SUMMARY OF 2000 PUBLIC ACTS

Connecticut General Assembly

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TABLE OF CONTENTS

NOTICE TO USERS

This publication summarizes all public acts passed by the 2000 regular session, and 2000 June Special Sessions of the Connecticut General Assembly. Special acts are not summarized.

Use of this Book

The Office of Legislative Research encourages dissemination of this material by photocopying, reprinting in newspapers (either verbatim or edited), or by other means. Please credit the Office of Legislative Research when republishing the summaries.

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.

Organization of the Book

Bills sent directly to the floor without committee action (emergency certification) are placed in chapters according to subject matter. Within each chapter, summaries are arranged in order by public act number.

In the back of the volume is a list of acts by public act number. A table on penalties, appearing on the next page, describes the fines and prison sentences for various types of offenses.

Vetoed Act

The governor vetoed three public acts: PA 00-44, An Act Proposing Comprehensive Campaign Finance Reform for State-Wide Constitutional Offices and General Assembly Offices; PA 00-81, An Act Concerning the Inspection of Taxicabs; and PA 00-181, An Act Concerning the Membership and Mission of the Connecticut Energy Advisory Board.

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 established limits listed below. Some crimes have a mandatory minimum sentence or a minimum sentence higher than the minimum term specified in the table. Repeated offenses may result in a higher maximum than specified here.

Classification of Crime	*Imprisonment*	*Fine*
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 of the Penal Code 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 on criminal procedure 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; thus a violator does not have a criminal record. 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 an additional fee based on the amount of the fine and a $20 surcharge. In some instances, there can be an additional $15 cost. In addition, certain motor vehicle infractions are subject to a Transportation Fund surcharge of 50% of the fine. Finally, certain infractions committed in designated construction, utility work, and school zones or when a driver fails to yield to a bicyclist have additional fees equal to 100% of the basic infraction fine. This means some violators could have to pay $361, although most have to pay less than that and many pay less than $100. Parking tickets and seat belt violations can be less than $35. An infraction is not a crime; thus, violators do not have criminal records and can pay the fine by mail without making a court appearance.

Larceny

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

Degree of Larceny	*Amount of Property Involved*	*Classification*
First Degree	Over $10,000	Class B felony
Second Degree	Over 5,000	Class C felony
Third Degree	Over 1,000	Class D felony
Fourth Degree	Over 500	Class A misdemeanor
Fifth Degree	Over 250	Class B misdemeanor
Sixth Degree	$250 or less	Class C misdemeanor

PA 00-59—sHB 5299
Select Committee on Aging
Public Health Committee
Human Services Committee

AN ACT CONCERNING CERTIFIED NURSE ASSISTANT TRAINING LEVELS, STANDARDS OF CARE AND CAREER ADVANCEMENT

SUMMARY: This act requires the public health commissioner to revise the existing nurse's aide regulations to increase required training for nurse's aides from 75 to 100 hours. The extra 25 hours must include specialized training in understanding and responding to challenging behaviors related to physical, psychiatric, psychological, and cognitive disorders. Regulations already require 75 hours of training, which must include basic nursing skills, personal care skills, care of cognitively impaired residents, recognition of mental health and social service needs, basic restorative services, and residents' rights. The act places these requirements into statute.

The act allows people enrolled in a training program before October 1, 2000 to complete the program as it existed when they enrolled, in spite of any changes the commissioner makes.

EFFECTIVE DATE: October 1, 2000

PA 00-112—sHB 5909
Appropriations Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO CERTAIN STATUTES CONCERNING STATE EMPLOYEES, HEALTH INSURANCE PLANS PROCURED BY THE COMPTROLLER AND THE PAYMENT IN LIEU OF TAXES (PILOT) ON STATE-OWNED REAL PROPERTY

SUMMARY: This act revises how an employee's length of service with the state and as a participant in the Big Brothers and Big Sisters Program are measured under the law granting non-collective bargaining state employees with a minimum of one year of service a week's paid vacation for a year's participation in the program.

