
OLR Bill Analysis

SB 1239

Emergency Certification

***AN ACT CONCERNING THE BUDGET FOR THE BIENNIUM
ENDING JUNE 30, 2013.***

SUMMARY:

This bill appropriates funds for state agencies and programs for FY 12 and FY 13. It also increases taxes and makes other revenue changes.

A full summary of the bill's budget provisions (§§ 1-74) may be found in the Office of Fiscal Analysis Fiscal Note. An analysis of the bill's revenue provisions (§§ 75-156) appears below.

EFFECTIVE DATE: Various, see below.

§§ 1-74 – BUDGET PROVISIONS

Please refer to the OFA Fiscal Note for an explanation of these sections.

§ 75 – INSURANCE PREMIUM TAX

The bill (1) lowers, from 70% to 30%, the amount by which an insurer can reduce its insurance premium tax liability in any year through tax credits, (2) exempts insurance reinvestment fund tax credits from this cap, and (3) allows the insurer to offset additional tax liability for 2011 and 2012 if it adds employees. The bill makes the credit limit apply to calendar years, rather than income years.

Under the bill, for the calendar years 2011 and 2012, an insurer may offset additional tax liability 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.

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

CORPORATION TAX

§§ 76 & 79 – Corporation Tax Surcharge

The bill imposes a 20% corporation tax surcharge for the 2012 and 2013 income years. Under current law and the bill, a 10% corporation tax surcharge expires at the end of the 2011 income year. As under current law, the surcharge for 2012 and 2013 applies to companies that have (1) at least \$100 million in annual gross income in those years and (2) a tax liability that exceeds \$250. The exemption for companies with less than \$100 million in annual gross income does not apply to companies filing 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 bill, for the 2011 and 2012 income years, a company may offset additional tax liability beyond 70% by adding employees.

The additional offset equals \$6,000 times the company's average net monthly increase in employees, up to 100% of its total tax liability. The average net monthly employee gain must be calculated by dividing the company's total new employees for the applicable year 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 an entity who is a "related person" to the corporation within 12 months before the start of the applicable income year (see BACKGROUND). A company may not exceed the 70% credit limit if its average net employee gain is zero or less than zero.

EFFECTIVE DATE: Corporation tax changes are effective 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 bill limits these tax credits allowed (1) in 2011 to 50% of the credit in any one income year and (2) in 2012 and beyond to 25% of the credit in any one income year. Entities subject to the corporation or insurance premium tax are not bound by the transfer restrictions.

It exempts from these limitations 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 bill, a “qualified production facility” is a facility in the state 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.

The bill also increases, from 25% to 50%, the minimum share of principal photography days a production company must spend in the state in order to qualify for a film production tax credit.

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

§§ 80-82 — CIGARETTE TAX

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

It also imposes a 40-cent “floor 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 bill 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. 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 bill 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 1 shows the current and proposed tax rates.

TABLE 1: CURRENT AND PROPOSED ESTATE AND GIFT TAXES

VALUE OF TAXABLE ESTATE OR GIFT		CURRENT TAX (Add cols. C & D)		PROPOSED TAX (Add cols. E & F)	
<i>Col. A:</i> Over	<i>Col. B:</i> But not over	<i>Col. C:</i> Tax on Col. A	<i>Col. D:</i> Tax rate on excess over Col A	<i>Col. E:</i> Tax on Col. A	<i>Col. F:</i> 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 bill 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 current law, the threshold for filing an estate tax return only with the probate court from someone who dies on or after January 1, 2010 is \$3.5 million. Starting with deaths on or after January 1, 2011, this bill reduces that threshold to \$2 million.

Release of Estate Tax Liens

The bill 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. Current law requires 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 bill reduces the threshold to \$2 million for deaths occurring on or after January 1, 2011.

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

SALES AND USE TAX

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

The bill increases the general sales and use tax rate from 6% to 6.35% and the hotel tax rate from 12% to 15%. It does not change existing lower 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 bill 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 or footwear (including handbags, luggage, umbrellas, wallets, and watches).

