing data confidential, but permitted it to disclose aggregate reports from which individual patient and physician data cannot be identified.

The act instead requires hospitals to submit patient-identifiable inpatient discharge data and emergency department data to OHCA. "Patient-identifiable data" means any information that identifies, or may reasonably be used as a basis to identify, an individual patient, including data from patient medical abstracts and bills.

The act allows an intermediary to submit data to OHCA on behalf of a hospital or outpatient surgical facility. (PA 11-61, § 143 instead allows the data to be submitted through a contractual arrangement with an intermediary. The contractual arrangement must (1) comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and (2) ensure that data is submitted accurately and timely.)

Outpatient Data

The act also requires outpatient surgical facilities, hospitals, or facilities providing outpatient surgical services as part of a hospital's outpatient surgery department to provide OHCA with the following: (1)

the facility's name, location, and operating hours; (2) the type of facility and services provided; and (3) the total number of clients, treatments, patient visits, and procedures or scans performed in a calendar year.

The act requires OHCA to convene a working group of representatives of outpatient surgical facilities, hospitals and other individuals necessary to develop recommendations addressing current obstacles to and proposed requirements for patient-identifiable data reporting in the outpatient setting. By February 1, 2012, the working group must report its findings and recommendations to the Public Health and Insurance and Real Estate committees.

The office must begin reporting additional outpatient data it deems necessary by July 1, 2015. By July 1, 2012, and annually thereafter, the Connecticut Association of Ambulatory Surgery Centers must provide a progress report to DPH, until all ambulatory surgery centers comply with the implementation of systems that allow for reporting of outpatient data required by DPH. Until such additional reporting requirements take effect, DPH may work with the Connecticut Association of Ambulatory Surgery Centers and the Connecticut Hospital Association on specific data reporting initiatives. But the act specifies that DPH cannot assess penalties for failing to submit the data.

Data Confidentiality

Under the act, patient-identifiable data OHCA receives must be kept confidential and is not considered a public record or file subject to disclosure under FOIA. OHCA may release de-identified patient data or aggregate patient data to the public in a manner consistent with HIPAA privacy provisions. The act defines "de-identified patient data" as any information that meets the requirements for de-identification of protected health information under HIPAA. Any de-identified patient data released by OHCA must exclude provider, physician, and payer organization names or codes and be kept confidential by the recipient. OHCA may not release patient-identifiable data except for medical and scientific research purposes as provided under current law (CGS § 19a-25) and regulations. The act prohibits an individual or entity that receives patient-identifiable data from releasing it in any manner that may result in the identification of an individual patient, physician, provider, or payer. OHCA must impose a reasonable, cost-based fee for any patient data provided to a nongovernmental entity.

The act requires OHCA, by October 1, 2011, to enter into a memorandum of understanding with the comptroller to allow him access to this data if he agrees in writing to keep confidential individual patient and physician data identified by name or personal

identification code. (PA 11-61, § 143, instead requires the comptroller to keep patient and provider data confidential.)

The DPH commissioner must adopt regulations to carry out these provisions, which must be implemented within available appropriations.

EFFECTIVE DATE: July 1, 2011

§§ 11 & 13 — OFFICE OF HEALTH REFORM AND INNOVATION

The act establishes the Office of Health Reform and Innovation (OHRI) within the Office of the Lieutenant Governor. The special advisor to the governor on healthcare reform must direct its activities.

OHRI must:

1. coordinate and implement the state's responsibilities under state and federal health care reform;
2. identify (a) federal grants and other nonstate funding sources to help implement the PPACA and (b) other measures that enhance health care access, reduce costs, and improve the quality of the state's health care;
3. recommend and advance executive action and legislation to effectively and efficiently implement the PPACA and state health care reform initiatives;
4. design processes to maximize stakeholder and public input and ensure transparency in implementing health care reform;
5. ensure information sharing and coordination of efforts with the General Assembly and state agencies concerning public health and health care reform;
6. report on or after January 1, 2012, and annually thereafter, to the Appropriations, Human Services, Insurance and Real Estate, and Public Health committees on state agencies' progress in implementing the PPACA;
7. ensure coordination of efforts with state agencies on the prevention and management of chronic illnesses;
8. ensure state government structures are working together to effectively implement federal and state health care reform;
9. ensure, in consultation with the Connecticut Health Insurance Exchange and Department of Social Services, necessary coordination between the exchange and Medicaid enrollment planning and coordinated efforts among state agencies in order to prevent and manage chronic illnesses; and
10. maximize private philanthropic support to advance health care reform initiatives.

By August 1, 2011, OHRI must consult with the Sustinet Health Care Cabinet established under the act (see § 14) and convene a consumer advisory board with at least seven members.

OHRI and the Office of the Healthcare Advocate must provide staff support to the cabinet. OHRI must maintain a central comprehensive health reform web site.

The act directs state agencies to use their best efforts to assist OHRI, within available appropriations.

OHRI, in consultation with the Sustinet Health Care Cabinet, may use any consultants necessary to carry out its statutory responsibilities. The office may retain consultants to conduct feasibility and risk assessments required to implement, as may be practicable, private and public mechanisms to provide adequate health insurance products to individuals, small employers, nonstate public employers, municipal-related employers, and nonprofit employers, beginning on January 1, 2014. Not later than October 1, 2012, OHRI and the cabinet must make recommendations to the governor based on the results of analyses.

Multipayer Data Initiative

Under the act, OHRI must convene a working group to develop a plan implementing a state-wide multipayer data initiative to improve the state's use of health care data from multiple sources to increase efficiency, enhance outcomes, and improve the understanding of health care expenditures in the public and private sectors. The group must include the OPM secretary; comptroller; the commissioners of public health, social services, and insurance; health care providers; representatives of health insurance companies; health insurance purchasers; hospitals; and consumer advocates.

OHRI must report on the initiative plan to the Appropriations, Insurance and Real Estate, and Public Health committees.

EFFECTIVE DATE: Upon passage

§ 14 — SUSTINET HEALTH CARE CABINET

The act establishes, within the Office of the Lieutenant Governor, the Sustinet Health Care Cabinet to advise the governor and OHRI on issues specified.

Members and Appointment Process

The 28-member cabinet consists of the following members who must be appointed by August 1, 2011:

1. five appointed by the governor, (a) two representing the health care industry serving four-year terms, (b) one representing community health centers serving three years, (c) one representing insurance producers

2. one appointed by the Senate president pro tempore who is an oral health specialist engaged in active practice serving four years;
3. one appointed by the Senate majority leader representing labor and serving three years;
4. one appointed by the Senate minority leader who is an advanced practice registered nurse engaged in active practice and serving two years;
5. one consumer advocate appointed by the House speaker serving four years;
6. one appointed by the House majority leader who is a primary care physician engaged in active practice serving four years;
7. one appointed by the House minority leader representing the health information technology industry and serving three years;
8. five appointed jointly by the chairpersons of the Sustinet Health Partnership board of directors, one each representing faith communities, small businesses, the home health care industry, hospitals, and an at-large appointment, all of whom serve five-year terms;
9. the lieutenant governor;
10. the OPM secretary, the comptroller, the healthcare advocate and the special advisor to the governor on healthcare reform or their designees; the commissioners of Social Services and Public Health, or their designees; all of whom serve as ex-officio voting members; and
11. the commissioners of Children and Families, Developmental Services, Mental Health and Addiction Services, and Insurance or their designees, and the nonprofit liaison to the governor, or his designee, all of whom serve as ex-officio nonvoting members.

Subsequent cabinet terms begin on August 1 of the year appointed and last for four years. If an appointing authority does not make an appointment initially or within 90 days of a vacancy, the cabinet must appoint a member by majority vote.

When the initial terms of the five cabinet members appointed by the Sustinet Health Partnership board of directors expire, five successor cabinet members must be appointed as follows: (1) one appointed by the governor; (2) one appointed by the Senate president pro tempore; (3) one appointed by the House speaker; and (4) two appointed by majority board vote. These successor board members are at-large appointments.

The lieutenant governor serves as the cabinet chairperson; the cabinet must hold its first meeting by September 1, 2011.

Cabinet Duties

The cabinet must advise the governor and OHRI on developing an integrated health care system for Connecticut and must:

1. evaluate the means of ensuring an adequate health care workforce in the state;
2. jointly evaluate, with the chief executive officer of the Connecticut Health Insurance Exchange, the feasibility of implementing a basic health program option allowed under the PPACA;
3. identify short- and long-range opportunities, issues, and gaps created by the enactment of the PPACA;
4. coordinate with OHRI concerning the effectiveness of delivery system reforms and other efforts to control health care costs, including reforms and efforts implemented by state agencies;
5. develop a business plan for the governor and OHRI that takes into account the OHRI feasibility and risk assessments (see § 13) and evaluates private or public mechanisms that will provide adequate health insurance products beginning on January 1, 2014, including for- and non-profit organizations, insurance cooperatives, and self-insurance and submit appropriate implementation recommendations to the governor.
6. advise the governor on the (a) design, implementation, actionable objectives, and evaluation of state and federal health care policies, priorities, and objectives relating to the state's efforts to improve health care access and (b) quality of such care and the affordability and sustainability of the state's health care system.

The cabinet may convene working groups, which can include volunteer health care experts, to make recommendations on developing and implementing service delivery and health care provider payment reforms, including multi-payer initiatives, medical homes, electronic health records, and evidenced-based health care quality improvement.

EFFECTIVE DATE: Upon passage

§ 15 — CLAIM PAYMENT REQUIREMENTS

Prior law required health insurers to pay claims within 45 days of receiving them. The act increases the time an insurer has to pay claims submitted on paper and decreases the time it has to pay claims submitted electronically.

Paper Claims

The act requires insurers to pay paper claims within 60 days of receiving them. As under existing law, if the claim does not include all required information, the insurer must send written notice to the claimant requesting the information be sent within 30 days. Upon receiving the requested information, the insurer must pay the claim within 30 days.

Electronic Claims

The act requires insurers to pay electronic claims within 20 days of receiving them. If the claim does not include all required information, the insurer must send written notice to the claimant requesting the information be sent within 10 days. Upon receiving the requested information, the insurer must pay the claim within 10 days.

Claims Paid Late

By law, if an insurer fails to pay a claim on time, it must pay the claimant the amount of the claim plus 15% interest. This is in addition to any other penalties imposed by law. If the interest due is less than \$1, the insurer must instead deposit the amount in a separate interest-bearing account. At the end of each calendar year, the insurer must donate the account funds to the UConn Health Center.

EFFECTIVE DATE: January 1, 2012

§ 16 — NEW INSURANCE PRODUCTS

The act permits a contracting health organization (e.g., insurer or HMO) to introduce new insurance products to health care providers at any time as long as it gives the provider at least 60 days advance notice if the new product makes material changes to the administrative requirements or fee schedule portions of the provider's contract. The advance notice must allow the provider at least 30 days to decide whether to participate in the new insurance product. The provider may decline participation.

EFFECTIVE DATE: January 1, 2012

§ 17 — PROVIDER NETWORK ADEQUACY

The act requires each insurer that contracts with licensed health care providers to maintain a provider network that is consistent with the National Committee for Quality Assurance's (NCQA's) network adequacy requirements or URAC's provider network access and availability standards.

For purposes of this section, insurers include HMOs, managed care organizations (MCOs), preferred provider networks, and other entities that deliver, issue,

renew, amend, or continue individual or group health insurance policies or medical benefits plans.

NCQA and URAC are nonprofit organizations that accredit and certify a wide range of health care organizations. (URAC was previously known as the Utilization Review Accreditation Commission.)

EFFECTIVE DATE: January 1, 2012

§ 18 — PRIOR AUTHORIZATIONS

The act prohibits insurers and utilization review companies that grant prior authorizations for admissions, services, procedures, or extensions of hospital stays on or after January 1, 2012 from reversing or rescinding the authorization or refusing to pay for the admission, service, procedure, or extension of stay if:

1. the insurer or company did not notify the health care provider at least three business days before the scheduled date of the admission, service, procedure, or extension of stay that it was reversed or rescinded due to medical necessity, fraud, or lack of coverage and
2. the admission, service, procedure, or extension of stay took place in reliance on the prior authorizations.

The act specifies that this applies regardless of whether the preauthorization is required or requested by an insured's health care provider. It also specifies that a preauthorization is effective for at least 60 days from when it is issued, unless it is reversed or rescinded.

These provisions are not to be construed as authorizing benefits or services in excess of those provided for in the policy or contract.

For purposes of this section, insurers include HMOs, fraternal benefit societies, hospital and medical service corporations, and other entities that deliver, issue, renew, amend, or continue individual or group health insurance policies or medical benefit plans in Connecticut that cover (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, or (4) hospital or medical services.

EFFECTIVE DATE: January 1, 2012

§ 19 — DENTIST CHARGES

Under the act, a provider contract between an insurer and a licensed dentist entered into, renewed, or amended on or after January 1, 2012 cannot require the dentist to accept as payment an amount the insurer sets for services or procedures that are not covered benefits under the dental plan.

The act prohibits a dentist from charging more than his or her usual and customary rate for such noncovered services or procedures.

It requires each evidence of coverage for an individual or group dental plan to include the following statement:

“IMPORTANT: If you opt to receive dental services or procedures that are not covered benefits under this plan, a participating dental provider may charge you his or her usual and customary rate for such services or procedures. Prior to providing you with dental services or procedures that are not covered benefits, the dental provider should provide you with a treatment plan that includes each anticipated service or procedure to be provided and the estimated cost of each such service or procedure. To fully understand your coverage, you may wish to review your evidence of coverage document.”

The act requires dentists to post, in a conspicuous place, a notice stating that services or procedures that are not covered benefits under an insurance policy or plan might not be offered at a discounted rate.

For purposes of this section, an insurer includes an HMO, fraternal benefit society, hospital or medical service corporation, or other entity that delivers, issues, renews, amends, or continues an individual or group dental plan in Connecticut.

This section does not apply to a self-insured plan or collectively bargained agreement.

EFFECTIVE DATE: January 1, 2012

§ 20 — THIRD PARTY-ADMINISTRATOR DEFINITIONS

Third-Party Administrator

With certain exceptions, a third-party administrator (TPA) is one who directly or indirectly (1) underwrites; (2) collects charges or premiums; or (3) adjusts or settles claims on Connecticut residents with respect to life, annuity, or health coverage offered or provided by an insurer.

The act excludes from the definition of TPA:

1. an employer administering its employee benefit plan or that of an affiliated employer under common management and control;
2. a union administering a benefit plan on its members' behalf;
3. an insurer licensed in Connecticut or acting as an authorized insurer with respect to insurance lawfully issued to cover a Connecticut resident, and its sales representatives;
4. an insurance producer licensed to sell life, annuity, or health coverage in Connecticut, who just sells insurance;
5. a creditor acting on its debtors' behalf with respect to insurance covering a debt between the creditor and its debtors;

6. a trust and its trustees and agents acting pursuant to a trust established under federal law that restricts financial transactions with labor organizations;
7. a tax-exempt trust and its trustees, or a custodian and the custodian's agents acting pursuant to an account meeting federal requirements for custodial accounts and contracts treated as qualified trusts;
8. a mortgage lender, credit union, or financial institution subject to supervision or examination by federal or state banking authorities, when collecting or remitting premiums to licensed insurance producers, limited lines producers, or authorized insurers in connection with loan payments;
9. a credit card company advancing or collecting insurance premiums or charges from its credit card holders who have authorized collection;
10. an attorney adjusting or settling claims in the normal course of his or her practice or employment who does not collect charges or premiums in connection with life, annuity, or health coverage;
11. an insurance adjuster whose activities are limited to adjusting claims;
12. an insurance producer licensed in Connecticut and acting as a managing general agent whose activities are limited to those specified in law;
13. a business entity affiliated with an insurer licensed in Connecticut that undertakes activities as a TPA only for the direct and assumed insurance business of the affiliated insurer;
14. a consortium of state-funded federally qualified health centers that provide services only to recipients of programs administered by the Department of Social Services;
15. a pharmacy benefits manager registered with the insurance commissioner;
16. an entity providing administrative services to the Health Reinsurance Association; and
17. a nonprofit association or one of its direct subsidiaries that provides access to insurance as part of the benefits or services the association or subsidiary makes available to its members.

Underwriting

The act defines “underwriting” as (1) accepting applications from employers or individuals for coverage in accordance with the written rules of the insurer or self-funded plan and (2) the overall planning and coordination of a benefits program.

Adjuster

The act defines “adjuster” as an independent or contracted person who investigates or settles claims, excluding an insurer’s employee who investigates or settles claims incurred under insurance contracts the insurer or an affiliated insurer writes.

Insurer

The act defines an “insurer” as a person or people doing insurance business, including a captive insurer, a licensed insurance company, a medical or hospital service corporation, an HMO, or a consumer dental plan, that provides employee welfare benefits on a self-funded basis. It excludes a fraternal benefit society.

EFFECTIVE DATE: October 1, 2011

§ 21 — TPA LICENSE REQUIREMENT

The act prohibits a person (including an entity) from offering to act as a TPA in Connecticut unless licensed or exempt from licensure. This prohibition does not apply to a TPA’s employee to the extent that his or her activities are under the TPA’s supervision and control. But, the act does not exempt a TPA’s employees from the licensing requirements regarding public adjusters, casualty adjusters, motor vehicle physical damage appraisers, certified insurance consultants, surplus lines brokers, or any other insurance-related occupation for which the commissioner deems a license necessary. (See TPA Licensing Process below for more details.)

Certain entities that are exempt from TPA licensure but that perform similar services must register annually with the insurance commissioner.

License Exemption

A licensed insurer that underwrites, collects premiums or charges, or adjusts or settles claims, except for its policyholders, subscribers, and certificate holders, is exempt from the act’s requirements. These insurers must (1) be subject to the Connecticut Unfair Insurance Practices Act, (2) respond to all complaint inquiries received from the Insurance Department within 10 days of receiving them, and (3) obtain a customer’s prior written consent for advertising mentioning the customer.

ERISA Plans

The act specifies that it does not authorize the commissioner to regulate a self-insured plan subject to the federal Employee Retirement Income Security Act (ERISA). The commissioner is authorized to regulate activities an insurer undertakes for such plans that do

not relate to the benefit plan and that comport with his authority under ERISA to regulate the business of insurance.

Written Agreement

Under the act, a TPA must have a written agreement with the insurer (hereafter, insurer includes another person using the TPA's services). The agreement must be kept as part of the official records of both the TPA and the insurer until five years after the contract ends. The agreement must contain all of the following provisions, except those that do not apply to the functions the TPA performs:

1. a statement of activities that the TPA must perform on the insurer's behalf;
2. the lines, classes, or types of insurance the TPA may administer;
3. a requirement that the TPA render an accounting, on an agreed frequency, detailing all transactions it performs pertaining to the insurer's underwritten businesses;
4. the procedures for any withdrawals to be made, including remittance, deposits, transfers to and deposits in a claims-paying account, payment to a group policyholder, payment to the TPA for commissions, fees, or charges, and remittance of return premiums;
5. procedures and requirements for required disclosures; and
6. termination and dispute resolution procedures.

Termination and Disputes Regarding Lawful Obligations

A TPA or insurer may, with written notice, terminate the written agreement for cause as provided in the agreement. The insurer may also suspend the TPA's underwriting authority while the termination is pending. In a dispute between the TPA and the insurer regarding the fulfillment of a lawful obligation with respect to a policy or plan subject to the written agreement, the insurer must fulfill the obligation.

EFFECTIVE DATE: October 1, 2011

§ 22 — PAYMENTS TO INSURERS

The act specifies that insurance premiums or charges paid to a TPA by an insured party or on its behalf are deemed to have been received by the insurer. "Return premium" or claim payments the insurer forwards to the TPA are not deemed to have been paid to the insured party or claimant until the insured party or claimant receives them. The act specifies that it does not limit an insurer's rights to sue the TPA for its failure to pay the insurer, insured parties, or claimants.

EFFECTIVE DATE: October 1, 2011

§ 23 — BOOKS AND RECORDS OF TRANSACTIONS PERFORMED ON PAYOR'S BEHALF

The act requires a TPA to maintain and make available to an insurer with which it contracts complete books and records of all transactions performed on the insurer's behalf. The TPA must maintain the books and records (1) in accordance with prudent standards of insurance recordkeeping and (2) for at least five years after they were created.

Under the act, the insurer owns any records the TPA generates pertaining to the insurer. But the TPA retains the right to access the books and records to fulfill its contractual obligations to insured parties, claimants, and the insurer.

If a written agreement is terminated, the TPA may, by a separate written agreement with the insurer, transfer all books and records to a new TPA. The new TPA must acknowledge to the insurer, in writing, that it is responsible for retaining the books and records of the prior TPA.

Insurers Affiliated with Certain Business Entities

An insurer that is affiliated with a business entity (i.e., a for-profit or nonprofit corporation, a limited liability company, or similar form of business organization) is responsible for the acts of that business entity to the extent of the entity's activities as a TPA for such insurer. Upon the commissioner's request, the insurer is responsible for furnishing the books and records of all transactions performed on behalf of the insurer to the commissioner.

Access to Books and Records

The commissioner must have access to examine, audit, and inspect books and records maintained by a TPA. Any documents, materials, or other information in the possession or control of the commissioner obtained from a TPA, insurer, insurance producer, or employee or agent acting on their behalf, in an investigation, examination or audit are (1) confidential by law and privileged, (2) not subject to disclosure under the Freedom of Information Act, (3) not subject to subpoena, and (4) not subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use these documents, materials, or other information in any regulatory or legal action brought as a part of the commissioner's official duties.

Neither the commissioner nor anyone who receives documents, materials, or other information may testify or be required to testify in any private civil action concerning them.

The commissioner may share and receive documents, materials, or other information deemed confidential and privileged with other state, federal, and international regulatory agencies; the National Association of Insurance Commissioners (NAIC) or its affiliates or subsidiaries; and state, federal, and international law enforcement authorities, provided the recipient of such documents, materials, or other information agrees to maintain their confidentiality and privileged status. He may also enter into agreements governing the sharing and use of information.

Disclosures to the commissioner do not waive any applicable privilege or claim of confidentiality. The act does not prohibit the commissioner from releasing final, adjudicated actions, including terminated TPA licenses, to a database or other clearinghouse service maintained by the NAIC or its affiliates or subsidiaries.

EFFECTIVE DATE: October 1, 2011

§ 24 — ADVERTISING BY A TPA

The act requires a TPA who advertises on an insurer's behalf to use only advertising that the insurer approves, beforehand, in writing. A TPA that mentions any customer in its advertising must obtain the customer's prior written consent.

EFFECTIVE DATE: October 1, 2011

§ 25 — ADMINISTRATION OF BENEFITS

Each insurer is responsible for determining the benefits, premium rates, underwriting criteria, and claims payment procedures for the lines, classes, or types of insurance the TPA is authorized to administer, and for securing reinsurance. The insurer must provide to the TPA, in writing, administration procedures for benefits, premium rates, underwriting criteria, and claims payment. Each insurer is responsible for the competent administration of its benefit and service programs.

If the TPA administers benefits for more than 100 certificate holders on behalf of an insurer, the insurer must conduct a review of the TPA's operations at least semiannually. At least one such review must be an on-site audit.

EFFECTIVE DATE: October 1, 2011

§ 26 — FIDUCIARY CAPACITY

The act requires the TPA to hold in a fiduciary capacity (1) all insurance charges and premiums it collects on behalf of or for an insurer and (2) return premiums received from an insurer.

The act requires TPAs to (1) immediately return funds to the person entitled to them or (2) deposit them promptly in a fiduciary account the TPA establishes and maintains in a federally insured financial institution.

The TPA must provide a periodic accounting to the insurer, detailing all transactions it performed pertaining to the insurer's business.

Record Maintenance

The act requires the TPA to keep clear records of deposits and withdrawals and copies of all records of any fiduciary account it maintains or controls on an insurer's behalf and, at an insurer's request, give the insurer copies of the deposit and withdrawal records.

Paying Claims

The act prohibits a TPA from paying any claim by withdrawing funds from a fiduciary account in which premiums or charges are deposited. Withdrawals from such an account must be made as provided in the TPA's written agreement.

The act requires that all claims a TPA pays from funds collected on behalf of or for an insurer must be paid only by drafts or checks of, and as authorized by, the insurer.

EFFECTIVE DATE: October 1, 2011

§ 27 — COMPENSATION

The act prohibits a TPA from entering into an agreement or understanding with an insurer that makes or has the effect of making the TPA's commissions, fees, or charges contingent upon savings achieved by the adjustment, settlement, or payment of losses covered by the insurer's obligations. This prohibition does not prevent a TPA from receiving performance-based compensation for providing auditing services. It also does not prevent a TPA's compensation from being based on premiums or charges collected or the number of claims paid or processed.

EFFECTIVE DATE: October 1, 2011

§ 28 — NOTICE AND DISCLOSURE

The act requires that when a TPA's services are used, the TPA must give each insured a benefits identification card that discloses the TPA's identity and its relationship with the policyholder and insurer.

The act requires a TPA, when it collects premiums, charges, or fees, to inform the insured person of the reasons for each. Additional charges are prohibited to the extent the insurer has paid for the services.

The act requires the TPA to disclose to the insurer all charges, fees, and commissions that it receives for services it provides the insurer, including any fees or commissions paid by insurers providing reinsurance or stop loss coverage.

EFFECTIVE DATE: October 1, 2011

§ 29 — PROMPTLY DELIVER WRITTEN COMMUNICATIONS

The act requires a TPA to promptly deliver written communications on the insurer's behalf. The TPA must deliver, promptly after receiving instructions from the insurer, any policies, certificates, booklets, termination notices, or other written communications the insurer delivers to the TPA for delivery to insured parties or covered individuals.

EFFECTIVE DATE: October 1, 2011

§ 30 — TPA LICENSING PROCESS

Surety Bond Requirement

The act requires a TPA applicant to execute a surety bond in an amount to be determined by the commissioner, but (1) sufficient to protect insurers or others using the TPA's services and (2) not less than \$500,000. A TPA must maintain the bond as a condition for license renewal.

The commissioner may waive the bond requirement if the TPA applicant submits audited annual financial statements for the two most recent fiscal years that prove the TPA has a positive net worth. An audited annual financial statement prepared on a consolidated basis must include a columnar consolidating or combining worksheet that must be filed with the report and include (1) amounts shown on the consolidated audited financial report, (2) amounts for each entity stated separately, and (3) explanations of consolidating and eliminating entries. A TPA who has submitted such statements in lieu of executing a surety bond and who is renewing its license must submit the most recent audited annual financial statement.

Application

The act requires a TPA applying for a license to (1) submit a completed application to the commissioner (by using the current version of the "NAIC's Uniform Application for Third Party Administrators") and (2) pay the required fee (see § 36).

The application must include or be accompanied by the following information and documents:

1. the applicant's basic organizational documents, including any articles of incorporation or association; partnership, trust, or shareholder agreement; trade name certificate; and other applicable documents;
2. the bylaws, rules, regulations, or similar documents regulating the applicant's internal affairs;
3. a NAIC biographical affidavit for the people responsible for the applicant's affairs, including (a) all members of the board of

directors, board of trustees, executive committee, or other governing board or committee; (b) the principal officers in the case of a corporation, or the partners or members in the case of a partnership, association, or limited liability company; (c) any shareholder or member directly or indirectly holding 10% or more of its stock, securities, or interest; and (d) any other person who exercises control or influence over the applicant's affairs;

4. evidence of the required surety bond;
5. a statement describing the business plan, including (a) information on staffing levels and activities proposed in Connecticut and nationwide and (b) details of the applicant's ability to provide a sufficient number of experienced and qualified personnel for claims processing, recordkeeping, and underwriting; and
6. other pertinent information the commissioner may require.

Access to Records

The act requires a TPA applying for a license to provide for the commissioner's inspection copies of all contracts with insurers or others using the TPA's services. The TPA must produce its accounts, records, and files for examination and make its officers available to give information concerning its affairs, as often as the commissioner reasonably requires.

License Refusal

The commissioner may refuse to issue a license if he determines that:

1. the TPA or any individual responsible for conducting its affairs is not competent, trustworthy, financially responsible, or of good personal and business reputation;
2. the TPA has had an insurance or a TPA certificate of authority or license denied or revoked for cause by any jurisdiction; or
3. any of the grounds relating to the act's enforcement requirements exist with respect to the TPA.

Miscellaneous Requirements

A license issued to a TPA is in force until September 30th in each year, unless revoked or suspended before that date. The commissioner, at his discretion, may renew a TPA license upon receiving payment of the required fee without having the TPA reapply.

A TPA licensed or applying for a license must immediately notify the commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a license.

In addition to the surety bond described above, a licensed TPA or applicant that administers or will administer self-insured government or church plans must execute and maintain a surety bond, for use by the commissioner and the insurance regulatory authority of any other state in which the TPA is authorized to conduct business, to cover people who have remitted premiums, insurance charges, or other money to the TPA in the course of the TPA's business. The bond must be equal to the greater of (1) \$100,000 or (2) 10% of the aggregate total amount of self-funded coverage under government or church plans handled in Connecticut and all additional states in which the TPA is authorized to conduct business.

EFFECTIVE DATE: October 1, 2011

§ 31 — REGISTRATION REQUIREMENT

A person who is not required to be licensed as a TPA but who directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims for Connecticut residents in connection with a self-insured life, annuity, or health coverage plan must annually register with the commissioner by October 1 on a form he designates. This does not apply if the self-insured plan is a government or church plan.

EFFECTIVE DATE: October 1, 2011

§ 32 — ANNUAL REPORT

The act requires each licensed TPA to file an annual report with the commissioner for the preceding calendar year by July 1 each year or within a time extension the commissioner grants for good cause. The annual report must be in the form and contain the information the commissioner prescribes, including evidence that the required surety bonds, as applicable, remain in force. The information contained in the report must be verified by at least two of the TPA's officers.

The annual report must include the complete names and addresses of all insurers with which the TPA had agreements during the preceding fiscal year. The TPA must pay the required filing fee when it files the annual report.

The act requires the commissioner to review each TPA's most recently filed annual report by September 1. After the review, the commissioner must issue a certification to the TPA, or update the NAIC's electronic database, indicating (1) that it is currently licensed and in good standing or (2) any deficiencies found in the annual report or financial statements.

EFFECTIVE DATE: October 1, 2011

§ 33 — ENFORCEMENT

The act requires the commissioner to suspend or revoke a TPA's license or issue a cease and desist order if the TPA does not have a license, after notice and hearing, if he finds that the TPA:

1. is financially unsound;
2. is using methods or business practices that render its further business in Connecticut hazardous or injurious to insured persons or the public; or
3. failed to pay any judgment rendered against it in Connecticut within 60 days after the judgment became final.

The act authorizes the commissioner to suspend or revoke a TPA's license or issue a cease and desist order if the TPA does not have a license, after notice and hearing, if he finds that the TPA:

1. violated any (a) lawful rule or order of the commissioner or (b) provision of applicable Connecticut insurance laws;
2. refused to be examined or produce its accounts, records, and files, or any individual responsible for its affairs for examination;
3. without just cause, (a) refused to pay proper claims or perform its contractual services or (b) caused covered individuals to accept less than the amount due or employ attorneys or bring suit against the TPA to secure full payment or settlement of the claims;
4. failed at any time to meet any license qualification that would have been grounds for the commissioner to refuse to issue a license;
5. had a person responsible for its affairs who has been convicted of or pled guilty or no contest to a felony, without regard to whether adjudication was withheld;
6. is under license suspension or revocation in another state; or
7. failed to file an annual report in a timely manner.

The commissioner may, without advance notice and before a hearing, issue an order immediately suspending a TPA's license, or a cease and desist order if the TPA does not have a license, if he finds that:

1. the TPA is insolvent or impaired;
2. another state has started a proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the TPA; or
3. the TPA's financial condition or business practices pose an imminent threat to the public health, safety, or welfare of Connecticut residents.

When the commissioner issues an order suspending a license or a cease and desist order, he must notify the

TPA that it may request a hearing within 10 business days of receiving the order. If a hearing is requested, the commissioner must schedule it within 10 business days after receiving the request. If a hearing is not requested and the commissioner does not choose to hold one, the order remains in effect until the commissioner modifies or vacates it.

EFFECTIVE DATE: October 1, 2011

§ 34 — ADOPTION OF REGULATIONS

The act authorizes the insurance commissioner to adopt regulations relating to TPAs.

EFFECTIVE DATE: October 1, 2011

§ 35 — MARKET CONDUCT EXAMINATION

The act authorizes the commissioner, as often as he deems it expedient, to examine the market conduct of any TPA doing business in Connecticut. He already has this authority with respect to insurance companies, HMOs, and fraternal benefit societies.

EFFECTIVE DATE: October 1, 2011

§ 36 — FEES

The act establishes the following fees that the insurance commissioner must collect from a TPA:

1. \$500 for each license issued,
2. \$350 for each license renewal, and
3. \$100 for each annual report filed.

EFFECTIVE DATE: October 1, 2011

§§ 37 - 40 — DEPENDENTS COVERED TO AGE 26

Under PPACA, children may stay on a parent's health insurance plan until age 26. The act revises various insurance statutes to comply with this requirement. Prior state law restricted a child's coverage based on his or her marriage or residency status.

EFFECTIVE DATE: Upon passage

§§ 41 & 46 — PREEXISTING CONDITIONS

Under PPACA, insurers cannot impose a preexisting condition limitation that excludes coverage for children under age 19. The act revises various insurance statutes to comply with this requirement. It specifies that no insurer can refuse to issue an individual health insurance plan to a child under age 19 solely on the basis that the child has a preexisting condition.

EFFECTIVE DATE: Upon passage

§§ 42 & 43 — LIFETIME LIMITS

Under PPACA, health benefit plans cannot impose lifetime limits on the dollar value of "essential health

benefits," to be defined by the U.S. Department of Health and Human Services. To conform to the federal requirement, the act prohibits individual and group comprehensive health care plans from imposing such a lifetime limit. It specifies that a plan may include a lifetime limit of at least \$1 million on benefits that are not essential health care benefits as defined by PPACA and related regulations.

EFFECTIVE DATE: Upon passage

§§ 44 & 45 — CONTINUATION OF COVERAGE

As under prior law, the act requires health insurers to provide continuation of coverage to individuals under specified circumstances.

EFFECTIVE DATE: Upon passage

§§ 47, 48, & 69 — RESCISSIONS

PPACA limits policy rescissions (e.g., retrospective policy cancellations) to instances of fraud and intentional material misrepresentation.

Under state law, an insurer or HMO must obtain the insurance commissioner's approval for a policy rescission, cancellation, or limitation. The act requires the commissioner to approve a request for rescission or limitation when the insured or the insured's representative (1) submitted fraudulent (rather than false) information on an insurance application, (2) intentionally (rather than knowingly) misrepresented material information on the application, or (3) intentionally (rather than knowingly) omitted material information from the application. He must approve a cancellation in accordance with federal law, which requires prior notice to the insured.

EFFECTIVE DATE: Upon passage

§§ 49-52 — MEDICAL LOSS RATIO

The Insurance Department publishes an annual Consumer Report Card on Health Insurance Carriers in Connecticut. By law, the report card must include each insurer's and HMO's medical loss ratio. The act refers to that medical loss ratio as the "state medical loss ratio" and specifies that the report card also include the federal medical loss ratio, as defined in PPACA. "Medical loss ratio" is generally the percentage of premium dollars that an insurer or HMO spends on providing health care and health care quality improvement activities, compared to how much is spent on administrative and overhead costs.

By law, an insurer or HMO must include a written notice with each application for individual or group health insurance coverage that discloses the medical loss ratio. The act requires disclosure of both the state and federal medical loss ratios.

The act requires a managed care organization to report both medical loss ratios to (1) the insurance commissioner and (2) enrollees.

EFFECTIVE DATE: January 1, 2012

§ 53 — PPACA COMPLIANCE AND REGULATIONS

The act requires insurers to comply with PPACA. It authorizes the insurance commissioner to adopt regulations.

It specifies that state law provisions concerning PPACA are not to be construed to supersede any state law that provides greater protection to an insured, unless it prevents the application of PPACA.

EFFECTIVE DATE: Upon passage

§ 54 — DEFINITIONS

The act defines numerous terms regarding utilization review, grievance, and external review processes used throughout §§ 55 to 66.

The act expands the definition of “adverse determination.” Under prior law, “adverse determination” meant a decision by a managed care organization, health insurer, or utilization review company to deny, reduce, or end payment for a covered admission, service, procedure, or extension of stay because it did not meet that entity’s requirements for medical necessity, appropriateness, health care setting, or level of care or effectiveness. Under the act, “adverse determination” includes a health carrier’s denial, reduction, termination, or failure to pay for a requested benefit because the benefit (1) does not meet the carrier’s requirements for medical necessity, appropriateness, health care setting, or level of care or effectiveness or (2) is determined to be experimental or investigational. It includes any adverse prospective, concurrent, or retrospective review determinations and coverage rescissions.

Under prior law, “utilization review” meant a prospective or concurrent assessment of the necessity and appropriateness of the allocation of health care resources given to or proposed for a person. The act (1) redefines the term to mean formal techniques used to monitor the use of, or evaluate the medical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings and (2) expands it to include retrospective reviews in addition to prospective or concurrent reviews.

EFFECTIVE DATE: July 1, 2011

§ 55 — GENERAL REQUIREMENTS

Prior law gave the insurance commissioner the authority to regulate utilization review companies. It contained licensing requirements, minimum standards,

and appeal and enforcement procedures. The act makes changes to the utilization review process to conform it to federal PPACA requirements.

Health Carriers

The act applies to (1) health carriers offering a health benefit plan and performing utilization review, including prospective, concurrent, or retrospective review benefit determinations, and (2) utilization review companies or a health carrier’s designee that performs utilization review. A “health carrier” is an entity that (1) is subject to Connecticut’s insurance laws and regulations or the insurance commissioner’s jurisdiction and (2) contracts to provide, deliver, arrange for, pay, or reimburse the costs of health care services. It includes insurers, health care centers (i.e., HMOs), managed care organizations, hospital or medical service corporations, or any other entity that provides health insurance, health benefits, or health care services.

A health carrier must (1) monitor all utilization review activities carried out by or on behalf of it and (2) ensure that any utilization review company or other entity it contracts with to perform utilization review complies with the act and any related regulations. A health carrier must ensure that appropriate personnel have operational responsibility for the activities of the health carrier’s utilization review program.

Utilization Review Program

A health carrier that requires utilization review must implement a program and develop a written document that describes all utilization review activities and procedures for (1) filing benefit requests, (2) notifying covered persons of utilization review and benefit determinations, and (3) reviewing adverse determinations (e.g., benefit denials) and grievances. The document must include:

1. procedures to evaluate the medical necessity, appropriateness, health care setting, level of care, or effectiveness of health care services;
2. data sources and clinical review criteria used in making determinations;
3. procedures to ensure consistent application of clinical review criteria and compatible determinations;
4. data collection processes and analytical methods used to assess utilization of health care services;
5. provisions to ensure the confidentiality of clinical, proprietary, and protected health information;
6. the health carrier’s organizational mechanism, such as a utilization review or quality assurance committee, that periodically assesses

the health carrier's utilization review program and reports to the health carrier's governing body; and

7. the health carrier's staff position responsible for managing the utilization review program.

A health carrier must include in the insurance policy, coverage certificate, or handbook provided to those covered a description of the procedures for utilization review and benefit determinations, grievances, and external reviews in a format the insurance commissioner prescribes. The description must include the following statements:

1. the subscriber or other covered person may file a request for an external review of an initial or final adverse determination with the commissioner when the determination involves an issue of medical necessity, appropriateness, health care setting, level of care, or effectiveness (the disclosure document must include the commissioner's contact information);
2. the covered person must authorize the release of related medical records when filing a request for an external review (i.e., a review conducted by an independent third party);
3. the rights and responsibilities of covered persons with respect to utilization review and benefit determinations, grievances, and external reviews; and
4. a covered person has the right to contact the commissioner or the healthcare advocate at any time for assistance (the disclosure document must include the contact information for both offices).

A health carrier must also:

1. inform people it covers, at initial enrollment and annually thereafter, of its grievance procedures;
2. inform a covered person and his or her health care professional (i.e., a licensed health care practitioner) of the grievance procedures whenever the health carrier denies a benefit requested by the health care professional;
3. include a summary of its utilization review and benefit determination procedures in materials intended for prospective covered persons;
4. print on its membership or identification cards a toll-free telephone number for utilization review and benefit determinations;
5. maintain records of all benefit requests, claims, and notices related to utilization review and benefit determinations for at least six years and make the records available upon request to the commissioner and federal oversight agencies; and

6. maintain records of all grievances received in accordance with the act and make the records available upon request to (a) covered persons, if the records can be disclosed under law, (b) the commissioner, and (c) federal oversight agencies.

Annual Reporting

By March first annually, a health carrier must file with the commissioner a (1) summary report of its utilization review program activities in the prior calendar year and (2) report that includes for each type of health benefit plan offered:

1. a certificate of compliance certifying that the utilization review program complies with all applicable state and federal laws concerning confidentiality and reporting requirements,
2. the number of lives covered,
3. the total number of grievances received,
4. the number of grievances resolved at each level and their resolution,
5. the number of grievances known to have been appealed to the commissioner,
6. the number of grievances referred to alternative dispute resolution procedures or resulting in litigation, and
7. actions being taken to correct any identified problems.

The act requires the commissioner to adopt regulations to establish the form and content of the annual reports.

EFFECTIVE DATE: July 1, 2011

§ 56 — OVERSIGHT OF UTILIZATION REVIEW PROGRAM

The act requires a health carrier to contract with (1) health care professionals to administer its utilization review program and oversee utilization review determinations and (2) clinical peers to evaluate the clinical appropriateness of an adverse determination. A "clinical peer" is a licensed physician or other health care professional in the same or similar specialty that typically manages the medical condition, procedure, or treatment under review.

Each utilization review program must use documented clinical review criteria based on sound clinical evidence and evaluated periodically by the health carrier's organizational mechanism to assure the program's effectiveness. A health carrier may develop its own clinical review criteria or it may purchase or license clinical review criteria from qualified vendors the commissioner approves. Each health carrier must make its clinical review criteria available upon request to authorized government agencies.

A health carrier must:

1. have procedures in place to ensure that the health care professionals administering the utilization review program are applying the clinical review criteria consistently;
2. have data systems that support utilization review program activities and generate management reports to enable the health carrier to monitor and manage health care services effectively;
3. provide covered persons and participating providers access to its utilization review staff through a toll-free telephone number or electronically;
4. coordinate the utilization review program with other medical management activity conducted by the health carrier, such as quality assurance, credentialing, contracting with health care professionals, data reporting, grievance procedures, member satisfaction assessment, and risk management; and
5. routinely assess the effectiveness and efficiency of its utilization review program.

Delegation

If a health carrier delegates any utilization review activities to a utilization review company, the health carrier must maintain adequate oversight, including (1) a written description of the utilization review company's activities and responsibilities, (2) evidence of the health carrier's formal approval of the company, and (3) a process by which the health carrier evaluates the company's performance.

Necessary Information Only

When conducting utilization review, the health carrier must (1) collect only the information needed, including pertinent clinical information, to make the utilization review or benefit determination and (2) ensure that the review is conducted in a way that ensures the independence and impartiality of the individuals involved in making the utilization review or benefit determination.

Personnel Decisions

A health carrier cannot make decisions regarding the hiring, compensation, termination, promotion, or other similar matters of individuals involved in making utilization review or benefit determinations based on the likelihood that the individuals will support benefit denials.

EFFECTIVE DATE: July 1, 2011

§ 57 — UTILIZATION REVIEW AND BENEFIT DETERMINATIONS

Written Procedures

The act requires a health carrier to maintain written procedures for (1) utilization review and benefit determinations, (2) expedited utilization review and benefit determinations relating to prospective and concurrent urgent care requests, and (3) notifying covered persons of its determinations. (Hereafter, "covered persons" includes their authorized representatives.)

Prudent Layperson

When determining if a benefit request is an urgent care request, the health carrier must apply the judgment of a prudent layperson with an average knowledge of health and medicine. However, a request must be considered urgent if a health care professional with knowledge of the covered person's medical condition determines that it is.

Urgent Care Review Request

Unless the covered person has failed to provide information necessary for the health carrier to make a determination, the carrier must determine whether or not to certify the benefit and notify the covered person within 72 hours after receiving the request. For a concurrent urgent care review request, the carrier must make a determination within 24 hours before the current course of treatment expires.

If the covered person failed to provide information necessary for the health carrier to make a determination, the carrier must notify the person as soon as possible but within 24 hours after receiving the request. In all cases, the carrier must provide the person at least 48 hours to submit the information.

A health carrier must notify the covered person of its determination as soon as possible but within 48 hours after the earlier of (1) the date the person provides the information or (2) the date the information was to have been submitted.

Non-Urgent Care Review Request

For a prospective or concurrent non-urgent review request, a health carrier must determine whether or not to certify the benefit and notify the covered person within 15 days after receiving the request. For a retrospective review request, the health carrier must make a determination within 30 days after receiving the request.

The health carrier may extend either time period once for up to 15 days if it (1) determines an extension

is necessary due to circumstances beyond its control and (2) notifies the covered person before the initial time period ends of the circumstances requiring the extension and the date by which the health carrier expects to make a determination.

If the extension is needed because the covered person failed to submit information necessary to reach a determination, the health carrier must (1) specifically describe in the extension notice the information necessary to complete the request and (2) give the covered person at least 45 days to provide this information. If the covered person fails to submit the information before the end of the extension period, the health carrier may deny the requested benefit.

Procedural Failure

Whenever a health carrier receives a review request from a covered person that fails to meet the carrier's filing procedures, the carrier must notify the covered person of the failure. The carrier must send the notice within five days after receiving the request for a non-urgent request or within 24 hours for an urgent care request. The health carrier may provide the notice orally if it provides written confirmation within five days after providing the oral notice.

Notice of Adverse Determination

A health carrier must provide promptly to a covered person an adverse determination notice, either in writing or electronically. It must include, in a way the covered person can understand:

1. sufficient information to identify the benefit request or claim involved, including the date of service, health care professional, and claim amount;
2. the specific reason for the adverse determination and a description of the health carrier's standard used in deciding to issue the denial;
3. reference to the specific health benefit plan provisions on which the determination is based;
4. a description of any additional material or information the covered person needs to complete the benefit request or claim, including an explanation of why the material or information is necessary;
5. a description of the health carrier's internal grievance process, including expedited review procedures, applicable time limits, and contact information;
6. a statement that the person may, pursuant to the requirements of the carrier's internal grievance process, (a) submit written material relating to

the request and (b) receive, free of charge upon request, reasonable access to and copies of all information relevant to his or her request;

7. if the adverse determination is based on a health carrier's internal rule, guideline, protocol or other similar criterion, (a) the specific rule, guideline, protocol, or other similar criterion or (b) a statement that one of these was relied upon to make the adverse determination and that a copy will be provided to the covered person free of charge on request, with instructions for requesting a copy;
8. if the adverse determination is based on medical necessity or an experimental or investigational treatment or similar exclusion or limit, the written statement of that scientific or clinical rationale and (a) an explanation of the rationale that applies the terms of the health benefit plan to the covered person's medical circumstances or (b) a statement that an explanation will be provided to the covered person free of charge on request and instructions for requesting a copy; and
9. a statement explaining the covered person's right to (a) contact the insurance commissioner or Office of Healthcare Advocate at any time for assistance and contact information or (b) file, upon completion of the health carrier's internal grievance process, a civil suit in a court of competent jurisdiction.

Rescission

If the adverse determination is a rescission (i.e., retroactively cancelling insurance after a policyholder becomes sick or is injured), the health carrier must include with the advance notice of the rescission application a written statement that includes:

1. clear identification of the alleged fraudulent act, practice, or omission or intentional misrepresentation of material fact;
2. an explanation of why the act, practice, or omission was fraudulent or was an intentional misrepresentation of a material fact;
3. a disclosure that the covered person may immediately file a grievance with the health carrier to request a review of the adverse determination to rescind coverage;
4. a description of the health carrier's grievance procedures, including any applicable time limits; and
5. the date the advance notice of the proposed rescission ends and the date to which the coverage will be retroactively rescinded.

Strict Adherence Required

Whenever a health carrier fails to strictly adhere to the utilization review and benefit determination requirements, the covered person is deemed to have exhausted the health carrier's internal grievance process and may file for an external review, regardless of whether the health carrier asserts substantial compliance or *de minimis* error.

A covered person who has exhausted the internal grievance process of a health carrier may, in addition to filing a request for an external review, pursue any available remedies under state or federal law on the basis that the health carrier failed to provide a reasonable internal grievance process that would yield a decision on the claim's merits.

EFFECTIVE DATE: July 1, 2011

§§ 58 & 59 — INTERNAL GRIEVANCE PROCESS

Prior law required managed care organizations and health insurers to have an internal grievance procedure for enrollees to seek a review of grievances arising from the entity's actions or inaction. The act expands upon existing law to conform it to the federal PPACA.

Written Procedures Required

A health carrier must establish and maintain written procedures for (1) reviewing grievances of adverse determinations that were based on medical necessity, (2) the expedited review of grievances of adverse determinations of urgent care requests, and (3) notifying covered persons of its adverse determinations.

Filing Required

A health carrier must file with the commissioner a copy of the procedures, including all forms used to process requests and any subsequent material modifications to the procedures.

A health carrier also must file annually with the commissioner, as part of its annual report described above, a certificate of compliance stating that it has established and maintains grievance procedures that fully comply with the act's provisions for each of its health benefit plans.

Grievance of Adverse Determination Based on Medical Necessity

A covered person may file a grievance of an adverse determination that was based, in whole or in part, on medical necessity with the health carrier within 180 days after the covered person receives the adverse determination notice. For prospective or concurrent urgent care requests, a person can request an expedited

review orally or in writing.

The health carrier must ensure that an adverse determination review is conducted in a manner that ensures the independence and impartiality of the individuals involved in making the review decision.

Clinical Peer. If the adverse determination involves utilization review, the health carrier must designate one or more appropriate clinical peers to review the determination. The clinical peers cannot have been involved in the initial adverse determination.

The individuals conducting a grievance review must consider all comments, documents, records, and other information the covered person submits relevant to his or her benefit request that is the subject of the adverse determination under review, regardless of whether such information was submitted or considered in making the initial adverse determination.

New or Additional Evidence. Before issuing a decision, the health carrier must provide free of charge to the covered person any new or additional evidence relied upon or scientific or clinical rationale used in connection with the grievance. The carrier must provide the evidence and rationale sufficiently in advance of the carrier's determination date to allow the person a reasonable opportunity to respond before then.

Transmitting Information and Decision. For an expedited review, the health carrier must transmit all information, including its decision, to the covered person by telephone, fax, electronically, or other expeditious method.

Treatment During Concurrent Review. For an expedited review of a grievance involving an adverse determination of a concurrent review urgent care request, treatment must be continued without liability to the covered person until the person has been notified of the review decision.

Decision Time Period. The health carrier must notify the covered person in writing or electronically of its decision within specified time periods. A time period begins on the date the health carrier receives the grievance, regardless of whether all of the information necessary to make the decision accompanies the filing. (Under prior law, grievances had to be resolved within 60 days.)

For a grievance of an adverse determination involving an expedited review request, the health carrier must decide and notify the covered person of the decision within 72 hours after receiving it.

For a grievance of an adverse determination involving a prospective or concurrent review request, the health carrier must decide and notify the covered person of the decision within 30 days after receiving it.

For a grievance of an adverse determination involving a retrospective review request, the health carrier must decide and notify the covered person of the decision within 60 days after receiving it.

Decision Notice. The health carrier's notice must include, in a way the covered person can understand:

1. the titles and qualifying credentials of the individuals participating in the review process;
2. enough information to identify the claim involved, including the date of service, health care professional, and claim amount;
3. a statement of the reviewers' understanding of the grievance;
4. the reviewers' decision in clear terms and the health benefit plan contract basis or scientific or clinical rationale for the decision in sufficient detail for the covered person to respond further to the health carrier's position;
5. reference to the evidence or documentation used as the basis for the decision;
6. if applicable, the following statement: "You and your plan may have other voluntary alternative dispute resolution options such as mediation. One way to find out what may be available is to contact your state Insurance Commissioner"; and
7. a statement disclosing the covered person's right to contact the commissioner or the healthcare advocate at any time and the contact information.

If a decision upholds the adverse determination, the notice must contain:

1. the specific reason for the final adverse determination, including the denial code and its corresponding meaning and a description of the health carrier's standard used in reaching the denial;
2. a reference to the specific health benefit plan provisions on which the decision is based;
3. a statement that the covered person may receive from the health carrier, free of charge and on request, reasonable access to and copies of all relevant documents, records, and other information;
4. if the final adverse determination is based on a health carrier's internal rule, guideline, protocol or other similar criterion, (a) the specific rule, guideline, protocol, or other similar criterion or (b) a statement that one of these was relied upon to make the final adverse determination and that a copy of it will be provided to the covered person free of charge on request, with instructions for requesting such copy;
5. if the final adverse determination is based on medical necessity or an experimental or investigational treatment or similar exclusion or limit, a written statement of the scientific or clinical rationale for the final adverse determination and (a) an explanation of the

rationale used to make the determination that applies the terms of the health benefit plan to the covered person's medical circumstances or (b) a statement that an explanation will be provided to the covered person free of charge on request, with instructions for requesting a copy of the explanation; and

6. the procedures for obtaining an external review.

Strict Adherence Required

Whenever a health carrier fails to strictly adhere to the grievance requirements, the covered person is deemed to have exhausted the carrier's internal grievance process and may file an external review, regardless of whether the carrier asserts substantial compliance or *de minimis* error.

A covered person who has exhausted the health carrier's internal grievance process may, in addition to filing an external review, pursue any available remedies under state or federal law on the basis that the health carrier failed to provide a reasonable internal grievance process that would yield a decision on the merits of the claim.

Grievance of Adverse Determination Not Based on Medical Necessity

A covered person may file a grievance of an adverse determination that was not based on medical necessity with the health carrier within 180 days after the covered person receives the adverse determination notice.

Written Procedures. A health carrier must establish and maintain written procedures for (1) reviewing grievances of adverse determinations that were not based on medical necessity and (2) notifying covered persons of its adverse determinations.

Notice Required. A health carrier must, within three business days of receiving a grievance, notify a covered person that he or she may submit written material for consideration by the individuals designated by the health carrier to conduct the grievance review.

Upon receiving a grievance, a health carrier must designate individuals to conduct a grievance review. The health carrier cannot designate the same individuals who denied the claim or handled the matter that is the subject of the grievance.

A health carrier must give the covered person the name, address, and telephone number of the person or organizational unit designated to coordinate the review on the health carrier's behalf.

Decision Time Period. A health carrier must notify the covered person in writing of its decision within 20 business days after receiving the grievance.

If the health carrier is unable to meet the 20-day deadline due to circumstances beyond its control, it may extend the time period for up to 10 business days, provided that before the initial 20-day period ends, the health carrier provides written notice to the covered person of the extension and the reasons for the delay.

Decision Notice. The written decision notice must include:

1. the titles and qualifying credentials of the individuals participating in the review process,
2. a statement of the individuals' understanding of the grievance,
3. the individuals' decision in clear terms and the health benefit plan contract basis for the decision in sufficient detail for the covered person to respond further to the health carrier's position, and
4. reference to the evidence or documentation used as the basis for the decision.

EFFECTIVE DATE: July 1, 2011

§ 60 — EXTERNAL REVIEW PROCESS

Under prior law, enrollees who exhausted the internal grievance process could appeal a claim denial to the insurance commissioner, who would assign the review to an independent third party. The act expands upon existing law to conform it to the federal PPACA.

Written Request

A covered person may file with the commissioner a written request for a standard or expedited external review of an adverse determination or a final adverse determination. The commissioner may prescribe the form and content of such review requests.

Filing Fee

By law, a covered person requesting an external review has to pay a \$25 filing fee. But the act specifies that no one will have to pay more than \$75 in any calendar year. By law, if the commissioner finds the covered person is indigent or unable to pay the fee, the commissioner must waive the fee. All fees are deposited in the Insurance Fund.

The commissioner must refund any paid filing fee if the adverse determination or final adverse determination that is the subject of the standard or expedited external review is reversed or revised.

Health Carrier Pays for the Review

The health carrier that issued the adverse determination or final adverse determination that is the subject of the external review request must pay the independent review organization for the cost of

conducting the external review, whether the review is standard or expedited.

Decision is Binding

An external review decision, whether standard or expedited, is binding on the health carrier or self-insured government plan and the covered person, except to the extent they have other remedies under federal or state law.

A covered person cannot file a subsequent request for a standard or expedited external review that involves the same adverse determination or final adverse determination for which he or she already received a standard or expedited external review decision.

Written Records Required

Health carriers and independent review organizations must maintain written records of external reviews.

Exhaustion of Internal Grievance Process and Waiver

A covered person cannot request a standard or expedited external review until he or she has exhausted the health carrier's internal grievance process. However, a covered person can request an external review before exhausting the internal grievance process if the health carrier agrees to waive the exhaustion requirement.

Written Disclosure of External Review

When a health carrier sends a covered person an adverse determination notice or a final adverse determination, it must include a written disclosure of his or her right to request an external review. The written notice must include:

1. the following or substantially similar statement: "We have denied your request for benefit approval for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us by submitting a request for external review to the office of the Insurance Commissioner, if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care, or effectiveness of the health care service or treatment you requested;"
2. for a notice related to an adverse determination, a statement informing the covered person that (a) if the person has a medical condition for which the time period for completing an expedited internal review of a grievance involving an adverse determination

would seriously jeopardize his or her life or health or jeopardize his or her ability to regain maximum function, the covered person may file a request for an expedited external review and (b) the request for expedited external review may be filed at the same time the person files a request for an expedited internal review of a grievance involving an adverse determination, except that the independent review organization assigned to conduct the expedited external review determines whether the covered person must complete the expedited internal review of the grievance before it performs the expedited external review;

3. for a notice related to a final adverse determination, a statement informing the covered person that he or she may file for an expedited external review if (a) the covered person has a medical condition for which the time period for completion of an external review would seriously jeopardize his or her life or health or jeopardize his or her ability to regain maximum function or (b) the final adverse determination concerns (i) an admission, availability of care, continued stay, or health care service for which the covered person received emergency services but has not been discharged from a facility or (ii) a denial of coverage based on a determination that the requested health care treatment is experimental or investigational and the covered person's treating health care professional certifies in writing that the requested treatment would be significantly less effective if not promptly initiated;
4. a copy of the description of both the standard and expedited external review procedures, highlighting external review procedures that give the covered person the opportunity to submit additional information and including any forms used to process a standard or expedited external review; and
5. a medical records release authorization form approved by the commissioner that complies with federal regulations.

Expedited External Review

A covered person may file a request for an expedited external review of an adverse determination or a final adverse determination with the commissioner; an expedited external review is not available for a retrospective review request.

The covered person may file an expedited external review request when he or she receives:

1. an adverse determination, if the covered person has (a) a medical condition for which the time period for completing an expedited internal review of the adverse determination would seriously jeopardize his or her life or health or jeopardize his or her ability to regain maximum function or (b) been denied coverage on the basis that the service or treatment is experimental or investigational and the person's treating health care professional certifies in writing that the service or treatment would be significantly less effective if not promptly started, and the person filed a request for an expedited internal review of an adverse determination; or
2. a final adverse determination, if (a) the covered person has a medical condition for which the time period for completing a standard external review would seriously jeopardize his or her life or health or jeopardize his or her ability to regain maximum function, (b) the determination concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services but has not been discharged from a facility, or (c) the coverage was denied on the basis that the service or treatment is experimental or investigational and the person's treating health care professional certifies in writing that the service or treatment would be significantly less effective if not started promptly.

The covered person is not required to file a standard external review request before or at the same time as filing an expedited external review request. If the expedited external review request is ineligible for review, the covered person can still file a standard external review request.

External Review Process and Time Periods

Covered Person. A covered person may file with the commissioner a written request for a standard or expedited external review of an adverse determination or a final adverse determination within 120 days of receiving notice of the determination. Under prior law, a person had 60 days to file an expedited review.

Commissioner. Within one business day after receiving the request, the commissioner must send a copy of it to the health carrier whose determination is the subject of the request.

Health Carrier. Within five business days after receiving a copy of a standard external review request or one calendar day after receiving a copy of an

expedited external review request, the health carrier must complete a preliminary review to determine whether:

1. the individual was a covered person under the health benefit plan at the time the health care service was requested or provided;
2. the involved health care service is a covered service under the covered person's health benefit plan except for the health carrier's determination that it does not meet its requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness;
3. the covered person has exhausted the health carrier's internal grievance process or filed an expedited external review request; and
4. the covered person has provided all the information and forms required to process a standard or expedited external review.

If the service or treatment is experimental or investigational, the health carrier must also determine whether:

1. the requested health care treatment that is the subject of the determination (a) is a covered benefit under the covered person's health benefit plan except for the health carrier's determination that the service or treatment is experimental or investigational and (b) is not explicitly excluded under the covered person's health benefit plan;
2. the covered person's treating health care professional has certified that (a) standard health care treatments have not been effective in improving the covered person's medical condition, (b) standard health care treatments are not medically appropriate for the person, or (c) there is no available standard health care treatment covered by the health carrier that is more beneficial than the requested health care treatment; and
3. the covered person's treating health care professional (a) has recommended a health care treatment that he or she certifies, in writing, is likely to be more beneficial to the covered person than any available standard health care treatments or (b) is a licensed, board certified, or board eligible health care professional qualified to practice in the area of medicine appropriate to treat the covered person's condition and has certified, in writing, that scientifically valid studies using accepted protocols demonstrate that the health care treatment the covered person requested is likely to be more beneficial than any available standard health care treatments.

Initial Determination Notice. The health carrier must notify the commissioner and covered person in writing on whether the request is complete and eligible for external review within one business day after completing the preliminary review for a standard external review request or on the day the preliminary report is completed for an expedited external review request. The commissioner may specify the form for the health carrier's initial determination notice.

If the request is not complete, the health carrier's notice must specify the information needed to perfect the request. If the request is not eligible for standard or expedited external review, the notice must include the reasons for its ineligibility. The notice must include a statement informing the covered person that he or she can appeal an initial determination of ineligibility to the commissioner.

Regardless of a health carrier's initial determination that a request for a standard or expedited external review is ineligible for review, the commissioner may determine, pursuant to the terms of the covered person's health benefit plan, that the request is eligible and assign an independent review organization to conduct it.

Assignment of Independent Review Organization. Within one business day, for a standard external review request, or one calendar day, for an expedited external review request, of receiving notice that a request is eligible for review, the commissioner must (1) assign an independent review organization to conduct the review (randomly from among qualified organizations), (2) notify the health carrier of the organization's name, and (3) notify the covered person in writing of the request's eligibility and acceptance for review.

The written notice must include (1) a statement that the covered person may submit, within five business days after receiving the notice, additional information in writing to the organization for consideration and (2) where and how such additional information must be submitted. If additional information is submitted later than five business days after the covered person received the notice, the organization may, but is not required to, accept and consider it.

Health Carrier Must Provide Information. Within five business days for a standard external review and one calendar day for an expedited external review after receiving the name of the assigned independent review organization, the health carrier or its designated utilization review company must provide the organization any information it considered in making the determination under review.

If the carrier or utilization review company fails to timely provide the information, the organization (1) must not delay performing the review and (2) may terminate the review and make a decision to reverse the determination.

Within one business day after terminating the review and deciding to reverse the determination, the organization must notify the commissioner, health carrier, and covered person in writing.

Independent Review Organization. The organization must review all the information received from the covered person and health carrier. In reaching a decision, the organization is not bound by any decisions reached during the health carrier's utilization review process.

Upon receiving any information from the covered person, the organization has one business day to forward it to the health carrier.

Health Carrier Reconsideration. Upon receiving the covered person's information from the organization, the health carrier may reconsider the adverse determination that is the subject of the external review. The organization must terminate the external review if the health carrier decides to reverse its determination.

Within one business day after making the decision to reverse its determination, the health carrier must notify the commissioner, organization, and covered person in writing.

Other Information the Organization Must Consider. In reaching its decision, the organization also must consider, to the extent they are available and appropriate, the following:

1. the covered person's medical records;
2. the attending health care professional's recommendation;
3. consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, or the treating health care professional;
4. the covered person's health benefit plan's coverage terms to ensure the organization's decision is not contrary to those terms;
5. the most appropriate practice guidelines, which must include applicable evidence-based standards and may include any other practice guidelines developed by the federal government or national or professional medical societies, boards, or associations;
6. any applicable clinical review criteria the health carrier or its designee utilization review company developed and used; and
7. after considering the above items, the opinion of the organization's clinical peers who conducted the review.

Decision Time Period. After receiving a review assignment from the commissioner, the organization must notify the commissioner, health carrier, and covered person in writing of its decision to uphold, reverse, or revise the determination that is the subject of the review, within:

1. for standard external reviews, 45 days;
2. for standard external reviews involving an experimental or investigational treatment or service, 20 days;
3. for expedited external reviews, 72 hours; and
4. for expedited external reviews involving an experimental or investigational treatment or service, five days.

Decision Notice. The written notice must include:

1. the reason for the requested review;
2. the dates the organization received the assignment, performed the review, and made its decision;
3. the rationale and principal reasons for its decision, including the applicable evidence-based standards used as a basis for its decision; and
4. reference to the evidence or documentation, including any evidence-based standards, the organization considered in reaching its decision.

For a review involving an experimental or investigational treatment or service, the notice must also include:

1. the covered person's medical condition;
2. the indicators relevant to determining whether there is sufficient evidence to demonstrate that (a) the requested treatment is likely to be more beneficial to the covered person than any available standard treatments and (b) the adverse risks of the requested treatment would not be substantially increased over those of available standard treatments;
3. a description and analysis of any (a) medical or scientific evidence considered in reaching the opinion and (b) evidence-based standard; and
4. information on whether the clinical peer's rationale for the opinion is based on the other information a clinical peer must consider in developing an opinion.

Health Carrier Action. Upon receiving a decision notice from the organization that reverses the health carrier's determination, the health carrier must immediately approve the coverage that was the subject of the determination.

EFFECTIVE DATE: July 1, 2011

§ 61 — RECORD RETENTION AND REPORTING REQUIREMENTS

Grievance Records

The act requires a health carrier to maintain written records documenting all grievances of adverse determinations it receives, including the notices and claims associated with the grievances, during a calendar

year. It must maintain the records for at least six years from the date it provided a covered person an adverse determination notice.

A health carrier must make grievance records available upon request to covered persons if the records are subject to disclosure under law, the commissioner, and appropriate federal oversight agencies. It must maintain the records in a way that is reasonably clear and accessible to the commissioner.

For each grievance, the record must include at least the (1) reason for the grievance, (2) date the health carrier received the grievance, (3) date of each review or review meeting of the grievance, (4) resolution and resolution date at each grievance level, and (5) covered person's name.

Annual Report

A health carrier must submit an annual grievance report to the commissioner by March 1.

External Review Records

A health carrier must maintain written records, in the aggregate, by state where the covered person requesting an external review resides and by each type of health benefit plan the health carrier offers, on all external review requests received during a calendar year. It must retain the records for at least six years after receiving the external review request.

The carrier must, upon request, report to the commissioner on the external reviews in a format the commissioner prescribes. The report must include, in the aggregate by state where the covered person requesting the external review resides and by each type of health benefit plan (1) the total number of external review requests, whether standard or expedited; (2) the number of requests determined eligible for an external review, whether standard or expedited; and (3) any other information the commissioner requests.

EFFECTIVE DATE: July 1, 2011

§§ 62 & 66 — REGULATIONS

The act requires the commissioner to adopt implementing regulations.

EFFECTIVE DATE: July 1, 2011

§ 63 – UTILIZATION REVIEW LICENSE FEE

By law, a utilization review company must be licensed by the commissioner to do business here. Under prior law, the annual license fee was \$2,500. The act increases this fee to \$3,000.

The act authorizes the commissioner to use the license fees to contract with the UConn School of Medicine to provide medical consultations needed to

carry out the commissioner's responsibilities under Title 38a with respect to consumer and market conduct matters. By law, the commissioner may already use the license fees to implement the captive insurance company requirements in CGS §§ 38a-91aa to 38a-91qq.

EFFECTIVE DATE: July 1, 2011

§§ 65 & 66 — INDEPENDENT REVIEW ORGANIZATIONS

Prior law established minimum requirements for independent review entities. The act expands upon these requirements to conform to federal PPACA requirements.

Under the act, the commissioner must (1) approve independent review organizations as eligible to conduct standard and expedited external reviews, (2) develop an application form for initial approvals and reapprovals of organizations, and (3) maintain and periodically update a list of approved organizations.

An organization seeking to conduct external reviews must apply for approval or reapproval, as applicable, to the commissioner, and include all information necessary for the commissioner to determine if the organization satisfies the minimum qualifications.

An approval or reapproval is effective for two years, unless the commissioner determines before its expiration that the organization no longer satisfies the minimum qualifications. When the commissioner determines that an organization has lost its accreditation or no longer satisfies the minimum requirements, the commissioner must remove the organization from the list of approved organizations.

Minimum Qualifications

As under prior law, to be eligible for the commissioner's approval, an organization must maintain written policies and procedures that govern all aspects of both the standard and expedited external review processes. The act requires it to maintain at a minimum:

1. a toll-free telephone number to receive information 24 hours a day, seven days a week, related to standard and expedited external reviews and that is capable of accepting, recording, or providing appropriate instruction to callers during other-than-normal business hours and
2. a quality assurance mechanism that ensures:
 - (a) that reviews are conducted within the specified time frames and required notices are provided in a timely manner,

- (b) the selection of qualified and impartial clinical peers to conduct reviews on the organization's behalf and the suitable matching of peers to specific cases,
- (c) the organization employs or contracts with an adequate number of clinical peers,
- (d) the confidentiality of medical and treatment records and clinical review criteria, and
- (e) that any person employed by or under contract with the organization adheres to the act's requirements.

The organization must also:

1. agree to maintain and provide to the commissioner the information required by the act;
2. not own or control, be a subsidiary of, be owned or controlled in any way by, or exercise control with a health benefit plan, a national, state, or local trade association of health benefit plans, or a national, state, or local trade association of health care professionals; and
3. assign as a clinical peer a health care professional who meets the following minimum qualifications:
 - (a) is an expert in the treatment of the covered person's medical condition that is the subject of the external review;
 - (b) is knowledgeable about the recommended treatment through recent or current actual clinical experience treating patients with the same or similar medical condition;
 - (c) holds a nonrestricted license in the United States and, for physicians, a current certification by a recognized American medical specialty board in the area appropriate to the subject of the external review; and
 - (d) has no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency, or unit or regulatory body that raise a substantial question as to his or her physical, mental, or professional competence or moral character.

National Accreditation. An organization is presumed to meet the minimum qualifications if it is accredited by a nationally recognized private accrediting entity that has independent review organization accreditation standards that the commissioner determines are equivalent to or exceed the minimum qualifications. The commissioner must initially and periodically review the independent review organization accreditation standards of the nationally recognized private accrediting entity to determine whether the standards are, and continue to be, equivalent to or

exceed the required minimum qualifications. The commissioner may accept a review conducted by the National Association of Insurance Commissioners (NAIC) for this purpose.

Upon request, a nationally recognized private accrediting entity must provide its current independent review organization accreditation standards to the commissioner or NAIC. The commissioner may exclude any private accrediting entity that is not reviewed by NAIC.

Conflict of Interests

The commissioner cannot assign an organization, and no organization can assign a clinical peer, to conduct a standard or expedited external review if the organization or clinical peer has a material professional, familial, or financial conflict of interest with:

1. the health carrier or any of its officers, directors, or managers;
2. the covered person or his or her authorized representative;
3. the health care provider, the provider's medical group, or independent practice association recommending the treatment;
4. the facility at which the treatment would be provided; or
5. the developer or manufacturer of the drug, device, procedure, or other therapy being recommended.

To determine whether an organization or clinical peer has a material professional, familial, or financial conflict of interest, the commissioner must consider situations in which the organization or a clinical peer may have an apparent relationship or connection with a person described above, but the characteristics of the relationship or connection are not material.

Organization Must Be Unbiased

An organization must be unbiased and must, in addition to any other written procedures the act requires, establish and maintain written procedures to ensure that it is unbiased.

Limited Immunity

An organization; clinical peer; or an organization's employee, agent, or contractor is not liable for damages to any person for any opinions rendered or acts or omissions performed within the scope of the organization's or person's duties, unless the opinion was rendered or act or omission performed in bad faith or involved gross negligence.

Record Retention and Reporting Requirements

An organization assigned to conduct a standard or expedited external review must maintain written records, in the aggregate by state where the covered person requesting the review resides and by health carrier, on all reviews it conducted during a calendar year. It must retain the records for at least six years after receiving the review assignment.

Upon request, the organization must report to the commissioner in a format he prescribes. The report must include, in the aggregate by state where the covered person requesting the external review resides and by health carrier:

1. the total number of requests for review, whether standard or expedited;
2. the number of requests resolved and, of those resolved, the numbers upholding and reversing the adverse determination;
3. the average time for resolution;
4. a summary of the coverage or case types for which an external review was sought;
5. the number of external reviews that were terminated as a result of a health carrier's reconsideration of its determination after receiving additional information from the covered person; and
6. any other information the commissioner requires.

EFFECTIVE DATE: July 1, 2011

§ 88 — TEMPORARY PROCEDURE FOR FORM FILINGS

By law, health carriers must file their policy and certificate forms for the commissioner's approval before use. The act allows health carriers to temporarily follow a "file and use" method of filing for policy forms or endorsements relating to utilization review, grievance process, or external review procedures for use on or after July 1, 2011. Health carriers must file their policy forms or endorsements with a certification to the commissioner that the policy forms meet the requirements of law. The carriers can then use the forms until and unless the commissioner disapproves their use. Health carriers can use this temporary procedure until June 30, 2012.

EFFECTIVE DATE: July 1, 2011

§§ 63, 64, 67, 68, 70 - 87, & 89 — TECHNICAL AND CONFORMING CHANGES; REPEALED SECTIONS

These sections make technical and conforming changes, including repealing the existing utilization review, grievance, and external appeals process. But the act recodifies some of the repealed sections, including penalties for a utilization review company that violates

the act's provisions.

EFFECTIVE DATE: July 1, 2011

§ 90 — REPEALED SECTIONS

The act repeals the prior SustiNet law.

EFFECTIVE DATE: September 1, 2011

BACKGROUND

ERISA

The federal Employee Retirement Income Security Act (ERISA, U.S. Code Title 29) governs certain activities of most private employers who maintain employee welfare benefit plans and preempts many state laws in this area.

ERISA-covered welfare benefit plans must meet a wide range of (1) fiduciary, reporting, and disclosure requirements and (2) benefit requirements (including benefits required under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), Health Insurance Portability and Accountability Act (HIPAA), Mental Health Parity Act, Newborns' and Mothers' Health Protection Act, and Women's Health and Cancer Rights Act).

ERISA does not apply to a "governmental plan," which it defines as "a plan established or maintained for its employees by the government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing." If the state plan permits private-sector employers to join, it may lose its status as a governmental plan, thereby subjecting it to the full requirements of ERISA, including federal oversight.

U.S. DOL Opinion Concerning ERISA Applicability

In 1999, the California School and Legal College Services of the Sonoma County Office of Education (the office) requested an advisory opinion from the U.S. Department of Labor (DOL) concerning the applicability of ERISA. Specifically, it asked if allowing 28 private-sector employees to participate in the California Public Employees' Retirement System (CalPERS) would adversely affect CalPERS' status as a "governmental plan" within the meaning of ERISA.

In its opinion, DOL stated that "governmental plan status is not affected by participation of a *de minimis* number of private sector employees. However, if a benefit arrangement is extended to cover more than a *de minimis* number of private sector employees, the Department may not consider it a governmental plan" under ERISA (U.S. DOL Advisory Opinion 1999-10A, July 26, 1999). DOL further noted that its opinion related solely to the application of ERISA's provisions and "is not determinative of any particular tax treatment

under the Internal Revenue Code.” It advised the office to contact the IRS to clarify tax treatment of the proposed arrangement.

PA 11-67—sSB 10

*Insurance and Real Estate Committee
Appropriations Committee*

**AN ACT CONCERNING INSURANCE
COVERAGE FOR BREAST MAGNETIC
RESONANCE IMAGING AND PERMITTING
DISTRICTS TO JOIN MUNICIPALITIES AND
BOARDS OF EDUCATION TO PROCURE
HEALTH CARE BENEFITS**

SUMMARY: This act requires certain health insurance policies to cover magnetic resonance imaging (MRI) of a woman’s entire breast or breasts in specified circumstances.

The law 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 specified conditions. The act extends this power to special taxing districts, allowing them to enter into such agreements with other districts, municipalities, and boards of education, or any combination of these entities. By law, “district” includes a fire, sewer, or fire and sewer district; lighting district; village, beach, or improvement association; and any other district or association, except a school district, wholly within a town and having the power to make appropriations or levy taxes.

EFFECTIVE DATE: October 1, 2011, except for the provisions requiring insurance coverage for breast MRI, which are effective January 1, 2012.

COVERAGE FOR BREAST MRI

The act requires certain health insurance policies to cover MRIs of a woman’s entire breast or breasts if (1) a mammogram shows heterogeneous or dense breast tissue based on the American College of Radiology’s Breast Imaging Reporting and Database System (BI-RADS) or (2) a woman is considered at an increased breast cancer risk because of family history, her own breast cancer history, positive genetic testing, or other indications determined by her physician or advanced-practice registered nurse. By law, policies must cover (1) breast ultrasounds under the same specified circumstances, (2) a baseline mammogram for a woman age 35 to 39, and (3) a yearly mammogram for a woman age 40 or older.

The act applies to individual and group health insurance policies that cover (1) basic hospital

expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including those provided by HMOs. It removes an erroneous reference to accident-only policies. (Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.)

BACKGROUND

Related Act

PA 11-171 requires certain health insurance policies to cover MRIs of a woman’s breasts in accordance with guidelines established by the American Cancer Society or the American College of Radiology.

Related Law

State law limits the copayments for MRIs to \$75 for one and \$375 for all MRIs annually (CGS §§ 38a-511 and 38a-550). The limit does not apply (1) if the physician ordering the imaging service performs it or is in the same practice group as the physician who performs it and (2) to high deductible health plans designed to be compatible with federally qualified health savings accounts.

BI-RADS Categories

The American College of Radiology collaborated with the National Cancer Institute, the Centers for Disease Control and Prevention, the American Medical Association, and others to develop BI-RADS, which is used to standardize mammography reporting. There are two BI-RADS scales: one characterizes breast density and the other characterizes a radiologist’s reading of what he or she sees on a mammogram.

PA 11-83—sSB 923

*Insurance and Real Estate Committee
Appropriations Committee*

**AN ACT CONCERNING THE AMERICAN
COLLEGE OF RADIOLOGY AND
COLORECTAL CANCER SCREENING
RECOMMENDATIONS AND HEALTH
INSURANCE COVERAGE FOR
COLONOSCOPIES**

SUMMARY: By law, certain health insurance policies must cover colorectal cancer screening, including (1) an annual fecal occult blood test and (2) colonoscopy, flexible sigmoidoscopy, or radiologic imaging, in accordance with American College of Gastroenterology

(ACOG) recommendations regarding age, family history, and test frequency. This act requires ACOG to consult with the American College of Radiology, not just the American Cancer Society, when making screening recommendations.

The act also prohibits these insurance policies from imposing a coinsurance, copayment, deductible, or other out-of-pocket expense for any additional colonoscopy a physician orders for an insured person in a policy year. Other than this prohibition, benefits are subject to the same terms and conditions that apply to policy benefits. The act's prohibition does not apply to a high-deductible health plan designed to be compatible with federally qualified health savings accounts.

The individual and group health insurance policies covered by the act are those delivered, issued, amended, renewed, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including coverage under an HMO plan. Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured plans.

EFFECTIVE DATE: January 1, 2012

PA 11-88—sHB 5032

*Insurance and Real Estate Committee
Appropriations Committee*

**AN ACT REQUIRING HEALTH INSURANCE
COVERAGE FOR BONE MARROW TESTING**

SUMMARY: This act requires certain health insurance policies to cover compatibility testing for bone marrow transplants (known as human leukocyte antigen testing and also referred to as histocompatibility locus antigen testing) for A, B, and DR antigens. Under the act, a policy (1) may limit coverage to one test in a person's lifetime and (2) cannot impose a coinsurance, copayment, deductible, or other out-of-pocket expense for testing that exceeds 20% of the cost for testing per year, unless it is a high-deductible policy designed to be compatible with federally qualified health savings accounts.

The act requires a policy to (1) require bone marrow testing at a facility certified under the federal Clinical Laboratory Improvement Act and accredited by the American Society for Histocompatibility and Immunogenetics or its successor and (2) limit coverage to people who sign up for the National Marrow Donor Program when being tested.

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; and (4) hospital or medical services, including coverage under an HMO plan.

Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2012

BACKGROUND

Clinical Laboratory Improvement Act

The federal Centers for Medicare and Medicaid Services regulate all laboratory testing (except research) performed on people in the United States under the Clinical Laboratory Improvement Act.

American Society for Histocompatibility and Immunogenetics

This society is a nonprofit association of clinical and research professionals, including immunologists, geneticists, transplant physicians and surgeons, and pathologists. It is a member of the United Network for Organ Sharing and works with numerous scientific and medical organizations, including the National Marrow Donor Program. It develops and maintains accreditation standards for laboratories.

PA 11-94—HB 5437

*Insurance and Real Estate Committee
Housing Committee*

AN ACT CONCERNING SECURITY DEPOSITS

SUMMARY: This act eliminates the requirement that a landlord pay a minimum 1.5% interest rate on residential security deposits. Prior law required a landlord to pay at least the average savings deposit interest rate paid by insured commercial banks published in the Federal Reserve Board Bulletin in November of the prior year (i.e., deposit index), but not less than 1.5%. (The 2010 deposit index rate is 0.28%.) The act retains the deposit index method for calculating the security deposit interest rate. It also makes technical changes.

EFFECTIVE DATE: January 1, 2012

PA 11-106—sHB 6233

*Insurance and Real Estate Committee
Transportation Committee*

**AN ACT CONCERNING PAYMENT FOR
REPAIR OR REMEDIATION FOLLOWING A
COVERED LOSS UNDER A PERSONAL OR
COMMERCIAL RISK POLICY**

SUMMARY: The law requires a person who will perform repair or remediation work relating to a claim under a personal or commercial risk insurance policy to give the insured, before any work begins, written notice of the work to be completed and the estimated total price. For losses occurring on or after October 1, 2011, this act voids a work contract between the person performing the work and the insured if the notice is not given. By law, the notice requirement does not apply to repairs (1) made to vehicles covered by an automobile liability insurance policy or (2) performed by registered home improvement contractors.

EFFECTIVE DATE: October 1, 2011

PA 11-132—sHB 6471

*Insurance and Real Estate Committee
Appropriations Committee*

**AN ACT CONCERNING MOST FAVORED
NATION CLAUSES IN HEALTH CARE
PROVIDER CONTRACTS**

SUMMARY: This act prohibits a contracting health organization (i.e., managed care organization (MCO) or preferred provider network (PPN)) from including a “most favored nation” (MFN) clause in a contract with a health care provider, dentist, or hospital.

Specifically, it prohibits these contracts from including any provision that prohibits a provider, dentist, or hospital from contracting with another MCO or PPN at a lower payment or reimbursement rate. It also prohibits these contracts from (1) containing provisions requiring a provider, dentist, or hospital to disclose the payment or reimbursement rates of another MCO or PPN with which it contracts or (2) being renegotiated before renewal if a lower payment or reimbursement rate is agreed to between the provider, dentist, or hospital and another MCO or PPN.

The act applies to contracts entered into, renewed, amended, or offered on or after October 1, 2011. Contracts in effect prior to this date that include an MFN clause are void and unenforceable on the contract renewal date or January 1, 2014, whichever is earlier. The act specifies that its provisions do not affect the contracting health organization’s rights to enforce the MFN clause before its invalidation.

By law, “providers” include Connecticut-licensed physicians, surgeons, chiropractors, podiatrists, psychologists, optometrists, naturopaths, and advanced practice registered nurses.

EFFECTIVE DATE: October 1, 2011

CONTRACT PROVISIONS

The act prohibits a contracting health organization from including in any contract with a provider, dentist, or hospital, any clause, covenant, or agreement that:

1. requires the hospital, dentist, or provider to (a) disclose to the organization its payment or reimbursement rates from any other organization it contracts or may contract with; (b) provide services or procedures to the organization at a payment or reimbursement rate equal to or lower than the lowest rate at which the provider, dentist, or hospital contracts or may contract with another organization; or (c) certify to the organization that the provider, dentist, or hospital has not contracted with any other organization to provide services or procedures at a lower payment or reimbursement rate;
2. prohibits or limits the provider, dentist, or hospital from contracting with any other organization to provide services or procedures at a lower payment or reimbursement rate; or
3. allows the organization to terminate or renegotiate a contract with a provider, dentist, or hospital prior to renewal if the provider, dentist, or hospital contracts with another organization to provide services or procedures at a lower payment or reimbursement rate.

BACKGROUND

Most Favored Nation Clauses

A “most favored nation clause” is a provision in a contract between a health care provider and an insurer that prohibits the provider from charging the insurer a rate that is higher than the lowest reimbursement rate the provider accepts from any other insurer.

PA 11-138—HB 6508

Insurance and Real Estate Committee

**AN ACT CONCERNING TIMELY HISTORY
REPORTS FOR COMMERCIAL RISK
INSURANCE POLICIES**

SUMMARY: By law, when insurers or insureds cancel or do not renew a commercial auto or general liability

insurance policy, the insurer must provide their insureds with written reports that include a history of the policy's pricing and premium information, along with a detailed list of incurred losses (i.e., loss reports). This act extends the reporting requirement to all types of commercial risk insurance, instead of just commercial auto or general liability, and decreases the timeframe for providing certain reports from 60 days to 30 days.