Prior law measured both an employee's length of state service and his participation in the program by calendar year, beginning January 1, 1999 and annually thereafter. Under this act, an employee's length of state employment is measured from the first full month of participation in the program and the one year of participation can begin any time, not only at the start of a calendar year.

The act also (1) makes the new measurement methods retroactive to January 1, 1999 and (2) extends them to collective bargaining unit employees whose contracts call for coverage under the statute.

Finally, the act makes grammatical corrections in various other statutes.

EFFECTIVE DATE: Upon passage

PA 00-125—SB 622
Appropriations Committee

AN ACT CONCERNING UNIFORM STANDARDS FOR THE EXPENDITURE OF STATE FINANCIAL ASSISTANCE

SUMMARY: This act requires the Office of Policy and Management to adopt regulations establishing uniform standards for the cost accounting principles state financial assistance recipients (*e.g.*, towns, nonprofit agencies, and tourism districts) must use in administering the funds.

EFFECTIVE DATE: Upon passage

PA 00-192—HB 5922
Appropriations Committee

AN ACT CONCERNING INDIVIDUAL DEVELOPMENT ACCOUNTS, CORRECTIONAL FACILITY AND JUVENILE DETENTION CENTER PROJECTS, THE OFFICE OF WORKFORCE COMPETITIVENESS, PAYMENTS IN LIEU OF TAXES, GRANT PAYMENTS FROM THE MASHANTUCKET PEQUOT AND MOHEGAN FUND, WASTE WATER TREATMENT GRANTS, AN INFLATIONARY INCREASE FOR CERTAIN PRIVATE PROVIDERS, THE STATE-WIDE FIREARMS TRAFFICKING TASK FORCE, EDUCATION TECHNOLOGY, ARTS GRANTS, SCHOOL ACCOUNTABILITY, REGIONAL EDUCATIONAL SERVICE CENTERS OPERATING ONE OR MORE INTERDISTRICT MAGNET SCHOOLS, LAND SURVEYORS, APPRAISERS, CASINO PERMITS, CATERER LIQUOR PERMITS, HOME IMPROVEMENT CONTRACTORS, FAMILY AND MEDICAL LEAVE, COMPETITIVE TRANSITION ASSESSMENTS, VOCATIONAL AGRICULTURE CENTERS, APPLICATIONS FOR TAX EXEMPTIONS, EMERGENCY RELIEF GRANTS, AND A DEFERRED RETIREMENT OPTION PLAN FOR MUNICIPALITIES PARTICIPATING IN THE MUNICIPAL EMPLOYEES RETIREMENT FUND

SUMMARY: This act makes many unrelated statutory changes. It:

1. establishes a statewide individual development account (IDA) program that allows certain low-income and qualified disabled people to open savings accounts and receive matching funds as an incentive for saving for specified purposes;
2. codifies a portion of Executive Order No. 14-A by establishing an Office of Workforce Competitiveness and placing it administratively within the Office of Policy and Management (OPM);
3. creates a statewide gun trafficking task force of law enforcement officers to enforce the state's gun distribution and possession laws;
4. simplifies the procedures for building correctional and juvenile detention facilities;
5. allows the Retirement Commission to establish a deferred retirement program for certain members of the Municipal Employment Retirement Fund;