The bill excludes from the type of motor vehicles subject to the luxury tax any motor vehicle (1) purchased by an active duty U.S. military member stationed in Connecticut, (2) weighing over 12,500 pounds, or (3) weighing 12,500 pounds or less that is designed or used

for commercial purposes and issued a commercial or more specific type of registration from the Department of Motor Vehicles.

§§ 93 — Rental Car Surcharge

The bill imposes an additional 3% sales and use tax (9.35% total) on short-term car rentals (30 days or less) and requires the state to allocate the revenue from one percentage point of the increase to the Regional Performance Incentive Account (see below).

§§ 88-92 & 156 — Sales & Use Tax Extensions

The bill eliminates specified sales tax exemptions and extends the tax to additional services shown in Table 2.

TABLE 2: SALES & USE TAX EXTENSIONS

<i>Exemptions Eliminated</i>	<i>New Services Taxed (§§ 92)</i>
Containment or removal of hazardous waste or other contaminants (§ 88)	Motor vehicle storage, including storage for motor homes, campers, and camp trailers, excluding self-storage units
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 (§§ 90 & 156)	Intrastate transportation via limousine, community car, or van with a driver, excluding taxis, buses, ambulances, scheduled public transportation, and funerals
Non-prescription drugs and medicine (§ 156)	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 (§ 156)	Cosmetic medical procedures, excluding reconstructive surgery
Property or services used in operating solid waste-to-energy facilities (§ 156)	Manicure, pedicure, and other nail services
Yarn (§ 156)	Spa services, including body waxing and wraps, peels, scrubs, and facials
Smoking cessation products (§ 156)	

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

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

Municipal Revenue Sharing Account

The bill allocates the following revenue from increased taxes to the

Municipal Revenue Sharing Account:

1. 0.1 percentage point of the 6.35% sales tax on all taxable goods and services,
2. 0.1 percentage point of the 7.0% luxury tax, and
3. 0.25 percentage point of the state conveyance tax.

The DRS commissioner must deposit the revenue quarterly in the account, which the bill creates as a separate, nonlapsing General Fund account. The account must contain any funds required by law to be deposited in it.

The Office of Policy and Management (OPM) secretary must use the account funds for manufacturing transition grants to municipalities. The grants equal the amount each municipality received in FY 11 as a payment in lieu of taxes (PILOT) for eligible commercial vehicles, manufacturing machinery and equipment, and certain real property in enterprise zones. For any town that did not receive such PILOT payments in FY 11 due to a filing error, the bill requires that its grant amount be equal to its estimated payments for FY 12.

The OPM 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 per capita income of town residents.

Regional Performance Incentive Account

The bill requires the DRS commissioner to allocate the revenue quarterly from one percentage point of the (1) 15% hotel tax and (2) 9.35% rental car surcharge to the Regional Performance Incentive Account. The bill establishes this account as a separate, nonlapsing

General Fund account and requires that it contain any funds required by law to be deposited in it.

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

EFFECTIVE DATE: July 1, 2011

§§ 98 & 99 — ALCOHOLIC BEVERAGES TAX

The bill increases the excise tax on alcoholic beverages by 20%. It requires sellers to pay an additional tax on alcoholic beverages (e.g., beer, wine, liquor) in their inventories as of the opening of business or July 1, 2011, whichever is earlier. Current and proposed new rates for the alcoholic beverages tax and the inventory tax are shown in Table 3.