Additionally, under prior law, commercial auto and general liability insurers had to provide principal insureds who requested it a summary of claims information for a period of up to four years before the date of the request. The act (1) expands the requirement to all commercial risk insurers, (2) requires that the request be made in writing, and (3) requires the insurer to report within 30 days after receiving the request. By law, the summary report must include each policy number, each coverage period, the number of claims, the amount of paid losses, and the date of each loss.

EFFECTIVE DATE: January 1, 2012

TIMEFRAME TO FURNISH LOSS REPORT

Under prior law, when the cancellation or nonrenewal of a policy was due to specified circumstances (e.g., nonpayment of premium, fraud or material misrepresentation, or willful or reckless acts that increase the hazard insured against), the insurer had to provide the loss report, or an updated report needed to properly rate or obtain coverage from a different insurer, to the insured within 60 days of receiving a written request from the insured or the insured's authorized producer. The act decreases the timeframe to report from 60 days to 30 days.

By law, an insurer that cancels or does not renew a policy for any other reason than those specified above must provide the insured or authorized producer with the loss report no later than the date notice of nonrenewal or cancellation is furnished.

PA 11-163—SB 314

*Insurance and Real Estate Committee
Judiciary Committee*

AN ACT CONCERNING MENTAL OR NERVOUS CONDITIONS UNDER THE CONNECTICUT UNFAIR INSURANCE PRACTICES ACT

SUMMARY: This act adds to the list of unfair or deceptive insurance acts or practices, the (1) refusal to insure or continue to insure; (2) limitation of the amount, extent, or kind of coverage available to; or (3) charging of a different rate for the same coverage to, an individual diagnosed with a mental or nervous condition. The law already prohibits such acts or

practices for individuals with a physical disability or mental retardation.

The law allows such a refusal, limitation, or rate differential if it is (1) based on sound actuarial principles or (2) related to actual or reasonably anticipated experience.

The act defines "mental or nervous conditions" as mental disorders as it is used in the American Psychiatric Association's most recent *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV-TR fourth edition, text revision). It specifically excludes (1) mental retardation; (2) learning, motor skills, communication, and caffeine-related disorders; (3) relational problems; and (4) additional conditions not otherwise defined as mental disorders in the DSM-IV-TR.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Connecticut Unfair Insurance Practice Act (CUIPA)

CUIPA prohibits engaging in unfair or deceptive insurance acts or practices. It 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 instead of a license suspension or revocation, for violating a cease and desist order.

PA 11-169—SB 1083

*Insurance and Real Estate Committee
Appropriations Committee*

AN ACT CONCERNING HEALTH INSURANCE COVERAGE OF PRESCRIPTION DRUGS FOR PAIN TREATMENT

SUMMARY: This act prohibits certain health insurance policies that provide prescription drug coverage from requiring an insured to use an alternative brand name prescription drug or over-the-counter drug before using a brand name prescription drug prescribed by a licensed physician for pain treatment. But, it allows these policies to require an insured to first use a therapeutically equivalent generic drug.

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; (4) hospital or medical services, including coverage under an HMO plan; and (5) limited benefits.

Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2012

PA 11-170—sSB 11 (VETOED)

*Insurance and Real Estate Committee
Appropriations Committee*

AN ACT CONCERNING THE RATE APPROVAL PROCESS FOR CERTAIN HEALTH INSURANCE POLICIES

SUMMARY: This act imposes new requirements on health insurers and the Insurance Department with regard to rates. It requires that rates charged for small employer group health insurance be approved by the insurance commissioner and modifies the rate approval process for individual policies. The act:

1. requires small employer group health insurers to file risk classifications and premium rates with the insurance commissioner;
2. generally increases the amount of time required before a new rate can go into effect;
3. requires the Insurance Department to post certain rate filings on its website and provide a 30-day public comment period;
4. from January 1, 2012 to December 31, 2013, requires a symposium on these proposed rate filings if specified criteria are met and the healthcare advocate and attorney general request it;
5. establishes disclosure and record retention requirements for these rate filings; and
6. increases the amount appropriated to the Insurance Department in FYs 12 and 13.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2012

INSURANCE DEPARTMENT REQUIREMENTS

Individual Health Insurance Policies

By law, rates for individual health insurance policies are subject to Insurance Department review and approval. The act eliminates the provision that allows rates (other than those for Medicare supplement

policies) to go into effect automatically 30 days after they are filed. It instead provides a new rate approval process, which is described below.

By law, the Insurance Department must adopt regulations to ensure that the rates charged for such policies are not excessive, inadequate, or unfairly discriminatory. The act defines these terms.

Under the act, a rate is “excessive” if it is unreasonably high for the insurance in relation to the underlying risks and costs after due consideration to:

1. the filer’s experience;
2. the filer’s past and projected costs, including amounts paid and to be paid for commissions;
3. any transfers of funds to the filer’s holding or parent company, subsidiary; or affiliate;
4. the filer’s rate of return on assets or profitability, as compared to similar filers;
5. a reasonable margin for profit and contingencies;
6. any public comments received related to the filing; and
7. other factors the commissioner deems relevant.

A rate is “inadequate” if it is unreasonably low in relation to the underlying risks and costs and continued use of the rate would endanger the filer’s solvency. It is “unfairly discriminatory” if the premium charged for any classification is not reasonably related to the underlying risks and costs, such that different premiums result for insureds with similar risks and costs.

The act deletes a provision that deemed rates “not excessive” if the insurer filed a loss ratio guarantee that the insurance commissioner approved. For this purpose, “loss ratio” meant the ratio of incurred claims to earned premiums.

Group Health Insurance Policies

By law, the insurance commissioner must review and approve the form for group health insurance policies. The act eliminates a requirement that the commissioner adopt regulations concerning the approval of the policies themselves.

The act requires that, for small employer group health insurance policies, the insurer submit the premium rates and classification of risks to the insurance commissioner. Under the act, a “small employer” is a person, firm, corporation, limited liability company, partnership, or association actively engaged in business or self-employed for at least three consecutive months that, on at least 50% of its working days during the preceding 12 months, employed 50 or fewer employees most of whom are in Connecticut. When counting the number of employees, companies that are affiliates under state law or eligible to file a combined tax return are considered one employer.

The act prohibits these rates from going into effect until the commissioner approves them. It requires the commissioner to adopt regulations setting standards to ensure that the rates are not excessive, inadequate, or unfairly discriminatory, as described above.

Except for specified types of policies, the commissioner may disapprove a rate within 30 days if it does not meet the standards. These specified policies include those covering (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) hospital or medical services, or (5) long-term care. The rate approval process for these policies is described below.

Policies Provided by HMOs and Hospital and Medical Service Corporations

Prior law barred HMOs from entering any agreement with subscribers until the commissioner approved the amount the subscribers would pay. It similarly barred hospital and medical service corporations from entering into contracts with subscribers until the commissioner approved the subscribers' rates. Under prior law, the commissioner could refuse to approve these amounts and rates if he found them to be excessive, inadequate, or discriminatory. The act instead requires the commissioner to adopt regulations to ensure that the amounts and rates are not excessive, inadequate, or discriminatory. It also requires the commissioner to follow the procedures established by the act (described below) in approving the amounts and rates. These procedures apply to specific types of policies. It is unclear whether the commissioner must follow these procedures in approving amounts and rates for other types of policies.

RATE APPROVAL PROCESS FOR SPECIFIED TYPES OF POLICIES

Applicability

The act establishes a rate approval process that applies to any rate filed by an HMO, hospital or medical service corporation, or an individual or small employer group health insurer that issues policies that cover (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) hospital or medical services, or (5) long-term care.

Process and Timeline

The act requires the above entities to file rates with the department within 120 days before their proposed effective date. The department must post the filing and supporting documents on its website within three

business days of receiving it and update the file to include any correspondence between the department and the entity that filed it.

The department must provide a 30-day public comment period once the filing is posted on the website. The website posting must include the day the public comment period ends and how to submit written comments to the department.

Under prior law, individual health insurance rates were deemed approved if not otherwise disapproved within 30 days of being filed with the department. For HMOs and hospital and medical service corporations, the commissioner had to approve or disapprove rates within a reasonable time. The law did not specify a time frame for approval of individual long-term care health insurance rates.

The act instead requires the commissioner to issue a written decision approving, modifying, or disapproving a rate filing within 45 days after receiving it, unless a symposium is required on the filing (see below). The decision must specify all factors used to reach it and be posted on the department's website within two business days after being issued.

Disclosure to Insureds or Subscribers

The act requires each entity to disclose to its insureds or subscribers, on the date it submits a rate filing to the department, clearly and conspicuously, in writing, and in a form the commissioner prescribes:

1. the proposed general rate increase and the dollar amount by which a person's policy or agreement will increase, including any increase because of the person's age or change in age rating classification and the percentage increase or decrease in the proposed rate from the current rate;
2. a statement that the proposed rate or amount is subject to department review and approval; and
3. detailed information on the person's right to submit public comment to the Insurance Department, including the department's website, mailing address, phone number, and instructions on how to submit comments.

The entity must disclose in writing to a prospective customer the (1) fact that the department is reviewing the policy rates and (2) proposed rate increase or decrease.

If the insurance commissioner approves or modifies a rate filing, the entity must provide written notice to each insured or subscriber by first class mail that states:

1. the approved rate for the person's policy or agreement,
2. any increase in the rate due to the person's age or change in age rating classification, and

3. the percentage increase or decrease in the approved rate from the person's current rate.

The act prohibits a new rate from taking effect until 30 days after the notice has been sent or the effective date proposed in the rate filing, whichever is later.

Actuarial Memorandum

The entity's rate filing must include an actuarial memorandum certified by a qualified actuary (i.e., a member in good standing with the American Academy of Actuaries who meets regulatory requirements in regulations that the commissioner may prescribe). The actuary must certify that, to the best of his or her knowledge, the rate filing complies with law and is not excessive.

Rate Filing Review Requirements

The act requires the insurance commissioner, when reviewing a rate filing to determine that it is not excessive, inadequate, or unfairly discriminatory, to conduct his own actuarial review to determine if the methodology and assumptions used to develop the rate filing are actuarially sound and comply with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

Public Symposium Required for Certain Rate Filings

Under the act, from January 1, 2012 to December 31, 2013, the commissioner must hold a symposium when (1) any entity files a rate increase of more than 10% and (2) the healthcare advocate or attorney general requests it within five business days after the filing is posted on the department's website. (The 10% rate increase criterion does not apply to long-term care policies.) The commissioner must, within five business days of receiving a request, set a symposium date and conspicuously post on the department's website the date, place, and time of the symposium. The act requires the symposium to be held (1) within 90 days before the proposed effective date of the rate filing at a place and time convenient for the public and (2) in accordance with the act. The commissioner must immediately notify the filer of the symposium date, place, and time.

The commissioner must, within 30 days after the symposium, issue a written decision approving, modifying, or disapproving the rate filing. The decision must specify all factors used to reach it and be posted on the department's website within two business days from being issued.

The commissioner is not required to hold, in any year, more than (1) 10 symposiums for individual and small employer group health insurance rates and (2) five symposiums for long-term care rates. The act specifies that the symposium is not deemed a contested case

under the Uniform Administrative Procedures Act and thus cannot be appealed to Superior Court.

Healthcare Advocate and Attorney General

The act authorizes the healthcare advocate, the attorney general, or both, to present evidence, information, and a closing argument at any rate filing symposium held. It requires the insurance commissioner to help these officials obtain the department's rate filing records that are not readily available from its website, provided they are not confidential or prohibited by law from disclosure. In making his decision to approve, disapprove, or modify a rate filing, the commissioner must consider any oral or written comments made or submitted at each symposium and written comments submitted directly to the department.

Report

The act requires the Insurance Department to report annually by January 31 to the Insurance and Real Estate Committee all rates, amounts, and rate schedules filed in the immediately preceding calendar year by the above individual, small group employer, and long-term care entities. The report must include the (1) filer's name, (2) percent rate increase or decrease filed and approved by the department, and (3) market segment and product type.

Record Retention

The act requires each insurer, HMO, or hospital or medical service corporation to retain records of earned premiums and incurred benefits by calendar year for each policy or agreement for which a rate filing was made under the act. The records must be kept for at least seven years after the filing was made and must include records for any rider or endorsement used in connection with the policy or agreement.

The act requires the Insurance Department to retain rate filing records for at least seven years from the date it approved, modified, or disapproved the filing.

Insurance Fund

The act amends PA 11-6 (the biennial budget act) to adjust amounts appropriated to the Insurance Department from the Insurance Fund for personnel, fringe benefits, and other expenses. Specifically, it increases the appropriations in each year for personal services, other expenses, and fringe benefits by \$98,000, \$25,000, and \$58,000 respectively.

PA 11-171—sSB 18*Insurance and Real Estate Committee***AN ACT CONCERNING INSURANCE
COVERAGE FOR BREAST MAGNETIC
RESONANCE IMAGING AND EXTENDING THE
NOTIFICATION PERIOD TO INSURERS
FOLLOWING THE BIRTH OF A CHILD**

SUMMARY: This act requires certain health insurance policies to cover magnetic resonance imaging (MRI) of a woman's breasts in accordance with guidelines established by the American Cancer Society or the American College of Radiology. By law, policies must cover (1) breast ultrasounds under specified circumstances, (2) a baseline mammogram for a woman age 35 to 39, and (3) a yearly mammogram for a woman age 40 and older.

By law, policies that cover family members must cover injury and sickness, including care and treatment of congenital defects and birth abnormalities, for newborns from birth. The act extends, from 31 to 61 days after the birth, the time within which an insurer, HMO, or hospital or medical service corporation must be notified of the birth and paid any required premium or subscription fee. The act specifies that if such notification and payment is not received within 61 days (1) it does not prejudice claims originating during that period and (2) the newborn's coverage ends.

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; and (4) hospital or medical services, including those provided by HMOs. The newborn coverage requirement also applies to accident-only policies.

Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2012

BACKGROUND*Related Act*

PA 11-67 requires certain health insurance policies to cover magnetic resonance imaging (MRI) of a woman's entire breast or breasts in specified circumstances.

PA 11-172—sSB 21*Insurance and Real Estate Committee
Appropriations Committee***AN ACT CONCERNING HEALTH INSURANCE
COVERAGE FOR ROUTINE PATIENT CARE
COSTS FOR CERTAIN CLINICAL TRIAL
PATIENTS**

SUMMARY: By law, individual and group health insurance policies and HMO contracts must cover (1) medically necessary hospitalization services and other routine patient care costs associated with cancer clinical trials and (2) off-label cancer prescription drugs. This act expands the coverage requirements to include all disabling or life-threatening chronic diseases rather than cancer only. (The act does not define these terms.)

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; and (4) hospital or medical services, including coverage under an HMO plan. Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

The act also makes technical and conforming changes.

EFFECTIVE DATE: January 1, 2012

CLINICAL TRIALS

The act defines a "clinical trial" as an organized, systemic, scientific study of interventions for the treatment of cancer or disabling or life-threatening chronic diseases, or therapeutic intervention for prevention.

The act removes the requirement under prior law that a clinical trial for cancer prevention must be a Phase III trial conducted at multiple institutions. (Phase III clinical trials compare a new drug or surgical procedure to the current standard of treatment.) The act does not require a Phase III trial for other types of preventive clinical trials it covers.

Eligibility for Coverage

By law, to be eligible for coverage, a cancer clinical trial must be conducted under an independent, peer-reviewed protocol approved by one of the National Institutes of Health, a National Cancer Institute-affiliated cooperative group, the federal Food and Drug Administration (FDA) as part of an investigational new drug or device exemption, or the U.S. departments of Defense or Veterans' Affairs. The act applies this requirement to clinical trials for disabling or life-threatening chronic diseases. It also makes eligible for

coverage clinical trials for disabling or life-threatening chronic diseases that qualify for Medicare coverage under the Medicare Clinical Trials Policy established under the September 19, 2000 Medicare National Coverage Determination. The act also expands coverage to include FDA-approved protocols that are part of an investigational new drug or device application, instead of only a drug or device exemption.

The insurer, HMO, or plan administrator may require the person or entity seeking coverage for the clinical trial to provide:

1. evidence that the patient meets all selection criteria for the clinical trial, including credible clinical evidence showing the clinical trial is likely to benefit the person compared to the risks of participation;
2. evidence that the patient has given his or her informed consent;
3. copies of medical records, protocols, test results, or other clinical information used to enroll the patient in the clinical trial;
4. a summary of the anticipated routine patient costs in excess of the standard treatment costs;
5. information regarding items eligible for reimbursement from other sources, including the entity sponsoring the clinical trial; and
6. additional information reasonably required to review the coverage request.

This is already law for cancer clinical trials.

Routine Patient Care Costs

By law, and extended to all clinical trials by the act, "routine patient care costs" are (1) medically necessary health care services, including physician services, diagnostic or laboratory tests, and hospitalization, incurred as a result of the treatment being provided that would otherwise be covered if they were not rendered as part of a clinical trial and (2) costs incurred for federal FDA-approved drugs. The services must be consistent with the usual and customary standard of care.

Hospitalization must include treatment at an out-of-network facility if such treatment is not available in-network and is not eligible for reimbursement by the clinical trial.

Routine patient care costs must be subject to the terms, conditions, restrictions, exclusions, and limitations of the insurance contract or certificate, including limitations on out-of-network care. But treatment at an out-of-network hospital must be made available by the out-of-network hospital and the insurer or HMO at no greater cost to the insured person than if such treatment was available in-network. The insurer or HMO may require that any routine tests or services required under the clinical trial be performed by contracted providers.

Routine patient care costs do not include:

1. the cost of an investigational new drug or device that is not FDA-approved;
2. the cost of a non-health-care service that an insured person may be required to receive as a result of the clinical trial;
3. facility, ancillary, professional services, and drug costs that are paid for by grants or funding for the clinical trial;
4. costs of services that are (a) inconsistent with widely accepted and established regional or national standards of care for a particular diagnosis, or (b) performed specifically to meet the requirements of the clinical trials;
5. costs that would not be covered under the insured person's policy for non-investigational treatments, including items excluded from coverage under the person's insurance contract; and
6. transportation, lodging, food, or any other expenses associated with travel to or from the clinical trial facility.

Health care providers, including hospitals and institutions, that provide routine patient care services approved for coverage cannot bill the insurer, HMO, or insured for any (1) services or costs that do not meet the definition of routine patient care services or (2) product or service for which the clinical trial sponsor is paying.

Payment to Out-of-Network Providers

An insurer or HMO must pay out-of-network providers the lesser of (1) the lowest contracted daily fee schedule or case rate it pays its Connecticut in-network providers for similar services or (2) actual charges. Out-of-network providers may not collect more than the total amount paid by the insurer or HMO and the insured's deductible and copayment.

Coverage Request Form

The act requires the Insurance Department to develop a standardized form that all providers must submit to the insurer or HMO when seeking to enroll an insured patient in a clinical trial for disabling or life-threatening chronic diseases, excluding cancer. (The law already requires this for cancer trials.) The department must develop the form in consultation with:

1. at least one state nonprofit research or advocacy organization related to the clinical trial's subject,
2. at least one national nonprofit research or advocacy organization related to the clinical trial's subject,
3. the Connecticut Association of Health Plans, and

4. Anthem Blue Cross of Connecticut.

An insurer or HMO must use the department's form unless it is exempt because its coverage is certified to be substantially the same as the act requires and it has the department's approval to use another form.

An insurer or HMO that receives a completed form from a provider requesting coverage for routine patient care costs for clinical trials must approve or deny the request within five business days or, if using independent experts to review clinical trial requests, 10 business days. The act removes the requirement under current law that requests for coverage of Phase III cancer prevention clinical trials be approved or denied within 14 business days.

Under existing law, the Insurance Department has to (1) develop a form for use with cancer clinical trials and (2) adopt regulations to implement the coverage request form requirements, which the act extends to other clinical trials.

Exemption from Requirements

Insurers and HMOs must submit their coverage policies for clinical trials to the Insurance Department for evaluation and approval. The department must certify whether the coverage policy is substantially equivalent to the act's requirements. If it is, the insurer or HMO is exempt from the act's requirements.

An exempt insurer or HMO must annually report in writing to the department that there have been no changes to the coverage policy. If there have been changes, the insurer or HMO must resubmit the policy for the department's certification.

OFF-LABEL DRUGS

By law, individual and group health insurance policies that cover a prescription drug that is FDA-approved to treat a certain type of cancer must also cover the drug when it is used for another type of cancer (known as "off-label" drugs) if it is recognized as a cancer treatment in one of three sources.

The act requires coverage for off-label drug use for FDA-approved drugs to treat disabling or life-threatening chronic diseases. The drug must be recognized for the treatment of such a condition in the:

1. U.S. Pharmacopoeia Drug Information Guide for the Health Care Professional,
2. American Medical Association's Drug Evaluations, or
3. American Society of Hospital Pharmacists' American Hospital Formulary Service Drug Information.

The act specifies that it does not require coverage for experimental or investigational drugs or any drug that the FDA has determined to be contraindicated for

the treatment of a specific disabling, or life-threatening chronic disease. This is already law with respect to cancer drugs.

PA 11-195—HB 6234

*Insurance and Real Estate Committee
Judiciary Committee*

AN ACT CONCERNING ELECTIONS OF THE EXECUTIVE BOARDS OF DIRECTORS OF CONDOMINIUM UNIT OWNERS' ASSOCIATIONS AND CHANGES TO THE COMMON INTEREST OWNERSHIP ACT

SUMMARY: This act makes the following changes to the Common Interest Ownership Act (CIOA). It:

1. prohibits an (a) executive board member of a residential common interest community association or master association (representing one or more common interest communities) or (b) individual seeking election to such board, from accepting any item of value based on the understanding that doing so will influence the member's or candidate's vote, official action, or judgment; and also prohibits someone from providing or offering something of value to these people;
2. prohibits a community association manager or person providing association management services from campaigning for any person seeking election to an executive board;
3. requires an association to hold a hearing before bringing an action or instituting a proceeding against a unit owner, other than a declarant;
4. allows a unit owner, other than a declarant, to request such a hearing to enforce a right or obligation against an association or another unit owner; and
5. exempts certain buildings from the insurance requirements for units divided by horizontal or vertical boundaries.

The act also prohibits a contract between a common interest community association and an individual providing association management services from including any clause or agreement that indemnifies or holds the association manager harmless against any liability for loss or damage resulting from the manager's negligence or willful misconduct.

EFFECTIVE DATE: October 1, 2011

HEARING REQUIREMENTS FOR ASSOCIATIONS SUBJECT TO CIOA

Requirements

By law, anyone subject to CIOA may bring a court action to enforce a right or obligation imposed by CIOA or an association's declaration or bylaws. Parties to a dispute arising under CIOA, the declaration, or bylaws may agree to resolve the dispute by binding or nonbinding alternative dispute resolution under certain conditions.

The act requires an association, before bringing an action or instituting a proceeding against a unit owner, other than a declarant (developer), to schedule a hearing during a regular or special executive board meeting. The association must notify the unit owner of the hearing date, time, and location at least 10 business days in advance by certified mail, return receipt requested, and regular mail. The notice must also state the nature of the claim against the unit owner.

The act gives the unit owner the right to give oral and written testimony at the hearing, either in person or through a representative. The executive board must consider this testimony when deciding whether to bring an action or institute a proceeding against the unit owner.

Within 30 days after the hearing, the association must notify the unit owner of the executive board's decision by certified mail, return receipt requested, and regular mail.

The act exempts from this hearing requirement an action brought by an association against a unit owner to (1) prevent immediate and irreparable harm or (2) foreclose a lien for an assessment attributable to a unit or related fines imposed against a unit owner.

Hearings Requested By A Unit Owner

The act allows a unit owner, other than a declarant, to submit a written request to the association for a hearing before the executive board. The unit owner may do this to enforce a right or obligation imposed by CIOA, the declaration, or bylaws against the association or another unit owner, other than a declarant. The written request must state the claim's nature. The association must schedule the hearing within 30 days after receiving the request. The hearing must be held during a regular or special executive board meeting and within 45 days after receiving the request. The association must notify the unit owner of the hearing date, time, and location at least 10 business days in advance by certified mail, return receipt requested, and regular mail. Within 30 days after the hearing, the association must notify the unit owner of the executive board's decision in the same manner.

The act specifies that the association's failure to comply with these hearing requirements does not affect a unit owner's right to bring an action to enforce a right or obligation imposed by CIOA, the declaration, or bylaws.

INSURANCE REQUIREMENTS FOR UNITS DIVIDED BY VERTICAL OR HORIZONTAL BOUNDARIES

The law requires an association to obtain property insurance for buildings in the common interest community that contain units with horizontal (i.e., stacked units) or vertical boundaries (i.e., side-by-side units) that comprise or are located within common walls between units. The insurance on such units must include coverage for improvements unit owners installed unless the (1) declaration limits the association's authority to do so or (2) executive board decides not to insure them after giving notice and an opportunity for unit owners to comment.

The act specifies that these requirements do not apply to a building in a common interest community with up to two units divided by a single horizontal or vertical boundary unless the common interest community voluntarily chooses to comply.

BACKGROUND

Common Interest Community

A "common interest community" includes condominiums, cooperatives, and other property described in a declaration under which a person, by virtue of owning a unit, is obligated to pay (1) real property taxes on, (2) insurance premiums on, (3) for maintenance of, (4) for improvement of, or (5) for services or expenses related to, common elements or real property other than that individually owned unit described in the declaration (CGS § 47-202).

Common Interest Ownership Act

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.

Condominiums created before January 1, 1984 can amend their governing instruments (declaration, bylaws, survey, or plans) to conform to portions of CIOA that do not automatically apply.

PA 11-196—sHB 6238

Insurance and Real Estate Committee

AN ACT CONCERNING THE ACTUAL CASH VALUE OF A BUILDING

SUMMARY: The law provides the standard language for a fire insurance policy (e.g., homeowners' insurance). It defines the term "actual cash value" as the amount it would cost to repair or replace property with material of like kind and quality.

This act retains the existing definition for insured property, other than a building. It redefines "actual cash value" with respect to an insured building as the amount it would cost to repair or replace the building with material of like kind and quality, minus reasonable depreciation. It defines "depreciation" as a decrease in real property's value over time due to wear and tear.

EFFECTIVE DATE: January 1, 2012

PA 11-199—HB 6306

*Insurance and Real Estate Committee
Public Health Committee*

AN ACT CONCERNING THE LISTING OF ADVANCED PRACTICE REGISTERED NURSES IN MANAGED CARE ORGANIZATION PROVIDER LISTINGS, AND PRIMARY CARE PROVIDER DESIGNATIONS

SUMMARY: By law, managed care organizations (MCOs) must annually provide health plan enrollees in writing or through the Internet at the enrollee's option a list of health care providers participating in the plan. This act requires the list to include, under a separate category or heading, participating advanced practice registered nurses (APRNs).

The act also allows an enrollee of a managed care plan that requires selection of a primary care provider to instead choose a participating, in-network APRN. Under prior law, an enrollee could only select a participating, in-network primary care physician.

Finally, the act requires all MCOs to notify their enrollees as soon as possible when their primary care provider leaves the MCO's provider network. Prior law limited the MCO's notification to an enrollee of a managed care plan that requires the enrollee to select a primary care physician.

EFFECTIVE DATE: October 1, 2011

PA 11-204—sHB 6472

*Insurance and Real Estate Committee
Appropriations Committee*

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR OSTOMY SUPPLIES

SUMMARY: By law, certain health insurance policies that cover ostomy surgery must also cover medically necessary ostomy appliances and supplies, including collection devices, irrigation equipment and supplies, and skin barriers and protectors. This act increases the maximum annual coverage amount for ostomy appliances and supplies from \$1,000 to \$2,500. The law prohibits insurers from applying any payments for ostomy appliances and supplies toward any durable medical equipment benefit maximum. And such payments cannot be used to decrease policy benefits that exceed the required coverage amount.

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.

Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2012

BACKGROUND

Medically Necessary

The law requires policies to define medically necessary services as 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 11-225—sSB 396

*Insurance and Real Estate Committee
Appropriations Committee*

**AN ACT CONCERNING INSURANCE
COVERAGE FOR THE SCREENING AND
TREATMENT OF PROSTATE CANCER AND
PROHIBITING DIFFERENTIAL PAYMENT
RATES TO HEALTH CARE PROVIDERS FOR
COLONOSCOPY OR ENDOSCOPIC SERVICES
BASED ON SITE OF SERVICE**

SUMMARY: Existing law requires certain health insurance plans to cover laboratory and diagnostic tests to detect prostate cancer in men who are (1) symptomatic or in high-risk categories or (2) age 50 or older. This act expands coverage to include prostate cancer treatment if it is “medically necessary” and in accordance with guidelines established by (1) the National Comprehensive Cancer Network, (2) the American Cancer Society, or (3) the American Society of Clinical Oncology.

The act also extends prostate cancer screening requirements to individual and group health insurance policies amended 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. Existing law already applies to such policies delivered, issued, continued, or renewed in the state. (Due to the federal Employee Retirement Income Security Act (ERISA), state health insurance mandates do not apply to self-insured plans.)

Finally, the act requires insurers and other entities that contract with a physician or a physician’s group to provide services under a group or individual health insurance policy to establish a payment amount for the physician’s services component of the covered colonoscopy or endoscopic services that is the same regardless of where the services are performed. The payment amount must be at least that which would otherwise be paid to the contracted physician or physician’s group if the services were performed at a facility other than an outpatient surgical facility. Entities must establish the payment amount at the request of the contracted physician or physician’s group. The act specifies that it does not prohibit a contracted physician or physician’s group from agreeing to a different payment method for these services.

This requirement applies to individual and group health insurance companies, HMOs, hospital and medical service corporations, and fraternal benefit

societies that deliver, issue, renew, amend, or continue individual and group health insurance policies providing the types of coverage listed above.

EFFECTIVE DATE: October 1, 2011, except that the provisions on prostate cancer screening and treatment take effect January 1, 2012.

BACKGROUND

Medically Necessary

The law defines “medically necessary” as 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.

PA 11-253—HB 6364

Insurance and Real Estate Committee

**AN ACT CONCERNING THE SUNSET DATE
FOR PERSONAL RISK INSURANCE RATE
FILINGS AND THE PROCUREMENT OF
REINSURANCE BY DOMESTIC TITLE
INSURERS**

SUMMARY: This act extends the sunset date for the “flex rating” law for personal risk insurance (e.g., home, auto, marine, umbrella) from July 1, 2011 to July 1, 2013 (see BACKGROUND).

The act also allows the insurance commissioner to permit a domestic title insurer to purchase reinsurance from an accredited property and casualty reinsurer, but only upon application and when the title insurer executes an affidavit showing that it was unable, after diligent effort, to procure reinsurance from another title insurer that is reasonably consistent with what is fair and appropriate under commonly accepted commercial practices. The title insurer must include the affidavit and a copy of the proposed reinsurance treaty with the application.

The law permits title insurers to purchase reinsurance for all or part of their liability under title insurance policies or reinsurance agreements. They may also reinsure title policies issued by other title insurers on risks located in this or another state. Reinsurance on property located here must be purchased from title insurers licensed here. The insurance commissioner may permit a title insurer to purchase reinsurance from an insurer not licensed in the state, but only on request and when the unlicensed insurer satisfies the capital and surplus requirements for licensed companies.

EFFECTIVE DATE: Upon passage

BACKGROUND

Flex Rating Law

The flex rating law permits property and casualty insurers, until the law sunsets, to file new personal risk insurance rates with the insurance commissioner and begin using them immediately without prior approval if the rates increase or decrease by no more than 6% for all products included in the filing. The new rate cannot apply on an individual basis. The law does not apply to rates for the residual market.

The law provides that an insurer may submit more than one rate filing using the 6% band to the Insurance Department in any 12-month period if all rate filings submitted within the 12 months, in combination, do not result in a statewide rate change of plus or minus 6% for all products included in the filing.

Under the law, an insurer can apply for a rate increase within the 6% band only on or after a policy renewal and after notifying the insured. (The notification specifies the effective date of the increase.) Rate filings seeking to increase or decrease rates by more than 6% must follow existing rate filing requirements (i.e., insurers must receive department approval before using the new rates).

The law deems that any filings made under its provisions comply with the rating laws. But the commissioner can determine if they are inadequate or unfairly discriminatory and must order the insurer to stop using a rate change within the 6% band on a specified future date if he determines it is inadequate or unfairly discriminatory. The order must be in writing and explain the finding. If the commissioner issues the order more than 30 days after the insurer submitted the filing, the law requires the order to apply prospectively only and not affect any contract issued before its effective date.

PA 11-9—sSB 1092
Judiciary Committee

AN ACT CONCERNING THE MEMBERSHIP OF THE DNA DATA BANK OVERSIGHT PANEL

SUMMARY: This act adds the chief public defender, or a designee, to the DNA Data Bank Oversight Panel but prohibits him or her from participating in discussions about, or having access to, personally identifiable data bank information.

The other five members who remain on the panel are the chief state’s attorney; attorney general; public safety and correction commissioners; and executive director of the Court Support Services Division of the Judicial Branch, or their designees.

EFFECTIVE DATE: Upon passage

BACKGROUND

DNA Data Bank Oversight Panel

By law, (1) people convicted of felonies and (2) certain sex offenders and incompetent criminal defendants must submit DNA samples for inclusion in the state’s DNA data bank. The oversight panel is charged with assuring the data bank’s integrity, including by (1) destroying inappropriately obtained samples and (2) purging records and information about the people from whom they were taken.

Related Acts

PA 11-207 requires DNA sampling of any convicted felon arrested for one of 39 serious felonies. It also expands the circumstances under which the State Police must expunge data bank records and destroy samples.

PA 11-44 permits officials currently authorized to take DNA samples from convicted felons to repeat a test until a sample of sufficient quality for analysis is obtained. It also allows the State Police to disclose data bank information to law enforcement officials to rule out suspects.

PA 11-14—HB 6275
Judiciary Committee

AN ACT CONFIRMING AND ADOPTING VOLUMES 1 TO 13, INCLUSIVE, OF THE GENERAL STATUTES, REVISED TO 2011

SUMMARY: This act formally adopts, ratifies, confirms, and enacts the General Statutes revised to January 1, 2011.

EFFECTIVE DATE: Upon passage

PA 11-15—HB 6276
Judiciary Committee

AN ACT CONCERNING COMPETENCY TO STAND TRIAL

SUMMARY: This act requires the person in charge of a mental health treatment facility providing inpatient treatment to a defendant who is incompetent to stand trial (usually Connecticut Valley Hospital), or a designee, to submit a clinical progress report to the court whenever she or the designee believes the defendant remains incompetent but has improved sufficiently that continued inpatient commitment is not the least restrictive placement appropriate and available to restore competency.

The court must schedule a hearing within 10 days of receiving the report. If the court agrees with its findings, the law permits it to continue or modify the placement order. The act requires it to consider whether the availability of a less restrictive placement is a sufficient basis on which to release the defendant on (1) a promise to appear, (2) conditions of release, or (3) cash bail or bond. It may order the defendant to continue treatment on an outpatient basis.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Incompetency to Stand Trial

A criminal defendant is incompetent to stand trial if he or she cannot understand the charges or aid in his or her defense. In most cases, the defendant is placed in the custody of the Department of Mental Health and Addiction Services for treatment meant to restore his or her competency. He or she may be held for the maximum length of the sentence for the crime of which he or she is charged or 18 months, whichever is less.

PA 11-39—HB 6345
Judiciary Committee

AN ACT CONCERNING DISCLOSURE OF INFORMATION TO A PARENT OR GUARDIAN OF A YOUTHFUL OFFENDER IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION

SUMMARY: This act authorizes the Department of Correction to disclose otherwise confidential information about a youthful offender in its custody to his or her parents or guardian. By law, parents and guardians already have access to police and court records.

Youthful offenders are 16- and 17-year-olds accused of specified crimes who meet other statutory criteria. Judges make eligibility decisions on a case-by-case basis. Males are generally held at the Manson Youth Institute and females at York Correctional Institute.

EFFECTIVE DATE: Upon passage

PA 11-47—sSB 1099

Judiciary Committee

Public Safety and Security Committee

AN ACT CONCERNING THE UNAUTHORIZED TAKING OR TRANSMISSION BY FIRST RESPONDERS OF IMAGES OF CRIME OR ACCIDENT VICTIMS

SUMMARY: This act establishes criminal penalties for specified persons who, when responding to a request to provide someone with medical or other assistance, knowingly (1) take that person's photograph or digital image or (2) make such an image available to a third person. The penalties apply to peace officers, firefighters, ambulance drivers, emergency medical responders, emergency medical technicians, and paramedics, but only when these actions are not in the performance of their duties. The penalties also do not apply if these actions are done with the consent of the assisted person or someone in that person's immediate family.

Under the act, the penalty is up to one year in prison, up to a \$2,000 fine, or both.

EFFECTIVE DATE: October 1, 2011

PA 11-55—HB 6599

Judiciary Committee

AN ACT CONCERNING DISCRIMINATION

SUMMARY: This act statutorily prohibits discrimination on the basis of gender identity or expression in employment, public accommodations, the sale or rental of housing, the granting of credit, and other laws over which the Commission on Human Rights and Opportunities (CHRO) has jurisdiction. It explicitly authorizes people to file discrimination complaints with CHRO, which enforces antidiscrimination laws in these areas. CHRO issued a declaratory ruling in 2000 that the prohibition against sex discrimination in the laws over which CHRO has jurisdiction covers discrimination on the basis of gender identity or expression (see BACKGROUND – Declaratory Ruling).

The act defines “gender identity or expression” as a person's gender-related identity, appearance, or behavior, whether or not that identity, appearance, or behavior differs from that traditionally associated with the person's physiology or assigned sex at birth. The definition specifies that gender-related identity can be shown by providing evidence in various ways, including (1) medical history, (2) care or treatment of the gender-related identity, (3) consistent and uniform assertion of such an identity, or (4) any other evidence that the identity is sincerely held, part of a person's core identity, or that the person is not asserting such an identity for an improper purpose.

The act gives CHRO jurisdiction to investigate complaints of discrimination on the basis of gender identity or expression against students by public schools (see BACKGROUND – Related Cases). It also allows CHRO to investigate this type of discrimination at private golf country clubs.

The act also prohibits discrimination on the basis of gender identity or expression in various other contexts beyond the scope of CHRO's declaratory ruling, including urban homesteading, public schools, boards of education, public libraries, electric suppliers, telephone or telecommunication providers, the employment codes that tribes must adopt to receive state services or funds, and discriminatory boycotts.

The act specifies that its prohibition of discrimination on the basis of gender identity or expression does not apply to religious corporations, entities, associations, educational institutions, or societies regarding (1) employment of people to perform work for them or (2) matters of discipline; faith; internal organization; or ecclesiastical rules, customs, or laws that these entities have established.

The act makes it a class A misdemeanor (see Table on Penalties) to deprive someone of rights, privileges, or immunities secured or protected by state or federal laws or constitutions because of the person's gender identity or expression. The act makes it a class D felony for anyone to do so based on gender identity or expression while wearing a mask, hood, or other device designed to conceal his or her identity.

EFFECTIVE DATE: October 1, 2011

DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, HOUSING, CREDIT, AND OTHER AREAS WITHIN SCOPE OF CHRO'S DECLARATORY RULING

CHRO's 2000 declaratory ruling concluded CHRO has jurisdiction to investigate claims of discrimination on the basis of gender identity or expression in employment, public accommodations, the sale or rental of property, and the extension of credit, because they are covered under the prohibition against sex

discrimination. The act explicitly authorizes CHRO to investigate complaints of discrimination on the basis of gender identity or expression in these areas, including certain provisions beyond those specifically challenged in the petition leading to the declaratory ruling. The act applies the same rules, procedures, and remedies that apply to other types of discrimination complaints, including the right to file a lawsuit if the investigation is not completed within a certain time.

§ 24 — *Employment*

The act prohibits an employer or employer's agent, except in the case of a bona fide occupational qualification or need, from refusing to hire or employ someone; barring or discharging someone from employment; or discriminating against someone in pay or in employment terms, conditions, or privileges based on the individual's gender identity or expression. This prohibition applies to any employer, public or private, that employs three or more people. It applies to all employees except those employed (1) by their parents, spouse, or children, or (2) in domestic service.

The act also prohibits the following kinds of employment discrimination based on gender identity or expression:

1. employment agencies failing or refusing to classify properly or refer for employment or otherwise discriminating against someone except in the case of a bona fide occupational qualification or need;
2. labor organizations excluding someone from full membership rights, expelling a member, or discriminating in any way against a member, employer, or employee, unless the action is due to a bona fide occupational qualification;
3. employers, employment agencies, labor organizations, or anyone else taking adverse action against someone because he or she opposed a discriminatory employment practice, brought a complaint, or testified or assisted someone else in a complaint;
4. any person aiding, abetting, inciting, compelling, or coercing someone to commit a discriminatory employment practice or attempting to do so;
5. employers, employment agencies, labor organizations, or anyone else advertising employment opportunities in a way that restricts employment and thus discriminates, except for a bona fide occupational qualification or need; and
6. employers, employment agencies, labor organizations, or any of their agents harassing an employee, person seeking employment, or member.

§ 25 — *Public Accommodations*

The act prohibits anyone from denying someone, on the basis of gender identity or expression, full and equal accommodations in any public establishment (i.e., one that caters or offers its services, facilities, or goods to the general public), including any commercial property or building lot on which a commercial building will be built or offered for sale or rent, subject to lawful conditions and limitations that apply alike to everyone. It further prohibits discriminating, segregating, or separating people on the basis of gender identity or expression. Violators are subject to a fine of between \$25 and \$100, up to 30 days' imprisonment, or both.

§§ 26-27 — *Housing*

The act prohibits the following kinds of housing discrimination based on gender identity or expression:

1. refusing to sell or rent after a person makes a bona fide offer, or refusing to negotiate for the sale or rental of a dwelling, or otherwise denying or making a dwelling unavailable;
2. discriminating in the terms, conditions, or privileges of a dwelling's sale or rental, or in the provision of services or facilities in connection with the sale or rental;
3. making, printing, publishing, or causing this to be done, any notice, statement, or advertisement concerning the sale or rental of a dwelling that indicates a preference, limitation, or discrimination, or an intention to make such a preference, limitation, or discrimination;
4. falsely representing to someone that a dwelling is not available for inspection, sale, or rental, a practice commonly known as "steering." (This includes restricting or attempting to restrict someone's choices to buy or rent a dwelling (a) to an area substantially populated, even if less than a majority, by other people of the same gender identity or expression, (b) by a person authorized to offer for sale or rent another dwelling which meets the buyer's or renter's expressed housing criteria, and (c) that other dwelling is in an area not substantially populated by people of the same gender identity or expression as the buyer or renter);
5. for profit, inducing or attempting to induce someone to sell or rent a dwelling by representing that people of a particular gender identity or expression are moving, or may move, into the neighborhood;
6. any person or entity engaging in residential real estate transactions discriminating in making a transaction available or its terms or conditions;

7. denying someone access to, or membership or participation in, any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminating in the terms or conditions of such access, membership, or participation; and
8. coercing, intimidating, threatening, or interfering with someone in the exercise or enjoyment of, or on account of the person having exercised, enjoyed, or aided or encouraged someone else in the exercise or enjoyment of, these rights.

Violators are subject to a fine of between \$25 and \$100, up to 30 days' imprisonment, or both.

The law's prohibitions on housing discrimination do not apply to either of the following, if the owner maintains his or her residence there: (1) renting a room or rooms in a single-family home or (2) a unit in a two-family home.

The act also makes a conforming change by specifying that it does not prohibit a property appraiser from considering factors other than gender identity or expression or other specified impermissible factors.

§ 28 — *Credit*

The act prohibits a creditor from discriminating against any adult in a credit transaction on the basis of gender identity or expression.

Other Areas Subject to CHRO's Jurisdiction

CHRO's declaratory ruling also determined that CHRO has jurisdiction to investigate claims of discrimination based on gender identity or expression under other laws over which CHRO has jurisdiction, including many involving state agency actions. The act gives CHRO the explicit authority to investigate such complaints under these other laws. Specifically, it:

1. subjects any professional or trade association, board, or other organization whose profession, trade, or occupation requires a state license, to a fine of \$100 to \$500 for denying someone membership because of his or her gender identity or expression (§ 23);
2. requires state officials and supervisory personnel to recruit, appoint, assign, train, evaluate, and promote state personnel on the basis of merit and qualifications, without regard to gender identity or expression (§ 29);
3. requires state agency services to be performed without discrimination based on gender identity or expression (§ 30);
4. requires any state agency that provides employment referrals or placement services to

public or private employers to reject any job request that indicates an intention to exclude anyone based on his or her gender identity or expression (§ 31);

5. prohibits state departments, boards, or agencies from granting, denying, or revoking a person's license or charter on the grounds of gender identity or expression (§ 32);
6. requires all educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state agencies, or in which state agencies participate, to be open to all qualified persons, without regard to gender identity or expression (§ 33); and
7. prohibits gender identity or expression from being considered as limiting factors in state-administered programs involving the distribution of funds to qualify applicants for benefits authorized by law, and prohibits the state from giving financial assistance to public agencies, private institutions, or other organizations which discriminate on this basis (§ 34).

§§ 8, 9, & 22 — DISCRIMINATION IN PUBLIC SCHOOLS

The act requires public schools to be open to all children and to give them an equal opportunity to participate in school activities, programs, and courses of study without discrimination on account of gender identity or expression. It also prohibits boards of education from discriminating on the basis of gender identity or expression in employing or paying teachers.

Under existing law, it is a discriminatory practice for anyone to deprive another person of any rights, privileges, or immunities secured or protected by Connecticut or federal laws or constitutions, or cause such a deprivation, because of religion, national origin, alienage, color, race, sex, sexual orientation, blindness, or physical disability. The act adds gender identity or expression to this list. By doing so, and by prohibiting discrimination against students on the basis of gender identity or expression in public schools with respect to activities, programs, and courses of study, the act authorizes CHRO to investigate claims of discrimination against students on the basis of gender identity or expression by public schools (see BACKGROUND – Related Cases).

§§ 3-7, 10-19, & 35 — DISCRIMINATION IN OTHER CONTEXTS

The act also prohibits discrimination on the basis of gender identity or expression in various other contexts

beyond the scope of CHRO's declaratory ruling. Specifically, it:

1. requires every contract to which the state or any political subdivision of the state, other than a municipality, is a party, to require the contractor to (a) agree that, in performing the contract, he or she will not unlawfully discriminate or permit discrimination on the grounds of gender identity or expression and (b) agree to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated without regard to their gender identity or expression (§ 3);
2. requires that contracts transferring urban homesteading property provide, among other things, that in the sale or rental of such property, no person be discriminated against on the basis of gender identity or expression (§ 4);
3. requires the Connecticut Housing Finance Authority to require that occupancy of all housing it finances or otherwise assists be open to all people regardless of gender identity or expression and that the contractors and subcontractors engaged in building or rehabilitating such housing take affirmative action to provide equal employment opportunity without discriminating as to gender identity or expression (§ 5);
4. requires transfers of urban rehabilitation property by legislative bodies to be made through a contract that provides, among other things, that people may not be discriminated against because of their gender identity or expression in the sale or rental of such property (§ 6);
5. requires municipalities to take all necessary steps to ensure that occupancy of all housing financed or otherwise assisted under the Municipal Housing Finance Assistance Act be open to all people regardless of gender identity or expression (§ 7);
6. requires, within the limits of authorized expenditures, that the policies of the state system of higher education be consistent with the goal of ensuring that no qualified person is denied the opportunity for higher education because of gender identity or expression (§ 10);
7. conditions a public library's state grant eligibility on the library providing equal access to library services and not discriminating on the basis of gender identity or expression, among other requirements (§ 11);
8. prohibits electric suppliers from refusing to provide electric generation services, or refusing to negotiate to provide such services, to any customer because of gender identity or expression (§ 12);
9. prohibits telephone companies or certified telecommunications providers from refusing to provide telecommunications services, or refusing to negotiate to provide such services, to any customer because of gender identity or expression (§ 13);
10. prohibits anyone from discriminating on the basis of gender identity or expression in carrying out any civil preparedness or federal major disaster or emergency assistance function (§ 14);
11. requires the labor commissioner to formulate work training standards to ensure needed safeguards for apprentices' welfare and a full craft experience in any skill, in order to provide equal opportunities to all, without regard to gender identity or expression (§ 15);
12. requires that the employment rights code tribes must adopt in order to receive certain state services or funds include a provision that a commercial enterprise subject to tribal jurisdiction must not, except for a bona fide occupational qualification or need, refuse to hire or employ, or bar or discharge from employment, any individual, or discriminate against him or her in compensation or in employment terms, conditions, or privileges because of the individual's gender identity or expression (§ 16);
13. authorizes the Lower Fairfield County Conference or Exhibition Authority to adopt procedures for contractors and subcontractors engaged in building the Stamford conference or exhibition facility project that require them to take affirmative action to provide equal opportunity for employment without discrimination based on gender identity or expression (§ 17);
14. requires applicants for financial assistance from a regional corporation to certify that they will not discriminate against any employee or job applicant because of gender identity or expression (a regional corporation provides financial assistance to businesses for projects that demonstrate a substantial likelihood of providing increases in net new permanent jobs or retaining jobs in businesses that need such assistance to remain viable) (§ 18);
15. prohibits auto insurance companies from declining, canceling, or refusing to renew auto insurance policies solely on the basis of gender identity or expression, unless the company is part of an insurer group and another group member would not decline a similar

- application on this basis (§ 19); and
16. prohibits golf country clubs from denying membership on the basis of gender identity or expression and requires that all membership classes be available without regard to gender identity or expression (§ 35).

§§ 20 & 21 — Discriminatory Boycotts

The act extends the state policy to oppose discriminatory boycotts, not specifically authorized by federal law, which are fostered or imposed by foreign persons, foreign governments, or international organizations, to include any such boycott against a domestic individual on the basis of gender identity or expression.

Under the act, “participating in a discriminatory boycott” includes entering into or performing an agreement, understanding, or contractual arrangement for economic benefit by a person with a foreign government, foreign person, or international organization, not specifically authorized by federal law, in order to restrict, condition, prohibit, or interfere with any business relationship in Connecticut on the basis of a domestic individual’s gender identity or expression.

For these purposes, domestic individuals include people and businesses whose residence, domicile, or principal place of business is in Connecticut or who do business in Connecticut.

BACKGROUND

CHRO Declaratory Ruling

On January 31, 2000, CHRO received a petition seeking a ruling that the statutory prohibitions against discrimination on the basis of sex encompass discrimination based upon a person’s apparent gender, specifically discrimination against transsexual individuals. The request asked that CHRO find such prohibitions in CGS §§ 46a-60(a)(1) (employment discrimination), 46a-64(a)(1) (public accommodations discrimination), 46a-64c(a)(1) (housing discrimination), and 46a-66(a) (credit discrimination).

In response to the request, CHRO issued a declaratory ruling on November 9, 2000, that transsexuals, as defined in the ruling, are covered by these statutes. It also stated in footnote 13 of the ruling that the ruling should be understood to apply uniformly to all other sex discrimination laws over which CHRO has jurisdiction.

Related Cases

In a case decided before CHRO issued its declaratory ruling, a Superior Court judge ruled that Connecticut’s prohibition against harassment on the

basis of sex did not extend to transsexuals (*Conway v. City of Hartford*, 1997 WL 78585 *7, No. CV-95-0553003, J.D. of Hartford-New Britain at Hartford (February 4, 1997) (Hale, J.R.) (unreported)). In its declaratory ruling, CHRO noted that although it normally looks to Superior Court decisions for guidance in interpreting the laws it enforces, especially in the absence of any other state precedent, it is not required to do so. In its ruling, CHRO also noted that *Conway* recognizes that transsexuals may properly pursue claims of discrimination based on mental disorder. But CHRO declined to issue a ruling on that issue in its declaratory ruling.

In a recent unreported Superior Court case, the complainant and CHRO challenged the CHRO referee’s ruling dismissing the claims of the complainant, a transgendered woman, against her employer, a police department. The court sent the matter back to CHRO after determining that the CHRO referee erred in dismissing her claims. The court determined that, among other issues, the CHRO referee incorrectly relied on *Conway* in concluding that the complainant could not pursue a claim of discrimination based on physical disability. The court cited the CHRO’s declaratory ruling, among other factors (*Commission on Human Rights and Opportunities v. City of Hartford*, 2010 Conn. Super. LEXIS 2727, CV094019485S, J.D. of New Britain (Oct. 27, 2010) (unreported)).

In another case, the state Supreme Court held that CHRO has jurisdiction to investigate claims of racial discrimination filed by students against a public school because CGS § 46a-58 prohibits racial discrimination, and CGS § 10-15c makes public schools open to all students without discrimination on the basis of race (*Commission on Human Rights and Opportunities v. Board of Education*, 270 Conn. 665 (2004)).

PA 11-71—sSB 1014

Judiciary Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE PENALTY FOR CERTAIN NONVIOLENT DRUG OFFENSES

SUMMARY: This act reduces the penalty for possessing less than one-half ounce of marijuana from a crime that carries a possible prison term to (1) a \$150 fine for a first offense and (2) a \$200 to \$500 fine for a subsequent offense. Under the act, violaters must follow the procedures the law prescribes for infractions. For example, they can pay the fine by mail without making a court appearance. But the act provides a lower burden of proof than is generally required for infractions or other violations that follow infraction procedures.

It requires a law enforcement officer who issues a complaint for such a violation to seize the marijuana and cause it to be destroyed as contraband according to law.

The act requires referral to a drug education program for anyone who for a third time enters a plea of nolo contendere to, or is found guilty after trial of, possessing less than one-half ounce of marijuana. The act specifies that the person must pay the expenses of his or her participation in the program.

The act also reduces, from a crime to an infraction, the penalty for specified actions involving drug paraphernalia when they relate to less than one-half ounce of marijuana. It provides the same lower burden of proof as provided for possession.

The act requires a 60-day suspension of the driver's license of anyone under age 21 who is convicted of a violation or infraction under the act.

The act provides that a violation or infraction under it is a delinquent act when committed by someone 16 years old or younger, or 17 years old starting July 1, 2012. Proceedings related to delinquent acts are generally brought in juvenile court.

EFFECTIVE DATE: July 1, 2011, except the provisions relating to delinquent acts by 17-year-olds are effective July 1, 2012.

§§ 1 & 2 — MARIJUANA POSSESSION

The act makes the first offense of possessing less than one-half ounce of marijuana punishable by a \$150 fine. A second or subsequent offense is punishable by a fine of \$200 to \$500. Under prior law, the penalties were as follows (these still apply to possession of one-half ounce or more but less than four ounces):

1. for a first offense, up to one year in prison, up to a \$1,000 fine, or both;
2. for a subsequent offense, (a) up to five years in prison, up to a \$3,000 fine, or both or (b) an indeterminate sentence of up to three years; and
3. a mandatory two-year prison sentence running consecutively to the term imposed for possession if the crime is committed within 1,500 feet of an elementary or secondary school (unless the offender is a student at the school) or a licensed day care center. (A judge may depart from this sentence under certain circumstances.)

The law imposes certain other restrictions on people who are convicted of marijuana possession or other specified drug crimes. For example, such people may be denied licensure for a family day care home (CGS § 19a-87e) and are prohibited from obtaining licensure in other areas, such as bail enforcement (CGS § 29-152f). Under the act, these restrictions do not apply

to people convicted of possessing less than one-half ounce of marijuana.

§ 3 — DRUG PARAPHERNALIA RELATED TO MARIJUANA USE

The act reduces the penalty for specified actions involving drug paraphernalia from a crime to an infraction when such actions relate to less than one-half ounce of marijuana. Specifically, it reduces the penalty from a:

1. class C misdemeanor (see Table on Penalties) when drug paraphernalia is used or possessed with intent to use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the body less than one-half ounce of marijuana and
2. class A misdemeanor (see Table on Penalties) to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances in which one should reasonably know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the body less than one-half ounce of marijuana.

Unlike such paraphernalia-related actions involving other controlled substances or larger amounts of marijuana, such infractions are not subject to a mandatory one-year prison term, running consecutively to the term for the underlying offense, when committed within 1,500 feet of a school or day care center.

§ 4 — DRIVING-RELATED PENALTIES FOR THOSE UNDER AGE 21

The act establishes driver's license penalties for people under age 21 who are convicted of possessing less than one-half ounce of marijuana or the actions specified above involving drug paraphernalia relating to less than one-half ounce of marijuana. The motor vehicle commissioner must suspend the person's driver's license or nonresident operating privilege for 60 days. If someone under age 21 commits such a violation or infraction but does not have a driver's license, the person is ineligible for a driver's license for 150 days after meeting all licensing requirements.

§ 5 — BURDEN OF PROOF

The law extends to trials for infractions and violations that follow infraction procedures the same rules of evidence, procedure, burden of proof, and

practice that apply to criminal proceedings. The act creates an exception for trials involving the possession of less than one-half ounce of marijuana or the actions specified above involving drug paraphernalia and less than one-half ounce of marijuana. For such trials, the act lowers the burden of proof from beyond a reasonable doubt to a preponderance of the evidence.

§§ 7-10 — PERSONS 17 YEARS OLD OR YOUNGER WHO COMMIT A VIOLATION OR INFRACTION

By law, 16-year-olds cannot be convicted as delinquent for committing an infraction or violation. The same is true for 17-year-olds starting July 1, 2012, when the maximum age for juvenile court jurisdiction is scheduled to rise from age 16 to 17. The act provides an exception for 16-year-olds, or 17-year-olds starting July 1, 2012, who commit an infraction or violation under the act, specifying that they may be convicted as delinquent for such acts. It provides that infractions or violations under the act, unlike other infractions or violations, are included within the law's definition of delinquent acts for these age groups.

By law, persons under 16 can be convicted as delinquent for any violation or infraction.

PA 11-73—SB 1098

Judiciary Committee

General Law Committee

AN ACT REGULATING THE SALE AND POSSESSION OF SYNTHETIC MARIJUANA AND SALVIA DIVINORUM

SUMMARY: This act requires the commissioner of the Department of Consumer Protection (DCP) to adopt regulations designating as controlled substances five specified synthetic versions of marijuana, along with salvia divinorum (a perennial herb in the mint family native to certain parts of Mexico) and salvinorum A.

EFFECTIVE DATE: July 1, 2011

DESIGNATION AS CONTROLLED SUBSTANCES

The act requires the DCP commissioner, by regulation, to designate the following substances as controlled substances and classify each in the appropriate schedule. The act specifies that the designation may be by whatever official, common, usual, chemical, or trade name that applies to the substances.

The substances are:

1. 1-pentyl-3-(1-naphthoyl)indole (JWH-018);
2. 1-butyl-3-(1-naphthoyl)indole (JWH-073);
3. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);
4. 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497);
5. 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP-47,497 C8 homologue);
6. salvia divinorum; and
7. salvinorum A.

By law, when a substance is reclassified from non-controlled to controlled under federal law, it is deemed to be a controlled substance under state law for 240 days (CGS § 21a-243(g)). On March 1, 2011, the federal Drug Enforcement Agency (DEA) administrator issued a final order to temporarily classify substances (1) through (5) above as Schedule I controlled substances for one year (76 Fed. Reg. 11,075 (March 1, 2011)). The DEA order described these substances as synthetic cannabinoids, a large family of unrelated structures that are functionally similar to the active principle of marijuana.

By law, the DCP commissioner is authorized to adopt regulations, on the advice of the Commission on Pharmacy and after an investigation, which designate as a controlled substance any substance or chemical composition that contains any quantity of a substance which (1) has been found to have a stimulant, depressant, or hallucinogenic effect on the central nervous system's higher functions and (2) has a tendency to promote abuse, physiological or psychological dependence, or both. These substances include cannabis-type substances (CGS § 21a-243(c)). Marijuana is classified as a Schedule I controlled substance under both state and federal law.

BACKGROUND

Schedules of Controlled Substances

Controlled substances are grouped in Schedules I through V, according to their decreasing tendency to promote abuse or dependency. Schedule I substances are the most strictly controlled because of their high potential for abuse. State and federal laws authorize prescribing drugs on Schedules II through V; most Schedule I drugs do not have any approved medical use.

*Federal Temporary Classification of Schedule I
Controlled Substances*

The federal Controlled Substances Act allows the DEA administrator to temporarily place a substance into Schedule I, without regard to the usual drug scheduling rulemaking requirements, if based upon certain factors, she determines the action is necessary to avoid an imminent hazard to public safety (21 U.S.C. § 811(h)).

PA 11-77—SB 1207
Judiciary Committee

**AN ACT CONCERNING OFFERS OF
COMPROMISE**

SUMMARY: This act changes the timing of, and eliminates plaintiff's obligation to provide the defendant with information before filing an offer to compromise in medical malpractice actions. An offer to compromise is a written pretrial offer by the plaintiff to settle a civil lawsuit for a specific amount of money.

Under prior law, at least 60 days before filing an offer, the plaintiff had to: (1) state with specificity the damages on which the lawsuit is based, (2) provide a release for medical records, and (3) disclose all experts who would be testifying about the prevailing professional standard of care. The plaintiff also had to file a certification with the court indicating he or she had provided defendant with all documentation supporting the damages claim. The defendant had 30 days to accept the offer; he or she could not do so after a verdict or court award had been issued.

Under the act, the plaintiff has no obligation to provide the defendant with the information described above, but it cannot make an offer less than 365 days after it filed the suit. The offer is deemed rejected if not accepted (1) within 60 days (in other civil actions, the law gives the defendant 30 days) and (2) before the jury or the court issues an award. The defendant cannot accept an offer after these deadlines unless the plaintiff re-files it.

By law, if the defendant rejects the offer and the plaintiff receives a damage award that equals or exceeds it, the defendant must pay the plaintiff 8% interest on the award plus court-assigned legal fees. In some circumstances, the accrual of interest runs from the date the complaint was filed. In others it runs from the date the offer of compromise was filed.

EFFECTIVE DATE: October 1, 2011

PA 11-108 — sHB 6274
Judiciary Committee

**AN ACT CONCERNING AMENDMENTS TO
ARTICLE 9 OF THE UNIFORM COMMERCIAL
CODE CONCERNING SECURED
TRANSACTIONS**

SUMMARY: This act makes changes in Article 9 of the Uniform Commercial Code (UCC). Article 9 deals with a creditor's contractual lien interest in a debtor's personal property that secures payment or other performance by the debtor, as well as sales of accounts, chattel paper, payment intangibles, promissory notes, and similar transactions. Among other things, Article 9 sets out requirements for (1) the creditor's interest (a "security interest") to attach to the debtor's property and become enforceable and (2) perfecting a security interest which allows the secured party's interest to have priority over other parties, such as a creditor who gets a judicial lien, bankruptcy trustee, and others who later take a security interest in the collateral. Depending on the type of collateral, a security interest is perfected (1) when a secured party files a financing statement in the appropriate office, (2) when a secured party takes possession or control of the collateral, or (3) automatically on attachment for certain specified collateral items.

The act:

1. changes definitions and adds a definition of "public organic record," which it uses in relation to organizations;
2. expands the types of systems that a secured party can use to have control of electronic chattel paper and, thus, perfect a security interest in it;
3. for a debtor that moves to another jurisdiction, clarifies and makes more uniform the rules that (a) perfect a security interest in property acquired after the move, if the financing statement would have perfected such an interest had the debtor not moved and (b) requires the secured party to continue perfection by filing in the new jurisdiction within four months;
4. for a new debtor in another jurisdiction who becomes bound by an original debtor's security agreement (such as through a merger), (a) reduces, from one year to four months, the time that a security interest perfected against the original debtor remains perfected against the new debtor without filing in the new jurisdiction and (b) continues perfection of a security interest for four months in collateral owned by the new debtor before becoming bound as the new debtor and after-acquired

collateral if the financing statement would have done so for collateral acquired by the original debtor;

5. changes how a debtor's name is recorded on a financing statement, including specifying what is recorded for an individual's name;
6. changes the name of a "correction statement" that a debtor can file claiming that a financing statement against him or her was unauthorized to an "information statement" and also allows secured parties to file these statements when they believe a record was filed by someone not entitled to do so;
7. sets transition rules to allow secured parties to continue the enforceability of their security interests when the act's changes take effect; and
8. makes minor and technical changes.

Except as described below, the act applies to transactions and liens that fall within its scope, even if created or entered into before July 1, 2013. The act does not affect an action, case, or proceeding that began before July 1, 2013.

EFFECTIVE DATE: July 1, 2013

§ 1 — DEFINITIONS

Authenticate

Prior law defined "authenticate" as (1) signing or (2) executing or adopting a symbol or encrypting or processing a record with intent to identify the person and adopt or accept a record. Instead of the second part of the definition, the act requires attaching or logically associating an electronic sound, symbol, or process with a record intending to adopt or accept it.

Certificate of Title

The act allows a certificate of title to be in a record, if the record is maintained as an alternative to a certificate of title by the issuing government unit when a statute permits indicating the security interest on the record. By law, a record is information inscribed on a tangible medium or stored in an electronic or other medium that can be retrieved in a perceivable form.

Organizations and Public Organic Records

Under prior law, a "registered organization" was one organized solely under state or federal law for which the state or federal government maintained a public record. The act instead defines it as an organization formed or organized under state or federal law by (1) filing a public organic record with a state or the federal government, (2) a state or the federal government issuing a public organic record, or (3) state

or federal legislation. The act specifies that this includes a business trust formed or organized under a state law requiring that organic records be filed with the state.

The act defines a "public organic record" as a record available for public inspection that is:

1. initially filed with or issued by a state or the federal government to form or organize an organization and any filed or issued record that amends or restates it or
2. a business trust's organic record initially filed with a state and any filed record that amends or restates it, if a state statute on business trusts requires filing.

It also includes state or federal legislation to form or organize an organization, records amending the legislation, and records filed with or issued by a state or the United States to amend or restate the organization's name.

§ 2 — ELECTRONIC CHATTEL PAPER

Chattel paper is a writing with a monetary obligation and security interest in specific goods or a lease of them (such as when a customer buys goods and signs a note that gives the dealer an interest in the goods to secure payment of the purchase price).

A security interest in electronic chattel paper can be perfected by control. In addition to a system that meets the requirements for control in existing law, the act allows a secured party to establish control if a system is employed for evidencing the transfer of interests in the chattel paper that reliably establishes the secured party as the person to whom the chattel paper was assigned.

One of the six specifications to establish control under prior law was that copies or changes that add or change an identified assignee of the electronic chattel paper's authoritative copy can only be made with the secured party's participation. The act instead requires the secured party's consent.

§ 3 — DEBTOR'S LOCATION

By law, a registered organization organized under federal law or a bank branch or agency not organized under state or federal law can designate its state of location if federal law allows it to do so. The act specifies that this applies if the federal law allows designating a main, home, or comparable office.

§§ 5 & 7 — COLLATERAL ACQUIRED BY A RELOCATED DEBTOR OR A NEW DEBTOR

Debtor Relocation

By law, a perfected security interest in collateral remains perfected for four months after a debtor relocates to another jurisdiction and a secured party can

continue perfection by filing in the new jurisdiction within the four-month period. Previously, a creditor also had a security interest in collateral acquired after the debtor relocated if the financing statement provided for it, but the security interest was not perfected. The act:

1. perfects for four months a security interest in after-acquired collateral that would have been covered by the statement if not for the relocation and
2. requires the secured party to perfect the security interest in the new jurisdiction before the four-month period expires and before the financing statement from the old jurisdiction becomes ineffective in order for the security interests to remain perfected.

New Debtor in Another Jurisdiction

By law, a new debtor in another jurisdiction can become bound by an original debtor's security agreement (such as through a merger). Under prior law, a security interest in the original debtor's collateral remained perfected against the new debtor for one year and the secured party could file to continue perfection in the new jurisdiction.

The act reduces, from one year to four months, the period that perfection continues without filing. But it also perfects a security interest for four months in collateral owned by the new debtor before becoming bound as the new debtor and after-acquired collateral. Under the act, this security interest is perfected if the financing statement (1) names the original debtor, (2) is filed under the law of the appropriate jurisdiction, and (3) would have perfected a security interest in the collateral if it were acquired by the original debtor. Under the act,

1. for the security interests to remain perfected, the secured party must perfect the security interest before the four-month period expires and before the financing statement from the old jurisdiction becomes ineffective;
2. if the secured party does not act to retain perfection, the security interest becomes unperfected and is deemed to have never been perfected as against a purchaser of the collateral for value; and
3. the perfected security interest in the new debtor's collateral under these provisions is subordinate to a security interest in the same collateral that is perfected by other means.

§ 6 — COLLATERAL NOT SUSCEPTIBLE TO POSSESSION

Under existing law, a buyer (who is not a secured party) of (1) accounts, (2) electronic chattel paper, (3)

electronic documents, (4) general intangibles, or (5) investment property other than a certificated security, takes free of a security interest if he or she gives value without knowledge of the security interest and before it is perfected. The act expands this provision to cover any collateral except tangible chattel paper, tangible documents, goods, instruments, or certificated securities. Thus, the rule applies to all types of intangible collateral that are not susceptible to possession.

§§ 8-9 — ASSIGNMENTS

For accounts, chattel paper, payment intangibles, and promissory notes, the law makes a term restricting assignments in an agreement between an account debtor and an assignor or in a promissory note generally ineffective. Under prior law, an exception to this rule was the sale of a payment intangible or promissory note. Under the act, the exception applies to the sale of a payment intangible or promissory note but not when the sale is (1) under a disposition of collateral after default or (2) on acceptance of collateral in full or partial satisfaction of obligation.

Terms restricting the assignment of a general intangible, health care insurance receivable, or promissory note whether in the promissory note or the agreement between an account debtor and debtor are generally ineffective. Under prior law, this restriction applied to a security interest in a payment intangible or promissory note only if the security interest arose out of a sale of the payment intangible or promissory note. Under the act, it applies to a security interest that arises out of a sale other than a sale (1) under a disposition of collateral after default or (2) on acceptance of collateral in full or partial satisfaction of obligation.

§ 10 — IDENTIFYING THE DEBTOR

Under prior law, a financing statement sufficiently provided the name of a debtor that is a registered organization if it provided the name as indicated on the public record of the jurisdiction where the debtor organized. The act instead requires the financing statement to include the registered organization's name stated on the public organic record most recently filed with or issued or enacted by the jurisdiction where the organization is organized which purports to state, amend, or restate the name. The act also applies this rule to a registered organization that holds collateral in trust. The rule is different for collateral otherwise held in trust (see below).

Under prior law, if the debtor was a decedent's estate, the financing statement had to provide the decedent's name and indicate that the debtor was an estate. Instead, under the act, when collateral is

administered by a personal representative of a decedent, the financing statement must (1) provide the decedent's name as the debtor's name and (2) indicate in a separate part of the financing statement that the collateral is administered by a personal representative. Under the act, the decedent's name indicated on the order appointing the personal representative issued by a court with jurisdiction over the collateral is sufficient to indicate the decedent's name on the financing statement.

When the debtor was a trust or trustee acting regarding property in trust, prior law required the financing statement to (1) provide the name for the trust in its organic record or, if no name was specified, the settlor's name and additional information to distinguish the debtor from other trusts with one or more of the same settlors and (2) indicate in the debtor's name or otherwise that the debtor was a trust or trustee acting for trust property. The act limits this rule to collateral held in a trust that is not a registered organization. It also requires the additional information to distinguish the trust and indicate that the collateral is held in trust be in a separate part of the financing statement. It also specifies that a trust without a name can list the settlor's or testator's name, which it defines as (1) the name indicated in the trust's organic record or (2) when the settlor is a registered organization, the settlor's name on the public organic record most recently filed with or issued or enacted by the jurisdiction of organization that purports to state, amend, or restate the settlor's name.

In other cases where the debtor has a name, prior law required the financing statement to provide the debtor's individual or organizational name. When the debtor is an individual, the act instead requires the financing statement to provide the (1) debtor's individual name, (2) debtor's surname and first name, or (3) name as it appears on his or her unexpired Connecticut driver's license or identity card. If more than one Connecticut driver's license or identity card has been issued to the individual, the most recent one applies.

In other cases where the debtor does not have a name, the law requires the financing statement to include the name of partners, members, associates, or others comprising the debtor. The act specifies that the names be provided in a manner so that each name would be sufficient if the person named was the debtor.

§ 11 — CHANGE IN DEBTOR'S NAME

By law, if a debtor changes his or her name so that a filed financing statement becomes seriously misleading, it is effective to perfect a security interest in collateral acquired by the debtor before and for four months after the change. The act broadens this provision to cover any situation where a name is insufficient to meet the requirements for a proper name for a debtor (as

described above in § 10) making the financing statement seriously misleading. The law, unchanged by the act, requires that the financing statement be amended to preserve its effectiveness after the four-month period.

§ 12 — TRANSMITTING UTILITIES

Under prior law, if a financing statement indicated the debtor was a transmitting utility, it was effective until a termination statement was filed. The act limits this rule to initial financing statements that indicate the debtor is a transmitting utility. Thus, if a transmitting utility is not listed as the debtor on the initial statement but included on all others, the other statements are effective for five years after the date they are filed.

§ 13 — REFUSING FILINGS REGARDING ORGANIZATIONS

The act eliminates the filing office's ability to refuse an initial financing statement or amendment that names an organization as a debtor when it was not previously named because the document does not state the type of organization or its jurisdiction. As under existing law, the filing office can reject the filing if it does not provide the debtor's mailing address and indicate whether the debtor's name is an individual's or organization's name.

§§ 14-16 — INFORMATION STATEMENTS

The act renames correction statements as information statements. The law allows a person to file one of these statements about a record indexed under the person's name if he or she believes the record is inaccurate or wrongfully filed.

The act also allows a secured party of record to file an information statement on a financing statement if he or she believes a related record was filed by someone not entitled to do so. The information statement must:

1. identify the record it relates to by the initial financing statement's file number and, if it relates to a record in a town clerk's office, provide the date and time or book and page numbers on which the initial financing statement was filed;
2. indicate it is an information statement; and
3. explain why the person believes the filer was not entitled to file the record.

§ 17 — MORTGAGES

The act makes a change to the affidavit a secured party may record in the office where a mortgage is recorded in order to enable the secured party to enforce a mortgage non-judicially. (Connecticut law does not allow non-judicial enforcement of mortgages.) Prior law

required the affidavit to state that a default has occurred. The act requires the affidavit to state that the default is with respect to an obligation secured by the mortgage.

§§ 18-25 — TRANSITION PROVISIONS

Continuing Perfection of Security Interests (§§ 19-20)

Under the act, a security interest perfected immediately before July 1, 2013 continues to be perfected under the act if on July 1, 2013 the act's requirements for attachment and perfection are met. If a security interest is technically rendered unperfected on July 1, 2013, the security interest remains perfected only if the act's perfection requirements are satisfied by July 1, 2014.

Under the act, a security interest unperfected before July 1, 2013 will become perfected (1) on July 1, 2013, if the act's perfection requirements are met before or on that date or (2) at any date after July 1, 2013, when the act's perfection requirements are met.

Continuing Perfection by Filing (§ 21)

By law, depending on the type of collateral, a security interest is perfected by filing a financing statement in the secretary of the state's or town clerk's office. A financing statement is generally valid for five years and a secured party must file a continuation statement to continue perfection of a security interest.

Under the act, a financing statement filed before July 1, 2013 is effective to perfect a security interest if it satisfies the act's requirements for perfection. A financing statement filed before July 1, 2013 that satisfies the requirements for perfection at that time is no longer effective:

1. if filed in Connecticut, when it would cease to be effective under prior law without the act's provisions (for example, the time for its effectiveness expires) or
2. if filed in another state, (a) when it would cease to be effective under the other state's law or (b) on June 30, 2018 (the act specifically applies the June 30, 2018 deadline to a financing statement filed against a transmitting utility before July 1, 2013 only to the extent that existing law and the act provide that a jurisdiction other than the one where the financing statement is filed governs perfection).

Under the act, filing a continuation statement on or after July 1, 2013 does not continue the effectiveness of a financing statement filed before that date except when it is a continuation statement timely filed according to the law of the jurisdiction governing perfection to continue a financing statement filed in the same office before July 1, 2013. In this case, the financing statement

remains effective for the period provided by that jurisdiction's law.

A financing statement filed before July 1, 2013 and a continuation statement filed on or after that date are effective only to the extent they satisfy the act's requirements for an initial financing statement. The act considers a financing statement indicating that the debtor is a decedent's estate as indicating the collateral is administered by a personal representative as required by the act. For a financing statement indicating that the debtor is a trust or trustee acting for property held in trust, it is considered as indicating that the collateral is held in trust as required by the act.

When Filing an Initial Financing Statement Continues Effectiveness (§ 22)

Under the act, filing an initial financing statement in the appropriate office continues the effectiveness of a financing statement filed before July 1, 2013, if:

1. filing an initial financing statement in that office would be effective to perfect a security interest under the act;
2. the financing statement filed before July 1, 2013 was filed in an office in another state; and
3. the initial financing statement (a) satisfies the act's requirements for an initial financing statement; (b) identifies the pre-July 1, 2013 financing statement by its filing office, filing date, and file numbers, if any, and the most recent continuation statement filed; and (c) indicates the pre-July 1, 2013 financing statement remains effective.

Filing such an initial financing statement continues the effectiveness of the pre-July 1, 2013 financing statement for the same period usually granted to an initial financing statement. The act makes a conforming change regarding debtors who are transmitting utilities.

Changes to Pre-July 1, 2013 Financing Statement (§ 23)

Under the act, after July 1, 2013, a person can only add or delete collateral or continue, terminate, or amend a financing statement filed before that date under the law of the jurisdiction governing perfection. The effectiveness of such a statement may also be terminated under the law of the jurisdiction where it is filed.

If Connecticut law governs perfection, the act allows the information in the pre-July 1, 2013 financing statement to be amended after that date only if:

1. the pre-July 1, 2013 financing statement and amendment are filed in the appropriate office;

2. an amendment is filed in the appropriate office with or after filing an initial financing statement in that office that continues the effectiveness of a pre-July 1, 2013 financing statement (see § 22 above); or
3. an initial financing statement is filed in the appropriate office, provides the amended information, and satisfies the requirements for an initial financing statement that continues the effectiveness of a pre-July 1, 2013 financing statement.

If Connecticut law governs perfection, the effectiveness of a pre-July 1, 2013 financing statement can be continued only according to the act's transition provisions. Regardless of whether Connecticut law governs perfection, a pre-July 1, 2013 financing statement filed in Connecticut can be terminated after July 1, 2013 by filing a termination statement in the office where the financing statement is filed unless an initial financing statement has been filed under the transition provisions (see § 22) to continue the effectiveness of the financing statement.

Who Can File (§ 24)

The act allows someone to file an initial financing statement or continuation statement under the transition provisions if (1) the secured party of record authorizes it and (2) the filing is necessary under the transition provisions to (a) continue the effectiveness of a financing statement filed before July 1, 2013 or (b) perfect or continue perfection.

Priority (§ 25)

The act determines the priority of conflicting claims to collateral, but allows prior law to set priority if the relative priorities of claims were set before July 1, 2013.

PA 11-112—sHB 6312

Judiciary Committee

AN ACT CONCERNING THE RIGHTS OF A PARENT OR GUARDIAN IN AN INVESTIGATION BY THE DEPARTMENT OF CHILDREN AND FAMILIES

SUMMARY: This act requires the Department of Children and Families (DCF), when making an initial, in-person investigation of a complaint of child abuse or neglect, to give the child's parent or guardian written notice of his or her rights, as well as the implications of his or her failure to communicate with the department.

The DCF representative must (1) ask the parent or guardian to sign and date the notice as evidence of having received it and (2) immediately provide a copy of the signed notice to the parent or guardian. If the parent or guardian refuses to sign, the representative must (1) indicate on the notice that he or she was asked to sign and date it, but refused to do so and (2) sign it as witness to that fact.

EFFECTIVE DATE: October 1, 2011

NOTICE OF PARENTAL RIGHTS

The act requires the notice to be written in plain language and DCF to make reasonable efforts to ensure that it is provided in a language and manner the parent or guardian understands. The notice must inform the parent or guardian that he or she is not required to:

1. permit the DCF representative to enter the residence;
2. speak to the DCF representative at that time; or
3. sign any document presented by the DCF representative, including any release of claims or service agreement.

In addition, the notice must inform the parent or guardian that:

1. he or she is entitled to legal representation, to have an attorney present when questioned by DCF, and to have an attorney review any document before agreeing to sign it;
2. any statement he or she or any other family member makes can be used against the parent or guardian in an administrative or court proceeding;
3. the DCF representative is not an attorney and cannot provide legal advice;
4. his or her failure to communicate with the DCF representative may have serious consequences, including the child's removal from the home; and
5. it is in his or her best interest to either speak with the DCF representative or immediately consult a qualified attorney.

Though the notice states that a parent or guardian is not required to allow the DCF representative to enter, if the DCF representative has probable cause to believe a child is at imminent risk of physical harm, the law allows the department to remove the child from a dangerous situation for a 96-hour period (CGS § 17a-101g(e) and (f) and DCF Policy Manual § 34-10-4).

BACKGROUND

DCF Communication

In practice, a DCF employee provides a copy of the brochure "A Parent's Right to Know" at the start of an abuse and neglect investigation. It includes some of the

information that the act requires, such as letting the parent know he or she does not have to speak with the DCF employee.

PA 11-113—HB 6314
Judiciary Committee
Public Health Committee

AN ACT CONCERNING THE SEXUAL ASSAULT OF PERSONS PLACED OR RECEIVING SERVICES UNDER THE DIRECTION OF THE COMMISSIONER OF DEVELOPMENTAL SERVICES

SUMMARY: This act makes it 2nd degree sexual assault to have sexual intercourse, and 4th degree sexual assault to have intentional sexual contact, with someone who is placed or receiving services under the Department of Developmental Services (DDS) commissioner’s direction in a facility or program, whether public or private, and over whom the perpetrator has disciplinary or supervisory authority. DDS provides services to people with developmental and intellectual disabilities.

By law, it is already 2nd degree sexual assault to have sexual intercourse, and 4th degree sexual assault to have intentional sexual contact, with someone (1) whose mental condition makes them unable to consent or (2) who is in custody or detained in a hospital or other institution and over whom the perpetrator has supervisory or disciplinary authority.

Second-degree sexual assault is a class C felony unless the victim is under age 16, in which case it is a class B felony. In either case, the law requires a mandatory minimum of nine months’ imprisonment. Fourth-degree sexual assault is a class A misdemeanor unless the victim is under age 16, in which case it is a class D felony (see Table on Penalties).

EFFECTIVE DATE: October 1, 2011

PA 11-128—sHB 6438
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING PROBATE COURT OPERATIONS

SUMMARY: This act makes several changes to probate law. Specifically, it:

1. eliminates the requirement that the probate court administrator, within available resources, establish a regional children’s probate court in the New Haven area and allows him to create seven, rather than six, such courts in regions he

- designates (§ 1);
2. makes changes to confidentiality requirements for several children’s probate matters (§§ 8, 9);
3. extends worker’s compensation coverage to elected probate court judges (§ 2);
4. sets a daily \$20 fee for copying probate records with a hand-held scanner, as that term is defined in the Freedom of Information Act (see BACKGROUND) (§ 3);
5. specifies that in determining the order of priority of claims against a decedent’s estate, funeral expenses have first priority and expenses of settling the estate second priority (prior law gave them equal priority) (§§ 4-7);
6. allows the probate court administrator to establish a fee schedule for anyone seeking access or information from an online probate court data processing system (§ 10);
7. makes changes and clarifications regarding how much time parties have to appeal probate matters (§§ 11-14);
8. makes changes regarding estate settlement costs for people who die while domiciled in another state (§§ 16-17); and
9. allows probate courts to appoint a temporary administrator of a decedent’s estate regarding the disclosure of financial or medical information for specified purposes (§ 18).

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2011 for the provisions on children’s probate courts, workers’ compensation, and the priority of claims; October 1, 2011 for those on hand-held scanner and data processing fees, record confidentiality, appeal periods, and temporary administrators; and upon passage for the provisions concerning estate settlement costs for out-of-state domiciliaries.

§ 1 — REGIONAL CHILDREN’S PROBATE COURTS

Prior law (1) required the probate court administrator, within available resources, to establish a regional children’s probate court in the area consisting of the Branford, East Haven, Hamden, Milford, New Haven, North Branford, North Haven, Orange, West Haven, and Woodbridge probate districts and (2) permitted him to create six additional children’s probate courts in regions he designates. The act eliminates the requirement that he create such a district in the area specified under (1) above, and allows him to create seven such courts.

By law, regional children’s probate courts handle matters involving guardianship, termination of parental rights, adoption, paternity, emancipation, and voluntary

commitment of children with serious mental health needs to the Department of Children and Families (DCF).

§§ 8 & 9 — CONFIDENTIALITY AND DISCLOSURE OF RECORDS IN CHILDREN'S AND ADOPTION MATTERS

Under prior law, the state was required to provide each probate court with an index and book to record specified information related to matters concerning termination of parental rights, removal of a parent as guardian, appointment of a statutory parent, and adoption. Probate courts were required to maintain locked files with all court filings regarding these cases in sealed envelopes, marked with only certain names and the general subject matter of the case. Anyone who disclosed information in these indexes, books, and papers, except as specifically authorized by law, was subject to a fine of up to \$500, up to six months' imprisonment, or both.

The act deletes these requirements and penalties, and makes a related conforming change (§ 9). It specifies that all records of cases related to these matters, as well as those of temporary guardianship and emancipation of a minor, are confidential and subject to being inspected by, or disclosed to, only the following people or entities, in addition to the parties or their counsel:

1. DCF;
2. a licensed child-placing agency involved in the case;
3. a state judge or court employee who needs access to the records to perform his or her duties;
4. the office of the Probate Court Administrator; and
5. courts of other states under the Uniform Child Custody Jurisdiction and Enforcement Act.

Existing law already specifies many circumstances in which these records may be disclosed to DCF and licensed child-placing agencies. The records are already available for inspection by courts involved in the case.

The act specifies that existing law's provisions regarding access to adoption records apply only to adoption records, and not to other records that concern removal of a parent as guardian, a petition for termination of parental rights, or an application for a statutory parent matters.