6. changes the real estate appraiser law by (a) eliminating licensure for real estate appraiser businesses, (b) reducing certain real estate appraiser fees, (c) renaming "tenured appraisers" as "limited appraisers," and (d) eliminating the limited appraiser license in 2006;
7. revises the definition of "land surveyor" in the licensing law;
8. establishes an expedited process for approving certain local emergency relief grants;
9. establishes a casino liquor permit;
10. exempts caterer liquor permit applicants and holders from certain requirements of the Liquor Control Act;
11. relaxes a restriction on liquor sales on Christmas Day;
12. makes miscellaneous tax law changes that (a) allow certain businesses to apply for specified tax credits after missing deadlines, (b) establish a biotechnology tax credit, (c) establish two specific state payments to towns in lieu of taxes, (d) increase the grants paid in lieu of taxes for Connecticut Valley Hospital, and (e) allow towns to abate the property tax for a new school bus;
13. makes miscellaneous grant and funding changes concerning the Mashantucket Pequot and Mohegan Fund, revenue from the Patriots' lawsuit, sewage treatment facility grants, capital expenses for childcare facilities, the Wadsworth Atheneum, lapsed funds, and municipal costs related to state parks;
14. revises grants concerning educational technology, school accountability, the Hartford school system audit, regional educational service centers (RESCs), and vocational-agriculture center grants;
15. allocates $6 million in arts grants to specifically named grantees;
16. allocates an additional inflationary increase to specifically named private providers of state services; and
17. allows the OPM secretary to hire a consultant to study the costs and benefits of providing paid leave to employees who take family or medical leaves.

The act increases, from $300 to $833.34, the minimum monthly retirement benefit for Tier I state employees who retire with 25 years of service. It also makes this the minimum benefit for those who retire with 20 years of hazardous duty service, including state police, certain prison personnel, parole officers, and other state employees performing hazardous duty as defined by union contract (§ 99).

In addition, the act makes miscellaneous changes described below and other minor and technical changes.

EFFECTIVE DATE: Upon passage, except the IDA program and related tax changes that are applicable to taxable and income years starting on or after January 1, 2001 take effect on January 1, 2001 and the provisions concerning construction of correctional and juvenile detention centers, prisoners in the New Haven Armory, the Office on Workforce Competitiveness, the litigation and settlement account in OPM, the Wadsworth Atheneum, receipt of cost recoveries from the federal government, the Mashantucket Pequot and Mohegan Fund, municipal costs and state parks, waste water treatment facilities, lapsed funds, the Firearms Trafficking Task Force, school buses, Adriaen's Landing, RESCs, land surveyors, home improvement contractors, electric rates, vocational agricultural centers, and the deferred retirement option plan take effect on July 1, 2000.

INDIVIDUAL DEVELOPMENT ACCOUNTS (§§ 1-12)

Purpose and Eligibility

The act establishes a statewide IDA program, called the "Connecticut IDA Initiative," to be run by the state Labor Department through eligible tax-exempt, nonprofit community-based organizations. Under the act, an IDA is a savings account in a state-certified IDA program that contains an individual's funds, which he may withdraw solely for one of several permissible purposes. The IDA program encourages low-income employed people and qualified disabled people to save for specified purposes by matching the money they deposit in the account. The maximum match ratio is $2 for every $1 a participant deposits; the match cannot exceed $1,000 per calendar year and $3,000 for the program's duration.

The act makes someone eligible for the program if he has earned income and belongs to a household whose adjusted gross income is no more than 80% of the area median income. But someone who has no earned income solely because of a qualified disability can also participate. Withdrawals from the accounts can be used only for (1) education and job training costs, (2) a home purchase, (3) entrepreneurial activity, (4) an automobile purchase to obtain or maintain employment, or (5) a lease deposit on a primary residence.

Labor Department Responsibilities

The act requires the Labor Department (DOL), in accordance with regulations the commissioner adopts, to establish and administer an "Individual Development Account Reserve Fund." This is a nonlapsing fund to provide matching funds for IDA accounts in state-certified IDA programs. The fund can also provide money for the community-based organizations' operating and administrative costs and the DOL's administrative costs for the initiative.

The department must:

1. establish and operate, either directly or through contract with another entity, a clearinghouse to provide interested community organizations with literature on federal, state, and other funding sources, guidelines for best practices and program standards, and information on starting and maintaining certified IDA programs;
2. solicit, review, and accept or reject proposals by community organizations that meet the requirements in regulations issued under this act to operate state-certified IDA programs on a not-for-profit basis; and
3. perform appropriate monitoring, evaluation, and oversight functions.