TABLE 3: CURRENT AND PROPOSED ALCOHOLIC BEVERAGES TAXES

	<i>Unit Taxed</i>	<i>Current Tax</i>	<i>Proposed Tax</i>	<i>Proposed Per-Unit Inventory Tax</i>
BEER AND CIDER				
Beer and cider with no more than 7% alcohol	Barrel	\$6.00	\$7.20	\$1.20
	1/2 barrel	3.00	3.60	.60
	1/4 barrel	1.50	1.80	.30
	Wine gallon or fraction under 1/4 barrel	0.20	0.24	.04
WINE				
Still wines with no more than 21% alcohol	Wine gallon*	0.60	0.72	.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	.03
Still wines with more than 21% alcohol Sparkling wines	Wine gallon*	1.50	1.80	.30
LIQUOR AND LIQUOR COOLERS				
Liquor	Wine gallon*	4.50	5.40	.90
Alcohol – more than 100 proof	Proof Gallon*	4.50	5.40	.90
Liquor coolers with no more than 7% alcohol by volume	Wine gallon*	2.05	2.46	.41

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

The bill requires distributors to file an inventory report with DRS and pay the tax due on the inventory by August 15, 2011. If a distributor fails to file an inventory and pay the tax by that date, the DRS commissioner must estimate the seller's inventory tax based on information she 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 bill'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 bill also makes failure to file a report and pay the tax on time grounds to revoke any other DRS-issued license or permit the distributor possesses.

The bill requires the 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. The inventory tax is effective on passage.

§§ 100-101 — DIESEL FUELS TAX

The bill 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 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. 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 motor vehicles commissioner must cooperate with the DRS commissioner to enforce the tax.

EFFECTIVE DATE: July 1, 2011, except the inventory tax is effective upon passage.

§§ 102 & 103 — REAL ESTATE CONVEYANCE TAX

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

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

The current state tax is 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 applies 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 bill 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 current municipal tax rate is 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. Thus, under current law, the municipal tax rate can range from 0.25% to 0.5%, depending on where the property is located.

Under current law, the base tax rate of 0.25% for all towns is scheduled to expire on June 30, 2011. The bill makes that rate permanent.

It requires the DRS commissioner to deposit the revenue attributable to the increase in the state tax rate into the municipal revenue sharing account (see below).

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

§ 104 — ELECTRIC GENERATION TAX

The bill imposes a temporary tax on electric generation facilities of 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 applies to all electricity except that generated through use of a fuel cell or alternative energy system, such as a solar or wind system. Under the bill, the tax expires on June 30, 2013.

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 due 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, other tax administration procedures applicable to the admissions and dues taxes apply to the generator tax except where inconsistent.

The bill 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.

EFFECTIVE DATE: July 1, 2011

§ 105 — ADMISSIONS TAX EXEMPTIONS ELIMINATED

The bill eliminates exemptions from the 10% admissions tax for the facilities and events shown in Table 4.

TABLE 4: 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 bill imposes a 3% tax on admissions, food, drink, service, and merchandise at any place offering live music, dancing, or other entertainment in addition to serving alcoholic drinks (“cabarets”) and requires the state to disburse the tax revenue to the municipality where the sale occurred.

Applicability

The 3% tax applies on charges for admissions, food, drink, service, and merchandise at any place offering live music (with more than one performer), dancing, or other entertainment for profit in addition to serving alcoholic drinks. The tax applies to these charges only when the establishment is in “cabaret status.” Under the bill, cabaret status begins when the (1) music, dancing, or entertainment starts or (2) establishment starts charging an admission or cover charge. If any portion of the establishment is subject to the cabaret tax, the tax also applies to areas from which the (1) entertainment can be viewed or (2) entertainment or dancing can be accessed at no charge.

Collecting the Tax

The bill imposes the tax on the establishments described above and requires that they collect it from purchasers. It specifies that the tax (1) is a recoverable debt from the purchaser to the establishment and (2) when collected by the establishment, is deemed a special fund in trust for the state.

Tax Administration

Taxpayers subject to the tax must remit the payments and file signed tax returns on a monthly basis. The returns must provide (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 same administrative, enforcement, liability, and appeal process requirements established in statute for the admissions tax apply to the cabaret tax and must be adapted accordingly.