§ 10 — ONLINE DATA PROCESSING SYSTEM

The act allows the probate court administrator to set a fee schedule for anyone seeking online access to, or information (in any medium) stored in, a data processing system the administrator's office operates.

The fees must be deposited in the Probate Court Administration Fund.

The act specifies that the fee schedule may include reasonable charges for personal services, fringe benefits, supplies, and other expenses related to maintaining, improving, and providing these data processing services. These other expenses that can be built into the fees include the costs of program modifications, training, central processor user time, and equipment rental and maintenance.

§§ 11-14 — PROBATE APPEAL PERIODS

By law, appeals to the Superior Court from probate orders, denials, or decrees, unless the law provides otherwise, must be taken within 30 days after the mailing of the order, denial, or decree. Appeals must be taken within 45 days for specified matters, such as many provisions regarding conservators or guardians (see BACKGROUND).

The act specifies that these 30- or 45-day appeal periods, unless the law provides otherwise, apply when the appealing party is an adult who (1) is present, (2) has legal notice to be present, (3) has been given notice of his or her right to request a hearing, or (4) has filed a written waiver of the right to a hearing. Prior law provided that such people must appeal within 30 days, unless the law provided otherwise. By law, adults have 12 months to appeal most probate matters if they did not have notice to be present and were not present, or were not given notice of their right to request a hearing (shorter time frames apply for appeals from adoption decrees and orders terminating parental rights).

The act eliminates a 12-month appeal period for nonresidents who were not present and did not have legal notice to be present, and does not specify an appeal period for such people.

The act eliminates the prior 30-day limit for appealing a probate order for the payment of claims or dividends on claims against an insolvent estate. The act does not specify a new time frame for such appeals. Thus, they appear to be subject to the law's default 30-day limit, unless another situation applies (for example, if the appealing party did not receive notice of the right to request a hearing).

The act specifies that for minors who have a guardian or guardian ad litem (GAL) appointed and qualified by a Connecticut probate court when a probate order, denial, or decree is made, the 30- or 45-day time frames depending on the type of case as described above apply to appeals brought by the minor or someone on the minor's behalf if the guardian or GAL had legal notice of the time and place of the hearing. Prior law provided a one-month time frame for bringing such appeals.

The law allows probate court judges, probate court clerks, and fiduciaries to send notice of probate court orders, denials, or decrees to adults or guardians or GALs of minors who did not have legal notice of the hearing on the related proceeding and who may be affected by it. The act allows appeals within the 30- or 45-day time frames described above, rather than one month, after such notice is received.

By law, except as provided above, someone who was a minor when a probate order, denial, or decree was issued can bring an appeal up to 12 months after he or she turns 18.

The act provides that a probate court order, denial, or decree is not invalidated due to the judge's disqualification unless an appeal is taken within the various time frames described above, rather than just 30 days.

By law, when a probate appeal is based on a hearing that was on the record, the probate court must transcribe any portion that has not been transcribed within 30 days of service of the appeal notice, unless the Superior Court allows additional time. The act specifies that this requirement applies only to appeals subject to the 30- or 45-day time frames specified above.

§§ 16-17 — ESTATE SETTLEMENT FOR PEOPLE DOMICILED OUT-OF-STATE UPON DEATH

The act specifies that in a proceeding to settle the estate of someone who was not domiciled in Connecticut at the time of his or her death, the person is considered to have been domiciled here for purposes of computing estate settlement costs, unless the probate court determines that the in-state proceedings are ancillary to those in the person's state of domicile. Under the act, this applies whether the person died with a will or intestate (i.e., without a will).

Prior law provided that for the estates of people who die while not domiciled in Connecticut, whether testate or intestate, estate settlement costs are determined on the basis of an assumed gross taxable value equal to (1) the actual gross taxable estate, plus (2) the value in the estate's inventory of all property in it which is not part of the actual gross taxable estate, excluding insurance proceeds exempt by law from taxation (e.g., life or accident insurance). Under the act, these provisions no longer apply to intestate estates.

§§ 18-19 — TEMPORARY ADMINISTRATORS

By law, probate courts may appoint a temporary administrator upon the application of a creditor or other party interested in a deceased person's estate to protect the property until the will is probated or an administrator is appointed. The act also allows anyone with an interest in a deceased person's estate, and who

needs financial or medical information about the deceased person for specified purposes, to apply to the probate court for the appointment of a temporary administrator.

Under the act, the permissible purposes are:

1. investigating a potential cause of action of the estate or specified people – the deceased person's surviving spouse, children, heirs, or other dependents; or
2. a potential claim for workers' compensation, insurance, or other benefits in favor of the estate or such people.

The act gives the probate court discretion to grant the application and appoint a temporary administrator for such purposes if the court finds that doing so would be in the interests of the estate or other person as specified above. The act also gives the probate court discretion on whether to require the administrator to post a bond. (By contrast, the law requires a bond from temporary administrators appointed to protect the property until the will is probated or an administrator is appointed.)

Under the act, the court must limit the temporary administrator's authority to disclose information, as appropriate. The court may issue an appropriate order for the disclosure of the information.

The act requires that an order appointing such a temporary administrator, as well as any certificate the court clerk issues for the appointment of a fiduciary, must specify (1) the duration of the temporary administrator's appointment and (2) that the temporary administrator lacks authority over the deceased person's assets.

The act also makes a conforming change.

BACKGROUND

Hand-held Scanners

Under the Freedom of Information Act, members of the public must be allowed to copy public records using a hand-held scanner, defined as a battery operated electronic scanning device that leaves no marks or impressions on the record and that does not unreasonably interfere with the operations of the agency that maintains the record. It allows public agencies to charge up to \$20 each time someone copies records using such a scanner (CGS § 1-212(g)).

Probate Matters Subject to 45-Day Appeals Period

By law, appeals from probate orders, denials, or decrees for the following matters must be taken within 45 days after the mailing of the order, denial, or decree, unless the law provides otherwise:

1. appointing a guardian or conservator for a veteran or beneficiary of veterans' benefits;
2. compensation of a guardian or conservator of a social services beneficiary, veteran, or beneficiary of veterans' benefits;
3. investment of funds in insurance and annuity contracts by a conservator or guardian of the estate of a ward, conserved person, or incapable person;
4. payment by a guardian or conservator of administrative expenses of a deceased protected person;
5. many provisions regarding conservators, such as naming a conservator for future incapacity, application for and release from voluntary representation, appointment of involuntary representation, appointment of temporary conservators, duties of conservators, and termination of conservatorship;
6. appointing guardians for people with intellectual disability, and the guardians' powers and duties;
7. sterilization; and
8. a guardian's or conservator's petition on competency to vote (CGS § 45a-186(a)).

Estate Settlement 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 (CGS § 45a-107).

PA 10-184 changed 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 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.

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

PA 11-129—sHB 6440
Judiciary Committee

AN ACT CONCERNING APPLICATIONS FOR GUARDIANSHIP OF AN ADULT WITH INTELLECTUAL DISABILITY AND CERTAIN STATUTORY CHANGES RELATED TO INTELLECTUAL DISABILITY

SUMMARY: This act substitutes the term "intellectual disability" for "mental retardation," and makes similar related substitutions, in numerous sections of the General Statutes. The act also specifies that for purposes of numerous sections of the statutes, "intellectual disability" and "mental retardation" mean a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. This definition is already used for mental retardation in many sections of the law.

The act also makes a change regarding applications for guardianship. It allows a minor's parent or guardian who anticipates that the minor will need a guardian after turning age 18 to file an application for guardianship up to 180 days before the minor's 18th birthday. Under the act, a probate court may grant such an application according to existing law for guardianship applications, but the probate court's order can take effect no earlier than the minor's 18th birthday (§ 1).

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Updated Terminology

A recently enacted federal law, known as "Rosa's Law" (P. L. 111-256), changes references in federal law from "mental retardation" to "intellectual disability" and from a "mentally retarded individual" to an "individual

with an intellectual disability.”

The new edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) by the American Psychiatric Association, scheduled to take effect in May 2013, will change the term “mental retardation” to “intellectual disability” and the term “autistic disorder” to “autism spectrum disorder.”

Related Acts

PA 11-4 substitutes the term “intellectual disability” for “mental retardation” in the Department of Developmental Services (DDS) statutes pertaining to its provision of autism services.

PA 11-16 updates terminology used by DDS and the Office of Protection and Advocacy for Persons With Disabilities in their provision of services. It substitutes the term “intellectual disability” for “mental retardation.”

PA 11-134—HB 6490

Judiciary Committee

Public Safety and Security Committee

Finance, Revenue and Bonding Committee

AN ACT ESTABLISHING A PROCEDURE FOR RELIEF FROM CERTAIN FEDERAL FIREARMS PROHIBITIONS

SUMMARY: Federal law prohibits anyone who has been “adjudicated as a mental defective” or “committed to a mental institution” from shipping, transporting, receiving, or possessing firearms or ammunition, unless the person’s firearm privileges are restored under a federally approved program. This act establishes a court procedure for restoring such privileges lost because of a state adjudication or commitment. The procedure is similar to the federal procedure for restoring firearm privileges lost as a result of federal adjudications or commitments.

Under the act, anyone seeking to regain firearm privileges must petition the probate court for relief, and the court must hear any such petition filed in accordance with the act. The court must grant relief if it finds by clear and convincing evidence that (1) the petitioner will not likely act in a manner dangerous to public safety and (2) granting relief is not contrary to the public interest. The act allows petitioners and the Department of Public Safety (DPS) commissioner to appeal the probate court’s decision to the Superior Court.

EFFECTIVE DATE: July 1, 2011

RELIEF FROM FEDERAL FIREARMS DISABILITY PROGRAM

Petitioning for Relief

Under the act, anyone seeking relief from federal firearms disabilities must submit a petition to the probate court along with certain releases (described below) and information supporting the petition, including:

1. certified copies of medical records detailing his or her psychiatric history where applicable, including records on the specific adjudication or commitment that is the subject of the petition;
2. certified copies of medical records from all of his or her current treatment providers, if he or she is being treated;
3. a certified copy of all criminal history information on file with the State Police Bureau of Identification and the FBI pertaining to the petitioner, or a copy of the response from these bureaus indicating that they have no criminal history information on file;
4. evidence of his or her reputation, which may include notarized letters of reference from current and past employers, family members, or friends; affidavits from the petitioner; or other character evidence; and
5. any other information or documents the court specifically requests, which documents must be certified copies of original documents.

Releases and Petition

The petitioner must authorize the release of all of his or her records that may relate to the petition. This includes health, mental health, military, immigration, juvenile court, civil court, and criminal records, on forms the probate court administrator prescribes. The releases must authorize the DPS commissioner to obtain any of these records for use at the probate court hearing or in any appeal from the probate court’s decision.

The petitioner must ensure that the petition contains all required information when it is submitted to the court. After receiving the petition, the court will consider additional information only if it requests it from the petitioner. Information it specifically requests must be received within 15 days of the request for it to be considered. The court may extend the deadline for good cause. Failure to provide the requested information by the deadline may result in the petition being denied.

The petitioner must provide the DPS commissioner with a copy of the petition and all supporting documents submitted to the probate court and certify to the probate court that he or she did so.

Hearings

Once a petition is filed, the probate court must set a date, time, and place for a hearing, and notify (1) the petitioner; (2) the DPS commissioner; (3) the court that rendered the adjudication or commitment; (4) the conservator appointed for the petitioner, if any; and (5) anyone it determines has an interest in the matter. The commissioner and anyone the probate court determines has an interest in the matter may present relevant information at the hearing and on any appeal.

The court must record the hearing. The recording must be transcribed only if the decision is appealed. A copy of the transcript must be furnished free to any appellant whom the court determines cannot pay for it. The Judicial Department must pay for it.

In determining whether to grant relief, the court must consider:

1. the circumstances of the firearms disability;
2. the petitioner's record, including his or her mental health and criminal history record, if any;
3. the petitioner's reputation, as demonstrated through character witness statements, testimony, or other character evidence; and
4. any other relevant information provided by the petitioner, DPS commissioner, or anyone the probate court determines has an interest in the matter.

The petitioner has the burden of establishing, and the court must find, by clear and convincing evidence, that (1) the petitioner will not be likely to act in a manner dangerous to public safety and (2) granting the relief will not be contrary to the public interest. "Clear and convincing" means that it is highly probably or reasonably certain. This is a greater burden of proof than preponderance of the evidence, but less than evidence beyond a reasonable doubt (*Black's Law Dictionary, 7th edition.*) The probate court must include in its decision the specific findings of fact on which it bases its decision.

The probate court proceedings are closed to the public and the court's records of the proceedings are disclosable only to the petitioner or his or her counsel and the DPS commissioner. But the probate court may, after notice to the parties and a hearing, disclose the records for good cause.

Appeals. The petitioner or the commissioner may appeal the probate court's final decision to the Superior Court. Any review of the probate court's decision must be "de novo," which means that the court must take an independent look at the evidence.

Enforcement of any decision granting relief must be stayed until the period for taking an appeal expires or, if an appeal is taken, until the court renders a final decision. If the court grants relief and no appeal is taken or an appeal is taken and the decision is upheld, the court must notify the DPS commissioner of its decision.

Updating Records. As soon as practicable after the court notifies the commissioner that it has granted relief, he must (1) coordinate the removal of or cancellation of the pertinent record in the National Instant Criminal Background Check System (NICS) and (2) notify the U.S. attorney general that the basis for the firearms disability no longer applies. (NICS is the federal database used in determining if prospective gun buyers are disqualified from acquiring or possessing firearms under state or federal law.)

BACKGROUND

Definitions

Federal law prohibits a person from transporting, receiving, possessing, or shipping firearms if he or she has been "adjudicated as a mental defective" or "committed to a mental institution." It also prohibits selling or otherwise providing any firearm or ammunition to these people (18 USC §§ 922(d)(4) & 922(g)(4)).

Under federal regulations, "adjudicated as a mental defective" means a determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetence, condition, or disease (1) is a danger to himself or herself or others or (2) lacks the mental capacity to contract or manage his or her own affairs. The term includes a finding of incompetence to stand trial or not guilty by reason of insanity or lack of mental responsibility. "Committed to a mental institution" means a formal commitment by a court, board, commission, or other lawful authority. It includes people involuntary committed for mental health issues or other reasons, such as drug use, but not those admitted voluntarily or for observation (27 CFR § 478.11).

Federal Firearms Disabilities

In 2008, Congress passed the NICS Improvement Amendments Act (PL 110-108) to increase the number and types of records submitted to NICS on people prohibited by state or federal law from possessing or acquiring firearms. The act (1) requires states to meet specified goals for submitting more complete records to NICS and authorizes grants to help states comply and financial penalties (grant reduction) for noncompliance, (2) allows people disqualified on mental health grounds to petition for restoration of their firearm privileges

under a federally approved state program, and (3) provides financial incentives to states that implement such programs and meet other requirements.

PA 11-144—sHB 6538
Judiciary Committee

AN ACT CONCERNING THE COLLECTION OF BLOOD AND OTHER BIOLOGICAL SAMPLES FOR DNA ANALYSIS

SUMMARY: By law, convicted sex offenders and felons must submit DNA samples, which the Department of Public Safety’s forensic laboratory analyzes to identify characteristics specific to the donor (a DNA profile) and then includes in its DNA data bank. When the sample submitted is insufficient for analysis, this act authorizes additional samples to be taken until one of sufficient quality is obtained.

The act makes it a class D felony (see Table on Penalties) to willfully fail to appear at the time and place the Judicial Branch’s Court Support Services Division (CSSD) sets up for submitting a sample. (It is already a D felony to refuse to submit a sample.) Willfully failing to appear within five business days of the date specified by CSSD subjects the offender to arrest under a bench warrant. Under prior law, he or she could be arrested whether or not the action was willful.

The act also:

1. authorizes the Department of Correction (DOC) to use reasonable force to obtain samples from felons and sex offenders in its custody;
2. requires the Department of Developmental Services (DDS) or the Department of Mental Health or Addiction Services (DMHAS) to obtain samples from defendants committed to their custody due to a mental disease or defect before the first court hearing rather than before the defendant is to be released into the community;
3. requires the first report DDS or DMHAS files with the court that addresses whether an acquittee should be discharged from custody to indicate whether the individual has submitted or refused to submit a DNA sample; and
4. increases the type of information the forensic laboratory may disclose to police officers.

EFFECTIVE DATE: October 1, 2011

DISCLOSURE OF DATA BANK INFORMATION

Under prior law, when a law enforcement officer submitted a DNA sample for comparison with profiles in the data bank, the laboratory could not disclose any

information unless the data bank contained a profile that matched the submitted sample. The act authorizes the laboratory to disclose to law enforcement officers whether a named suspect has a profile in the data bank when the sample submitted does not have a match. The requesting officer must have a reasonable and articulable suspicion that the suspect committed the offense being investigated.

BACKGROUND

Entities Authorized to Take DNA Samples

The agencies charged with taking DNA samples from offenders under their supervision are: CSSD, DOC, DDS, and DMHAS. The table below shows types of people each agency supervises.

<i>Supervising Agency</i>	<i>Covered Population</i>
CSSD	pretrial defendants, offenders conditionally released into community, and probationers
DOC	offenders serving sentences, offenders conditionally released into the community with ongoing DOC supervision, halfway house residents, and parolees
DDS	persons with developmental disabilities acquitted of crime due to mental disease or defect
DMHAS	persons acquitted of crime due to mental disease or defect

Related Act

PA 11-207 requires, beginning October 1, 2011, people arrested for any of 39 serious felony offenses to provide a DNA sample before they are released from custody.

PA 11-146—sHB 6565
Judiciary Committee

Appropriations Committee

AN ACT CONCERNING BUSINESS ENTITY FILINGS

SUMMARY: This act makes a number of changes regarding business entity filings with the secretary of the state.

For domestic and out-of-state stock and non-stock corporations, limited partnerships, limited liability companies (LLCs), and limited liability partnerships (LLPs), the act:

1. requires filing annual reports with the secretary electronically but allows the secretary, on request, to exempt an entity from electronic filing if it is not capable of electronic filing, it cannot pay in an authorized manner by electronic means, or good cause is shown;

2. requires their annual reports to include the entity's email address if there is one;
3. requires the secretary to deliver or e-mail a notice to each entity that its annual report is due, rather than mail a form for the annual report; and
4. allows the secretary to require or permit any document required by law or regulation governing the particular entity to be filed by electronic transmission or new technology, as it develops (prior law allowed corporations to deliver documents by electronic transmission to the extent permitted by the secretary).

For limited partnerships, LLPs, and statutory trusts, the act allows the secretary, in her discretion and for good cause, to permit use of a photostatic or photographic copy, instead of the original, of any document required or permitted to be filed or recorded under the laws governing the entity. The act gives the copy the same force and effect as the original. The law already applies these provisions to corporations and LLCs.

The act also adds and changes definitions related to documents for several entities, makes changes for certain documents from LLCs and statutory trusts, and makes technical and conforming changes.

By law, certain LLPs must have a statutory agent for service of process. The act adds provisions on replacing an agent, notifying the secretary of address changes, and agent resignations.

EFFECTIVE DATE: January 1, 2012

DEFINITIONS

The act adds and changes certain definitions in the laws that apply to particular entities. As a result, these terms will have the same definitions as they do when applied to corporations, limited partnerships, LLCs, and LLPs.

The act adds the following definitions to the laws governing limited partnerships and LLPs:

1. "deliver" or "delivery" is any method used in conventional commercial practice, including by hand, mail, commercial delivery, and electronic transmission;
2. a "document" includes anything delivered to the secretary for filing under the entity's laws;
3. "electronic transmission" is any process of communication not directly involving the physical transfer of paper that is suitable for the recipient retaining, retrieving, and reproducing information; and
4. "sign" or "signature" includes any manual, facsimile, conformed, or electronic signature.

The act extends these and other definitions to all of the provisions on LLPs.

For LLCs, it adds the same definitions of "deliver" and "document" and changes the definition of "sign" to include electronic signatures.

The act also adds the definitions for "document" and "sign" to the laws on statutory trusts but it does not add the other terms.

LIMITED LIABILITY COMPANIES

Prior law required articles of organization and documents required to be filed under the LLC law to be typed, printed, or, if authorized by the secretary, electronically transmitted. The act requires them to be in a format that can be retrieved or reproduced in a typed or printed form if electronically transmitted.

STATUTORY TRUSTS

Prior law required a statutory trust to file the original, signed copy of its certificate of trust with the secretary. The act eliminates the requirement that the copy be the original document and only requires a signed copy. The act makes conforming changes. It requires the secretary to endorse, accept for filing, and retain signed documents instead of signed original documents.

Similarly, for a foreign statutory trust, the act requires filing only a signed copy rather than an original, signed copy of an application for registration.

STATUTORY AGENT FOR CERTAIN LIMITED LIABILITY PARTNERSHIPS

By law, a LLP that does not have its principal office in the state and a foreign LLP must appoint a statutory agent for service of process in the state by filing a written appointment with the secretary.

The act:

1. requires the partnership to appoint another agent "forthwith" when its statutory agent dies, dissolves (a statutory agent can be a person or business entity), leaves the state, or resigns;
2. requires the partnership to "forthwith" file notice of an agent's new address with the secretary if the agent changes its address in the state from the one in the secretary's records;
3. allows an agent to resign by filing a signed statement in duplicate with the secretary, requires the secretary "forthwith" to file one copy and mail the other to the partnership's principal office, and makes the resignation effective and terminates the agent's authority 30 days after filing; and
4. allows a partnership to revoke an appointment by making a new appointment.

PA 11-147—HB 6590

Judiciary Committee

**AN ACT CONCERNING THE CONNECTICUT
BUSINESS CORPORATION ACT**

SUMMARY: This act makes a number of changes to the statutes governing business corporations including:

1. allowing a corporation to set different record dates for providing notice of a meeting to shareholders and for determining which shareholders are entitled to vote at the meeting;
2. allowing the board of directors to authorize, and set guidelines and procedures for, a class or series of shareholders to participate remotely in meetings;
3. expanding the use of electronic documents and technologies and establishing additional rules for their use; and
4. making minor and technical changes.

EFFECTIVE DATE: October 1, 2011

**§§ 1 & 3-9 — SEPARATE RECORD DATES FOR
NOTICE AND VOTING**

Shareholders' Meeting (§§ 4-5)

For a shareholders' meeting, the act allows the board to set (1) the record date for those entitled to notice and (2) a later record date on or before the meeting date to determine who is entitled to vote. The act allows this only if the corporate bylaws do not prohibit it and the board sets both dates at the same time. Otherwise, as under prior law, the record date is the same for determining who is entitled to notice and who can vote.

The act also applies these provisions to notice requirements for an adjourned meeting.

Bylaws (§ 5)

Under prior law, the bylaws could set or provide the manner of setting the record date for one or more voting groups to determine who is entitled to notice of a shareholders' meeting, demand a special meeting, vote, or take other action. The act allows fixing more than one record date.

Record Date for Certain Purposes (§§ 3 & 7-8)

The act allows a court ordering a meeting to set separate dates for determining who is entitled to notice and who is entitled to vote. This applies when a shareholder applies to the court for a meeting when there has been no annual meeting or the shareholders demand a special meeting.

As under prior law, for shareholders' action on a

director's conflicting interest transaction, the act specifies that shareholders entitled to vote are determined as of the record date for notice of the meeting.

The law provides that appraisal rights are not available for holders of certain classes or series related to certain transactions. The act specifies that shareholders are determined based on the record date for notice.

Meeting Notices (§ 1)

The law requires corporations to notify shareholders of annual and special shareholders' meetings. The act requires the notice to include the date for determining which shareholders are entitled to vote at the meeting if the date is different from the date determining which shareholders are entitled to notice.

The act requires the notice to a class or series of shareholders to describe how remote communication may be used if the board of directors authorized the class or series to participate remotely (see below).

Shareholder Lists and Meeting Information (§§ 6 & 9)

The act requires the board to prepare an alphabetical list of shareholders entitled to vote if it sets a date for voting different from the notice date. As for the list of those entitled to notice under existing law, the act requires a list of those entitled to vote to be available for inspection. It requires the list to be available promptly after the record date for voting.

The act allows shareholders who become entitled to vote after the record date for notice to request and obtain from the corporation the notice and any information provided to shareholders for the meeting unless the information is generally available to shareholders on the corporation's website or by other generally recognized means. Under the act, if a corporation fails to provide this information, it does not affect the validity of actions at the meeting.

§ 2 — REMOTE PARTICIPATION

The act allows a class or series of shareholders to participate in a shareholders' meeting remotely if the board authorizes it, subject to guidelines and procedures the board adopts. The act deems shareholders who participate remotely to be present, and they may vote at the meeting if the corporation implements reasonable measures to:

1. verify that each person is a shareholder and
2. provide a reasonable opportunity to participate in the meeting and vote on matters submitted to the shareholders, including an opportunity to communicate and read or hear the proceedings substantially concurrent with the proceedings.

§ 9 — CORPORATE RECORDS

By law, shareholders can submit a written demand to inspect and copy certain corporate records. The act requires that the demand be signed.

Previously shareholders could request records of an action taken by a board committee acting in place of the board. The act instead allows shareholders to request excerpts from the minutes of such a committee and records of action taken by a committee without a meeting.

§§ 10-11 & 14-15—DOCUMENTS AND NOTICES

Definitions (§ 10)

The act changes a number of definitions that apply to statutes governing business corporations regarding the use of electronic documents and technologies.

1. By law, something is “conspicuous” if it is written so that a reasonable person should notice it. The act expands the definition to include something displayed or presented.
2. The act restricts “delivery” by electronic transmission to means that satisfy the act’s requirements (see below).
3. It expands the definition of a “document” from anything the law requires to be delivered to the secretary of the state to (a) any tangible medium on which information is inscribed, including a writing or written instrument and (b) an electronic record.
4. It defines an “electronic record” as information stored in an electronic or other medium that is retrievable in paper form through an automated process used in conventional commercial practice (unless otherwise authorized by the act, see below). “Electronic” relates to technology with electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
5. Prior law defined “electronic transmission” as any process of communication not directly involving the physical transfer of paper that is suitable for retention, retrieval, and reproduction of information by the recipient. The act adds a requirement that the communication be retrievable in paper form by the recipient through an automated process used in conventional commercial practice (unless otherwise authorized by the act, see below).
6. By law, a “signature” includes a manual, fax, conformed, or electronic signature. The act expands this to include, with present intent to authenticate or adopt a document, (a) executing or adopting a tangible symbol to a document, including a manual, fax, or conformed signature

or (b) attaching to or logically associating with an electronic transmission an electronic sound, symbol, or process, including an electronic signature in an electronic transmission.

7. The act defines “writing” as any information in a document.

Notices and Communications (§ 11)

Under prior law, notice could be communicated in person; by mail or other delivery method; or by telephone, voicemail, or other electronic means. The act instead allows a notice or other communication to be given or sent by any delivery method and sets requirements for electronic transmissions.

When Electronic Transmission is Allowed. Under the act, a notice or communication may be by electronic transmission if the (1) recipient consents or, for notices of directors meetings, the certificate of incorporation or bylaws authorize or require it and (2) electronic transmission contains or is accompanied by information that allows the recipient to determine the transmission date and that it was authorized by the sender or the sender’s agent or attorney-in-fact.

Consent to Electronic Transmissions. The act allows a person to revoke consent to receive electronic transmissions by written or electronic notice to the person to whom consent was delivered. Consent is also deemed revoked if the (1) corporation cannot deliver two consecutive electronic transmissions with consent and (2) corporation’s secretary, assistant secretary, transfer agent, or person responsible for giving notice or communication knows they have been unsuccessful (but inadvertently failing to treat this as a revocation does not invalidate a meeting or other action).

When an Electronic Transmission is Received. Under prior law, an electronic notice to shareholders was effective when transmitted as authorized by the shareholder and notice to others was effective when received. Under the act, any electronic transmission is received, unless the sender and recipient agree otherwise, when it (1) enters an information processing system the recipient designated or uses to receive electronic transmissions or information of the type sent and from which the recipient can retrieve it and (2) is in a form capable of being processed by that system. An electronic transmission is received even if no one is aware of it. Receipt of an electronic acknowledgment from the information processing system establishes that the transmission was received but does not on its own establish that the content sent corresponds to the content received.

Form of Electronic Transmissions. The act allows a notice or communication to be in an electronic transmission that cannot be directly reproduced by the recipient in paper form by an automated process used in

conventional commercial practice only if the (1) transmission is otherwise retrievable in perceivable form and (2) sender and recipient consent in writing to this form.

Mail Delivery. The act retains existing rules for mail delivery of notice and extends them to other types of communications. Under prior law, one way a notice was considered effective was when it was received. The act adds specific rules regarding when a notice or communication in physical form is effective: the earlier of when it is (1) actually received or (2) left at a shareholder's address as listed in the corporate records, a director's residence or usual place of business, or the corporation's principal place of business.

As under prior law for notices, the act provides that laws that provide specific requirements for a communication prevail and that requirements in a certificate of incorporation or bylaws that are not inconsistent with these provisions govern.

Consenting to Action Without a Shareholders Meeting
(§ 14)

The act repeals specific provisions on consent to action without a shareholders' meeting by electronic transmission, thus applying the act's general provisions on electronic communications. Prior law required electronic transmissions to contain or be accompanied by information that allows the corporation to determine the date the transmission was signed and that it was authorized by the shareholder or his or her agent or attorney-in-fact.

The act also deletes a specific requirement that written consent be delivered to the corporation's registered agent at its registered office or to the corporation's secretary at its principal office.

Proxies (§ 15)

The act repeals specific provisions on appointing a proxy by electronic transmission, thus applying the act's general provisions on electronic communications. Prior law required electronic transmissions to contain or be accompanied by information that allows the corporation to determine that it was authorized by the shareholder or his or her agent or attorney-in-fact.

Use of English in Notices or Communications (§ 11)

The act requires a notice or communication between a sender and recipient to be in English unless they agree otherwise.

§§ 12 & 23 — REGISTERED AGENTS CHANGING ADDRESS

Prior law required a registered agent changing his or her address or a registered agent of a foreign corporation changing his or her business office address to sign a statement manually or in facsimile and deliver it to the secretary of the state. The act allows any type of signature authorized under the act's definitions.

For a registered agent of a domestic corporation changing his or her address, the law requires written notice to the corporation. The act requires the agent to sign the notice.

§ 16 — DERIVATIVE ACTIONS

Under prior law, a shareholder could not begin a derivative proceeding (an action brought by a shareholder on behalf of the corporation) until there was a written demand on the corporation to take action and 90 days had passed since the demand was made. The act starts the 90 day period from the date the demand was delivered. It maintains the shareholders' ability to bring a proceeding earlier if (1) the corporation notified the shareholder that it rejects the demand or (2) irreparable injury to the corporation will result.

§§ 17-19 & 21 — SIGNING DOCUMENTS

The law allows a board member to submit certain documents asking the corporation to pay in advance certain expenses related to a proceeding in which the corporation may indemnify the board member. The act requires these documents to be signed.

The act requires certain merger and share exchange documents and assertions of appraisal rights to be signed rather than executed.

§ 22 — DELIVERY OF APPRAISAL NOTICES

The law requires corporations to send written appraisal notices regarding corporate actions requiring appraisal rights. The act specifies that notice must be delivered, rather than sent, within 10 days of the date the corporate action takes effect.

§ 25 — NO DUTY TO SEND NOTICES

The law exempts a corporation from sending notices to a shareholder if previous notices or dividend payments to the shareholder have been returned as undeliverable. The act extends this rule so that it is also triggered when notices or payments could not be delivered.

§ 26 — APPLICATION UNDER FEDERAL LAW

The act specifies that Connecticut's business corporation law applies to the maximum extent permitted by federal law if any of Connecticut's provisions are deemed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act.

BACKGROUND

Electronic Signatures in Global and National Commerce Act

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 (15 USC § 7002) 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 if they satisfy certain standards and the state law makes specific reference to this act.

PA 11-148—sHB 6596

Judiciary Committee

Planning and Development Committee

Government Administration and Elections Committee

AN ACT ESTABLISHING ADVISORY COMMITTEES TO THE DEPARTMENT OF CORRECTION IN CERTAIN MUNICIPALITIES

SUMMARY: This act requires the Department of Correction (DOC) to establish advisory committees in towns with a correctional facility that do not have a public safety committee as required by law (see BACKGROUND).

Under the act, an advisory committee consists of the facility warden and the following five members appointed jointly by legislators who represent the town: a business community representative, a social services agency representative, a local law enforcement agency representative, and two members of the community. No one who is on parole or probation can be a member.

The act requires the advisory committee to meet as necessary but at least quarterly to discuss inmate

population demographics, DOC policies and practices, facility programming, and reentry initiatives. It requires each committee to report to the Judiciary Committee on its concerns and recommendations by January 1, 2012.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Public Safety Committees in Towns with DOC Facilities

The law requires DOC to establish public safety committees, composed of the warden and representatives appointed by the town's chief elected official, in each town with a correctional facility. Each committee reviews safety and security issues and annually reports to the legislature's Public Safety and Security Committee. According to DOC, Bridgeport, Hartford, and New Haven currently have no public safety committees (CGS § 18-81h).

PA 11-149—sHB 6598

Judiciary Committee

AN ACT CONCERNING OFFERS OF COMPROMISE IN CONSTRUCTION CONTRACT ARBITRATION PROCEEDINGS, MEDIATION AND ARBITRATION OF CONSTRUCTION CONTRACTS, AND ETHICAL VIOLATIONS CONCERNING BIDDING AND STATE CONTRACTS

SUMMARY: This act creates a procedure for parties in an arbitration proceeding related to certain construction contracts to send the opposing party an offer of compromise, offering to settle the underlying claim for a specified amount. It requires a court to add 8% annual interest to an arbitration award, and award reasonable attorney's fees and costs, if the prevailing party's arbitration award is equal to or greater than its offer of compromise which the opposing party did not accept. These procedures are similar to those in existing law for offers of compromise in civil actions.

The act also specifies that the existing prohibition on provisions in commercial construction contracts that require disputes to be adjudicated in another state or according to the laws of another state includes provisions concerning mediation or arbitration, as well as other types of adjudication.

Finally, the act accords contractors, potential contractors, and consultants due process before they are prohibited from bidding on state contracts because of alleged past unethical bidding practices.

EFFECTIVE DATE: October 1, 2011

§ 1 — OFFERS OF COMPROMISE

Applicable Contracts

The act's provisions on offers of compromise apply to contracts entered into on or after October 1, 2011 for construction, renovation, or rehabilitation in Connecticut, including improvements to real property associated with such work, or a subcontract for such work, between an owner and contractor, a contractor and subcontractor, or two subcontractors. But these provisions do not apply to (1) contracts with any state or the federal government or (2) contracts or projects that are funded or insured by the U.S. Department of Housing and Urban Development (HUD).

Offer

The act provides that, after a party to a construction contract has demanded arbitration under the contract's dispute resolution provision and before the arbitration panel renders a final award, the party may send to the opposing party or his or her attorney a written offer of compromise, offering to settle the arbitration claims for a certain amount of money. A party may send such an offer only once.

The act specifies that the offer must be signed by the party or attorney and directed to the opposing party or attorney. It must be sent by certified mail, return receipt requested.

Acceptance

If the party receiving the offer of compromise wishes to accept it, the party must do so within 30 days of being notified of it and before the arbitration panel renders a final award. The acceptance must be in writing, sent by the accepting party or that party's attorney. It must be sent by certified mail, return receipt requested.

If the party receiving the offer, or his or her attorney, does not accept it within this time frame, the offer is considered rejected and cannot be accepted.

Interest, Attorney's Fees, and Costs

After a party to a construction contract applies to confirm, vacate, modify, or correct a final arbitration award, the party to the arbitration who made an unaccepted offer of compromise may file proof of that offer with the court. If the court confirms, modifies, or corrects the arbitration award, and determines from the record that the recovering party was awarded an amount at least equal to the amount in that party's offer of compromise, the court must add 8% annual interest to the award. This interest must be computed from the date the arbitration began, and is in addition to any

interest awarded by the arbitrator. The court must also award reasonable attorney's fees and court costs for bringing the court action on the arbitration award, and render judgment accordingly. However, the act does not affect the parties' contractual rights concerning attorney's fees.

§ 2 — PROHIBITION ON CONSTRUCTION CONTRACTS REQUIRING DISPUTES TO BE DECIDED IN ANOTHER STATE

The act specifies that construction contract provisions requiring disputes under the contract to be mediated or arbitrated in another state, or according to another state's laws, are invalid. This prohibition applies to contracts for work at construction sites in Connecticut, regardless of whether the contract was signed here. But it does not apply to:

1. building contracts with any state, a municipality or other political subdivision of this or any state, or the federal government;
2. contracts or projects funded or insured by HUD;
3. contracts between an owner and a contractor for \$25,000 or less, or a subcontract resulting from such a contract; or
4. contracts for buildings intended for residential occupancy containing less than five units (CGS § 42-158i).

§ 3 — ETHICS CODE VIOLATIONS

Due Process for Contractors and Consultants

The act requires the Office of State Ethics (OSE) to find a violation of the State Code of Ethics before contractors or consultants may be deemed nonresponsible bidders. This means OSE must investigate complaints of wrongdoing, offer respondents the opportunity for a hearing, and make a decision based on the evidence.

Thus, the act requires an OSE finding before state agencies, boards, commissions, institutions, and quasi-public agencies can treat as nonresponsible bidders (and thus ineligible to win a state contract) prequalified contractors, large state construction or procurement contractors, consultants on state contracts, and people seeking those positions, for committing the following violations:

1. soliciting from public officials or state employees information that is not available to other bidders for large state construction or procurement contracts, in order to gain a competitive advantage;
2. intentionally, willfully, or recklessly defrauding the state by charging a state agency,

board, commission, institution, or quasi-public agency for work not performed or goods not provided;

3. intentionally or willfully violating or attempting to circumvent competitive bidding and ethics laws; or
4. providing or directing someone else to provide information concerning donated goods and services to a state or quasi-public agency, its procurement staff, or a member of a bid selection committee with intent to unduly influence the award of a state contract.

The act also requires an OSE finding before state agencies, boards, commissions, institutions, and quasi-public agencies may treat consultants as nonresponsible bidders if they help negotiate a state contract and then they or the businesses with which they are associated serve as contractors, subcontractors, or consultants on the project, or as consultants to anyone seeking the contract.

PA 11-151—HB 6614

Judiciary Committee
Public Health Committee

AN ACT CONCERNING MEDICAL FOUNDATIONS

SUMMARY: The law authorizes any hospital or health system to organize and join 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 specified providers. A medical foundation is a nonprofit entity that may operate at whatever locations its members select.

This act adds certain medical schools to the list of entities that may organize and join a medical foundation for this purpose. To be eligible, a medical school must be (1) a school of allopathic (or conventional) medicine leading to the M.D. degree, (2) accredited by the Liaison Committee on Medical Education, and (3) affiliated through governance with or part of a university that is incorporated in Connecticut or established under state law and accredited by the New England Association of Schools and Colleges Commission on Institutions of Higher Education.

The act applies the same provisions in existing law regarding medical foundation governance, organization, powers, limitations, filing requirements, merger and consolidation, and other matters to medical foundations organized by medical schools (CGS §§ 33-182aa to -182ff).

The act also makes a conforming change.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Liaison Committee on Medical Education

The Liaison Committee on Medical Education is the accrediting body for medical education programs leading to the M.D. degree in the United States and Canada. It is sponsored by the Association of American Medical Colleges and the American Medical Association.

PA 11-152—sHB 6629

Judiciary Committee
Appropriations Committee
Insurance and Real Estate Committee
Government Administration and Elections Committee

AN ACT CONCERNING DOMESTIC VIOLENCE

SUMMARY: This act makes numerous changes to the laws on family violence. Among other things, it:

1. requires law enforcement officers to arrest a person who commits a family violence crime against someone he or she is dating;
2. adds aggravated sexual assault of a minor, fourth degree sexual assault, and risk of injury to a minor to the list of crimes for which a judge can order a standing criminal protective order;
3. doubles the fee for the pretrial family violence education program;
4. requires family violence offenders who use or attempt or threaten to use physical force to commit a crime to surrender any firearms they possess to the public safety commissioner;
5. protects victims of orders of protection from criminal liability under certain circumstances;
6. requires, rather than allows, the Judicial Branch's family relations counselors to notify the Department of Children and Families (DCF) of information indicating that a defendant poses a danger or threat to a child or custodial parent; and
7. requires the chief court administrator to study and assess family violence training programs.

The act establishes a 16-member task force to (1) evaluate law enforcement agencies' policies and procedures for responding to incidents of family violence and restraining and protective order violations and (2) develop a model statewide policy for such responses.

It specifies that guardians ad litem and attorneys appointed in abuse and neglect cases acting within the scope of their employment are among the state employees immunized against personal liability.

The act also modifies the exception to a spouse's privilege to choose whether to testify against his or her spouse in a criminal proceeding.

Lastly, the act makes minor conforming and technical changes.

EFFECTIVE DATE: October 1, 2011, except for the provisions on the task force and chief court administrator's assessments and studies, which are effective upon passage.

§§ 1-6 — FAMILY VIOLENCE

Family Violence Defined

By law, "family violence" is an incident, other than the nonabusive disciplining of a minor child, between family or household members that either causes physical injury or creates fear that physical injury is about to occur. "Family or household members" include individuals in, or who were recently in, a dating relationship. The act specifies that a person of any age may be in a dating relationship for the purpose of identifying family or household members under family violence laws.

Restraining Orders

The act expands the conduct that can serve as the basis for a restraining order. It allows any family or household member to apply for such an order if he or she has been subjected to stalking or a pattern of verbal intimidation or threatening. By law, continuous threat of immediate physical pain or physical injury can also be the basis for the order.

Existing law allows courts to issue restraining orders after a hearing or, in an emergency, without a hearing. The court may include in the order any provisions necessary to protect the victim from injury or intimidation, including requirements for temporary child custody or visitation rights. Orders typically prohibit the offender from assaulting, threatening, molesting, or restraining the victim or entering the family's or victim's dwelling. The order is effective for six months unless the court extends it upon the applicant's or its own motion. Anyone violating the order can be held in contempt of court. Additionally, entering or remaining on property in violation of the order constitutes first-degree criminal trespass, which is a Class A misdemeanor (see Table on Penalties).

Investigating Family Violence Crimes

The law outlines appropriate actions by police and court personnel responding to family violence crimes. The act expands the people police officers must immediately arrest upon learning that such a crime has been committed in their jurisdiction. Under prior law,

police had to arrest and charge any suspected family violence offender, other than a person involved in a dating relationship. The act eliminates this exception, thus requiring that all suspected family violence offenders be arrested and charged.

It also requires police officers at the scene of a domestic violence incident to give the victim contact information for regional family violence organizations that employ people as, or make referrals to, counselors trained in providing "trauma-informed care." The act defines this as services directed by a thorough understanding of the neurological, biological, psychological, and social effects of trauma and violence on a person.

Family Violence Response and Intervention Units

The law requires the Judicial Branch, through its Court Support Services Division, to have a family violence intervention unit in each geographical area court to respond to family violence cases. The units prepare reports on each case for the court; provide or arrange for victim and offender services (including, under the act, referrals to counselors who provide trauma-informed care); and administer contracts to carry out these services. Generally, the information the units receive is confidential. However, the units may disclose information for specified purposes to their contract providers, prosecutors, DCF employees, bail commissioners, law enforcement agencies, and probation officers. Under the act, family relations counselors must, rather than may, notify DCF of information indicating that a defendant poses a danger or threat to a child or custodial parent.

The act expands the circumstances under which the units may share information with probation officers. It allows them to disclose information that may be used to conduct a presentence investigation on, and recommend an appropriate sentence for, a defendant convicted of a family violence crime. Previously, use of such information was limited to determining the offender's service needs and supervision level.

The act eliminates the restriction on when the units may disclose information to their contract providers and restricts the information that may be provided. Under prior law, they could disclose the information only after the disposition of the family violence case. The act eliminates this restriction, thus allowing units to share the information during the pendency of the criminal proceedings. It prohibits the units from disclosing information to contract providers that would personally identify a victim.

Family Violence Education

By law, a pretrial family violence education program serves people who are charged with, but not convicted of, a family violence crime. In order to qualify for the program, a defendant must not:

1. be charged with an A, B, or C felony; unclassified felony punishable by more than 10 years imprisonment; or, unless there is good cause, a class D felony or unclassified felony punishable by more than five years imprisonment;
2. have previously participated in the program; or
3. have been convicted of, or accepted accelerated rehabilitation for, a family violence crime committed after October 1, 1986.

By law, any defendant placed in the program is released to the custody of a family violence intervention unit for up to two years under such conditions as the court orders. By law, unchanged by the act, if the defendant did not enter a conditional plea (presumably because he or she was not asked to do so), successfully completes the program, and complied with any conditions the court set, the court must dismiss the charges. If the defendant violates the program's conditions, he or she will be brought to trial.

The act doubles, from \$200 to \$400, the fee defendants pay to participate in the program if they can afford it. One hundred dollars of the fee is nonrefundable.

Standing Criminal Protective Order

The act adds to the list of crimes for which a court may issue a standing criminal protective order. It allows courts to do so whenever a person is convicted of committing or attempting or conspiring to commit:

1. aggravated sexual assault of a minor,
2. fourth-degree sexual assault,
3. risk of injury by willfully or unlawfully causing or permitting a child under age 16 to be placed in danger or in a situation likely to result in the child being injured or his or her morals impaired, or
4. risk of injury by having contact with the intimate body parts of a child under age 16 or subjecting the child to the offender's intimate body parts in a sexual and indecent manner likely to impair the child's health or morals.

By law, unchanged by the act, the court must find that (1) the victim is a member of the offender's family or household and (2) the order will best serve the victim and public's interest given the history, character, nature, and circumstances of the crime. Standing criminal restraining orders are effective until the court modifies or revokes them.

Violators of such an order are guilty of a class D felony (see Table on Penalties).

Restitution Services

The act adds domestic violence victims and their families to the list of people for whom the Office of Victim Services may order restitution services, including medical, psychiatric, psychological, and social services. The office may already order restitution for families of homicide victims and victims of child abuse or sexual assault and their families.

The act provides that those who commit the above-listed crimes are not eligible for restitution services as "family members."

§ 4 — PROTECTIVE ORDER

The act eliminates a requirement for protective orders issued after notice and a hearing to include notice that the order "is accorded full faith and credit pursuant to 18 USC § 2265, as amended from time to time." Instead, it requires that the order be accompanied by notice that is consistent with the full faith and credit provisions of the federal law (see BACKGROUND).

§§ 9 & 10 — POSSESSION OF FIREARMS

For people who know they are the subject of a restraining or protective order or foreign order of protection resulting from the use or attempted or threatened use of physical force, the act eliminates the option to transfer any firearm they possess to someone legally allowed to possess it. Under the act, whether or not they are convicted, they must deliver or surrender the firearm to the public safety commissioner or sell it to a federally licensed firearms dealer. By law, failure to relinquish possession within two days of the event giving rise to ineligibility is a class D felony (see Table on Penalties).

When such a defendant chose to turn the firearm in to law enforcement, prior law gave him or her or a legal representative up to one year to transfer it to someone who could legally take possession. Under the act, the defendant's only option is to sell the weapon to a federally licensed firearms dealer. Existing law, unchanged by the act, requires the commissioner to destroy such firearms if they remain in his possession for longer than one year.

The act broadens the information the public safety commissioner, chief state's attorney, and Connecticut Police Chiefs Association must include in their update of the protocol they developed to ensure that people who are ineligible to possess firearms either transfer them to someone eligible or deliver or surrender them to the commissioner to include specific instructions on delivering and surrendering firearms. The update must

already include specific instructions on transferring firearms. By law, the protocol covers instances in which more than one law enforcement agency is necessary to ensure the transfer, delivery, or surrender.

§§ 11-13 — CRIMINAL LIABILITY OF PROTECTED PERSONS

The act prohibits anyone listed as a protected person in a protective order, standing criminal protective order, restraining order, or foreign order of protection from being held criminally liable for (1) soliciting, requesting, commanding, importuning, or intentionally aiding in the order's violation or (2) conspiring to violate it (see BACKGROUND). Their actions may nonetheless subject them to arrest on other grounds.

§ 19 — TASK FORCE TO EVALUATE LAW ENFORCEMENT RESPONSES

The act establishes a 16-member task force to (1) evaluate law enforcement agencies' policies and procedures for responding to incidents of family violence and restraining and protective order violations and (2) develop a model statewide policy for such responses. The model policy must include arrest procedures required by existing law.

The task force must report its recommendations for a model policy and implementation plan to the Judiciary Committee by December 1, 2011. The task force terminates on that date or January 1, 2012, whichever is later.

The task force consists of:

1. one person each appointed by the governor and the top four legislative leaders, any of whom may be legislators;
2. a representative of the Police Officer Standards and Training Council experienced in domestic violence training appointed by the council chairperson;
3. representatives of the Office of the Chief State's Attorney, Office of the Chief Public Defender, and Office of the Victim Advocate appointed by the head of each office;
4. a representative of the Division of State Police experienced in domestic violence training appointed by the public safety commissioner;
5. a Superior Court judge assigned to hear criminal matters appointed by the chief court administrator;
6. a domestic violence victim, victim advocate with in-court experience in domestic violence matters, and Connecticut Coalition Against Domestic Violence, Inc. representative, each appointed by the coalition's executive director;

7. a Legal Assistance Resource Center of Connecticut representative appointed by the center's executive director; and
8. a Connecticut Police Chiefs Association representative appointed by the association's president.

The act requires the appointing authorities to (1) make their appointments by August 8, 2011 and (2) fill vacancies. The task force members must select two chairpersons from their ranks who must schedule the first meeting to be held, and hold it, by September 7, 2011. The Judiciary Committee's administrative staff serve as such for the task force.

§ 20 — JUDICIAL DEPARTMENT STUDY AND ASSESSMENT

The act requires the chief court administrator to:

1. study the principles and effectiveness of the pretrial family violence education program using results-based accountability;
2. as a part of the study, identify the program's goals, fundamental elements, and critical components, assess its short- and long-term outcomes, assess the feasibility and cost of extending (a) the program beyond its nine week length and (b) the EVOLVE and EXPLORE programs (see BACKGROUND) to all regions of the state, and compare the pretrial family violence education program to the pretrial diversionary domestic violence programs in other Northeastern states, and
3. study the principles and effectiveness of Connecticut's domestic violence dockets and related contracted programs using results-based accountability, including the goals, fundamental elements, critical components, and short- and long-term outcomes of the dockets and programs.

The chief court administrator must report on the assessments and studies to the Judiciary Committee by January 1, 2012.

§ 18 — DEPARTMENT OF CHILDREN AND FAMILIES STAFF TRAINING

The act requires the curriculum that DCF must include in its staff development and training and educational programs to include the prevention, identification, and effects of family violence. Existing law requires training to improve the quality of DCF services and programs.

§§ 16 & 17 — SURETY BAIL BOND AGENTS, INSURERS, AND PROFESSIONAL BONDSMEN

The law prohibits surety bail bond agents, insurers, and professional bondsmen from soliciting business on property or grounds of facilities, such as prisons, detention centers, and courthouses where arrestees are likely to be found unless the arrestee or a potential indemnator initiates the contact. The act permits individuals with apparent authority to act on the arrestee's behalf to initiate such contact. Neither the act nor the law bars such agents, insurers, or bondsmen from soliciting in or on a police station's property.

By law, soliciting includes distributing business cards, print advertising, or any other written information directed at arrested persons or potential indemnators. It is permissible for surety bail bond agents and insurers and professional bondsmen to post their names, addresses, and telephone numbers prominently in designated locations on the property.

The act also removes a prohibition against those individuals from wearing or otherwise displaying identification other than their licenses on the property or grounds of a prison, community detention center, courthouse, or any other place of arrestee confinement.

§§ 7 & 8 — STATE EMPLOYEE IMMUNITY

By law, state officers and employees are not personally liable for damages or injuries caused while discharging their duties or acting within the scope of their employment, unless their actions are wanton, reckless, or malicious. The act specifies that individuals appointed under contract with the chief child protection attorney as guardians ad litem or attorneys to represent a party in a neglect, abuse, termination of parental rights, delinquency, or family with service needs proceeding are acting as state employees protected by the immunity provisions when acting within the scope of their employment. (PA 11-51 eliminates the position of chief child protection attorney and transfers her duties to the chief public defender.)

§§ 14 & 15 — SPOUSAL PRIVILEGE

Previously, a person could generally elect or refuse to testify against his or her spouse in a criminal proceeding under the so-called spousal privilege. The act modifies the exceptions to the privilege. Under the act, a spouse may be compelled to testify in criminal proceedings involving (1) spousal abuse consisting of sexual assault, bodily injury, or any other violent act attempted, threatened, or committed; (2) child abuse consisting of sexual assault, risk of injury to a minor, bodily injury, or any other violent act attempted, threatened, or committed and involving the minor child of either spouse or a minor child in a spouse's care or

custody; or (3) ongoing or future criminal conduct jointly engaged in by both spouses.

In other criminal proceedings in which a spouse elects to testify, he or she cannot be (1) required to divulge oral or written communications with the spouse that were intended to be confidential or (2) allowed to testify about the communication without the consent of the other spouse, unless the spouse is deceased.

By law, a spouse can be compelled to testify in criminal cases involving spousal violence, cruelty to persons, risk of injury to a minor, abandonment of a child under age six, criminal nonsupport, first- or second-degree sexual assault, first-degree aggravated sexual assault, and patronizing a prostitute or promoting prostitution. The act restores the privilege when the crime is child abandonment, criminal nonsupport, or related to prostitution unless the crime involved the use or attempt to use violence. It also restores the privilege for crimes in which the victim is not the defendant's child or spouse.

BACKGROUND

EXPLORE and EVOLVE Programs

EXPLORE and EVOLVE are two of three of the Judicial Branch's family violence programs. (The other is the Family Violence Education program.) Both programs are available to men convicted of domestic violence. EXPLORE is a 26-session cognitive behavioral intervention program that focuses on behavior change by helping participants develop awareness, build positive interpersonal skills, and understand the harmful effects of violence on victims and children. It is available in Bantam/Litchfield, Danbury, Danielson, Derby, Hartford, Manchester, Middletown, New Britain, New Haven, New London, Norwalk, and Stamford.

EVOLVE is a 52-session cognitive behavioral intervention program consisting of communication skill building, responsible parenting, and the impact of violence on victims and children. The program is available in Bridgeport, New Haven, New London, and Waterbury.

Definitions

Protective Order. Protective orders are criminal orders issued after an accused has been arrested for committing a family violence crime. They include provisions necessary to protect the victim from threats, harassment, injury, or intimidation. These orders generally terminate when the underlying criminal case concludes. However, under certain conditions, courts can issue a standing criminal protective order, in addition to any sentence of incarceration, against people convicted of certain family violence crimes. These

orders stay in effect for a court-specified time period.

Restraining Order. A restraining order differs from a protective order in that restraining orders are civil and can be issued without the target of the order being arrested.

Foreign Order of Protection. A foreign order of protection is any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court of another state; the District of Columbia; a U.S. commonwealth, territory, or possession; or an Indian tribe.

Full Faith and Credit. A protection order issued by the court of one state, Indian tribe, or territory must be accorded full faith and credit by the court of another state, Indian tribe, or territory and enforced by the court and law enforcement personnel of the other jurisdiction as if it were the order of its own court.

Covered protection orders are those issued by a state, tribal, or territorial court:

1. with jurisdiction over the parties and matter under the law of such state, Indian tribe, or territory; and
2. after reasonable notice and an opportunity to be heard.

In the case of *ex parte* orders, notice and opportunity to be heard must be provided within the time required by state, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights (18 USC §§ 2265(a) and (b)).

Related Act

PA 11-45 makes changes to, and adds new, requirements for surety bail bond agents. It expands surety bail bond licensing and appointment requirements. It establishes (1) bail bond solicitation, record retention, and reporting standards and (2) premium financing, build-up funds, and collateral security requirements and restrictions. It requires agents to certify under oath to the insurance commissioner that they charged the bond premium rates the commissioner approved.

PA 11-153—sHB 6631

Judiciary Committee

Public Health Committee

AN ACT CONCERNING THE CREATION OF A REPLACEMENT BIRTH CERTIFICATE PURSUANT TO A GESTATIONAL AGREEMENT

SUMMARY: This act eliminates the requirement that the birth mother's name appear on a replacement birth certificate that the Department of Public Health (DPH) creates when a birth arises out of a gestational agreement. It instead requires DPH to name the intended parent or parents as the child's parent or parents on the replacement certificate. By law, for births arising out of gestational agreements, DPH must seal the original birth certificate and registrars of vital statistics must provide a replacement copy to an eligible party who requests it.

The act also changes the required timing of the creation of replacement birth certificates for births subject to gestational agreements. Prior law required DPH to create a replacement certificate according to a court order within 45 days after receiving the order or the child's birth, whichever is later. Under the act, if before the child's birth, DPH receives a certified copy of a court order that approves a gestational agreement and issues an order of parentage under it, the department must create the replacement certificate immediately upon the filing of the original certificate. If DPH receives a certified copy of such an order after the birth, it must create the replacement certificate immediately upon receiving the certified copy of the order. In either case, DPH must prepare the replacement certificate according to the court order.

The act defines "gestational agreement" and "intended parent." The definitions apply to the act as well as throughout other specified statutes concerning vital statistics and vital records.

Under the act, a "gestational agreement" is a written agreement for assisted reproduction between a woman who agrees to carry a child to birth and the intended parent or parents. The woman carrying the child to birth must not have contributed genetic material to the child. The agreement must (1) name the parties to it and indicate their obligations under it; (2) be signed by the parties and their spouses, if any; (3) be witnessed by at least two disinterested adults; and (4) be acknowledged as prescribed by law.

The act defines an “intended parent” as a party to a gestational agreement who agrees under it to be the parent of a child born to a woman through assisted reproduction. This applies regardless of whether there is a genetic relationship between the intended parent and child.

The act also makes minor and technical changes.
EFFECTIVE DATE: October 1, 2011

BACKGROUND

Related Case

Raftopol v. Ramey (299 Conn. 681 (2011)) involved two plaintiffs (the intended parents) who entered a written gestational agreement with a gestational carrier. Prior to the birth of two children, the plaintiffs brought a declaratory judgment action requesting that the court order DPH to issue a replacement birth certificate reflecting the plaintiffs, and not the carrier, as the children’s parents. After the Superior Court found the gestational agreement valid and ordered DPH to issue a replacement birth certificate, DPH appealed.

In *Raftopol*, the Connecticut Supreme Court concluded that CGS § 7-48a (one of the statutes PA 11-153 amends) permits a non-biological intended parent who is not the child’s adoptive parent to become a legal parent of that child through a valid gestational agreement. The court ruled that a court order under this statute entitles the intended parents to be named as parents on the replacement birth certificate, regardless of their biological relationship to the children.

The court noted certain provisions of the statute that it found ambiguous. According to the court, CGS § 7-48a did not (1) define the terms “birth mother” or “gestational agreement;” (2) address the nature and scope of the court order requiring DPH to create a replacement birth certificate; or (3) describe who may qualify, and how, as a parent on a replacement certificate.

PA 11-154—sHB 6634

Judiciary Committee

Human Services Committee

AN ACT CONCERNING DETENTION OF CHILDREN AND DISPROPORTIONATE MINORITY CONTACT IN THE JUVENILE JUSTICE SYSTEM

SUMMARY: This act prohibits police officers from placing children they arrest, but who have not yet appeared before a judge, in a juvenile detention center without a Superior Court order. It also:

1. requires detention center intake supervisors to admit only children who are (a) the subject of an order to detain, (b) ordered by a court to be held in detention, or (c) transferred to the center to await a court appearance;
2. eliminates a provision allowing detention supervisors to admit serious juvenile offender arrestees to overcrowded juvenile detention centers without a court order; and
3. requires judicial and executive entities to report to the legislature and governor every two years on progress in addressing disproportionate minority contact (DMC).

Under the act, DMC means that a disproportionate number of juvenile members of minority groups come into contact with the juvenile justice system.

EFFECTIVE DATE: Upon passage for the DMC reporting requirement; October 1, 2011 for the remaining provisions.

ARRESTED CHILDREN

Under existing law, a police officer who arrests a child can (1) release the child into a parent or suitable adult’s custody, (2) release the child into his or her own custody, or (3) turn the child over to a juvenile detention center. The act requires the officer to get a Superior Court order to place the child in detention.

The court cannot order detention unless it finds probable cause to believe that the child has committed the alleged acts and there is no less restrictive alternative. It must then find at least one of the following:

1. a strong probability that the child will run away before the court hearing or disposition or commit or attempt to commit another crime injurious to the child or community during that period,
2. probable cause to believe that the child’s continued residence in the child’s home pending disposition poses a risk to the child or the community because of the serious and dangerous nature of the act or acts the child is alleged to have committed,
3. a need to hold the child for another jurisdiction or to ensure that he or she appears before the court in view of the child’s previous failure to respond to the court process, or
4. the child has violated one or more of the conditions of a suspended detention order.

These are the same considerations used to determine whether to admit a child to pretrial detention.

DISPROPORTIONATE MINORITY CONTACT REPORTS

Biennially, beginning September 30, 2011, the act requires the (1) children and families and public safety commissioners, (2) chief state's attorney, (3) chief public defender, (4) chief court administrator, and (5) Police Officer Standards and Training Council to each report to the Office of Policy and Management (OPM) on the plans they have developed and steps taken in the previous two fiscal years to address DMC in the juvenile justice system. Each entity that provides child welfare services (the chief court administrator and the Department of Children and Families commissioner) must include in its report (1) a description of efforts made to address DMC in the child welfare system and (2) an evaluation of the relationship between the child welfare system and DMC in the juvenile justice system.

The act directs the entities to submit their reports to the OPM secretary and the secretary to compile them into a single report for the legislature and governor by December 31 of each odd-numbered year.

PA 11-155—HB 6635

Judiciary Committee

AN ACT CONCERNING THE COURT SUPPORT SERVICES DIVISION OF THE JUDICIAL BRANCH

SUMMARY: This act modifies the duties of probation officers by:

1. expressly requiring them to supervise and enforce all court-ordered probation conditions;
2. extending their supervisory authority to offenders arraigned without a warrant for probation or conditions of release violations;
3. consistent with current practice, relieving them of responsibilities for collecting and disbursing money;
4. limiting their involvement with arrested juveniles; and
5. allowing them to transport probationers to the nearest location where a police officer can make an arrest.

EFFECTIVE DATE: July 1, 2011

ARRAIGNMENTS FOLLOWING WARRANTLESS ARRESTS

The act gives probation officers the same responsibilities for probationers arraigned without a warrant for a probation or condition of release violation as they currently have for probationers charged with the same violations who come before the court on a notice

to appear or an arrest warrant. With respect to the new group, the charged violations result in:

1. an interruption in sentence until the court makes a final decision on the charges,
2. continued probation supervision and a requirement that they continue to comply with the conditions of release that were in place immediately before arraignment, and
3. a requirement that the Judicial Branch's Court Support Services Division make reasonable efforts to inform them of their conditions of release.

LIMITING INVOLVEMENT WITH ARRESTED JUVENILES

Under the act, courts no longer can commit to a probation officer a juvenile who is:

1. committed to a community correction facility and in default on bail or
2. arrested, while his or her case is being investigated.

It removes the related requirement that the police notify probation officers of juvenile arrests as soon as practicable.

TRANSPORTING SUSPECTS

By law, probation officers may detain an offender they believe (1) has violated a probation condition or (2) is the subject of unexecuted state or federal arrest warrants. The detention can last for a reasonable time while the probation officer waits for a police officer to arrive at the scene to make the arrest. When the police cannot arrive within a reasonable time, the act allows the probation officer to transport the probationer to the nearest location where a police officer can make the arrest.

BACKGROUND

Probation and Conditional Discharge

A court may order an offender, other than one convicted of a serious felony or certain motor vehicle violations, to a period of probation when it finds:

1. present or extended institutional confinement is unnecessary;
2. the offender is in need of guidance, training, or assistance which, in the offender's case, can be effectively administered through probation supervision; and
3. granting probation is not inconsistent with the ends of justice.

A court may impose a term of conditional discharge on an offender convicted of an offense described above if:

1. present or extended institutional confinement is not necessary and
2. probation supervision is not required.

In either case, the court may issue conditions of release covering such things as working, attending school, or undergoing treatment. Other statutory conditions also apply.

PA 11-156—HB 6636

Judiciary Committee

Human Services Committee

AN ACT CONCERNING CHILDREN CONVICTED AS DELINQUENT WHO ARE COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF CHILDREN AND FAMILIES

SUMMARY: This act allows some detained juvenile delinquents to qualify for leave and release earlier than they would have otherwise. Under existing Department of Children and Families (DCF) facility rules, juvenile delinquents cannot be granted leave or release unless they have satisfactorily completed a 60-day fitness and security risk evaluation.

The act allows the DCF commissioner to waive this requirement when a delinquent who transferred from one facility to another had already satisfactorily completed the evaluation before the transfer.

The act also eliminates a requirement that DCF prepare a plan to keep delinquents sent to the Connecticut Juvenile Training School (CJTS) housed in that facility for at least one year (CJTS is the state's all-male, high security juvenile detention facility). The plan also had to take a comprehensive approach to juvenile rehabilitation.

EFFECTIVE DATE: October 1, 2011

Related Act

PA 11-157 also eliminates the requirement that DCF keep juveniles at CJTS for at least one year.

PA 11-157—sHB 6638

Judiciary Committee

AN ACT CONCERNING JUVENILE JUSTICE

SUMMARY: This act reduces the Department of Children and Families' (DCF) responsibilities for delinquent children by cutting off services at age 20.

It also:

1. gives uniform definitions to "child," "youth," and "delinquent child" in DCF statutes, thus

- expanding the laws regarding a child to generally cover 16- and 17-year-olds (in some cases excluding emancipated minors);
2. removes crimes related to failure to appear and violations of the conditions of release from the definition of "delinquent child," and related provisions;
3. excludes delinquent acts from the definition of "family violence crimes";
4. adds as serious juvenile offenses (SJO) 1st and 2nd degree strangulation and home invasion, thereby increasing penalties for these offenses;
5. removes 2nd degree hindering prosecution from enumerated SJOs;
6. beginning July 1, 2012, permits 17-year-olds alleged to have committed an offense that is pending on the youthful offender, regular criminal, or any motor vehicle docket on or after that date to have their cases transferred to juvenile court if juvenile programs are available that would more appropriately meet their needs and the youth and community would be better served by the treatment;
7. modifies the standards governing the admissibility of confessions made by 16- and 17-year-olds;
8. eliminates the requirement that DCF plan to keep juveniles sent to the Connecticut Juvenile Training School (CJTS) for at least one year;
9. requires police to notify the superintendent of the district where an arrested student attends school, as an alternative to the district where he or she lives;
10. requires schools to maintain confidentiality about juvenile justice and disciplinary matters that involve students age 16 and 17, not just younger students;
11. mandates that delinquency convictions for evading responsibility with a motor vehicle involving death or serious injury be reported to the Department of Motor Vehicles for the purpose of determining whether administrative sanctions against the child's driver's license are warranted;
12. allows courts to specifically authorize by subsequent court order the further release of confidential records the court has already released to a (a) person with a legitimate interest in the information or (b) crime victim;
13. streamlines the process for CJTS and community detention facilities to get educational records;
14. requires police departments to handle reports of missing 15- to 17-year-olds in the same manner as they handle reports involving younger children and vulnerable adults; and

15. cuts off DCF services for children in families with service needs (status offenders) at age 18.
EFFECTIVE DATE: October 1, 2011, except the provisions involving 17-year-olds in delinquency proceedings are effective July 1, 2012.

§§ 4-8, 13, 16, & 17 — ENDING DCF SERVICES AT AGE 20

By law, courts can commit children to DCF's custody in cases of delinquency and Families with Service Needs (status offenses), and when they have intensive behavioral health needs that could not otherwise be met. Under the act, a DCF commitment ends at the earlier of the date (1) a court orders it to expire or (2) the child reaches age 20. If an existing court order goes beyond that age, it is cut off when the individual reaches age 20. Courts are also prohibited from ordering or continuing orders for DCF services beyond that age.

The act also specifies that DCF transfers to the Department of Correction's (DOC) Manson or Niantic facilities end when the offender's commitment ends, as described above, and the DOC jurisdiction over him or her ends simultaneously.

§ 3 — UNIFORM DEFINITIONS

The act incorporates by reference definitions of "child" and "youth" from the delinquency statutes into the general definitions of those terms. The previous general definition of a child was a person under age 16; under the act it is a person under age 18 who has not been emancipated (legally designated an adult). The definition of youth changes from anyone at least age 16 and younger than 19 to an unemancipated 16- or 17-year-old.

§§ 9-12 — DELINQUENT ACTS

The act removes 1st and 2nd degree violations of conditions of release, criminal violation of a protective order, and criminal violation of a standing criminal protective order from the definitions of "delinquent act" and prohibits a court from convicting a child as a delinquent for committing them. It also specifies that from October 1, 2011 to July 1, 2012, if the child is over age 17 delinquent acts do not include (1) failure to appear at delinquency proceedings, (2) violation of a court order in a delinquency proceeding, or (3) probation violations. It extends the Juvenile Court's jurisdiction over people age 18 or older to cases of failure to appear at any court hearing in a delinquency proceeding of which the person received notice. Under prior law, jurisdiction was limited to failing to appear after being released to his or her own custody. For 16- and 17-year-olds, the act also excludes from

delinquency definitions failure to appear or pay for an infraction or violation subject to the Centralized Infraction Bureau.

Serious Juvenile Offenses

The act adds 1st and 2nd degree strangulation and home invasion to the list of SJOs. It removes from the list 2nd degree hindering prosecution.

By law, SJOs carry an enhanced penalty of up to four years commitment to DCF, with the possibility of an extension. (The commitment period for non-SJOs is up to 18 months with the possibility of an extension.) Also, serious juvenile offenders (1) are prohibited from obtaining gun permits, (2) cannot be released from jail on a promise to appear, (3) are barred from certain court diversion programs, and (4) must keep the juvenile conviction on their record for a longer period than other juvenile offenders.

§ 19 — ADMISSIBILITY OF JUVENILE CONFESSIONS

By law, admissions, confessions, or statements made by a 16-year-old are inadmissible in any related delinquency proceeding unless the (1) police or juvenile court official made reasonable efforts to contact the child's parent or guardian, (2) child was advised that he or she has a right to contact a parent or guardian and have him or her present during the interview, and (3) child was told about his or her *Miranda* rights. Under the act, beginning July 1, 2012, these rules do not apply to admissions, confessions, or statements a 16- or 17-year-old makes to a police officer in connection with a case transferred to the juvenile docket from the youthful offender, regular criminal, or any motor vehicle docket, thus making them admissible in a court proceeding.

The act also makes the same exception for such confessions from the "totality of circumstances" test that ordinarily governs the admissibility of confessions in court proceedings.

§ 20 — DISCLOSURE OF EDUCATIONAL RECORDS TO JUVENILE DETENTION FACILITIES

When a student is being held at CJTS or in a community detention facility, the act requires the local or regional board of education of the town where the student is enrolled, in compliance with federal regulations, to provide the student's educational records to the facility on request and without the parent's written permission. If the records are supplied without parental permission, the school must notify the parent or guardian at the time it releases the records. These records may not be further disclosed without a court order or the written consent of the student's parent or guardian.

The facility can use the records only to provide the detainee with educational services.

BACKGROUND

Totality of Circumstances Test

Under the totality of circumstances test for the admissibility of juvenile confessions, the court considers the child's:

1. age, experience, education, background, and intelligence;
2. capacity to understand advice concerning rights and required warnings;
3. opportunity to speak with a parent, guardian, or some other suitable person before or while making the admission, confession, or statement; and
4. circumstances while making the confession, including (a) when or where the confession was made, (b) the reasonableness of the proceeding, or the need to proceed, without a parent or guardian present, and (c) the reasonableness of efforts by the police or court to attempt to contact a parent or guardian.

Related Act

PA 11-156 also eliminates the requirement that DCF keep juveniles in CJTS for at least one year.

PA 11-158—sHB 6639

Judiciary Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING ELIGIBILITY FOR THE ACCELERATED REHABILITATION PROGRAM

SUMMARY: This act (1) removes the bar on participation in the pretrial accelerated rehabilitation (AR) program for someone adjudged a youthful offender in the past five years and (2) eliminates the court's access to the youthful offender records of someone adjudged a youthful offender more than five years ago, which prior law allowed the court to consider in determining whether to grant participation in AR.

By law and the act, a person must meet the other AR eligibility requirements. Someone is eligible for AR if he or she is charged with certain nonserious crimes or motor vehicle violations, has no prior convictions of a crime or certain motor vehicle violations, and has not used AR before. The court may allow an eligible defendant to participate if it believes the defendant will probably not offend in the future.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

AR

AR participants waive their right to a speedy trial and agree to a tolling of the statute of limitations. The court places them under the supervision of the Court Support Services Division for up to two years under conditions it orders. If the defendant successfully completes the program, the court dismisses the charges and the record is erased. If the defendant violates a condition of the program, he or she is brought to trial on the original charges.

PA 11-159—HB 6642

Judiciary Committee

AN ACT CONCERNING THE RECOMMENDATIONS OF THE NATIONAL PRISON RAPE ELIMINATION COMMISSION

SUMMARY: Within available appropriations, this act requires state and municipal agencies that incarcerate or detain adult offenders, including immigration detainees, to adopt and comply with the applicable standards recommended by the National Prison Rape Elimination Commission for preventing, detecting, monitoring, and responding to sexual abuse. The agencies covered are prisons, jails, community correction facilities, and lockups.

EFFECTIVE DATE: October 1, 2012

STANDARDS

At a minimum, the act requires the agencies to adopt and comply with the commission's standards on:

1. zero tolerance of sexual abuse and notifying detainees, attorneys, contractors, and inmate workers of this policy;
2. contracting with other entities for the confinement of inmates or detainees;
3. supervising inmates or detainees and assessing and using monitoring technology;
4. heightened protection for vulnerable detainees;
5. limiting cross-gender viewing and searches;
6. accommodating inmates or detainees with special needs;
7. hiring and promotion decisions;
8. adopting evidence protocols and requiring forensic medical examinations;
9. reaching agreements with outside public entities, community service providers, outside law enforcement agencies, and prosecutors;
10. training employees, volunteers, and contractors;

11. educating inmates;
12. specialized training on investigations and medical and mental health care;
13. screening for risk of victimization and abusiveness, screening medical and mental health for the history of sexual abuse, and using screening information;
14. establishing reporting procedures for inmates, detainees, and third parties;
15. exhausting administrative remedies;
16. giving inmates access to outside confidential support services or legal representation;
17. establishing reporting duties of staff and facility or agency heads and requiring reporting to other facilities;
18. establishing first responder duties;
19. coordinating responses;
20. protecting inmates and other detainees from retaliation;
21. establishing the duty to investigate incidents, providing for criminal and administrative investigation, and setting the evidence standard for administrative investigations;
22. establishing disciplinary sanctions for staff and inmates;
23. referring detainee-on-detainee sexual abuse for prosecution;
24. providing access to emergency medical and mental health services and ongoing medical and mental health care for sexual abuse victims and abusers;
25. reviewing sexual abuse incidents;
26. collecting and reviewing data for corrective action and providing for data storage, publication, and destruction; and
27. auditing the standards.

BACKGROUND

National Prison Rape Elimination Commission

Congress created this commission to study the causes and consequences of sexual abuse in prison and develop standards to eliminate prison rape. The commission submitted its report in June 2009. The report included detailed standards to reduce sexual abuse of offenders in adult prisons and jails, juvenile detention facilities, facilities housing immigration detainees, lock-ups, and community corrections facilities.

PA 11-174—SB 954

Judiciary Committee

Appropriations Committee

AN ACT CONCERNING THE ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS

SUMMARY: Under this act, a statement made by a person investigated for or accused of a capital felony or class A or B felony during a custodial interrogation at a place of detention is presumed inadmissible as evidence against him or her in a criminal proceeding unless:

1. there is an audiovisual recording of the custodial interrogation made by an electronic or digital audiovisual device and
2. the recording is substantially accurate and not intentionally altered.

The act's presumption can be overcome under certain circumstances and the act allows a statement to be admitted for impeachment purposes only (to question the credibility of a person's testimony). The act includes a number of exceptions to the recording requirement.

By January 1, 2012, the act requires the chief state's attorney, with the Police Officer Standards and Training Council and a Connecticut Police Chiefs Association representative, to set standards for recording equipment, including transcriptions, and for training law enforcement officials in using the equipment.

EFFECTIVE DATE: January 1, 2014, except the provision on setting standards is effective upon passage.

CUSTODIAL INTERROGATIONS AT A PLACE OF DETENTION

The act applies to oral, written, and sign language statements made as a result of a custodial interrogation at a place of detention. "Custodial interrogation" occurs when a:

1. person has been formally arrested or his or her freedom of movement is restrained as with a formal arrest and a reasonable person would believe he or she is not free to leave based on the circumstance and
2. law enforcement official initiates questioning or uses words or actions, other than those usually used during arrest and custody, that the official should know are reasonably likely to elicit an incriminating response from the person.

A "place of detention" is a police station or barracks, courthouse, correctional facility, community correctional center, or detention facility.

Under the act, if the court finds by a preponderance of the evidence that a person's custodial interrogation was not recorded or the recording was intentionally altered, any statement made during or following the non-recorded custodial interrogation, even if otherwise complying with the act, is presumed inadmissible in any criminal proceeding against the person.

The act's presumptions can be overcome if a preponderance of the evidence shows that the statement (1) was voluntarily given and (2) is reliable based on the totality of the circumstances.

EXCEPTIONS

The act does not prevent admission of a statement made:

1. in open court at trial or a preliminary hearing;
2. during a custodial interrogation when recording was not feasible;
3. voluntarily, whether or not the result of a custodial interrogation, that has a bearing on the person's credibility as a witness;
4. spontaneously and not in response to a question;
5. after routine questioning while processing the arrest;
6. by a person who requests, before making the statement, to answer questions only without a recording and there is a recording of the person agreeing to respond only if there is no recording; or
7. during a custodial interrogation outside Connecticut.

The act also does not prevent admission of statements that may be admissible under the law.

The act requires the state to prove by a preponderance of the evidence that one of these exceptions applies.

PRESERVING RECORDINGS AND CONFIDENTIALITY

The act requires preserving electronic recordings until the person's conviction of any offense related to the statement is final and direct and habeas corpus appeals are exhausted or the prosecution is legally barred.

The act makes an electronic recording by law enforcement of a person's custodial interrogation confidential and exempt from disclosure under the Freedom of Information Act. It prohibits transmitting the information to anyone except as needed to comply with the act.

PA 11-200—HB 6341

Judiciary Committee

AN ACT CONCERNING THE STATUTE OF REPOSE FOR ASBESTOS-RELATED PRODUCT LIABILITY CLAIMS

SUMMARY: This act increases, from 60 to 80 years after a person's last contact with or exposure to asbestos, the period during which the person can bring a lawsuit for personal injury or death caused by such contact or exposure. The period for lawsuits relating to asbestos-related property damage remains at 30 years after the last contact or exposure.

By law, anyone bringing an asbestos-related product liability lawsuit (whether for personal injuries or property damage) must file it within three years of the date the injury or damage was first sustained or discovered, or should have been discovered in exercising reasonable care.

EFFECTIVE DATE: Upon passage, and applicable to any cause of action arising from contact with or exposure to asbestos occurring before, on, or after passage.

PA 11-205—HB 6474

Judiciary Committee

AN ACT CONCERNING THE RESOLUTION OF LIENS IN WORKERS' COMPENSATION CASES

SUMMARY: This act reduces an employer's claim for reimbursement of workers' compensation benefits paid to an employee when the employee sues someone who is liable for the injury and the employer does not join the suit. But the reduction does not apply if reimbursement is to the (1) state or a political subdivision, including a local public agency, as the employer or (2) Second Injury Fund administrator.

By law, the employee or employer or Second Injury Fund administrator paying benefits can bring such a lawsuit. The individual bringing the suit must immediately notify the others in writing and the others can join the suit. Under prior law, if the others did not join the suit within 30 days, their right of action against the party in question abates. The act provides that the right of action does not abate if the employer, insurer, or administrator fails to join the lawsuit but gives written notice of a lien. By law, an employer, its insurance carrier, or the Second Injury Fund paying benefits to an injured employee has a lien on any judgment or settlement the employee receives if they provide notice of the lien before judgment or settlement.

EFFECTIVE DATE: July 1, 2011

EMPLOYER'S REDUCED CLAIM

By law, an injured employee eligible for workers' compensation benefits can sue someone who is liable for damages for the injury, except for an employer who complies with the workers' compensation law or another employee. An employer who has paid or is obligated to pay workers' compensation benefits to the employee can also sue or join an employee's lawsuit in order to be reimbursed for benefits paid.

By law, if the employer and employee are both plaintiffs and recover damages, these are apportioned so that the employer's claim takes precedence, after deductions for reasonable and necessary expenses, including attorneys' fees incurred by the employee. Under the act, if the employee brings the action, the employer's claim is reduced by one-third of the amount to be reimbursed to the employer unless the parties agree otherwise. The reduction amount is solely for the employee's benefit. But the reduction does not apply if reimbursement is to the (1) state or a political subdivision, including a local public agency, as the employer or (2) Second Injury Fund administrator.

BACKGROUND

Second Injury Fund

This fund provides workers' compensation insurance coverage to workers whose employers failed to provide it. By law, the fund's administrator can also sue or join an employee's lawsuit.

PA 11-206—HB 6488

Judiciary Committee

**AN ACT CONCERNING THE FORM OF
CONVEYANCE OF LAND**

SUMMARY: This act allows execution of the deed in a real estate conveyance if the signer's acknowledgment is made in conformance with the Uniform Acknowledgment Act (Chapter 6 of the Connecticut General Statutes) or the Uniform Recognition of Acknowledgments Act (Chapter 8). It provides these alternatives to the requirement in existing law that the signer acknowledge that the execution of the deed is his or her "free act and deed."

EFFECTIVE DATE: October 1, 2011

EXPANDED ACKNOWLEDGMENTS

The act's alternative acknowledgments require executing an instrument:

1. "for the purposes therein contained" (CGS § 1-34) or
2. "for the purposes therein stated" (CGS § 1-61).

PA 11-207—HB 6489

Judiciary Committee

Appropriations Committee

**AN ACT REQUIRING DNA TESTING OF
PERSONS ARRESTED FOR THE COMMISSION
OF A SERIOUS FELONY**

SUMMARY: Beginning October 1, 2011, this act requires people arrested for any of 39 serious felony offenses to provide a DNA sample before they are released from custody if the arrestee was previously convicted of a felony and has not already provided a DNA sample. The law enforcement agency that makes the arrest sets the time and place for collecting, and collects, the sample if it has the resources to do so. The Department of Public Safety's (DPS) Division of Scientific Services must analyze the samples as available resources allow.

The act eliminates the requirement for (1) convicted felons and (2) offenders convicted or found not guilty by reason of mental disease or defect of sex offenses that generally require registration with DPS to provide a sample before they are released from custody or commitment or are sentenced without confinement, as applicable, if they provided a sample at the time of their arrest.

The act expands the circumstances under which the Division of Scientific Services must expunge a DNA profile from the DNA data bank and the State Police forensic laboratory must purge all record of it. It eliminates the requirement for offenders to request the expungement or purging.

Lastly, the act makes technical changes.

EFFECTIVE DATE: October 1, 2011

PROVIDING DNA SAMPLES

Upon Arrest

The act requires people arrested for selected felony offenses to provide a DNA sample before they are released from custody if the arrestee was previously convicted of any felony and has not previously provided a sample. Table 1 lists these felonies.

Table 1: Felonies Requiring DNA Testing Upon Arrest under the Act

Murder	Capital Felony	Felony Murder	Arson Murder
First- and Second-Degree Manslaughter	First- and Second-Degree Manslaughter with a Firearm	Second-Degree Manslaughter with a Motor Vehicle	Misconduct with a Motor Vehicle
First- and Second-Degree Assault	First- and Second-Degree Assault of Elderly, Disabled, or Pregnant Person	Second-Degree Assault with a Firearm	Second-Degree Assault of Elderly, Disabled, or Pregnant Person with a Firearm
First-Degree Sexual Assault	Aggravated First-Degree Sexual Assault	Spousal Rape	Third-Degree Sexual Assault with a Firearm
First- and Second-Degree Kidnapping	First- and Second-Degree Kidnapping with a Firearm	First-Degree Unlawful Restraint	Home Invasion
First- and Second-Degree Burglary	Second- and Third-Degree Burglary with a Firearm	First- and Second-Degree Arson	First-, Second-, and Third-Degree Robbery
Assault of Public Safety, Emergency Medical, or Public Transit Personnel	Prison Rioting	Inciting Prison Rioting	First-Degree Stalking

After Sentencing

Under prior law, convicted felons, convicted sex offenders required to register with DPS, and offenders found not guilty of such sex offenses by reason of mental disease or defect had to provide a DNA sample before they were released from prison or confinement or sentenced if their sentence did not include incarceration, as applicable. The act limits this requirement to those offenders who did not provide a sample at the time of their arrest.

By law, offenders convicted of a criminal offense against a minor, nonviolent sexual offense, or sexually violent offense must register as a sex offender with DPS.

DESTROYING DNA SAMPLES

The act expands the circumstances under which the Division of Scientific Services must expunge a DNA profile from the DNA data bank and requires the division to complete the expungement when the circumstances are present, rather than upon the offender's request. If a court (1) reverses the criminal conviction or finding of not guilty by reason of mental disease or defect that constituted grounds for collecting the sample or (2) acquits an arrestee who has submitted a sample, the act requires the division to expunge its records.

Likewise, the act requires the State Police Forensic Laboratory to purge all records and identifiable

information and destroy all samples submitted and included in its data bank upon receipt of a certified copy of a court order acquitting an accused of the charge against him or her or dismissing or nolling the charge that formed the basis for inclusion in the data bank. By law, the laboratory must purge records upon receipt of a certified copy of a court order reversing and dismissing the conviction or commitment.