IDA Reserve Fund

The act requires all state appropriations for the IDA Initiative, as well as grants, donations, contributions, or other revenue sources received for the program, to be deposited in the IDA Reserve Fund. The reserve fund must be used for grants to community organizations to provide matching funds for the IDAs in their programs and to help the organizations provide training, counseling, case management, and administration. The fund can also pay for evaluation, clearinghouse operations, and DOL administrative expenses. The department determines the proportion of the reserve fund to use for each purpose and sets the maximum amount of reserve funds that an organization can use for training, counseling, case management, and administration.

The act specifies procedures for administering the fund. It prohibits making new grants unless there is enough money in the fund to meet all existing obligations, including the maximum state matching funds that would be needed if each participant meets the savings goal in his approved plan. The act allows money remaining in the fund at the end of a fiscal year to be carried over to the next year.

Expenditure Restrictions

The act specifies that, regardless of its provisions, any state or federal restrictions on funding expenditures apply.

Community-Based Organizations' Responsibilities

The act requires each organization operating a state-certified IDA program to establish, through a financial institution:

1. a trust or custodial account conforming to federal requirements for each program participant, into which he can deposit savings and
2. a local reserve fund, separate from the participants' IDA accounts, into which the DOL must deposit money from the state reserve fund, including matching grant funds, and funds it receives from other sources.

The organization must certify to the DOL that it has complied with these requirements. It must also monitor participants' earned income and use its best efforts to ensure that at least 30% of account holders have earned income at or below 200% of the federal poverty level.

Financial Institutions' Responsibilities

A financial institution establishing a trust or custodial account for a program participant must permit him to make deposits into the account and must pay a market interest rate.

Private Contributions

The act authorizes the DOL and the organizations to solicit grants and private contributions for the state reserve fund and for the local reserve funds. It also specifies that community-based organizations or other entities are not precluded from establishing an IDA account program and receiving matching funds from sources other than the state reserve fund.

Participants' Withdrawals

If a participant withdraws his money from the account because he decides to leave the program, he forfeits all matching funds designated for him. The organization must return these unused matching funds to the DOL for redeposit into the reserve fund by December 31 of that year. But if the withdrawal is because of an emergency, as defined in department regulations, or for reasons other than leaving the

program, the organization can keep the funds in its local reserve fund until the participant redeposits his money or leaves the program.

When the participant has deposited enough to meet his savings goal, the organization must pay that sum and the matching funds from the local reserve account directly to the person or entity providing the qualifying goods or services. If the organization has not paid out matching funds for an account within five years because the participant has not made the required contributions, the matching funds must go back to the state reserve fund. But the act lets an organization grant a participant up to a two-year leave of absence or extension.

Program Evaluation and Report

The act requires the DOL to evaluate the IDA Initiative at the end of each fiscal year and to provide a comprehensive report to the House speaker and Senate president pro tempore by the following February 1, beginning with FY 2000-01.

Regulations

The act requires the labor commissioner, in consultation with the state treasurer, to adopt implementing regulations. The regulations must establish standards and guidelines for the certified state IDA programs, including:

1. income eligibility requirements;
2. permissible savings goals;
3. services that each program must provide to help participants meet their savings goals including credit history assessments, assistance in credit repair and on-going credit stability, general financial education and asset-specific training, case management, and other support services;
4. procedures and timelines for opening savings accounts and making deposits;
5. allowable uses of matching funds;
6. procedures and permissible reasons for emergency withdrawals and leaves of absence;
7. accounting and financial reporting procedures;
8. content of and deadlines for organizations' program and evaluation reports;
9. required components of the approved plan (a plan prepared jointly by the account holder and the organization, as a contract between them, that defines savings goals, program requirements, and permissible uses of the IDA account and its matching funds);
10. program approval, certification, suspension, and decertification processes; and
11. application and implementation of state or federal restrictions or requirements.