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

§§ 107-111 — INCOME TAX CHANGES**§ 107 — *Marginal Rate Increases***

The bill 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 (1) increasing the number of tax brackets from three to six, (2) splitting the existing 5% bracket into four brackets and adding three higher marginal rates to that taxable income, (3) increasing the top marginal income tax rate from 6.5% to 6.7%, and (4) lowering the taxable income for the 6.7% rate bracket by half. The bill also increases the flat income tax rate for trusts and estates from 6.5% to 6.7%.

Table 5 shows marginal tax rates and brackets under current law and the bill.

TABLE 5: CURRENT AND PROPOSED TAX RATES AND BRACKETS

TAX RATES		CT TAXABLE INCOME			
		<i>Married Filing Jointly</i>		<i>Single</i>	
<i>Current</i>	<i>Bill</i>	<i>Over</i>	<i>But Not Over</i>	<i>Over</i>	<i>But Not Over</i>
3.0%	3.0%	\$0	\$20,000	\$0	\$10,000
5.0%	5.0%	20,000	100,000	10,000	50,000
	5.5%	100,000	200,000	50,000	100,000
	6.0%	200,000	400,000	100,000	200,000
	6.5%	400,000	500,000	200,000	250,000
6.5%	6.7%	500,000	1,000,000	250,000	500,000
		Over \$1,000,000		Over \$500,000	
TAX RATES		CT TAXABLE INCOME			
		<i>Head of Household</i>		<i>Married Filing Separately</i>	
<i>Current</i>	<i>Bill</i>	<i>Over</i>	<i>But Not Over</i>	<i>Over</i>	<i>But Not Over</i>
3.0%	3.0%	\$0	\$16,000	\$0	\$10,000
5.0%	5.0%	16,000	80,000	10,000	50,000
	5.5%	80,000	160,000	50,000	100,000
	6.0%	160,000	320,000	100,000	200,000
	6.5%	320,000	400,000	200,000	250,000
6.5%	6.7%	400,000	800,000	250,000	500,000
		Over \$800,000		Over \$500,000	

§ 107 — Phase-Out of 3% Tax Bracket

The bill 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 increasingly less taxable income to the 3% income tax rate as CT AGI increases and moving the phased-out taxable income to the 5% bracket.

Table 6 shows the phase-out of the 3% bracket for each type of filer.

TABLE 6: 3.0% BRACKET PHASE-OUT

<i>SINGLE</i>			<i>MARRIED FILING JOINTLY</i>		
CT AGI		3% Rate Applies to Taxable Income Up to	CT AGI		3% Rate Applies to Taxable Income Up to
<i>Over</i>	<i>But Not Over</i>		<i>Over</i>	<i>But Not Over</i>	
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
<i>HEAD OF HOUSEHOLD</i>			<i>MARRIED FILING SEPARATELY</i>		
CT AGI		3% Rate Applies to Taxable Income Up to	CT AGI		3% Rate Applies to Taxable Income Up to
<i>Over</i>	<i>But Not Over</i>		<i>Over</i>	<i>But Not Over</i>	
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 — Recapture of Benefits

For taxpayers whose annual CT AGI exceeds specified thresholds, the bill 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 figured using the marginal rates specified in Table 5 above. The bill phases in the recapture requirement until, once a taxpayer’s CT AGI is high enough to require him or her to add the maximum recapture amount, 100% of his or her taxable income is effectively taxed at the highest marginal rate (6.7% under the bill).

Table 7 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 7: BENEFIT RECAPTURE PHASE-IN

	<i>Married Filing Jointly</i>	<i>Single/ Married Filing Separately</i>	<i>Head of Household</i>
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 bill 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 current law. Current law reduces the maximum credit by 10% for every \$10,000 in additional CT AGI (every \$5,000 for married people filing separately). The bill increases these percentage reductions by 15%.

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 bill, joint filers receive no credit once their CT AGI reaches \$160,500 compared to \$190,500 under current law.

Table 8 shows the maximum property tax credits by income level and filing status under current law and the bill.