BACKGROUND

Related Act

PA 11-144 (1) allows the Department of Correction commissioner to use reasonable force to collect DNA samples, (2) requires people who must provide a sample to submit a second sample if the first one is not of sufficient quality, and (3) amends the law on disseminating information from the DNA data bank.

PA 11-210—HB 6554

Judiciary Committee

AN ACT CONCERNING EMERGENCY MEDICAL ASSISTANCE FOR PERSONS EXPERIENCING AN OVERDOSE AND THE DESIGNATION OF CERTAIN SYNTHETIC STIMULANTS AS CONTROLLED SUBSTANCES

SUMMARY: This act generally prohibits prosecuting a person for possessing drugs or drug paraphernalia based solely on discovery of evidence arising from efforts to seek medical assistance for a drug overdose. It applies to incidents involving someone who is reasonably believed to be suffering a drug overdose by ingesting, inhaling, or injecting an intoxicating liquor or any drug or substance. The act does not bar prosecution for possession with intent to sell or dispense.

Specifically, it prohibits prosecuting someone who seeks or receives medical assistance in good faith under the following scenarios:

1. when a person seeks assistance for someone else based on a reasonable belief that the person needs medical attention,
2. when a person seeks medical attention based on a reasonable belief that he or she is experiencing an overdose, or
3. when another person reasonably believes that he or she needs medical attention.

“Good faith” does not include seeking medical assistance while law enforcement officers are executing an arrest or search warrant or conducting a lawful search.

The act also requires the commissioner of consumer protection to designate mephedrone and MDPV (commonly known as “bath salts” and marketed under various brand names), as controlled substances in schedule I of the state Controlled Substances Act’s regulations. In doing so, it subjects these drugs, which were not regulated under prior law, to all of the laws governing controlled substances.

EFFECTIVE DATE: October 1, 2011, except the provision making the two drugs schedule I controlled substances is effective on July 1, 2011.

POSSESSION PENALTIES

Drugs

Penalties for drug possession vary considerably depending on the type of drug and quantity involved. They range from imprisonment for up to one year, a fine of up to \$1,000, or both to imprisonment for up to 25 years, a fine of up to \$250,000, or both.

Drug Paraphernalia

Penalties for possession of drug paraphernalia vary depending on whether the paraphernalia is for personal use or sale. They range from imprisonment for up to three months, a fine of up to \$500, or both, to imprisonment for up to one year, a fine of up to \$2,000, or both.

BACKGROUND

Schedule I Controlled Substances

Schedule I drugs are those that have been determined to (1) have a high potential for abuse, (2) have no currently accepted medical use in treatment in the United States, and (3) be unsafe for use under medical supervision.

PA 11-211—sHB 6557

Judiciary Committee

AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS

SUMMARY: This act limits the liability of municipalities, other political subdivisions of the state, municipal corporations, special districts, and water or sewer districts that make certain types of land available to the public without charge for recreational purposes. Under the act, these entities, unlike other landowners, remain liable regarding certain structures, fields, or roads on such entities’ land. Specifically, the act’s liability limitation does not apply to:

1. swimming pools, playing fields or courts, playgrounds, buildings with electrical service, or machinery attached to the land, if these are in the municipality’s or other entity’s possession and control; and
2. paved, public, through roads that are open to the public for the operation of four-wheeled private passenger cars.

Existing law, unchanged by the act, limits the liability of political subdivisions of the state in other circumstances (see BACKGROUND).

For all landowners (not just municipalities and the other entities listed above), the act adds bicycling to the non-exclusive list of recreational purposes for which the landowner may make the land available to the public and enjoy limited liability.

EFFECTIVE DATE: October 1, 2011

LANDOWNER RECREATIONAL LAND IMMUNITY

By law, a landowner who makes land available to the public for recreational purposes without charging admission owes no duty of care to (1) keep the land safe for recreational purposes or (2) give any warning of a dangerous condition, use, structure, or activity on the land to those entering for recreational purposes. Additionally, the law provides that such landowners do not thereby (1) make any representation that the land is safe for any purpose, (2) confer on the person using the land a legal status entitling the person to a duty of care by the owner, or (3) assume responsibility or incur liability for any injury to a person or property that is caused by the landowner’s act or omission.

This statutory immunity from liability does not apply to (1) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or (2) injuries suffered in any case where the landowner charges people who use the land for recreational purposes.

For purposes of these liability protections, “owner” includes possessors of a fee interest, tenants, lessees, occupants, or persons in control of the premises. “Charge” means the admission price or fee asked in return for an invitation or permission to use the land.

BACKGROUND

Related Case

In *Conway v. Wilton*, 238 Conn. 653 (1996), the Connecticut Supreme Court ruled that municipalities were not “owners” under the Recreational Land Use Act (the statute that this act amends) and were therefore not entitled to immunity from liability for injuries sustained on land they make available to the public without charge for recreational purposes.

Liability of Political Subdivisions

Except as otherwise provided by law, political subdivisions of the state are liable for damages to people or property caused by: (1) the negligent acts or omissions of the political subdivision or its employees, officers, or agents acting within the scope of their employment or official duties; (2) negligence in performing functions that give the political subdivision profit or pecuniary benefit; and (3) the political subdivision's acts that create or help create a nuisance. But, no cause of action can be maintained for damages resulting from injury to any person or property from a defective road or bridge except as provided by law.

Except as otherwise provided by law, political subdivisions are not liable for damages caused by (1) acts or omissions of any employee, officer, or agent that constitute criminal conduct, fraud, actual malice, or willful misconduct or (2) negligent acts or omissions requiring the exercise of judgment or discretion as an official function of the authority expressly or impliedly granted by law.

In addition, a political subdivision and its employees, officers, and agents acting within the scope of employment or official duties are not liable for damages resulting from:

1. the condition of natural land or unimproved property;
2. the condition of a reservoir, dam, canal, conduit, drain, or similar structures when used in a way that is not reasonably foreseeable;
3. the temporary condition of a road or bridge that results from weather, if the political subdivision has not received notice and has not had a reasonable opportunity to make the condition safe;
4. the condition of an unpaved road, trail, or footpath that provides access to a recreational or scenic area, if the political subdivision has not received notice and has not had a reasonable opportunity to make the condition safe;
5. the initiation of a judicial or administrative proceeding, unless it was filed or prosecuted without probable cause or with a malicious intent to vex or trouble;
6. the act or omission of someone other than the political subdivision's employees, officers, or agents;
7. the issuance, denial, suspension, or revocation of (or failure or refusal to take any such action on) any permit or similar authorization when the authority is a discretionary function by law, unless the action constitutes a reckless disregard for health or safety;

8. failure to make an inspection or making an inadequate or negligent inspection of any property, other than property owned by, leased by, or leased to the political subdivision, to determine whether it complies with or violates any law or contains a hazard to health or safety, unless (a) the political subdivision had notice of such a violation or hazard or (b) the failure to inspect or the inadequate or negligent inspection constitutes a reckless disregard for health or safety under all the relevant circumstances;
9. failure to detect or prevent environmental pollution by other people or entities; or
10. conditions on land the state sold or transferred to the political subdivision when such conditions existed at the time of sale or transfer (CGS § 52-557n).

Related Acts

PA 11-141 (§ 19) extends the liability protection for landowners who make land available to the public without charge for recreational purposes to additional classes of owners, including towns and others. PA 11-61 (§ 139) repeals § 19 of PA 11-141.

PA 11-214—sHB 6591

Judiciary Committee

Human Services Committee

AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO THE CHILD SUPPORT STATUTES

SUMMARY: The law requires parents to support their children. Wage withholding orders, authorizing employers to deduct established child support obligations from paychecks, are the most common way of pursuing support for parties separated or divorced or who never married the child's other parent.

The act:

1. recognizes the validity of support orders issued by another state's administrative agency of competent jurisdiction, conforming law to practice;
2. increases the methods for enforcing interstate child support obligations by extending interstate rules and procedures to enforcement actions involving wage withholding to rules that already apply under some provisions of the Uniform Interstate Family Support Act (UIFSA);

3. requires court rules governing family support magistrates (FSM) to include procedures for interstate wage withholding;
4. directs the attorney general to provide legal resources to litigate out-of-state wage withholding matters, conforming law to practice;
5. authorizes the Judicial Branch's Support Enforcement Services Division (SES) to supervise child and spousal support collections, including wage withholding orders, in interstate cases;
6. authorizes SES to initiate interstate wage withholding administratively rather than by court order;
7. authorizes alternative methods of serving legal process to initiate wage withholding when standard methods fail;
8. specifies that, in cases involving out-of-state obligors and in-state registered wage withholding orders, the state must notify obligors that confirmation of the order by a Connecticut tribunal authorizes withholding and precludes any further contest;
9. allows FSMs to modify wage withholding orders unless doing so would violate UIFSA (for example, under that act, FSMs cannot modify a support order issued by another state when doing so conflicts with the law of that state);
10. excepts interstate wage withholding orders from those that a FSM must review for reasonableness;
11. requires motions to modify Medicaid repayment obligations to be filed with the FSM Division of the Superior Court;
12. in most cases, replaces statutory references to "TANF" cases with references to "Temporary Family Assistance (TFA), Medicaid and foster care," which updates the name of the state's cash assistance program and expands the types of assistance covered by the act;
13. adds TFA and Medicaid to foster care in the definition of IV-D cases (the federal-state child support enforcement program);
14. requires the Department of Social Services (DSS) Bureau of Child Support Enforcement to give TFA, Medicaid, and foster care cases the same services for obtaining and enforcing child support orders as those it gives to families that have never been enrolled in these assistance programs;
15. exempts Medicaid, TFA, and foster care recipients from child support enforcement fees and charges;
16. entitles foster care assistance recipients to continue receiving child support enforcement services without reapplying or paying a fee when their assistance ends;
17. requires parents to cooperate with the commissioner of the Department of Children and Families (DCF) in pursuing foster care maintenance payments;
18. retroactive to October 1, 2008, limits the amount DCF can recover for foster care assistance to the total amount the department paid out;
19. permits DSS to file its annual child support enforcement program assessment report electronically; and
20. makes several changes affecting the Commission for Child Support Guidelines and Child Support and Arrearage Guidelines.

It also makes minor and conforming changes and corrects several statutory references.

EFFECTIVE DATE: October 1, 2011

COMMISSION FOR CHILD SUPPORT GUIDELINES

The act makes several unrelated changes to statutes governing the Commission for Child Support Guidelines, which periodically reviews and updates the Child Support Guidelines that are then submitted to the Regulation Review Committee for approval. It allows the Connecticut Bar Association, rather than the governor, to designate its own representative to the commission, and the governor to appoint a legal services member.

It requires the DSS commissioner to convene the commission to review and update the guideline criteria whenever required (this is statutorily required every four years); the act specifies that the commission's actions are valid as long as nine of the 11 commission positions are filled.

The act directs the commission to base the guidelines on the incomes of both parents when calculating current support, health care coverage, child care contributions, and arrearage payment amounts. This "income shares" model has been adopted by regulation in the existing guidelines.

Finally, the act provides that the guidelines, when adopted in regulation, must be considered in all child support determinations, including calculations of current support, health care, and child care amounts. The law requires that the guidelines be considered when setting past-due support and arrearage amounts.

PA 11-219—sSB 1181

Judiciary Committee

Human Services Committee

AN ACT CONCERNING CHILD SUPPORT ENFORCEMENT AND EXPEDITED ESTABLISHMENT OF PATERNITY AND SUPPORT IN TITLE IV-D CASES

SUMMARY: This act makes numerous changes in the statutes governing the Department of Social Services' (DSS) Bureau of Child Support Enforcement (BCSE) and the Judicial Branch's Support Enforcement Services Division (SES). Most are related to child support and support enforcement. The act:

1. requires the DSS commissioner to investigate the financial circumstances of parents applying for or receiving Medicaid on behalf of their children, rather than only Temporary Family Assistance (cash welfare) and foster care applicants and recipients;
2. eliminates a requirement that the financial inquiry be made according to state statute;
3. limits DSS' duty to investigate the finances of parents of children in foster care to those for whom a request is made;
4. eliminates the DSS commissioner's duty to investigate the financial arrangements of those seeking or receiving emergency housing assistance;
5. requires the state to notify obligors (those owing child support) and obligees (those owed child support) when it has redirected child support payments to the state, rather than when it intends to do so;
6. requires DSS to share confidential information with the Department of Correction and state treasurer for limited purposes;
7. permits income withholding orders to be served on state employers electronically if they agree to accept that form of service;
8. modifies the process for obligors to challenge wage withholding orders and eliminates a requirement that they give their employers a copy of the claim form they file to initiate the challenge;
9. eliminates a requirement that court clerks follow in-state procedures for scheduling hearings involving out-of-state wage withholding challenges;
10. substitutes references to SES for references to BCSE in the context of wage withholding challenges;
11. requires SES, not BCSE, to notify only employers who directly received the claim forms challenging wage withholding orders, rather than all affected employers;
12. adds a definition of "issue" for purposes of some wage withholding statutes;
13. allows the DSS commissioner to make wage withholding forms available rather than to distribute them;
14. specifies document-filing requirements for out-of-state parties;
15. modifies family support magistrates' (FSM) authority;
16. gives judicial marshals limited authority to serve a *caus mittimus* (an order to arrest and bring a person before the court) on certain child support obligors and witnesses in child support cases;
17. allows SES officers to take acknowledgments of parties' settlement agreements incident to child support obligations;
18. fixes unwed mothers' obligations to pay past due child support at three years before the support petition or agreement was filed, the same as applicable to unwed fathers; and
19. eliminates a \$50 fee for an amended birth certificate when paternity is established by court order or paternity acknowledgment.

The act also makes minor, conforming, and technical changes.

EFFECTIVE DATE: October 1, 2011

§ 1 — SUPPORT PAYMENT REDIRECTION

Under prior law, BCSE could redirect child support payments after notifying the obligor and obligee of its intent to do so and giving them the opportunity to object. (This circumstance usually arises when the child is not living with the obligee.)

Under the act, when the money is to be redirected to the state (for example, when the family is receiving cash assistance), BCSE need not give advance notice. Instead, the bureau can notify the obligor and obligee after the fact and then give them the opportunity to object. If the objection is sustained, the bureau must issue a refund.

§§ 11, 4, & 17 — INFORMATION SHARING

Department of Correction and Judicial Branch

The act requires DSS to disclose to authorized representatives of the Department of Correction and the Judicial Branch information on incarcerated parents or those on probation or parole who are responsible for making child support payments. Its purpose is to identify those who may benefit from (1) educational training, (2) skill building, (3) work, or (4) rehabilitation programming that will significantly increase their ability to fulfill their support obligations.

The act specifies assistance in (1) child support enforcement and (2) the identification of family violence cases, as other reasons for sharing information with the Judicial Branch.

Paternity Registry Information

With limited exceptions, including BCSE, the Department of Public Health maintains a confidential paternity registry containing paternity acknowledgments and rescissions. The act allows the bureau to disclose registry information for child support purposes to an agency with whom it has a cooperative agreement (e.g., the Judicial Branch and state and local law enforcement agencies).

Releasing Information About Obligors Behind In Child Support Payments

The act permits DSS to release information to the state treasurer when a child support enforcement program obligor is behind in his or her support payments. The shared information must be necessary to allow the treasurer to withhold the amount owed from the amount she would otherwise pay out on an abandoned property claim.

By law, when an obligor is more than \$500 in arrears, BCSE or SES may notify various entities likely to have occasion to distribute money to the obligor. Under the act, those who may receive notice include state or local agency officials authorized to hold the obligor's assets or property, including funds or property that is unclaimed or presumed to be abandoned.

§§ 9 & 13 — WAGE WITHHOLDING

Defining "Issue"

The act adds a definition of "issue" that applies to income withholding orders to support children, spouses, and former spouses. It defines the term as (1) completing an income withholding order form and serving it on the employer or other payer or (2) in the case of an income withholding order served electronically, transmitting electronic data sufficient to implement its withholding to an employer that agreed to receive electronic transmittal of such documents.

The act substitutes "enter" for "issue" in some provisions where the use of the term "issue" is inconsistent with the act's definition.

Distribution of Wage Withholding Claim Forms

The act allows DSS to make wage withholding claim forms available to all employers. Previously, DSS had to distribute them. Employers give the forms to employees for whom they have been served wage

withholding orders. The form gives the employee information about how (1) the procedures work and (2) to contest the withholding.

Under the act, the form must include (1) BCSE's address (for requesting BCSE resources to reduce the amount of support the obligor must pay) and (2) SES' address (to challenge the wage withholding itself). Under prior law, only the BCSE address had to be given.

Challenges by Out-Of-State Parties

Under prior law, when BCSE received claim forms challenging the validity of a wage withholding order issued at the request of another state, it had to notify the interested parties in Connecticut within seven days of receipt and immediately file the income withholding order and claim form. Under the act, it need not file the withholding order but must notify the entity that sent the order to file, at least 10 days before the first scheduled hearing:

1. two copies of the underlying support order (one of which must be certified) along with any modification and
2. (a) a sworn statement showing the amount of any arrearage owed, (b) the last court determination of an arrearage, and (c) an accounting of the arrearage since the last court determination.

§§ 7, 8, & 13 — FAMILY SUPPORT MAGISTRATES

Support Agreements

The act eliminates FSMs' authority to modify support agreements. If the FSM does not approve them, under the act, the sole option is to disapprove.

The act also requires the FSM to indicate on the record the reasons for disapproving a proposed agreement. The court clerk must then (1) schedule a hearing to determine appropriate support amounts and (2) notify all appearing parties of the hearing date.

FSM Hearings Involving an Out-of-State Party

By law, FSMs must hear and decide cases involving challenges to wage withholding orders directed at Connecticut employers but involving an out-of-state party. The act directs the FSM to use existing special rules of evidence and procedure in interstate cases that take into account the fact that the out-of-state party and witnesses may not be physically present at the hearing. The FSM may also speak to counterparts in the originating state to obtain information about their state laws and the legal effect of their court orders. (Under the state's Uniform Interstate Family Support Act, magistrates must apply the law of the originating state

to some procedural and substantive issues.)

Under the act, if the out-of-state child support enforcement agency, court, or other entity fails to supply required documentation or to respond to reasonable requests for documents, the FSM may:

1. extend the hearing for 45 days,
2. order a temporary or partial stay of income withholding for the same period, or
3. sustain the obligor's objection and enjoin the employer from complying with the wage withholding order.

§§ 12, 14, 15, & 18 — JUDICIAL MARSHALS

The act gives a judicial marshal limited authority to serve a *caus mittimus* on anyone already in his or her custody or physically present in the courthouse where the marshal provides security. This authority is restricted to FSM orders to serve a *caus* naming a child support obligor who has been found to be in contempt of court or an obligor or witness who failed to appear at a court hearing of which he or she had notice.

BACKGROUND

Family Support Magistrates

FSMs are appointed by the governor for three-year terms to hear cases involving paternity and child and spousal support. They are quasi-judicial officers, not judges, but perform some judicial functions. Their jurisdiction extends to child support cases that include both welfare recipients and those who have applied for state help collecting child support.

PA 11-252—sHB 6344

Judiciary Committee

Government Administration and Elections Committee

Public Safety and Security Committee

AN ACT CONCERNING EYEWITNESS IDENTIFICATION

SUMMARY: By January 1, 2012, this act requires the Department of Public Safety and municipal police departments to adopt procedures for photo and live lineups that meet certain requirements. These requirements cover who can be included in a lineup, how it is conducted, what information is shared with an eyewitness, and creating a written record at the end of the lineup procedure.

The act also creates a 19-member Eyewitness Identification Task Force to study eyewitness identification in criminal investigations and the use of sequential live and photo lineups. It must examine:

1. the science of conducting sequential lineups,
2. use of sequential lineups in other states,
3. the practical implications of state law requiring sequential lineups, and
4. other related topics deemed appropriate.

The task force must report its findings and recommendations to the Judiciary Committee by April 1, 2012. It can solicit and accept gifts, donations, grants, or funds from public or private sources to help perform its duties.

EFFECTIVE DATE: Upon passage for the task force and October 1, 2011 for the lineup requirements.

LINEUP REQUIREMENTS

Under the act, a “photo lineup” is a procedure showing an array of photographs to an eyewitness to determine whether the eyewitness can identify the suspect as the perpetrator. The lineup includes a photo of the suspect and photos of non-suspects. A “live lineup” is a procedure with a group of people displayed to an eyewitness to determine whether the eyewitness can identify the suspect as the perpetrator. The lineup includes the suspect and non-suspects.

The act requires the procedures for photo and live lineups to comply with the following.

1. When practicable, the person conducting the identification procedure must be someone who is not aware which person in the lineup is the suspect.
2. The eyewitness must be instructed before the procedure that (a) the perpetrator may not be in the lineup, (b) the eyewitness should not feel compelled to make an identification, and (c) the eyewitness should take as much time as needed to decide.
3. The fillers (non-suspects) in the lineup must generally fit the suspect's description and, in a photo lineup, the photo of the suspect must resemble his or her appearance at the time of the offense and not unduly stand out.
4. If the eyewitness has already viewed a lineup to identify another suspect, the fillers in the lineup in which the suspect participates or in which the suspect's photo is included must be different from the fillers in prior lineups.
5. In addition to the suspect, there must be at least five fillers in a photo lineup and four in a live lineup.
6. In a photo lineup, there cannot be any writings or information about a suspect's previous arrests visible to the eyewitness.
7. In a live lineup, any actions such as speaking, gestures, or movements must be performed by all participants.

8. In a live lineup, all participants must be out of the eyewitness' view at the start of the procedure.
9. The suspect must be the only suspect in the procedure.
10. Nothing can be said about the suspect's position in the lineup.
11. Nothing can be said that might influence the eyewitness' selection of the suspect.
12. If the eyewitness identifies someone, he or she must not be given any information about that person before the eyewitness states that he or she is certain of the selection.
13. There must be a written record of the procedure, including (a) all results from the procedure signed by the eyewitness with his or her own words about how certain he or she is of the selection; (b) the names of everyone present; (c) its date and time; (d) the photos in a photo lineup, identifying information on all people in the photos, and the sources of the photos used; and (e) in a live lineup, identifying information on everyone who participated in the lineup.

TASK FORCE MEMBERS

The task force consists of the following 19 members:

1. Judiciary Committee chairpersons and ranking members,
2. chief state's attorney,
3. chief public defender,
4. victim advocate,
5. active or retired judge appointed by the Superior Court chief justice,
6. municipal police chief appointed by the Connecticut Police Chiefs Association president,
7. Police Officers Standards and Training Council representative,
8. State Police Training School representative appointed by the public safety commissioner,
9. criminal defense attorney appointed by the Connecticut Criminal Defense Lawyers Association president,
10. Innocence Project representative, and
11. one member of the public appointed by each of the six top legislative leaders. (Appointments must include a dean from a Connecticut law school and a social scientist.)

PA 11-12—HB 6176

Labor and Public Employees Committee

AN ACT CONCERNING INCREASING PENALTIES FOR REPEAT VIOLATORS OF THE PERSONNEL FILES ACT

SUMMARY: This act increases the fine for violating the Personnel Files Act from \$300 to \$500 for a first violation and to \$1,000 for any subsequent violations related to the same employee. Upon a complaint from the labor commissioner, the attorney general must initiate a lawsuit in civil court to recover these penalties.

The Personnel Files Act (1) requires employers to provide an employee with access to his or her personnel file and medical records and (2) prohibits employers from disclosing the file or records without the employee’s consent.

EFFECTIVE DATE: October 1, 2011

PA 11-33—sHB 5174

*Labor and Public Employees Committee
Government Administration and Elections Committee*

AN ACT CONCERNING STATE EMPLOYEES AND TRAINING TO DEAL WITH WORKPLACE VIOLENCE

SUMMARY: By January 1, 2012, this act requires the Department of Administrative Services (DAS) commissioner to develop an employee training program on workplace violence awareness, prevention, and preparedness. It requires full-time state employees hired after January 1, 2012, as a condition of employment, to attend the training within six months of being hired. Full-time employees hired before January 1, 2012 must attend the training, but the act creates no deadline for them to do so.

The act eliminates the requirement that the DAS commissioner, in consultation with the mental health and addiction services and public safety commissioners, include workplace violence awareness and preparedness in an annual training program for state employees, thus limiting the subjects covered in this program to workplace stress awareness and prevention.

EFFECTIVE DATE: October 1, 2011

PA 11-35—HB 5468

Labor and Public Employees Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL CORRECTIONS TO LABOR STATUTES

SUMMARY: This act makes technical changes to the labor statutes.

EFFECTIVE DATE: Upon passage

PA 11-36—HB 6096

Labor and Public Employees Committee

AN ACT PRESERVING GOOD CAUSE FOR LATE FILING OF CERTAIN UNEMPLOYMENT COMPENSATION APPEALS

SUMMARY: The law allows 21 days for unemployment compensation claimants to appeal a determination that they (1) received more benefits than they were entitled to, (2) received benefits through fraud, or (3) made a false claim for benefits. This act extends the appeal deadline in such cases if the claimant (1) can show good cause for the delay in appealing or (2) has an appeal filed by mail postmarked prior to the deadline. Appeals postmarked by private postage meters do not qualify for the extension.

Under the act, good cause exists for filing delays when a reasonably prudent individual under the same or similar circumstances would have been prevented from filing a timely appeal. The factors used in determining good cause include:

1. whether the claimant was represented;
2. the claimant’s familiarity with the appeals procedures;
3. administrative error or the failure of another party to discharge its responsibilities;
4. factors outside the claimant’s control that prevented a timely action; and
5. whether the claimant acted diligently in filing the appeal once the reason for the late filing no longer existed.

The act also continues the practice of extending a filing deadline to the next business day if it otherwise falls on a day that the Employment Security Division is closed.

EFFECTIVE DATE: October 1, 2011

PA 11-52—SB 913

*Labor and Public Employees Committee
Judiciary Committee
Appropriations Committee*

AN ACT MANDATING EMPLOYERS PROVIDE PAID SICK LEAVE TO EMPLOYEES

SUMMARY: This act requires most employers of 50 or more people in the state to provide certain employees with paid sick leave accruing at a rate of one hour per 40 hours worked. It provides paid sick leave to service workers who work one of 68 federal Standard Occupational Classification System titles named in the act and are paid by the hour.

The earliest service workers can begin accruing sick leave is January 1, 2012. Before they can begin using accrued sick leave they must: (1) have worked for the employer for at least 680 hours and (2) have worked an average of at least 10 hours a week for the employer in the most recently completed calendar quarter.

Under the act, the leave can be used for the service worker's illness, injury, and related treatment or for the service worker's child or spouse. The leave time can also be used for reasons related to family violence or sexual assault. Employers that offer other types of paid leave that can be used for the same purposes and accrues at least as quickly are deemed to comply.

The act does not require manufacturers and certain tax-exempt organizations to provide paid sick leave. Also, it does not require covered employers to provide paid sick leave to day or temporary workers or non-hourly employees such as salaried professionals.

Anyone aggrieved by an alleged violation of the act may file a complaint with the labor commissioner. The commissioner can impose a civil penalty of up to \$100 on employers found in violation. The act bans employers from retaliating or discriminating against employees who request or use the leave the act provides or that the employer voluntarily provides. The labor commissioner can impose a fine of up to \$500 on employers found in violation of the retaliation ban. The commissioner can also order other appropriate relief such as rehiring or payment of back wages. Parties can appeal the commissioner's decision to Superior Court.

The act requires employers to provide service workers with notice of the rights and protections it provides and allows the labor commissioner to develop regulations for additional notice requirements.

The act also specifies that it does not preempt the terms of any union contract in effect before January 1, 2012, or diminish any right provided to any employee under a union contract.

EFFECTIVE DATE: January 1, 2012

§ 1 — DEFINITIONS

Employer

The act defines “employer” as any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, or other entity, including the state and its municipalities, that employs 50 or more individuals in Connecticut in any quarter in the previous year, which must be determined annually on January 1. The 50-person threshold is satisfied if the employer employs that many Connecticut workers regardless of how many of them are service workers entitled to sick leave under the new law.

The employee count must be made based upon the quarterly wage reports that employers must, by law, submit to the commissioner (CGS § 31-225a (j)).

“Employer” does not include (1) any manufacturing business as classified in sectors 31, 32, and 33 of the North American Industrial Classification System (NAICS) or (2) any nationally chartered, nonprofit, tax-exempt organization that provides recreation, child care, and education services. The NAICS codes cover all forms of manufacturing including the following products: food, textiles, wood, petroleum, chemical, plastics, metal, machinery, motor vehicles, aerospace, computer, electronic, and miscellaneous products.

Service Worker and Employee

In the act, “service worker” means an employee primarily engaged in an occupation with one of the following occupation code numbers and titles, as defined by the federal Bureau of Labor Statistics Standard Occupational Classification system or any successor system:

<i>Title</i>	<i>Code</i>	<i>Title</i>	<i>Code</i>
Food Service Managers	11-9050	Medical and Health Services Managers	11-9110
Social Workers	21-1020	Social and Human Service Assistants	21-1093
Community Health Workers	21-1094	Community and Social Service Specialists, All Other	21-1099
Librarians	25-4020	Pharmacists	29-1050
Physician Assistants	29-1070	Therapists	29-1120
Registered Nurses	29-1140	Nurse Anesthetists	29-1150
Nurse Midwives	29-1160	Nurse Practitioners	29-1170
Dental Hygienists	29-2020	Emergency Medical Technicians	29-2040

<i>Title</i>	<i>Code</i>	<i>Title</i>	<i>Code</i>
		and Paramedics	
Health Practitioner Support Technologists and Technicians	29-2050	Licensed Practical and Licensed Vocational Nurses	29-2060
Home Health Aides	31-1011	Nursing Aides, Orderlies, and Attendants	31-1012
Psychiatric Aides	31-1013	Dental Assistants	31-9091
Medical Assistants	31-9092	Security Guards	33-9032
Crossing Guards	33-9091	Supervisors of Food Preparation and Serving Workers	35-1010
Cooks	35-2010	Food Preparation Workers	35-2020
Bartenders	35-3010	Fast Food and Counter Workers	35-3020
Waiters and Waitresses	35-3030	Food Servers, Nonrestaurant	35-3040
Dining Room and Cafeteria Attendants and Bartender Helpers	35-9010	Dishwashers	35-9020
Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop	35-9030	Miscellaneous Food Preparation and Serving Related Workers	35-9090
Janitors and Cleaners, Except Maids and Housekeeping Cleaners	37-2011	Building Cleaning Workers, All Other	37-2019
Ushers, Lobby Attendants, and Ticket Takers	39-3030	Barbers, Hairdressers, Hairstylists, and Cosmetologists	39-5010
Baggage Porters, Bellhops, and Concierges	39-6010	Child Care Workers	39-9010
Personal Care Aides	39-9021	First-Line Supervisors of Sales Workers	41-1010
Cashiers	41-2011	Counter and Rental Clerks	41-2021
Retail Salespersons	41-2030	Tellers	43-3070
Hotel, Motel, and Resort Desk Clerks	43-4080	Receptionists and Information Clerks	43-4170
Couriers and	43-5020	Secretaries and	43-6010

<i>Title</i>	<i>Code</i>	<i>Title</i>	<i>Code</i>
Messengers		Administrative Assistants	
Computer Operators	43-9010	Data Entry and Information Processing Workers	43-9020
Desktop Publishers	43-9030	Insurance Claims and Policy Processing Clerks	43-9040
Mail Clerks and Mail Machine Operators, Except Postal Service	43-9050	Office Clerks, General	43-9060
Office Machine Operators, Except Computer	43-9070	Proofreaders and Copy Markers	43-9080
Statistical Assistants	43-9110	Miscellaneous Office and Administrative Support Workers	43-9190
Bakers	51-3010	Butchers and Other Meat, Poultry, and Fish Processing Workers	51-3020
Miscellaneous Food Processing Workers	51-3090	Ambulance Drivers and Attendants, Except Emergency Medical Technicians	53-3010
Bus Drivers	53-3020	Taxi Drivers and Chauffeurs	53-3040

Under the act, service workers must be (1) paid on an hourly basis or (2) subject to the 1938 federal Fair Labor Standards Act's minimum wage and overtime compensation requirements to be eligible for paid sick leave. These requirements generally exclude managers who have authority to hire and fire staff, professional occupations (such as lawyers and physicians), salespeople, and certain skilled computer professionals.

Furthermore, service worker excludes day or temporary workers, which the act defines as those who perform work for another on (1) a per diem basis or (2) an occasional or irregular basis, for only the time required to complete the work, whether they are paid by the person for whom such work is performed or by an employment agency or temporary help service, as defined by law.

§§ 2-4 — PAID SICK LEAVE

Benefit Accrual

Under the act, service workers start accruing leave time on January 1, 2012. Those hired before then will start accruing on that date and service workers hired after that date will start accruing on their date of employment. Service workers cannot use the benefit until they have worked at least 680 hours after the benefit starts accruing and they must have worked an average of at least 10 hours a week for the employer during the most recently completed calendar quarter. The act does not prevent an employer from allowing service workers to begin accruing time before January 1, 2012.

Service workers accrue one hour of sick leave for every 40 hours of work and they cannot accrue more than 40 hours of sick leave in a calendar year. They can carry up to 40 hours of sick leave into the next calendar year, but cannot use more than 40 hours of leave in any year.

Sick Leave Pay

The act requires the service worker's compensation while on sick leave to be the greater of (1) the worker's normal hourly wage or (2) the statutory minimum wage while the worker is on leave. If the service worker's hourly wage varies, the "normal hourly wage" is the average hourly wage paid to him or her in the pay period prior to the leave.

An employer does not have to pay a service worker for unused sick leave upon termination, unless otherwise provided by an employer policy or collective bargaining agreement.

Other Complying Leave

Employers are deemed to be in compliance if they provide other paid leave that (1) accrues at least as quickly as the act's sick leave and (2) can be used for the same purposes. Under the act, "other paid leave" includes paid vacation, personal days, or other time off.

The act does not prevent employers from providing a more generous paid leave policy than it requires, and employers may limit the use of benefits they provide that exceed the act's requirements.

Hour, Shift, and Benefit Flexibility

The act permits employers to allow, but not require, service workers to switch shifts or work extra hours in lieu of using sick leave. The different shifts or extra hours must be (1) upon the mutual consent of the employer and service worker and (2) during the same or following pay period as the sick leave. Employers can

also allow service workers to donate any unused sick leave to their co-workers.

Job Termination and Accrued Sick Leave

Under the act, any termination of a service worker's employment, whether voluntary or not, is construed as a break in service with that employer. If a service worker is rehired after such a break in service, he or she is not entitled to use any sick leave that was accrued before the break unless agreed to by the employer. The service worker begins accruing sick leave time anew when rehired.

Sick Leave Abuse

The act specifies that it does not prohibit an employer from disciplining an employee for using paid sick leave for unauthorized purposes.

§ 3 — PERMITTED USES

The act requires an employer to allow a service worker to use paid sick leave for his or her, or a spouse's or child's:

1. illness, injury, or health condition;
2. medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
3. preventive medical care.

The act defines a "child" as an employee's biological, adopted, or foster child, stepchild, legal ward, or a child of an employee acting instead of a parent, when the child is either under 18 years old or over 18 but incapable of self-care due to mental or physical disability.

The act also requires employers to provide paid sick leave when the service worker is a victim of family violence or sexual assault for:

1. medical care or psychological or other counseling for physical or psychological injury or disability,
2. services from a victim services organization,
3. relocating, or
4. participation in a related civil or criminal legal proceeding.

Family violence is any physical harm or threatened act of violence that constitutes fear of such harm between family or household members. Sexual assault includes all penal code crimes of unlawful contact with the intimate parts of another person's body, except aggravated sexual assault of a minor (CGS § 53a-70c).

Under the act, an employer does not have to provide paid sick leave for any reasons not specified in the act.

§ 3 — PERMITTED REQUIREMENTS OF THE SERVICE WORKERS

The act allows employers to require that service workers provide notice (1) up to seven days before taking the leave if it is foreseeable or (2) as soon as practicable if it is not foreseeable.

If the leave is for three or more consecutive days, the employer can require reasonable documentation verifying the leave’s purpose. Table 1 details reasonable documentation.

Table 1: Documentation Needed for Sick Leave

<i>Type of Leave</i>	<i>Documentation</i>
For mental or physical illness, treatment of an illness or injury, mental or physical diagnosis, or preventive medical care for the service worker or the employee’s child or spouse	Documentation signed by the health care provider treating the service worker or the service worker’s child or spouse and indicating the need for the number of days of the leave
For a victim of family violence or sexual assault	A court record or documentation signed by an employee or volunteer working for a victim services organization, an attorney, police officer, or other counselor involved with the service worker

§ 5 — ENFORCEMENT

Retaliation Prohibited

The act bans most employers from terminating, suspending, constructively discharging, demoting, unfavorably reassigning, refusing to promote, disciplining, or taking any other adverse employment action against an employee because the employee (1) requested or used paid sick leave as provided by the act or in accordance with the employer’s own paid sick leave policy or (2) filed a complaint with the labor commissioner alleging an employer violated the act’s provisions.

Since this part of the act uses the term “employee” rather than “service worker,” it applies to a larger number of workers than the rest of the law, which focuses on job classification codes. Thus the retaliation ban covers all employers with 50 or more employees, excluding manufacturers and the tax-exempt organizations described in the act, that provide their own paid sick leave. This means employers fall into one of three groups: (1) covered by all the act’s provisions, (2) covered by only the retaliation ban, and (3) exempt from the act.

Complaints, Hearings & Penalties

Employees aggrieved by an alleged violation may file a complaint with the labor commissioner. The commissioner may hold a hearing on the complaint and, after the hearing, any employer who is found by a preponderance of the evidence, to have violated the act’s:

1. general provisions will be liable to the Labor Department for a civil penalty of up to \$100 for each violation or
2. retaliation provision will be liable to the department for a civil penalty of \$500 for each violation.

The commissioner can award the employee all appropriate relief, including the payment for used paid sick leave, rehiring or reinstatement to the employee’s previous job, payment of back wages, and reestablishment of benefits for which the employee was otherwise eligible if not for the retaliatory personnel action or being discriminated against. Aggrieved parties can appeal the commissioner’s decision to Superior Court.

The act requires the labor commissioner to enforce its provisions within available appropriations.

§§ 4 & 5 — EMPLOYEES UNDER UNION CONTRACTS

The act does not preempt the terms of any union contract in effect before January 1, 2012 or diminish any right provided to any employee under a union contract.

It requires the labor commissioner to advise any employee who is covered by a collective bargaining agreement that provides paid sick days and files a complaint under the new law of his or her right to file a grievance with his or her union.

§ 6 — SERVICE WORKER NOTICE

The act requires each covered employer to provide notice to each service worker at the time of hiring that the:

1. service worker is entitled to paid sick leave, the amount provided, and the terms under which it can be used;
2. employer cannot retaliate against the worker for requesting or using sick leave; and
3. worker can file a complaint with the labor commissioner for any violation.

An employer can comply with this requirement by displaying a poster with the required information in English and Spanish in a conspicuous place, accessible to service workers, at the employer’s place of business. The act authorizes the labor commissioner to adopt regulations establishing additional notice requirements.

It requires him to administer the notice provision within available appropriations.

PA 11-63—sSB 480

*Labor and Public Employees Committee
General Law Committee*

**AN ACT CONCERNING CONSTRUCTION
SAFETY REFRESHER TRAINING COURSES**

SUMMARY: This act changes the construction safety training requirement for certain plumbers and electricians on state and municipal public works projects subject to the state prevailing wage law. By law, construction workers who receive prevailing wages on these projects must have taken a 10-hour federal Occupational Safety and Health Administration (OSHA)-approved construction safety course no more than five years before the project's start. In effect, they must re-take the 10-hour course every five years to remain continuously qualified to work on these projects.

Once they have taken the 10-hour course, the act allows plumbers and electricians subject to continuing education licensing requirements to substitute four-hour supplemental courses taught by an OSHA-authorized trainer in place of the additional 10-hour courses that would otherwise be required. Beginning July 1, 2012, instead of retaking the 10-hour course every five years to remain continuously qualified, they can take the 10-hour course once, followed by a four-hour supplemental course every five years. The labor commissioner must accept a student course completion card issued by a federal OSHA-authorized trainer and dated no more than five years before the electrician or plumber started working on the project as proof of compliance. The act does not change the training requirements for other construction workers.

The act also requires the labor commissioner, by January 1, 2012, to adopt regulations that require the four-hour course to include an update on revised OSHA standards and a review of required construction hazards training.

Any workers who do not comply with the safety training requirements can be removed from the project unless they can prove, within 15 days of being found in violation, that they have complied.

EFFECTIVE DATE: Upon passage

PA 11-87—sSB 936

*Labor and Public Employees Committee
Appropriations Committee*

**AN ACT EXTENDING THE LOOK-BACK
PERIOD TO DETERMINE ELIGIBILITY FOR
UNEMPLOYMENT COMPENSATION
EXTENDED BENEFITS**

SUMMARY: This act increases the availability of unemployment extended benefits (for weeks 79-99 of unemployment) by lengthening, from two to three years, the "look-back period" that is used to determine when extended benefits are available.

Using a two-year look back, access to extended benefits was projected to end sometime this fall. However, using a three-year look-back period will make benefits available through at least the end of 2011. The federal government fully funds these benefits for former private sector employees. Under the act, the extended look-back period will remain in effect until December 31, 2011, or as long as the federal government continues to allow the extension and provide 100% funding for it, whichever is longer. The act does not otherwise change the eligibility requirements or benefit amounts for individuals applying for extended benefits.

EFFECTIVE DATE: Upon passage

UNEMPLOYMENT EXTENDED BENEFITS

The law provides two methods for determining if extended benefits are available. The first uses the state's total unemployment rate (TUR), which counts both the unemployed who are eligible to receive benefits and those who are ineligible. The second uses the state's insured unemployment rate (IUR), which counts only the unemployed who are eligible for benefits. Access to extended benefits ends when none of the criteria for determining its availability can be met.

TUR

Under the TUR method, extended benefits are available when the state's total unemployment rate is at least 6.5%, as determined by the U.S. secretary of labor, and at least 10% higher than it was at the same time in either of the past two calendar years (a two-year look back). Using a two-year look-back, if the state's TUR remains around 9% in the coming months the benefits' availability will end sometime in the fall because unemployment will not be 10% higher than it was at the same point in either of the last two years. Extending the TUR look-back to three years, when unemployment rates were lower, allows the benefits to remain available for a longer period of time.

IUR

Under the IUR method, extended benefits are available when the state's insured unemployment rate is

(a) at least 5% and at least 20% higher than it was at the same time in each of the last two calendar years, or (b) at least 6%. The act also extends the IUR look-back to three years but this will not increase extended benefit availability because this method requires unemployment to be 20% higher in each of the previous years. If unemployment is not 20% higher in each of the past two years, then it will not be 20% higher in each of the past three years.

BACKGROUND

In general, unemployment benefits are grouped in three components:

1. the first 26 weeks, which for private sector employees are funded by employers' unemployment tax contributions to the state's unemployment trust fund, and for state, municipal, or tribal employees are 100% funded on a "pay-as-you-go" basis by the employee's respective state, municipal, or tribal employer;
2. weeks 27-78 of Emergency Unemployment Compensation (EUC), which are entirely funded by the federal government for all unemployed workers; and
3. weeks 79-92 (or 79-99 if unemployment is above 8%) of Extended Benefits (EB), which the federal government has entirely funded for private sector employees since passage of the 2009 American Recovery and Reinvestment Act (stimulus). Prior to the stimulus act, the federal government and states split the cost of extended benefits. State, municipal, and tribal employers fund 100% of EB for their former employees on a pay-as-you-go basis.

The 2010 federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act allows states to extend their look-back periods from two to three years to continue qualifying for unemployment extended benefits. The act also continues 100% federal funding for the extended benefits provided to former private sector employees through 2011. However, it does not provide funding for state, municipal, and tribal employers, who must continue to pay 100% of EB costs.

PA 11-223—sSB 361

*Labor and Public Employees Committee
Appropriations Committee*

AN ACT PREVENTING THE USE OF CREDIT SCORES BY CERTAIN EMPLOYERS IN HIRING DECISIONS

SUMMARY: This act prohibits employers and their

agents, representatives, or designees from requiring an employee's or prospective employee's consent to a request for a credit report as a condition of employment.

The prohibition does not apply when the:

1. employer is a financial institution,
2. employer reasonably believes the employee committed a violation of the law related to the employee's job,
3. report is required by law, or
4. report is substantially related to the employee's current or potential job or the employer has a bona fide reason to request or use information in the report that is substantially job-related and is disclosed to the employee or applicant in writing.

The act allows an employee or prospective employee to file a complaint about a violation of the act with the labor commissioner. The commissioner must conduct an investigation and make findings within 30 days. If the findings warrant, the commissioner must hold a hearing. Violators face a \$300 civil penalty for each violation. At the request of the labor commissioner, the attorney general must initiate a civil lawsuit to recover the penalties. Any amount recovered goes to the General Fund.

EFFECTIVE DATE: October 1, 2011

CREDIT REPORT

Under the act, a credit report contains information about the employee's credit score, credit account balances, payment history, or savings or checking account numbers and balances.

EMPLOYERS

The act applies to any employer engaged in business with at least one employee, including the state or a political subdivision. But the act does not apply to financial institutions, which it defines as an entity or affiliate of a state bank and trust company; national banking association; state or federally chartered savings bank, savings and loan association, or credit union; insurance company; investment advisor; broker-dealer; or entity registered with the federal Securities and Exchange Commission.

SUBSTANTIALLY RELATED

Under the act, information in a credit report is "substantially related to the employee's current or potential job" when the position:

1. is a managerial position that involves setting the direction or control of a business, division, unit, or agency of a business;
2. involves access to customers', employees', or the employer's personal or financial

- information other than customary retail transaction information;
3. involves a fiduciary responsibility to the employer, including authority to make payments, collect debts, transfer money, or enter into contracts;
 4. provides an expense account or corporate debit or credit card;
 5. provides access to confidential or proprietary business information;
 6. provides access to information (such as a formula, pattern, compilation, program, device, method, technique, process, or trade secret) which has actual or potential independent economic value because it is not generally known or readily ascertainable by proper means by others who could obtain economic value from the information and there are reasonable efforts under the circumstances to keep the information secret; or
 7. involves access to the employer's nonfinancial assets of at least \$2,005 in value, including museum and library collections and prescription drugs and pharmaceuticals.

BACKGROUND

Federal Fair Credit Reporting Act (FCRA)

FCRA contains a number of requirements regarding the accuracy, fairness, and privacy of information in the files of consumer reporting agencies (CRA). It allows CRAs to issue "consumer reports" in a number of circumstances, but contains special provisions for situations where the consumer or prospective employee does not initiate the transaction (i.e., for employment background screening). Among other things, FCRA prohibits an agency from furnishing a consumer report, which may include credit information, about a job candidate or employee without getting the person's permission. If the employer or prospective employer decides to use information in the consumer report to deny a job application, refuse to promote an employee, or take any other "adverse action," the employer must give the job candidate or employee a copy of the consumer report and a summary of the person's rights under FCRA before taking the action.

PA 11-1—sHB 6292
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE PAYMENT OF PERSONAL PROPERTY TAXES BY CERTAIN TELECOMMUNICATIONS COMPANIES

SUMMARY: This act allows municipal tax collectors to bill telecommunications companies for half the personal property taxes due in 2011 before they would otherwise be due. It allows them to mail or deliver the bill in two installments, the first one before the July 1, 2011 due date and the second on or after that date. The first installment must equal half the company’s 2010 assessment multiplied by the municipality’s mill rate for FY 11. The second installment must equal the other half of the 2010 assessment multiplied by the municipality’s FY 12 mill rate. The installments are due, payable, collectible, and subject to the same liens and collection processes as other municipal taxes (i.e., payment is due within 30 days after receiving the tax bill).

The act subjects telecommunications companies to generally applicable property tax collection laws for assessment years beginning on or after October 1, 2011.

PA 10-171 eliminated the option for telecommunications companies to have their personal property taxed at a statewide mill rate, thus requiring this property to be subject to municipal assessment at the locally set rate. These changes apply to assessment years beginning on or after October 1, 2010.

EFFECTIVE DATE: Upon passage

PA 11-5—SB 859
Planning and Development Committee

AN ACT EXTENDING THE TIME OF EXPIRATION OF CERTAIN LAND USE PERMITS

SUMMARY: This act gives developers more time to complete certain ongoing projects without seeking reapproval from a land use commission or an inland wetlands agency. It does so by extending the initial and extended deadlines that apply to subdivisions, wetlands permits, and small-scale site plans approved before July 1, 2011, on which approval has not expired by the act’s effective date (i.e., May 9, 2011).

EFFECTIVE DATE: Upon passage

PROJECT APPROVAL EXPIRATION

By law, when a zoning, planning, or planning and zoning commission or an inland wetlands agency approves a project, it must set an expiration date. A

developer must complete the project before that date or resubmit it for approval to the commission or agency. The expiration date must fall within the timeframes the law specifies. The timeframes vary depending on the municipality and the nature of the project. Generally, they are between five and 10 years from approval for subdivision, wetlands permit, and small-scale projects that require a site plan. In the case of approvals of site plans and subdivisions (other than for 400-plus-unit site plan projects) the commission can grant an extension. Wetland agency approvals must be renewed unless the agency finds there has been a substantial change in circumstances or an enforcement action was taken regarding the regulated activity for which the permit was issued. But longer initial and extended deadlines apply to projects approved between July 1, 2006, and July 1, 2009.

The act (1) further extends the deadlines for projects approved between July 1, 2006 and July 1, 2009; (2) extends the deadlines for projects approved between July 1, 2009 and July 1, 2011; and (3) extends the deadlines for projects approved before July 1, 2006, on which approval has not expired by the act’s effective date (i.e., upon passage). In all cases, the changes only apply to projects whose approval has not expired by the act’s effective date (i.e., May 9, 2011).

Table 1 illustrates the changes for projects approved (1) before July 1, 2006 and (2) between July 1, 2009 and July 1, 2011. Table 2 describes the changes for projects approved between July 1, 2006, and July 1, 2009.

Table 1: Deadlines and Extensions under (A) Existing Law for Projects Approved before July 1, 2006 and after May 9, 2011 (i.e., the act’s effective date) and (B) the Act for Projects Approved between July 1, 2009 and May 9, 2011

INITIAL DEADLINES		
Land Use Approval	Existing Law (CGS §)	The Act (§)
Residential site plans for projects with more than 400 units	Within 10 years after approval (CGS 8-3(j))	No change
Business site plans for projects with at least 400,000 square feet	Within 10 years after approval (CGS 8-3(j))	No change
Other site plans	Within five years of approval (CGS § 8-3 (i))	Not less than nine years after approval (§ 1)
Subdivisions plans for 400 or more dwelling units	Within 10 years of approval (CGS § 8-26g (a))	14 years after approval (§ 3)
Other subdivisions	Within five years of approval (CGS § 8-26c (a))	Not less than nine years after approval (§ 2)
Wetlands permits for site plans and subdivisions	Up to five years after approval (CGS § 22a-42a (d)(2))	Not less than nine years after approval (§ 4)
Other wetlands	Between two and five years after approval (CGS § 22a-42a (d)(2))	

Table 1: Continued

<i>EXTENSIONS (Absolute Deadlines)</i>		
<i>Land Use Approval</i>	<i>Existing Law</i>	<i>The Act (§)</i>
Residential site plans for projects with more than 400 units	Within 10 years after approval (CGS 8-3(j))	No change
Business site plans for projects with at least 400,000 square feet	Within 10 years after approval (CGS 8-3(j))	No change
Other Site Plans	Up to 10 years from approval (CGS § 8-3 (i))	Up to 14 years from approval (<i>§ 1</i>)
Subdivision plans for 400 or more dwelling units	No extensions (CGS § 8-26g)	No change (<i>§ 3</i>)
Other subdivisions	Up to 10 years from approval (CGS § 8-26c (b))	Up to 14 years from approval (<i>§ 2</i>)
Wetlands permits for site plans and subdivisions	Up to 10 years from approval (CGS § 22a-42a (d)(2))	Up to 14 years from approval (<i>§ 4</i>)
Other wetlands permits		

Table 2: Continued

<i>EXTENSIONS (Absolute Deadlines)</i>		
<i>Land Use Approval</i>	<i>Prior Law</i>	<i>The Act</i>
Other subdivisions	Up to 11 years from approval (CGS § 8-26c (e))	Up to 14 years from approval (<i>§ 2</i>)
Wetlands permits for site plans and subdivisions and Other wetlands	Not less than six years after approval (CGS § 22a-42a (g))	Up to 14 years from approval (<i>§ 4</i>)

Under the act, projects approved after July 1, 2011, are again subject to existing law’s deadlines (i.e., the timelines generally applicable to projects approved before July 1, 2006).

Table 2: Deadlines and Extensions for Projects Approved between July 1, 2006 and July 1, 2009 under Prior Law and the Act

<i>INITIAL DEADLINES</i>		
<i>Land Use Approval</i>	<i>Prior Law</i>	<i>The Act (§)</i>
Site plans other than (1) residential site plans for projects with more than 400 units and (2) business site plans for projects with at least 400,000 square feet	Not less than six years after approval (CGS § 8-3(m))	Not less than nine years after approval (<i>§ 1</i>)
Subdivisions plans for 400 or more dwelling units	11 years after approval (CGS § 8-26g (c))	14 years after approval (<i>§ 3</i>)
Other subdivisions	Not less than six years after approval (CGS § 8-26c (e))	Not less than nine years after approval (<i>§ 2</i>)
Wetlands permits for site plans and subdivisions and Other wetlands	Not less than six years after approval (CGS § 22a-42a (g))	Not less than nine years after approval (<i>§ 4</i>)
<i>EXTENSIONS (Absolute Deadlines)</i>		
<i>Land Use Approval</i>	<i>Prior Law</i>	<i>The Act</i>
Site plans other than (1) residential site plans for projects with more than 400 units and (2) business site plans for projects with at least 400,000 square feet	Up to 11 years from approval (CGS § 8-3 (m))	Up to 14 years from approval (<i>§ 1</i>)
Subdivision plans for 400 or more dwelling units	No extensions (CGS § 8-26g)	No change (<i>§ 3</i>)

PA 11-7—SB 861

Planning and Development Committee

AN ACT MAKING TECHNICAL REVISIONS TO PLANNING AND DEVELOPMENT STATUTES

SUMMARY: This act makes technical changes in statutes concerning special assessments on blighted property and property taxes for telecommunications companies.

EFFECTIVE DATE: October 1, 2011

PA 11-69—sSB 518

Planning and Development Committee

AN ACT AUTHORIZING ELECTRONIC SIGNATURES ON DECLARATIONS OF PERSONAL PROPERTY

SUMMARY: By law, owners of taxable personal property (e.g., commercial furniture, fixtures, and equipment) must file an annual personal property declaration with municipal assessors for property tax purposes. This act allows them to electronically file and sign the declaration on a form the assessor provides, as long as the municipality (1) has the technological capability to accept electronic signatures and (2) agrees to accept electronic signatures.

By law, assessors must mail blank declaration forms to nonresident property owners or the attorney or agent that has custody of the taxpayer’s property. The act allows assessors to do so electronically, as long as the taxpayer has made a written request to receive the electronic forms. It requires assessors to mail or electronically send the blank declaration forms at least 30 days before the filing deadline, rather than 15 days

before as required under prior law.
 EFFECTIVE DATE: October 1, 2011, and applicable to assessment years beginning on or after that date.

PA 11-79—sSB 860
Planning and Development Committee

AN ACT CONCERNING BONDS AND OTHER SURETY FOR APPROVED SITE PLANS AND SUBDIVISIONS

SUMMARY: This act expands the types of bonds or surety that a person may use to fulfill a bond requirement which a municipal land use commission may require for modified site plan or subdivision approval. Under prior law, a commission could require a bond in an amount and with surety and conditions it set. The act specifies that other bond or surety forms may be used, including, for example, letters of credit, as long as the commission finds acceptable (1) the bond or surety form and (2) the financial institution or other entity issuing any letter of credit.

The act changes the timing of the surety process and provides additional options for the person posting the bond or surety (with certain limitations).

The act also:

1. caps the bond amount a zoning commission may require for site plan modifications;
2. establishes that, for phased development, the surety requirements apply as if each phase is approved as a separate site plan or subdivision; and
3. prohibits any land use commission from requiring a bond or other surety to secure the maintenance of roads, streets, or other maintenance associated with a site plan or subdivision for maintenance occurring after a municipality has accepted the improvements.

The act requires a commission to (1) release all or part of a site plan or subdivision related bond within 65 days of a request by the person who posted the bond, if the commission is reasonably satisfied required work has been completed, or (2) explain in writing what work is still required for release, if it is not reasonably satisfied.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2011

SURETY FOR SITE PLAN MODIFICATION AND SUBDIVISION FINAL APPROVAL

Modified Site Plans

Under prior law, a municipal land use commission could (1) require a bond in an amount and with surety and conditions it set as a condition for approving any modified site plan or (2) grant an extension for completing work on the modified site plan with approval conditioned on whether the bond or other surety amount was adequate. Prior was law silent on what constitutes “other surety.” The act (1) caps the bond amount on a modified site plan at no more than the cost of performing the modifications plus an additional 10% of the bond amount and (2) eliminates the option to condition extension approval on an unspecified amount of bond or other surety. It also specifies the type of surety that may be used to meet the law’s bond requirement (see below).

Subdivisions

By law, a land use commission can, for subdivision plan approval, accept a bond in an amount and with surety and conditions it finds satisfactory for securing the actual construction, maintenance, and installation of the subdivision’s streets and utilities, as specified in the bond, instead of the work being completed before the final plan is approved. A commission can authorize a developer to file a plan with a conditional approval based on (1) the actual construction, maintenance, and installation of any improvements or utilities the commission sets or (2) a bond. (By law, if work is completed or a bond furnished, the commission must endorse final plan approval.) The act authorizes other surety.

Other Surety for Site Plan Modification and Subdivision Approval

To satisfy a bond requirement for modified site plan or subdivision plan approval, the act requires municipal land use commissions to accept:

1. surety bonds;
2. cash bonds;
3. passbook or statement savings; and
4. other surety, including letters of credit, provided the commission finds the bond or surety and the financial institution or other entity issuing any letter of credit acceptable.

Timing

The act authorizes the person posting the required site or subdivision plan bond to post it at any time before completing all site plan modifications or subdivision public improvements or utilities. But the commission may require a bond or surety for erosion control before work can start.

The act prohibits issuing certificates of occupancy for site plans and transferring lots to buyers for subdivision plans before the required bond or surety is posted.

BOND RELEASE

Under the act, the commission must release a bond or part of it when reasonably satisfied that the modifications the bond covered have been completed. Prior law was silent on bond release.

If the commission is not satisfied, the act requires it to provide the person posting the bond or surety a written explanation describing the additional modifications that must be completed for release. In the case of a site plan, the act also authorizes a commission's agent to release all or part of a bond or surety.

BACKGROUND*Planning and Zoning Commissions*

By law, a municipality may have a planning (CGS § 8-18), zoning (CGS § 8-1), or combined planning and zoning commission (CGS § 8-4a). A combined commission has all the powers and duties of both a planning commission and zoning commission.

PA 11-89—HB 5178

*Planning and Development Committee
Energy and Technology Committee*

AN ACT AUTHORIZING NOTICE OF ZONE CHANGES TO BE SENT BY ELECTRONIC MAIL

SUMMARY: This act allows municipal zoning commissions to send certain notices to regional planning agencies (RPAs) by email, instead of certified mail. It applies to the notices the law requires commissions to send RPAs about regulatory proposals affecting areas within 500 feet of another municipality within the RPA's region. Under the act, a zoning commission that chooses to email the notice must send it to the email address an RPA has designated on its website for notice receipt.

By law, the zoning commission must send the notice at least 30 days before a required public hearing on the changes. Under the act, if a commission does not receive an email from an RPA confirming receipt of the notice, it must also send the RPA notice by certified mail, return receipt requested, at least 25 days before the public hearing. By law, the RPA must study the commission's proposal and report its findings and recommendations to the commission at or before its hearing. The report is only advisory.

EFFECTIVE DATE: October 1, 2011

PA 11-95—HB 5482 (VETOED)

*Planning and Development Committee
Government Administration and Elections Committee*

AN ACT RECONSTITUTING THE CONNECTICUT CAPITOL CENTER COMMISSION

SUMMARY: This act changes the Connecticut Capitol Center Commission's purpose and membership.

Under prior law, the commission reviewed the master plan for developing the Capitol Center District in Hartford and reported its findings and any proposed plan changes every five years to the governor and the Appropriations; Finance, Revenue and Bonding; and Government Administration and Elections committees. The act instead requires the commission to revise the master plan and submit it to the same three committees, but not the governor, by July 1, 2012, and eliminates the requirement that the commission review and report on the plan every five years.

Under prior law, the commission's members included the Office of Policy and Management (OPM) secretary or his designee, who served as the commission's chairperson; the Department of Public Works (DPW) commissioner, or designee, who could amend the plan; and the Department of Economic and Community Development (DECD) commissioner, or her designee. The act (1) eliminates the DPW and DECD commissioners as members and the DPW commissioner's authority to amend the plan and (2) adds Hartford's mayor as a member and makes him chairman, among other membership changes. (By law, unchanged by the act, the DPW commissioner manages and approves any land acquisition in the Capitol Center District, among other things.)

It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2011

COMMISSION MEMBERSHIP

Under prior law, the commission’s 13 members were:

1. the OPM secretary, DPW commissioner, DECD commissioner, and the Connecticut Commission on Culture and Tourism executive director, or their designees;
2. one appointed by each of the six legislative leaders;
3. the chairperson of the Hartford Commission on the City Plan;
4. a Hartford mayoral appointee; and
5. a representative of the South Downtown Neighborhood Revitalization committee.

In addition to the DECD and DPW commissioners, the act eliminates as members (1) the Hartford Commission on the City Plan chairperson and (2) a representative of the South Downtown Neighborhood Revitalization committee. It adds as members (1) the Hartford mayor or his designee; (2) a Hartford Court of Common Council member, selected by the council’s majority leader; and (3) two representatives of Hartford 2000 Inc.’s board of directors, selected by the board’s chairperson.

BACKGROUND

Connecticut Capitol Center in Hartford Master Plan

By law, there is a master development plan for Hartford’s Capitol Center District, which generally consists of all land in Hartford bounded by Bushnell Park and Wells, Main, Buckingham, Wadsworth, and Cedar streets. Where feasible, central state government offices must be located within the district, except courthouses may be located outside of it.

By law, the master plan includes: land use, property acquisition, business and residential relocation; street system alignments and dimensions; internal circulation systems; parking facilities; utilities and services systems; landscaping, lighting and amenities; and building space use priorities, including programming, controls, and restrictions. An integral part of the master plan under the law is a capital improvements program, which indicates recommended scheduling of construction phases and the estimated costs. The capital improvement program’s goal is to allow the Connecticut Capitol Center to develop (1) in an orderly and logical way and (2) so that the state government’s central office’s needs are met in a timely manner (CGS § 4b-66(b)).

PA 11-96—HB 5585

Planning and Development Committee

AN ACT CONCERNING DESIGNATED REHABILITATION AREAS

SUMMARY: The law allows municipalities to defer an increased property tax assessment on property located in a designated rehabilitation area if the owner agrees to rehabilitate the property or build new multifamily rental or cooperative housing on it. This act allows municipalities to also defer an assessment increase if the property is a brownfield site and the owner agrees to build the same housing described above or a new common interest community or mixed-use or commercial structure on it.

Brownfields are abandoned or underutilized sites where groundwater or soil contamination discourages redevelopment or reuse.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Local Option Property Tax Incentives for Rehabilitation Areas

By law, a municipality’s legislative body must adopt a resolution designating the rehabilitation area, which may include all or part of the municipality, before it can offer the deferred assessments. The resolution must specify the criteria for the deferred assessments, including the (1) property’s initial condition, (2) extent and nature of the improvements, and (3) acceptable uses of the property. The municipality can fix the property’s assessment during the rehabilitation or construction period, for up to seven years, and then defer the increased assessment attributed to the improvements for up to 11 years. The deferral starts at 100% forgiveness in the first year and decreases by 10% in each subsequent year. The deferral is contingent on the continued use of the property for the specified purposes; it ends when the property is sold or transferred to be used for other purposes, unless the municipality agrees to the change.

PA 11-98—HB 5697

Planning and Development Committee

AN ACT CONCERNING CHANGES TO THE MUNICIPAL ENERGY COOPERATIVE STATUTES

SUMMARY: This act makes numerous changes to the laws governing municipal electric energy cooperatives. Among other things, it:

1. makes it easier for a municipal utility to join or withdraw from a cooperative,
2. amends provisions specifying how a dissolved cooperative's property is distributed,
3. allows a cooperative to purchase and sell electricity through the Independent System Operator-New England (ISO-New England),
4. allows municipal utility employees to serve on a cooperative's governing board, and
5. allows alternative voting methods within a cooperative and amends existing ones.

The Connecticut Municipal Electric Energy Cooperative (CMEEC) is currently the only such cooperative in Connecticut.

EFFECTIVE DATE: October 1, 2011

ADDING NEW MEMBERS (§ 1)

The law allows an existing municipal electric energy cooperative to accept new members and sets up a procedure for doing so. Under prior law, the governing body of each municipal utility that was already a cooperative member had to adopt a resolution agreeing to allow the new member. The act instead requires the governing bodies of at least two-thirds of the members to adopt such a resolution.

Under prior law, the number of representatives the new member appointed to the cooperative's governing board and their qualifications, terms, and travel expense reimbursement had to be the same as those governing each existing member's representatives. The act specifies that a new member's representatives are also subject to the same compensation requirements as existing ones.

WITHDRAWING FROM THE COOPERATIVE (§§ 1 – 2)

Under prior law, a municipal utility could withdraw from a cooperative only if (1) it had no outstanding debt to the cooperative and was not legally bound to provide any payments to it and (2) the governing bodies of each of the other cooperative members passed resolutions agreeing to the withdrawal and filed them with the secretary of the state (SOTS). The act eliminates these requirements and instead requires that the withdrawing municipal utility continue to perform its obligations under any contract with the cooperative or provide sufficient funds in trust to satisfy those obligations.

By law, a withdrawing municipal utility must file with the cooperative a resolution of its governing board approving its withdrawal and the legislative body of the municipality it represents has 30 days to disapprove of the utility's adoption of the withdrawal resolution. The resolution, together with an affidavit from the withdrawing utility that its municipal legislative body

does not disapprove, must be filed with the SOTS.

By law, upon proof of such filings, the municipal utility is deemed to have legally and properly withdrawn from the cooperative. Under prior law, the municipal utility was also deemed to have never been a member of the cooperative and to no longer have any right, title, or interest in its property. The act instead specifies that the withdrawing municipal utility has rights to any retained earnings and assets, as provided in its contracts with the cooperative, as long as the (1) contracts treat similar members in a comparable and nondiscriminatory manner and (2) withdrawing municipal utility complies with the statutory process for withdrawing from a cooperative described above.

DISSOLVING THE COOPERATIVE (§ 4)

Under prior law, a dissolved cooperative's property was vested in the municipal utilities that created it. The act provides that such property may also be vested as provided in the agreements between the cooperative and its members, as long as the agreements treat similar members in a comparable and nondiscriminatory manner.

The act also eliminates a provision that the governing bodies dissolving a cooperative, according to the statutory process for doing so, are deemed to have never joined in its creation.

POWERS (§ 3)

The law authorizes a cooperative to purchase and sell power to utilities within or outside Connecticut and to do so by joining the New England Power Pool (NEPOOL), if its governing board approves. The act allows it to purchase and sell power through ISO-New England, according to ISO-New England's rules and procedures, if its governing board approves.

ISO-NE administers the regional electric wholesale market. NEPOOL members participate in this market.

COOPERATIVE GOVERNANCE AND OPERATIONS

Governing Board Membership and Compensation (§§ 1 & 6)

The act allows municipal utility employees to serve as representatives to the cooperative's governing board. Under prior law, only utility officials could do so.

By law, the governing body of each municipal utility in a cooperative (1) must determine its representatives' compensation, if any, and (2) may reimburse them for travel expenses incurred in connection with their service on the board. Prior law additionally allowed a cooperative utility board to (1) reimburse representatives for necessary expenses

incurred while performing their duties and (2) pay them a salary, if the resolutions establishing the cooperative or any subsequent amendments to the resolutions specified it. It barred the representatives from receiving any other compensation for their services.

The act allows the cooperative board to pay the representatives reasonable and uniform compensation for their service, in addition to reimbursing them for their expenses, but only if the representatives are not compensated by the municipal utility they represent. It also allows the representatives to receive other compensation for their services.

Voting Methods (§ 1)

Prior law allowed a cooperative board to take action by majority vote of the representatives present, unless the cooperative's bylaws required a larger number for adoption. The act specifies that the cooperative may also require a larger number to take action if an amendment to its bylaws requires it.

The law also allows a cooperative board to use a weighted voting method at the request of any representative. The weighted voting procedure requires each representative's vote to carry weight according to the number of megawatt hours of electricity his or her utility purchased from the cooperative in the last calendar year. Under prior law, any proposition that received at least 67% of the votes of members present was adopted. The act requires that the 67% majority represent a majority of all member utilities to approve the action.

The act also allows a cooperative to adopt other voting methods in addition to those allowed under existing law. It may do so prospectively for all actions or specifically designated ones, as long as the voting methods (1) are specified in the cooperative's bylaws or in an amendment unanimously adopted by its members and (2) treat similar members in a comparable and nondiscriminatory manner. Under these alternative methods, the cooperative may base voting rights on:

1. whether the member (a) buys all of its power in the wholesale market or (b) owns and operates generation or transmission facilities and buys supplemental power in the wholesale market or
2. the term of the member's contract with the cooperative for power and transmission supply.

Conflict of Interest (§ 5)

Prior law prohibited a cooperative's representatives, officers, and employees from having any direct or indirect interest in any project or contract involving the cooperative. The act specifies that (1) they may not have a direct or indirect personal interest in any cooperative project or contract and (2)

cooperative employees are not automatically disqualified from serving as representatives or officers of the cooperative. As under prior law, they may be municipal utility employees, hold any office with the utility, and own any property within the state.

Board Employees (§ 1)

The act makes technical changes to the functions of employees a cooperative board may hire.

BACKGROUND

CMEEC

CMEEC is responsible for procuring power and financing and building generating resources for its members. The members are: Groton Utilities, Jewett City Department of Public Utilities, Norwich Public Utilities, and the Second and Third Taxing Districts of Norwalk (South Norwalk and East Norwalk, respectively). CMEEC also provides power for participating utilities (the Wallingford Department of Public Utilities, Bozrah Light and Power, and the Mohegan Tribal Authority).

PA 11-99—HB 5780

Planning and Development Committee

AN ACT CONCERNING INTERLOCAL AGREEMENTS

SUMMARY: This act establishes a single process through which towns can collaborate on municipal functions. Under prior law, towns and municipal bodies could enter into (1) a joint agreement to perform jointly any function the law allowed them to perform individually or (2) an interlocal agreement to collaborate on specified municipal functions and services. The act eliminates the joint agreement process and allows them to collaborate on any function the law allows them to perform individually, using the statutory process for interlocal agreements. It also explicitly allows consolidated towns and cities and consolidated towns and boroughs to enter into these agreements.

Prior law required interlocal agreements to contain provisions addressing specified issues. The act eliminates these required components, thus giving towns more flexibility in negotiating their provisions. It also streamlines the process for approving these agreements and makes a conforming change.

EFFECTIVE DATE: October 1, 2011, except the repeal of required provisions in interlocal agreements is effective upon passage.

INTERLOCAL AGREEMENTS

Services and Functions

Under prior law, towns and other municipal bodies could enter into interlocal agreements with each other or their counterparts in other states to perform anything on a specific, but wide ranging, list of municipal functions and services. The act allows them to enter into these agreements to perform jointly any function any statute, special act, charter, or home-rule ordinance allows them to perform separately.

Required Provisions

Prior law required an interlocal agreement to address the following administrative issues:

1. maximum duration of the agreement, which could not exceed 40 years;
2. its purpose;
3. payment for services, personnel, facilities, and equipment;
4. employee indemnification;
5. the role of any interlocal advisory board the agreement establishes; and
6. dispute resolution.

The act repeals these requirements and instead requires that the agreements be negotiated by the participants and (1) include all mutually agreed upon provisions and (2) establish a process for amending, terminating, or withdrawing from them.

Approval Process

Prior law specified how the participants entered into an interlocal agreement and the timeframe for doing so. It required participants to submit the proposed agreement to their local legislative bodies. Each such body, within specified timeframes, had to hold at least one public hearing on the proposal, consider changes, and approve, modify, or reject the final proposal.

The act instead requires participants to submit the proposed agreement to their legislative bodies which must, after providing an opportunity for public comment, vote to ratify or reject it. The act specifies that the legislative bodies are not required to hold a public hearing to provide an opportunity for public comment.

The act exempts from the public comment requirement any municipality where the legislative body is the town meeting. It allows the legislative body of such towns, by resolution, to vote to delegate its authority to ratify or reject a proposed interlocal agreement to the board of selectmen, provided the board provides an opportunity for public comment.

Under prior law, unless an agreement required ratification by a specific number of participants, it took

effect for the ratifying participants when the agreement specified. Rejection by any participating agency did not void an agreement as to other ratifying agencies, unless the agreement provided otherwise. The act eliminates these provisions.

The act also eliminates the specific requirement that voters approve the agreement at a referendum before it is considered ratified if, under state or local law, any subject contained in the agreement must be submitted to a referendum before being undertaken individually or jointly.

JOINT AGREEMENTS FOR MUNICIPAL SERVICES

The act eliminates the joint agreement process. Prior law required a town entering into such an agreement to approve it in the same manner it approves ordinances or, if the participant does not approve ordinances, in the manner it approves budgets. The terms of each agreement had to include (1) a process for withdrawal and (2) a requirement that the approving body review the agreement at least once every five years to assess whether it improves the functions it addresses.

PA 11-111—sHB 6303

*Planning and Development Committee
Environment Committee
Judiciary Committee*

AN ACT CONCERNING THE TREATMENT OF ILL AND INJURED ANIMALS IN MUNICIPAL ANIMAL SHELTERS

SUMMARY: This act authorizes any regional or municipal dog pound to contract with a public or private nonprofit animal rescue organization to pay a licensed veterinarian to treat an injured, sick, or diseased animal that is impounded. The act (1) details what a contract must contain and (2) requires each pound to maintain a list of any nonprofit animal rescue organization that expresses an interest in entering into such a contract. The act specifies that the contract and its terms do not affect any protection provided any animal under state law and regulations or municipal ordinances.

Under the act, any person who observes or reasonably believes that a municipal or regional animal control officer (ACO) has failed to provide any animal under the ACO's custody with proper care, including veterinary care, may file a complaint with the Department of Agriculture's State Animal Control Division. The act requires the division, no later than 24 hours after receiving a complaint, to act as it deems necessary to secure proper care for the animal.

However, if the division receives the complaint on a Saturday or Sunday, it must act on the next business day.

The act waives from civil liability actions a municipal pound, municipality, ACO, public or private nonprofit animal rescue organization, or veterinarian takes under the act's contract provisions, with exceptions.

The act also expands and changes how ACOs advertise impoundment of certain animals.

EFFECTIVE DATE: October 1, 2011

CONTRACT

Under the act, the contract must establish that:

1. the municipality will not become responsible for treatment costs incurred under it;
2. the public or private nonprofit animal rescue organization responsible for payment selects the veterinarian who treats an animal;
3. a regional or municipal ACO who has custody of the animal determines whether it is injured, sick, or diseased and needs veterinary treatment, but if any pound employee or volunteer notifies the ACO that an animal is injured, sick, or diseased and needs treatment, the ACO must contact the organization to arrange treatment; and
4. the nonprofit animal rescue organization must, within 24 hours of a facility's request for treatment, select a licensed veterinarian and take custody or control of an animal, if necessary, to have the veterinarian treat the animal immediately.

LIABILITY

Under the act, a regional or municipal dog pound, municipality, municipal or regional ACO, or public or private nonprofit animal rescue organization is not civilly liable for actions taken to have a licensed veterinarian treat an injured, sick, or diseased animal under a contract the act authorizes. The act does not protect these entities if they act in a wanton, reckless, or malicious manner.

The act also exempts from civil liability treatment that a licensed veterinarian provides free or at a reduced fee to an injured, sick, or diseased animal as a result of such a contract, unless the veterinarian treats the animal in a willful, wanton, or reckless manner.

ADVERTISING IMPOUNDED ANIMALS

Under existing law, an ACO must post a description of an impounded animal whose owner is unknown once in a local newspaper. The act (1) also

allows publication in a newspaper that has a statewide circulation and (2) requires posting on a national pet adoption website or one that the ACO maintains or uses. The site must post a photograph or description of the animal and the date on which it is no longer legally required to be impounded (i.e., the date it can be adopted or mercifully killed).

The act does not require website posting if:

1. the animal is held pending the resolution of civil or criminal litigation that involves it,
2. the ACO has a good-faith belief that the animal will be adopted by or transferred to a public or private nonprofit rescue organization for adoption without the posting,
3. the animal's safety will be placed at risk, or
4. the ACO determines that the animal is feral and not adoptable.

Under the act, if an ACO does not have the technological resources to post the information on the web, the officer may contact a public or private animal rescue organization and ask it to post the information on a publicly accessible website at the organization's expense. To the extent practicable, an ACO's or organization's posting must remain up for the duration of an animal's impoundment in the municipal or regional dog pound.

BACKGROUND

Pounds

By law, each municipality, other than those participating in a regional dog pound, must:

1. provide and maintain a suitable building as a pound, which must be comfortable for the detention and care of dogs and kept in a sanitary condition or
2. provide, through written agreement, for the detention and care of impounded dogs by a licensed veterinarian, veterinary hospital, or commercial kennel; dog pound maintained by another city; or other suitable facility approved by the agriculture commissioner.

Any municipality may use the pound or facility to shelter other animals that are injured, mistreated, or roaming in a manner that endangers the animal or the public (CGS § 22-336).

PA 11-123—HB 6412*Planning and Development Committee***AN ACT CONCERNING THE SMALL TOWN ECONOMIC ASSISTANCE PROGRAM**

SUMMARY: This act makes groups of municipalities eligible for Small Town Economic Assistance Program (STEAP) grants, as long as each municipality that is a member of the group is otherwise eligible for the grants. STEAP provides economic assistance to municipalities that do not qualify for the Urban Action grant program, which is meant mainly for cities and economically distressed towns. By law, distressed municipalities or public investment communities eligible for both programs can opt to participate in STEAP by following certain procedures. The act also makes such municipalities eligible to participate in STEAP as members of a group by following the same procedures.

The law caps the total STEAP grant amount a municipality can receive each fiscal year at \$500,000. The act extends this cap to each municipality in the group and specifies that any municipality that receives a grant as part of a group is still eligible to receive STEAP grants equal to the difference between its proportionate share of the group grant and the \$500,000 cap.

EFFECTIVE DATE: Upon passage

PA 11-124—HB 6413*Planning and Development Committee**Housing Committee**Appropriations Committee***AN ACT CONCERNING THE STATE'S CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT**

SUMMARY: This act repeals the requirements that the (1) Department of Economic and Community Development (DECD) and the Connecticut Housing Finance Authority (CHFA) prepare a long-range state housing plan every five years and submit it to the General Assembly and (2) DECD commissioner annually supplement each five-year plan with an action plan that assesses whether DECD and CHFA are meeting their goals. The act replaces the long-range plan with the Consolidated Plan for Housing and Community Development DECD currently prepares every five years in consultation with CHFA for the U.S. Department of Housing and Urban Development (HUD) in order to qualify for federal housing program funding.

Information required in the two plans is similar and, in some cases, duplicative. Under the act, the consolidated plan that replaces the long-range state

housing plan is used in connection with:

1. municipal zoning regulations and plans of conservation and development;
2. CHFA's operating plan to coordinate housing policy and activities;
3. the allocation of federal housing assistance grants;
4. state department, institution, and agency evaluations of environmental impacts;
5. river commission management plans; and
6. DECD's economic strategic plan.

EFFECTIVE DATE: October 1, 2011

LONG-RANGE STATE HOUSING PLAN

The act eliminates the long-range (five-year) housing plan which, under prior law, had to conform to the State Plan of Conservation and Development. The long-range plan:

1. assessed the housing needs of households with incomes below the area median income;
2. described affirmative fair housing marketing plans;
3. examined the racial composition of occupants of, and the waiting list for, each assisted housing project;
4. stated quantifiable goals to meet housing needs and outline strategies for achieving these goals;
5. considered the demographics of households served by state housing programs, including the number of households, total assistance, and racial diversity; and
6. identified public and private sector resources for affordable housing programs.

The act also eliminates the annual action plan that DECD and CHFA prepare in conjunction with the long-range plan. Prior law required DECD to (1) consult with people who participate in state housing programs while preparing any of these plans and (2) hold public hearings for all long-range and action plans before submitting them to the General Assembly.

BACKGROUND*Consolidated Plan for Housing and Community Development*

Every five years, DECD prepares the HUD-required consolidated housing plan that includes a housing and homeless needs assessment, housing market analysis, a strategic plan and an action plan, and certification and monitoring assurances. The HUD-required plan covers the following formula grant programs: (1) the Community Development Block Grant program, (2) the Emergency Shelter Grants, (3) the HOME Investment Partnership program, and (4) the Housing Opportunities for Persons with AIDS program.

HUD requires states to develop their plans in consultation with the public and with citizen participation (24 CFR §§ 91.300-91.330).

PA 11-168—SB 1047

Planning and Development Committee

Commerce Committee

Housing Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING CHANGES TO CERTAIN HOUSING STATUTES

SUMMARY: This act modifies several Department of Economic and Community Development (DECD) housing programs. It:

1. makes “housing partnerships” eligible for DECD grants or loans to build and operate congregate housing and hire resident service coordinators (RSCs);
2. expands uses of DECD-administered Housing Trust Fund Program funding, authorizing (a) the trust fund to provide financial assistance as a revolving loan and (b) a DECD-selected third-party contract administrator to receive funds to establish or maintain a revolving loan fund or undertake some of DECD’s program duties;
3. authorizes (a) the Housing Trust Fund to accept local, state, or federal funds if not otherwise prohibited by federal or state law and (b) DECD to deposit these funds in the trust fund if the money is received for purposes that do not conflict with those of the trust fund;
4. requires DECD’s database of handicapped accessible and adaptable housing to contain certain information specified in existing law and the act only when it is practicable; and
5. changes various requirements for the State-Assisted Housing Sustainability Fund.

It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

CONGREGATE PUBLIC HOUSING FOR THE ELDERLY

By law, a “housing partnership” is any partnership, limited partnership, joint venture, trust, or association consisting of a:

1. housing authority, nonprofit corporation, or both and
2. (a) for-profit business corporation, partnership, limited partnership, joint venture, trust, limited liability company, or association that has as one of its purposes the construction, rehabilitation, ownership, or operation of housing whose basic

organizational documents DECD approves in accordance with its regulations for public housing developers or (b) combination of these entities.

The act makes these partnerships, and thus for-profit entities, eligible to receive DECD financial assistance for congregate housing and to hire RSCs. By law, among other things, RSCs (1) assist residents in state-assisted elderly housing projects to live independently and (2) facilitate conflict resolution between residents, including between seniors and younger residents. Under existing law, housing authorities, municipal developers, and nonprofit corporations can receive funds to hire RSCs.

The act subjects the partnerships to existing law governing housing authorities and DECD congregate housing state assistance contracts and specifies that the provisions also apply to municipal developers and nonprofit corporations.

HOUSING TRUST FUND PROGRAM

The act (1) allows the DECD commissioner to select a third-party contract administrator to establish or maintain a revolving loan fund or carry out some of DECD’s duties under this program and (2) requires that the administrator be selected through a competitive process when the contract costs more than \$50,000. It (1) allows the administrator to be paid from the trust’s funds and (2) prohibits him or her from spending more than 15% of the contract cost for administrative expenses.

Under the act, all outstanding loans are assigned to DECD when the third-party contract administrator is (1) no longer establishing or maintaining the revolving loan fund, (2) in default of its obligations to the department, or (3) no longer functioning as an entity.

By law, DECD administers the Housing Trust Fund program, which, among other things, encourages housing development that low- and moderate-income families can afford while paying no more than 30% of gross household income on it.

DATABASE OF ACCESSIBLE OR ADAPTABLE HOUSING UNITS

The law requires DECD to establish a database of housing units that are accessible or adaptable for people with disabilities. Prior law required the database to include unit information such as (1) location, rent, and number of bedrooms; (2) housing type and neighborhood; (3) vacancy and availability, if applicable; and (4) features making it accessible or adaptable for people with disabilities. The act requires the database to state when a waiting list for such units may open. It also requires DECD to include the

specified information only “to the extent practicable.” It eliminates a requirement that DECD’s commissioner use computer-assisted mass appraisal systems, when feasible.

STATE-ASSISTED HOUSING SUSTAINABILITY FUND

The law requires DECD, in consultation with the State-Assisted Housing Sustainability Fund Advisory Committee, to establish and maintain the State-Assisted Housing Sustainability Fund. The purpose of the fund is to preserve “eligible housing,” which means housing in the housing loan portfolio that DECD transferred to the Connecticut Housing Finance Authority (CHFA) (CGS § 8-37uu). (In 2003, DECD transferred the housing portfolio to CHFA, and CHFA gave \$85 million to the state in return, as authorized by law.) The act requires DECD to award financial assistance in consultation with the Housing Committee instead of the advisory committee (as under prior law, DECD and the Housing Committee must consider the long-term viability of eligible housing in reviewing applications and providing financial assistance). It eliminates a requirement for the advisory committee to approve DECD’s administrative budget for the fund.

The act allows, rather than requires, DECD to adopt regulations for the fund and makes related technical changes. By law, the regulations must include guidelines for grants and loans. The act eliminates a requirement that the guidelines provide for an advisory committee-approved deferral of principal and interest payments.

It also eliminates the requirement that the advisory committee advise DECD and the CHFA on establishing criteria, priorities, and procedures for financial assistance under the fund. The advisory committee must still advise DECD on the administration, management, procedure, and objectives of the financial assistance, including the adoption of regulations for such assistance.

The act also (1) eliminates the requirement that DECD’s annual report on fund operation be completed in consultation with the advisory committee and (2) makes the report part of DECD’s department-wide annual report, rather than a separate report.

PA 11-185—HB 5256

Planning and Development Committee

AN ACT CONCERNING RECEIPT BY ELECTRONIC MAIL OF MUNICIPAL TAX BILLS

SUMMARY: Under existing law, local tax collectors mail or hand to each person owing taxes a (1) bill for

current taxes and (2) statement of the year and amount of any back taxes due. This act allows them to send the bill and statement by email, as long as the:

1. taxpayer consents in writing to receive them electronically and
2. community imposing the tax (a) posts its email address on its website and (b) establishes procedures to ensure that any such taxpayer receives the bill and statement and is provided the community’s return email address.

EFFECTIVE DATE: October 1, 2011, and applicable to assessment years starting on or after October 1, 2011.

PA 11-188—HB 5472

*Planning and Development Committee
Environment Committee*

AN ACT AUTHORIZING LOCAL AND REGIONAL AGRICULTURAL COUNCILS AND CONCERNING CONSIDERATION OF AGRICULTURE IN LOCAL PLANS OF CONSERVATION AND DEVELOPMENT AND ZONING REGULATIONS

SUMMARY: This act explicitly authorizes municipalities to establish local or regional agricultural councils. (Some municipalities currently have similar entities.)

It also requires a local conservation and development plan to recommend land in the municipality that can be best used for agricultural purposes and include a map showing this use and other proposed land uses. Under existing law, the uses are residential, recreational, commercial, industrial, conservation, and other purposes. By law, in preparing the plan, a planning commission or one of its special committees must consider agriculture protection and preservation.

By law, a municipal land use board must adopt zoning regulations giving reasonable consideration to their impact on agriculture. The act specifies that the statutory definition of agriculture applies (see BACKGROUND).

EFFECTIVE DATE: October 1, 2011

AGRICULTURAL COUNCILS

Under the act, the legislative body of the town, or the board of selectmen where the town meeting is the legislative body, must vote to establish a local council. Two or more towns can agree to form a regional council by a vote of their legislative bodies.

The act permits an agricultural council to:

1. provide information to local farmers and municipal boards and commissions about the benefits of balancing agriculture and other land uses;
2. educate municipal officials about agricultural laws and safety issues;
3. identify grant sources for farmers and municipalities;
4. enable a common understanding of agriculture among all municipal departments;
5. provide information and guidance about agriculture-related zoning issues;
6. support local, regional, and state vocational agricultural programs;
7. provide conflict resolution and advisory services;
8. identify innovative opportunities for agriculture; and
9. create a climate that supports agriculture's economic viability in the municipality.

BACKGROUND

Definition of Agriculture

By law, agriculture includes soil cultivation; dairying; forestry; and raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and managing livestock, including horses, bees, poultry, fur-bearing animals, and wildlife. It also includes:

1. raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish (aquaculture);
2. operating, managing, conserving, improving, or maintaining a farm and its buildings, tools, and equipment, or salvaging timber or clearing land of brush or other debris left by a storm, as an incident to such farming operations;
3. producing or harvesting maple syrup, maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations;
4. harvesting mushrooms;
5. hatching poultry;
6. constructing, operating, or maintaining ditches, canals, reservoirs, or waterways used exclusively for farming; and
7. handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage, market, or a carrier for transporting to market or for direct sale (a) any agricultural or horticultural commodity incident to ordinary farming operations or (b) in the case of fruits and vegetables, incident to

the preparation of such fruits or vegetables for market or direct sale (CGS § 1-1(q)).

Related Law

By law, the agriculture commissioner, when requested, may advise a municipality, state agency, tax assessor, or landowner, on (1) what constitutes agriculture or farming under the statutes and (2) the classification of land as farmland or open space (CGS § 22-4c).

PA 11-202—sHB 6410 (VETOED)
Planning and Development Committee

AN ACT CONCERNING THE REVISION OF MUNICIPAL CHARTERS

SUMMARY: By law, a commission appointed to draft or amend a municipal charter or amend a home rule ordinance must consider (1) the changes or items specified in the petition that initiated the adoption or revision process, if applicable, and (2) anything else the appointing authority (i.e., legislative body) recommends. Under prior law, the commission could consider additional changes or items it deemed desirable or necessary. This act prohibits a commission appointed on or after October 1, 2011 from considering additional items or changes without the appointing authority's authorization.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Charter Adoption and Revision Process

The law authorizes towns to adopt or amend a charter or amend a home rule ordinance and specifies the process for doing so. The town's legislative body or the town's voters can initiate the process by resolution or petition, respectively. The legislative body must appoint a commission, which must consider any item the legislative body or the petition specifies.

The commission and the legislative body must hold public hearings on the proposal according to a statutory schedule. The legislative body can recommend changes to the commission's proposal, but the commission does not have to accept them. After the commission finalizes its proposed charter or amendments, the legislative body can accept or reject all or parts of it. Voters can petition for a referendum on the rejected parts.

The legislative body must decide, by majority vote, the forum for submitting the proposal for voter approval. The referendum must be held no later than 15 months after the legislative body approved the proposal

or the respective clerks certified the petition. The legislative body must also decide whether to submit the proposal to the voters as a single question or several questions (CGS § 7-191).

PA 11-2—HB 6545

Public Health Committee

AN ACT CONCERNING THE PROVISION OF PROPHYLACTIC AND EMERGENCY CARE TO HOSPITAL PATIENTS

SUMMARY: This act allows hospitals to use protocols and policies, sometimes referred to as “standing orders,” to treat patients under certain conditions. Specifically, it allows a hospital to provide care to a patient, without a physician’s order, after assessing for contraindications and according to a physician-approved hospital policy. This can be done only if the care (1) is emergent, timely, and necessary or (2) advances care as permitted under the Centers for Medicare and Medicaid Services’ (CMS) regulations on “Conditions of Participation for Hospitals” (42 CFR Part 482).

The act also allows a hospital to provide any prophylactic care or treatment to healthy newborns born at the hospital or admitted to the hospital nursery, without a physician’s order, after assessing for contraindications and according to a physician-approved hospital policy. This care or treatment must be allowed under the CMS regulations cited above.

It also makes a technical change.

EFFECTIVE DATE: October 1, 2011. (PA 11-242 (§ 78) changed the effective date to July 1, 2011.)

PA 11-4—HB 6278

Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES DIVISION OF AUTISM SPECTRUM DISORDER SERVICES

SUMMARY: This act updates terminology used by the Department of Developmental Services (DDS) in its provision of autism services. It uses the term “autism spectrum disorder” instead of just “autism” to encompass all autism diagnoses on the autism spectrum. It also substitutes the term “intellectual disability” for “mental retardation” to reflect changes in federal law and within the developmental disabilities community.

The act allows, rather than requires, DDS to annually make recommendations to the governor and Public Health Committee about legislation and funding needed to provide necessary services to persons diagnosed with autism spectrum disorder.

It also repeals a statute concerning an autism pilot program that ended in 2009.

EFFECTIVE DATE: Upon passage

BACKGROUND

Updated Terminology

A recently enacted federal law known as “Rosa’s Law” (P.L. 111-256) changes references in federal law from “mental retardation” to “intellectual disability” and from a “mentally retarded individual” to an “individual with an intellectual disability.”

The new edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) by the American Psychiatric Association, scheduled to take effect in May 2013, will change the term “mental retardation” to “intellectual disability” and the term “autistic disorder” to “autism spectrum disorder.”

Related Act

PA 11-16 also updates terminology used by DDS as well as by the Office of Protection and Advocacy for Persons with Disabilities in their provision of services. It substitutes the term “intellectual disability” for “mental retardation” and “autism spectrum disorder” for “autism.”

PA 11-10—HB 6371

Public Health Committee

AN ACT CONCERNING EXEMPTIONS FROM THE CERTIFICATE OF NEED PROCESS FOR RESEARCHERS UTILIZING CERTAIN TECHNOLOGIES THAT HAVE NO IMPACT ON HUMAN HEALTH

SUMMARY: This act exempts from certificate of need (CON) review acquisition of any equipment used exclusively for scientific research on non-humans. The Office of Health Care Access (OHCA) division of the Department of Public Health (DPH) administers the CON program. Generally, a CON authorization is required when a health care facility proposes (1) establishment of new facilities or services, (2) a change in ownership, (3) the purchase or acquisition of certain equipment, or (4) termination of certain services.

EFFECTIVE DATE: Upon passage

Related Acts

PA 11-183 requires a hospital seeking to terminate current inpatient or outpatient services to file a CON application with OHCA. It also requires, under certain conditions, a CON for termination of surgical services by an outpatient surgical facility, or a facility providing such services as part of the outpatient surgery department of a short-term acute care general hospital.

PA 11-242 requires hospitals and institutions operated by the state to get a CON before terminating inpatient or outpatient services eligible for reimbursement under Medicare or Medicaid. The act also (1) adds podiatrists owning and controlling an outpatient surgical facility to an existing CON exemption concerning transfer or change of ownership and (2) makes changes concerning CON filing and notice procedures.

PA 11-16—sHB 6279

Public Health Committee

Human Services Committee

Judiciary Committee

AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES INCLUDING THE UTILIZATION OF RESPECTFUL LANGUAGE WHEN REFERRING TO PERSONS WITH INTELLECTUAL DISABILITY

SUMMARY: This act updates terminology used by the Department of Developmental Services (DDS) and the Office of Protection and Advocacy for Persons With Disabilities (OP&A) in their provision of services. It substitutes the term “intellectual disability” for “mental retardation” to reflect changes in federal law and within the developmental disabilities community. It also uses the term “autism spectrum disorder” instead of just “autism” to encompass all autism diagnoses on the autism spectrum. It also:

1. specifies that DDS regulations include requirements regarding quality service reviews in addition to licensing inspections and that at least half of all quality service reviews, licensing inspections, or facility visits DDS conducts after initial licensure must be unannounced;
2. removes the licensure requirement for residential facilities, instead requiring only community living arrangements or community companion homes to obtain DDS licensure (these are the only facilities DDS currently licenses in practice);
3. eliminates the requirement that each DDS contract to construct, renovate, or rehabilitate a community-based residential facility be awarded to the lowest responsible and qualified bidder through the competitive bid process established by department regulations (DDS must still comply with state contracting laws);
4. repeals the requirement that the Camp Harkness Advisory Committee annually report to the DDS commissioner and the Public

Health Committee on the camp’s status;

5. replaces statutory references to “community training homes” with “community companion homes and community living arrangements” to reflect updated terminology;
6. removes the statutory definition of “employment opportunities and day services;”
7. specifies that anyone aggrieved by a DDS regulatory requirement or licensure denial or revocation may request an administrative hearing under the Uniform Administrative Procedure Act; and
8. repeals certain statutory provisions.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

REPEALERS

The act repeals the following:

1. the requirement that DDS annually report to the Public Health and Appropriations committees regarding regional comparisons of staff-to-client ratios, program and per-client service costs, and gaps between people served and those requesting services;
2. a provision allowing DDS to directly purchase, within available appropriations, up to \$3,500 of wheelchairs, placement equipment, and clothing specifically designed for handicapped persons;
3. a provision exempting a resident placed in a private boarding home who is recalled for a physical and mental examination from the per diem fee for a recall period of up to 10 days;
4. a provision authorizing an officer of a facility or training school, upon the superintendent’s written request, to return to the institution a DDS client who placed-out or escaped; and
5. provisions related to the recommitment and transfer of DDS clients from a state institution to the Southbury Training School, state developmental services region, or any state facility for individuals with developmental disabilities.

BACKGROUND

Updated Terminology

A recently enacted federal law, known as “Rosa’s Law” (P. L. 111-256), changes references in federal law from “mental retardation” to “intellectual disability” and from a “mentally retarded individual” to an “individual with an intellectual disability.”

The new edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) by the American Psychiatric Association, scheduled to take effect in May 2013, will change the term “mental retardation” to “intellectual disability” and the term “autistic disorder” to “autism spectrum disorder”

Related Act

PA 11-4 also updates terminology used by DDS in its provision of autism services.

PA 11-23—sHB 6481

Public Health Committee

Government Administration and Elections Committee

AN ACT CONCERNING THE ESTABLISHMENT OF A LUPUS EDUCATION AND AWARENESS PLAN

SUMMARY: This act establishes, within the Department of Public Health (DPH), an Interagency and Partnership Advisory Panel on Lupus. Lupus is a chronic inflammatory disease that occurs when the body’s immune system attacks its own tissues and organs. Inflammation caused by lupus can affect many different body systems, including the joints, skin, kidneys, blood cells, heart, and lungs.

The governor, DPH commissioner, legislative leaders, and certain legislative commissions appoint advisory panel members. The panel must develop and implement a comprehensive lupus education and awareness plan after evaluating and analyzing existing educational materials and resources.

EFFECTIVE DATE: July 1, 2011

INTERAGENCY AND PARTNERSHIP ADVISORY PANEL

Members

The 13-member advisory panel consists of:

1. a nonphysician medical clinician with significant experience treating lupus recommended by the Connecticut Advanced Practice Registered Nurse Society and appointed by the governor;
2. five people appointed by the DPH commissioner, one with lupus recommended by the state chapter of the Lupus Foundation of America; a scientist from a Connecticut university with experience in lupus who participates in various scientific fields, including biomedical, social, translational, behavioral, or epidemiological research

recommended by the Medical and Scientific Advisory Council of the state chapter of the Lupus Foundation; a physician with significant experience treating lupus, recommended by the Connecticut Medical Society; a representative from the state chapter of the Lupus Foundation; and a state resident representing the Lupus Research Institute;

3. one member each appointed by the House speaker, Senate president pro tempore, and the House and Senate minority leaders; and
4. one person each appointed by the executive directors of the Permanent Commission on the Status of Women, the African-American Affairs Commission, and the Latino and Puerto Rican Affairs Commission.

The appointing authorities must make their appointments by July 31, 2011 and fill any vacancies. Members serve two two-year terms. The DPH commissioner selects the chairperson from among the members.

The panel must meet quarterly and at any other time the chair or a majority of the members requests a meeting. The chairperson must schedule the first meeting by August 30, 2011. Seven members constitute a quorum and a majority vote of the quorum is needed for any official action. The Public Health Committee’s administrative staff serves as the panel’s administrative staff.

Needs Assessment and Comprehensive Plan

The panel must (1) analyze the current state of education on lupus in Connecticut; (2) evaluate available materials and resources from government agencies, hospitals, and lupus advocacy organizations; and (3) conduct a needs assessment or use a similar mechanism to identify gaps in current lupus education modalities in the state.

Once the needs assessment is completed, the advisory panel must report its results in writing to the Public Health Committee and DPH. The panel must then develop and implement, with input from the committee and DPH, a comprehensive lupus education and awareness plan to improve education and awareness of lupus for health care providers, public health personnel, patients, and people who may have lupus.

The plan must include recommendations on how to best:

1. distribute medically sound, government-endorsed, lupus health information through local health departments, schools, agencies on aging, employer wellness programs, physicians and other health professionals, hospitals, health plans and health maintenance organizations, women’s health groups, and nonprofit and

- community-based organizations;
2. use community volunteers to distribute promotional brochures and other materials on lupus education and awareness;
 3. develop educational materials for health professionals that identify the most recent scientific and medical information and clinical applications regarding lupus treatment;
 4. work to increase knowledge among physicians, nurses, and health and human services professionals about the importance of lupus diagnosis, treatment, and rehabilitation;
 5. support continuing medical education programs in the state's leading academic institutions by ensuring that such institutions are provided the most recent scientific and medical information and clinical applications regarding lupus treatment;
 6. conduct statewide workshops and seminars for extensive professional development on the care and management of lupus patients to bring the latest information on clinical advances to health care providers; and
 7. maintain and develop a directory of lupus-related health care services, including a list of specialists in lupus diagnosis and treatment that DPH can distribute, within available appropriations, to individuals with lupus and their families, representatives from volunteer organizations, health care professionals, health plans, local health agencies and authorities, and other state agencies.

The advisory panel must submit its initial plan to DPH and the Public Health Committee by October 1, 2012 and may make periodic revisions to it thereafter.

DPH Assistance

Under the act, DPH, within available appropriations, can help the panel by distributing educational materials to state health care providers serving minority populations, among other things. DPH may accept funds from any source to implement the act's provisions and must take any necessary actions to maximize federal funding.

PA 11-26—SB 885

Public Health Committee

Public Safety and Security Committee

AN ACT PERMITTING INQUIRY ACCESS TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES' ABUSE AND NEGLECT REGISTRY FOR CHARITABLE ORGANIZATIONS WHICH

RECRUIT VOLUNTEERS TO WORK WITH PERSONS WITH INTELLECTUAL DISABILITIES

SUMMARY: This act permits charitable organizations to conduct background checks on volunteers they recruit to support programs for people with intellectual disabilities by accessing the Department of Developmental Services' (DDS) abuse and neglect registry. It requires these organizations to apply to and get approval from the DDS commissioner before accessing the registry.

By law, DDS maintains a registry of individuals who have been terminated or separated from employment due to substantiated abuse or neglect of people with intellectual disabilities. Prior law limited access to (1) authorized agencies, for the purpose of protective service determinations; (2) employers whose employees provide services to DDS clients; and (3) the departments of Children and Families and Mental Health and Addiction Services to check whether a job applicant is listed there.

EFFECTIVE DATE: Upon passage

PA 11-32—sHB 5045

Public Health Committee

AN ACT REQUIRING HEALTH CARE PROVIDERS TO DISPLAY PHOTOGRAPHIC IDENTIFICATION BADGES DURING WORK HOURS

SUMMARY: This act requires a health care provider who provides direct patient care as an employee of or on behalf of a healthcare facility or institution to wear an employer-issued photo-identification badge during working hours. The badge must be worn in plain view and include the (1) facility's or institution's name; (2) provider's name; and (3) provider's license, certificate, or employment title.

It requires these facilities or institutions, in consultation with the Department of Public Health, to develop policies and procedures concerning (1) the badge size, content, and format and (2) any necessary exemptions to ensure patient and health care provider safety.

The act defines "healthcare facility or institution" as a (1) hospital; (2) nursing home; (3) rest home; (4) home health care agency; (5) homemaker-home health aide agency; (6) emergency medical services organization; (7) assisted living services agency; (8) outpatient surgical facility; or (9) infirmary operated by an educational institution for the care of its students, faculty, and employees.

EFFECTIVE DATE: October 1, 2011

PA 11-40—HB 6373
Public Health Committee

**AN ACT CONCERNING THE
ADMINISTRATION OF PERIPHERALLY-
INSERTED CENTRAL CATHETERS IN LONG-
TERM CARE SETTINGS**

SUMMARY: This act allows an intravenous (IV) therapy nurse employed or contracted by a nursing home that operates an IV therapy program to administer a peripherally inserted central catheter (PICC) as part of the home's IV therapy program. Department of Public Health (DPH) regulations allow only a physician to administer a PICC. A PICC is a tube that is inserted into a peripheral vein, typically in the upper arm, and advanced until the catheter tip ends in a large vein in the chest near the heart to obtain intravenous access. DPH must adopt new regulations to implement the act.
EFFECTIVE DATE: October 1, 2011

DEFINITIONS

Under the act, "administer" means to (1) initiate the venipuncture and deliver an IV fluid or IV admixture into the blood through a vein and (2) monitor and care for the venipuncture site, terminate the procedure, and record pertinent events and observations.

"IV therapy program" means a nursing home's overall plan to implement, monitor, and safeguard the administration of IV therapy to patients.

"IV therapy nurse" means a registered nurse qualified by education and training who has demonstrated proficiency in the theoretical and clinical aspects of IV therapy to administer an IV fluid or IV admixture.

The following terms are defined but are not subsequently referred to in the act. They appear in DPH's regulations on IV therapy programs in nursing homes:

1. "IV admixture" means an IV fluid to which one or more additional drug products have been added.
2. "IV fluid" means sterile solutions of 50 millimeters or more, intended for intravenous infusion, but does not include blood and blood products.
3. "IV therapy" means the introduction of an IV fluid or IV admixture into the blood through a vein to (a) correct water deficits and electrolyte imbalances, (b) provide nutrition, and (c) deliver antibiotics and other therapeutics approved by a nursing home's medical staff.

PA 11-64—sSB 852
*Public Health Committee
Planning and Development Committee
Judiciary Committee*

**AN ACT CONCERNING PERMANENT
SUPPORTIVE HOUSING INITIATIVES**

SUMMARY: This act amends the Department of Mental Health and Addiction Services' (DMHAS) supportive housing initiative by eliminating references to its "Pilot" and "Next Steps" phases, and instead uses the term "permanent." It also (1) adds two state entities to those already collaborating with DMHAS on the supportive housing initiative and (2) establishes a process for development of scattered site housing. Finally, the act makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

SUPPORTIVE HOUSING INITIATIVE

Designation as "Permanent"

By law, DMHAS is responsible for a supportive housing initiative that provides housing units mainly to individuals with mental illness. To date, the initiative has operated under two phases—a "Pilot" phase and the "Next Steps" phase. Under the pilot, DMHAS was required to provide up to 650 housing units and support services to eligible persons. Subsequently, the law was amended to authorize an additional 1,000 units under the Next Steps initiative. The act eliminates references to the Pilot and Next Step initiatives and instead refers to the initiative as "permanent supportive housing."

By law, those eligible for the initiative are:

1. people or families affected by psychiatric disabilities, chemical dependencies, or both and who are homeless or at risk of becoming homeless;
2. families who qualify for the temporary assistance for needy families program;
3. 18- to 23-year olds who are homeless or at risk for becoming homeless because they are transitioning out of foster care or other residential programs; and
4. community-supervised offenders with serious mental health needs who are under Judicial Branch or Correction Department jurisdiction.

The act clarifies that individuals and families with special needs and those at risk for homelessness are eligible for supportive housing.

Agency Collaboration

DMHAS establishes and operates the supportive housing initiative in collaboration with the departments

of Social Services (DSS), Children and Families (DCF), and Economic and Community Development and the Connecticut Housing Finance Authority (CHFA). The act adds the Department of Correction and the Court Support Services Division of the Judicial Branch to this collaboration.

Development and Scattered Site-Model

Under prior law, CHFA issued requests for proposals (RFPs) for those interested in participating in the supportive housing initiative to applicants including organizations deemed by DMHAS, DSS, and DCF as qualified to provide services. CHFA then reviewed and underwrote projects developed under the supportive housing initiative.

The act limits CHFA's review and underwriting to "development projects" and creates a new RFP process for scattered-site models of supportive housing. It eliminates specific forms of financial assistance CHFA can provide.

The act requires DMHAS and DSS to issue, within available appropriations, RFPs in a scattered-site model for homeless individuals with psychiatric disabilities and substance abuse disorders.

BACKGROUND

Related Act

PA 11-61, §§ 133-35, contains the same language as this act.

PA 11-76—sSB 1201

Public Health Committee

AN ACT CONCERNING PATIENT ACCESS AND CONTROL OVER MEDICAL TEST RESULTS

SUMMARY: This act (1) requires clinical laboratories to provide patient test results to additional health care providers in certain situations and (2) allows a patient to directly receive test results when the patient is undergoing repeated testing. The Department of Public Health (DPH) must adopt regulations to implement the act.

EFFECTIVE DATE: October 1, 2011

ACCESS TO MEDICAL TEST RESULTS

The law requires a health care provider, except in limited circumstances (such as when a provider reasonably determines that the information might be detrimental to the patient), to supply a patient, upon request, complete and current information the provider has about the patient's diagnosis, treatment, or prognosis. The provider must also notify a patient of any test results in his or her possession or requested by the provider for purposes of diagnosis, treatment, or prognosis. The law generally does not allow direct reporting to patients of laboratory test results. But they may be reported to patients upon the written request of the provider who ordered the testing (Conn. Agencies Regs. § 19a-36-D32).

Test Results to Additional Providers

Under the act, if a patient or a provider who orders medical tests for the patient so requests, a clinical laboratory must supply the test results to any other provider who is seeing the patient for treatment, diagnosis, or prognosis purposes. The act defines "clinical laboratory" as any facility or other area used for microbiological, serological, chemical, hematological, immunohematological, biophysical, cytological, pathological, or other examinations of human body fluids, secretions, excretions, or excised or exfoliated tissues, for the purpose of providing information for the diagnosis, prevention, or treatment of any human disease or impairment, assessment of human health, or for the presence of drugs, poisons, or other toxicological substances. For the purposes of the act, a clinical laboratory does not include any state laboratory established by DPH.

Direct Reporting to Patient

Under the act, a provider can issue a single authorization allowing a clinical laboratory or other entity performing medical testing to give directly to the patient the test results in situations where the provider asks the patient to submit to repeated testing at regular intervals over a specified time period. Such testing must be for determining a diagnosis, prognosis, or recommended treatment course.

BACKGROUND

Related Act

The language of this act is identical to that in PA 11-242 (§ 79).

PA 11-97—HB 5634
Public Health Committee

AN ACT CONCERNING EXPEDITED LICENSING PROCESSES FOR PREVIOUSLY LICENSED OPERATORS OF CHILD DAY CARE CENTERS AND GROUP DAY CARE HOMES AND THE ESTABLISHMENT OF A PILOT PROGRAM THAT PROVIDES TEMPORARY CARE TO CHILDREN WITH ILLNESSES

SUMMARY: By law, no public or private person, group, association, organization, corporation, institution, or agency can operate a child day care center or group day care home without a license from the Department of Public Health (DPH). This act gives the DPH commissioner discretion to determine whether a request for a change of operator, ownership, or location from a currently licensed day care provider requires filing a new license application. Previously, DPH regulations required a new initial application for such change.

The act allows for the establishment of a drop-in pilot program to provide temporary custodial care to sick children. It also makes technical changes.

EFFECTIVE DATE: October 1, 2011

DROP-IN PILOT PROGRAM

The act directs DPH to allow the establishment of a drop-in pilot program to provide facility-based temporary custodial care for any child 15 years of age or younger with a communicable or noncommunicable illness. The pilot program (1) must be administered by a licensed physician and (2) may provide temporary custodial care for not more than 12 children per day. A child in the program may not receive more than nine hours of custodial care per day.

Before implementing the pilot program, the administering physician must provide to DPH, for its review and approval, (1) a physical plant description of the building, including a description of the interior space, that will be used to house the pilot program and (2) proposed policies and procedures for operating and administering the program. The latter must address daily operations, staffing qualifications and levels, criteria for assessing children before admittance and during operating hours, documentation and record-keeping, infection control measures, medication administration, and emergency response procedures.

The program administrator must (1) submit the required documentation for each prospective employee to the DPH commissioner, who must request a check of each prospective employee's name from the state child abuse registry; (2) allow any DPH employee immediate access to the facility, its staff, and records at any time

during customary business hours; and (3) submit quarterly status reports to the department in a form and manner it prescribes.

The pilot program terminates on September 30, 2013.

BACKGROUND

Day Care Licensing

An application for an initial or renewal license must be on DPH-prescribed forms. An initial license application must be signed by the operator, who must be at least 20 years of age if an individual. If the operator is a group of persons or an organization, corporation, or other entity, the application must be signed by the legal representative of the day care operator. The application must contain the following:

1. a notarized original affidavit on a DPH form;
2. the name of the child day care center or the group day care home and address and telephone number;
3. the name, home address, and home telephone number of the individual operator or the legal representative of a group of persons, association, organization, corporation, institution or agency, public or private;
4. a copy of the current fire marshal certificate of approval, written verification of compliance with state and local building codes, local zoning requirements, and local health ordinances;
5. proposed licensed capacity;
6. ages of children to be served;
7. days, hours, and months of program operation;
8. criminal background checks and a check of the State Child Abuse Registry as required by state regulation; and
9. all other documentation that the DPH commissioner deems necessary to establish that the licensee will meet the health, educational, and social needs of the children likely to attend the center or home (Conn. Agency Regs. §§ 19a-79-4a(b) and 19a-79-2a).

PA 11-160—sSB 152
Public Health Committee

*Government Administration and Elections Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING THE ESTABLISHMENT OF THE CONNECTICUT UMBILICAL CORD BLOOD COLLECTION BOARD

SUMMARY: This act creates the Connecticut Umbilical Cord Blood Collection Board to establish a

state umbilical cord blood collection program. The board consists of the Department of Public Health (DPH) commissioner and seven members appointed by the governor and legislative leaders.

The program must promote the collection of umbilical cord blood units from genetically diverse donors for public use. The board may raise funds and apply for and accept public or private grant money. It must, based on the funding available, (1) contract with entities that have expertise in collecting and transporting umbilical cord blood units to establish or designate at least two collection centers in the state and (2) engage in public education and marketing activities concerning cord blood.

The act establishes a separate, nonlapsing General Fund account for the program. It also establishes auditing and reporting requirements.

EFFECTIVE DATE: Upon passage

CONNECTICUT UMBILICAL CORD BLOOD COLLECTION BOARD

Board Members

The act establishes an eight member Connecticut Umbilical Cord Blood Collection Board which is not a department, institution, agency, or political subdivision of the state.

The board consists of the DPH commissioner or her designee and seven members appointed by the governor and legislative leaders as shown in Table 1.

Table 1: Connecticut Umbilical Cord Blood Collection Board

APPOINTING AUTHORITY	NUMBER OF APPOINTMENTS	QUALIFICATIONS
Governor	1	Medical director or chief scientist with knowledge of umbilical cord blood banking and affiliated with an entity recognized by DPH
House speaker	1	Licensed physician experienced in transplanting units of umbilical cord blood or other stem cells
Senate president pro tempore	1	Licensed physician with expertise in and currently practicing in obstetrics at a birthing hospital that participates in umbilical cord blood collection and who is affiliated with a private university hospital
House majority leader	1	Licensed physician with expertise in and currently practicing in obstetrics at a birthing hospital that participates in umbilical cord blood collection and is affiliated with a public university hospital

Table 1: Continued

Appointing Authority	Number of Appointments	Qualifications
House minority leader	1	Licensed physician with expertise in and currently practicing in obstetrics at a birthing hospital that participates in umbilical cord blood collection
Senate majority leader	1	Member of a nonprofit umbilical cord blood foundation with knowledge of umbilical cord blood banking issues
Senate minority leader	1	Expert in regulatory practices of the federal Food and Drug Administration (FDA) and the federal Health Resources and Services Administration

Appointment Terms

All initial board appointments must be made by October 1, 2011. The governor’s appointee serves at his pleasure for as long as he remains in office or until the member’s successor is appointed and has qualified, whichever term is longer. The other appointees serve at the pleasure of the appointing legislator who must fill any vacancy for the unexpired term of a member he or she appoints. Any member may be reappointed.

The governor appoints the board chairperson from its members. The chairperson must schedule the first meeting, which must be held by November 1, 2011. Subsequent meetings must be held quarterly and at other times the chairperson deems necessary.

Appointed members cannot designate anyone to represent them in their absence. Any appointed member who misses three consecutive meetings or 50% of all meetings held during any calendar year is considered to have resigned.

The appointing authority may remove a member for inefficiency, neglect of duty, or misconduct in office. The member must be given a written copy of the charges against him or her and an opportunity to be heard, in person or by counsel, in his or her defense, with not less than 10 days’ notice. If any member is removed in this manner, the appointing authority must file with the secretary of the state (1) a complete statement of charges made against the member, (2) the appointing authority’s findings on the statement, and (3) a complete record of the proceedings.

Transacting Business

To transact any business or exercise any powers, the board may act by a majority of the members present at any meeting at which a quorum (five members) is present. The board can (1) consult with public or private parties it considers desirable in exercising its duties and

(2) adopt written policies and procedures to carry out its statutory purposes.

Conflict of Interest

All members, other than the DPH commissioner, can be privately employed, or in a profession or business, subject to any applicable state or federal laws, rules, and regulations regarding official ethics or conflict of interest.

The act specifies that it is not a conflict of interest for a trustee, director, partner, or officer of any person, firm, or corporation or any individual having a financial interest in a 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.

UMBILICAL CORD BLOOD COLLECTION PROGRAM

Purposes

The board must establish, by July 1, 2012, the umbilical cord blood collection program and administer it. The program must facilitate and promote the collection of units of umbilical cord blood from genetically diverse donors for public use. "Public use" means:

1. use of umbilical cord blood units by state, national, and international cord blood registries and transplant centers to increase the likelihood of providing suitably matched donor umbilical cord blood units to patients in need of such units or research participants in need of a transplant;
2. biological research and new clinical use of stem cells derived from umbilical cord blood and tissue; and
3. medical research that uses umbilical cord blood units that could not otherwise be used for transplants or other clinical use.

Powers

The board may raise funds; apply for and accept public or private grant money; accept contributions; enter into contracts; and, within available resources, hire any necessary staff, including an executive director.

Contracting with Collection Centers

The board must, based on available appropriated administrative funds, contract with one or more entities that have demonstrated competence in collecting and transporting umbilical cord blood units in compliance with applicable federal laws and that meet all of the

act's contractual requirements. It must contract to establish or designate at least two umbilical cord blood collection centers at fixed state locations. These centers must be at a birthing hospital with at least 3,750 births per year and where a disproportionate share of such births involve minority women. To the extent practicable, the board must encourage the collection of units of umbilical cord blood at other nonfixed state locations.

Any contract must be initiated through a competitive process that identifies the best proposals submitted to achieve the program's collection and research objectives. The contract must provide that:

1. the state retains an interest in any umbilical cord blood collected in the state commensurate with its investment in the program;
2. income the board receives as a result of the contract is used to ensure that the umbilical cord blood collection program is self-sustaining by July 1, 2020;
3. umbilical cord blood units deemed unsuitable for transplantation are returned to the state for use in biological or medical research; and
4. any entity the board contracts with must provide quarterly reports to the board that include information on the total number of umbilical cord blood units collected, number of collected units suitable for transplant, number suitable for research only, and clinical outcomes of any transplanted units.

Reports must not include personally identifiable information.

Any entity seeking to enter into a contract with the board must, at a minimum, be in compliance with FDA requirements concerning the manufacture of clinical-grade cord blood stem cell units for clinical indications.

Any medical or research facility performing services on behalf of the board under a contract must comply with, and is subject to, state and federal law on protecting medical information and personally identifiable information contained in, or obtained through, the umbilical cord blood collection inventory.

The act provides that the board is not considered a "state contracting agency," as defined in law.

UMBILICAL CORD BLOOD COLLECTION ACCOUNT

The act establishes the Umbilical Cord Blood Collection account as a separate, nonlapsing General Fund account. The account can contain any money required or permitted by law to be deposited in it and any public or private contributions, gifts, grants, donations, bequests, or devises. The board can spend account funds needed to carry out its purpose.

AUDITS AND REPORTS

Board members must provide the Public Health and Appropriations committees with a copy of any board audit conducted by an independent auditing firm within seven days after the board receives the audit.

By January 1, 2012, and quarterly thereafter, the board must report to the governor and Public Health and Appropriations committees on the status and effectiveness of the program.

PUBLIC EDUCATION AND MARKETING

The board must, within available appropriations, undertake public education and marketing activities that promote and raise awareness among physicians and pregnant women of the umbilical cord blood collection program.

BACKGROUND

Umbilical Cord Blood

Umbilical cord blood has stem cells that may be used to treat blood cancers, such as leukemia, myeloma, lymphoma, and inherited immunodeficiencies and blood diseases, including sickle cell anemia, thalassemias, hemoglobinopathies, aplastic anemias, and marrow failure disorders. Cord blood is often discarded as medical waste.

PA 11-175—sSB 970

Public Health Committee

Judiciary Committee

AN ACT CONCERNING WORKPLACE VIOLENCE PREVENTION AND RESPONSE IN HEALTH CARE SETTINGS

SUMMARY: This act (1) requires certain health care employers to develop and implement workplace violence prevention and response plans, (2) requires health care employers to report incidents of workplace violence to local law enforcement, and (3) establishes criminal penalties for assault of a health care employee.

The act allows the labor commissioner to adopt implementing regulations.

EFFECTIVE DATE: July 1, 2011 for the provisions on workplace safety committees, risk assessment, violence prevention plans, patient care assignment, and regulations; October 1, 2011 for the remaining provisions.

WORKPLACE SAFETY COMMITTEE

By October 1, 2011, the act requires each health care employer to convene a workplace safety committee to address health and safety issues pertaining to health care employees. A “health care employer” means any institution, as defined in law, with 50 or more full- or part-time employees. It includes a (1) facility caring for or treating mentally ill persons or substance abusers, (2) licensed residential care facility for persons with intellectual disability, and (3) community health center. “Institution,” with the 50-employee minimum, includes hospitals; residential care homes; health care facilities for the handicapped; nursing homes; rest homes; home health care agencies; homemaker-home health aide agencies; assisted living services agencies; outpatient surgical facilities; infirmaries operated by educational institutions; and facilities, including state facilities, providing health services.

A “health care employee” is a person directly or indirectly employed by, or volunteering for, a health care employer and who (1) is involved in direct patient care or (2) has direct contact with the patient or the patient’s family when (a) collecting or processing information needed for patient forms and record documentation or (b) escorting or directing the patient or patient’s family on the health care employer’s premises.

The workplace safety committee must include representatives from the administration; physician, nursing and other direct patient care staff; security personnel; and any other staff determined appropriate by the employer. At least 50% of the membership must be nonmanagement employees. The committee must select a chairperson from its membership. It must meet at least quarterly and make meeting minutes and other records of proceedings available to all employees.

RISK ASSESSMENT; WORKPLACE VIOLENCE PREVENTION AND RESPONSE PLAN

By October 1, 2011 and annually afterwards, each health care employer must prepare an assessment of the factors that put any health care employee at risk for workplace violence. Based on these findings, the employer, by January 1, 2012 and annually afterwards, must develop and implement a workplace violence prevention and response plan in collaboration with the workplace safety committee.

Under the act, a hospital may use an existing committee it has established to assist with the plan if, as required by the act, at least 50% of the committee membership are nonmanagement employees. The employer, when developing the plan, can consider any guidance on workplace violence provided by a government agency, including the federal Occupational

Safety and Health Administration, the federal Centers for Medicare and Medicaid Services, the state Public Health (DPH) and Labor departments, and any hospital accrediting organization.

A health care employer can meet the act's requirements for a workplace violence prevention and response plan by using existing policies, plans, or procedures if, after performing the risk assessment, the employer, in consultation with the safety committee, determines that they are sufficient.

ADJUSTING PATIENT ASSIGNMENTS

To the extent practicable, a health care employer must adjust patient care assignments so that an employee requesting an adjustment does not have to treat a patient who the employer knows has intentionally physically abused or threatened the employee. The employer must give due consideration to its obligation to meet the needs of all patients. The act specifies that patient behavior that is a direct manifestation of a patient's condition or disability, including physical abuse or threatening behavior, is not considered intentional physical abuse or threatening an employee.

An employee who has been physically abused or threatened by a patient may request that a second employee be present when treating the patient in situations where the employer determines that adjusting the patient assignment is not practicable.

RECORDS

The act requires health care employers to keep records detailing workplace violence incidents, including the specific area or department where the incident happened. Upon DPH's request, an employer must report the number of incidents occurring on the employer's premises and the specific areas or departments where they occurred.

REPORTING TO LOCAL LAW ENFORCEMENT

A health care employer must report to its local law enforcement agency any act that may constitute an assault or related offense under the Penal Code against an employee acting in the performance of his or her duties. The report must be made within 24 hours of the act and include the names and addresses of those involved. An employer does not have to provide a report if the assault or related offense was committed by a person with a disability and the act is a clear and direct manifestation of the disability. "Disability" means mental retardation or a mental or physical disability.

ASSAULT OF HEALTH CARE PERSONNEL

The act makes assault of a health care employee a class C felony (see Table on Penalties). It also specifies that it is a defense that the defendant has a mental or physical disability or mental retardation.

PA 11-183—HB 5048

Public Health Committee

AN ACT REQUIRING CERTIFICATE OF NEED APPROVAL FOR THE TERMINATION OF INPATIENT AND OUTPATIENT SERVICES BY A HOSPITAL

SUMMARY: This act requires any hospital seeking to terminate current inpatient or outpatient services to file a certificate of need (CON) application with the Office of Health Care Access (OHCA) division of the Department of Public Health (DPH).

It also requires, under certain conditions, a CON for termination of surgical services by an outpatient surgical facility or a facility providing such services as part of the outpatient surgery department of a short-term acute care general hospital.

Generally, the law requires CON authorization when a health care facility proposes (1) establishing new facilities or services, (2) changing ownership, (3) purchasing or acquiring certain equipment, or (4) terminating certain services.

The act also makes minor, conforming, and technical changes.

EFFECTIVE DATE: Upon passage

CERTIFICATE OF NEED

Termination of Services By a Hospital

Under prior law, a CON was not required for termination of inpatient or outpatient services offered by a hospital, but the facility proposing to terminate such services had to file a modification request with OHCA if the proposed terminated service was originally authorized under a CON. This request had to be filed at least 60 days before the proposed termination request. OHCA had to hold a public hearing on the request if three or more individuals or an individual representing an entity with five or more people submitted a written request for a hearing.

Under the act, a hospital seeking to terminate any inpatient or outpatient service must file a CON application, but would not have to file the modification request.

Under existing law, unchanged by the act, termination of inpatient and outpatient mental health and substance abuse services by a short-term acute general hospital or children's hospital does require a CON authorization.

Termination of Outpatient Surgical Services

Under prior law, a CON was not required for the partial or total elimination of services provided by an outpatient surgical facility. But the requirements for termination of services cited above for hospitals involving a modification request applied.

The act instead requires a CON for termination of surgical services by (1) an outpatient surgical facility or (2) a facility providing outpatient surgical services as part of the outpatient department of a short-term acute care hospital. But termination of such services does not require a CON under the act if termination is due to (1) insufficient patient volume or (2) termination of any subspecialty surgical service.

BACKGROUND

Related Acts

PA 11-10 exempts from CON review the acquisition of any equipment by a person used exclusively for scientific research on non-humans.

PA 11-242 (§ 80) requires hospitals and institutions operated by the state to get a CON before terminating inpatient or outpatient services eligible for reimbursement under Medicare or Medicaid. That act also (1) adds podiatrists owning and controlling an outpatient surgical facility to an existing CON exemption concerning transfer or change of ownership (§ 32) and (2) makes changes concerning CON filing and notice procedures (§ 25).

PA 11-209—sHB 6549

*Public Health Committee
Appropriations Committee*

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S OVERSIGHT RESPONSIBILITIES RELATING TO SCOPE OF PRACTICE DETERMINATIONS FOR HEALTH CARE PROFESSIONS

SUMMARY: This act establishes a process for the submission and review of requests from health care professions seeking to revise or establish a scope of practice prior to consideration by the General Assembly. Under the act, scope of practice review committees may review and evaluate these requests and provide findings to the Public Health Committee. The Department of

Public Health (DPH) is responsible for receiving requests and for establishing and providing support to the review committees.

EFFECTIVE DATE: July 1, 2011

SCOPE OF PRACTICE REQUEST

Written Request to DPH

The act allows any person or entity acting on behalf of a health care profession seeking legislative action in the following year's legislative session that would (1) establish a new scope of practice or (2) change a profession's scope of practice, to provide DPH with a written scope of practice request. This must be done by August 15 of the year preceding the start of the next regular legislative session.

Criteria

The request submitted to DPH must include:

1. a plain language description of the request;
2. public health and safety benefits that the requestor believes will occur if the request is implemented and, if applicable, a description of any harm to public health and safety if it is not implemented;
3. the impact of the request on public access to health care;
4. a brief summary of state or federal laws governing the profession;
5. the state's current regulatory oversight of the profession;
6. all current education, training, and examination requirements and any relevant certification requirements applicable to the profession;
7. a summary of known scope of practice changes requested or enacted concerning the profession in the five years preceding the request;
8. the extent to which the request directly affects existing relationships within the health care delivery system;
9. the anticipated economic impact of the request on the health care delivery system;
10. regional and national trends in licensing of the health profession making the request and a summary of relevant scope of practice provisions enacted in other states;
11. identification of any health care professions that can reasonably be anticipated to be directly affected by the request, the nature of the impact, and efforts made by the requestor to discuss it with such health care professions; and

12. a description of how the request relates to the health care profession's ability to practice to the full extent of the profession's education and training.

Exemptions

Instead of submitting a scope of practice request to DPH, a person or entity can request an exemption. (But since the act allows, rather than requires, the scope of practice request, it is unclear when a person or entity would submit an exemption request.)

An exemption request must include a plain language description and the reasons for the request, including (1) exigent circumstances that require an immediate response to the scope of practice request, (2) a lack of dispute about the request, or (3) any outstanding issues among the health care professions that can easily be resolved. The exemption request must be submitted to DPH by August 15 of the year preceding the next regular legislative session.

Notification to the Public Health Committee

By September 15 of the year preceding the next session, DPH, within available appropriations, must (1) give written notice to the Public Health Committee of any health care profession that has submitted a scope of practice or exemption request to the department and (2) post the request and the requestor's name and address on its website.

Impact Statement

Any person or entity acting on behalf of a health care profession that may be directly impacted by a scope of practice request may submit a written statement to DPH by October 1 of the year preceding the next legislative session. The person or entity must indicate the nature of the impact, taking into consideration the criteria listed above, and provide the requestor with a copy of the impact statement. By October 15 of the same year, the requestor must submit a written response to DPH and any person or entity that submitted an impact statement describing at a minimum, areas of agreement and disagreement between the respective health professions.

SCOPE OF PRACTICE COMMITTEES

Membership

By November 1 of the year preceding the next legislative session, the DPH commissioner must, within available appropriations, establish and appoint members to a scope of practice review committee for each timely scope of practice request the department receives. The

committees consist of:

1. two members recommended by the requestor to represent the health care profession making the request;
2. two members recommended by each person or entity that submitted a written impact statement to represent the health care professions directly impacted by the request; and
3. the DPH commissioner or her designee who serves in an exofficio, non-voting capacity.

The DPH commissioner or her designee serves as the committee chairperson and may appoint additional committee members representing health care professions with a proximate relationship to the underlying scope of practice request if the commissioner or her designee determines it would help to resolve the issues.

Committee members serve without compensation.

Duties

The committee must review and evaluate the scope of practice request, subsequent written responses to the request, and any other information the committee deems relevant. This must include (1) an assessment of any public health and safety risks associated with the request, (2) whether the request may enhance access to quality and affordable health care, and (3) whether the request improves the ability of the profession to practice to the full extent of its education and training. The committee may seek input from DPH and other entities it determines necessary to provide its written findings.

After finishing its review and evaluation of the scope of practice request, the committee must give its findings to the Public Health Committee by the following February 1. It must include with its findings all the material it considered during its review process. It terminates on the date it submits its findings to the Public Health Committee.

Evaluation

By January 1, 2013, the act requires the DPH commissioner to evaluate the scope of practice request process and report to the Public Health Committee on its effectiveness in addressing these requests. The report may also include recommendations from the scope of practice review committees on measures to improve the process.

PA 11-215—SB 883*Public Health Committee***AN ACT CONCERNING VARIOUS REVISIONS TO STATUTES CONCERNING THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES**

SUMMARY: This act makes minor, technical, and conforming changes to various Department of Mental Health and Addiction Services (DMHAS) statutes. It:

1. permits, rather than requires, the DMHAS commissioner to adopt regulations regarding (a) methadone treatment programs and (b) the use of department facilities and services by self-help groups (e.g., Alcoholics Anonymous);
2. replaces statutory references to Connecticut Valley Hospital's (CVH) acute care division with CVH's addictions, general psychiatric, and Whiting Forensic divisions;
3. replaces statutory references to "immediate care beds" with "immediate duration acute psychiatric care beds" to conform with federal Medicaid law regarding the certification of these beds in general hospitals;
4. repeals the inactive Community Mental Health Strategy Board and references to it and the Community Mental Health Strategic Investment Fund;
5. removes a statutory reference to Cedarcrest Hospital which, pursuant to a settlement agreement, terminated its psychiatric inpatient services as of January 6, 2011; and
6. repeals the State Administered General Assistance Behavioral Health Program, which was merged into the Department of Social Services Medicaid Low-Income Adult program in April 2010.

EFFECTIVE DATE: October 1, 2011

BACKGROUND*Cedarcrest Hospital*

Cedarcrest Hospital's psychiatric division, Cedar Ridge Hospital, was a 103-bed inpatient facility located in Newington and operated by DHMAS. In December 2009, DHMAS filed a certificate of need application with the Department of Public Health's Office of Health Care Access (OHCA) to terminate acute care psychiatric and residential step-down services at Cedar Ridge Hospital. OHCA issued a settlement agreement to close Cedar Ridge by June 30, 2010. DHMAS terminated Cedarcrest's psychiatric inpatient services effective January 6, 2011.

Community Mental Health Strategy Board

This 21-member board is charged with developing annual strategic and financial plans to guide the DMHAS commissioner's disbursements from the Community Mental Health Strategic Investment Fund. It is composed of members appointed by the governor and legislative leaders and various state agency heads (most of whom are not voting members). The board has not met since 2008.

Community Mental Health Strategic Investment Fund

The Community Mental Health Strategic Investment Fund provides assistance to adults and children with mental illness by developing new or expanded community-based facilities, mental health services, and supportive housing. The fund has two subaccounts: Community Mental Health Restoration and Supportive Housing Enhancement. These funds have been transferred to the DHMAS budget.

PA 11-228—SB 799*Public Health Committee**Judiciary Committee***AN ACT CONCERNING MISREPRESENTATION AS A BOARD CERTIFIED BEHAVIOR ANALYST**

SUMMARY: This act makes it a crime to represent oneself as a "board certified behavior analyst" (BCBA) or a "board certified assistant behavior analyst" (BCABA) unless certified by the Behavior Analyst Certification Board.

Under the act, an individual must be board certified as a BCBA or BCABA in order to use, in connection with his or her name, (1) the words "board certified behavior analyst," "certified behavior analyst," "board certified assistant behavior analyst," or "certified assistant behavior analyst"; (2) the letters "BCBA" or "BCABA"; or (3) any words, letters, abbreviations, or insignia indicating or implying board certification or in any way, orally, in writing, in print or design, directly or by implication, represent himself or herself as board certified.

A person violating these provisions is guilty of an unclassified felony punishable by a fine of up to a \$500, imprisonment for up to five years, or both. Each illegal contact or consultation constitutes a separate offense.

The Behavior Analyst Certification Board is a nonprofit corporation (1) established to meet the professional credentialing needs of behavior analysts, governments, and consumers of behavior analysis services and (2) accredited by the National Council for Certifying Agencies, or any successor national

accreditation organization.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Board Certified Behavior Analysts and Autism Services

Starting July 1, 2012, the law 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 or (2) under an educational plan established under section 504 of the federal Rehabilitation Act of 1973 (CGS § 10-76ii).

Under the law, to provide these services on and after July 1, 2012, a person must either be (1) licensed by the Department of Public Health or certified by the State Department of Education 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 law allows the commissioner to authorize people with the following qualifications to provide them, under the supervision of 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.

PA 11-242—sHB 6618

Public Health Committee

Planning and Development Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING VARIOUS REVISIONS TO PUBLIC HEALTH RELATED STATUTES

SUMMARY: This act makes numerous substantive and minor changes to Department of Public Health (DPH)-related statutes and programs. These changes address:

1. health professional licensing, discipline, continuing education, and rehabilitation;
2. vital statistics;
3. foundlings;

4. health and child care facilities including child day care, youth camps, school-based health centers, maternity homes, nursing homes, residential care homes, and hospitals;
5. health care services covering sexually transmitted diseases and partner therapy, needle exchange, and vaccines;
6. stem cell peer review and advisory committees;
7. reportable diseases and emergency illnesses and conditions;
8. clinical laboratories;
9. certificates of need;
10. opiate dependency treatment;
11. breast and cervical cancer;
12. emergency medical services;
13. bone densitometry;
14. dead bodies for medical study;
15. drug screening;
16. fluoroscopy;
17. telepharmacy;
18. residential unit leasing;
19. long term care strategic planning;
20. child abuse and neglect information disclosure;
21. community-based provider licensing;
22. bottled water and various water resources-related issues;
23. funeral service businesses;
24. health information technology;
25. patient access to medical test results; and
26. criminal history and patient abuse background searches.

It also eliminates various reporting requirements and makes technical and conforming changes.

EFFECTIVE DATE: Various, see below.

§ 1 — HEALTH PRACTITIONER DISCIPLINE

The act allows a health practitioner licensing board or commission or DPH to take disciplinary action against a practitioner's license or permit if the individual was subject to disciplinary action, similar to action that can be taken in Connecticut, by an authorized professional disciplinary agency of any state, the District of Columbia, a U.S. possession or territory, or a foreign country. The board, commission, or DPH can rely on the findings and conclusions made by that other jurisdiction's agency in taking the disciplinary action.

EFFECTIVE DATE: July 1, 2011

§ 2 — PORTABLE OXYGEN SOURCES

The law allows a hospital to designate any licensed health care provider and any certified ultrasound or nuclear medicine technician (the act changes this title to technologist) to perform certain oxygen-related patient

care activities in a hospital. The act specifies that this should not be construed to prohibit a hospital from designating individuals who are authorized to transport a patient with a portable oxygen source.

EFFECTIVE DATE: July 1, 2011

§ 3 — RESTRICTING, SUSPENDING, OR LIMITING LICENSES OR PERMITS

The act allows DPH to restrict, suspend, or otherwise limit the license or permit of a health professional according to an interim consent order entered during the individual's investigation.

EFFECTIVE DATE: July 1, 2011

§§ 4 & 5 — FOUNDLINGS

The act defines "foundling" as (1) a child of unknown parents or (2) an infant voluntarily surrendered in a hospital. Under prior law, if the foundling is later identified and a birth certificate is obtained, the birth certificate is substituted for the report of foundling. The act exempts infants voluntarily surrendered at hospitals from this requirement.

It also requires a hospital to prepare a foundling report for any infant voluntarily surrendered in the facility. If a birth certificate has already been filed in the state birth registry, the report must substitute for the original birth certificate, which must be sealed and confidentially filed with DPH. The original birth certificate cannot be released except on a court order.

EFFECTIVE DATE: October 1, 2011

§§ 6 & 7 — REGISTRARS OF VITAL STATISTICS

The act requires a town's newly elected or appointed registrar of vital statistics to notify the DPH commissioner in writing within 10 days of taking office. The town's first selectman or chief elected official must notify DPH of any vacancy within 10 days after it occurs.

The act requires the registrar of vital statistics to notify DPH in writing within 10 days after appointing an assistant registrar or a vacancy occurring.

EFFECTIVE DATE: October 1, 2011

§ 8 — VITAL RECORDS ACCESS

The act adds conservators of the person appointed for the person to those who can obtain a certified copy of birth and fetal death records and certificates less than 100 years old. It also removes title examiners' ability to obtain such records.

EFFECTIVE DATE: October 1, 2011

§§ 9 & 10 — EXPEDITED PARTNER THERAPY

The act allows a prescribing practitioner who diagnoses a patient as having a sexually transmitted chlamydia or gonorrhea infection to prescribe and dispense oral antibiotics to the (1) patient and (2) patient's partner or partners. It allows the practitioner to do so without physically examining the patient's partner or partners. A practitioner who prescribes or dispenses antibiotics in this manner does not violate the practitioner's standard of care. The law defines a "prescribing practitioner" as a physician, dentist, podiatrist, optometrist, physician assistant, advanced practice registered nurse (APRN), nurse-midwife, or veterinarian licensed in Connecticut to prescribe medicine within his or her scope of practice (CGS § 20-14c).

The act allows the DPH commissioner, in consultation with the Department of Consumer Protection (DCP) commissioner, to adopt regulations to implement this provision.

It also clarifies the authority of municipal health departments, state facilities, physicians, and public or private hospitals and clinics to examine or treat a minor for venereal disease. Existing law allows physicians and facilities to examine and provide such treatment.

EFFECTIVE DATE: October 1, 2011

§ 11 — NEEDLE AND SYRINGE EXCHANGE PROGRAM

The act updates DPH's needle and syringe exchange program by specifying that DPH establish programs in the three cities having the highest number of human immunodeficiency virus (HIV) infections among injection drug users, rather than in their health departments. Previously, the standard was the highest number of AIDS cases among intravenous drug users. The act specifies that the program provides for free and confidential, rather than anonymous, exchanges of needles and syringes. By law, first-time applicants to an exchange program receive an initial packet of 30 needles and syringes. The act eliminates a provision that the program assure, through program-developed and DPH-approved protocols, that a person receive only one such initial packet over the program's life.

The act requires any organization conducting the exchange program, rather than only the local health department, to report on the program's effectiveness to DPH. DPH must establish requirements for programs to monitor (1) return rates of distributed needles and syringes, (2) program participation rates, and (3) the number of participants who enter treatment as a result of the program and their status. The act deletes a required evaluation of behavioral changes of program participants, such as needle sharing and condom use,

and the incidence of intravenous drug use to see if there is a change because of the program.

It also eliminates the requirement that DPH compile all information on the needle exchange programs and report to the Public Health and Appropriations committees.

EFFECTIVE DATE: October 1, 2011

§ 12 — CONTINUING EDUCATION FOR CHIROPRACTORS

By law, chiropractors applying for license renewal must participate in continuing education programs. The act specifies that, for registration periods beginning on and after October 1, 2012, DPH, in consultation with the Board of Chiropractic Examiners, must issue a list of up to five mandatory continuing education topics that are required for the two subsequent registration periods following their issuance. This list must be issued by October 1, 2011 and biennially thereafter.

EFFECTIVE DATE: October 1, 2011

§ 13 — CHILDHOOD VACCINES

It allows physician assistants and APRNs to provide certification that a student has met immunization requirements. Previously, only a physician could do this.

It allows the DPH commissioner to issue a temporary waiver to the schedule for active immunization for any vaccine for which the federal Centers for Disease Control and Prevention recognizes a nationwide supply shortage.

EFFECTIVE DATE: October 1, 2011

§§ 14 & 98 — CHILD DAY CARE SERVICES PROVIDED BY RELATIVES AND RETAIL STORES

The act specifies that child day care services provided by relatives, whether by formal or informal arrangements, are exempt from licensure. It also clarifies that care provided on a drop-in basis in retail establishments is exempt from licensure if the parents remain in the same store as the child. Prior law required the parents to be on the premises.

The act repeals other provisions on child day care services in retail stores addressing hours of operation; age of the child; notification of law enforcement in certain situations; hours of care per day; sanitary conditions; and staffing, including checks of staff names with the state child abuse registry.

EFFECTIVE DATE: October 1, 2011

§ 15 — YOUTH CAMPS

The act increases the maximum civil penalty DPH may impose on those operating a youth camp without a

license from \$500 to \$1,000 for a first offense and \$750 to \$1,500 for a second or subsequent offense. By law, each day of illegal operation after notice from DPH is a separate offense.

EFFECTIVE DATE: October 1, 2011

§ 16 — CHILD DAY CARE HOME AND GROUP DAY CARE HOME FEES

The act clarifies that the \$500 day care center fee and the \$250 group day care home fee must accompany an initial licensure or renewal application for such facilities or DPH cannot grant or renew the license.

EFFECTIVE DATE: October 1, 2011

§§ 17 & 46 — FAMILY DAY CARE HOMES

Assistants and Substitute Staff Members

Under the act, DPH must approve any person acting as an assistant or substitute staff member for a person or entity operating a family day care home. Applications for approval must (1) be made to the DPH commissioner on department forms, (2) contain information required by regulations, and (3) include a \$20 fee. The application form must have a notice that false statements made in the application are punishable as a class A misdemeanor (false statements in the second degree) (see Table on Penalties).

DPH, within available appropriations, must require initial applicants as family day care home assistants or substitute staff to undergo state and national criminal history records checks. Under existing law, each initial applicant or prospective employee of the home is subject to these checks, within available appropriations. The DPH commissioner must also request a check of the state child abuse registry.

The act establishes a \$15 fee for initial staff approvals or renewal of a staff approval. Approvals are issued or renewed for two-year terms. (It is unclear if these approvals are for the assistants or substitute staff mentioned above, or a different category of staff.)

Family Day Care Home License Fee

The act reduces the fee, from \$80 to \$40, for an initial or renewed four-year family day care home license.

Approval, Suspension, or Revocation

The act allows DPH to refuse to approve a person to act as an assistant or substitute staff member in a family day care home as well as suspend or revoke the approval, or take any other allowed regulatory action against the individual, for the same reasons that already apply to the family home's licensed operator and

employees. This includes (1) having a felony conviction in Connecticut or another state for the use, attempted use, or threatened use of physical force against another; (2) having a criminal record here or in another state that the DPH commissioner reasonably believes makes the person unsuitable to act as an assistant or substitute staff member; or (3) failing to substantially comply with family day care regulations.

An individual whose approval is revoked must wait for one year following the revocation before applying for approval.

License suspension or revocation procedures apply when the DPH commissioner intends to suspend or revoke an approval or take any other action. The commissioner must notify the approved staff member in writing. The approved staff member, if aggrieved by the action, can apply in writing for a hearing, stating in the application the reasons he or she claims to be aggrieved. The application must be delivered to DPH within 30 days after the staff member received notification of the intended action. DPH must hold a hearing within 60 days from receiving the application and give the staff member at least 10 days' prior notice of the time and place of the hearing. The act specifies that these procedures do not apply to the denial of an initial approval.

As with a family day care licensee, an approved assistant or substitute staff member must notify DPH immediately upon learning of any conviction of the home's owner or operator or of any person residing or employed in the home who is providing care to a child receiving child day care services of a crime which affects the commissioner's discretion in licensing or approving individuals. Failure to do so can result in DPH (1) suspending or revoking the assistant or substitute staff member's approval and (2) imposing a civil penalty of \$100 per day.

EFFECTIVE DATE: October 1, 2011

§ 18 — WORKERS' COMPENSATION- "SUFFICIENT EVIDENCE"

The law requires applicants for a license or permit necessary to operate a business to present "sufficient evidence" of compliance with the workers' compensation insurance coverage requirements. The act allows applicants for DPH licenses and permits, instead of only DCP licenses and permits, to meet this requirement by providing the (1) name of the applicant's insurer; (2) policy number; and (3) effective coverage dates, certified as truthful and accurate, as an alternative to presenting a hard copy of the insurance certificate.

EFFECTIVE DATE: October 1, 2011

§§ 19 & 39 — STEM CELL RESEARCH PEER REVIEW COMMITTEE; STEM CELL RESEARCH ADVISORY COMMITTEE

The act authorizes compensation for Stem Cell Research Peer Review Committee members from the Stem Cell Research Fund for reviewing grant applications submitted by institutions. The DPH commissioner must establish the compensation in consultation with the Department of Administrative Services and Office of Policy and Management (OPM).

The act allows the DPH commissioner to appoint a designee to serve on the Stem Cell Research Advisory Committee. The designee can also serve as its chairperson.

EFFECTIVE DATE: October 1, 2011

§§ 20 - 23 — EMERGENCY ILLNESSES AND HEALTH CONDITIONS

List of Emergency Illnesses and Health Conditions

The law requires the DPH commissioner to (1) annually issue a list of reportable diseases and reportable laboratory findings and (2) amend it as necessary. The act adds emergency illnesses and health conditions to the required listing. It defines "reportable diseases, emergency illnesses and health conditions" as the diseases, illnesses, conditions, or syndromes the DPH commissioner designates as required by law. These lists must be distributed to the state's licensed physicians and clinical laboratories. The act requires a health care provider to report each case of an emergency illness and health condition in his or her practice to the local health director where the case occurs and to DPH within 12 hours of recognizing it. Under existing law, providers must do this in cases of reportable diseases.

Clinical Laboratories

The act requires a clinical laboratory to report each finding of any disease identified on DPH's list of reportable laboratory findings to the department within 48 hours of its discovery. A laboratory that reports an average of over 30 findings per month must make the reports electronically in a DPH-approved format. Those reporting an average of less than 30 a month must submit the reports in writing, by telephone, or in a DPH-approved electronic format. These reports are confidential and not available for public inspection except for medical or scientific research purposes. DPH must provide a copy of all such reports to the health director where the affected person lives or, if not known, the town where the specimen originated.

The act defines “clinical laboratory” as any facility or other area used for microbiological, serological, chemical, hematological, immunohematological, biophysical, cytological, pathological, or other examinations of human body fluids, secretions, excretions, or excised or exfoliated tissues, for (1) providing information to diagnose, prevent, or treat any human disease or impairment; (2) assessing human health; or (3) finding the presence of drugs, poisons, or other toxicological substances.

The act authorizes a local health director or his or her authorized agent, or DPH, when receiving a report of an emergency illness and health condition, to contact the reporting health care provider and then the person with the reportable finding to get the information necessary to effectively control further spread of the disease. The local health director and DPH already have this authority with regard to listed reportable diseases and laboratory findings.

Preparation of a Dead Body

The law imposes additional requirements on an embalmer or funeral director preparing a body for cremation or burial when death resulted from a listed reportable disease. The act applies these additional requirements to deaths due to a listed emergency illness and health condition.

Nonmaterial Fact Concerning Real Property

By law, a nonmaterial fact concerning real property does not have to be disclosed in a real estate transaction. The act expands the definition of “nonmaterial fact” to include an occupant of real property who has or had an emergency illness and health condition instead of only an occupant who is or has been infected with a disease on the reportable disease list.

EFFECTIVE DATE: October 1, 2011

§§ 24-25, 32, & 80 — CERTIFICATE OF NEED (CON)

The Office of Health Care Access (OHCA) division of DPH administers the CON program. Generally, a CON authorization is required when a health care facility proposes to (1) establish new facilities or services, (2) change its ownership, (3) purchase or acquire certain equipment, or (4) terminate certain services.

Filing Deadline

By law, a CON applicant must publish notice in a newspaper at least 20 days before filing the CON application that it plans to submit to the OHCA division of DPH. The act sets a deadline for actually filing the

CON application of within 90 days after publishing the notice of the application. It also eliminates a requirement that OHCA publish notice of a properly filed CON application with the secretary of the state.

CON Exemption

By law, an outpatient surgical facility seeking to transfer or change ownership or control does not need a CON if OHCA determines that:

1. before the transfer or change of ownership or control, the facility was (a) owned and controlled exclusively by physicians either directly or through a limited liability company (LLC), corporation, or limited liability partnership (LLP) exclusively owned by physicians or (b) under the interim control of an estate executor or conservator pending transfer of an ownership interest or control to a physician and
2. after the ownership or control changes, physicians or physician-owned LLCs, corporations, or LLPs own and control at least a 60% interest in the facility.

The act adds to this exemption podiatrists owning and controlling an outpatient surgical facility.

The act also makes technical changes to the CON law.

Termination of Certain Services by State Facilities

The act requires state hospitals and institutions to get a CON before terminating inpatient or outpatient services eligible for reimbursement under Medicare or Medicaid.

EFFECTIVE DATE: October 1, 2011, except for the provision requiring a CON to terminate certain services at state facilities, which is effective on passage.

§§ 26, 35, 36 — TECHNICAL CHANGES

These sections make technical changes.

EFFECTIVE DATE: October 1, 2011

§ 27 — OPIATE-DEPENDENCY TREATMENT

The act authorizes the DPH commissioner, in consultation with the Department of Mental Health and Addiction Services (DMHAS) commissioner, to implement policies and procedures allowing licensed health care providers with prescriptive authority to prescribe medications to treat opiate-dependent individuals in licensed free standing substance abuse facilities. This must be done in compliance with federal law. The DPH commissioner can authorize this while in the process of adopting such policies and procedures in regulation. She must print notice of the intent to adopt

the regulations in the *Connecticut Law Journal* within 30 days after these policies and procedures are implemented. They remain valid until the regulations are adopted.

EFFECTIVE DATE: Upon passage

§ 28 — MATERNITY HOMES

The act removes maternity home licensing fees from DPH statutes because PA 09-197 transferred their licensing authority to the Department of Children and Families (DCF).

EFFECTIVE DATE: October 1, 2011

§ 29 — BREAST AND CERVICAL CANCER EARLY DETECTION AND TREATMENT REFERRAL PROGRAM

The act makes changes to the Breast and Cervical Cancer Early Detection and Treatment Referral Program.

Under prior law, DPH had to provide unserved or underserved populations, within existing appropriations and through contracts with health care providers, with (1) clinical breast examinations, (2) screening mammograms and pap tests, (3) a 60-day follow-up pap test for victims of sexual assault, and (4) a pap test every six months for women who have tested HIV positive. “Unserved or underserved populations” are women (1) at or below 200% of the federal poverty level, (2) without health insurance that covers breast cancer screening mammography or cervical cancer screening services, and (3) 19 to 64 years of age.

The act changes the definition of “unserved or underserved populations” by raising the minimum age from 19 to 21. It also eliminates the 60-day follow-up pap test for victims of sexual assault.

The act deletes a requirement that DPH report annually to the Public Health and Appropriations committees on the state’s rates of (1) breast cancer and cervical cancer morbidity and mortality and (2) participation in breast and cervical cancer screening.

EFFECTIVE DATE: October 1, 2011

§ 30 & 34 — EMERGENCY MEDICAL SERVICES

The act requires the DPH commissioner to annually report to the Emergency Medical Services Advisory Board instead of the Public Health Committee on the number of emergency medical services (EMS) calls received during the year; response times; level of EMS required; names of EMS providers responding; and the number of passed, cancelled, and mutual aid calls. It eliminates a requirement for DPH to (1) make the report publicly available and (2) post it on its website. It also specifies that emergency air transport services are not considered ambulance services for purposes of rate-

setting by DPH.

It also removes the regional medical services coordinators from the EMS Advisory Board’s membership. PA 10-117 repealed the requirement that regional EMS councils, or the DPH commissioner in regions without a council, appoint a regional EMS coordinator.

EFFECTIVE DATE: Upon passage, except for the change to board membership, which is effective October 1, 2011.

§ 31 — OFFICE OF MULTICULTURAL HEALTH

The act eliminates the requirement that DPH annually report on the activities of the Office of Multicultural Health to the governor, General Assembly, Permanent Commission on the Status of Women, Latino and Puerto Rican Affairs Commission, Indian Affairs Council, and African-American Affairs Commission. It also eliminates the requirement that the office hold community workshops and other means to disseminate its findings.

EFFECTIVE DATE: October 1, 2011

§ 33 — LICENSED PRACTICAL NURSES

The act allows a licensed practical nurse to carry out the orders of a physician assistant, podiatrist, or optometrist as well as a physician or dentist, under the direction of a registered nurse or APRN.

EFFECTIVE DATE: Upon passage

§§ 37 & 38 — FREEDOM OF INFORMATION ACT

The act adds already confidential communications to the Freedom of Information Act’s (FOIA) list of communication and records exempt from disclosure. The communications designated by the act are those privileged by the marital, clergy-penitent, doctor-patient, or therapist-patient relationship, or any other privilege established by the common law or the general statutes. The law already exempts from disclosure records, tax returns, reports, and statements exempt under state or federal law and communications under the attorney-client privilege. The act exempts these documents and privileged communications created or made before the establishment of any of these applicable privileges under the common law or statutes.

The act also exempts from disclosure under FOIA all records obtained during an inspection, investigation, examination, and audit of a health care institution that are confidential according to a contract between DPH and the federal Department of Health and Human Services relating to Medicare and Medicaid.

EFFECTIVE DATE: October 1, 2011

§ 40 — BONE DENSITOMETRY

Beginning October 1, 2012, the act specifies that a radiographer license is not required for, nor are the activities limited of, a technologist certified by the International Society of Clinical Densitometry or the American Registry of Radiologic Technologists if the individual is operating a bone densitometry system under the supervision, control, and responsibility of a licensed physician. Under prior law, this applied to a nuclear medicine technologist certified by the Nuclear Medicine Technology Certification Board or American Registry of Radiologic Technologists.

EFFECTIVE DATE: October 1, 2011

§ 41 — DEAD BODIES FOR ANATOMICAL PURPOSES

The act adds Quinnipiac University to those institutions that have access to unclaimed bodies for use in medical study.

EFFECTIVE DATE: October 1, 2011

§§ 42, 53 & 54 — ACUPUNCTURE

Definition of Practice of Acupuncture

The act expands the scope of practice of licensed acupuncturists. It defines the “practice of acupuncture” as the system of restoring and maintaining health by classical and modern Oriental medicine principles and methods of assessing, treating, and preventing (1) diseases, disorders, and dysfunctions of the body; (2) injury; (3) pain; and (4) other conditions.

The act expands the statutory definition of the practice of acupuncture to include the (1) assessment of body function, development of a comprehensive treatment plan, and evaluation of outcomes; (2) modulation, restoration, promotion, and maintenance of normal function in and between the energetic and organ systems and bodily functions; (3) recommendation of oriental dietary principles; and (4) other practices consistent with recognized standards of the acupuncture and Oriental medicine profession accepted by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM).

Prior law defined acupuncture as treatment by mechanical, thermal, or electrical stimulation by inserting needles or applying heat, pressure, or electrical stimulation at one or more points on the body to achieve therapeutic or prophylactic effect. The practitioner must select the points on the body based on the theory of the physiological interrelationship of body organs with an associated point for diseases, disorders, and dysfunctions of the body. It does not include physical therapy.

Development of Comprehensive Treatment Plan

Under the act, the practice of acupuncture includes the assessment of body function, development of a comprehensive treatment plan, and evaluation of treatment outcomes according to acupuncture and Oriental medicine theory.

Modulation and Restoration of Normal Body Functions

The practice of acupuncture also includes modulation and restoration of normal function in and between the body’s energetic and organ systems and biochemical, metabolic, and circulation functions using certain methods. These methods include stimulation of selected points by inserting needles, including trigger point, subcutaneous, and dry needling, and other methods consistent with acupuncture and Oriental medicine professional standards.

Promotion and Maintenance of Normal Body Functions

Acupuncture also includes the promotion and maintenance of normal function in the body’s energetic and organ systems and biochemical, metabolic, and circulation functions by recommending Oriental dietary principals, including using herbal and other supplements, exercise, and other self-treatment techniques according to Oriental medicine theory.

The act also makes technical and conforming changes.

Acupuncture Licensure Exception

The act, notwithstanding licensure requirements, allows DPH, by August 12, 2011, to issue an acupuncture license to an applicant who presents satisfactory evidence that he or she (1) passed the NCCAOM written exam by test or credentials review before April 28, 2010 and (2) successfully completed the (a) NCCAOM practical exam of point location skills and (b) Council of Colleges of Acupuncture and Oriental Medicine clean needle technique course on March 13, 2010.

EFFECTIVE DATE: October 1, 2011, except for the licensing exception, which is effective on passage.

§ 43 — DRUG SCREENING

The act requires DPH, in consultation with DMHAS, to allow the use of saliva-based drug screening or urinalysis when initial and subsequent drug screenings of people abusing substances other than alcohol are conducted at DPH-licensed facilities.

EFFECTIVE DATE: October 1, 2011

§§ 44 & 97 — SCHOOL-BASED HEALTH CENTER ADVISORY COMMITTEE

The act replaces a committee on school-based health centers (SBHCs) with a new SBHC advisory committee that must help the DPH commissioner develop recommendations for statutory and regulatory changes for improving health care through access to SBHCs. The committee includes (1) the commissioners, or their designees, of public health, social services, DMHAS, and education and (2) three SBHC providers appointed by the board of directors of the Connecticut Association of School-Based Health Centers.

The committee must meet at least quarterly and report, by January 1, 2012 and annually afterwards, to the Public Health and Education committees. Administrative support for the advisory committee may be provided by the Connecticut Association of School-Based Health Centers.

EFFECTIVE DATE: Upon passage

§ 45 — FLUOROSCOPY AND PHYSICIAN ASSISTANTS

Prior law established training criteria that a physician assistant (PA) had to meet beginning October 1, 2011 in order to use fluoroscopy to guide diagnostic and treatment procedures and a mini C-arm in conjunction with it. A PA had to complete 40 hours of training that included radiation physics, radiation biology, radiation safety, and radiation management applicable to fluoroscopy. At least 10 hours had to address radiation safety, and at least 15 hours had to address radiation physics and biology. A PA also had to pass a DPH-prescribed test.

The act, instead, requires successful completion of 40 hours of didactic instruction relevant to fluoroscopy, which includes radiation biology and physics, exposure reduction, equipment operation, image evaluation, quality control, and patient consideration. It also adds a minimum of 40 hours of supervised clinical experience that includes a demonstration of patient dose reduction, occupational dose reduction, image recording, and quality control of equipment. The testing requirement remains.

Prior law permitted a PA to perform fluoroscopy and use a mini C-arm before October 1, 2011 without the training by passing the DPH exam. A PA who did not pass the test by October 1, 2011 could not use a fluoroscope or mini C-arm until he or she met the law's training and test requirements. The act extends, until July 1, 2012, the date by which a PA can continue the fluoroscopic procedures only by passing the exam. If the PA does not pass the required examination by July 1, 2012, he or she must meet the training, supervised clinical experience, and testing requirements above in

order to perform these procedures.

EFFECTIVE DATE: October 1, 2011

§§ 47-49 & 73 — FUNERAL SERVICE BUSINESS; SATELLITE OFFICE

The act allows a funeral services business that has an inspection certificate to operate a single satellite office solely to meet clients to make arrangements for cremation services. No other funeral service business activities may be conducted at the satellite office. Any person, firm, partnership, or corporation seeking to add a satellite office must provide 30 days advance written notice to DPH on a form it prescribes. Any authorized satellite office must be open at all times for inspection by DPH; the department may inspect the satellite office whenever deemed advisable. All records concerning arrangements made at the satellite office must be maintained at the address of record of the funeral service business as identified on the certificate of inspection. Failure to comply with the provisions of this section may constitute grounds for disciplinary action by DPH.

(Special Act 11-17 repeals this provision and instead requires DPH to establish a pilot program that allows one funeral service business that has an inspection certificate to operate a single satellite office solely to meet with clients to make arrangements for cremation services. No other funeral service business activities may be conducted at the satellite office. It takes effect July 1, 2011.)

The act also makes technical changes concerning funeral service businesses.

EFFECTIVE DATE: July 1, 2011, except for the technical changes, which are effective October 1, 2011.

§ 50 — TELEPHARMACY PILOT PROGRAM

The act authorizes the DCP commissioner, in consultation with the DPH commissioner, to establish a pilot program allowing a hospital that operates a hospital pharmacy to use electronic technology or telepharmacy at the hospital's satellite or remote locations to allow a clinical pharmacist to supervise pharmacy technicians in preparing IV admixtures.

"IV admixture" means an IV fluid to which one or more additional drug products have been added. "Electronic technology" or "telepharmacy" means the process (1) by which each step involved in the preparation of IV admixtures is verified by a bar code tracking system and documented by digital photographs that are electronically recorded and preserved and (2) which is monitored and verified through video and audio communication between a licensed supervising clinical pharmacist and a pharmacy technician.

Under the pilot program, a clinical pharmacist is

authorized to supervise a pharmacy technician through electronic technology use. A supervising clinical pharmacist must monitor and verify the pharmacy technician's activities through audio and video communication. If the electronic technology malfunctions, no IV admixtures prepared by the pharmacy technician during the malfunction period can be distributed to patients unless an appropriately licensed person can (1) personally review and verify all of the processes used in preparing the IV admixture or (2) after the technology is restored, use the electronic technology mechanisms that recorded the pharmacy technician's actions to confirm that all proper steps were followed in preparing the IV admixture. All orders for medication under the pilot program must be verified by a pharmacist before delegating to a pharmacy technician for IV admixture preparation.

A hospital participating in the pilot program must ensure that appropriately licensed health care personnel administer medications at the hospital's satellite or remote locations. The act specifies that all processes involved in operating the program are under the purview of the hospital's pharmacy director.

A hospital selected for the pilot program must make periodic quality assurance evaluations which, at a minimum, include review of any error in medication administration. The hospital must make these evaluations available to DCP and DPH for their review.

The pilot program may begin as of July 1, 2011 and must end by December 31, 2012. But the DCP commissioner may terminate it earlier for good cause.

EFFECTIVE DATE: Upon passage

§ 51 — DMHAS-LEASING OF RESIDENTIAL UNITS

The act authorizes the DMHAS commissioner to represent the state in leasing residential units as part of a program of housing services for its clients if each unit is no more than 2,500 square feet. By law, DMHAS can sign a lease or other rental agreement for private housing on behalf of one of its clients. The department must first determine that the client is unable to rent or lease the residence on his or her own.

EFFECTIVE DATE: October 1, 2011

§ 52 — NURSING HOME WAITING LIST

The act allows a nursing home, without regard to its waiting list order, to admit an applicant who seeks a transfer from a nursing home in which the applicant was placed (1) following the closure of a home where he or she previously resided or (2) due to the anticipated closure of a home placed in receivership where the applicant previously resided. The transfer must occur within 60 days after the date the applicant was

transferred from the previous nursing home and the applicant must have submitted an application to the nursing home to which he or she seeks admission at the time of the transfer from the previous nursing home.

EFFECTIVE DATE: October 1, 2011

§ 55 — UNIFORM LICENSING PROCESS FOR COMMUNITY-BASED PROVIDERS

The act requires a study of the feasibility of (1) establishing a uniform state licensing process for community-based providers and (2) implementing deemed status. (Certain accrediting organizations have deemed authority for federal Centers for Medicare and Medicaid (CMS) certification.) The study must be undertaken by the nonprofit liaison to the governor, in consultation with the DPH, developmental services (DDS), social services (DSS), DCF, and DMHAS commissioners or their designees; and two representatives of community-based providers selected by the governor's liaison, one recommended by the Connecticut Association of Nonprofits and the other by the Connecticut Community Providers Association.

At a minimum, the study must examine whether a community-based provider may be allowed to obtain a single state license that allows it to offer services for multiple state agencies without requiring separate licenses from each state agency for which services are offered. By January 1, 2012, the nonprofit liaison must report to the Public Health and Human Services committees on the feasibility of establishing the uniform licensing process and implementing deemed status. The nonprofit liaison may include any legislative recommendations that she believes are necessary for meeting these objectives.

EFFECTIVE DATE: Upon passage

§ 56 — RESIDENTIAL CARE HOMES

Under the act, a residential care home that is colocated with a chronic and convalescent nursing home or a rest home with nursing supervision may request DPH's permission to meet Public Health Code requirements concerning attendants in residence from 10:00 p.m. to 7:00 a.m. through the use of shared personnel.

It requires a residential care home to maintain temperatures in resident rooms and all other areas used by residents at a minimum temperature of 71 degrees Fahrenheit.

A residential care home must ensure that the maximum time between a resident's evening meal and breakfast does not exceed 14 hours unless a substantial bedtime nourishment is offered by the home.

Beginning July 1, 2011, DPH can no longer (1) require that a person seeking a license to operate a

residential care home supply to the department a certificate of physical and mental health, signed by a physician, at the time of an initial or subsequent application for licensure and (2) approve the time scheduling of regular meals and snacks in residential care homes.

The act directs the DPH commissioner to amend the Public Health Code to conform with these provisions.

EFFECTIVE DATE: July 1, 2011

§ 57 — DISCLOSURE OF CHILD ABUSE AND NEGLECT INFORMATION BY DCF TO DPH

The act revises the information DCF must report to DPH about child abuse or neglect (1) occurring in a day care center, group day care home, family day care home, or DPH-licensed youth camp or (2) involving a facility's license holder, any facility staff, or any household member of a family day care home, regardless of where the abuse or neglect occurred.

It eliminates the requirement that DCF provide all records of reports and investigations of suspected abuse or neglect, including records of any administrative hearings it holds. It instead requires DCF to provide such records only for reports and investigations of child abuse or neglect that have been reported to or are being investigated by DCF.

The act also revises the information DPH must keep on its corresponding abuse and neglect list. By law, DPH must keep a list of violations it substantiated during the previous three years concerning these facilities and disclose the information on the list, with certain exceptions, upon request. The act specifies that the information may be disclosed only if allowed by law. Information identifying children or their family members continues to be confidential.

It allows DPH to include on this list DCF reports of recommended findings of child abuse or neglect at a facility, instead of suspected abuse or neglect at a facility, that resulted or involved (1) a child's death, (2) serious physical harm or the risk of serious physical injury or emotional harm to a child, (3) child sexual abuse, (4) a person's arrest for child abuse or neglect, or (5) DCF petitioning to commit a child to its care or terminate a parent's rights to the child.

By law, if DCF subsequently notifies DPH that its (1) investigation did not substantiate the abuse or neglect or (2) finding was reversed after appeal, DPH must immediately remove the information from its list and stop disclosing it. The act makes conforming changes and specifies that DCF must immediately provide DPH with this information.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2011

§§ 58 & 59 — WATER RESOURCES LIST; STATE PLAN OF CONSERVATION AND DEVELOPMENT

By October 31, 2011, the act requires the DPH commissioner to consult with the Water Planning Council and prepare a list designating actual or potential water sources that need protection to ensure the highest quality water sources are available for human consumption. In preparing the list, the commissioner must consider the following plans:

1. the statewide long-range water resource plan;
2. water supply plans submitted to DPH by certain water companies;
3. coordinated water system plans biennially reported to DPH by each public water supply management area's water utility coordinating committee; and
4. any other plans or information she deems relevant.

The commissioner must update the list at least annually, but may do so as frequently as she deems necessary. The act specifies that it does not limit the commissioner's authority to approve a water supply source not on the list.

The act also requires the Office of Policy and Management (OPM) to consider (1) state water supply and resource policies and (2) the above water resources list, when revising the State Plan of Conservation and Development after December 1, 2011.

EFFECTIVE DATE: Upon passage

§§ 60 - 68 — BOTTLED WATER AND NONALCOHOLIC BEVERAGES

Approved Water Sources

The act requires DPH to inspect and approve only in-state sources of water bottled for sale or distribution, instead of all sources. If the in-state source meets federal quality and safety requirements, DPH must issue a three-year approval.