TABLE 8: CURRENT AND PROPOSED MAXIMUM PROPERTY TAX CREDITS

CT AGI				MAXIMUM PROPERTY TAX CREDIT	
<i>Married Filing Jointly</i>		<i>Single (for 2011-2012)</i>		<i>Current</i>	<i>Bill</i>
<i>Over</i>	<i>But Not Over</i>	<i>Over</i>	<i>But Not Over</i>		
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	
<i>Head of Household</i>		<i>Married Filing Separately</i>		<i>Current</i>	<i>Bill</i>
<i>Over</i>	<i>But Not Over</i>	<i>Over</i>	<i>But Not Over</i>		
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 current law, the AGI threshold at which a single filer's maximum property tax credit starts to be reduced is 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 bill instead maintains the current \$56,500 threshold through the 2012 tax year and then increases it to \$60,500 for 2013, \$62,500 for 2014, \$64,500 for 2015 and thereafter.

§ 110 — Earned Income Tax Credit

The bill 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.

The bill 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 bill, 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, except that they are not subject to the 0.66% monthly interest payable on late tax refunds.

Under federal law and this bill, people who work and earn incomes below certain levels qualify for credits. 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 2010, a person qualifies for a federal EITC if he or she has at least \$1 of earned income, investment income (with certain exceptions) of \$3,100 or less, and a maximum federal AGI of:

1. \$13,460 (\$18,470 if married and filing jointly) with no children,
2. \$35,535 (\$40,545 if married and filing jointly) with one child,
3. \$40,363 (\$45,373 if married and filing jointly) with two children, and
4. \$43,352 (\$48,362 if married and filing jointly) with three or more children.

Based on the federal EITC for 2010, the maximum state credit under the bill for the 2010 tax year would have been:

1. \$137 for filers with no children,
2. \$915 for filers with one child,
3. \$1,511 for filers with two children, and
4. \$1,700 for filers with three or more children

Table 9 shows proposed state EITCs at selected income levels, also based on federal EITCs for 2010.

TABLE 9: EXAMPLES OF STATE EITC AT SELECTED INCOME LEVELS, 2010

2010 FEDERAL AGI		SINGLE/HEAD OF HOUSEHOLD			
<i>Over</i>	<i>But Not Over</i>	<i>No Children</i>	<i>One Child</i>	<i>2 Children</i>	<i>3+ Children</i>
\$5,500	\$5,550	\$127	\$564	\$663	\$746
10,500	10,550	68	915	1,263	1,421
14,500	14,550	0	915	1,511	1,700
18,500	18,550	0	815	1,380	1,569
25,500	25,550	0	480	938	1,127
35,500	35,550	0	1	306	494
40,500	45,550	0	0	0	179
2010 FEDERAL AGI		MARRIED FILING JOINTLY			
<i>Over</i>	<i>But Not Over</i>	<i>No Children</i>	<i>One Child</i>	<i>2 Children</i>	<i>3+ Children</i>
\$5,500	\$5,550	\$127	\$564	\$663	\$746
10,500	10,550	137	915	1,263	1,421
14,500	14,550	91	915	1,511	1,700
18,500	18,550	0	915	1,511	1,700
25,500	25,550	0	720	1,254	1,443
35,500	35,550	0	241	622	811
40,500	45,550	0	1	306	495

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 bill requires the DRS commissioner to issue new withholding tables applicable for the 2011 tax year as soon as possible. It also requires those paying estimated taxes to adjust their September 2011 payment to reflect the bill's income tax changes.

EFFECTIVE DATE: The income tax provisions are effective on passage, and applicable to tax years starting on or after January 1, 2011.

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

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

The bill 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.

EFFECTIVE DATE: July 1, 2011

§ 120 — CITIZENS' ELECTION FUND TRANSFERS

The bill reduces, from \$18 million to \$10.6 million, the required FY 12 transfer to the Citizens' Election Fund.