It requires water bottlers using an out-of-state source to submit to the DCP commissioner a copy of a current license or approval for the source's use from each government entity having regulatory jurisdiction. The bottler must do this when (1) applying or reapplying for a bottled beverage license from DCP, (2) the source or source treatment is substantially modified, or (3) a new source is added.

Prior law required all bottled water sold and distributed in Connecticut to comply with contaminant and action levels and monitoring procedures DPH established for public drinking water. The act, instead, requires all bottled water to comply with the federal

Food and Drug Administration's (FDA) quality standards.

Licensure Requirements—Nonalcoholic Beverages

The law requires an annual license from DCP to sell beverages bottled or manufactured out-of-state. The act expands the licensure requirement to distribution of these beverages. The license application fee is \$150.

The law exempts out-of-state manufacturers, bottlers, and distributors of malt and cereal drinks; grape and lime juice; fruit-flavored syrups, powders or mixtures; concentrated fruit juices; or fruit and vegetable juices from the licensure requirement.

License Revocation and Suspension—Water Bottlers

Prior law allowed the DCP commissioner to suspend or revoke the license of a water bottler who failed to use a DPH-approved source. The act instead allows her to do this only for water bottled from a Connecticut source. It also allows the commissioner to take such action if the water bottler uses an out-of-state source not approved by the government entities having regulatory jurisdiction over its use.

Source Testing

The law requires water bottlers, among other things, to collect samples from each approved source at least once a year to test for regulated contaminants and at least one every three years for unregulated contaminants. A DPH-approved laboratory must analyze the samples to determine compliance with microbial standards established by DPH for public drinking water. The laboratory must also conduct tests at least once every three months if the source is not a public water supply.

The act requires these water samples to comply with federal FDA microbial standards instead of those established by DPH. It also allows bottlers to use a U.S. Environmental Protection Agency (EPA)-certified laboratory to conduct the testing in addition to a DPH-registered laboratory.

Product Testing

Prior law required water bottlers to collect a sample of their bottled product at least once per week and a DPH approved laboratory to analyze it for compliance with DPH-established microbial standards. It also had to analyze a sample at least annually for compliance with chemical, physical, and radiological regulations.

The act, instead, requires these samples to comply with federal FDA standards and allows the use of an EPA-certified laboratory to conduct the testing.

It allows bottlers using an out-of-state source to

meet these testing requirements by demonstrating compliance with substantially similar standards established by the government entity having regulatory jurisdiction over the source.

The act also requires water bottling lines and equipment to comply with federal FDA standards rather than DPH regulations.

Reporting Testing Results

The act requires (1) the above laboratory results to be available only to DCP, instead of both DCP and DPH and (2) water bottlers to report only to DCP, instead of both DCP and DPH, any laboratory results indicating contamination in amounts exceeding applicable standards within 24 hours.

It also makes technical and conforming changes.
EFFECTIVE DATE: October 1, 2011

§ 69 — CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR WATER COMPANIES

The law requires certain water companies to get a certificate of public convenience and necessity from the Department of Public Utility Control (DPUC) and DPH before they begin constructing and expanding their systems. The act adds two conditions under which DPUC and DPH must issue these certificates: (1) the proposed water supply system will not adversely affect the adequacy of nearby water systems and (2) any existing or potential pollution threat DPH deems to be adverse to public health will not affect any new water supply source.

The law requires the departments to issue a certificate if they find that:

1. no interconnection is feasible with a water system owned by, or made available through an arrangement with, the provider of the exclusive service area (ESA) or with another existing water system where no ESA has been assigned;
2. the applicant plans to build or expand according to DPUC-established engineering standards;
3. ownership of the system will be assigned to the ESA provider under certain circumstances;
4. the system's owner has the financial, technical, and managerial resources to operate the proposed water supply system reliably and efficiently enough to provide continuous service;
5. the proposed construction or expansion would not result in a duplication of service in the applicable service area; and
6. the system meets all federal and state standards for water supply systems.

EFFECTIVE DATE: October 1, 2011

§ 70 — ABANDONING WATER SOURCES

By law, any entity seeking to abandon a water source must apply to the DPH commissioner for an abandonment permit. The act requires the entity, 30 days before filing an application, to notify the local health department or district in each town in which the water supply source is located. The law already (1) requires the entity to notify each town's chief elected official and (2) permits towns and other water companies to submit comments to the commissioner within 60 days of receiving notice from the company. The act extends this comment opportunity to local health departments or districts. The commissioner must consider these comments in deciding whether to grant a permit.

In making her decision about abandoning a water supply source, the law requires the commissioner to consider (1) the water company's and the state's water supply needs and (2) any comments she received about the application. She must also consult with the environmental protection commissioner, the OPM secretary, and DPUC.

The act specifies that the commissioner need not consult with these agencies if she determines the proposed abandoned water supply source is (1) a groundwater source with a safe yield of less than 10 gallons per minute and (2) of poor water quality. The law defines "safe yield" as the maximum dependable quantity of water per unit of time that may flow or be continuously pumped from a supply source during a critical dry period without consideration of available water limitations.

EFFECTIVE DATE: October 1, 2011

§ 71 — SMALL WATER SYSTEM, TREATMENT PLANTS, AND DISTRIBUTION SYSTEM CERTIFICATION

Certification Required

The act requires DPH to certify small water systems that (1) treat or supply water for public use, (2) test backflow prevention devices, or (3) perform cross-connection surveys. DPH must already do this for water treatment plants and water distribution systems that perform these functions. It requires DPH to adopt regulations on standards and procedures for issuing and renewing certificates for small water systems as it must already do for water treatment plants and water distribution systems.

Under the act, a "small water system" serves fewer than 1,000 people and has either (1) no treatment or (2) treatment that does not require any chemical treatment, process adjustment, backwashing, or media regeneration by an operator.

Fees

The act authorizes the commissioner to issue an initial three-year certificate for these small water systems, treatment plants, and distribution system activities and establishes certification fees. An entity must submit a completed application in a form the commissioner prescribes and an application fee as follows:

1. \$224 for a water treatment plant, water distribution system, or small water operator certificate and
2. \$154 for a backflow prevention device tester certificate or cross-connection survey inspector certificate.

Certificates may be renewed for an additional three years if the certificate holder completes a renewal application and pays the following renewal fees:

1. \$98 for a water treatment plant, water distribution system, or small water operator certificate and
2. \$69 for a backflow prevention device tester certificate or cross-connection survey inspector certificate.

EFFECTIVE DATE: July 1, 2011

§ 72 — PRIVATE RESIDENTIAL WELLS

Testing and Reporting

The act requires a laboratory or firm testing a private residential well to report the results to DPH, instead of only the local health authority, in a format the department specifies. Results must be reported within 30 days, if the test is performed within six months of the property's sale. Otherwise no report is required.

The act requires a property owner, before selling, exchanging, purchasing, transferring, or renting property with a residential well, to notify the buyer or tenant that educational material concerning residential well testing is available on the DPH website. It specifies that failure to provide the notice does not invalidate the property transaction. If the seller or landlord provides written notification, he or she and any real estate licensee are deemed to have satisfied the notification requirement.

The act specifies that a laboratory or firm is a DPH-registered environmental laboratory.

DPH Regulations

Prior law prohibited DPH from adopting certain regulations affecting the testing of private residential wells. The act eliminates provisions barring the testing of a private residential well for:

1. alachlor, atrazine, dicamba, ethylene dibromide, metolachlor, simazine or 2,4-d, or any other herbicide or insecticide unless (a) a prior test showed a nitrate concentration of at least 10 milligrams per liter and (b) the local health director had reasonable grounds to suspect the presence of such chemicals and
2. organic chemicals unless a local health director had reasonable grounds to suspect their presence.

It instead allows a local health director to require private residential well testing for (1) radionuclides and (2) pesticides, herbicides, or organic chemicals when there are reasonable grounds to suspect the presence of such contaminants in the groundwater.

The act defines “reasonable grounds” as:

1. for radionuclides, (a) the existence of a geological area known to have naturally occurring radionuclide deposits in the bedrock or (b) when the well is located in an area known to have radionuclides in the groundwater and
2. for pesticides, herbicides, or organic chemicals, (a) the presence of a nitrate-nitrogen groundwater concentration of at least 10 milligrams per liter or (b) when the well is located on or in proximity to land associated with past or present production, storage, use, or disposal of organic chemicals as identified in any public record.

Sample Collections

The act allows private residential well samples to determine water quality to be collected only by (1) employees of a DPH-certified or -approved laboratory who are trained in sample collection techniques, (2) certified water operators, (3) local health departments and state employees trained in sample collection techniques, or (4) individuals with training and experience DPH deems as sufficient.

The act creates an exception to this requirement for qualified homeowners or general contractors. Prior law allowed homeowners and general contractors of new residential construction, where private residential wells are located, to collect water samples for testing by a laboratory or firm, if the laboratory or firm found that the owner or contractor was qualified to collect the sample. The act continues to allow such sample collection if the (1) laboratory or firm provides

instructions to the owner or general contractor on how to collect the samples and (2) owner or general contractor is identified to the subsequent owner on a DPH-prescribed form.

EFFECTIVE DATE: October 1, 2011

§ 74 — HEALTH INFORMATION TECHNOLOGY

The act requires the Health Information Technology Exchange of Connecticut’s board of directors to establish an advisory committee on patient privacy and security. The board’s chairman appoints the members, who must have expertise in the field of privacy, health data security, or patient rights. Advisory committee members must include a representative from a nonprofit research and educational organization dedicated to improving access to health care and a patient advocacy group; an ethicist; an attorney with expertise in health information technology and Health Insurance Portability and Accountability Act protections; the chief information officer of a hospital; an insurer or representative of a health plan; and a primary care physician in active practice who uses electronic health records. The lieutenant governor appoints the committee chairperson.

The committee must monitor developments in federal law concerning patient privacy and security relating to health information technology and report to the board on national and regional trends and federal policies and guidance. The board must include information supplied by the advisory committee in the annual report it makes to the legislature and the governor.

EFFECTIVE DATE: July 1, 2011

§ 75 — DENTIST LICENSURE FOR GRADUATES OF FOREIGN DENTAL SCHOOLS

By law, DPH can issue a dental license to an applicant who is a graduate of a foreign dental school if he or she meets certain requirements. One of these is successful completion, at a level greater than the second postgraduate year, of at least two years of an accredited residency or fellowship training program in a community or school-based health center affiliated with and under the supervision of a dental school in this state. The act increases this to three years of a residency or fellowship training program in a dental school in the state but no longer requires it to be served in a community or school-based health center.

EFFECTIVE DATE: July 1, 2011

§ 76 — CHILD DAY CARE INVESTIGATIONS BY DPH

The act authorizes DPH to administer oaths, issue subpoenas, compel testimony, and order the production

of books, records, and documents in any investigation concerning (1) an application for or reinstatement or renewal of a child day care center, group day care home, or family day care home license; (2) a complaint about child day care services; or (3) the possible provision of unlicensed child day care services.

The act authorizes a Superior Court judge to make appropriate orders to help enforce these provisions if a person refuses to appear, testify, or produce any book, record, or document as ordered by DPH.

EFFECTIVE DATE: October 1, 2011

§ 77 — APRN LICENSURE

The act modifies one of the criteria for licensure as an APRN by substituting a “graduate” degree for a “master’s degree.” Previously, if an APRN license applicant was first certified by one of the statutorily listed national bodies after December 31, 1994, he or she was required to hold a master’s degree in nursing or in a related field recognized for certification as either a nurse practitioner, a clinical nurse specialist, or a nurse anesthetist.

EFFECTIVE DATE: October 1, 2011

§ 78 — STANDING ORDERS

PA 11-2 allows hospitals to use standing orders to treat patients under certain conditions. This act changes this provision’s effective date from October 1, 2011 to July 1, 2011.

EFFECTIVE DATE: Upon passage

§ 79 — PATIENT ACCESS TO MEDICAL TEST RESULTS

The act (1) requires clinical laboratories to provide patient test results to additional health care providers in certain situations and (2) allows a patient to receive test results directly when the patient is undergoing repeated testing. DPH must adopt regulations to implement the act.

The law requires a health care provider, except in limited circumstances, to give patients who ask, complete and current information the provider has about their diagnosis or treatment. The provider must also notify a patient of any test results in his or her possession or requested by the provider for purposes of diagnosis, treatment, or prognosis. The law generally does not allow direct reporting to patients of laboratory test results. But they may be reported to patients upon the written request of the provider who ordered the testing (Conn. Agencies Reg. § 19a-36-D32).

Test Results to Additional Providers

Under the act, if a patient or a provider who orders medical tests for the patient asks, a clinical laboratory must supply the test results to any other provider who is seeing the patient for treatment, diagnosis, or prognosis. For the purposes of the act, a clinical laboratory does not include any state laboratory established by DPH.

Direct Reporting to Patient

Under the act, a provider can issue a single authorization allowing a clinical laboratory or other entity performing medical testing to give the test results directly to the patient in situations where the provider asks the patient to submit to repeated testing at regular intervals over a specified time period. Such testing must be for determining a diagnosis, prognosis, or recommended treatment course.

EFFECTIVE DATE: October 1, 2011

§§ 81 & 82 — CHILDHOOD VACCINES

Under the act, beginning October 1, 2011, one group health care provider located in Bridgeport and one in New Haven, as identified by the DPH commissioner, and any health care provider in Hartford who administers vaccines to children under the federal Vaccines For Children (VFC) program (operated by DPH under federal authority, 42 USC § 1396s) may choose under the federal program any vaccine the federal Food and Drug Administration (FDA) licenses, including any combination vaccine and dosage form, if it is (1) recommended by the National Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices and (2) made available to the department by CDC. DPH must provide the vaccine.

VFC is a federally funded program that provides vaccines at no cost to children who might not otherwise be vaccinated because of inability to pay. VFC is required as part of each state’s Medicaid plan. VFC pays for any brand of vaccine that CDC recommends.

By June 1, 2012, the DPH commissioner must provide the Public Health Committee with an evaluation of the vaccine program established above. The evaluation must include an assessment of the program’s effect on child immunization rates, an assessment of any health or safety risks the program poses, and recommendations regarding future program expansion.

Under the act, if the program evaluation does not show a significant reduction in child immunization rates or an increased risk to the health and safety of children, then beginning July 1, 2012, any health care provider who administers vaccines to children under the VFC program may select, and DPH must provide, any vaccine licensed by the FDA, including any

combination vaccine and dosage form, that is (1) recommended by the CDC Advisory Committee on Immunization Practices and (2) made available to the department by the CDC.

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

EFFECTIVE DATE: July 1, 2011

§§ 83 & 84 — STRATEGIC PLAN FOR LONG-TERM CARE REBALANCING AND CON MORATORIUM EXEMPTION

Strategic Plan

The act requires the DSS commissioner to develop a strategic plan, consistent with the state's long-term care plan, to rebalance Medicaid long-term care supports and services, including supports and services provided in-home, in a community-based setting, and in institutions. He must include providers from all three setting types in the development of the plan.

In developing the plan, the commissioner must consider topics that include:

1. regional trends concerning the state's aging population,
2. trends in the demand for long-term care services,
3. gaps in the provision of home- and community-based services that prevent community placements,
4. gaps in the provision of institutional care,
5. the quality of care providers in all three settings offer,
6. the condition of institutional buildings,
7. the state's regional supply of institutional beds,
8. the current rate structure applicable to long-term care services (it appears this means Medicaid rates),
9. methods of implementing adjustments to the bed capacity of individual nursing homes, and
10. a review of the nursing home CON moratorium.

The act permits the DSS commissioner to contract with nursing homes and home- and community-based providers to carry out the plan. It also permits him to revise a rate paid to a nursing home to carry out the plan. The act authorizes the commissioner to fund plan initiatives with federal grants available under the Money Follows the Person Demonstration Program and the State Balancing Incentive Payment Program provisions in federal law.

The act permits the DPH commissioner or her designee to waive certain provisions in the Public Health Code regulating nursing homes, residential care

homes, and assisted living service agencies if (1) a regulated provider requires it to carry out the strategic plan and (2) the commissioner or her designee determines that the waiver will not endanger the provider's residents' or clients' health or safety. The act permits the commissioner or her designee to impose conditions on granting the waiver that may be necessary to ensure the residents and clients' health and safety and allows her to revoke the waiver on a finding of health or safety being jeopardized.

CON Moratorium

The act exempts from the general CON moratorium on new nursing home beds those beds that are relocated to a new facility to meet a priority need identified in the strategic plan. By law, the moratorium is due to expire on June 30, 2012.

EFFECTIVE DATE: July 1, 2011

§ 85 — HEALTH CARE INSTITUTIONS-DPH DISCIPLINARY AUTHORITY

The act authorizes DPH to impose a directed plan of correction on a health care institution when she finds that there has been a substantial failure by the institution to comply with statutory or regulatory requirements, including licensing regulations.

EFFECTIVE DATE: October 1, 2011

§§ 86-89 — HOSPITAL ASSESSMENTS

Late Fees and Assessments

By law, hospitals are assessed for OHCA's costs. Previously, failure to pay an assessment on time resulted in a late fee of \$10 and interest at the rate of 1.25% per month or fraction thereof on the assessment and late fee. "Hospital" means one licensed by DPH as a short-term acute-care general hospital, children's hospital, or both.

The act, instead, requires the DPH commissioner to impose a fee equal to (1) 2% of the assessment if failure to pay is for five days or less, (2) 5% of the assessment if failure to pay is for more than five days but not more than 15 days, or (3) 10% of the assessment if failure to pay is for more than 15 days. If a hospital fails to pay any assessment for more than 30 days after the date due, the commissioner may, in addition to these fees, impose a civil penalty of up to \$1,000 for each day past the initial 30 days that the assessment is not paid.

Any civil penalty must be imposed according to law, which requires notification by first-class mail or personal service and must include (1) a reference to the sections of the statute or regulation involved, (2) a short and plain statement of the matters asserted or charged, (3) a statement of the amount of the civil penalty or

penalties to be imposed, (4) the initial date of the imposition of the penalty, and (5) a statement of the party's right to a hearing. The party can request a hearing and appeal a DPH ruling.

Electronic Funds Transfer

Under the act, DPH can require a hospital to pay the assessment by an approved method of electronic funds transfer (EFT). A hospital making an EFT must initiate the transfer in time to ensure that a bank account designated by the department is credited by EFT for the assessment amount required by the date the assessment is due.

Where an assessment is required to be made by EFT, any payment made by any other method and any payment made by EFT, where the bank account designated by DPH is not credited for the amount of the assessment by the due date, must be treated as an assessment not made in time. Any assessment treated as not timely because it was not made by EFT is subject to a penalty equal to 10% of the assessment required to be made by EFT.

Where an assessment made by EFT is treated as an assessment not timely made because the bank account designated by the department is not credited by EFT for the amount of the assessment by the due date, a penalty is imposed equal to (1) 2% of the assessment required to be made by EFT, if the failure to pay is five days or less; (2) 5% of the assessment required to be made if failure to pay is for more than five days but not more than 15 days; or (3) 10% of the assessment, if the failure to pay is for more than 15 days.

DPH must deposit all payments received with the state treasurer to be credited to the General Fund and accounted for as expenses recovered from hospitals.

EFFECTIVE DATE: July 1, 2011

§ 90 — CRIMINAL HISTORY AND PATIENT ABUSE BACKGROUND SEARCH PROGRAM

The act requires long-term care facilities to ensure that potential service providers undergo criminal history and patient abuse background searches before they are allowed direct access to patients or residents. It requires DPH to establish, within available appropriations, a program to facilitate the searches, receive criminal history record check results from the Department of Public Safety (DPS), and notify facilities of people with disqualifying offenses.

The act defines "criminal history and patient abuse background search" or "background search" as (1) state and national criminal history record checks conducted in accordance with state law, (2) a review of DPH's nurse's aide registry, and (3) a review of any other registry that DPH specifies and deems necessary for

administering a background search program.

It requires the DPH commissioner to adopt implementing regulations. It allows the department to implement policies and procedures to establish the program while in the process of adopting them as regulation. She 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 also makes technical changes.

Implementation Plan

DPH must develop a plan to implement the background search program. In doing so, the department must:

1. evaluate factors including the (a) administrative and fiscal impact of program components on state agencies and long-term care facilities, (b) procedures currently used by long-term care facilities, (c) federal requirements under the federal Affordable Care Act (i.e., health care reform law), and (d) effect of full and provisional pardons on employment;
2. outline (a) an integrated process with DPS to cross-check and periodically update criminal information collected in criminal databases, (b) a process allowing individuals with disqualifying offenses to apply for a waiver, and (c) the structure of an internet-based portal to streamline the background search program; and
3. consult with the commissioners of Emergency Services and Public Protection, DDS, DMHAS, DSS, and DCP or their designees; the state Long-Term Care Ombudsman and Board of Pardons and Paroles chairperson or their designees; representatives of each type of long-term care facility; and any other agency or organization representatives the DPH commissioner deems appropriate.

By February 12, 2012, DPH must submit the plan, including recommendations on whether to include homemaker-companion agencies in the program's scope, to the Aging, Appropriations, and Public Health committees.

Criminal History Record and Background Check Requirement

With one exception, before offering a paid or volunteer job to, or contracting for, long-term care services with anyone who will have direct access to a patient or resident of the facility, a long-term care facility must require the person to submit to a

background search.

The facility does not have to require a search if the person provides evidence that a background search carried out no more than three years immediately preceding the application date for the paid or volunteer position or contract with the facility revealed no disqualifying offense.

DPH must prescribe how (1) a facility must review the registries, including requiring the facility to report the review results to DPH, and (2) individuals must submit to state and national criminal history record checks, including requiring DPS to report the results of such checks to DPH.

Criminal History and Patient Abuse Background Search Program

By July 1, 2012, the act requires DPH, within available appropriations, to create and implement a criminal history and patient abuse background search program to facilitate the performance, processing, and analysis of background searches on people who have direct access to patients or residents of long-term care facilities.

The act defines a “long-term care facility,” as a home health agency, an assisted living services agency, an intermediate care facility for the mentally retarded as defined in federal law, a chronic disease hospital, a DPH-licensed or federally certified agency providing hospice care, or a nursing home as defined in state law. (State law does not define nursing home, but it defines a “nursing home facility” as a nursing home or residential care home.)

“Direct access” means physical access to a patient or resident of a long-term care facility that gives the provider an opportunity to commit abuse or neglect or misappropriate the patient's or resident's property.

Disqualifying Offenses and Waivers

The act requires DPH to review the criminal history record reports that DPS provides and the results of the registry reviews provided by the facilities. If a report shows that an individual has a disqualifying offense, DPH must notify the individual and long-term care facility of the disqualifying offense and of the individual's opportunity to file a written request for a waiver that would allow him or her to be employed by, or volunteer or enter into contract with, a long-term care facility.

The act defines a “disqualifying offense” as a (1) substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency under an investigation conducted in accordance with federal Medicare and Medicaid laws or (2) conviction for:

1. state or federal crimes of patient neglect or abuse in connection with the delivery of a health care item or service,
2. a federal crime related to the delivery of an item or service pertaining to the Medicare program or any state health care program receiving certain federal funds (e. g., Medicaid), or
3. any state or federal felony relating to health care fraud or controlled substances committed after August 21, 1996.

Waivers

Under the act, an individual has up to 30 days after DPH mails a notice of disqualification to file a waiver request. DPH has up to 15 business days after receiving the request to mail a written determination indicating whether it will grant the request. The 15-day deadline does not apply to instances in which an individual challenges the accuracy of the information obtained from the background search. DPH may grant a waiver to an individual who identifies mitigating circumstances surrounding the disqualifying offense, including:

1. inaccuracy in the information obtained,
2. lack of a relationship between the disqualifying offense and the position for which the individual has applied,
3. evidence that the individual has pursued or achieved rehabilitation with regard to the disqualifying offense, or
4. that substantial time has elapsed since the individual committed the disqualifying offense.

DPH and its employees are immune from civil or criminal liability that might otherwise be incurred or imposed for good faith conduct in granting waivers.

Notification of Facility

After DPH reviews the background check and patient abuse reports, it must notify, in writing, the long-term care facility to which the individual applied to get a job, volunteer, or contract whether (1) the report contains any disqualifying offense, (2) the individual provided any information about mitigating circumstances surrounding the offense or a lack of a disqualifying offense, and (3) DPH granted a waiver.

If DPH notifies a facility that a person covered by the act has a disqualifying offense and has not received a DPH waiver, the facility cannot allow the person to work or volunteer at or contract with the facility. And if DPH grants a waiver, the act allows but does not require a facility to employ, allow to volunteer, or enter into a contract with an individual granted a waiver. The provisions apply notwithstanding state law that generally forbids the state and its agencies (except for

law enforcement agencies) from denying felons employment, occupational licenses, or permission to engage in state-regulated professions without examining the (1) relationship between the crime committed and the job or license for which the person is being considered, (2) convicted person's degree of rehabilitation, and (3) time elapsed since conviction or release (CGS § 46a-80).

The act prohibits a facility from hiring (for a paid or volunteer position) or entering into a contract with an individual required to undergo a background search until it receives the DPH notification. But the facility may allow the person to work or volunteer at or contract with the facility on a conditional basis before it receives DPH notification if:

1. the conditional employment, contractual, or volunteer period lasts no more than 60 days;
2. the facility has begun the required review and the individual has submitted to the required checks;
3. the individual is subject to direct, on-site supervision; and
4. the individual affirms in a signed statement that he or she (a) has not committed a disqualifying offense and (b) acknowledges that a disqualifying offense reported in the background search constitutes good cause for termination and that a facility may terminate him or her on this ground.

Program Implementation

DPH may phase in implementation of the criminal history and patient abuse background search program by type of long-term care facility. No long-term care facility is required to comply with program provisions until the date the DPH commissioner publishes notice in the *Connecticut Law Journal* indicating that she is implementing the program for the facility type.

EFFECTIVE DATE: January 1, 2012

§§ 91-94 — CRIMINAL BACKGROUND CHECKS FOR HOMEMAKER COMPANION AGENCIES

Applicant Criminal History Record Checks

Beginning January 1, 2012, the act requires any person applying to the DCP for a homemaker-companion agency registration certificate to submit to state and national criminal history record checks. By law, these checks must be requested through the State Police Bureau of Identification.

Registration Issuance and Denial Procedures

The act adds a condition under which the DCP commissioner may revoke, suspend, or deny

certificates; place registrants on probation; or issue letters of reprimand. The condition is that the homemaker companion agency failed to perform a comprehensive background check of a prospective employee or maintain a copy of material obtained during the background check. Existing law allows the commissioner to take any of these actions for (1) agency conduct (or that of an employee in the course of employment) likely to mislead, deceive, or defraud the public or the commissioner or (2) untruthful or misleading advertising.

Employee Background Checks

Prior law required a homemaker-companion agency to require an employee to submit to a comprehensive background check. Under the act, the agency must, instead, require this of any prospective employee, before offering a job or entering into a contract.

The act also requires prospective employees, instead of those already hired, to complete and sign a form containing questions about whether they were (1) convicted of a crime involving violence or dishonesty in any state or federal court or (2) subject to any decision imposing disciplinary action by a licensing agency in any state, the District of Columbia, a U.S. possession or territory, or a foreign jurisdiction. If a prospective employee makes a false written statement about his or her prior disciplinary action, he or she is guilty of a class A misdemeanor (see Table on Penalties).

The act requires each agency to keep a paper or electronic copy of any material obtained during the comprehensive background check and make them available to DCP upon request.

Definitions

The act defines a “comprehensive background check” as a background investigation performed by a homemaker-companion agency that includes:

1. a review of the applicant's employment application;
2. an in-person interview of the applicant;
3. verification of the applicant's Social Security number;
4. if the position requires the applicant's licensure, verification that the required license is in good standing;
5. a check of the DPS sex offender registry;
6. a review of criminal conviction information obtained through an in-state public records search based on the applicant's name and date of birth;
7. if the applicant has lived in the state less than three years before the employment application date, a review of criminal conviction

information in any state where the applicant lived during this three-year period; and

8. a review of any additional information the agency deems necessary to evaluate the applicant's suitability for the position.

Prior law did not define "comprehensive background check," specify particular procedures, or identify who must conduct these checks.

The act also expands the definition of "homemaker companion agency" to include registries. It defines a "registry" as any person or entity engaged in the business of supplying or referring an individual to, or placing an individual with, a consumer to provide homemaker or companion services when the individual providing the services is either (1) directly compensated, in whole or in part, by the consumer or (2) treated, referred to, or considered by the supplying person or entity as an independent contractor. Thus a "registry" is subject to the licensing and employee background check procedures.

EFFECTIVE DATE: January 1, 2012

§ 95 — CRIMINAL BACKGROUND CHECKS FOR HOME HEALTH AGENCIES

Starting January 1, 2012, the act requires a home health agency to require employment applicants, before offering a job or entering into a contract, to submit to a comprehensive background check. It also requires these applicants to complete and sign a form containing questions about whether they were subject to any decision imposing disciplinary action by a licensing agency in any state, the District of Columbia, a U.S. possession or territory, or a foreign jurisdiction. If an applicant makes a false written statement about his or her prior disciplinary action with intent to mislead, he or she is guilty of a class A misdemeanor (see Table on Penalties). ("Comprehensive background check" has the meaning as described above.)

The act specifies that these background check requirements are valid only until the date the DPH commissioner publishes notice in the *Connecticut Law Journal* of implementation of the criminal history and patient abuse background search program for home health agencies (see above).

EFFECTIVE DATE: January 1, 2012

§ 96 — CHIROPRACTORS

The act removes the requirement that a licensed chiropractor practice only under the name of the chiropractor owning the practice or a corporate name containing the chiropractor's name, thereby allowing the chiropractor greater flexibility in selecting a business name. It retains the existing requirement that a licensed chiropractor display his or her name on the

entrance of the business or on his or her office door.

It prohibits DPH from initiating disciplinary action against a licensed chiropractor, who before July 1, 2011, is alleged to have practiced as a chiropractor under any name other than the name of the chiropractor actually owning the practice or a corporate name containing the chiropractor's name.

EFFECTIVE DATE: July 1, 2011

§ 98 — STATEWIDE ADOLESCENT HEALTH COUNCIL

The act repeals the Statewide Adolescent Health Council.

EFFECTIVE DATE: October 1, 2011

PA 11-8—SB 889

Public Safety and Security Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL AND MINOR CORRECTIONS TO THE PUBLIC SAFETY STATUTES

SUMMARY: This act makes technical changes in various public safety statutes, affecting the fire safety code and gambling, mostly bazaars and raffles. It, among other things, replaces references to the “state fire safety code” with the “fire safety code” for consistency. (But Department of Public Safety regulations refer to the code as the “state fire safety code.”)

The act also extends to all chief executive officers, instead of just first selectmen, the authority to carry out administrative-related functions pertaining to operating bazaars and raffles in towns where there is no police department.

EFFECTIVE DATE: Upon passage

PA 11-11—sHB 5266

Public Safety and Security Committee

Government Administration and Elections Committee

AN ACT SUPPLEMENTING THE MEMBERSHIP OF THE E 9-1-1 COMMISSION

SUMMARY: This act increases the membership of the E 9-1-1 Commission from 11 to 13 by adding a telecommunicator representative and a public member. (Telecommunicators are employed by public and private safety agencies to receive 9-1-1 calls and dispatch emergency services.) All of the members, including the two the act adds, are appointed by the governor for three-year terms and serve without compensation.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

E 9-1-1 Commission

This commission advises the Office of State-Wide Emergency Telecommunications on the planning, design, implementation, and coordination of the statewide emergency 9-1-1 telephone system.

The current commission members are (1) the state fire administrator; (2) one representative each from the State Police technical support services unit, Office of Emergency Medical Services, Department of Emergency Management and Homeland Security, Council of Small Towns, and the Connecticut Conference of Municipalities; and (3) one municipal police chief, municipal fire chief, volunteer firefighter,

manager or coordinator of a 9-1-1 public safety answering point, and commercial radio service provider representative.

PA 11-13—HB 6270

Public Safety and Security Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE COLLECTION OF DELINQUENT TAXES AND LOTTERY WINNINGS

SUMMARY: This act requires the Connecticut Lottery Corporation (CLC) to deduct and withhold delinquent taxes from any lottery prize claim of \$5,000 or more a delinquent taxpayer submits at CLC’s central office after December 30, 2011.

The act requires the Division of Revenue Services commissioner to submit a list of delinquent taxpayers to CLC. It allows the commissioner to disclose to CLC (1) the names and any information necessary to identify delinquent taxpayers and (2) the amount of taxes, penalty, and interest owed. Before paying any prize claim of \$5,000 or more, CLC must check the list. If a claimant is delinquent, CLC must withhold from the winnings and promptly notify and forward to the commissioner the amount of taxes owed, plus penalties and interest, after deducting and withholding any amount owed for child support.

The act applies to taxes, including penalties and interest, more than 30 days overdue that are not the subject of a timely filed (1) administrative appeal to the commissioner or (2) appeal pending before a court.

For the act’s purposes, CLC employees are state employees. As such, they are prohibited from disclosing any tax information they receive, except as the law requires. By law, a violation carries a fine of up to \$1,000, imprisonment for up to one year, or both.

EFFECTIVE DATE: October 1, 2011

PA 11-21—HB 6444

Public Safety and Security Committee

AN ACT CLARIFYING THE DEFINITION OF "EMERGENCY" AND "MAJOR DISASTER"

SUMMARY: This act conforms the statutory definitions of “major disaster” and “emergency” to Department of Emergency Management and Homeland Security usage, for purposes of the civil preparedness and emergency management statutes. It updates the statutes by substituting “emergency management director” for “director of civil preparedness” to reflect the term currently used to describe this official. It also

makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2011

MAJOR DISASTER AND EMERGENCY

Prior law's definitions of "major disaster" and "emergency" mirrored the federal Stafford Act definitions and applied only when the President determined that federal assistance was warranted. The act includes in the definition of "major disaster" catastrophes that the governor determines are severe enough to warrant declaring a civil preparedness emergency, not just those that the President determines warrant Stafford Act disaster relief.

The act also includes in the definition of "emergency," situations in which the governor determines that state or federal assistance is necessary to supplement state or local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster or catastrophe. Under prior law, "emergency" meant situations in which the President determined that federal assistance was needed to supplement state and local efforts.

BACKGROUND

Stafford Act

This act constitutes the statutory authority for most federal disaster response activities especially as they pertain to Federal Emergency Management Assistance programs.

Civil Preparedness Emergencies

By law, the governor may declare a civil preparedness emergency in the event, or imminent threat, of serious disaster, enemy attack, sabotage, or hostile action. In such cases, the governor may personally take direct operational control of any or all parts of the civil preparedness forces and functions in the state.

PA 11-22—HB 6445

Public Safety and Security Committee

Government Administration and Elections Committee

AN ACT CONCERNING EMERGENCY NOTIFICATION SYSTEMS

SUMMARY: This act allows telephone subscriber information in the enhanced 9-1-1 (E 9-1-1) database to be used in any emergency, not just life-threatening emergencies, when the information is collected to enable an emergency notification system (ENS) such as Reverse 9-1-1. By

law, (1) an ENS is a system used to notify the public of emergencies and (2) "subscriber information" is the name, street address, and telephone number in the E 9-1-1 database of a telephone used to place a 9-1-1 call or in connection with an ENS.

The act adds subscriber email and mailing addresses provided to the state for ENS use to the subscriber information that is confidential and exempt from disclosure under the Freedom of Information Act (FOIA).

EFFECTIVE DATE: October 1, 2011

E 9-1-1 SUBSCRIBER INFORMATION

By law, subscriber information may be used only for (1) responding to emergency calls, (2) investigating false or intentionally misleading reports of incidents requiring emergency service, or (3) enabling an ENS. Subscriber information provided for all three purposes is confidential and exempt from FOIA. The act adds email and mailing addressees provided for ENS use to the ENS subscriber information that is exempt from FOIA, but it limits the FOIA exemption to ENS subscriber information provided to the state. This means, for example, that subscriber information provided by telephone companies to public safety answering points (PSAPs) is no longer exempt under this act.

BACKGROUND

9-1-1, E 9-1-1, and PSAP

A 9-1-1 service allows callers to reach a PSAP by dialing 9-1-1. An E 9-1-1 service has telephone network features that allow PSAP personnel to automatically identify a caller's telephone number and location and direct appropriate emergency services to the scene (CGS § 28-25). 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.

E 9-1-1 Database Subscriber Information

The law outlines procedures governing release and use of database information. Each month, the E 9-1-1 service database provider must give the Office of State-wide Emergency Telecommunications (OSET) an electronic copy of the current subscriber information in the database. OSET must make this information available to the Department of Emergency Management and Homeland Security and to each PSAP under a memorandum of understanding (MOU). Each PSAP that has entered into an MOU must make the information available to any municipality within the PSAP's jurisdiction that requests it (CGS § 28-28a(a)).

Emergency Notification System

Emergency notification systems provide pre-recorded emergency telephone messages to targeted areas or entire cities at a rate of hundreds or thousands of calls per minute. The system can be used to warn residents of severe weather, hazardous material spills, pandemics, or other emergencies.

PA 11-31—sHB 6484

Public Safety and Security Committee

AN ACT CONCERNING THE AVAILABILITY OF ACCIDENT RECORDS OF THE STATE POLICE

SUMMARY: This act sets a 30-day deadline for the State Police to make accident records available to an accident victim who is the subject of the record. Under prior law, the records were available at an unspecified time after a warrant or summons was issued. The act makes them available after the warrant or summons is issued or within 30 days after the accident, whichever is earlier. But it allows the Department of Public Safety to extend the 30-day period if granting access to the record would compromise an ongoing criminal investigation. By law, unchanged by the act, the records are available for public inspection after the final disposition of any criminal action arising from the accident.

The act applies to any memorandum, sketch, chart, written statement, report, or photograph the State Police obtained, prepared, or created in its investigation of an accident involving personal injury or property damage. By law, the State Police must preserve any such accident records for at least 10 years from the date of the accident.

EFFECTIVE DATE: October 1, 2011

PA 11-34—HB 5184

*Public Safety and Security Committee
Planning and Development Committee*

AN ACT PERMITTING THE MAILING OF RAFFLE TICKETS AND THE USE OF COUPONS AS INCENTIVES TO PURCHASE RAFFLE TICKETS

SUMMARY: This act allows a qualified organization conducting a raffle under the required town permit to promote the raffle by offering coupons to ticket buyers. The act defines “coupon” as a ticket, form, or document redeemable for merchandise, tangible personal property, services, or transportation on a common carrier, or for discounts on any of these.

The act also allows organizations to mail raffle tickets to residents of a town that has adopted the Bazaar and Raffle Act, provided the phrase “no purchase necessary to enter the raffle” is printed on the tickets.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Organizations Qualified to Conduct Raffles

By law, the following may conduct, operate, or sponsor bazaars or raffles if the town where they are located has adopted the Bazaar and Raffle Act: veterans’, religious, civic, fraternal, educational, and charitable organizations; volunteer fire companies; and political parties and their town committees. Raffles may also be promoted and conducted if sponsored by towns acting through a designated centennial, bicentennial, or other centennial celebration committee. To conduct a bazaar or raffle, an organization must have a permit from the town where the raffle or bazaar will take place.

Mailing Gambling Material

According to a U.S. Postal Service ruling, raffles that incorporate “prize,” “chance,” and “consideration” are considered lotteries under federal law and postal standards. Tickets for such raffles are considered unlawful matter and mailing them is a violation. But when any of these three elements is eliminated, the arrangement does not constitute a lottery for postal purposes. According to the ruling, consideration “is eliminated if persons may enter without payment of a fee. Thus, a nonprofit organization that designs a raffle where it is clear that a donation is not required (e.g., via a check box, “Please enter my name in the drawing. I do not wish to make a donation at this time”) to participate in the raffle may use the mail to distribute the tickets for that raffle” (PS 307 601.13.3).

PA 11-65—SB 888 (VETOED)

*Public Safety and Security Committee
Planning and Development Committee*

AN ACT EXEMPTING CERTIFIED POLICE OFFICERS FROM TELECOMMUNICATOR TRAINING

SUMMARY: This act exempts any police officer certified by the Police Officer Standards and Training Council (POST) from telecommunicator training if he or she is also certified as a medical response technician. The law already exempts anyone who, by reason of experience or specialized training, demonstrates competence in performing telecommunicator training

standards. As is currently the case for others who are exempt, police officers must get a written acknowledgement of achievement from the Office of State-wide Emergency Telecommunications (OSET), which has developed training standards and certifies telecommunicators.

By law, a “telecommunicator” is employed by a public or private safety agency primarily to take 9-1-1 calls and dispatch emergency services.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

POST

POST is responsible for training, certifying, and establishing minimum qualifications for municipal police officers.

OSET

OSET, in cooperation with public safety agencies:

1. sets minimum training standards for telecommunicators, develops examination programs for them, and certifies those who meet the required standards;
2. certifies telecommunicator instructors; and
3. coordinates the delivery of telecommunicator training programs, as required, to public safety agencies.

OSET pays for telecommunicator training and reimburses some training-related overtime costs with money from the state’s E 9-1-1 Telecommunications Fund. Money for the fund comes from fees assessed on subscribers of local telephone and commercial mobile radio services.

PA 11-91—sHB 5340

Public Safety and Security Committee

Government Administration and Elections Committee

AN ACT RENAMING THE STATE POLICE FORENSIC SCIENCE LABORATORY AS THE "DR. HENRY C. LEE FORENSIC SCIENCE LABORATORY"

SUMMARY: This act renames the State Police Forensic Science Laboratory in Meriden the “Dr. Henry C. Lee Forensic Science Laboratory.” The laboratory is within the Department of Public Safety’s Division of Scientific Services. The division conducts forensic examinations for the state.

EFFECTIVE DATE: Upon passage

BACKGROUND

Dr. Henry Lee

Dr. Henry Lee is a former director of the State Police Forensic Science Laboratory. He also served as public safety commissioner from June 30, 1998 to June 1, 2000. He currently serves as chief emeritus for the Division of Scientific Services.

PA 11-100—sHB 5795

Public Safety and Security Committee

Judiciary Committee

Planning and Development Committee

AN ACT CONCERNING THE LICENSING AND RECORD KEEPING OF PAWNBROKERS, SECONDHAND DEALERS AND PRECIOUS METALS OR STONES DEALERS, THE RETENTION OF CERTAIN GOODS AND CERTAIN FEES CHARGED BY PAWNBROKERS

SUMMARY: This act (1) makes numerous changes in the statutes governing pawnbrokers and precious metals and stones dealers, (2) creates a secondhand dealer license with substantially similar requirements as those for pawnbrokers, and (3) specifies that a junk dealer is someone who deals in secondhand articles that are no longer serviceable for their original manufactured purpose.

The act creates additional requirements for pawnbrokers, and new requirements for secondhand dealers for (1) licensing, (2) tangible property sales and purchases, (3) record-keeping, (4) payment, (5) reports, and (6) enforcement.

The act makes it a class D felony (see Table on Penalties) to willfully engage in any of these professions without a license or to continue operating after receiving notification that a license has been suspended or revoked. Unless otherwise specified by law, violation of any law governing (1) pawnbrokers or secondhand dealers is a class A misdemeanor and (2) precious metals or stones dealers is punishable by a fine of up to \$1,000.

The act makes the licensing authority the same for pawnbrokers, secondhand dealers, and precious metals and stones dealers. It also defines business entities that are not subject to the act’s requirements and makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2011

§ 1(12) — LICENSING AUTHORITY

The act makes a town’s police chief the licensing authority for pawnbrokers, secondhand dealers, and

precious metals and stones dealers. For any city or town that does not have an organized local police department, the public safety commissioner is the licensing authority. Under prior law, the licensing authority for pawnbrokers and precious metals and stones dealers was either a town's selectmen or a city's police chief. The act thus ensures that a law enforcement official will be in charge of regulating these professions.

§§ 1-11 — PAWNBROKER AND SECONDHAND DEALER

§ 1(1), (3) — Definitions

The act defines “pawnbroker” as anyone engaged in the business of (1) loaning money on the deposit or pledge of wearing apparel, jewelry, ornaments, household goods, or other personal property or (2) purchasing such property on condition of selling it back to the seller at a stipulated price.

A “secondhand dealer” is anyone primarily engaged in the business of purchasing personal property from a person who is not a wholesaler, for the purpose of reselling or exchanging the property, and has physical possession of the property.

Entities that deal in secondhand goods but are not subject to licensing as secondhand dealers are dealers in: antiques, art, coins and stamps, precious metals or stones, special collectibles, musical instruments, used books, motor vehicles, and junk. Also excluded are consignment shop operators, pawnbrokers, auctioneers, scrap metal processors, recycling facilities, bona fide charitable or religious corporations, and retailers that sell new items but give consideration other than cash for traded items.

§§ 3(a), 10(a) — License Requirements

By law, the licensing authority may issue a pawnbroker's license to suitable people and revoke it for cause. Under the act, it may be suspended for the same reason. Under the act, “cause” includes failing to comply with any specified licensing requirements imposed at the time of issuance.

The act creates a secondhand dealer license. Previously, transactions involving secondhand dealers were not regulated. The licensing authority may grant secondhand dealer licenses to any suitable person with a fixed place of business within the town or city limits. A secondhand license is not needed for transactions involving the purchase of personal property from a person who is not a wholesaler for the purpose of resale or exchange by a (1) charitable or religious corporation or (2) person conducting garage, yard, tag, or estate sales entirely at a private residence for up to 72 hours during any six-month period.

§§ 3(b), 10(b) — License Fees and Bond Requirements

The act allows the public safety commissioner to collect and use for the department's benefit the \$50 pawnbroker licensing fee and \$25 renewal fee if he is the licensing authority. Otherwise, the law requires towns to collect the fees and use them for their benefit. The same requirements apply to secondhand dealers, but the fees for licensing and renewal are \$250 and \$100, respectively.

The law requires pawnbrokers to file with the licensing authority a \$2,000 surety bond. Secondhand dealers must post a \$10,000 bond. The act exempts pawnbrokers who are also secondhand dealers from pawnbroker renewal fees and bond requirements.

§§ 3(d), (e), 10(d), (e) — Applications

The act has the same application requirements for pawnbrokers and secondhand dealers. By law, pawnbroker licenses cannot be issued to anyone with a felony conviction; the act also applies this exclusion to secondhand dealers.

It specifies that license applications must be in writing, signed under oath, and contain:

1. the type of business to be engaged in;
2. the applicant's full name, age, and date and place of birth;
3. the applicant's home addresses and places of employment for the preceding five years;
4. the applicant's present occupation;
5. any criminal conviction, including the date and place; and
6. any additional information the licensing authority needs to investigate the applicant's qualifications, character, competency, and integrity.

The application of a corporation, limited liability company, partnership, or association must contain the information required for each individual who is or will be an officer, shareholder, financial backer, or creditor, other than a financial institution, and any other individual with a relationship to such entity similar to the relationships described above.

The application and any renewal application must also include information on any Internet website or account used to conduct business. The licensee, during the license term, must give the licensing authority written notice when it adds or discontinues any Internet website or account.

§§ 3(f), 10(f) — Background Checks

The act allows the licensing authority to require any pawnbroker or secondhand dealer applicant or employee or person with an ownership interest in the business to submit to a state and national criminal history check.

Prior law allowed the licensing authority to require criminal history checks only on the pawnbroker applicant. The act requires the subject to submit two sets of fingerprints whenever a criminal history check is required. It also allows the licensing authority to charge the subject a fee equal to the fees the FBI and the State Police Bureau of Identification charge for performing the background checks.

§§ 3(g), 10(g)-(j) — Administrative License Procedures

The act sets out the same license approval procedures for pawnbrokers and secondhand dealers. It requires the licensing authority to grant or deny an application within 90 days after it is filed. The licensee must file for renewal at least 60 days before the license expires, and the licensing authority must grant or deny it within 30 days of the filing. The licensing authority's failure to act within the specified time will be deemed a denial of the license or renewal application.

The licensing authority may deny, suspend, revoke, or modify any license at any time during the license period for good cause, after notice and a hearing. The hearing must be held within five days after the notice is issued and a decision rendered within 14 days thereafter. The licensee or applicant may appeal the licensing authority's decision to the Superior Court.

The act allows secondhand dealers, but not pawnbrokers, to apply for an exemption from the licensure requirement for a license term or for a shorter period as the licensing authority may determine for good cause. The licensing authority may exempt an individual from the licensing requirements for good cause.

§§ 3(c), 10(c) — License Display Requirements

The act requires pawnbrokers and secondhand dealers to display their license in a conspicuous location on their premises. It requires secondhand dealers licenses to contain their business location, something pawnbrokers licenses are already required to contain. The act also requires both pawnbroker and secondhand dealer applicants to disclose all the places they use or intend to use to buy, receive, store, or sell property. During the term of the license, the licensee must notify the licensing authority of any additional business locations prior to such use.

§§ 4(a), 11(a) — Customer Identification

The law requires pawnbrokers to obtain proof of identity from a person depositing, pledging, or selling property. The act extends this requirement to secondhand dealers. The identification must include a photograph; an address, if available on the identification; and an identifying number. The act

makes birth dates acceptable identifying numbers for transactions. Secondhand dealers do not need to collect identification from wholesalers, who are defined as anyone engaged in the business of buying property in large quantities and reselling the property in the same or smaller quantities to people who resell the property to consumers.

§§ 4(b)-(d), 11(b)-(d) — Record-Keeping System

The act requires pawnbrokers to maintain a computerized record-keeping system that the licensing authority deems appropriate. Existing law requires an approved record-keeping system, but it does not have to be computerized.

The act requires secondhand dealers to maintain a record-keeping system with the same requirements as pawnbrokers. The system must be deemed appropriate by the licensing authority. Its entries must be entered in English at the time of purchase and consecutively numbered. It must also include a description of each article; the name, home address, proof of identity, and general description of the person selling the property; and the date and hour when the property was purchased.

The record's property description must include:

1. all distinguishing marks;
2. names of any kind, including brand and model names;
3. model and serial numbers;
4. engraving;
5. etchings;
6. affiliation with any institution or organization;
7. dates;
8. initials;
9. color;
10. vintage; and
11. image of any item that lacks identifiable numbers or markings.

A state or municipal police officer may, at any time, examine the records and place where business is carried on, including all articles on the property. They may also require any employee on the premises to provide proof of identity.

§§ 4(b)-(d), 11(b)-(d) — Digital Photographs and Tagging

The act requires, for both pawnbrokers and secondhand dealers, a digital photograph of property that does not have any identifiable numbers or markings. A tag must be attached to the article in a visible and convenient place with a number corresponding to the entry number in the record-keeping system. The tag must remain attached to the article until it is sold or disposed of and be visible in the digital photograph. The licensing authority must establish

procedures authorizing the removal of the tags, including for jewelry that is cleaned and repaired on the premises. The records must be maintained for at least two years.

Any description of audio, video, or electronic media must include the title and artist or other identifying information from its cover. The licensing authority may exempt or establish additional or different requirements depending on the nature of the property, transaction, or business, including articles sold in bulk lots or with minimal value. Prior law did not mandate what identifying information had to be recorded.

§§ 6, 11(h) — Weekly Report

The law requires pawnbrokers to submit weekly sworn statements of their transactions to the licensing authority. The report is a sworn statement of transactions describing the property purchased, including the nature and terms of the transaction and the name, home address, and description of the person from whom the property was received. The act allows the licensing authority to require statements more frequently if the volume and nature of the business warrants it. It also requires pawnbrokers to submit statements electronically, but allows the licensing authority to grant exemptions for good cause. The act extends these requirements to secondhand dealers.

§ 5(a) — Memorandum or Note

The law requires pawnbrokers to give the person who deposits, pledges, or sells his or her property a memorandum or note containing the entry from his or her records. The act requires that the memorandum or note also include a copy of a statement signed by the person stating he or she is the rightful owner of the property with the right to enter into the transaction, and that the property is not stolen and does not have any liens or encumbrances against it. The note must also state that the person will indemnify and hold harmless the pawnbroker for any loss arising from the transaction because of someone else's superior right of possession. Pawnbrokers may charge customers a fee for costs associated with the transaction, property storage, insurance, and appraisals.

§§ 5(b), 11(e),(f) — Payment by Check, Draft, or Money Order

The act requires any check, draft, or money order a pawnbroker uses to pay for property he or she receives to contain the same identification numbers the pawnbroker includes in his or her record-keeping system. The pawnbroker must keep the electronic copy of any check or other record issued by the financial institution that processes it. The copy is subject to

inspection as part of the pawnbroker's record-keeping system.

The law requires pawnbrokers to make payments only by check, draft, or money order, rather than cash. However, a pawnbroker can cash a check, draft, or money order he or she issues to a person. The act prohibits pawnbrokers from cashing any check, draft, or money order it issues over \$1,000 and prohibits a person from structuring his or her transactions to avoid this limit. Any transaction between a pawnbroker and the same party within a 24-hour period is considered a single transaction for this purpose.

The act allows secondhand dealers to pay for merchandise only by check or money order. The dealer must indicate on the instrument the number(s) associated with the property in the record-keeping system. The secondhand dealer must also, when paying by check, retain the electronic copy or other record issued by the financial institution that processes the check, which is subject to police inspection.

Unlike pawnbrokers, the act prohibits secondhand dealers from cashing any instrument that he or she issues.

The act contains an exemption for secondhand dealers who were licensed pawnbrokers on March 31, 2011 and who continue to hold such license. Until July 1, 2021, they may pay cash for any instrument they issue under the pawnbroker statutes.

§§ 4(a), 11(g) — Sale to Minors Prohibited

The act prohibits pawnbrokers from transacting business with, and secondhand dealers from buying property from, a minor unless the minor is accompanied by a parent or guardian.

§§ 7, 11(i) — Sale of Property

The law prohibits pawnbrokers from selling or otherwise disposing of personal property left with them for less than two months. The act changes the minimum period to 60 days, but allows earlier sales when the customer is the person who pawned the property. It also specifies that if the property is not redeemed within 60 days the pawnbroker acquires the entire interest the customer had in the property without further notice. It eliminates the requirement that pawnbrokers place an advertisement in a local newspaper at least two days before putting the items up for sale.

The act prohibits a secondhand dealer from selling property within 10 days of receipt. If the property is sold outside of the retail place of business, the secondhand dealer must still keep a record of its sale.

§§ 8, 11(j) — *Seizure of Property by Law Enforcement Officers*

The act conforms the procedures for a law enforcement officer seizing property for secondhand dealers and precious metals or stones dealers to current pawnbroker law. That law requires a law enforcement officer, when seizing property from a pawnshop, to give the pawnbroker a duly signed receipt for the seized property containing:

1. a case number,
2. a description of the property,
3. the reason for the seizure,
4. the name and address of the officer,
5. the name and address of the person claiming a right to the property other than the pawnbroker, and
6. the pawnbroker's name.

Under the act, if a pawnbroker, secondhand dealer, or precious metals and stones dealer claims an ownership interest in the property, he or she may request its return by filing a request with the law enforcement agency in accordance with the seized property procedures set in law.

The act allows the court to order restitution if the person who deposited, pledged, or sold the property is convicted of an offense arising out of the licensee's acquisition of the property and the licensee suffered an economic loss as a result.

§ 9 — *Penalties*

Under prior law, anyone who engaged in the pawnbroker business without a pawnbroker license (1) was guilty of a class D felony and (2) forfeited triple the amount loaned on the pledged property to any person who is injured and then sues.

The act requires that an individual act willfully to be guilty of engaging in the pawnbroker business without a license and eliminates the triple damages provision.

§ 12 — **PRECIOUS METALS AND STONES DEALERS**

A "precious metals or stones dealer" is anyone who is primarily engaged in the business of purchasing gold or gold-plated ware, silver or silver-plated ware, platinum ware, watches, jewelry, precious stones, bullion or coins.

The act requires a person engaging in transactions involving bullion to be licensed as a precious metals and stones dealer.

It makes willfully engaging in precious metals and stones dealing without a license a class D felony. Under prior law, the penalty was a fine of up to \$1,000.

The act also requires licensees to maintain a

Connecticut business place where the goods purchased and records are to be available for inspection.

The act also (1) eliminates the option of paying for property by draft, (2) makes paying cash or cashing checks or money orders a class A misdemeanor, and (3) prohibits licensees from advertising that they will pay for property with cash. Violators can be fined up to \$1,000.

PA 11-101—sHB 5802

Public Safety and Security Committee
Labor and Public Employees Committee
Judiciary Committee
Energy and Technology Committee

AN ACT ADOPTING CERTAIN SAFETY RECOMMENDATIONS OF THE THOMAS COMMISSION

SUMMARY: This act codifies Executive Order No. 45 (issued by former Governor Rell), which prohibits anyone from using flammable gas to clean or blow an electric generating facility's (power plant) gas piping. It prohibits the Connecticut Siting Council from issuing a certificate to build a power plant unless the applicant demonstrates, to the council's satisfaction, that he or she (1) has retained, for the project's duration, at least one special inspector to help the local fire marshal review construction plans and inspect the facility during construction and (2) paid a fee the act establishes to be used to help train local fire marshals in power plant construction issues.

The act subjects to a fine of up to \$100,000, imprisonment for up to two years, or both, for each offense, anyone who (1) uses flammable gas to clean or blow a power plant's gas piping or (2) obtains a power plant building certificate and fails to retain the required special inspector or pay the fire marshal training fee.

The act requires the Siting Council to meet with and solicit comments from specified state agencies when considering applications to build power plants. It requires that at least once during construction, the council and some of the named agencies meet to discuss any known or potential safety issue at the plant and submit any proposed resolutions to the plant's special inspector.

EFFECTIVE DATE: Upon passage

SPECIAL INSPECTORS

Requirement to Retain Special Inspector and Pay Fee

The act requires anyone applying to the Connecticut Siting Council for a certificate to build a power plant or power storage facility to:

1. retain at least one special inspector to help the local fire marshal review construction plans and inspect the facility during construction to ensure compliance with recommended standards and
2. pay a fee to be used to help train local fire marshals on the complex issues of power plant construction.

The act requires the fee to be (1) established in accordance with CGS § 29-251c and (2) deposited in the “code training fund.” (The section cited does not establish fees. Rather, it requires the public safety commissioner to adopt regulations to establish an administrative process to adjust the fees assessed under two other statutes and the portion of such fees that a municipal building department may retain for administrative cost (see BACKGROUND)).

Special Inspector’s Duties

The special inspector must:

1. help the local fire marshal in his or her review and approval of cleaning methods for interior gas piping,
2. approve an appropriate safety plan for nonflammable gas blows conducted at the facility,
3. observe cleaning procedures to ensure compliance with the approved methods for cleaning interior gas piping, and
4. inspect the facility during construction to ensure compliance with the approved cleaning methods and the act.

Qualifications of Special Inspector for Power Plant

Anyone designated as a special inspector must:

1. be approved by the Siting Council and not be otherwise employed or financially involved in the power plant’s construction or operation and
2. be licensed in Connecticut as a professional mechanical engineer or hold a commission from the National Board of Pressure Vessel Inspectors and have knowledge of and field experience in power plant construction.

HEARINGS

Power Plant Application

Before starting any hearing on a power plant application, the act requires the Siting Council to consult with and solicit written comments from the Council on Environmental Quality; the Office of Policy and Management; and the departments of Agriculture, Consumer Protection, Economic and Community

Development, Emergency Management and Homeland Security, Environmental Protection, Labor, Public Health, Public Safety, Public Utility Control, Public Works, and Transportation.

Meetings During Construction of Power Plants

The act requires that at least once during construction of a power plant, the Siting Council and the following departments meet to discuss any known or potential safety issue at the facility and submit any proposed resolutions to the special inspector: Consumer Protection, Emergency Management and Homeland Security, Labor, Public Safety, and Public Works.

BACKGROUND

Connecticut Siting Council

This council has exclusive jurisdiction over most power plants.

In most cases, a developer must obtain a certificate of environmental compatibility and public need from the council before beginning work on a power plant (CGS § 16-50k(a)).

Fire Marshal Training Fees

The law requires the state building inspector and local building officials, as applicable, to assess an education fee on state and local building permit applications (CGS §§ 29-252a(b)(2) and 29-263(b)). The fee is 16 cents per \$1,000 of construction value as declared on the permit application, but may be adjusted downward or upward as the law specifies. The fees go into the state’s General Fund and are credited to the Department of Public Safety appropriation for building and fire safety code training and education programs, except for a small percentage retained by towns for administrative expenses.

PA 11-102—sHB 6113

Public Safety and Security Committee

Judiciary Committee

Planning and Development Committee

AN ACT CONCERNING THE INVESTIGATION OF MISSING ADULT PERSONS REPORTS

SUMMARY: This act makes changes affecting the receipt and investigation of missing person reports by law enforcement officers and the collection of DNA in suspected homicide cases.

It requires state and local police to accept without delay any report of a missing adult, who it defines as anyone age 18 or older. And it requires local police

departments to immediately accept reports of missing children under age 18, rather than those under age 15, and notify all on-duty police officers and appropriate law enforcement agencies. By law, they must take the same actions with regard to reports of missing adults age 65 or older and mentally impaired people age 18 or older.

The act requires the State Police unit that investigates cases of missing adults to enter, as appropriate, all information collected on a missing adult in the National Crime Information Center database and any other applicable federal database with all “practicable speed.”

It extends, from January 1, 2008 to January 1, 2012, the deadline for the Police Officer Standards and Training (POST) Council to develop a missing person policy and extends the provisions to include police handling of missing adult reports. (POST has already developed a policy.) The act also requires each police basic or review training program the State Police, POST, or a municipal police department conducts or administers to include training in the policy and in the use of the National Missing and Unidentified Persons System created by the “Office of Justice Program’s National Institute of Justice.”

The act requires that, after performing any death scene investigation in a suspected homicide case, the official with custody of the human remains must ensure that they are delivered to the Chief Medical Examiner’s Office. It requires the chief medical examiner to obtain samples of tissue, whole bone, or hair suitable for DNA typing from the remains and submit them immediately to the Department of Public Safety Division of Scientific Services.

EFFECTIVE DATE: October 1, 2011

MISSING PERSON POLICY

Prior law required POST, by January 1, 2008, to develop and implement a policy for accepting reports of missing persons. The act extends the deadline to January 1, 2012. It also specifies that the policy must include provisions on missing adults, but the legal effect of this addition is unclear because prior law covered any missing person, regardless of age. By law, the policy must include:

1. guidelines for accepting reports;
2. types of information the agency must collect and record;
3. circumstances that indicate that a missing person should be classified as high risk;
4. types of information the agency should provide to anyone making a report, the missing person’s relatives, or other people who can help the agency find the person; and

5. agency responsibilities and procedures in responding to a report.

The act requires the policy also to include preferred methods of responding to reports of missing persons that are sensitive to the emotions of people making such reports.

BACKGROUND

Related Law — Missing Child Clearinghouse

By law, local law enforcement agencies must submit to the state Missing Child Information Clearinghouse reports of all missing (1) children under age 18, (2) mentally impaired adults age 18 or older, and (3) seniors age 65 and older. Parents may also notify the clearinghouse of missing children after they report to local police.

The clearinghouse is the state’s central repository of information on missing children. But, subject to available resources, it may collect, process, maintain, and disseminate information to help locate missing persons other than those mentioned above (CGS § 29-1e).

PA 11-178—sSB 999

Public Safety and Security Committee

AN ACT REQUIRING FIRE SUPPRESSION SYSTEMS FOR PATROL CARS ONLY IF AVAILABLE FROM A MANUFACTURER

SUMMARY: By law, any vehicle bought for use primarily as a state police patrol car must be equipped with a fire suppression system installed by the manufacturer. The act requires the system in such vehicles only if it is available from at least one manufacturer.

EFFECTIVE DATE: Upon passage

BACKGROUND

Fire Suppression System

The law defines a “fire suppression system” as a system integrated into a vehicle’s structure and electrical architecture that (1) uses sensors to measure post-impact vehicle movement to determine the best time to release chemicals designed to suppress or extinguish a fire resulting from a high-speed rear-end collision and (2) operates manually and automatically.

PA 11-186—sHB 5263

Public Safety and Security Committee

AN ACT AUTHORIZING RENEWAL BY MAIL OF A STATE PERMIT TO CARRY A PISTOL OR REVOLVER

SUMMARY: This act allows people to renew gun permits by mail, thereby conforming the law to current State Police practice for renewing gun permits for out-of-state residents.

EFFECTIVE DATE: October 1, 2011

GUN PERMIT RENEWAL

By law, with minor exceptions, anyone carrying a handgun (pistol or revolver) in Connecticut must have a valid gun permit, which is renewable every five years for \$70. Under current State Police practice, out-of-state residents may renew permits by mail. In-state residents must renew their permits at a Department of Public Safety (DPS) office.

By law, permit renewal applications must be made on a DPS form. Under the act, the State Police must accept this form, when sent by mail, as a valid renewal application, if the holder (1) completed the form according to DPS instructions; (2) enclosed the renewal fee, a copy of proof of citizenship or legal residency, and either a notarized or date-stamped photograph of himself or herself; and (3) is otherwise eligible for the permit. (The law specifies the eligibility criteria for a permit.)

PA 11-226—SB 417

*Public Safety and Security Committee
Finance, Revenue and Bonding Committee*

AN ACT ELIMINATING THE LIMIT ON TEACUP RAFFLE PRIZES AND AUTHORIZING GOLF BALL DROP RAFFLES

SUMMARY: This act eliminates the \$250 prize limit on teacup raffles, thereby allowing prizes of unlimited value. By law, qualified organizations conducting bazaars may operate teacup raffles and award prizes consisting of gift certificates or merchandise.

The act also authorizes golf ball drop raffles and allows organizations conducting them to award cash and other prizes. Existing law, with some exceptions, bans cash prizes for bazaars and raffles. The act requires the Division of Special Revenue (DSR) executive director, with the Gaming Policy Board's advice and consent, to establish procedures for operating golf ball drop raffles. EFFECTIVE DATE: October 1, 2011

GOLF BALL DROP RAFFLES

The act allows any qualified organization with a class No. 6 permit to operate a golf ball drop raffle once each calendar year. The raffle must conform to the provisions governing existing raffles. It allows the organization to award cash prizes in addition to those authorized under existing law for bazaars and raffles.

The act requires an organization conducting a golf ball drop raffle to deposit all the raffle proceeds in a special checking account it establishes and maintains. The account is subject to DSR audit. The organization must pay expenses incidental to the conduct of the raffle from gross receipts on checks drawn on the account. It must pay all cash prizes from the account.

The act defines "golf ball drop raffle" as a raffle in which golf balls, numbered consecutively to correspond with the number of raffle tickets sold, are dropped from a helicopter, hot air balloon, or other aircraft hovering above a designated target. The winning ticket is the one that corresponds to the number of the first golf ball that lands closest to the center of the designated target.

BACKGROUND

Organizations Qualified to Conduct Bazaars and Raffles

The law allows the following to conduct, operate, or sponsor bazaars or raffles if the town where they are located has adopted the Bazaar and Raffle Act: veterans', religious, civic, fraternal, educational, and charitable organizations; volunteer fire companies; and political parties and their town committees. Raffles may also be promoted and conducted if sponsored by towns acting through a designated centennial, bicentennial, or other centennial celebration committee. To conduct a bazaar or raffle, an organization must have a local permit.

Teacup Raffles

An organization conducting teacup raffles must comply with DSR regulations. Among other things, it must conduct the raffle from an authorized booth and may conduct only one drawing for all prizes offered on any day a bazaar is permitted.

The law defines a "teacup raffle" as a raffle offering multiple merchandise through drawings from separate containers designated for each prize offered.

Raffle Permits

DSR issues seven types of bazaar and raffle permits. Class No. 6 permits allow the operation of a raffle that must be conducted within one year of the date the permit is granted. The maximum aggregate value of

prizes that an organization may award under this permit is \$100,000.

Raffle Prizes

The law, with some exceptions, prohibits cash prizes or prizes that are redeemable for cash. It allows merchandise; tangible personal property; lottery tickets; or a ticket, coupon, or gift certificate, entitling the winner to merchandise, tangible personal property, services, or transportation to any tour facilities provided in connection therewith.

PA 11-243—HB 5489

*Public Safety and Security Committee
Appropriations Committee*

AN ACT CONCERNING IMMUNITY FROM LIABILITY FOR FIRE POLICE OFFICERS, PROPERTY TAX RELIEF FOR VOLUNTEER FIRE POLICE OFFICERS AND UNDERWATER SEARCH AND RESCUE TEAMS AND THE APPROVAL OF REGIONAL FIRE SCHOOLS

SUMMARY: This act makes changes affecting volunteer emergency services personnel and regional fire schools.

The act makes municipalities initially liable for paying the cost, including legal fees and costs, in cases or claims involving negligent, wanton, willful, or malicious actions by volunteer firefighters, fire police officers, and ambulance members performing their duties. Under prior law, municipalities were liable only for reimbursing damages, not paying legal fees and costs, and only in cases involving firefighters and volunteer ambulance members whose actions were not willful or wanton. The act requires the volunteers to reimburse the municipality if a court finds their actions malicious, wanton, or willful. The liability protection the act provides these volunteers is generally similar to that provided to municipal officials and employees under existing law.

The act adds volunteer fire police officers and volunteer underwater search and rescue team members to those volunteers to whom municipalities may provide property tax relief.

The act bars trespass actions against volunteer fire police officers crossing or working upon someone else's land while performing fire police services. The same protections apply, under existing law, to firefighters and volunteer ambulance drivers performing their duties.

The act requires the commissioner of the Department of Emergency Services and Public Protection (DESPP), in consultation with the Commission on Fire Prevention and Control and

Connecticut State Firefighters Association, to approve the establishment of regional fire schools. A municipality that wants to establish such a school must hold a public hearing on the plan and apply for DESPP approval.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2011 for the property tax relief provision; October 1, 2011 for the remaining provisions.

MUNICIPAL LIABILITY FOR ACTS OF VOLUNTEER FIRE AND AMBULANCE PERSONNEL

Under prior law, municipalities were liable to reimburse personal or property damages incurred by firefighters and volunteer ambulance members in the performance of their duties so long as their actions were not willful or wanton. The act gives volunteer firefighters, volunteer ambulance members, and volunteer fire police officers generally similar protections as those available under existing law (CGS § 7-101a) to municipal employees and officials. The act defines a "fire police officer" as any active member of a volunteer fire police organization operating under a municipal fire department that provides support services to the department in accordance with the law authorizing appointment of such officers.

Volunteer Personnel

The act requires municipalities to initially indemnify, rather than reimburse the above volunteers, and it requires municipalities to cover financial loss and expenses, including legal fees and costs, instead of just damages. The indemnity provision applies in any demand, suit, claim, or judgment pertaining to a negligent, wanton, malicious, or willful act on the part of these volunteers while performing their duties. The prior law applied to actions that were not wanton or willful.

The act requires volunteers to reimburse municipalities for any expenses incurred in providing a defense in cases involving malicious, willful, or wanton actions, but only if a court enters a judgment against the volunteer. (It thus appears that the volunteer would not have to make a reimbursement if he or she settles the case out of court.) It also exempts municipalities from any financial loss resulting from such wanton, willful, or malicious actions.

The act establishes the same deadlines for initiating actions or proceedings involving volunteer fire police and ambulance members as apply to volunteer firefighters. It bars prosecuting a claim against such volunteers until at least 30 days after the demand, claim,

or suit on which the action or special proceeding is based is presented to the municipal clerk or corresponding municipal officer. It requires that (1) any action for personal injury or property damage start within one year after the cause of action arose and (2) notice of the intent to commence such action and of the time and place where the damages were incurred or sustained be filed with the volunteer, or municipal clerk or corresponding municipal official within six months after the cause of action accrues.

Under prior law, the municipality and volunteer firefighter or ambulance driver could be represented by the same attorney in suits against such volunteers if the municipality filed a statement with the court stating that it would pay any verdict rendered against the volunteer. The act allows joint representation in suits involving fire police officers as well. It eliminates the provision that the municipality file a court statement as a condition of joint representation.

PROPERTY TAX RELIEF FOR VOLUNTEER FIRE AND AMBULANCE PERSONNEL

The act allows a town's legislative body, by ordinance, to provide property tax relief to volunteer fire police officers and active members of a volunteer underwater search and rescue team. Towns may already provide relief to nonsalaried local civil preparedness directors and volunteer firefighters, emergency medical technicians, paramedics, ambulance drivers, civil preparedness staff members, and canine search and rescue team members. By law, the relief may take the form of a tax (1) abatement of up to \$1,000 in property taxes due in any fiscal year or (2) exemption on up to \$1 million of property divided by the mill rate (expressed as a whole number per \$1,000 of assessed value) at the time of assessment.

ESTABLISHMENT OF REGIONAL FIRE SCHOOLS

The act requires the DESPP commissioner to consult with the Fire Prevention and Control Commission and Connecticut State Firefighters Association when approving the establishment of regional fire schools. It also requires the commission to recommend that the DESPP commissioner suspend or revoke the approval of regional fire schools when appropriate.

A municipality seeking to establish such a school must hold a public hearing in the host municipality and submit an application to the commissioner after the public hearing. The commissioner then has 60 days to consult with the commission and association and approve or deny the application.

The act allows the commissioner, in consultation with the commission and association, to suspend or revoke the approval of any regional fire school approved after September 30, 2011 that does not meet standards he establishes under law or regulation. He cannot suspend or revoke the approval of any school approved before October 1. He must immediately send written notice of his decision to suspend or revoke approval to the affected school. Not later than 10 days after receiving the notice, the school may request a hearing, and the commissioner must hold one not later than 30 days after receiving the request. The hearing and any appeal must be conducted in accordance with the Uniform Administrative Procedure Act.

The act requires the commissioner, in consultation with the commission and association, to adopt implementing regulations.

PA 11-248—sHB 5326

*Public Safety and Security Committee
Education Committee
Appropriations Committee*

AN ACT REQUIRING CARBON MONOXIDE DETECTORS IN ALL PUBLIC AND NONPUBLIC SCHOOLS

SUMMARY: This act requires the Fire Safety Code to include provisions for carbon monoxide (CO) detection and warning equipment in all public and non-public school buildings. The act prohibits the building inspector from issuing a certificate of occupancy to any such building issued a building permit for new occupancy on or after January 1, 2012, unless the local fire marshal or building official certifies that the building is equipped with CO detection and warning equipment complying with the Fire Safety Code. The act requires the code to include specified standards for installing, testing, and maintaining the equipment.

The act exempts municipalities, boards of education, and supervisory agents of nonpublic schools and their agents, employees, or officers, acting without malice, in good faith, and in the scope of their employment or official duties, from liability for any damage resulting from the failure to detect CO within a public school building. In order to be immunized, the CO detection equipment must be installed and maintained in accordance with the manufacturer's published instructions and the regulations adopted under the act.

EFFECTIVE DATE: July 1, 2011

CO EQUIPMENT INSTALLATION, MAINTENANCE, AND TESTING STANDARDS

The act requires the Fire Safety Code to:

1. provide requirements and specifications for testing and inspecting CO detection and warning equipment in public and nonpublic schools, including the frequency of testing and inspections;
2. require any CO detection equipment installed in such schools to meet or exceed the Underwriter's Laboratories Standard Number 2075;
3. require that any CO warning equipment installed in such schools meet or exceed the Underwriter's Laboratories Standard Number 2034;
4. require that installation and maintenance of CO detection and warning equipment comply with the manufacturer's instructions and the National Fire Protection Association's standards; and
5. prohibit the installation of any battery-operated or plug-in CO warning equipment that has a battery as its back-up power source in any public and nonpublic school building issued a building permit for new occupancy on or after January 1, 2012.

PA 11-251—sHB 6295

*Public Safety and Security Committee
Labor and Public Employees Committee
Planning and Development Committee*

AN ACT CONCERNING POLICE OFFICERS WHO ACCEPT EMPLOYMENT WITH ANOTHER POLICE DEPARTMENT AND MUNICIPAL EMPLOYEES' ELIGIBILITY FOR DISABILITY RETIREMENT

SUMMARY: This act makes changes in the laws affecting (1) retirement benefits for municipal employees and elected officers under the Municipal Employees Retirement Fund (MERF) and (2) police officers who move from one Connecticut police department to work with another Connecticut police department.

The act broadens the circumstances under which a retired municipal employee or elected officer may simultaneously collect a salary and MERF pension benefits. Under prior law, a person rehired by a municipality participating in MERF could collect a pension only if he or she worked for fewer than 90 days in a calendar year. A rehired employee who worked for a longer period had to reimburse the MERF for the

pension payments received during the 90 days. The act additionally allows a rehired worker to collect his or her pension if he or she is working for up to 20 hours a week, for an unlimited period. The act applies to anyone who retired on or after January 1, 2000.

The act broadens the circumstances under which a municipal employee or elected officer may collect a disability pension. Prior law required the person to (1) have completed at least 10 years of continuous service and (2) be permanently and totally disabled from engaging in any gainful employment with the municipality. The act allows a disabled worker or elected officer to collect a disability pension and hold a position where he or she customarily works up to 20 hours per week. The provision applies to anyone who retired on or after January 1, 2000. (By law, unchanged by the act, application for a disability pension must be submitted within one year after the disability is incurred.)

The act also allows police officers certified by the Police Officer Standards and Training Council (POST) and working at a Connecticut police department to accept employment with another Connecticut police department without having to repeat minimum basic training, as required by POST, which establishes minimum qualifications for municipal police officers and enforces professional standards for certifying and decertifying them. The act does not affect the council's requirement that officers meet entry-level requirements. **EFFECTIVE DATE:** Upon passage for the retirement provisions and applicable to members who retire on or after January 1, 2000; October 1, 2011 for the remaining provisions.

BACKGROUND

POST Regulations

POST regulations require POST-certified police officers who move to a different department in the state to be certified anew. This is defined as "lateral certification." The candidate must meet all of the council's entry-level requirements for an original certification. He or she must also satisfactorily complete a POST-approved police basic training program, except when his or her last appointment to a similar position was (1) within Connecticut, (2) followed by at least two years of continuous service, and (3) interrupted by no more than three years absence from the law enforcement unit where last appointed (Conn. Agencies Reg. § 7-294e-1 & 2).

Entry-level requirements for municipal police include the following: personal interview, fingerprint examination, background investigation, psychological examination, criminal history record check, controlled substance screen, and physical fitness and medical tests

(Conn. Agencies Reg. § 7-294e16). At a minimum, the basic training consists of “the curriculum, skill training and hours deemed necessary by the Council, and the supervised departmental training program adopted by the Council” (Conn. Agencies Reg. § 7-294e-3). POST may, at its discretion, grant a full or partial waiver of the basic training requirement (Conn. Agencies Reg. § 7-294e-1 & 2).

PA 11-118—sSB 1062
Transportation Committee
Judiciary Committee

AN ACT REDUCING THE WAITING PERIOD UNDER THE VESSEL LIEN PROCESS

SUMMARY: This act reduces, from 60 to 30 days, the minimum time that someone holding a lien on a vessel must wait to sell it at a public auction after he or she notifies the secretary of the state of the lien. The lien holder may sell the vessel if no one seeks to dissolve the lien within that time.

EFFECTIVE DATE: October 1, 2011

PA 11-130—sHB 6448
Transportation Committee
Education Committee

AN ACT EXEMPTING CERTAIN NEW SCHOOL BUSES FROM THE FIRST ANNUAL INSPECTION FOLLOWING THE REGISTRATION OF SUCH BUSES

SUMMARY: By law and regulation (Conn. Agency Regs. § 14-275b-145), the Department of Motor Vehicles must inspect each new school bus before it is registered and at least once in each school year. This act exempts any new school bus (1) registered between August 1 and the start of the school year immediately following and (2) that has already been inspected, from further inspection until September of the next year. For example, a school bus registered August 15, 2011 and inspected before that date is exempt from regular annual inspections until September, 2012.

EFFECTIVE DATE: July 1, 2011

PA 11-213—sHB 6581
Transportation Committee
Appropriations Committee
Public Safety and Security Committee

AN ACT MAKING REVISIONS TO MOTOR VEHICLE STATUTES

SUMMARY: This act makes a number of changes in motor vehicle laws. Among other things, it:

1. increases fines for using a cell phone or texting while driving and imposes additional penalties for texting while driving a commercial motor vehicle (§§ 51- 53);
2. requires school bus operators to remove a driver from a school bus within 48 hours, rather than 10 days, after learning that the

Department of Motor Vehicles (DMV) has suspended or revoked his or her license or school bus endorsement (§ 41);

3. bars school buses, except in limited circumstances, from driving in the far left lane of designated sections of certain limited access highways (§ 38);
4. requires the commissioner to suspend the license of a driver who commits a moving or suspension violation within 36 months of completing a driver retraining program and adds several violations to those considered moving violations (§ 54);
5. ends the distribution of handicapped license plates (except for motorcycles) but allows people who already have them to renew them (§ 39);
6. allows servicemen and women to obtain driver’s licenses and non-driver ID cards while serving abroad (§15);
7. requires certain driving tests to be given in certain languages other than English and Spanish (§ 12);
8. eliminates the ability of certain drivers whose Connecticut license has been suspended because of certain motor vehicle convictions in other states from asking DMV to reverse or reduce the suspension, eliminates the commissioner’s authority to suspend the license of people charged with a felony, and makes related changes (§ 28);
9. requires new and used car dealers to sell only vehicles that meet state emissions standards and have passed an emissions test, if required, (§ 33); and
10. makes it a crime to operate a driving school or teach people to drive, for pay, without the appropriate licenses (§§ 24 and 25).

The act also requires DMV to conduct a privatization study of various DMV functions; allows it to change the renewal notification process for registrations, licenses and other documents; authorizes it to contract with independent contractors for some services; and makes other substantive changes. It also makes conforming changes (§§ 2, 3, 13, 19, and 35).

EFFECTIVE DATE: Various, see below

§ 1 — NOTIFICATION OF EXPIRING IDENTIFICATION (ID) CARDS

The act allows, rather than requires, the DMV commissioner to notify non-driver ID card holders when an ID card is going to expire. It prohibits the commissioner from notifying an ID card holder if the U.S. Postal Service (USPS) determines mail is not deliverable to him or her at the address in DMV records.

(If the commissioner chooses to notify ID card holders, this act (§ 16) requires her to do so at least 15 days before the card is due to expire.)

EFFECTIVE DATE: July 1, 2011

§ 4 — DMV CONTRACTS WITH INDEPENDENT CONTRACTORS

The act authorizes the commissioner to contract with independent contractors to provide programs and services on behalf of DMV. The contracts must specify that the contractors may charge DMV customers a reasonable service fee. The commissioner must set the fee.

EFFECTIVE DATE: July 1, 2011

§ 5 — DMV RECORDS AND PERSONAL INFORMATION

The act requires anyone seeking personal information from DMV registration records to provide the commissioner with personal identification she finds satisfactory, rather than two forms of acceptable identification.

By law, the DMV commissioner does not have to disclose the home address of certain people if they ask her, in writing, to make only their business address available to the public. Under prior law, these people included members of municipal police departments. The act instead allows municipal police officers, constables who perform criminal law enforcement duties, certain special police officers, and any member of a law enforcement unit who performs police duties, to make this request.

EFFECTIVE DATE: July 1, 2011

§ 6 — VEHICLES ELIGIBLE FOR REGISTRATION THROUGH DEALERSHIPS

The act broadens the type of vehicles licensed motor vehicle dealers can register. By law, the commissioner may appoint licensed motor vehicle dealers to issue new registrations for passenger cars, motorcycles, campers, camp trailers, and trucks with a gross vehicle weight of up to and including 26,000 pounds. The act also allows licensed dealers to issue new registrations for commercial trailers and service and school buses. It eliminates the weight limit on trucks, allowing dealers to issue new registrations for any size truck. It makes conforming changes regarding registration fees.

By law, a commercial trailer is a trailer used by a business to carry freight, material, or equipment. Service buses are vehicles designed and regularly used to carry at least 10 passengers without charge, not including vanpool vehicles and school buses.

EFFECTIVE DATE: July 1, 2011

§ 7 — MOTOR VEHICLE RENTAL COMPANY LICENSES

Motor vehicle rental companies must have a DMV license to conduct their business. Under prior law, the commissioner had to mail these companies a license renewal form. The act instead allows the commissioner to send or transmit the renewal application as she deems appropriate. As under prior law, she must do so at least 45 days before the license expires.

EFFECTIVE DATE: July 1, 2011

§ 8 — EXPERIMENTAL TESTING OF MOTOR VEHICLES

By law, the commissioner may issue special number plates to automotive equipment manufacturers for motor vehicles used to test automotive equipment. The act allows her to also issue such plates to motor vehicle manufacturers testing motor vehicles. Manufacturers must include information on these vehicles when they apply for the plates.

EFFECTIVE DATE: July 1, 2011

§ 9 — MOTOR VEHICLE REGISTRATION RENEWALS

The act allows the commissioner to send or transmit, as she deems appropriate, an application to renew motor vehicle registrations. Under prior law, she had to mail the renewal form. As under prior law, she must notify vehicle owners at least 45 days before the prior registration expires. She may also send or transmit as she deems appropriate, rather than mail, an application for renewal of a leased vehicle to the lessee. Under the act, the commissioner cannot be required to notify any registrant or lessee if the USPS has determined that mail cannot be delivered to that person at the address in DMV records. Prior law required a registrant or lessee to return the renewal application to DMV by mail in most cases. The act also authorizes the commissioner to require them to return the renewal application electronically.

EFFECTIVE DATE: July 1, 2011

§ 10 — COMMERCIAL MOTOR VEHICLE REGISTRATION AND FINES

The act bars commercial vehicles required to be registered in another state from operating in Connecticut without that registration. A violator generally faces a \$500 fine for a first offense, and between \$1,000 and \$2,000 for subsequent offenses (see below).

The law already bars commercial vehicles eligible for registration on an “apportionment” basis from operating in Connecticut without either that registration or a DMV-issued 72-hour trip permit registration.

“Apportioned” registration fees are based on registration in a vehicle’s home state and fees paid to other jurisdictions based on the distance the vehicle travels there.

Fines for operators of commercial vehicles that violate these provisions depend on vehicle weight. By law, trucks with a gross weight of more than 60,000 pounds are subject to fines of \$1,000 for a first violation and between \$2,000 and \$4,000 for each subsequent violation. The act specifies that these fines are based on the vehicles’ gross vehicle weight rating, rather than their gross weight. By law, gross vehicle weight rating is a vehicle’s maximum loaded weight, as specified by the manufacturer.

EFFECTIVE DATE: July 1, 2011

§ 11 — MOTOR CARRIERS

The act bars any private motor carrier (truck company) from operating vehicles in the state if (1) the Federal Motor Carrier Safety Administration (FMCSA) has ordered it to stop operating because of violations of safety fitness procedures or certain other rules of practice or (2) it is operating without authority or beyond the scope of that authority under FMCSA regulations. It subjects violators to fines of between \$500 and \$1,000 and imprisonment for up to 90 days for a first offense, and fines of between \$1,000 and \$2,000 and imprisonment for up to one year for subsequent offenses.

EFFECTIVE DATE: July 1, 2011

§ 12 — DRIVER’S TESTS

The act allows the commissioner to give the knowledge portion of the driver’s test for a class D (noncommercial) license in any form she deems appropriate, including in written, electronic, or audio form. She must give the test in English, Spanish, and in any language spoken at home by at least 1% of the state’s population, based on the most recent U.S. census. Prior law already required certain written tests to be in English and Spanish. According to the 2000 census, other languages spoken at home by at least 1% of the state population age five and older are French, Italian, Polish, and Portuguese.

EFFECTIVE DATE: Upon passage

§ 14 — EMPLOYEES DRIVING IN VIOLATION OF LICENSE CLASSIFICATION

The act prohibits employers from knowingly requiring or permitting an employee acting in the scope of his or her employment from driving a commercial motor vehicle in violation of the employee’s license classification. Commercial motor vehicles include large trucks, buses, and certain vehicles transporting

hazardous waste. Commercial driver’s licenses (CDL) are classified as either “A”, “B”, or “C” depending on a vehicle’s weight and type. Employers who violate the act are subject to a maximum civil penalty of \$1,000 for a first violation and \$2,500 for subsequent violations.

By law, the commissioner requires license holders to have an “S,” “V,” or “F” endorsement to operate certain types of public passenger motor vehicles. A “V” endorsement allows the operation of a student transportation vehicle; an “F” endorsement allows the operation of a taxi, livery vehicle, service bus, or motor bus. An “S” endorsement allows a license holder to drive school buses and most of the above vehicles.

The act bars (1) anyone with an “S,” “V,” or “F” endorsement from operating any other such vehicle for which a public passenger endorsement is required if the “S,” “V,” or “F” endorsement has been suspended, revoked, or withdrawn, or if DMV has refused to issue or renew it, and (2) the commissioner from issuing any other public passenger endorsement to an individual whose “S,” “V,” or “F” endorsement is suspended, revoked, withdrawn, not issued or not renewed.

By regulation, a holder of a class “D” (non-commercial) license who operates or intends to operate any fire apparatus may apply for a “Q” endorsement (Conn. Agency Regs. § 14-36a-1.) The act specifies that a “Q” endorsement on any class license (commercial or non-commercial) qualifies the license holder to operate a fire apparatus.

EFFECTIVE DATE: July 1, 2011

§ 15 — DRIVER’S LICENSES FOR STATE RESIDENTS ON ACTIVE MILITARY DUTY

The act allows a state resident in the U.S. Armed Forces stationed outside the U.S. on active military duty to get a driver’s license or non-driver’s ID card if he or she (1) does not have, or surrenders, a license or ID card from another state, U.S. territory, or possession; (2) has a current Army Post Office or Fleet Post Office mailing address; (3) designates his or her home address as 60 State Street, Wethersfield, CT 06161 (DMV’s central office); and (4) meets all other requirements for getting a license or ID card. Residence in Connecticut must be reflected in the records of the U.S. Defense Department, Department of Homeland Security, or a department that oversees the U.S. Coast Guard.

EFFECTIVE DATE: October 1, 2011

§ 16 — LICENSE AND ID CARD RENEWAL NOTICE

Prior law required the commissioner to notify the holder of a driver’s license at least 15 days before it was due to expire. The act allows, rather than requires, her to notify a license holder of the expiration date in a manner

she determines and also allows her to do the same for holders of non-driver ID cards. If she does notify the license and card holders, she must do so at least 15 days before the license or card expires. The act prohibits the commissioner from notifying any license or ID card holder if the USPS determines it can no longer deliver mail for the person to the address in DMV records.

It authorizes automobile clubs and associations, which already can renew licenses and ID cards, to also issue duplicate licenses and ID cards. The clubs and associations can charge a fee of up to \$2 for each duplicate. They may already charge this fee for the renewals. The act also makes technical changes.

EFFECTIVE DATE: Upon passage

§ 17 — PHOTO IDENTIFICATION OF DRIVERS AGE 65 OR OLDER

The act eliminates the commissioner's ability to waive the requirement that a driver's license for people age 65 or older include a photograph. Under prior law, she could waive this requirement if the license holder asked for the waiver in writing and provided evidence of hardship, such as living too far from a DMV office. Federal law requires state-issued driver's licenses and ID cards to include the license or card holder's photograph to be accepted for official purposes by a federal agency.

EFFECTIVE DATE: Upon passage

§ 18 — APPROPRIATE LICENSE ENDORSEMENTS

The act eliminates a redundant provision and specifies that drivers need licenses of the proper classification bearing the appropriate endorsement to operate various vehicles.

EFFECTIVE DATE: July 1, 2011

§ 20 — COMMERCIAL DRIVER'S LICENSE RENEWALS

By law, the commissioner must notify CDL holders at least 15 days before their licenses expire. The act allows her to notify them in a manner she determines and prohibits her from notifying any CDL holder if USPS has determined mail cannot be delivered to the person at the address in DMV records.

EFFECTIVE DATE: Upon passage

§ 21 — REINSTATEMENT OF CDL HOLDERS DISQUALIFIED FOR LIFE

By law, the commissioner may disqualify for life CDL holders who commit two or more of certain offenses, including driving under the influence (DUI). Disqualified drivers cannot drive a commercial motor vehicle.

However, by law, CDL holders disqualified for life (except those disqualified for using a motor vehicle to commit a felony involving making, distributing, or dispensing a controlled substance) may apply for reinstatement if they (1) have voluntarily enrolled in and successfully completed, an alcohol and drug addiction treatment program and (2) served at least 10 years of the disqualification period. The act requires the applicant to provide documentation satisfying the commissioner that the applicant has both voluntarily enrolled in, and successfully completed, the treatment program and that the program meets state statutory and regulatory requirements. (PA 11-48 and PA 11-51 repeal the alcohol and drug addiction treatment program.)

The act prohibits the commissioner from reinstating a CDL holder disqualified for life unless the applicant requests an administrative hearing and provides evidence that the reinstatement does not endanger the public safety or welfare. Such evidence must include proof the applicant has not been convicted of any offense involving alcohol, a drug, or a controlled substance for 10 years following the date of his or her most recent lifetime disqualification. If a driver disqualified for life is reinstated and later convicted of another disqualifying offense, he or she is permanently disqualified and ineligible for further reinstatement.

The act requires the commissioner to maintain, for 55 years, a record of certain offenses by commercial vehicle operators and CDL holders, as required by federal law. These include (1) DUI, evading responsibility, using a motor vehicle to commit a felony and other offenses, if the offense occurred on or after December 29, 2006; (2) each of two or more of certain offenses that occur within 10 years of each other and result in a lifetime disqualification; and (3) using a motor vehicle to commit a felony involving the manufacture, distribution, or dispensing of a controlled substance, if the offense occurred on or after January 1, 2005.

The act doubles the minimum penalty for a CDL holder who violates an out-of-service order (see BACKGROUND) from 90 to 180 days for a first violation and from one to two years for a second violation committed within 10 years of a previous violation. The maximum penalties remain unchanged.

Drivers who violate an out-of-service order are subject to a fine of between \$1,100 and \$2,750, the same penalties as 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 changes.

EFFECTIVE DATE: July 1, 2011

§ 22 — DEALER LICENSE EXPIRATION AND RENEWAL

The act allows the commissioner to send or transmit, in a manner she determines, a license renewal application to holders of a new or used car dealer, repairer, or limited repairer, license. Under prior law, she had to mail the application. As under prior law, she must send or transmit the renewal application at least 45 days before the current license is due to expire.

EFFECTIVE DATE: Upon passage

§ 23 — TEMPORARY REGISTRATION TRANSFER

The act broadens the types of vehicles for which licensed motor vehicle dealers and repairers may issue temporary registration transfers. By law, licensed dealers and repairers who sell or trade passenger cars, motorcycles, campers, camp trailers, or trucks weighing up to and including 26,000 pounds may issue a 60-day temporary registration transfer to someone who holds a current registration for these vehicles. The act also allows dealers and repairers who sell or trade commercial trailers, service buses, and school buses to do this. It eliminates the 26,000-pound weight limit for trucks, so that a dealer or repairer selling or trading any size truck may also issue these temporary transfers.

EFFECTIVE DATE: October 1, 2011

§§ 24 & 25 — DRIVING SCHOOL OPERATORS AND DRIVING INSTRUCTORS

Under prior law, the commissioner had to check state and national criminal history records and the state child abuse and neglect registry when people sought a license, or license renewal, to operate a driving school. She had to consider these in determining whether to issue or renew a license. The act eliminates the need to run these checks, or make such a determination, when people seek to renew a license. It makes operating a driver's school without a license a class B misdemeanor (see Table on Penalties).

It also makes it a class B misdemeanor for anyone without a driving instructor's license to (1) teach people to drive, for pay or (2) teach driving at a driving school. By law, DMV can impose a civil penalty of up to \$1,000 on anyone who violates these laws (CGS § 14-79).

EFFECTIVE DATE: July 1, 2011

§ 26 — DISPLAYING LIGHTS ON MOTOR VEHICLES

Under prior law, no one could display certain lights on a vehicle without a special permit from the DMV commissioner. Prior law allowed the Department of Transportation (DOT) to get a permit from the

commissioner for multiple vehicles without having to place a copy of the permit in each vehicle displaying the lights. The act eliminates this provision and instead allows vehicles (1) owned or leased by the U.S. government, the state, or a municipality; (2) registered to that governmental entity; and (3) displaying government plates, to display these lights without a permit.

EFFECTIVE DATE: Upon passage

§ 27 — ETCHING SERVICES

The act eliminates a requirement that new and used car dealers and lessors annually file rate schedules for etching and parts marking with DMV. But they still must submit a rate schedule and may amend it from time to time.

EFFECTIVE DATE: July 1, 2011

§ 28 — DRIVER'S LICENSE SANCTIONS

The act eliminates the ability of a person whose Connecticut license has been suspended by the DMV for certain motor vehicle convictions in other states to ask the commissioner to reverse or reduce the suspension.

Under prior law, the commissioner could suspend or revoke a registration certificate or operator's license and seize the credential if the holder did not return it. The act eliminates the requirement that a license holder return the license to the commissioner and the commissioner's ability to seize it. It authorizes the commissioner to restore a revoked or suspended license, rather than physically return it. It does not change the requirements for registration certificates.

It eliminates the commissioner's authority to (1) suspend the driver's license of a person charged with a felony or for whom there is an outstanding warrant for failing to appear on a felony charge and (2) require a motor vehicle owner or operator to file a surety bond before the commissioner returns a suspended or revoked registration or license. It also eliminates a requirement that the commissioner notify certain municipal and police officials when she revokes or suspends a license or registration of someone living in their city or town.

EFFECTIVE DATE: October 1, 2011

§ 29 — COMMERCIAL MOTOR VEHICLE FILINGS

Prior law required owners of certain commercial motor vehicles to file with the commissioner, at least twice annually, evidence that they met the legal security requirements for the vehicle. The act reduces the filing requirement to at least once annually and eliminates a requirement that at least once every two years the owner also furnish to DMV a motor carrier identification report that meets federal requirements.

EFFECTIVE DATE: July 1, 2011

§ 30 — EXEMPTION OF OLDER VEHICLES FROM EMISSIONS TESTING

By law, motor vehicles manufactured “twenty-five or more years ago” are exempt from emissions testing. The act defines “twenty-five or more years old,” when used in connection with a motor vehicle, to mean that the difference between the vehicle’s model year and the current calendar year is at least 25 years.

EFFECTIVE DATE: July 1, 2011

§ 31 — EMISSIONS SYSTEM RESTORATION PERIOD

The law requires car owners to maintain their vehicle’s emissions control system in good working order and prohibits them from rendering the system inoperable. Prior law allowed the commissioner to revoke the registration of anyone who did not restore the system to operating condition within 30 days after the commissioner notified him or her of a violation. The act doubles, to 60 days, the time the car owner has to restore the system to working order.

EFFECTIVE DATE: October 1, 2011

§ 32 — EMISSIONS RE-INSPECTION LATE FEE

By law, the commissioner may impose a \$20 late fee on anyone who does not have his or her vehicle inspected within 30 days after the end of its assigned inspection or re-inspection period. But the law also allows anyone whose vehicle fails its initial emissions test to return within 60 days for a free re-inspection.

The act conforms the grace period for a re-inspection to the 60-day period for a free re-inspection by extending to 60 days the length of time someone may have a vehicle re-inspected following a test failure. It imposes the \$20 late fee after this 60-day period expires.

Under prior law, the commissioner could waive the \$20 late fee if she found that failure to have the vehicle inspected within 30 days of either the assigned inspection or re-inspection period was due to an emergency. The act extends from 30 to 60 days the period during which the commissioner may waive the late fee for a vehicle owner who failed to have the vehicle re-inspected because of an emergency.

EFFECTIVE DATE: October 1, 2011

§ 33 — DEALERS TO SELL VEHICLES THAT MEET EMISSIONS STANDARDS

The act prohibits licensed new and used motor vehicle dealers and licensed repairers and limited repairers from selling a motor vehicle that does not meet state emissions standards and has not passed a required

emissions inspection. A violation is an infraction, with a \$50 fine for a first offense. By law, anyone who knowingly or negligently violates the emissions law is responsible to the state for the costs and expenses of detecting, investigating, controlling, and abating such a violation (CGS § 22a-6a (a)).

EFFECTIVE DATE: October 1, 2011

§ 34 — VEHICLE LIENS

The act allows the DMV commissioner to require that certain notifications regarding security interests be sent to DMV electronically.

The law requires most holders of a security interest in a vehicle, upon satisfaction of the interest (e.g., after a car owner pays off a car loan), to release the security interest and mail or deliver the release and certificate of title to the next lien holder or the vehicle owner. Prior law required most owners to promptly mail or deliver the certificate and release to the commissioner. The act instead allows the commissioner to require that the lien holder send its release of the security interest to DMV electronically.

By law, the commissioner may keep an electronic title file. If a lien holder’s security interest is kept in that file, the lien holder, once the security interest is satisfied, must release the security interest and mail, deliver, or electronically send the release to the next lien holder or owner. Under prior law, the commissioner had to issue a certificate of title and present or mail it to the owner or second lien holder, if any. The act instead allows the commissioner to require the lien holder to send DMV information about the release of a security interest electronically.

The law requires that, on the satisfaction of a security interest in a vehicle where the title is held by a prior lien holder, the lien holder whose security interest is satisfied must execute its release and deliver it to the owner. The act requires him or her to also deliver or send the release electronically to the prior lien holder. Prior law required the lien holder holding the title to either (1) deliver the certificate to the owner for delivery to the commissioner or (2) on receiving the release, mail or deliver it with the certificate of title to the commissioner, who must release the subordinate lien holder’s rights on the certificate or issue a new one. The act instead requires the lien holder holding the title to deliver it to the owner and allows the commissioner to require a subordinate lien holder to send DMV information about the release of its security interest electronically.

EFFECTIVE DATE: July 1, 2011

§ 36 — ALCOHOL AND DRUG ADDICTION
TREATMENT PROGRAM

By law, certain people whose license is suspended for DUI must take part in an alcohol and drug addiction treatment program. Under prior law, such an individual could ask the commissioner to waive this requirement if (1) he or she was already participating in, or had completed, such a program and (2) a licensed physician stated, based on a personal examination, that the individual did not (a) have a current addiction problem that affected his or her ability to drive safely or (b) pose a significant risk of having such a problem in the foreseeable future.

Under the act, a physician no longer needs to determine whether an individual poses a significant risk of having an addiction problem in the foreseeable future. The physician must still determine, based on a personal examination, whether an individual has a current addiction problem that affects his or her ability to drive safely. And it allows licensed physician assistants and advance practice registered nurses to also make such a determination based on a personal examination. (PA 11-48 and PA 11-51 repeal the alcohol and drug addiction treatment program.)
EFFECTIVE DATE: July 1, 2011

§ 37 — SPECIAL OPERATOR'S PERMIT

A special operator's permit allows a person whose license has been suspended to drive only for the limited purposes of going to and from work or an accredited higher education institution. Prior law allowed the commissioner to condition issuance of a special permit to drive to work on the driver operating only a vehicle equipped with an ignition interlock device. The act also allows her to impose this condition when she issues a special permit for educational purposes.
EFFECTIVE DATE: July 1, 2011

§ 38 — SCHOOL BUSES BARRED FROM DRIVING
IN EXTREME LEFT LANE

The act prohibits school buses from driving in the extreme left lane of certain State Traffic Commission (STC) designated sections of a divided limited access highway with more than two lanes for traffic traveling in the same direction. The law already prohibited commercial motor vehicles, motor buses, and vehicles with trailers from using the extreme left lane in areas that the STC has so designated. As with these other vehicles, a school bus may drive in the extreme left lane at a police officer's direction or when access to or from the highway is on the left. In the latter case, the school bus driver can drive in the extreme left lane for as long as reasonably necessary to enter or leave the highway safely. A violation is an infraction, punishable by an

\$88 fine.
EFFECTIVE DATE: July 1, 2011

§ 39 — LICENSE PLATES FOR PEOPLE WITH
DISABILITIES

Starting October 1, 2011, the act eliminates the commissioner's authority to issue new special license plates for those people eligible for handicapped placards, except for these individuals with motorcycles. But it allows the commissioner to accept renewal applications for plates issued before that date. The commissioner must still issue removable windshield placards for these individuals. An eligible individual with a motorcycle registration may also obtain a removable windshield placard.
EFFECTIVE DATE: October 1, 2011

§ 40 — WEIGHT RESTRICTIONS FOR
COMMERCIAL VEHICLES

The act changes the weight restrictions for two-axle commercial motor vehicles and eliminates weight distinctions for commercial vehicles based on whether they have solid or pneumatic tires.

It specifies that no two-axle vehicle may exceed a maximum gross vehicle weight of 36,000 pounds. Prior law limited two-axle vehicles with pneumatic tires to a gross weight of 32,000 pounds. The act applies the weight limit of 22,400 pounds per axle, or, in the case of axles less than six feet apart, 18,000 pounds per axle, which already applied to most vehicles with three or more axles, to two-axle vehicles.

Under prior law, a vehicle and its load could not exceed the manufacturer's axle weight rating, its gross vehicle weight rating, or specific gross weight limits. The act specifies that the vehicle and its load cannot exceed the lesser of the manufacturer's axle weight rating, the manufacturer's gross vehicle weight rating, or specified axle and gross weight limits.
EFFECTIVE DATE: July 1, 2011

§ 41 — SCHOOL BUS DRIVERS WITH
SUSPENDED LICENSES

By law, the DMV commissioner must report to school districts and school bus operators on school bus and student transportation vehicle drivers whose license or school bus or student transportation vehicle endorsement has been suspended, revoked, or withdrawn. The districts and operators must review these reports at least twice a month. Under prior law, they had 10 days from reviewing such a report to remove a driver whose license or endorsement has been suspended, revoked, or withdrawn. The act instead requires the district or operator to remove the driver within 48 hours of reviewing the report. By law, school

districts or school bus operators who fail to do so are subject to a civil penalty of \$2,500 for the first violation and \$5,000 for each subsequent violation.

EFFECTIVE DATE: July 1, 2011

§ 42 — SCHOOL BUS SIGNS AND SIGNALS

The act eliminates a requirement that school buses used for an activity other than carrying children cover any lettering identifying the bus. By law, unchanged by the act, a school bus that is not carrying children must not use, or must disconnect, any special signals it uses when transporting children.

Prior law allowed student transportation vehicles to display certain signs when, among other things, they carried only children, and anyone in charge of the children, to a non-school activity. Under the act, these vehicles cannot display these signs if they are carrying anyone (presumably an adult) in charge of the children. It specifies that these legally required or permitted portable signs must be removed or covered when a vehicle is not being used for the purposes requiring or allowing them.

EFFECTIVE DATE: July 1, 2011

§ 43 — COMMERCIAL VEHICLE INSPECTIONS

The act bars any person or motor carrier from operating a commercial motor vehicle or combination of such vehicles in Connecticut unless the vehicle has had a federally required periodic inspection in the previous 12 months. It prohibits any person, motor carrier dealer, or repairer from conducting such an inspection in any manner other than that prescribed in federal regulations. A violator is guilty of an infraction for a first offense, and may face a civil penalty for subsequent offenses of between \$1,000 and \$10,000.

By law, any dealer, repairer, motor carrier, or other person who makes a false statement about the inspection or condition of any vehicle or component he or she is required to inspect, or about the repair or repairs he or she made on any such vehicle or component, faces a (1) fine of up to \$1,000, up to 90 days in prison, or both, for a first offense, and a fine of at least \$2,000, up to one year in prison, or both, for subsequent offenses, and (2) civil penalty of between \$1,000 and \$10,000 for subsequent offenses. Violators also may be subject to the penalties for 2nd degree false statement: a fine of up to \$2,000, up to one year in prison, or both.

EFFECTIVE DATE: July 1, 2011

§ 44 — REGISTERING A VESSEL

The act requires that an owner seeking to get a vessel registration number or decal file with the DMV commissioner proof of ownership that she may require, rather than an affidavit or document proving ownership.

EFFECTIVE DATE: July 1, 2011

§ 45 — RENEWAL OF VESSEL REGISTRATION

By law, each vessel certificate of number or certificate of registration expires on April 30 of the year after it is issued. Prior law required the commissioner to notify the owner of the expiration at least 30 days before the expiration date. The act allows, rather than requires, the commissioner to notify vessel owners, in a manner she chooses, when their certificate of number or certificate of registration is going to expire. If she does notify them, she must do so at least 30 days before the expiration date, as under prior law. The act prohibits the commissioner from notifying a vessel owner if the USPS has determined it cannot deliver mail to the address in DMV's records.

EFFECTIVE DATE: July 1, 2011

§ 46 — JUNK DEALER REGISTRATION

The act eliminates a requirement that junk dealers register with DMV and receive and display a DMV certificate. In most instances, it leaves regulation of the establishment, location, and conduct of junk yards to local authorities. The act does not preclude a junk dealer or employee from allowing anyone to enter the dealer's junkyard to salvage or collect parts or scraps to buy from the dealer or employee.

EFFECTIVE DATE: July 1, 2011

§ 47 — HANDGUN CARRY PERMITS FOR DMV INSPECTORS

The act exempts legally appointed and certified DMV inspectors from the need to obtain a permit to carry a pistol or revolver in the course of their official duties. The law already exempts parole and peace officers, federal marshals, and others from this requirement.

EFFECTIVE DATE: July 1, 2011

§ 48 — DISCOUNT PREMIUMS FOR MOTORCYCLE OPERATORS

The law requires insurers to offer premium discounts to motorcycle operators who prove they successfully completed a DOT motorcycle course. The act requires insurers to also offer the premium discount to motorcycle operators who offer proof of successfully completing a motorcycle course offered by anyone else DMV approves.

EFFECTIVE DATE: January 1, 2012

§ 49 — BODY ARMOR SALES

The law generally requires anyone selling or

delivering body armor in the state to meet personally with the buyer or recipient when the delivery or sale takes place. The law exempts police officers and certain others from this requirement. The act also exempts sworn members or authorized officials of DMV and authorized town or state administrative services officials who buy body armor on behalf of DMV.

EFFECTIVE DATE: July 1, 2011

§ 50 — DMV PRIVATIZATION STUDY

The act requires the DMV commissioner to study alternatives for the performance of certain DMV functions, such as privatization, on-line services, and off-site locations for renewal of non-commercial driver’s licenses and registrations. She must report her findings and recommendations to the Transportation Committee by January 11, 2012.

EFFECTIVE DATE: Upon passage

§§ 51-53 — CHANGES IN THE CELL PHONE LAW

The act increases certain fines for using a cell phone or texting while driving and applies them to other distracted driving violations. It specifies that texting while driving a commercial motor vehicle is a violation and adds it to those offenses whose violation can lead to disqualification from operating a commercial motor vehicle. But it allows texting from these vehicles in an emergency.

By law, certain offenses are considered “serious traffic violations,” and a conviction for two or more can disqualify a CDL holder from operating a commercial motor vehicle for specified periods of time. The act eliminates a provision making an accident resulting in a death related to the operation of a commercial motor vehicle a serious traffic violation. It instead requires, for a serious traffic violation to occur, that the commercial vehicle driver must have violated a law concerning the rules of the road, resulting in a fatality.

The act makes texting while operating a commercial motor vehicle a “serious traffic violation” that may lead to disqualification of a CDL holder. But it allows CDL holders to type, read, or send text or a text message from a mobile phone or mobile electronic device to the following in an emergency:

1. emergency response operator;
2. hospital, physician’s office, or health clinic;
3. ambulance company;
4. fire department; or
5. police department.

Fines

The act increases the fines for illegally using a cell phone or texting while driving, as shown in Table 1:

Table 1: Fines For Illegally Using Or Texting From A Cell Phone While Driving

<i>Offense</i>	<i>Prior Law</i>	<i>Under the Act</i>
First	\$100	\$125
Second	\$150	\$250
Subsequent	\$200	\$400

Prior law imposed a maximum \$100 fine, regardless of the number of offenses, for driving while using a hand-held or hands-free cell phone or mobile electronic device when (1) the vehicle being operated was a school bus carrying passengers or (2) the vehicle operator was under age 18. The act subjects these violators to the above fines. It also applies these fines to drivers who text while driving a commercial motor vehicle or engage in distracted driving.

Prior law also imposed a \$100 fine on a driver who committed a moving violation, such as speeding or reckless driving, while engaged in distracted driving. The \$100 fine was in addition to any fine imposed for the moving violation. The act imposes the fines in Table 1 on these offenders and applies them to individuals charged with illegally using or texting on a cell phone, including drivers (1) of commercial motor vehicles; (2) of school buses carrying passengers; and (3) under age 18, who commit a moving violation.

Prior law required law enforcement officers who issued tickets for cell phone, texting, or moving violations to record the specific nature of the distracted driving behavior that led to the issuance of the ticket. The act instead requires the officer to record on the summons the nature of any distracted driving behavior he observed in connection with any violation of the act, including distracted driving and commercial motor vehicle texting violations.

EFFECTIVE DATE: Upon passage, except a conforming change is effective July 1, 2011.

§ 54 — MULTIPLE MOVING VIOLATIONS

By law, DMV can require a driver who commits a certain number of specific moving or suspension violations to attend a four-hour driver retraining program.

The act adds the following violations to these moving violations: (1) obstructing emergency vehicles, (2) illegally using a device to interfere with a traffic signal, (3) violations of laws that require, among other things, (a) drivers to give right-of-way to pedestrians in crosswalks and obey school crossing guards and (b) pedestrians to walk on sidewalks rather than streets and give right-of-way to emergency vehicles, and (4) violations of the cell phone law. (Under prior law, only the illegal use of a cell phone by a driver under age 18 was considered a moving violation for purposes of the retraining program.)

Under the act, anyone required to attend the retraining program must have the requirement and completion date posted on his or her driving record. The date of course completion must remain on the record until the driver has completed 36 consecutive months without any subsequent moving or suspension violations. If the driver commits such a violation before the 36 months expire, the commissioner must suspend his or her license for 30 days. If he or she commits a second violation within the 36-month period, the commissioner must suspend the license for 60 days. The commissioner must suspend the license for 90 days for each subsequent conviction within the 36-month period.
EFFECTIVE DATE: October 1, 2011

§ 55 — PERSONAL COLOR PHOTO NO LONGER REQUIRED FOR CDL APPLICANTS

The act eliminates a requirement that an application for a CDL or CDL instruction permit include a color picture of the applicant. In practice, DMV takes a photograph of the applicant.
EFFECTIVE DATE: Upon passage

§ 56 — WRITTEN MOTORCYCLE TEST

The act requires an applicant who has successfully completed the motorcycle training course, but has not obtained a motorcycle training permit, to pass a test (other than the driving skills test) demonstrating to DMV's satisfaction that he or she is a proper person to operate a motorcycle, knows enough about it to operate it safely, and has satisfactory knowledge of the law concerning motorcycles, other motor vehicles, and the rules of the road. PA 10-53 had eliminated this requirement.
EFFECTIVE DATE: Upon passage

§ 57 — CASH BOND ALLOWED FOR CERTAIN DMV LICENSE APPLICANTS

By law, applicants for certain DMV licenses must furnish surety bonds. Applicants for a repairer's or limited repairer's license must furnish a \$5,000 bond; applicants for a leasing or rental license must furnish a \$10,000 bond; and applicants for a new car dealer's or used car dealer's license must furnish a \$50,000 bond. The act allows these applicants to alternatively furnish a cash bond in these amounts. It requires the cash bond to be deposited with the commissioner and makes conforming changes.
EFFECTIVE DATE: Upon passage

§ 58 — SECOND KNOWLEDGE TEST FOR 16 AND 17-YEAR-OLD LICENSE APPLICANTS

The act allows, rather than requires, DMV to

administer a second written knowledge test to 16- and 17-year-old driver's license applicants. By law, these applicants must have already taken and passed a test on motor vehicles laws and the rules of the road to get a learner's permit, which they need to get a license (CGS § 14-36 (c)).

EFFECTIVE DATE: Upon passage

§ 59 — EXTENDING EXPIRATION DATE FOR PRISONERS' DRIVER'S LICENSES

The act requires DMV, on a prisoner's written request, to extend the expiration date of his or her license for two years, or 30 days after the prisoner is released, whichever occurs first.

EFFECTIVE DATE: October 1, 2012

§§ 60 & 61 — DELAYING ELIMINATION OF THE "ACTIVITY VEHICLE" CATEGORY

PA 10-110 eliminated, starting July 1, 2011, the vehicle category of, and corresponding "A" license endorsement for, "activity vehicles," a subcategory of student transportation vehicle. Activity vehicles are used to transport students in connection with school sponsored events and activities, but not to bring them to or from school. The act delays for one year, until July 1, 2012, the date this provision takes effect.

EFFECTIVE DATE: July 1, 2012

BACKGROUND

Out-of-Service Order

An out-of-service order is an order (1) issued by a police officer or DMV inspector under CGS § 14-8, or by an authorized FMCSA official, to prohibit a driver from operating a commercial motor vehicle or (2) issued by FMCSA to prohibit a motor carrier, as defined in 49 CFR 386. 2, from engaging in commercial motor vehicle operations (CGS § 14-1(62)).

PA 11-255—sHB 6449

*Transportation Committee
Judiciary Committee*

AN ACT CONCERNING THE SAFETY OF PERSONS ENTERING OR EXITING A SCHOOL BUS

SUMMARY: By law, drivers must stop at least 10 feet from a school bus displaying flashing red signal lights. Police must issue a warning or summons on receiving a bus driver's written report of a violation.

This act allows towns and school boards to install cameras on school buses to record motor vehicles that

violate this law, requires police to issue a summons based on the recorded images, and allows the images to be used as evidence against vehicle owners.

It fixes the fine for first-time violators at \$450, requires that municipalities receive 80% of the fine revenue, and makes a conforming change.

EFFECTIVE DATE: July 1, 2011

FINES FOR FAILING TO STOP FOR A SCHOOL BUS

The act imposes a \$450 fine, for a first offense, on motorists who fail to stop for a school bus displaying flashing red signal lights. Under prior law, offenders faced a fine of between \$100 and \$500 for a first offense. The law, unchanged by the act, imposes a fine of between \$500 and \$1,000, imprisonment for up to 30 days, or both, for subsequent offenses. By law and under the act, a violation is processed through the Centralized Infractions Bureau (CIB) (CGS § 51-164n, see BACKGROUND).

SCHOOL BUS VIDEO MONITORING SYSTEMS

By law, police must issue a written warning or summons to a vehicle owner on receiving a school bus driver's written report giving the color, type, and license plate number of a vehicle that the bus driver observed violating the law, and the date, approximate time, and location of the violation. The act requires police to also issue a written warning or summons upon receiving evidence of a violation from a "live digital video school bus violation detection monitoring system" (monitoring system). Under the act, a monitoring system must have one or more camera sensors and computers that produce live digital and recorded video images of motor vehicles that fail to properly stop for a school bus.

The monitoring system must produce a (1) live visual image that can be viewed remotely and (2) recorded image of the violator's license plate number. The monitoring system must record only a vehicle's license plate number, not the vehicle's occupants or any other person or vehicle. The recorded image must indicate the date, time, and place of the violation.

All school buses equipped with an operating monitoring system must display a warning sign to that effect.

Under the act, a photograph or digital or video image that clearly shows the license plate number of a vehicle violating the law is sufficient to prove the identity of the vehicle and establish that the vehicle owner (or lessee, if a leased vehicle) was operating the vehicle when the violation occurred. Under the act and under existing law, proof of the vehicle's registration number is also prima facie evidence that the vehicle owner or lessee was operating the vehicle when the

violation occurred.

Monitoring System Procedures

When a monitoring system detects and records a violation, a state or municipal police officer must review the "evidence file."

An evidence file must contain (1) at least two digital photos, recorded videotape, or other recorded images and (2) an affidavit signed by someone who witnessed the violation "live" (as it occurred). Thus, a school bus driver may be a witness. But it is not clear if a witness must have been at the location where the violation took place or may have viewed it remotely through the monitoring system as it occurred. If, after reviewing the recorded image, a police officer finds reasonable grounds to believe a violation has occurred, he or she must authorize the issuance of a summons.

The law enforcement agency must mail the summons to the vehicle owner within 10 days of the alleged violation. The summons must include copies of at least two digital photos or other recorded images and the signed affidavit from the witness.

Under the act, a recorded image produced by a monitoring system is sufficient evidence of a violation, and must be admitted without further authentication.

PROCESSING VIOLATIONS AND AVAILABLE DEFENSES

The act permits anyone who receives a summons to either pay a fine to the CIB or enter a not guilty plea and request a trial.

It allows someone charged with violating the law to raise any legal defense at trial, including that the:

1. violation was necessary (a) to allow an emergency vehicle to pass, (b) to avoid injuring a person or the property of another, or (c) for the operator to comply with another motor vehicle law or regulation;
2. violation occurred while the driver was in a funeral procession;
3. vehicle was reported stolen and had not been recovered when the violation occurred; or
4. driver was already convicted of failing to stop for a school bus based on the same facts.

Under the act, a recorded image produced by a monitoring system cannot be introduced as evidence in any other civil or criminal proceeding. The act requires all recorded images of alleged violations to be destroyed (1) 90 days after an alleged violation that did not result in a summons or (2) upon the final disposition of a case where a summons was issued.

CONTRACTING WITH AND PAYING VENDORS

The act permits a municipality or school board to install, operate, and maintain the monitoring system, or contract with a private vendor to do so. Such a contract must compensate the vendor for equipment costs and monitoring expenses, and reimburse it for installing, operating, and maintaining the monitoring system. Municipalities or their school boards must pay the vendors with the money they receive from fines under the act (see below).

The contract must require the vendor to report annually to the town or school board on the number of tickets issued as a result of the monitoring system, and the amount of money collected (apparently from fines). The town or school board must submit this information to the Transportation Committee within 30 days. The 30 days apparently runs from the unspecified date the town or school board receives the annual report.

DISPOSITION OF FINES

The act requires the state to remit 80% of the fines collected from violators to the municipalities in which the violations occur. Municipalities or their school boards must use this money to pay the vendors for installing, operating, and maintaining the monitoring systems.

The state must distribute the remaining fine revenue into the Special Transportation Fund (12% of the total) and the General Fund (8% of the total.) The act requires each Superior Court clerk or the chief court administrator or an official he or she designates to certify to the comptroller the amount of money due for the previous quarter to each town served by the clerk or official. The clerk or official must provide the certification annually by the 30th day of January, April, July, and October.

BACKGROUND

Centralized Infractions Bureau

By law, an individual charged with failing to stop for a school bus may pay the fine through the CIB. Payment is considered a plea of *nolo contendere* and is inadmissible in any civil or criminal proceeding. If an individual elects to plead not guilty, the CIB must send the plea and request for trial to the clerk of the geographical area court where the trial is to take place. The practice, procedure, rules of evidence, and burden of proof applicable in criminal proceedings apply in such a trial (CGS § 51-164n).

PA 11-256—sHB 6540

Transportation Committee

Judiciary Committee

Appropriations Committee

Higher Education and Employment Advancement Committee

Public Safety and Security Committee

AN ACT CONCERNING HIGHWAY SAFETY, STATE FACILITY TRAFFIC AUTHORITIES, MUNICIPAL BUILDING DEMOLITION, STATE TRAFFIC COMMISSION CERTIFICATES, AT GRADE CROSSINGS, THE NAMING OF ROADS AND BRIDGES IN HONOR OR IN MEMORY OF PERSONS AND ORGANIZATIONS, AND A TRAIN STATION IN NIAN TIC

SUMMARY: This act prohibits anyone operating a motor vehicle other than an emergency vehicle from following less than 100 feet behind an ambulance that is using flashing lights or a siren. Violators are subject to a \$50 fine (§ 17).

The act extends the law that doubles the fine for speeding or committing other moving offenses in a state highway construction zone to construction zones on municipal roads. It imposes the same signage requirements and liability protections for the municipal work zones as apply to state highway work zones (§ 18).

The act subjects drivers who park on a limited access highway to circumvent or avoid a scale or safety inspection site on the highway to a fine of \$250 to \$500 for a first offense and \$500 to \$1,000 for each subsequent offense (§ 12).

By law, the maximum length of a single unit vehicle and the semitrailer portion of a tractor-trailer unit are 45 and 48 feet, respectively (trailers up to 53 feet long are permitted under certain circumstances). The act specifies that the 45 and 48 foot limits include the vehicle's loads. It also codifies in statute a specific length maximum for automobile transporters that had been applied by reference to federal regulations (§ 10).

By law, a Department of Transportation (DOT) permit is required for a vehicle to operate on highways and bridges if it exceeds statutory size or weight limits. The act subjects a person driving a vehicle under a forged oversize or overweight permit to a minimum fine of \$10,000, in addition to any other penalties that may be assessed. In addition, the vehicle must be impounded until the penalty is paid or the Superior Court orders its release. A permit is considered forged if has been falsely made, completed, or altered, as these terms are used in the penal code (CGS § 53a-137) (§ 13).

The law requires DOT to issue permits for mobile homes that meet certain size limits. Under prior law, for towed motor homes, the limits were (1) a combined length of 100 feet if the towing vehicle is more than 80

feet and (2) a combined length of 104 feet if the towing vehicle is 80 feet or shorter. The act instead imposes these limits based on the length of the towed mobile home, rather than the towing vehicle (§ 11).

The act requires DOT to use the proceeds of a 2007 DOT bond authorization for general and related projects for the Stamford Transportation Center rather than for repairing, reconstructing, or expanding the parking garage at the center, including alternative temporary parking needed during the repair, reconstruction, or expansion of the garage and related projects (§ 42).

The act also:

1. advances, from December 31, 2013, to October 1, 2011, the effective date of the law requiring drivers to clear their vehicles of snow and ice as it applies to noncommercial vehicles (§§ 19 & 56);
2. exempts certain development projects from the need to obtain a State Traffic Commission (STC) certificate and makes other changes regarding the certificate process (§§ 14, 15);
3. allows various state agencies and institutions to install stop signs with STC approval (§§ 2-8);
4. requires the governor and DOT to take various steps regarding highway safety programs (§ 1);
5. allows motorcycles and other non-commercial vehicles other than automobiles to use the Wilbur Cross Parkway (§ 57);
6. requires DOT to study the feasibility of establishing a passenger train station in Niantic (§ 44);
7. requires the DOT commissioner or his designee to attend a public hearing concerning the safety and condition of an at-grade railroad crossing upon receiving a petition requesting his attendance signed by 25 or more voters in the municipality where the crossing is located (§ 16); and
8. eliminates a requirement that DOT adopt regulations for a program of competitive grants for commercial rail freight lines (§ 43).

Under prior law, any town, city, or borough could adopt an ordinance imposing a waiting period of up to 180 days before granting a demolition permit. The act eliminates this authority in cases where DOT needs the permit to remove a structure it has acquired for a transportation project (§ 9).

The act names various roads and highways, and requires that signs be installed in various locations.

EFFECTIVE DATE: Upon passage, except the provisions on the authority to install stop signs, the changes to maximum vehicle lengths (other than for mobile homes), the ambulance, municipal construction zone, snow and ice removal which are effective October 1, 2011.

§§ 19 & 56 — SNOW AND ICE REMOVAL

Under prior law, starting December 31, 2013, the driver of any vehicle would have been required to remove any accumulated ice or snow from the vehicle, so that the accumulation did not pose a threat to persons or property while it was being driven on a street or highway. The act advances the effective date of these provisions to October 1, 2011 for noncommercial vehicles. It retains the December 31, 2013, date for commercial vehicles.

By law, any driver who fails to remove accumulated ice or snow that poses such a threat must be fined \$75. If a driver of a noncommercial vehicle violates this provision and snow or ice is dislodged from the vehicle and causes personal injury or property damage, **the driver must be fined between \$200 and \$1,000** for each offense. For drivers of commercial vehicles, the fine is \$500 to \$1,250. By law, these provisions do not apply to any driver (1) during a period of snow, sleet or freezing rain that began and continued during the period of the vehicle's operation or (2) while the vehicle is parked.

§ 14-15 — STC CERTIFICATES

Exemptions

The act exempts certain developments from the requirement to obtain an STC certificate for large traffic generators that affect state highways. Under prior law, a certificate was needed when a development (1) had an entrance or exit on or near a state highway or (2) substantially affected traffic on a state highway. The act eliminates the requirement for a certificate if a development has an entrance or exit on or near a state highway but does not substantially affect traffic on the highway. It also specifies that it is STC that determines whether a development substantially affects traffic on a state highway.

The exemption includes a development to be built in phases, without regard to when such phases are approved by the municipal planning and zoning agency or other responsible municipal agency. The act exempts any development that contains a total of 100 or fewer residential units if it is a residential-only development and is not part of a mixed-use development that contains office, retail or other such nonresidential uses. If any future development increases the total number of residential units to more than 100 and such total substantially affects state highway traffic within the state as determined by the STC, a certificate is required.

The act also eliminates a provision that allows the STC to postpone, until a municipal planning and zoning or other municipal agency approves an application, action on a certificate to create additional parking

spaces or to build a large traffic generating development by combining individual parcels of land. Thus the STC must issue the certificate within 120 days after the request is filed unless the decision is tolled because the STC needs additional information before making a decision.

Other Changes

The act requires the STC, to the extent practicable, to begin reviewing an application before final approval of the proposed activity by the municipal planning and zoning agency or other responsible municipal agency. It allows the STC to require improvements to be made by the applicant to the extent that they address impacts to highway safety created by the addition of the applicant's proposed development or activity.

By law, a local building official may not issue a building or foundation permit to a person or entity for a development until the applicant provides the official a copy of the STC certificate. The act additionally bars the official from granting a certificate of occupancy for homes on single-family home building lots within a subdivision of land, for which an STC certificate is required and which do not have a direct exit or entrance on, or directly abut or adjoin any state highway, until the applicant provides the official a copy of the STC certificate and the official confirms that the certificate conditions have been satisfied.

§§ 2-8 — STOP SIGNS

The act allows the following authorities to install stop signs: (1) the UConn board of trustees; (2) the traffic and parking committees appointed by the community-technical colleges board of trustees for each community-technical college; (3) the commissioner of Veterans' Affairs; (4) the superintendent of any Department of Children and Families (DCF) institution; and (5) the superintendent or director of any state-operated facility within the Department of Mental Health and Addiction Services (DMHAS) or Department of Public Health (DPH). In each case, the State Traffic Commission must approve the installation. In addition, the installation of signs (1) at the community-technical colleges requires the approval of the system's board of trustees and (2) at the DCF, DMHAS, and DPH facilities requires the approval of the respective commissioners.

§ 1 — HIGHWAY SAFETY PROGRAMS

The act requires the governor to:

1. do all things necessary or convenient on the state's behalf to secure all benefits available under the federal Highway Safety Act,
2. designate DOT to administer the highway

safety program and coordinate highway safety activities in the state, and

3. communicate with the federal government regarding the state highway safety program.

The act allows the governor, or a person he designates within DOT, to establish standards and procedures for the content, coordination, submission, and approval of a highway safety program, including highway safety education and the integration and coordination of safety efforts at the state and local levels, with the goal of reducing highway deaths and injuries. (DOT already administers such programs.) It allows DOT, with the governor's approval, to adopt regulations to implement the program.

§ 44 — NIAN TIC RAIL STATION STUDY

The act requires DOT to immediately begin studying the feasibility of establishing a passenger train station in Niantic. The study must examine all steps needed to establish the station. It must include an estimate of the time and funding required for the completion of each step and a projected date to complete the station. DOT must use existing budgetary resources for the study and submit a progress report to the Transportation Committee by February 15, 2012.

§§ 20-30, 32, 34-41, 45-46 & 48 — ROAD AND BRIDGE NAMING

The act names:

1. the portion of Route 79 located in Durham the "David Lavine Memorial Highway;"
2. the portion of Route 83 located in Vernon the "Thomas Wolff Memorial Highway;"
3. the portion of highway located between Exit 13 of I-91 and Route 5 in Wallingford the "Major Rauol Lufbery Highway;"
4. Route 434 in East Haddam east to Smith Road the "Constable Thomas D. Jahelka Memorial Highway;"
5. the western section of Route 214 in Ledyard between routes 117 and 12 the "Wesley J. Johnson, Sr. Memorial Highway;"
6. the portion of Route 175 in Newington that runs east from Fenn Road to Main Street the "Newington Police Department Memorial Highway;"
7. the Route 8 bridge and overpass over Hull Street in Ansonia, the "Brigadier General Brian F. Phipps Memorial Bridge;"
8. Route 151 (Town Street) between routes 149 and 82 in East Haddam the "Jacinta Marie Bunnell Memorial Way;"
9. the bridge on Route 44 in Avon the "Corporal Gildo T. Consolini Memorial Bridge;"

10. the scale house in Middletown the “Trooper Kenneth Hall Memorial Scale House;”
11. the Route 7 bridge over Little Brook in New Milford the “Officer Donald Hassiak Memorial Bridge;”
12. Route 218 in West Hartford from Route 44 north to the Bloomfield town line the “Lt. Col. Michael J. McMahon Memorial Highway;”
13. SSR 454 from Route 110 northerly to Birchbank Road #1 locally known as Indian Well Road in Shelton the “Police Sergeant Orville Smith Memorial Highway;”
14. the bridge on Route 72 passing over the Pequabuck River in Bristol the “CSM Anthony V. Savino Memorial Bridge;” and
15. an unspecified portion of Interstate 84 in Hartford the “Tuskegee Airmen Memorial Highway.”

It eliminates the designation of part of Route 161 in East Lyme the “Warrant Officer Corps Memorial Highway” (§ 58).

The act also corrects the locations of several existing road and bridge naming provisions (§§ 34-41).

§§ 31, 33, 47, 49, 50-55 — SIGNS

The act requires that:

1. two signs be placed on Route 9 to designate the exit for the Ivoryton Playhouse in Essex, one on Route 9 northbound before Exit 3 and the other on Route 9 southbound before Exit 5;
2. DOT place a sign on one of the railroad bridge’s concrete supports in downtown Milford that directs shoppers to downtown retail locations and contains the words “More Shops Ahead” or similar language;
3. DOT place informational signs on Interstate 95, northbound and southbound at Exit 90, for the “Olde Mistick Village Shopping Center;”
4. DOT install informational signs on Interstate 84, eastbound and westbound at Exit 63, for the “Manchester Fire Fighters Memorial Garden;”
5. a plaque be placed at the Folly Brook picnic area located on Route 165 in Preston in memory of John Richard Pardo;
6. DOT place signs on I-84 eastbound and westbound before Exit 5, to designate the exit for “Rogers Park, Home of the Danbury Westerners;”
7. DOT place signs on Route 133 in Brookfield, eastbound and westbound, approaching the intersection of Obtuse Road South, to designate the location of “Shakespeare’s Garden at Burr Farm;”
8. DOT place signs on I-95, northbound and

- southbound, before Exit 91, to designate the exit for the “Old Lighthouse Museum” and the “Captain Palmer House” in Stonington;
9. DOT place a sign on I-95 in Groton between the Thames River and Exit 87, with the words “Submarine Capital of the World;” and
10. DOT place three signs to indicate the location of the “Prudence Crandall Museum” in Canterbury, one on Route 395 northbound before Exit 83a; one at the end of the Exit 83a exit ramp on Route 169; and one on Route 169 southbound in Brooklyn.

PA 11-3—sHB 5956

*Select Committee on Veterans' Affairs
Public Safety and Security Committee*

AN ACT CONCERNING THE INTERNET WEB SITE OF THE DEPARTMENT OF VETERANS' AFFAIRS

SUMMARY: This act requires the Department of Veterans' Affairs (DVA) to publish an informational page on its website by July 1, 2012, and after that date maintain and annually update it. The page must list any benefits, services, or programs any state or federal agency, department, or institution offers veterans or their families, including:

1. any information concerning the eligibility requirements and application process for veterans' benefits, services, or programs;
2. the name and contact information of any entity offering them; and
3. a link to the entity's website.

EFFECTIVE DATE: Upon passage

BACKGROUND

Current DVA Website Contents

In practice, the DVA "Benefits Information" webpage currently contains links to a state benefits webpage; the U.S. Veterans Administration; the Connecticut Soldiers', Sailors', and Marines' Fund; and state departments of Labor and Higher Education. It also contains information on the DVA Office of Advocacy and Assistance, a link to "A Guide to CT Veterans Service Officers," and to DVA district offices and outreach locations.

PA 11-41—HB 6419

*Select Committee on Veterans' Affairs
Public Safety and Security Committee*

AN ACT CONCERNING THE COMPOSITION OF THE MILITARY DEPARTMENT AND THE QUALIFICATIONS OF THE ADJUTANT GENERAL

SUMMARY: This act increases, from 10 to 15 years, the minimum number of commissioned service a person must have in the U.S. armed forces to be appointed adjutant general. It requires the person to have reached at least the rank of (1) lieutenant colonel in the U.S. Army, Marine Corps, or Air Force or (2) commander in the U.S. Navy or Coast Guard.

The act specifies that the (1) Military Department is comprised of the state's armed forces and any civilian

employees the adjutant general appoints and (2) state's armed forces are under the military command and control of the adjutant general. By law, the Military Department is under the adjutant general's charge. The governor is commander-in-chief of the state's armed forces when they are not in U.S. service and he appoints the adjutant general.

The act also makes a technical change.

EFFECTIVE DATE: Upon passage

BACKGROUND

Armed Forces of the State

By law, the state's armed forces are the (1) National Guard, (2) organized militia (i.e., the governor's guards, the State Guard, and other military forces the governor as commander-in-chief may designate), and (3) naval militia and marine corps branch of the naval militia, whenever organized.

PA 11-49—SB 1069

*Select Committee on Veterans' Affairs
Public Health Committee
Planning and Development Committee*

AN ACT CONCERNING DEATH CERTIFICATE FEE WAIVERS FOR VETERANS

SUMMARY: This act waives the \$20 fee for one certified copy of a veteran's death certificate when the deceased veteran's spouse, child, or parent requests a copy. By law, anyone age 18 or older must pay \$20 for a copy of a death certificate from the municipality where the death occurred or the Department of Public Health's State Office of Vital Records. Under the law, a "veteran" is an individual honorably discharged or released under honorable conditions from active service in the U.S. armed forces.

EFFECTIVE DATE: October 1, 2011

PA 11-56—sSB 367

*Select Committee on Veterans' Affairs
Transportation Committee*

AN ACT CONCERNING MOTOR VEHICLE NUMBER PLATES FOR ACTIVE MEMBERS OF THE ARMED FORCES

SUMMARY: This act extends the motor vehicle commissioner's authority to issue special registration certificates and veterans' license plates to active U.S. armed forces members or their surviving spouses who request a certificate and plate for a motor vehicle they

owned or leased for at least one year. She must do this upon request from any member of the U.S. Army, Navy, Marine Corps, Coast Guard, and Air Force and any of their reserve components, including the Connecticut National Guard under federal service.

The commissioner must already provide the certificates and plates to veterans or their surviving spouses under the same conditions.

The act requires an armed forces member who is dishonorably discharged to return the plates to the motor vehicles commissioner within 30 days after the discharge. It also prohibits the commissioner from renewing veterans' plates for any motor vehicle that such a member owns or leases.

By law, anyone who fails to surrender a falsely obtained motor vehicle registration or license plate when the motor vehicles commissioner demands it is subject to a fine of up to \$200.

EFFECTIVE DATE: Upon passage

PA 11-62—sSB 377

*Select Committee on Veterans' Affairs
Finance, Revenue and Bonding Committee
Planning and Development Committee*

AN ACT CONCERNING INTEREST OWED ON PROPERTY TAXES BY MEMBERS OF THE ARMED FORCES CALLED TO ACTIVE SERVICE

SUMMARY: This act (1) expands, to those serving in Afghanistan, the law's waiver of property tax interest for certain U.S. armed forces members called to active service in Iraq and (2) authorizes municipalities' legislative bodies to vote to waive property tax interest for certain U.S. armed forces members who have been called to active service outside the state.

By law, a town must charge 18% annual interest (1.5% per month) on delinquent property taxes (CGS § 12-146). The statutes define "armed forces" to mean the U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, their reserve components, and the state's National Guard under federal service (CGS § 27-103).

EFFECTIVE DATE: October 1, 2011, and applicable to assessment years beginning on or after that date.

ACTIVE SERVICE AND INTEREST OWED ON PROPERTY TAXES

Afghanistan

The law prohibits municipalities from charging or collecting interest for one year on any property tax, or a tax installment, for any state resident who is (1) a member of the armed forces and called to active service

for military operations that the President authorizes for military action against Iraq and (2) serving in the Middle East on the final day the tax payment is due. The act extends the waiver to those (1) called to active service for military action in Afghanistan and (2) serving outside the United States, rather than only in the Middle East, when a property tax payment is due.

Active Service Outside the State

The act authorizes a municipality, with approval of its legislative body, to elect not to charge or collect interest for one year on any property tax, or tax installment, which a state resident who is a U.S. armed forces member or member of another state's National Guard owes, if he or she:

1. was called to active service in the U.S. armed forces and
2. is serving outside the state on the final day a payment is due.

PA 11-68—SB 371

*Select Committee on Veterans' Affairs
Transportation Committee
Appropriations Committee*

AN ACT CONCERNING THE INDICATION OF A PERSON'S STATUS AS A VETERAN ON A MOTOR VEHICLE OPERATOR'S LICENSE AND IDENTITY CARD AND THE ISSUANCE OF FREE PASSES FOR ANY STATE PARK, FOREST OR STATE RECREATIONAL FACILITY TO CERTAIN DISABLED VETERANS

SUMMARY: This act requires the Department of Motor Vehicles (DMV) commissioner to include a person's status as a veteran, if applicable, on his or her state driver's license or identity card. The person must submit a request to have this status included to the Department of Veterans' Affairs (DVA), which must verify the status to the DMV commissioner.

The act also extends a free lifetime pass for state parks, forests, and recreational facilities to any resident who is a disabled wartime veteran, as defined under state or federal law. The law already allows a resident age 65 or older to apply for such a pass, which allows free parking, admission, and boat access parking. The pass (1) does not apply to any park, forest, or facility that a private concessionaire wholly manages and (2) may not apply to payments required for special events.

EFFECTIVE DATE: January 1, 2013; except for the free state park, forest, and recreation pass provision, which is effective upon passage.

VETERAN INDICATION ON LICENSE OR IDENTIFICATION CARD

Under the act, a veteran may submit a request to DVA to have this status included on his or her license or identity card. The DVA must, no later than 30 days after receiving the request, verify that the requestor is a veteran.

If DVA verifies that the requestor is a veteran (e.g., through DD Form 214 or similar forms), DVA must inform the DMV commissioner of the person's request and its verification. DMV must then indicate the person's veteran status on any license or identification card when originally issued, renewed, or issued as a duplicate.

The act specifies that "veteran" means an individual honorably discharged or released under honorable conditions from active service in the U.S. armed forces.

DISABLED VETERAN

Under the act, to receive a free state park, forest, or recreational facility pass a disabled veteran must meet the criteria set in state or federal law. Under state law, a "disabled veteran" is any wartime veteran with any of the following U.S. Department of Veterans Affairs service-connected disabilities: blindness, traumatic brain injury, paraplegia or hemiplegia, or loss of the use of both arms or legs or these body parts through amputation (CGS § 14-254).

Under federal law, "disabled veteran" generally means an individual who has (1) served on active duty in the armed forces, (2) been separated under honorable conditions, and (3) a service-connected disability or is receiving certain Veterans' Affairs or military department administered benefits (5 USC § 2108).

BACKGROUND

Service In Time of War

Under state law, "service in time of war" means at least 90 days active service in the U.S. armed forces during a statutorily defined period of war, unless the veteran was separated earlier because of a U.S. Veterans' Administration-rated service-connected disability or because the war lasted less than 90 days.

PA 11-197—HB 6259

*Select Committee on Veterans' Affairs
Transportation Committee
Appropriations Committee*

AN ACT CONCERNING A STATE IDENTIFICATION CARD FEE WAIVER FOR BLIND VETERANS

SUMMARY: This act authorizes the Department of Motor Vehicles commissioner to waive the \$22.50 non-driver identification card fee for any applicant who is a blind veteran. For eligibility purposes:

1. a "veteran" is an individual honorably discharged or released under honorable conditions from active service in the U.S. armed forces (CGS § 27-103) and
2. someone is considered blind if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if it is better than 20/200 but is accompanied by a limitation in his or her fields of vision such that the widest diameter of the visual field subtends an angle of no more than 20 degrees (CGS § 1-1f).

EFFECTIVE DATE: October 1, 2011

PA 11-1, June 2011 Special Session—HB 6701
Emergency Certification

AN ACT CONCERNING THE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2013

SUMMARY:

This act changes mandatory reductions in total General and Special Transportation fund appropriations for FYs 12 and 13. It increases net General Fund appropriations by \$62.2 million and \$63.7 million for FYs 12 and 13, respectively, and makes corresponding reductions in net Special Transportation Fund appropriations for the same years. It also:

1. reduces the refundable state earned income tax credit (EITC) for eligible Connecticut residents established by PA 11-6 from 30% to 25% of the federal EITC;
2. temporarily expands the governor’s authority to rescind, reduce, transfer, or revise agency appropriations for FY 12 and FY 13 without legislative approval;
3. requires chief administrative authorities in the three branches of government to implement the act’s budget savings and employee reductions;
4. allows the Office of Policy and Management (OPM) secretary to reduce higher education operating funds to achieve the required budget and employee reductions;
5. requires the governor and the chief court administrator to submit budget reduction plans to the General Assembly and allows the legislature to hold a public hearing on, and call itself into special session to modify, plan provisions;
6. reduces the required revenue transfer from the General Fund to the Special Transportation Fund by \$41.55 million for FY 12; and
7. carries forward \$23.3 million in unspent FY 11 debt service appropriations and makes the funds available for debt service expenses in FY 12 and FY 13.

The act repeals all of the provisions described above if an agreement between the state and the State Employees Bargaining Agent Coalition (SEBAC) is approved. Such an agreement was deemed approved on August 22, 2011.

The act establishes an expedited method for the General Assembly to approve any such agreement by August 31, 2011. If an agreement is approved, the act also requires (1) the Department of Administrative Services (DAS) and OPM to implement comparable terms for nonunion Executive Branch employees, (2) the legislative and judicial branches to implement wage provisions comparable to the agreement’s wage provisions for their respective nonunion employees, and (3) all three branches of government and the Board of Regents of Higher Education to implement changes to their respective nonunion employees’ longevity pay that are comparable to the executive longevity pay plan.

The act also makes PA 11-61’s changes to the judicial retirement system contingent upon approval of an agreement with SEBAC.

EFFECTIVE DATE: Various, see below. However, as required by § 14, many of the act’s provisions were repealed or ceased to be effective as of August 22, 2011, the date the General Assembly approved the agreement with SEBAC.

§§ 1 & 2 — CHANGES IN GENERAL FUND AND SPECIAL TRANSPORTATION FUND APPROPRIATIONS

The act adjusts required reductions in total General Fund and Special Transportation Fund appropriations for FYs 12 and 13 adopted in PA 11-61, §§ 67 and 68, respectively. It attributes the reductions to budget savings and employee reductions rather than labor-management savings. The adjustments are shown in Table 1 below.

Table 1: Mandatory Reductions in Total General Fund and Special Transportation Fund Appropriations for FY 12 and FY 13

PA 11-61, §§ 67 & 68			THE ACT		
<i>General Fund</i>					
	2011-12	2012-13		2011-12	2012-13
Labor Management Savings - Legislative	-\$4,586,734	-\$6,671,872	Budget savings and employee reduction - Legislative	-\$9,000,000	-\$13,000,000
Labor Management Savings - Executive	-625,947,354	-806,963,225	Budget savings and employee reduction - Executive	-543,777,737	-724,632,425
Labor Management Savings - Judicial	-27,670,929	-30,622,622	Budget savings and employee reduction - Judicial	-43,205,632	-42,961,413
<i>Special Transportation Fund</i>					
	2011-12	2012-13		2011-12	2012-13
Labor Management Savings	-\$42,536,383	-\$56,949,138	Budget savings and employee reduction	-\$104,758,031	-\$120,613,019

For FY 12 and FY 13, the act also increases annual net General Fund appropriations from those in PA 11-61 and reduces net Special Transportation Fund appropriations by the same amounts as shown in Table 2.

Table 2: Adjustments in Net General and Special Transportation Fund Appropriations

	Prior Net Appropriation (PA 11-61, §§ 67 & 68)		Adjustment (The Act)	
	FY 12	FY 13	FY 12	FY 13
General Fund	\$18,707,734,750	\$18,952,488,239	\$62,221,648	\$63,663,881
Special Transportation Fund	1,261,932,205	1,277,832,928	(62,221,648)	(63,663,881)

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 these budget changes were repealed and the provisions of PA 11-61, §§ 67 and 68, reinstated on August 22, 2011.

§§ 3 & 4 — EARNED INCOME TAX CREDIT

PA 11-6 gave Connecticut residents who qualify for, and claim, the federal EITC a refundable credit against their state income tax liability for the same year. This act reduces the state EITC from 30% to 25% of the federal credit. It makes a conforming reduction in the credit percentage for couples eligible for the state EITC who file joint federal returns but have to file separate state returns for the same tax year.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2011. Because the General Assembly approved the agreement with SEBAC, under § 14 of the act the EITC reduction ceased to be effective and the 30% credit established in PA 11-6 was restored on August 22, 2011.

§ 5 — GOVERNOR'S AUTHORITY TO TRANSFER FUNDS BETWEEN AGENCIES

The law requires the governor, with Finance Advisory Committee (FAC) approval, to determine the appropriations amount to be transferred when, as a result of legislation, powers, functions, or duties are transferred from one department, institution, or agency to another. Between July 1 and September 30, 2011, the act also requires the governor, with FAC approval, to determine the FY 12 and FY 13 appropriation amounts to be transferred from one agency to another when personnel, functions, powers, or duties are transferred because of any reorganization due to reductions in the number of employees or rescissions in appropriations.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act the governor's additional authority to transfer funds between agencies was repealed on August 22, 2011.

§ 6 — GOVERNOR'S RESCISSION AUTHORITY

Between July 1 and September 30, 2011, the act allows the governor to impose larger-than-normal rescissions in FY 12 and FY 13 budget appropriations.

An existing law allows the governor, without legislative or FAC approval, to unilaterally rescind up to 3% of the total appropriations from any fund or 5% of any specific appropriation if he determines that (1) circumstances have changed since the budget was adopted or (2) there are not enough estimated resources to fund all appropriations. The act allows the governor, between July 1 and September 30, 2011, to impose rescissions of up to 10% of the total FY 12 and FY 13 appropriations from any fund or 10% of any specific appropriation for FYs 12 and 13.

Under the act, as under existing law, the governor may cut appropriations for municipal aid only with legislative approval. In addition, the act does not change the process for, or the governor's authority over, legislative and judicial branch budget rescissions.

To make rescissions under the act, the governor must determine that (1) there is either a fiscal exigency related to the budget or there will not be enough estimated resources to fund all appropriations in full and (2) his statutory rescission authority will not be enough to deal with the exigency or shortfall.

The act's provisions do not apply in time of war, invasion, or a natural disaster emergency. Thus, under such circumstances, the existing law applies. That law specifically provides that the governor's rescission authority is not limited in time of war, invasion, or a natural disaster emergency.

As under the statute, before making the authorized reductions, the governor must file a report with the Appropriations and Finance, Revenue and Bonding committees that describes the fiscal exigency or the basis for his determination that resources will be insufficient to fund full appropriations.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act the governor's additional rescission authority was automatically repealed on August 22, 2011.

§ 7 — GOVERNOR'S AUTHORITY TO TRANSFER OR REVISE AGENCY APPROPRIATIONS

Transfers

The act gives the governor additional authority, from July 1 to September 30, 2011, to transfer funds between specific appropriations within a budgeted agency without FAC approval. It increases the maximum amount he may transfer on his own authority from \$50,000 or 10% of any specific appropriation in

any one year, whichever is less, to \$250,000 or 10% of any specific appropriation in a single year, whichever is greater. The governor may make such transfers only at the agency's request and when the appropriation to which the funds are transferred is insufficient to meet required expenses for FY 12 and FY 13.

Under the act, as under existing law, the governor (1) must notify the Appropriations Committee, through the Office of Fiscal Analysis, of any transfers and (2) may transfer funds from appropriations for fringe benefits to higher education constituent unit operating funds without FAC approval only at the close of the fiscal year.

Revisions

The act also temporarily expands the governor's authority, with FAC approval, to revise appropriations. By law, the governor can revise appropriations when legislation or management studies modify a budgeted agency's work, procedures, or organization. Between July 1 and September 30, 2011, the act allows him to revise appropriations when employee reductions necessitate such revisions. It allows the governor, with FAC approval, to adopt recommendations from the OPM secretary for increases and decreases in work locations, functions, authorized position counts, and appropriations amounts for FY 12 and FY 13.

As under the statute, the governor's appropriation revisions under the act cannot exceed the agency's total original appropriation.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act the governor's additional authority was repealed on August 22, 2011.

§ 8 — IMPLEMENTATION OF EXPENDITURE REDUCTIONS

For FY 12 and 13, the act requires authorities in the three branches of government to implement the budget savings and employee reductions the act requires for FY 12 and FY 13. The authorities are the:

1. OPM secretary, on the governor's approval, for the executive branch;
2. Legislative Management Committee for the legislative branch; and
3. chief court administrator, on the chief justice's approval, and the chief public defender for the judicial branch and the Public Defenders Services Division, respectively. The act limits reductions for the Court Support Services and the Public Defenders Services divisions to their pro rata shares of the judicial branch's required reductions.

The act also allows OPM to reduce appropriations for higher education constituent unit operating funds to achieve the budget savings and employee reductions the act requires.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act these provisions were repealed on August 22, 2011.

§ 9 — TRANSFER FROM GENERAL FUND TO SPECIAL TRANSPORTATION FUND

For FY 12, the act reduces the required revenue transfer from the General Fund to the Special Transportation Fund by \$40.55 million, from \$81.55 million to \$41 million.

EFFECTIVE DATE: July 1, 2011, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act the reduction ceases to be effective and the \$81.55 million transfer for FY 12 required by PA 11-61 was restored on August 22, 2011.

§ 10 — DEBT SERVICE CARRY FORWARD

The act carries forward to FY 12 and FY 13 up to \$23,266,835 of the unspent balance of funds appropriated for debt service for FY 11. Of that amount, it makes \$21,371,068 and \$1,895,767 available for debt service expenditures in FY 12 and FY 13, respectively.

EFFECTIVE DATE: July 1, 2011, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act these provisions were repealed on August 22, 2011.

§ 11 — GENERAL ASSEMBLY APPROVAL OF SEBAC DELAYED

PA 11-61 established an expedited method for the General Assembly to approve the tentative agreement signed by the state and SEBAC on May 27, 2011. (SEBAC is a coalition of the 15 state employee unions representing roughly 85% of all state employees.) In light of that particular agreement's failure to win approval by state employees, this act provides a similar method for the General Assembly to approve another SEBAC agreement with the state. As under PA 11-61, it requires that changes similar to those in the SEBAC agreement apply to all nonunion employees in the three branches of government.

This act extends PA 11-61's deadline, from June 30 to August 31, 2011, for the General Assembly to approve a SEBAC agreement while keeping the same procedural steps for its approval. Under the act, the General Assembly may call itself into special session to approve or reject a SEBAC agreement within five calendar days after the agreement is filed with the Senate and House clerks, or by August 31, 2011,

whichever is first. Under the act and PA 11-61, if the General Assembly does not call itself into session within the five day period, the agreement is deemed approved by the General Assembly as of the date it was filed. The law otherwise requires 30 days of inaction by the General Assembly before a union agreement is deemed approved.

Applying Terms Comparable to SEBAC to Nonunionized State Employees

As under PA 11-61, once a SEBAC agreement is approved, the act requires the DAS commissioner and OPM secretary to apply terms comparable to the SEBAC agreement's to all nonunion classified and unclassified officers and state employees in the executive branch. It gives OPM, the chief court administrator, and the legislative management executive director until September 30, 2011, instead of June 30, 2011, to submit plans to the Appropriations Committee detailing how the terms of the SEBAC contract will apply to nonunion classified and unclassified officers and employees in the executive, judicial, and legislative branches, respectively.

Longevity Pay for Executive Branch and Higher Education Employees

If a SEBAC agreement is approved, the act requires the DAS commissioner and OPM secretary, by October 1, 2011, instead of August 1, 2011, to implement changes to the longevity payments of nonunion classified and unclassified officers and employees of the Executive Branch, constituent units of higher education, and the Board of Regents for Higher Education that are comparable to the eligibility provisions of the executive longevity pay plan. The executive longevity pay plan is set by DAS and features fixed payment amounts based upon years of service. Under the existing plan, to be eligible for longevity payments, an employee must have been eligible to receive the October 2010 payment. The years of service used to determine an employee's payment is frozen at the years he or she had as of January 6, 2011. Employees who were not eligible to receive the payment in October 2010 will not receive them in the future.

Wages and Longevity Pay for Judicial and Legislative Branch Employees

If a SEBAC agreement is approved, the act requires the Chief Court Administrator and Legislative Management Committee, by October 1, 2011, instead of August 1, 2011, to implement changes to their respective nonunionized officers' and employees' wages that are comparable to the agreement's wage provisions.

The act also requires the two branches to implement changes to the longevity payments of their respective nonunion classified and unclassified officers and employees that are comparable to the eligibility provisions of the executive longevity pay plan.

As under PA 11-61, the act specifies that nothing regarding the Judicial Branch wage provisions apply to officers or employees whose wages are set in statute. Judges, family support magistrates, workers' compensation commissioners, and others' wages are set in statute. It also specifies that the provisions regarding legislative employees' wages and longevity payments do not apply to elected officials.

EFFECTIVE DATE: Upon passage

§§ 12 & 16 — EFFECTIVE DATE OF CHANGES TO JUDGES' RETIREMENT

The act provides that the changes to the judicial retirement system made by PA 11-61 take effect upon the General Assembly's approval of an agreement with SEBAC under the deadlines and procedures stated in the act. It also repeals those changes to the judicial retirement system if an agreement between SEBAC and the state is not approved by the General Assembly under the act's deadlines and procedures by September 1, 2011.

EFFECTIVE DATE: Upon passage, with the repeal provision effective September 1, 2011 if the General Assembly does not approve a SEBAC agreement. Since the General Assembly approved such an agreement on August 22, 2011, this repeal did not take effect.

§ 13 — LEGISLATIVE ACTION ON PROPOSED EXECUTIVE BRANCH SPENDING REDUCTIONS

By July 15, 2011, the act requires the governor and the chief court administrator to submit to the House speaker and Senate president pro tempore detailed plans of any spending reductions they consider necessary in the executive and judicial branch, respectively. The governor's plan must include rescissions made both under his existing statutory authority and with the additional authority granted by the act (see above).

The leaders can refer any provisions of either plan to the Appropriations Committee, which may hold a public hearing on them and, by August 15, 2011, submit its findings to the leaders. By August 31, 2011, the act allows the General Assembly to call itself into special session and enact legislation to adjust state spending for the 2012-2013 biennium in place of any plan provisions. The substitute spending modification and reductions in the legislation must equal those proposed in the plan provisions.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act these provisions were repealed on August 22, 2011.

§ 14 — REPEALING ACT PROVISIONS IF SEBAC AGREEMENT IS APPROVED

The act repeals several of its own provisions and, in certain cases, specifies the prior provisions to be reinstated, if the General Assembly approves a SEBAC agreement. Since the SEBAC agreement was approved on August 22, 2011, the following contingent provisions become effective as of that date:

1. changes in General and Special Transportation fund appropriations for FY 12 and FY 13 are repealed and the appropriations for those funds in PA 11-61 are restored;
2. the reduction in the earned income tax credit to 25% is eliminated and the 30% credit in PA 11-6 is restored; and
3. the reduced transfer from General Fund to the Special Transportation Fund for FY 12 is eliminated and the transfer amount required by PA 11-61 is restored; and
4. provisions related to the following are repealed: (a) the governor's enhanced authority to make budget rescissions, transfer funds between agencies, and transfer or revise agency appropriations; (b) plans for implementing expenditure reductions; (c) the debt service carry forward; and (d) the requirement that the governor report to the legislative leaders regarding rescissions and the reductions and steps the legislature can take, including rejecting rescissions or reductions and proposing new legislation.

EFFECTIVE DATE: Upon passage

§ 15 — REPEALING BUDGET ACT PROVISION REGARDING SEBAC

The act repeals a provision of PA 11-6 (the budget act) that addresses steps the governor, General Assembly, and OPM were to take if: (1) a SEBAC agreement is reached and approved by May 31, 2011 and (2) a SEBAC agreement is not reached.

EFFECTIVE DATE: Upon passage

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Emergency Certification

AN ACT PROMOTING ECONOMIC GROWTH AND
 JOB CREATION IN THE STATE

SUMMARY: This act establishes new and expands existing business assistance, economic and workforce development, and job training programs. Among other things, it authorizes (1) rapid response financial assistance programs for small businesses, (2) a temporary subsidy for employment and training costs for small businesses that hire eligible new employees, and (3) the establishment of new airport development zones. It expands the First Five and Manufacturing Reinvestment Account programs to more companies and broadens the options and creates additional incentives for establishing captive insurance companies in Connecticut.

It allows state and quasi-public agencies to contract with private entities for building, financing, operating, or maintaining facilities. It also establishes processes to accelerate state agency decisions on permits, occupational licenses, and economic development assistance applications and remediation of state-owned brownfield properties.

The act creates new programs for farmland restoration, town-center improvement projects in small towns, and upgrading and replacing inefficient oil furnaces and boilers in housing authority and nonprofit organization buildings. It authorizes additional state bonding for (1) the Manufacturing Assistance Act, (2) the Fix-it-First bridge repair program, (3) workforce development programs at community colleges, and (4) recapitalizing programs offered by Connecticut Innovations, Inc.

Finally, the act (1) replaces three existing job creation tax credit programs with a new job expansion credit, (2) makes the business entity tax payable every other year starting with payments due in 2014, (3) reduces the minimum required investment for an angel investor income tax credit, and (4) expands the types of productions eligible for film production tax credits.

A section-by-section summary appears below.

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§§ 1-5 — SMALL BUSINESS EXPRESS PROGRAM
 AND THE STEP UP PROGRAM

The act creates the Small Business Express Program and the Subsidized Training and Employment Program (STEP) and authorizes up to \$60 million in general obligation (GO) bonds per year in FY 12 and FY 13 for them. It reserves \$100 million for the Small Business Express and \$20 million for STEP.

The Small Business Express Program, which the act creates in the Department of Economic and Community Development (DECD), provides deferrable or forgivable loans and matching grants to Connecticut-based small businesses and small manufacturers. Loan and grant amounts range from \$10,000 to \$250,000. The DECD commissioner must work with eligible applicants to create packages combining the loans or grants with assistance provided under STEP and other existing programs.

The act establishes STEP within the Department of Labor (DOL) to provide eligible small businesses and small manufacturers with grants for a portion of an eligible employee's costs of employment, including training, during the first six months of his or her employment. It also requires the labor commissioner to report on the program and allows him to adopt regulations to implement it.

§§ 1-3—*Small Business Express Program*

Financial Assistance. Under the Small Business Express Program, the DECD commissioner can provide three types of assistance: revolving loans, job creation incentives (i.e., deferrable or forgivable loans), and matching grants. Table 1 summarizes applicant priority requirements, eligible expenditures, and terms and conditions for each type of assistance.

Table 1: Summary of Financial Assistance under the Small Business Express Program

<i>Characteristic</i>	<i>Financial Assistance</i>		
	<i>Revolving Loans</i>	<i>Job Creation Incentives</i>	<i>Matching Grants</i>
Type of Assistance	Loan	Deferrable or forgivable loans for borrowers that increase and maintain jobs	Matching grants for capital
Purpose	Support small business growth	Support hiring goals	Provide capital
Priority	<ul style="list-style-type: none"> • Businesses creating new jobs lasting at least 12 consecutive months • Economic-base industries 	Economic-base businesses	<ul style="list-style-type: none"> • Economic-base businesses • Businesses likely to use grants to maintain job growth
Eligible expenditures	<ul style="list-style-type: none"> • Acquiring machinery and equipment • Construction or leasehold improvements • Relocation costs • Working capital • Other commissioner-approved business expenses 	<ul style="list-style-type: none"> • Training • Marketing • Working capital • Other commissioner-approved expenses that support job creation 	<ul style="list-style-type: none"> • New or ongoing training • Working capital • Acquiring machinery and equipment • Construction or leasehold improvements • Relocation within the state • Other commissioner-approved business-related expenses
Terms or conditions	<ul style="list-style-type: none"> • \$10,000 to \$100,000 loans • Up to 4% interest • Maximum 5-year term • DECD reviews and approves loan terms, conditions, and collateral requirements to prioritize job growth and retention 	<ul style="list-style-type: none"> • \$10,000 to \$250,000 forgivable loans • Commissioner may defer loan payments based on her assessment of the business' attainment of job creation goals • Commissioner may also forgive all or part of a loan based on a business (1) attaining job creation goals or (2) maintaining an increased number of jobs for at least 12 consecutive months • DECD reviews and approves loan terms, conditions, and collateral requirements to prioritize job creation and retention 	<ul style="list-style-type: none"> • \$10,000 to \$100,000 grants • Business must match state grant • DECD prioritizes based on likelihood of applicant maintaining job growth

Business Eligibility Requirements. Under the act, a business is eligible if it employed no more than 50 people during at least half of its working days during the prior 12 months. The business must also:

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

In addition, businesses receiving assistance under the program may, at the commissioner’s discretion, be subject to the statutory penalties for relocating out of state after receiving state assistance. By law, the penalties apply if a business relocates within 10 years after receiving assistance. Under the act, they apply if the business relocates within five years after receiving assistance.

Application Process. The DECD commissioner must establish and use a streamlined application process to expeditiously delivery small business express assistance. Under the act, she may provide financial assistance to a business within 30 days after it submits a completed application. In deciding whether to approve an application, the commissioner must give priority to those businesses that create jobs and materially contribute to the state’s economy (i.e., economic base businesses.) By law, a business does the latter if it:

1. creates or retains jobs,
2. exports products and services outside the state,
3. encourages innovation in supplying products or services or adding value to them, or
4. supports or enhances activities important to the state’s economy.

Under the act, “economic base businesses” specifically include those in the precision manufacturing, business services, green and sustainable technology, bioscience, and information technology sectors.

Funding. The act authorizes up to \$50 million in GO bonds per year in FY 12 and FY 13 for the Small Business Express Program. It also specifies the amounts the commissioner may spend from this authorization for each of the program’s three types of assistance, as shown in Table 2 below.

Table 2: Small Business Express Program Bond Allocations

<i>Assistance</i>	<i>FY 12 (millions)</i>	<i>FY 13 (millions)</i>
Revolving Loans	\$20	\$20
Job Creation Incentive Loans	10	10
Matching Grants	20	20
Total	50	50

Under the act, the commissioner must report to the legislature whenever she spends more or less for any type of assistance than the act specifies for that type. The report must identify the amount spent and how the commissioner divided it among the three types of assistance. She must submit the report to the Commerce; Labor; and Finance, Revenue and Bonding committees.

Reporting Requirements. Beginning no later than June 30, 2012, the commissioner must submit biannual Small Business Express Program performance reports to the Appropriations; Commerce; Labor; and Finance, Revenue, and Bonding committees. The reports must provide data on (1) the number of businesses that applied for assistance, (2) number and types that received assistance, (3) amount and types of assistance received, (4) each business’ total workforce when it applied for assistance and the total number of jobs it proposed to create or retain, and (5) each business’ most recent employment figures. DECD must also include this data in its comprehensive annual report to the legislature.

§§ 4 & 5 — *Subsidized Training & Employment Program*

The act establishes STEP within DOL to provide subsidies to eligible small businesses and small manufacturers for a portion of an eligible employee’s employment costs, including training, during the first six months of his or her employment. For FY 12 and FY 13, it authorizes up to \$10 million in GO bonds annually for the program. It allocates separate annual subsidies for small businesses and small manufacturers of \$5 million each in FY 12 and FY 13, for a total of \$20 million over two years. No business or manufacturer receiving a STEP grant can receive a second STEP grant for the same new employee.

The act allows the DOL to use up to 4% of the funds allocated for STEP to retain outside consultants to administer the program. It also requires the labor commissioner to report to certain legislative committees on the program and allows him to adopt regulations to implement it.

Small Business STEP Grants. To qualify as a “small business” under the act, a business applying for a STEP grant must meet the same eligibility requirements as business eligible for the Small Business Express Program. But, the act prohibits retailers from participating in STEP. By law, a “retailer” sells goods used primarily for personal, family, or household purposes to a person who is not in the business of reselling those goods (CGS § 42-371).

Under the act, an eligible small business can receive grants if it hires a new employee who:

1. is unemployed immediately before being hired, regardless of whether the employee received unemployment benefits;
2. lives in a municipality with either (a) an unemployment rate at least as high as the state unemployment rate as of September 1, 2011 or (b) a population of 80,000 or more; and
3. has a family income under 250% of the federal poverty level, adjusted for family size. (For a family of four, this means a gross annual income under \$55,875, for example.)

The new employee cannot, within the past 12 months, have been employed in the state by a business entity (individual, corporation, limited liability company (LLC), partnership, association, or trust) in or under the control of the eligible small business. Control must be determined based on ownership of (1) stock in a corporation; (2) capital or profit interest in a partnership, LLC or association; or (3) a beneficial interest in a trust according to federal tax law (Internal Revenue Code § 267(c)).

The act allows an eligible small business to receive a grant subsidizing each eligible new employee’s training and compensation, up to a maximum of \$20 an hour. The size of the subsidy phases out over the employee’s first six months of employment. Grants end the date the new employee leaves employment which the eligible small business. The act does not limit the number of eligible employees for with an employer may receive grants. Table 3 shows the monthly subsidy level.

Table 3: Percent of Training and Compensation Subsidy by Month

<i>Month of Employment</i>	<i>State Subsidy % of eligible costs per eligible employee (maximum \$20 an hour)</i>
1	100%
2, 3	75%
4, 5	50%
6	25%

Small Manufacturer STEP Grants. To qualify for grants as a small manufacturer, an employer must meet the act’s small business criteria and classified in sectors 31 to 33 of the North American Industry Classification System (NAICS), a business classification system used by federal statistical agencies. Those sectors include businesses engaged in the mechanical, physical, or chemical transformation of materials and components into new products. An employee of an eligible small manufacturer must be newly hired to qualify the manufacturer for a grant, but there are no additional residency, unemployment, or previous employment requirements.

Under the act, each grant applies to the costs of one newly hired employee’s training and compensation, up to a fixed monthly limit that phases out over the first full six calendar months that the new hire is employed. The act does not limit how many grants an eligible manufacturer can receive, but no individual grant can exceed the newly hired employee’s salary or total more than \$12,500. A grant can be cancelled on the date the new employee leaves the manufacturer’s employment. The manufacturer must provide training, and it must occur on the manufacturer’s premises. An existing formal training program is not required, although the act requires the DOL to review and approve a manufacturer’s description of the proposed training as part of the application process. Table 4 shows the small manufacturing maximum grant schedule.

Table 4: Small Manufacturing Grant Schedule

<i>Full Calendar Month of New Hire’s Employment</i>	<i>Maximum Monthly Per-Employee Grant</i>
One	\$2,500
Two	\$2,400
Three	\$2,200
Four	\$2,000
Five	\$1,800
Six	\$1,600

Reporting Requirement. The act requires the labor commissioner, by June 30, 2012 and every six months thereafter, to report to the Finance, Revenue and Bonding; Appropriations; Commerce; and Labor committees on the status of the program. The reports must include available data on the:

1. number of small businesses and small manufacturers that participated in the program and the general categories of the participating businesses,
2. number of individuals employed under the program, and
3. most recent estimate of the number of jobs created or maintained.

§ 6 — DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION PERMIT PROCESSING METHODOLOGY

The act requires the Department of Energy and Environmental Protection (DEEP) to study (1) its state permitting and enforcement processes and (2) the feasibility of developing a methodology for processing permit applications and enforcement actions based on tiered levels of environmental risk. The methodology may include procedures for expedited processing of the permit applications and enforcement actions that pose the lowest risk to the environment.