EFFECTIVE DATE: July 1, 2011

§ 121 — SPECIAL TRANSPORTATION FUND TRANSFERS

The bill 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 Special Transportation Fund (STF). The commissioner must notify the Finance Committee chairpersons and ranking members and the OPM secretary of the calculated ratio.

The bill also increases the required annual transfers from the General Fund to the STF as shown in Table 10.

TABLE 10: GENERAL FUND TRANSFERS TO SPECIAL TRANSPORTATION FUND

FY	TRANSFERS TO STF	
	Current Law (million)	The Bill (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

EFFECTIVE DATE: July 1, 2011

§ 122 — ABANDONED PROPERTY

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

EFFECTIVE DATE: July 1, 2011

§ 123 — TRANSPORTATION STRATEGY BOARD ACCOUNT

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

EFFECTIVE DATE: July 1, 2011

§§ 124 & 155 — FUEL OIL CONSERVATION ACCOUNT ELIMINATED

The bill eliminates the nonlapsing fuel oil conservation account, the conservation programs the account pays for, and the 13-member board that oversees the program. Under current law, the account is funded by annual revenue from the petroleum products gross receipts tax that exceeds the 2006 revenue, subject to a \$5 million annual cap.

EFFECTIVE DATE: Upon passage

§ 125 — FUNDING FOR NATURAL GAS CONSERVATION PLANS

The bill 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 current law,

the comptroller must transfer 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 bill 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, he or she will receive a commission or other compensation from that retailer.

Under the bill, 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 bill requires them to collect Connecticut sales tax on all their taxable sales in Connecticut, not just on items sold through the referrals.

The bill 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 independent contractors or representatives. The retailer can rebut the presumption by proving that the resident with whom it has an agreement did not solicit business in Connecticut in a manner that would satisfy the federal constitutional nexus requirement (see

BACKGROUND).

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

This bill increases the cremation certificate fee from \$40, or the amount the state pays to assistant medical examiners, if greater, to \$150. Currently, the state fee is 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.

EFFECTIVE DATE: July 1, 2011

§§130-132 — JOB CREATION TAX CREDIT LIMIT

The bill also increases the total amount of business tax credits available for creating new jobs, from \$11 million to \$20 million. The increase applies to three programs authorizing such credits, as shown in Table 11.

TABLE 11: JOB CREATION TAX CREDIT PROGRAMS

<i>Credit Program</i>	<i>Applicable Taxes</i>	<i>Eligibility Criteria</i>	<i>Credit Limits</i>
Creating New Jobs (CGS § 12-217ii)	<ul style="list-style-type: none"> Insurance Companies, Hospitals, and Medical Services Corporation Utility Company 	Any business creating at least 10 new jobs	<ul style="list-style-type: none"> Five-year credit up to 60% of the income tax deducted and withheld from new employee wages Total credits for these and the small business and vocational rehabilitation job credits capped at \$11 million per year (\$20 million under the bill)
Small Business Creating Jobs (CGS § 12-217nn)	<ul style="list-style-type: none"> Insurance Companies, Hospitals, and Medical Services Corporations 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 New employees must work at least 35 hours per week for at least 48 weeks per calendar year Credits available only for jobs created between May 6, 2010 and December 31, 2012 	<ul style="list-style-type: none"> Three-year, \$200 per month per new employee Total credits for these and the job creation and vocational rehabilitation job credits capped at \$ 11 million per year (\$20 million under the bill)
Vocational Rehabilitation Job Creation Tax Credit (CGS § 12-217oo)	<ul style="list-style-type: none"> Insurance Companies, Hospitals, and Medical Services Corporations Corporation Personal Income 	<ul style="list-style-type: none"> Businesses hiring Connecticut residents with disabilities New employees must work at least 20 hours per week for at least 48 weeks per calendar year Credits available only for employees hired after May 6, 2010 for income years beginning on or after January 1, 2010 	<ul style="list-style-type: none"> Three-year, \$200 per month per new employee Total credits for these and the job creation and small business job creation tax credits capped at \$11 million per year (\$20 million under the bill)