The department must report its findings to the Environment and Commerce committees by February 1, 2012. The report must include:

1. a detailed summary of the study;
2. recommendations for administrative or legislative action required to implement a tiered methodology for processing permit applications and enforcement actions; and
3. any additional recommendations on other methods to improve the speed, transparency, consistency, and predictability of the department's processing of state permits and enforcement actions without compromising environmental standards.

§§ 7 & 8 — STATE TRAFFIC COMMISSION AND DEPARTMENT OF TRANSPORTATION (DOT)

Commission Membership

The act expands the State Traffic Commission's membership to include the DECD commissioner when the commission discusses and votes on any matter related to an economic development project. Under existing law, commission members include the DOT, public safety, and motor vehicles commissioners.

By law, the State Traffic Commission adopts regulations establishing a uniform system of traffic control signals, devices, signs, and markings for public highways. It also regulates state highway and road use.

Permits for Economic Development Projects

The act requires DOT and the State Traffic Commission to make a final determination within 60 days after receiving a completed formal petition, application, or request for a permit in connection with an economic development project. The DOT commissioner or commission must notify the petitioner, applicant, or requestor of the determination. If a final determination is not made within 60 days, the completed petition, application, or request is deemed approved. The act specifies that these determinations must be made notwithstanding any transportation or motor vehicle laws.

§ 9 — SHOVEL-READY PILOT PROGRAM RECOMMENDATIONS

By July 1, 2012, the DECD permit ombudsman must develop recommendations for a certification program similar to New York state's "Build Now-NY/Shovel Ready Certification Program" (see BACKGROUND). By January 1, 2013, the permit ombudsman must submit the recommendations to the DECD and DEEP commissioners, the governor, and the Environment and Commerce committees.

§§ 10–11 — OTHER AGENCY EFFICIENCIES

LEAN Practices

The act requires the Office of Policy and Management (OPM), within available appropriations, to enter into an agreement for consultant services to apply LEAN practices and principles (see BACKGROUND) to the DEEP, DECD, the Department of Administrative Services, and DOT permitting and enforcement processes that businesses use most frequently.

Under the act, the agreement must require the consultant to also apply LEAN practices and principles to the licensure procedures for commercial bus drivers that the departments of Consumer Protection (DCP), Emergency Services and Public Protection, and Children and Families currently perform. The consultant must develop recommendations for implementing a pre-permitting system for commercial bus drivers that enables businesses to use commercial bus drivers who are waiting for the applicable licensing authority to perform a criminal background check.

Legislative Recommendations to Improve State Agency Efficiency

By February 1, 2012, the act requires DEEP, DOT, and DECD to make recommendations to the Environment, Transportation, and Commerce committees, respectively, to repeal or revise department programs or statutes each agency determines are obsolete or need revision to improve efficiency.

§§ 12-15 — AGRICULTURAL RESTORATION

The act adds "agricultural restoration purposes" to the uses allowed under an existing Department of Agriculture (DoAg) program that encourages using state-owned vacant public land for gardening or agricultural purposes.

Definition

Under the act, "agricultural restoration purposes" means:

1. reclaiming grown-over pastures and meadows;
2. installing fences to keep livestock out of riparian areas;
3. replanting vegetation on erosion-prone land or along streams;
4. restoring water runoff patterns;
5. improving irrigation efficiency;
6. conducting hedgerow management, including removing invasive plants and timber; or
7. renovating farm ponds through farm pond management.

Commissioner Responsibilities

By law, the agriculture commissioner must (1) compile a list of the state-owned vacant public land that can be used for gardening or agricultural purposes, (2) establish a permit application process, and (3) adopt regulations for using the land. Permit applicants must submit a land use plan and agree to (1) maintain the land in a condition consistent with the plan and (2) abide by applicable regulations. Permittees who fail to carry out these conditions forfeit their permits. Permittees must indemnify and hold the state harmless against any liability arising from the land use.

The act requires the agriculture commissioner to include on the list state-owned vacant public land that, based on soil type, is suitable for agricultural restoration purposes. It also requires him to expand the permit application process and regulations to include agricultural restoration purposes.

Reimbursing Farmers

The act allows the agriculture commissioner to reimburse any farmer for part of the cost of developing a farm resources management plan to restore farmland if (1) the commissioner approves the plan and (2) the reimbursement is no more than the lesser of \$20,000 or 50% of the plan's cost. The plan may require agricultural restoration purposes.

Bond Authorization

The act authorizes up to \$5 million in GO bonds to DoAg for funding the agricultural restoration and farmer reimbursements described above.

§ 16 — WINE FESTIVALS

The act increases, from one to two, the number of wine festivals the DCP commissioner can allow in a calendar year. It also increases, from one to two, the number of (1) times in a calendar year an association that promotes the manufacturing and sale of farm wine in Connecticut can organize and sponsor wine festivals and (2) wine festival permits the DCP commissioner may issue to farm winery manufacturer permittees in a calendar year (see BACKGROUND). (The act makes no similar changes for out-of-state entity wine festivals.)

§ 17 — LAND USE PERMITS ISSUED BEFORE HURRICANE IRENE

The act authorizes municipalities to pass ordinances allowing certain residences, buildings, structures, or real property improvements damaged or destroyed by Hurricane Irene or another act of nature to be reconstructed or repaired under permits or

authorizations issued before August 25, 2011 without additional approval from a municipal board or commission.

Under the act, the person, firm, or corporation owning a qualified property may proceed without seeking or obtaining additional municipal board or commission approval only if the property:

1. was damaged or destroyed by an act of nature occurring between August 25 through September 14, 2011 (including Hurricane Irene) and
2. has the same dimensions and specifications as those allowed under the previously approved permits or authorizations.

The act specifies that such an ordinance applies regardless of state laws. But, it does not waive or eliminate coastal site plan review requirements, except for certain individual single-family homes. Presumably, this exception allows the ordinance to waive the coastal site plan review requirement for single-family homes that cannot receive a waiver under state law, which are those (1) within 100 feet of a coastal resource, such as tidal wetlands, beaches, and dunes or (2) on an island not connected to the mainland by an existing road bridge or causeway (CGS § 22a-109(b)(4)).

In addition, under the act, any rebuilt or repaired structure must comply with current state building, fire, and health codes.

§ 18 — MANUFACTURING REINVESTMENT ACCOUNTS

The act doubles the limit, from 50 to 100, on the number of small manufacturing companies that DECD may select to participate in the Manufacturing Reinvestment Account (MRA) program. For income years starting on or after January 1, 2012, it also doubles, from \$50,000 to \$100,000, the maximum annual amount a company may deposit in an MRA.

The MRA program allows qualifying manufacturers with 50 or fewer employees to deposit 100% of their domestic gross receipts up to the maximum amount each year for five years in an interest-bearing MRA to save for (1) training, developing, or expanding their workforce or (2) purchasing machinery, equipment, or facilities. Under the program, corporate or personal income taxes on the MRA funds are deferred until the company withdraws them for an eligible purpose, and the tax rate on the money withdrawn is 3.5% regardless of the regular corporate or personal income tax that would otherwise apply.

§§ 19-22 – JOB EXPANSION TAX CREDIT

New Tax Credit

Prior law authorized three tax credit programs for businesses that create new jobs. These are the jobs creation, qualified small business job creation, and vocational rehabilitation job creation tax credits. The act phases out these programs and replaces them with a new job expansion tax credit program, which provides a three-year tax credit against the insurance premium, corporation business, utility company, or personal income tax for businesses that create new jobs and hire certain Connecticut residents to fill them.

The act subjects the job expansion credits to the same aggregate \$20-million-per-year cap that previously applied to the three existing tax credit programs. Businesses claiming a job expansion tax credit for a new hire cannot count the employee toward other credits the law allows.

Credit Amount

The job expansion credit is \$500 per month for each new employee that lives in Connecticut or \$900 per month if, at the time of hiring, the new employee is:

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

Eligible Companies and Jobs

A business qualifies for the credit only for jobs it creates between January 1, 2012 and January 1, 2014. To be eligible, the business must (1) have been in business for 12 consecutive months prior to its credit application and (2) be subject to any of the taxes to which the credit applies. In addition, the job to which the credit applies must (1) not have existed in Connecticut before the application and (2) be filled by an eligible employee.

Businesses with 50 or fewer employees qualify for the credit if they create at least one new job; those with 51 to 100 employees, if they create at least five; and those with more than 100 employees, at least 10. The number of full-time employees the business employs in Connecticut on the date it applies for the credit (1) must be used to determine the number it must hire to qualify for the credit and (2) applies for the credit certificate's duration.

The job must require a new employee to work at least (1) 35 hours per week for at least 48 weeks per calendar year or (2) 20 hours per week for at least 48 weeks per calendar year if the employee is receiving vocational rehabilitation services. Temporary or seasonal jobs do not count.

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, or
3. no longer works for the business at the end of its income year.

An employee worked for a related business if:

1. the business where he formerly worked controls the business that subsequently hired him,
2. the business that hired him controls the business where he previously worked,
3. the business where he worked 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.

A company is considered to be "controlled" by someone if the person directly or indirectly owns more than 50% of the combined voting power of all classes of its stock. In the case of a trust, control means owning 50% or more of the beneficial interest of the trust's principal or income. Ownership is defined as in federal income tax law.

Application and Approval Procedure

To claim the credits, businesses must apply to DECD 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 NAICS code; specify the number of people employed as of the application date; and, if applicable, identify the new hire's name and job title or classification. The DECD commissioner must consult with the labor or veterans' affairs commissioners or BRS director, as she deems necessary, to verify an employee's unemployment compensation, military service, or receipt of vocational rehabilitation services, respectively. The commissioner may charge an application fee as she deems appropriate.

Claiming Credits

The DECD commissioner must act on each completed application within 30 days of receiving it. If she approves the application, she must issue the

certification letter indicating that the business may claim the credit if the business and new employee 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.

Businesses can apply the credits against the insurance premium, corporation business, utility company, or personal income tax, but not the withholding tax. The business must claim the credit in 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 remains employed in those years. The credit cannot exceed the total tax due. Unused credits expire and cannot be refunded.

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

Changes to Existing Job Creation Tax Credit Programs

The act sunsets the jobs creation and vocational rehabilitation tax credit programs on December 31, 2011 to coincide with the eligibility period for the job expansion credit. By law, unchanged by the act, the qualified small business tax credit sunsets on December 31, 2012. Under the act, any business issued a certification letter before (1) January 1, 2012 for the jobs creation and vocational rehabilitation tax credits and (2) January 1, 2013 for the qualified small business job creation tax credits is subject to that respective program's requirements for the certificate's duration.

Table 5 summarizes the program requirements and changes in each of the existing credit programs and the new job expansion credit program.

Table 5: Job Creation Tax Credit Programs
(Changes in *bold italics*)

<i>Credit Program</i>	<i>Applicable Taxes</i>	<i>Eligibility Criteria</i>	<i>Credit Amount</i>	<i>Credit Availability</i>
Jobs Creation Tax Credit (CGS § 12-217ii)	<ul style="list-style-type: none"> • Insurance Premium • Corporation • Utility Company 	Any business creating at least 10 new jobs	Five-year credit of up to 60% of the income tax deducted and withheld from new employee wages	<p><i>No eligibility certificates issued after December 31, 2011.</i></p> <p><i>Businesses cannot receive additional credits more than five years after the date they are first issued an eligibility certificate for the program.</i></p>
Small Business Jobs Creation Tax Credit (CGS § 12-217nn)	<ul style="list-style-type: none"> • Insurance Premium • Corporation • Personal Income 	Businesses with fewer than 50 employees in Connecticut that create new jobs filled by Connecticut residents	Three-year credit of \$200 per month per new employee	Employees hired between May 6, 2010 and January 1, 2013
Vocational Rehabilitation Job Creation Tax Credit (CGS § 12-217oo)	<ul style="list-style-type: none"> • Insurance Premium • Corporation • Personal Income 	Businesses hiring Connecticut residents with disabilities	Three-year credit of \$200 per month per new employee	<i>Employees hired between May 6, 2010 and January 1, 2012</i>
<i>Job Expansion Tax Credit</i>	<ul style="list-style-type: none"> • <i>Insurance Premium</i> • <i>Corporation</i> • <i>Utility Company</i> • <i>Personal Income</i> 	<p><i>Businesses with 50 or fewer employees creating at least one job; those between 51 and 100 employees, at least five; and those with more than 100, at least 10.</i></p> <p><i>Higher credit amount for businesses hiring Connecticut residents who are (1) receiving unemployment compensation, (2) unemployed after exhausting unemployment benefits, (3) current or past U.S. Armed Forces members, or (4) receiving services from the DSS' Bureau of Rehabilitative Services.</i></p>	<i>Three-year credit of \$500 per month per new employee or \$900 if the employee meets the specified criteria.</i>	<i>Employees hired between January 1, 2012 and January 1, 2014</i>

EFFECTIVE DATE: January 1, 2012, and applicable to income or tax years beginning on or after that date. Changes to the existing job creation tax credit programs are effective upon passage.

§ 23 — BUSINESS ENTITY TAX

Effective with tax years beginning on or after January 1, 2013, the act makes the \$250 business entity tax payable every other year rather than every year, effectively reducing the annual tax by 50%.

Under the act, the tax is payable annually through the 2012 tax year and every other year for subsequent tax years. Since payments are due the 15th day of the fourth month after the close of the applicable tax year or years, under the act, a business must pay:

1. \$250 by April 15, 2012 for the 2011 tax year,
2. \$250 by April 15, 2013 for the 2012 tax year,
3. \$250 by April 15, 2015 for the 2013 and 2014 tax years, and
4. \$250 by April 15 of every other year thereafter for the previous two tax years.

The business entity tax applies to foreign and domestic LLCs, limited liability partnerships (LLPs), limited partnerships (LPs), and S corporations that are required to register with the secretary of the state.

§§ 24-27 — BROWNFIELDS

Remediating and Marketing State-Owned Brownfields

The act requires DECD to identify, remediate, and market five geographically diverse state-owned contaminated properties (i.e., brownfields) for private development and authorizes \$20 million in GO bonds for these purposes. DECD must perform these tasks in consultation with DEEP.

The act requires DECD's Office of Brownfield Remediation and Development (OBRD) to market and promote the five brownfields by creating and maintaining a website exclusively for this purpose. It also requires OBRD to develop and implement a marketing campaign for the brownfields and the website.

Priority List

By January 1, 2012, DECD must develop a priority list of state-owned brownfields that could be remediated and marketed for private development. The act requires each state agency to identify any brownfields it owns in its five-year facility plan, which it must by law prepare and submit to OPM every even-numbered year. The act does not specify how DECD must obtain this information to develop the brownfields priority list.

DECD must develop the list by selecting brownfields that, at a minimum:

1. are economically viable,
2. have a predetermined end use,
3. can be developed in a way that is consistent with the State Plan of Conservation and Development,
4. are located in municipalities where the unemployment rate exceeds the state's average rate,
5. have access to transportation or other infrastructure,
6. require immediate environmental remediation, and
7. can be transferred to a private party without conflicting with any state law or process.

The act allows DECD to adopt additional selection criteria.

Soliciting Proposals

After DECD develops the priority list, it must solicit proposals from companies interested in purchasing a listed brownfield. The commissioner must (1) review each proposal, (2) match up to five brownfields with companies that submitted proposals, (3) clean up the selected properties and obtain all necessary permits, and (4) sell them to the selected businesses. DECD may also clean up one of the properties without identifying a specific commercial purchaser.

Transferring and Selling Brownfields

The act requires DECD to sell the brownfields to the businesses it selects for this purpose. However, it does not establish a procedure for (1) state agencies to convey a brownfield in its possession to DECD or (2) DECD to sell the five brownfields on the priority list. In addition, for purposes of selling the brownfields, the act exempts DECD from the law's procedure for disposing surplus state property (see BACKGROUND).

§ 28 — DECD PORTAL

The act authorizes up to \$1 million in GO bonds for the DECD to:

1. establish an electronic business portal,
2. brand the portal to reflect a statewide branding program developed at the governor's office's direction,
3. help enhance state and quasi-public agency websites linked to the portal, and
4. align the Connecticut Economic Resource Center's online business assistance technology platform to its portal.

§ 29 — ANGEL INVESTOR TAX CREDIT MINIMUM INVESTMENT

The act reduces, from \$100,000 to \$25,000, the minimum cash investment a taxpayer must make to qualify for the “angel investor” income tax credit.

The credit is available to taxpayers who invest in qualifying start-up, technology-based businesses in Connecticut (see BACKGROUND). The credit equals 25% of each cash investment, up to maximum of \$250,000 in total credits for a single investor. Aggregate new credits are limited to \$6 million per year in FY 11 through FY 13 and \$3 million in FY 14. No new credits may be reserved after July 1, 2014.

§§ 30-37 — WORKFORCE DEVELOPMENT

Report by Labor Commissioner (§ 30)

The act requires the labor commissioner to review (1) DOL’s current training programs and (2) use of manufacturing industry volunteers for training in manufacturing skills at the (a) vocational-technical (V-T) schools outside of regular school hours and (b) community-technical colleges. In doing so, the commissioner must consult with the DECD commissioner and representatives from (1) minority firms, (2) the community-technical colleges, (3) the V-T system, (4) organized labor, and (5) small manufacturing firms.

By January 1, 2012, the commissioner must report his findings to the governor and the Higher Education and Labor committees, along with recommendations on how state resources can be reallocated to meet the manufacturing industry’s current training needs.

Bonding (§§ 31-32)

The act authorizes up to \$20 million in GO bonds, \$10 million in FY 12 and \$10 million in FY 13, for the Board of Regents for Higher Education (BOR). It authorizes (1) \$1.1 million each year (\$2.2 million total) for expanding Asnuntuck Community College’s precision manufacturing program and (2) \$8.9 million each year (\$17.8 million total) to establish or expand manufacturing technology programs in three community-technical colleges. It does not specify the three colleges, but requires those chosen to demonstrate a commitment to precision manufacturing and an ability, through space and faculty, to establish or expand such programs.

Education Offerings (§ 33)

The act requires local and regional boards of education to inform middle and high school students and parents within their respective jurisdictions of the

availability of (1) vocational, technical, and technological education and training at V-T schools and (2) agricultural science and technology (vo-ag) education at vo-ag centers.

DECD Recommendations for V-T Role in Meeting Workforce Needs (§ 34)

By law, the Education, Higher Education, and Labor committees must meet annually, by November 30, with the V-T superintendent, the labor commissioner, and other appropriate people to consider information each official must submit to the committees by November 15 annually. The act requires the committees also to meet with the DECD commissioner by this date and requires the DECD commissioner to submit information on:

1. the department’s relationship with the V-T system and its coordinated efforts with the V-T system to collaborate with the business community,
2. (a) workforce training needs DECD identifies through its contact with businesses and (b) recommendations on how it and the V-T system can coordinate or improve efforts to address these needs,
3. the department’s efforts to use the V-T system in business assistance and economic development programs, and
4. anything else that the commissioner deems relevant.

Connecticut Career Certificate Programs (§§ 35-36)

The act expands the list of activities that can be considered unpaid worksite experiences in the Connecticut Career Certificate Program. By law, the education commissioner awards Connecticut Career Certificates to high school and postsecondary students who successfully complete school-to-career programs approved by the education and labor commissioners. The program must consist of school- and work-based instruction and activities that coordinate the two.

By law, certain employment activities may be unpaid if (1) the worksite experience is one that is generally not paid employment, such as community service, and (2) a written request for unpaid employment is approved by the labor and education commissioners. The act expands the activities that can be considered unpaid employment by (1) adding field trips as an activity that is generally not paid and (2) designating internships as generally unpaid.

CASE Study (§ 37)

The act requires the Office of Legislative Management to contract with the Connecticut Academy of Science and Engineering (CASE) to study strategies for evaluating the effectiveness of programs and resources for assuring the state's skilled workforce meets business and industry's current and future needs. CASE must (1) consult with DECD, DOL, and BOR and (2) report its findings, by January 1, 2013, to the Higher Education, Commerce, Education, and Labor committees.

§ 38 — "FIRST FIVE PLUS" PROGRAM

The act expands the First Five Program to allow the DECD commissioner to provide state assistance to up to five additional business development projects (for a total of 10) in FY 12. It retains the previous program's limit of five projects for FY 13. Under First Five Plus, as under First Five, business development projects qualify for funding if they promise to:

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

The First Five Plus Program has the same requirements, assistance options, and deadlines as the First Five Program. And, in addition to an existing authorized preference for "redevelopment" projects (those the commissioner believes can meet the program's jobs or investment criteria sooner), the act allows the commissioner to give a preference to out-of-state and international manufacturers and company headquarters relocating to Connecticut.

Finally, the act requires the commissioner to submit four, rather than three, reports on the program to the Commerce and the Finance, Revenue and Bonding committees. It adds a September 1, 2012 report to those due by January 1, 2012 and January 1 and September 1, 2013. The reports must identify the projects receiving assistance and the number of jobs they created, as well as describe how the projects affect the economy.

§§ 39-45 — AIRPORT DEVELOPMENT ZONES

PA 10-98 created a development zone around Bradley International Airport and extended enterprise zone property tax exemptions and corporation business tax credits to manufacturers and other specified businesses that develop or acquire property in the zone. This act allows the Connecticut Airport Authority (CAA) to establish additional airport development zones, on the DECD commissioner's recommendation. It requires the commissioner to recommend the creation

of such a zone if its economic development benefits outweigh the costs to the state and affected towns. The act extends enterprise zone benefits to businesses in these airport zones under current procedures for processing these benefits.

Unlike for facilities in enterprise zones, the act makes CAA, rather than DECD, the entity that determines whether a facility in an airport development zone, including the Bradley zone, qualifies for the tax benefits.

The act requires CAA to annually report on the zones to DECD.

Zone Designation

Under the act, CAA may establish airport development zones surrounding (1) any of the state's general aviation airports (Danielson, Groton/New London, Hartford Brainard, Waterbury-Oxford, and Windham airports) or (2) other airports within CAA's duty, power, and authority, as set forth in PA 11-84, the act creating CAA (see BACKGROUND). The zone must accord with the airport's master plan. A zone cannot include the land on which the airport operates (this includes any land that the state owns or controls). Several of the municipalities that contain these airports are distressed municipalities and, thus, manufacturing facilities located in them are already eligible for the tax benefits provided to firms located in airport development zones.

Before establishing an additional zone, CAA must receive a proposal from the DECD commissioner recommending a zone's creation.

DECD Commissioner's Proposal

The act requires the DECD commissioner to submit a proposal recommending an airport development zone to CAA if she determines that the economic development benefits of establishing a zone outweigh the expected costs to the state and affected municipalities. The proposal must be consistent with the State Plan of Conservation and Development.

At a minimum, a proposal for a new zone must identify:

1. the proposed zone's geographical scope, including all census blocks that the commissioner proposes be included in the zone;
2. the anticipated economic development benefits of establishing the zone, including the type of business and industry that will be developed and anticipated number of new jobs; and
3. the anticipated costs of establishing the zone.

CAA Response to Proposal

After receiving the DECD commissioner's proposal, CAA may modify the proposed zone's geographic scope. CAA may do so only if, in its discretion, doing so would improve the balance between the anticipated economic benefits and costs to the state and affected municipalities.

Under the act, approval of a new zone designation requires the majority vote of a quorum of CAA's members. CAA cannot approve a zone that extends beyond a two-mile radius around the airport without the legislature's approval. The zone is deemed established upon CAA's approval. Within five days of taking such a vote, CAA must report to the DECD commissioner, identifying all census blocks in the zone.

Eligible Business Facilities

For businesses located in airport development zones, including the Bradley zone, the act makes CAA, rather than DECD, the entity that determines whether the business qualifies for benefits, by transferring the authority to grant eligibility certificates from DECD to CAA. The act requires DECD to immediately forward to CAA any applications it receives concerning the eligibility of a facility located in an airport development zone, including an economic impact statement.

The act adds to the requirements for businesses in an airport development zone to qualify for benefits. Under existing law, among other criteria, DECD cannot issue an eligibility certificate to an applicant in the Bradley zone unless DECD determines that the applicant demonstrates an economic need and there is an economic benefit to the state. The act requires CAA to make the same determination, as well as determining that there would be no economic detriment to, or conflict with, an existing zone. CAA must also determine that the applicant (1) serves an airport-related function or (2) relies substantially on airport services.

By law, DECD must determine a facility's eligibility for a certificate in a reasonable period but may postpone its decision to verify that the facility will actually be built, expanded, substantially renovated, or acquired as the law requires. Once it makes a favorable finding, DECD must issue the applicant the certificate. The act does not appear to extend these provisions to facilities in airport development zones, where CAA reviews the certificate application.

For applicants denied eligibility, the act applies the same procedures for a reconsideration hearing before CAA that already apply for other applicants before DECD. The act also specifies that, as is the case for DECD, CAA's decision to issue or deny an eligibility certificate is final, and that the administrative procedure act does not apply (i.e., the applicant cannot appeal the

decision).

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 from an unrelated seller after it was idle for at least a year, although CAA may waive the idleness requirement in specified circumstances. (Under the enterprise zone program, DECD has the authority to waive the idleness requirement.)

The business qualifies for incentives if it uses the facility for manufacturing and certain 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.

By law, in the Bradley zone, warehousing and motor freight distribution facilities qualify for incentives, but only if they handle goods shipped by air. (Facilities located in an enterprise zone are not required to meet this condition to receive incentives.) Under the act, this provision continues to apply to the Bradley zone, but not to the new zones.

Under prior law, facilities housing business services, including information technology, also qualified for the incentives in the Bradley zone if the DECD commissioner determined they depend on or are directly related to the airport. Certain facilities are excluded, such as those housing car dealerships and retailers. Under the act, CAA in consultation with the DECD commissioner, rather than the DECD commissioner alone, determines whether business services qualify as being dependent on or directly related to the airport. Under the act, businesses qualify if, among the other requirements, they "may" depend on or directly relate to the airport.

By law, facilities in the enterprise zones that house a wide range of services qualify for the incentives. PA 11-140, §§ 13-18, expanded the enterprise zone benefits to more types of businesses and replaced references to an obsolete business classification code DECD uses to determine if a business qualifies for these tax and financial incentives under different programs.

Property Tax Exemptions

The act extends the enterprise zone tax exemptions for real and personal property to eligible businesses in airport development zones established by the act. The same exemptions already apply in the Bradley zone.

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, nonmanufacturing businesses developing or acquiring a facility in an airport development zone 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 state must reimburse the municipalities for half of the forgone revenue.

The enterprise zone program's administrative processes are used to administer the property tax exemptions and the state reimbursements, except, as explained above, the business must apply to CAA rather than DECD for a certificate certifying that the facility qualifies for the exemption. The business 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 is granted an extension as the law allows.

To receive reimbursements, a municipality must submit its claims to the 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 also extends the enterprise zone's corporation business tax credits to newly created airport development zones. The same credits apply in the Bradley zone. 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 qualify for the credit under similar terms and conditions as businesses in the enterprise zone, except eligibility determinations are made by CAA, not DECD, as explained above.

Reporting and Assessment

Under the act, CAA must report annually, beginning October 1, 2012, to the DECD commissioner on any airport development zones. The report must include at least the following:

1. information regarding (a) traffic in and around airports that are part of a zone, (b) the zone's impacts on airport usage, and (c) impacts on employment within the airport and businesses located at the airport and
2. recommendations for (a) any necessary changes to an existing zone and (b) additional zones.

The act requires DECD to include information on the airport development zones it authorizes in its annual report. The report must summarize the costs and benefits for each zone and recommend any statutory changes. DECD must develop the recommendations in consultation with CAA (§ 3).

§ 46 — ADDITIONAL FUNDS FOR FIX-IT-FIRST BRIDGE PROGRAM

The act authorizes up to \$50 million in additional special tax obligation (STO) bonds for FY 12 for DOT's Fix-It-First Bridge Program. PA 11-57 already authorized up to \$66.15 million in STO bonds for FY 12 and \$64.129 million for FY 13 for the program.

§ 47— MANUFACTURING ASSISTANCE ACT BONDING

The act increases the GO bond authorization to DECD for the Manufacturing Assistance Act (MAA) by up to \$340 million, from \$40 million annually in FY 12 and FY 13 to \$140 million in FY 12 and \$280 million in FY 13.

The act reserves a total of \$60 million of the authorized funds for small business development, \$20 million in FY 12 and \$40 million in FY 13. If any of the reserved amounts remain at the end of the respective fiscal years, it becomes available for general MAA purposes. For purposes of the reserved amounts, the act defines a "small business" as one with no more than 50 employees.

§ 48 — URBAN REINVESTMENT ACT TAX CREDITS

The act reduces the aggregate amount of business tax credits available under the Urban and Industrial Site Reinvestment Program by \$100 million from \$750 million to \$650 million.

The program uses credits to stimulate new development in economically distressed towns and redevelop environmentally contaminated sites. The tax

credits a business can claim depend on the projected amount of state tax revenue, and in some cases local tax revenue, the completed facility will generate. No business may receive more than \$100 million in credits.

§§ 49 & 50 – BOILER REPLACEMENT PROGRAM

The act authorizes \$5 million in GO bonds per year for FY 12 and FY 13 to DEEP for an energy efficiency boiler program for nonprofit organizations and housing authorities that own their own buildings. The housing authorities must use the funds for dwelling units they own. The Fuel Oil Conservation Board administers the program, which must provide funds for replacing boilers and furnaces or upgrading and repairing existing units to meet the same standards as replacements.

The act requires the DEEP commissioner and the board to conclude an agreement for the purchase and installation of the replacement units or repair or upgrades of existing equipment. The replacements must have electronically commutated blower motors, an efficiency rating of at least 86%, and either a thermal purge or temperature reset controls. Existing boilers that can achieve an efficiency rating of at least 75% with repairs or upgrades must be repaired or upgraded rather than replaced.

The act requires the Connecticut Housing Finance Authority to provide a list of housing authorities that use oil furnaces or boilers for heating by December 1, 2011, to the DEEP commissioner.

By January 1, 2012, the commissioner, in conjunction with the board, must (1) develop a process for identifying and notifying eligible nonprofit organizations and housing authorities about the program and (2) establish an application process. They must start making preliminary eligibility determinations by January 1, 2012.

Nonprofit organizations and housing authorities applying for the program must simultaneously sign up for and accept the services of the Connecticut Energy Efficiency Board’s (CEEB) weatherization programs.

The act requires the Fuel Oil Conservation Board, in conjunction with CEEB, to establish criteria for determining:

1. the condition of the boilers and furnaces,
2. whether they are inoperable or unsafe or are less than 65% efficient,
3. if the unit is inoperable or unsafe and requires replacement, and
4. whether it is more cost-effective to switch to natural gas heating based on a five-year payback.

If it is not cost-effective to switch or no pipeline is available, the boards can choose to replace the applicant’s oil tank. If the boards decide on natural gas, the replacement gas furnace must be at least 95%, and

the gas boiler at least a 90%, efficient.

The Fuel Oil Conservation Board must act on applications in the order it receives them unless there is an emergency in which the nonprofit or housing authority has no heat or the equipment is unsafe or inoperable. The board must issue a request for proposal (RFP) for the units needed for the program.

§ 51 – FUEL OIL CONSERVATION BOARD

The act reduces the size of the Fuel Oil Conservation Board from 13 to 12 members and makes the revamped board the successor to the previous board (the board briefly went out of existence before it was reestablished by PA 11-80). It specifies that the DEEP commissioner or his designee serves as its chair and must convene its meetings.

The act modifies the board’s membership, as described in Table 6. In most cases, it changes who appoints representatives of various stakeholder groups to the board. Under prior law, the governor appointed six members of the public representing various interest groups. The act reduces the number of gubernatorial appointments to five and eliminates the requirement that all of these members have expertise in energy issues.

The act requires that all appointments be made within 30 days of its effective date. It requires that each appointing authority give the DEEP commissioner the appointee’s name and contact information.

Table 6: Fuel Oil Conservation Board Membership

<i>Appointing Authority</i>	<i>Prior Law</i>	<i>Act</i>
Senate President pro tempore	1 member representing fuel oil dealers selling more than 15 million gallons in the state	1 representative of retail heating oil dealers
House speaker	1 member representing fuel oil dealers selling less than 15 million gallons in the state	1 representative of the heating, ventilation, and air conditioning (HVAC) trades with experience in implementing energy efficiency systems
Senate majority leader	1 member representing the HVAC trades	1 representative of wholesale heating distributors
Senate minority leader	1 member representing a statewide environmental advocacy group	An in-state biodiesel distributor
House majority leader	A representative of wholesale heating distributors	1 member representing a statewide environmental advocacy group with expertise in energy efficiency measures

Table 6: Continued

<i>Appointing Authority</i>	<i>Prior Law</i>	<i>Act</i>
House minority leader	A member of a statewide retail oil dealer trade association	A retail heating oil dealer with experience in implementing energy conservation services
Governor	Six members representing specific interests	Five members, deleting the member representing biofuel distributors (appointed by the Senate minority leader instead)
Ex-officio	The chair of the Heating, Piping, Cooling, and Sheet Metal Work licensing board	The DEEP commissioner or his designee

§ 52 — CONNECTICUT INNOVATIONS, INC. RECAPITALIZATION

The act authorizes up to \$125 million in GO bonds over five years to recapitalize the programs offered by Connecticut Innovations, Inc. (CII). Up to \$25 million of the authorization is effective each year from FY 12 through FY 16.

The act reserves up to \$15 million for CII's existing "preseed" financing program, which provides capital and support services to businesses developing new concepts. By law, a business qualifies for up to \$150,000 in financing and technical support from the program if (1) it is principally located in Connecticut, (2) at least 75% of its employees work here, and (3) it has received private investments equal to at least half the state funds it seeks.

§§ 53-55 — FILM INDUSTRY TAX CREDITS

The act expands the types of qualified productions that are eligible for film production tax credits to include "relocated television productions." It defines a relocated television production as an eligible production company's ongoing television program that (1) has filmed all of its prior seasons outside Connecticut, (2) may include certain current events shows, and (3) is created at a qualified production facility that meets specified investment and job creation thresholds on or after January 1, 2012. Productions featuring current events were not previously eligible for film production tax credits.

The act expands the types of tax credits a taxpayer may use to reduce its insurance premium tax liability by up to 55% in 2011 and 2012 to include film production and infrastructure investment tax credits. Under prior law, the premium tax liability offset for such credits was 30% for 2011 and 2012.

The act also modifies how taxpayers holding film infrastructure tax credits may claim the credits.

Relocated Television Production (§ 53)

The act defines a relocated television production as an eligible production company's ongoing television program that:

1. has filmed all of its prior seasons outside Connecticut;
2. may include current event shows, other than a general news program, sporting event, or game broadcast; and
3. is created at a qualified production facility in Connecticut at which, on or after January 1, 2012, the eligible production company (a) makes a minimum investment of \$25 million and (b) creates at least 200 jobs.

The jobs the production company creates must (1) not have existed in Connecticut before January 1, 2012, (2) require at least 35 hours of work per week and not be temporary or seasonal, and (3) be filled by a new employee. An employee who worked for the production company outside of Connecticut prior to January 1, 2012 qualifies, but not an employee who worked in Connecticut for the production company or a related business during the previous 12 months.

A related business is one that:

1. controlled the production company that subsequently hired the employee;
2. is under the control of the production company that hired the employee,
3. is part of a larger business entity that also controls the production company that hires the employee, or
4. belongs to the same group of controlled businesses as the production company hiring the employee.

A relocated television production can be eligible for film production tax credits for a maximum of 10 successive income years, after which it is ineligible to reapply for certification.

Insurance Premium Tax Credit Limit (§ 54)

PA 11-61 classified insurance premium tax credits into three types and established three levels of maximum tax liability that an insurer can offset in calendar years 2011 and 2012 by claiming one of more of these credit types. The three credit types and the maximum tax reduction from each type are:

1. Type 1: digital animation credits, 55%
2. Type 2: insurance reinvestment fund credits, 70%
3. Type 3: all other credits, 30%

This act expands Type 1 to include film production and infrastructure investment tax credits, thus allowing an insurer to use these credits to reduce its 2011 and 2012 premium tax liability by up to 55% instead of 30%.

Claiming Film Infrastructure Investment Tax Credits (§ 55)

Prior law allowed taxpayers claiming film infrastructure tax credits to carry forward excess credits for three income years. The act allows taxpayers to claim all or part of these credits either in the income year in which the infrastructure investments were made or in any of the three immediately succeeding income years.

By law, unchanged by the act, taxpayers to which a film infrastructure tax credit has been sold or transferred may claim the credit only in the year in which the investments were made (CGS § 12-217kk(b)(3)).

§§ 56 - 73 – CAPTIVE INSURANCE COMPANIES

The act revises and expands PA 08-127, which permits a captive insurance company (“captive”) to be licensed and domiciled (have its principal place of business) in Connecticut. A captive is, in its simplest form, an insurance company that is (1) a wholly-owned subsidiary of another company and (2) whose primary function is to insure all or a part of its controlling company’s risks. PA 08-127 enumerates requirements for a captive’s formation, capital and surplus, local office presence, payment of certain fees and premium taxes, and annual reporting, among other things. (There are currently no captives domiciled in Connecticut.)

This act:

1. creates three new subgroups of captives that can do business in Connecticut (sponsored captive, special purpose financial captive, and branch captive) and expands the types of insurance a captive may transact in Connecticut;
2. establishes a reinsurance premium tax requirement (existing law already includes a premium tax on direct-written premiums);
3. requires 11% of all captive premium taxes (direct-written and reinsurance) to be transferred to the captive insurance regulatory and supervision account, which the act creates;
4. allows 2% of the premium taxes to be transferred to DECD to promote the captive industry;
5. establishes a \$7,500 nonrefundable tax credit for a captive’s first taxable year;
6. requires captives to pay sales tax and ad valorem property taxes;

7. authorizes the insurance commissioner to adopt implementing regulations; and
8. makes related changes.

Captive Insurers

By law, a captive insurance company may apply to the insurance commissioner for a license to do business in Connecticut. Under existing law, a captive domiciled in Connecticut can be set up as a pure captive, an association captive, an industrial insured captive, or a risk retention group (RRG). The act also allows a captive to be set up as a sponsored captive, special purpose financial captive (SPFC), or branch captive.

Sponsored Captive. Under the act, a sponsored captive is a captive:

1. for which one or more sponsors provides the minimum required capital and surplus,
2. formed and licensed under the act,
3. that insures its participants’ risks through separate participant contracts, and
4. that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from those of other protected cells and the captive’s general account. (A protected cell is a separate account for each participant.)

The act specifies that a RRG cannot be a sponsor or a participant of a sponsored captive. Associations, corporations, LLCs, partnerships, trusts, and other business entities may be participants in a sponsored captive.

Special Purpose Financial Captive. Under the act, an SPFC is a company that is licensed in accordance with the act’s provisions. It appears that an SPFC can transact reinsurance and insurance securitizations. An insurance securitization is a transaction, including capital market offerings, that is effected through risk transfer instruments and facilitating administrative agreements. The transaction is used to fund a SPFC’s obligations under a reinsurance contract.

Branch Captive. Under the act, a branch captive is any alien captive insurance company the commissioner licenses to transact insurance business in Connecticut through a business unit with its principal place of business here. An alien captive is a company formed under the jurisdiction of a foreign country.

Type of Insurance

The act expands the types of insurance a captive may transact in Connecticut. Under prior law, a captive could transact life insurance, annuity, health insurance, and commercial risk insurance business. The act instead allows a captive to transact any form of insurance not disapproved by the insurance commissioner or

otherwise prohibited. The act also authorizes captives to provide excess workers' compensation insurance to its parent and affiliated companies and to reinsure the workers' compensation risks of a qualified self-insured plan of its parent and affiliated companies, unless prohibited by law. By law, captives cannot write auto or homeowners' insurance coverage.

Miscellaneous Requirements

By law, a captive domiciled in Connecticut must (1) hold at least one meeting in Connecticut each year, (2) maintain its principal place of business here, and (3) appoint a registered agent to accept service of process and otherwise act on its behalf here. Whenever the registered agent cannot with reasonable diligence be found at the captive's registered office, the insurance commissioner is the agent upon whom service may be made.

License Application

By law, a captive cannot engage in any insurance business in Connecticut until it obtains a license from the Insurance Department. To request a license, a captive must send the insurance commissioner (1) organizational documents; (2) a financial condition statement; and (3) a coverage description, including deductibles, limits, and rates. Each applicant captive must maintain capital and surplus in specified amounts and give the commissioner evidence of (1) asset liquidity relative to its assumed risk; (2) adequate management expertise, experience, and character; (3) a sound operation plan; and (4) the adequacy of its insureds' loss prevention program.

Special Purpose Financial Captive. The act requires an SPFC applicant to file additional information with its license application. For example, an SPFC must include, with its plan of operation, (1) a complete description of all significant transactions (e.g., reinsurance, reinsurance security arrangements, and securitizations) and all parties involved in issuing securities; (2) the source and form of its capital and surplus; (3) its proposed investment policy; (4) a description of its underwriting, reporting, and claims payment methods; (5) balance sheets and income statements illustrating adverse case scenarios; and (6) its proposed rate and method for discounting reserves, if applicable.

An SPFC applicant must also submit an affidavit from its president, vice president, treasurer, or chief financial officer stating that, to his or her best knowledge and belief, the (1) proposed organization complies with all applicable provisions of Connecticut's captive insurance law and (2) company's investment policy reflects the liquidity of assets and reasonable

management of such assets.

An SPFC applicant must also include with its application a qualified legal counsel's opinion that the company's offer and sale of securities complies with federal and state securities laws.

Sponsored Captive. The act requires a sponsored captive applicant to file additional information with its license application. For example, a sponsored captive applicant must also file with the commissioner (1) a statement acknowledging that all its financial records will be available for the commissioner's examination, (2) all contracts or sample contracts between the company and its participants, and (3) evidence that expenses will be allocated fairly among its protected cells (i.e., each separate account that a sponsored captive maintains for each participant).

Under the act, a sponsored captive may apply to be an SPFC. Such a company must comply with the provisions applicable to both a sponsored captive and an SPFC. If there is a conflict between those provisions, then the provisions that apply to an SPFC control.

Confidentiality of License Application

By law, the information a license applicant provides is confidential and can be made public only with the applicant's consent, with two exceptions. The information is discoverable in a civil action in which the company is a party if it is relevant and necessary to the case; unavailable elsewhere; and, for non-RRG captives, is the subject of a subpoena that a judicial or administrative judge issues. The commissioner can also give the information to insurance regulation officials in another state if the other state's (1) officials agree in writing to keep the information confidential and (2) laws require confidentiality.

License Application Fee

By law, a captive applicant must pay the commissioner an \$800 captive license application fee. The insurance commissioner may retain legal, financial, and examination services at the captive's expense. The act specifies that the services are for the licensing and financial oversight of captives.

License Issuance

In general, if the commissioner finds that the application complies with applicable law, he may issue a license to the captive, which must pay a \$375 initial license fee. The license expires on the next April 1, and the captive can renew it annually by paying a \$375 renewal fee.

Under the act, the commissioner may only issue a license to an SPFC to do reinsurance if he finds that the (1) proposed plan of operation provides for a reasonable

and expected successful operation and is not hazardous to any ceding insurer, (2) terms of the reinsurance contract comply with the act's provisions, and (3) the insurance regulator of each ceding insurer's state of domicile has approved the transaction.

The act prohibits the commissioner from issuing a license to a branch captive unless the related alien captive grants him the authority to examine the alien captive in the jurisdiction in which it is formed.

Capital and Surplus

The law specifies the amount of unimpaired capital and surplus a captive must maintain as a condition of licensure. The act reduces, from \$750,000 to \$500,000, the minimum amount an association captive must maintain. It requires a sponsored captive to maintain at least \$500,000. It requires an SPFC to maintain at least \$250,000. But it requires a sponsored captive licensed as an SPFC to maintain at least \$500,000.

The act requires a branch captive to maintain at least \$250,000. And, reserves on a branch captive's insurance or reinsurance policies may be issued or assumed through its branch operations (i.e., its business operations in Connecticut).

Table 7 shows the capital and surplus requirements by type of captive.

Table 7: Capital and Surplus Requirements for Captives

<i>Captive Type</i>	<i>Minimum Capital and Surplus</i>
Pure captive	\$250,000
Association captive	\$500,000 (\$750,000 under prior law)
Industrial insured captive	\$500,000
Risk retention group	\$1 million
Sponsored captive (new)	\$500,000
Special purpose financial captive (new)	\$250,000
Sponsored captive licensed as a special purpose financial captive (new)	\$500,000
Branch captive (new)	\$250,000

By law, the commissioner may adopt regulations to establish additional capital and surplus requirements based on the type, volume, and nature of insurance business transaction.

Dividends or Other Distributions

By law, a captive may not pay dividends from, or other distributions with respect to, capital or surplus without the commissioner's prior approval. His approval of an ongoing distribution plan must be conditioned on the captive keeping capital and surplus levels above those approved.

The act prohibits an SPFC from declaring or paying a dividend or distribution if it would jeopardize the company's ability to fulfill its obligations under its securitization agreements, reinsurance contracts, or related transactions.

Incorporation and Formation

By law, a pure captive can form as a stock insurer, nonprofit corporation, or a manager-managed LLC. An association captive, industrial insured captive, or RRG can be an LLC, a stock or reciprocal insurer, or a mutual corporation.

Under the act, a sponsored captive must form as a stock insurer, a mutual corporation, a nonprofit corporation, or a manager-managed LLC. One or more sponsors (e.g., an association, corporation, LLC, partnership, or trust) may apply to form a sponsored captive. An RRG cannot be a sponsor or a participant of a sponsored captive.

Under the act, an SPFC can form as a stock insurer or a manager-managed LLC. An SPFC can reinsure risks of a ceding insurer (i.e., an insurer that transfers its risks to the SPFC) and purchase reinsurance with the commissioner's prior approval. A captive that is, or will be, engaged in an insurance securitization on or after July 1, 2012, is deemed to be an SPFC. The commissioner may require that captive to come into compliance with all applicable SPFC requirements.

The act permits a branch captive in Connecticut to write only insurance or reinsurance of the employee benefit business of its parent and affiliated companies that are subject to the federal Employee Retirement Income Security Act (ERISA).

By law, a captive must have at least three incorporators or organizers, at least one of whom must be a Connecticut resident.

Certificate of General Good

By law, a captive formed as a corporation, reciprocal insurer, or LLC must ask the insurance commissioner for a certificate finding that the proposed company will promote the state's general good. To make this finding, the commissioner must consider (1) each incorporator's character, reputation, financial standing, and purposes; (2) each officer's and director's character, reputation, financial responsibility, insurance experience, and business qualifications; and (3) other things he deems advisable.

By law, a captive formed as a corporation must give this certificate, along with its articles of incorporation and organization fee, to the secretary of the state. The law does not specify what a reciprocal insurer or LLC needs to do with its certificate. But an LLC must request a certificate before filing articles of

incorporation with the secretary of the state.

Under the act, in the case of a branch captive, the alien captive must petition the insurance commissioner to issue a certificate finding that licensing and maintaining branch operations will promote the general good of the state. The alien captive may register to do business in Connecticut after the commissioner's certificate is issued. In deciding to issue the certificate, the commissioner must consider the character, reputation, financial responsibility, insurance expertise, and business qualifications of the officers and directors of the alien company.

Annual Financial Report

Prior law required a captive to give the insurance commissioner an annual financial report by March 1. For pure captives and industrial insured captives, the act delays the due date to March 15. The pure or industrial insured captive may ask in writing for the commissioner's approval to file the report at the end of its fiscal year instead of by March 15. If he agrees, the report is due within 75 days after the fiscal year ends, up from 60 days under prior law.

Special Purpose Financial Captive. The act requires the commissioner to establish an SPFC's annual report form and content. An SPFC must report using statutory accounting principles, unless the commissioner requires or approves the use of generally accepted accounting principles or another comprehensive basis of accounting. An SPFC may ask in writing for the commissioner's approval to file its report at the end of its fiscal year.

Branch Captive. The act requires a branch captive to give the commissioner, by March 1 annually, a copy of all reports and statements that must be filed under the laws of the alien captive's jurisdiction. Two executive directors must verify the reports and statements by oath. If the commissioner determines that these provide adequate information concerning the alien captive, he may waive the requirement to complete a separate annual financial report. A branch captive may ask in writing for the commissioner's approval to file the reports and statements at the end of its fiscal year. If the commissioner agrees, the reports and statements are due within 60 days after the end of the fiscal year.

Examinations

Under prior law, the commissioner or his designee had to visit and examine each captive at least once every five years or more often as he deems prudent. The act accelerates the examination frequency to at least once every three years or more often as he deems prudent. But, it also allows the commissioner to reduce the frequency to once every five years if the captive

undergoes a comprehensive annual audit by independent auditors approved by the commissioner.

Under the act, an examination of a branch captive is of the branch business and branch operations located in Connecticut, provided the branch captive annually gives the commissioner a certificate of compliance from the jurisdiction in which it is formed and demonstrates to the commissioner's satisfaction that it is operating in sound financial condition in accordance with that jurisdiction's applicable laws and regulations.

License Suspension or Revocation

By law, the commissioner may, for cause, (1) suspend, revoke, or refuse to renew a captive's license or (2) in addition to, or instead of, license suspension or revocation and after notice and hearing, fine the captive up to \$10,000. Under the act "for cause" includes:

1. insolvency or impairment of capital or surplus;
2. not maintaining the required amount of capital or surplus;
3. not submitting an annual financial or other lawfully required report;
4. not complying with its charter, bylaws, or other organizational document;
5. not submitting to or paying for examination;
6. using methods that render its operation detrimental or its condition unsound to the public or its policyholders; or
7. not complying with Connecticut's laws.

Under the act, the commissioner must notify an SPFC at least 30 days before suspending, revoking, or refusing to renew its license. The notice must include the basis for the action and the hearing date. But no prior notice or hearing is required if the reason for the action relates primarily to the company's financial condition or soundness or a deficiency in its assets. Further, the commissioner may amend or modify an SPFC's license only (1) with the SPFC's consent or (2) if the commissioner has clear and convincing evidence that the change is necessary to avoid irreparable harm to the SPFC or the ceding insurer.

Taxes and Tax Credit

Premium Tax. Under prior law, a captive had to pay premium taxes on its direct-written premiums to the revenue services commissioner annually in February. The act specifies that the taxes are due by March 1 annually.

The act adds a reinsurance premium tax requirement. In addition to paying taxes on its direct-written premiums, a captive must pay the revenue services commissioner, in March annually, a tax on its assumed reinsurance premium. The reinsurance premium tax does not apply to premiums subject to

taxation on a direct-written basis. The reinsurance premium tax owed is 0.214% of the first \$20 million of assumed reinsurance premium, plus 0.143% of the next \$20 million, 0.048% of the next \$20 million, and 0.024% of each additional dollar.

Under the act, the annual minimum aggregate tax paid by a captive (other than a sponsored captive) is \$7,500 and the annual maximum aggregate tax is \$200,000. For a branch captive, the annual aggregate tax applies only to the branch business of the captive transacted in Connecticut. For a sponsored captive, the annual minimum aggregate tax is \$7,500 and applies to the company as a whole, not to each protected cell. A sponsored captive's annual maximum aggregate tax is the aggregate tax liability on the direct-written premiums of each protected cell.

Tax Credit. Under the act, a captive licensed on or after January 1, 2012 will receive a nonrefundable tax credit of \$7,500 for its first taxable year. The revenue services commissioner must prescribe the form and manner for claiming the credit.

Sales and Property Tax. Under prior law, the state could not levy any tax against a captive except premium and property taxes. The act instead allows the state to levy premium, sales and use, and ad valorem property taxes against captives.

Captive Insurance Regulatory and Supervision Account

The act establishes the captive insurance regulatory and supervision account as a separate, nonlapsing account within the Insurance Fund for the Insurance Department's use to regulate captives.

The department must deposit all fees and assessments relating to captives in this account. The comptroller must also annually transfer 11% of total captive premium taxes collected to the account. The comptroller may, with the OPM secretary's approval, transfer up to 2% of the total premium taxes collected to DECD to use in promoting Connecticut's captive industry.

Payments cannot be made from the account "for the maintenance of staff or associated expenses, including contractual services as necessary" until the insurance commissioner receives proper documentation regarding the services rendered and expenses incurred. The commissioner must establish the form and manner of such documentation.

Any balance remaining in the account at the fiscal year end is carried forward in the account for the next fiscal year.

Other Applicable Laws

By law, other specified insurance statutes apply to captives. The act adds the following to the list of

applicable statutes:

1. CGS § 38a-8 (duties of the insurance commissioner),
2. CGS § 38a-73 (stock insurer's limitation on risks), and
3. CGS §§ 38a-129 to 38a-140 (acquisition of controlling interest).

Mergers

By law, state laws concerning mergers, consolidations, and conversions that apply to insurers generally also apply to captives. Under the act, the commissioner may permit a captive to form for the sole purpose of merging with an existing captive.

Additional Provisions Applicable to Sponsored Captives

Each sponsored captive may:

1. establish and maintain one or more protected cells, subject to specified conditions;
2. combine the assets of two or more protected cells for investment purposes;
3. establish and maintain one or more protected cells as a separate corporation or LLC; and
4. establish and maintain a protected cell as an incorporated protected cell.

Except as otherwise specified in the act, Chapter 704c of the general statutes, pertaining to administrative supervision and the conservation, rehabilitation, and liquidation of an insurer, also applies to sponsored captives. But, if a sponsored captive becomes insolvent and the commissioner determines that one or more protected cells remain solvent, he may separate those cells from the company and, on a sponsor's application, convert the cells into one or more new captives.

In general, a protected cell's assets cannot be used to pay any expenses or claims other than its own. A sponsored captive's capital and surplus must be available at all times to pay any expenses of or claims against it.

Additional Provisions Applicable to SPFCs

The act specifies numerous additional provisions applicable to SPFCs. For example, an SPFC must give the commissioner a copy of an insurance securitization's complete set of executed documentation within 30 days after the closing on the transaction.

Any change in the SPFC's plan of operation requires the commissioner's prior approval. An SPFC's transactions require the commissioner's prior approval in specified instances. An SPFC must give the commissioner prior notice of any change in the legal ownership of any security it issued.

The act specifies that an SPFC's security is not regulated as an insurance or reinsurance contract.

Unless previously approved by the commissioner, an SPFC cannot assume or retain exposure to insurance or reinsurance losses for its own account that are not funded by:

1. proceeds from an SPFC securitization, letters of credit, or other allowed assets;
2. premium and other amounts paid by the ceding insurer; and
3. any investment returns.

Under the act, an SPFC may enter into contracts and conduct other commercial activity related to reinsurance and securitization activities. An SPFC's assets must be preserved and administered to satisfy the SPFC's liabilities and obligations.

An SPFC's security offering memorandum or other document issued to prospective investors must disclose that all or part of the proceeds of the securitization will be used to fund the SPFC's obligations to the ceding insurer.

An SPFC is not subject to any investment restrictions, except:

1. an SPFC cannot make a loan to anyone other than those permitted under its plan of operation or as otherwise previously approved by the commissioner and
2. the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the SPFC unless the investment is otherwise approved in the plan of operation.

Unless previously approved by the commissioner, an SPFC must maintain its books and records in Connecticut and keep them available for examination until the commissioner approves their destruction. If the commissioner allows the SPFC to keep the books and records outside of Connecticut, the SPFC must keep a complete and true copy of them here.

Additional Provisions Applicable to Sponsored Captives Licensed as SPFCs

The act specifies numerous additional provisions applicable to a sponsored captive that is licensed as an SPFC. Among other things, unless previously approved by the commissioner, a participant in the captive must be a ceding insurer. Any change in a participant requires the commissioner's prior approval.

In connection with the conservation, rehabilitation, or liquidation of such a captive, the company must keep the assets and liabilities of a protected cell separate at all times from those of other protected cells.

When issuing a security, contract, or obligation, the captive must designate the related protected cell and include a disclosure that the holder of the security, contract, or obligation has no right or recourse against

the captive other than assets properly attributable to the designated cell.

The captive must attribute assets and liabilities to the protected cells and general account according to its approved plan of operation. It must attribute all insurance obligations, assets, and liabilities relating to a reinsurance contract to such protected cell.

Except as otherwise specified in the act, Chapter 704c of the general statutes, pertaining to administrative supervision and the conservation, rehabilitation, and liquidation of insurers, applies to sponsored captives licensed as SPFCs. The commissioner may petition the Superior Court to authorize him to conserve, rehabilitate, or liquidate such a captive or one of its protected cells on one or more of the following grounds:

1. embezzlement, wrongful sequestration, dissipation, or diversion of the captive's assets;
2. insolvency; or
3. that the holders of a majority in outstanding principal amount of each class of securities attributable to each particular protected cell request or consent to conservation, rehabilitation, or liquidation.

In the event of the captive's insolvency, if the commissioner determines that one or more protected cells remain solvent, he must separate those cells from the company and, on a sponsor's application, convert the cells into one or more new captives.

EFFECTIVE DATE: July 1, 2012. The tax provisions apply to calendar years beginning on or after January 1, 2012.

§§ 74-77 — DEPARTMENT OF CONSUMER PROTECTION (DCP) EXAMINING BOARD EFFICIENCY

DCP administers examining boards for the following occupations:

1. electrical work;
2. plumbing and piping work;
3. heating, piping, cooling, and sheet metal work;
4. elevator work;
5. fire protection sprinkler systems work; and
6. automotive glass and flat glass work.

The act sets a deadline by which these boards must hold certain hearings and changes their quorum requirement.

Under the act, when one of these boards holds a hearing or other action on a license application or renewal, it must do so no later than 30 days after the date the application or completed renewal application is submitted.

The act lowers the quorum for DCP's examining boards from a majority to 40% of the members. It also makes conforming changes.

§§ 78 & 79 — MAIN STREET INVESTMENT FUND

Bond Authorization and Grant Program

The act authorizes \$5 million per year in GO bonds for FY 12 and FY 13 for a nonlapsing General Fund account it establishes called the Main Street Investment Fund account. The OPM secretary must use the account to provide grants of up to \$500,000 to towns that either (1) have populations of 30,000 or less or (2) are eligible for the Small Town Economic Assistance Program. Towns must use the grants for eligible projects that develop or improve their commercial centers to (1) attract small business, (2) promote commercial viability, and (3) improve aesthetics and pedestrian access. To be eligible, a project must be part of a plan previously approved by the municipality's governing body.

Although municipalities must generally use the grants for improvements to municipal property, the act allows them to give one-time reimbursements of up to \$50,000 to any owner of private commercial property who makes eligible expenditures that directly support or enhance grant-funded projects. Maximum reimbursements are 50% for the first \$50,000 of eligible private expenditure and 25% for additional expenditures over \$50,000 but not over \$150,000.

Municipalities must apply to the OPM secretary for grants in the manner the secretary determines.

Eligible Municipal Projects

To award a grant, the OPM secretary must determine that a project advances a plan previously adopted by the municipality's governing body. Under the act, improvements or renovations advance a plan if the secretary determines they will contribute to the municipality's economic success, including, as examples:

1. façade or awning improvements;
2. sidewalk construction or improvements;
3. street lighting;
4. building renovation, including mixed commercial and residential uses;
5. landscaping and development of recreation areas and green space; or
6. bicycle paths.

Reimbursable Private Expenditures

Under the act, municipalities can reimburse private commercial property owners for cosmetic and structural improvements to building exteriors, signs, lighting, and landscaping visible from the street, including:

1. exterior painting or surface treatment,
2. decorative awnings,
3. window and door replacement and modification,
4. storefront enhancements,
5. irrigation,
6. streetscape,
7. outdoor patios and decks,
8. exterior wall or decorative post lighting, or
9. architectural features.

Municipalities may not use grant funds to reimburse private owners for:

1. renovations due solely to ordinary repair and maintenance;
2. improvements required to address health, safety, or housing code violations; or
3. nonpermanent structures, furnishings, or other amenities, or moveable equipment.

§§ 80-88 — PUBLIC-PRIVATE PARTNERSHIPS

The act authorizes state executive branch and quasi-public agencies to enter into an agreement with private entities to finance, design, construct, develop, operate, or maintain certain "facilities" (i.e., public-private partnership agreement). The agreement may authorize any combination of these functions for one or more facilities. Beginning October 27, 2011 and before January 1, 2015, the governor must approve up to five public-private partnership (P3) projects.

The act establishes eligibility criteria for P3 projects, requirements for their submission and approval, and required terms and conditions of the agreement between the agency and the private entity. It exempts P3s from (1) existing state contracting laws that generally (a) allow only the construction services and transportation commissioners to enter into most construction contracts costing more than \$500,000 and (b) require contractors to be prequalified to bid on such projects and (2) municipal property taxes on any property developed, operated, or held by a private entity pursuant to a partnership agreement. However, it requires any agency subject to the state law on privatization to comply with that law. It allows an agency or the state to apply for and accept federal or local funds to further the act's purposes and to fund P3s.

A "private entity" is an individual, corporation, general partnership, LP, LLP, joint venture, nonprofit organization, or other business entity. A "facility" is any public works or transportation project that generates revenue as public infrastructure.

Projects Eligible for Public-Private Partnerships (§ 80)

The design, construction, operation, or maintenance of the following new or existing projects may be considered P3s if they receive the governor's approval:

1. educational, health, early childcare, or housing facilities;
2. transportation systems, including ports, transit-oriented development, and related infrastructure; and
3. any other type of facility the legislature identifies or proposes as a project.

The agency must determine that the estimated revenue the facility will generate, together with other previously identified funding sources, will sufficiently fund the cost to develop, maintain, and operate it. State support of a partnership agreement cannot exceed 25% of the project's cost. Any P3 agreement to operate or maintain a facility must also provide for financing and developing it.

Agencies Seeking to Execute Public-Private Partnership Agreements (§ 81)

Any executive branch state agency or quasi-public agency may establish a P3 in that agency's jurisdiction. Each agency, in determining whether a proposed project is suitable for a P3 agreement, must analyze its feasibility, desirability, convenience to the public, and furtherance of public policy goals. An agency cannot include a project based solely on the revenue it generates and must specifically consider:

1. the facility's essential characteristics;
2. the projected demand for the facility and its economic and social impact on the community and the state;
3. the technical function and feasibility of the project, and its conformity with the State Plan of Conservation and Development;
4. the benefit to the agency's customers and the public;
5. a "value for money review and analysis;"
6. the project's operational or technological risk;
7. the project's cost and its economic and financial feasibility;
8. an analysis of public versus private financing on a present value basis and the project's eligibility for local or federal government funds;
9. the project's impact on state finances; and
10. the advantages or disadvantages of having the state agency or quasi-public agency continue to perform the function.

Interested agencies, after consulting with the construction services, DECDt, and DOT commissioners; state treasurer; and OPM secretary,

must submit their proposed P3 projects to the governor for approval and with copies to the Finance, Revenue and Bonding and Appropriations committees. The committees must hold a public hearing on any submissions they receive.

The act requires the governor, before January 1, 2015, to approve up to five projects as P3s and notify agencies when he approves their projects. The governor cannot approve a project unless he finds it will create jobs and economic growth. By January 15, 2013, and annually thereafter, the governor must give the legislature a status report on the P3s.

Prequalification of Private Entities (§ 82)

The act exempts public-private contractors from the law's prequalification requirements for contractors seeking to perform work on state construction projects, including highway and bridge projects. It instead requires an agency, when it determines appropriate, to provide for a prequalification process for private entities and authorizes them to charge a reasonable application fee.

If the agency elects to provide for a prequalification process, it must (1) include public notice of the process and prequalification requirements and criteria and (2) allow only prequalified entities to submit project proposals.

To prequalify, a private entity must meet the requirements in the P3 project's RFP, request for qualifications, or bid solicitation. In addition, it must:

1. have available lawful sources of funding, capital, securities, or other financial resources that, in the judgment of the agency and DECD, are needed to carry out the P3 project;
2. possess, either through its staff, subcontractors, a consortium, or joint venture agreement, the managerial, organizational, technical capacity, and experience for the type of project;
3. be qualified to do business in the state; and
4. certify that no director, officer, partner, owner, or other individual with direct and significant control over its policy has been convicted of corruption or fraud in any U.S. jurisdiction.

Competitive Procurement Process (§ 83)

Under the act, a state or quasi-public agency seeking to enter into a P3 must choose a contractor through a competitive procurement process. The agency must use, where appropriate, the competitive bidding or negotiation process. An agency may issue a request for information regarding potential P3s before beginning a competitive procurement process.

The agency must ensure that the bid specifications include a detailed description of the P3 project's scope

and the material terms and conditions applicable to the procurement and any resulting contract. It must notify the public of the invitation to bid, RFP, or request for information at least 30 days before the due date unless the agency determines, in writing, that a shorter time period is appropriate and will preserve the procurement's competitive nature. The agency must publish the evaluation and selection criteria and include a determination of which proposals best serve the act's public purposes.

The act permits executive branch and quasi-public agencies to pay a stipend to an unsuccessful proposer if the (1) agency cancels the procurement process less than 30 days before the bid or proposal is due or (2) proposer submits a proposal that is responsive and meets all the requirements established by the agency for the P3 project. The agency sets the amount, terms, and conditions of the stipend.

The act permits agencies and quasi-public agencies to require that the proposer grant the agency the right to use any work product, such as designs, processes, or technologies, (1) contained in any unsuccessful proposal or (2) developed before any procurement that is cancelled. All conditions for a stipend must be clearly set forth in the request for information, bid solicitation, RFP, or request for qualifications.

The act allows agencies and quasi-public agencies to contract with a private entity or another state agency to retain financial, legal, and other consultants and experts to assist in the procurement, evaluation, and negotiation of P3s and for the development of eligible facilities.

Partnership Agreement Terms and Conditions (§§ 84 & 86)

The partnership agreement must terminate within 50 years after it is executed. It must include the following terms and conditions:

1. a complete description of the facility to be developed and the functions it will perform;
2. the terms of the facility's financing, development, design, improvement, maintenance, operation, and administration, including the rights of the state, the contractor, or both, in any resulting revenue;
3. minimum quality standards applicable to the project for facility development, design, improvement, maintenance, operation, and administration, including performance criteria, incentives, and disincentives;
4. the contractor's compensation, including the extent to and the terms upon which a contractor may charge fees to individuals and entities for the facility's use, except that these fees cannot include highway tolls unless the legislature

- specifically approves them;
5. the furnishing of an annual independent audit report to the agency covering all aspects of the partnership agreement;
6. performance and payment bonds or other security that the agency deems suitable;
7. at least one public liability insurance policy in an amount that the agency determines will (a) cover tort liability for the public and the contractor's employees and (b) provide for the continued operation of the partnership project;
8. a reversion to the state upon conclusion or termination of the partnership agreement;
9. an agency's rights and remedies if the contractor or private entity materially breaches or materially defaults on the agreement;
10. the sources that will be used to fully fund the capital, operation, maintenance, or other expenses under the agreement; and
11. any other provision the agency deems appropriate.

The act bars an agreement from (1) waiving the state's sovereign immunity or granting it to a contractor or private entity and (2) including any noncompete provisions that limit the state's ability to perform its functions. It subjects agreements to the state's prevailing wage and set-aside laws and environmental policy requirements but does not explicitly subject these agreements to the Connecticut Environmental Policy Act (see BACKGROUND). In lieu of the prevailing wage, the act permits wages to be set through a project labor agreement. The agency must provide notification of which requirement applies before soliciting bids.

The act exempts the contractor from liability for the state's debts or obligations unless the contractor is liable under the terms of the agreement. It also subjects agreements to state and local permitting and inspection requirements and prohibits the contractor from charging user fees except as set forth in a partnership agreement.

The act requires any agency subject to the state law on privatization to comply with that law. Additionally, any agency that enters into a partnership agreement for the operation or maintenance of a state facility that meets the definition of a privatization contract must comply with the privatization law regardless of whether the services are currently privatized. By law, a privatization contract is generally an agreement or series of agreements between a state contracting agency and a person or entity for services that are substantially similar to, and in lieu of, services provided by state employees (see BACKGROUND).

Contractor's Material Default (§ 87)

In addition to other available remedies, the act authorizes the state to assume a contractor's

responsibilities and duties in the event of a material default by the contractor. In such a case, the state succeeds to all of the rights, title, and interest in the partnership, subject to any liens on revenues previously granted by the contractor to anyone providing financing.

If the state elects to take over a P3 project, the agency may develop or operate the project, impose user fees, impose and collect lease payments for its use, and comply with any service contracts as if it were the contractor. Any revenues subject to a lien must be collected for the benefit of and paid to secured parties to the extent needed to satisfy the contractor's obligations to them, including reserve maintenance. The liens must be correspondingly reduced and released when paid off.

Before making payments to or for the benefit of secured parties, the agency may use revenues to pay current operating and maintenance costs, including compensating itself for its services in doing so. The right to receive this payment, if any, is considered just compensation for the partnership project. The full faith and credit of the agency cannot be pledged to secure the contractor's financing by taking over the project. Assuming operation of the project does not obligate the agency to pay any of the contractor's obligations from sources other than revenues.

The act authorizes an agency with condemnation powers to exercise these to acquire the project in the event of a material default. Anyone who has provided financing for the project, and the contractor, to the extent of its capital investment, may take part in the condemnation proceedings with the standing of a property owner.

The agency may terminate, with cause, the partnership agreement and exercise any other rights and remedies available to it, and the state may make or cause to be made any appropriate claims under the maintenance, performance, or payment bonds, or lines of credit as provided in the agreement.

BACKGROUND

New York "Build Now-NY/Shovel Ready Certification Program" (§§ 6 & 9)

The New York Empire State Development agency certifies sites as "shovel ready" for the "Shovel Ready/Build Now-NY program," which was established in 1998. A "shovel ready" site is one in which a local developer works proactively with the state to address all major permitting issues before a business expresses interest in the location. This expedites the site's availability for development and reduces the time it takes to construct a project.

LEAN (§§ 10 & 11)

LEAN is a process improvement approach used by the public sector to improve efficiency in services and administrative processes. It is a customer-driven waste reduction technique that examines a current process, improves efficiency by decreasing processing time, produces a product or service internal and external customers demand, and initiates organizational change.

Wine Festival Permits (§ 16)

By law, a wine festival permit allows a farm winery manufacturer permittee to participate in a wine festival sponsored by (1) an association promoting the manufacture and sale of farm wine in Connecticut or (2) its not-for-profit subsidiary. A permit costs \$75 and is effective for no more than three consecutive days in a calendar year.

Coastal Site Plan Review (§ 17)

The Connecticut Coastal Management Act (CMA) requires towns, regardless of whether they have a coastal zone management program, to review coastal site plans for activities at least partially within coastal areas. Plans are submitted to the town's zoning board, planning commission, or zoning board of appeals, which must review and approve site plans in coastal areas for consistency with the act's policies.

Coastal site plans must comply with CMA policies and take into consideration DEEP comments. By law, DEEP may appeal municipal coastal site plan decisions to Superior Court.

Under CGS § 22a-109(b)(4), a municipal zoning commission may waive the coastal site plan review requirement for single-family homes, but not single-family homes (1) on an island not connected to the mainland by an existing road bridge or causeway or (2) within 100 feet of tidal wetlands, coastal bluffs, escarpments, or beaches and dunes.

Five-Year Facilities Plans (§§ 24-27)

By law, state agencies must prepare plans that identify their long-and short-term facility needs, opportunities for substituting state-owned space with leased space, facilities proposed for demolition or abandonment that have other potential uses, and space modifications or relocations that could reduce energy costs. OPM must include plans in an integrated state facility plan.

Surplus State Property (§§ 24-27)

CGS § 4b-21 governs the disposition of surplus state property. When a state agency determines that it has unneeded real property, it notifies OPM. Generally, after OPM declares a property to be surplus, the secretary must notify all state agencies about its availability and give them 90 days to submit a plan for using it. But the DECD commissioner has the right of first refusal to use the property for housing. The municipalities where the property is located are also notified (as are the local legislators) and may purchase the property at its fair market value. When DECD, the other state agencies, and the affected municipalities are not interested in acquiring the property, OPM conveys it to the Department of Public Works, which may sell, lease, or otherwise convey it on the open market.

CGS § 4b-47 requires state agencies to notify the Council on Environmental Quality, OPM, and DEEP before selling or transferring state land. It provides for public notice and comment, requires the DEEP commissioner to advise OPM about whether all or part of the land should be preserved, and specifies options for doing so. If DEEP recommends preservation, it must prepare a report explaining the reasons for its recommendation, publish it in the *Environmental Monitor*, and allow for a 30-day public comment period. After the OPM secretary receives DEEP recommendation, he must make a final decision about the land. He must publish that decision in the *Environmental Monitor* for at least 15 days before selling or transferring the land or interest in it.

Businesses That Qualify For Angel Investments (§ 29)

By law, 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 DECD commissioner. The business must also have:

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

In addition, its managers and their families must be its primary owners and CII. must identify the business as eligible for angel investment.

Connecticut Airport Authority (§§ 39-45)

PA 11-84 established CAA to develop, improve, and operate Bradley International Airport, the state's five other general aviation airports, and any other general aviation airports CAA subsequently owns, operates, and manages. The act authorized the DOT, which previously exercised most airport-related powers, duties, and functions, to transfer them to CAA, but DOT continues to exercise them until the transfer. The act automatically transferred to CAA the powers, duties, and functions previously assigned to other specified agencies. The act established an 11-member board to govern CAA.

Privatization (§ 86)

By law, if a state agency seeks to enter into a contract that privatizes services currently performed by state employees, it generally must conduct a cost-benefit analysis and submit to the State Contracting Standards Board a business case for the privatization contract. State contracting agencies may not solicit bids for privatization contracts unless the board approves the business case. If the contract is estimated to have an annual cost of more than \$150 million or a total cost of more than \$600 million, it must also be approved by the General Assembly before the agency solicits bids. Privatization contracts must be approved by a two-thirds vote of the board if (1) they involve core government functions or (2) the cost-benefit analysis identifies a cost savings of less than 10% to the state.

Not later than 30 days after a business case is approved, the collective bargaining agent of any employee adversely affected by the proposed privatization contract may file a motion for an order to show cause in Hartford Superior Court on the grounds that the contract fails to comply with the act's substantive or procedural requirements regarding privatization (CGS § 4e-16).

Connecticut Environmental Policy Act (CEPA) (§ 86)

CEPA (CGS § 22a-1b *et seq.*) identifies and evaluates the impact of proposed state actions that could significantly affect the environment. State departments, institutions, or agencies considering (or funding in whole or part) actions that may significantly affect the environment (including actions that could have a short-term disadvantage to long-term environmental goals) must prepare an Environmental Impact Evaluation (EIE) before deciding whether to undertake or approve such an action. The EIE must be submitted to various agencies and is open to public inspection and comment.

PA 11-2, October 2011 Special Session—SB 1401
Emergency Certification

**AN ACT ESTABLISHING THE CONNECTICUT
 BIOSCIENCE COLLABORATION PROGRAM**

SUMMARY: This act creates the Connecticut Bioscience Collaboration program within Connecticut Innovations, Inc. (CII) to support establishment of a bioscience cluster anchored by a research lab at the UConn Health Center. It requires the State Bond Commission to authorize up to \$290,685,000 in general obligation (GO) bonds, with the money going to a Connecticut Bioscience Collaboration Fund, administered by CII. The money must be used to fund the program and repay the bonds in amounts the State Bond Commission may require.

The act requires the State Bond Commission to approve a memorandum of understanding (MOU) between CII's board of directors and the state regarding the bonds. Under the act, once approved, the MOU satisfies the standard statutory bond commission requirements. Other bonding provisions consistent with the act's provisions apply.

The act requires CII to collaborate with a federally tax-exempt organization to develop, construct, and equip a research lab and office. The act authorizes the CII board to provide loans for this purpose and CII, at the board's direction, to (1) provide an annual operations, research, and development grant to the organization and (2) enter into venture agreements with the organization. The act requires the board to set the application process and guidelines and terms for these grants and loans. It must review and approve each application.

The act requires the CII board to (1) report quarterly to certain legislative committees on the program's operations and funding and (2) submit the program's operating and capital budget each fiscal year to the governor, Office of Policy and Management (OPM) secretary, and certain legislative committees.

EFFECTIVE DATE: Upon passage

BONDS

Under the act, the State Bond Commission must approve a MOU between the CII board and the state regarding the bond issuance, including the extent that federal, private, or other available funds should be added to the bond proceeds. The state must act through the OPM secretary and treasurer. The MOU satisfies the standard statutory bond commission requirements.

The act sets bond amounts for each year from FY 12 to FY 21, as displayed in Table 1.

Table 1: Annual Bond Authorizations under the Act

<i>FY</i>	<i>Bonding Amount</i>
2012	\$34,162,000
2013	85,113,000
2014	59,728,000
2015	19,669,000
2016	21,425,000
2017	21,108,000
2018	15,820,000
2019	12,525,000
2020	10,565,000
2021	10,570,000
Total	290,685,000

If the CII board does not provide for use of all or a portion of the authorized amount in a fiscal year, the act adds the unused amount to the following year's authorized amount. The act also allows the costs of issuance and any capitalized interest to be added to the authorized amount in each fiscal year.

LOANS, GRANTS, AND VENTURE AGREEMENTS

The act authorizes the CII board to provide loans to develop, construct, and equip a research lab and office. The board (1) must review and approve loan terms and conditions, (2) can require matching funds from private or non-state entities, (3) can allow deferred payments on loans, and (4) can forgive all or part of the loans based on its assessment of the organization's fulfillment of the loan's terms and conditions.

- The act also allows CII, at the board's direction, to:
1. provide an annual operations, research, and development grant to the organization for annual operating expenses and bioscience medical research, including research on stem cells, DNA, systems genomics, and genome-based medicine and
 2. enter into venture agreements with the organization on terms and conditions that benefit the state, organization, and private entities in the bioscience cluster.

FUND

The act requires CII to separately hold and administer the fund. The amounts authorized by the State Bond Commission are paid to CII for deposit in the fund. As with other bond authorizations, the act allows the treasurer to issue temporary notes in anticipation of the bond sale.

CII funds or revenues from investments or loan repayments under the program must be held, administered, and invested by CII or deposited with and invested by any institution designated by CII and paid as CII directs. All money in these accounts must be used for the program and CII can make payments from the accounts to the fund.

REPORTS

Beginning by April 15, 2012, the act requires the CII board to report quarterly to the Appropriations; Commerce; Finance, Revenue and Bonding; and Higher Education and Employment Advancement committees on the status and progress of the program's operations and funding.

The act requires the CII executive director to (1) prepare an operating and capital budget for the program each fiscal year and (2) submit it to the CII board 90 days before the fiscal year starts. It requires the board to submit a copy of the budget to the governor; OPM secretary; and the Appropriations; Commerce; Finance, Revenue and Bonding; and Higher Education and Employment Advancement committees.

AGRICULTURE

Farmland restoration programs established
 11-1 October SS 617

AIRPORTS

Development zones, authorized
 11-1 October SS 617

ARTS

Film industry tax credits, expanded
 11-1 October SS 617

AUTHORITIES

See Housing Authorities

BOARDS AND COMMISSIONS

Bond Commission, Bioscience Collaboration
 program memorandum of understanding
 approval
 11-2 October SS 644
 Connecticut Airport Authority, airport
 development zone establishment authority
 11-1 October SS 617

BONDS

Bond Commission, Bioscience Collaboration
 program memorandum of understanding
 approval
 11-2 October SS 644
 CII recapitalization, authorized
 11-1 October SS 617
 Electronic business portal, authorized
 11-1 October SS 617
 Fix-it-First bridge repair program, authorized
 11-1 October SS 617
 Main Street Investment Fund, authorized
 11-1 October SS 617
 Manufacturing Assistance Act, authorized
 11-1 October SS 617
 Workforce development programs, authorized
 11-1 October SS 617

BRIDGES

Fix-it-First repair program, bonds authorized
 11-1 October SS 617

BROWNFIELDS

See Hazardous Substances

BUSINESS

See also Manufacturers; Small Business

"First Five Program" expanded
 11-1 October SS617
 Airport development zones authorized
 11-1 October SS617
 Angel investor tax credits, minimum
 investment reduced
 11-1 October SS617
 Assistance programs, created/expanded
 11-1 October SS617
 Development zones authorized
 11-1 October SS617
 Electronic business portal, DECD
 development
 11-1 October SS617
 Entity tax, payment frequency modified
 11-1 October SS617
 Subsidized Training and Employment
 Program, created
 11-1 October SS617

CONNECTICUT INNOVATIONS, INC.

Connecticut Bioscience Collaboration
 program, created
 11-2 October SS644
 Recapitalization bonds authorized
 11-1 October SS617

CONSTRUCTION

State facilities, public-private partnerships
 allowed
 11-1 October SS617

CONSUMER PROTECTION, DEPT. OF

Licensing boards, application/renewal
 deadline established
 11-1 October SS617

CONTRACTS

State facilities, public-private partnerships
 authorized
 11-1 October SS617

CORPORATION BUSINESS TAX

Angel investor tax credits, minimum
 investment reduced
 11-1 October SS617
 Film industry credits, eligibility expanded
 11-1 October SS617
 Job creation tax credit programs, replaced
 11-1 October SS617

ECONOMIC AND COMMUNITY**DEVELOPMENT, DEPT. OF**

- "First Five Program" expanded
11-1 October SS 617
- Electronic business portal, development
11-1 October SS 617
- Small Business Express Program, created
11-1 October SS 617

ECONOMIC DEVELOPMENT

- "First Five Program" expanded
11-1 October SS 617
- Airport development zones authorized
11-1 October SS 617
- Assistance programs, created/expanded
11-1 October SS 617
- Brownfield remediation process acceleration,
state-owned property
11-1 October SS 617
- Connecticut Bioscience Collaboration
program, created
11-2 October SS 644
- Development zones authorized
11-1 October SS 617
- Film industry tax credits, expanded
11-1 October SS 617
- Job creation tax credit programs, replaced
11-1 October SS 617
- Main Street Investment Fund, created
11-1 October SS 617

ELECTRONIC COMMUNICATIONS

- Electronic business portal, development
11-1 October SS 617

ENERGY

- Furnace/boiler replacement program, housing
authorities/nonprofits
11-1 October SS 617

**ENERGY AND ENVIRONMENTAL
PROTECTION, DEPT. OF**

- Furnace/boiler replacement program
responsibilities, housing authorities/
nonprofits
11-1 October SS 617
- Permitting/enforcement process, study
11-1 October SS 617

ENVIRONMENTAL PROTECTION

- Brownfield remediation process acceleration,
state-owned property
11-1 October SS 617

GOVERNMENT PURCHASING

- State facilities, public-private partnerships
allowed
11-1 October SS 617

HAZARDOUS SUBSTANCES

- Brownfield remediation process acceleration,
state-owned property
11-1 October SS 617

HOUSING AUTHORITIES

- Furnace/boiler replacement program created
11-1 October SS 617

INSURANCE

- Captive insurers, establishment options
expanded
11-1 October SS 617

INVESTMENTS

- Angel investor tax credits, minimum
investment reduced
11-1 October SS 617

JOB TRAINING

- Assistance programs, created/expanded
11-1 October SS 617
- Small business, training subsidy
11-1 October SS 617

LABOR AND EMPLOYMENT*See also Job Training; Occupational**Licensing*

- "First Five Program" expanded
11-1 October SS 617
- Job creation tax credit programs, replaced
11-1 October SS 617
- Small business employment/training, subsidy
authorized
11-1 October SS 617
- Workforce development programs, bond
authorization
11-1 October SS 617

LABOR, DEPT. OF

- Subsidized Training and Employment
Program, created
11-1 October SS 617

MANUFACTURERS

- Grant programs created/expanded
11-1 October SS 617
- Manufacturing Reinvestment Account
program expanded
11-1 October SS 617

MEDIA

- Film industry tax credits, eligibility expanded
11-1 October SS 617

MEDICAL RESEARCH

- Connecticut Bioscience Collaboration
program, created
11-2 October SS 644

MUNICIPALITIES

- Main Street Investment Fund, created
11-1 October SS 617

NONPROFIT ORGANIZATIONS

- Furnace/boiler replacement program created
11-1 October SS 617

OCCUPATIONAL LICENSING

- DCP examining boards, application/renewal
deadline established
11-1 October SS 617

PROPERTY AND REAL ESTATE

See State Property

PROPERTY TAXES

- Airport development zones authorized
11-1 October SS 617

QUASI-PUBLIC AGENCIES

- Public-private partnerships authorized, state
facilities
11-1 October SS 617

SMALL BUSINESS

See also Business

- Employment/training, subsidy authorized
11-1 October SS 617
- Small Business Express Program, created
11-1 October SS 617

STATE AGENCIES

- Permitting/licensing/economic development
assistance applications, accelerated
processing
11-1 October SS617
- Public-private partnerships authorized, state
facilities
11-1 October SS617

STATE AID

- Economic/business grant programs created
11-1 October SS617
- Main Street Investment grants, authorized
11-1 October SS617
- Small Business Express Program, grants
authorized
11-1 October SS617
- Subsidized Training and Employment
Program, grants authorized
11-1 October SS617

STATE BUILDINGS

- Public-private partnerships authorized
11-1 October SS617

STATE FUNDS

- Connecticut Bioscience Collaboration,
created
11-2 October SS644
- Main Street Investment, established
11-1 October SS617
- Manufacturing Reinvestment Account,
programs expanded
11-1 October SS617

STATE PROPERTY

- Brownfields, accelerated remediation
process established
11-1 October SS617
- Facilities, public-private partnerships
authorized
11-1 October SS617

TAXATION

See also Corporation Business Tax; Property Taxes

- Business entity tax, payment frequency
modified
11-1 October SS617
- Film industry tax credits, expanded
11-1 October SS617

TRANSPORTATION, DEPT. OF

Fix-it-First bridge repair program, bonds
authorized
11-1 October SS 617

UNIVERSITY OF CONNECTICUT

Health Center, Connecticut Bioscience
Collaboration program created
11-2 October SS 644

11-1, October 2011 Special Session 617
11-2, October 2011 Special Session 644