EFFECTIVE DATE: July 1, 2011

§§ 133 & 155 — BOATING ACCOUNT ELIMINATED

The bill eliminates the boating account and requires all revenue from watercraft registration and numbering fees to be deposited in the General Fund annually on October 1, starting with October 1, 2011. Under current law, the revenue from the fees goes into the Boating Account, a separate, nonlapsing General Fund account, which is used (1) by the Environmental Protection (DEP) and Motor Vehicle (DMV) 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.

To conform to the elimination of the boating account, the bill also eliminates the (1) annual DEP reporting requirement for the account and (2) provision specifying how account revenue is distributed among towns.

EFFECTIVE DATE: July 1, 2011 for the requirement that watercraft 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 bill 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. The bill does not increase the amount of any such fines.

EFFECTIVE DATE: July 1, 2011

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

The bill reduces the required annual transfers from the STF to the TSB projects account to fund statutorily designated transportation projects. Under current law, the state treasurer must transfer \$15.3 million annually through FY 15 and \$300,000 in FY 16 and each fiscal year thereafter. The bill 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.

EFFECTIVE DATE: July 1, 2011

§§ 136-142 — DMV FEE CHANGES

Fee for Electronic Inspection of Vehicle ID Number

The bill 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 current law, the commissioner must charge this administrative fee in addition to the fee to register certain vehicles, including those whose VINs have passed inspection.

Fee Increases and Additional Fees

It 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 12.

TABLE 12: DMV FEE CHANGES

<i>Fee</i>	<i>Statutory Citation</i>	<i>Current Law</i>	<i>The Bill</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
Registration – special number plates	§ 14-49 (a)	\$75/biennial	\$80/biennial
Registration-Motorcycle	§ 14-49 (b)	\$40/biennial \$56/with sidecar	\$42/biennial \$60/with sidecar
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/hundredweight	\$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	§ 14-49 (h)	\$56	\$60

<i>Fee</i>	<i>Statutory Citation</i>	<i>Current Law</i>	<i>The Bill</i>
pneumatic tires			
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
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

Late Fees for Apportioned Registrations

Certain interstate commercial vehicles must pay apportioned registration fees in Connecticut that include this state's registration fee and registration fees for other jurisdictions based on the distance they travel there. The bill requires the commissioner to charge a \$150 late fee to people who fail to renew these registrations within five days after they expire.

Commercial Motor Vehicle Registration Fees

Current law charges registration fees for commercial motor vehicles based on each 100 pounds the vehicle weighs. The bill instead bases these fees on each 1,000 pounds the vehicle weighs and increases the fees accordingly.

DMV Fees for Duplicate Licenses and ID Cards and Documents Kept Electronically

Under current law, the commissioner may charge \$30 for each duplicate of a driver's license. The bill also allows her to charge this amount for each duplicate of a non-driver ID card. But it requires the commissioner 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 bill, 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 bill 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. By law (PA 90-143), DMV no longer receives these reports.

Manufacturers' Registrations

By law, the commissioner may issue motor vehicle registrations with the same distinguishing number to manufacturers. Under current law, these registrations expire annually, and, except for commercial registrations, may be renewed for \$35. The bill 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 currently cost one-half the fee charged for the maximum gross weight of the registered vehicle on which the number is used. The bill 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 bill 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.

EFFECTIVE DATE: All DMV fee changes are effective July 1, 2011.

§ 143 — MOTOR VEHICLE VIOLATOR PAYMENTS TO TOWNS

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

EFFECTIVE DATE: July 1, 2011

§ 144 — GOVERNOR'S TRANSPORTATION PROJECT RECOMMENDATIONS

Under current, on the same day the governor proposes the biennial budget, he or she must 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 bill removes the reference to the TSB and instead requires the governor to submit a recommendations and a financing plan for project's implementing the state's transportation strategy.

EFFECTIVE DATE: July 1, 2011

§§ 145-149 — TAX ON HOSPITAL NET REVENUE

The bill eliminates the tax on hospitals' gross earning tax and replaces it with a quarterly tax on net patient revenue. Other than for the Children's Medical Center and John Dempsey Hospital, the bill establishes a 4.6% quarterly tax on hospitals' net patient revenue. It requires hospitals to file the returns and pay the taxes electronically.

Beginning with FY 12, the bill 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 Department of Social Services (DSS) commissioner of any delinquent amounts due by a hospital, and the DSS commissioner must deduct and withhold this amount from any amount it would otherwise pay the hospital.

The bill authorizes the DRS commissioner to enter into any 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 bill 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.

It also removes obsolete reporting requirements regarding the effects of the user fee.

EFFECTIVE DATE: July 1, 2011

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

The bill establishes a new resident day user fee for 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, and is collected on a quarterly basis. The bill 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.

Amount of Fee

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 user fee, and divided by the sum of each ICF-MR 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, and (3) a resident dies.

The bill requires the DSS commissioner to determine the fee amount and promptly let the DRS commissioner and the ICF-MRs know what it is.

Filing a Return with the Fee

The bill requires each ICF-MR, on 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 bill 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 bill requires the DSS 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 it would otherwise pay the ICF-MR.

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

The bill 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 bill prohibits the DRS commissioner from collecting the user fee until the DSS commissioner informs him that all of the necessary federal approvals are in effect 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.

EFFECTIVE DATE: July 1, 2011

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

The bill authorizes the DSS commissioner to implement policies and procedures needed to administer the bill's provisions (presumably those related to the department) while in the process of adopting them in regulation form. He must print 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.

EFFECTIVE DATE: July 1, 2011

§ 155 — GAAP SALARY RESERVE ACCOUNT ELIMINATED

The bill eliminates a separate nonlapsing account within the General Fund called the GAAP salary reserve account. Under current law, the account must 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 bill 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).

Related U.S. Supreme Court Decisions

The U.S. Supreme Court has ruled that a state may require a company engaged in interstate commerce to collect taxes on its behalf if the tax is “applied to an activity with substantial nexus with the taxing state, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to the services provided by the state” (*Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977)).

The Court has also ruled that a company does not have the required nexus if it has no physical presence in a state and its only connection with it is to solicit business there through catalogs, flyers, advertisements in national publications, or phone calls, and to fulfill orders by delivering merchandise to customers by mail or common carrier (*Quill Corp v. North Dakota*, 504 U.S. 298 (1992); *National Bellas Hess, Inc. v. Department of Revenue*, 386 U.S. 753 (1967)). But, in another

case involving an out-of-state company with no property or employees in Florida, the Court found nexus by virtue of the company's arrangements with 10 Florida residents who, as independent contractors and in return for a sales commission or other compensation, solicited or took sales orders on its behalf (*Scripto v. Carson*, 362 U.S. 207 (1960)).

Related New York State Court Decisions

Amazon.com filed suit against a 2008 New York law that is similar to this bill, alleging that New York's law violates (1) the U.S. Constitution's Commerce Clause by taxing out-of-state entities that have no substantial nexus with New York, (2) the U.S. and New York constitutions' due process clauses by effectively creating an irrebuttable presumption of "solicitation" and being overly broad, and (3) both constitutions' equal protection clauses by intentionally targeting Amazon.

The case remains undecided. The New York Supreme Court dismissed the complaint and the New York Court of Appeals remanded it after finding the law constitutional on its face. The issue on remand is whether the law is constitutional as applied, that is, whether Amazon's New York affiliates solicit business for Amazon actively enough to establish a substantial nexus with the state (*Amazon.com, LLC, et. al. v. New York State Department of Taxation and Finance*, 913 N.Y.S. 2d 129; 2010 N.Y. App. Div. Lexis 7943).