The regulations must specify the process and criteria for the DOL to solicit proposals from organizations to operate the programs, certify them, and allocate funds. Criteria must include the organization's level of competence in meeting all financial and program requirements, its fiscal capacity to meet financial obligations, and its geographic location.

OFFICE OF WORKFORCE COMPETITIVENESS (§§ 19 TO 21)

The act codifies a portion of Executive Order No. 14-A by establishing an Office of Workforce Competitiveness (OWC) and placing it administratively within OPM. It also moves the Connecticut Employment and Training Council (CETC) from the DOL to OWC.

Under the act, OWC is:

1. the governor's principal workforce development policy advisor;
2. the liaison between the governor and any local, state, or federal organizations or entities in workforce development matters and implementation of the federal Workforce Investment Act (WIA); and
3. coordinator of all state agencies' workforce development activities, including the implementation of WIA.

It must:

1. advise and assist the governor on WIA-related matters;
2. establish procedures to maximize the involvement of the public, the legislature, and local officials in workforce development matters, including WIA's implementation; and
3. appoint officials and other employees (subject to state personnel rules), enter into contracts, and take other actions needed to carry out its duties.

With the advice and assistance of a Workforce Investment Study Team, which the act also establishes, OWC must study state-level workforce investment models for organizing, integrating, and coordinating planning; policy development; performance monitoring; continuous improvement; and program design, implementation, and administration. Its study must include (1) an examination of other states' organizational models for workforce investment, (2) current federal- and state-funded programs in Connecticut that support workforce investment objectives, and (3) specific

options for developing an integrated workforce investment organization in Connecticut.

OWC may ask state agencies, offices, departments, boards, or commissions for reports, information, and assistance. The act directs them to cooperate and respond to its requests.

Workforce Investment Study Team

The act establishes a 10-member Workforce Investment Study Team. Members include the following state officials:

1. the OPM secretary, or a designee,
2. the CETC chairperson,
3. an OWC member, and
4. the DOL commissioner, or a designee.

It must also include six public members, one each appointed by the top six legislative leaders.

The study team must review information collected by the OWC and by September 30, 2000 develop preliminary options and recommendations for the structure, organization, and function of the state's workforce investment planning and operations. The CETC must review and suggest changes by November 1, 2000. The team must submit a final report to the governor, General Assembly, State Library, and Office of Legislative Research by January 1, 2001.

STATEWIDE FIREARMS TRAFFICKING TASK FORCE (§§ 40 TO 42)

The act creates a statewide gun trafficking task force of law enforcement officers who must work together to enforce the state's gun distribution and possession laws. It creates the State-wide Firearms Trafficking Task Force Policy Board to direct the task force's policy formulation and operating procedures, and it allows the board to apply for and administer local, state, federal, or private appropriations or grant funds available for task force operations.

Task Force

The task force, located within the State Police, consists of local law enforcement officers and may also include federal law enforcement officers. The public safety commissioner, within available appropriations, may appoint a commanding officer and other personnel he deems necessary to perform task force duties.

The task force may (1) conduct statewide investigations the act authorizes; (2) seek and accept help to perform its duties from federal, state, and local agencies, including temporary personnel assignments; (3) enter into mutual aid agreements with other states to address interstate gun law enforcement matters; and (4) consult and exchange information and personnel with other states' agencies on such matters.

The task force must (1) review illegal gun trafficking and its effects on the public and implement strategies to address the problem, (2) identify illegal gun traffickers and focus resources on prosecuting them, (3) track illegally sold or distributed guns and implement strategies to take them from illegal possessors, and (4) coordinate its activities with other Connecticut law enforcement agencies.

The act requires the comptroller to establish a separate nonlapsing General Fund "forfeit firearms account." Money from selling seized guns must be deposited in this account. The money is deemed appropriated for task force responsibilities. Prior law required the money to be put in the General Fund, but not in a separate account. By law, the state may sell at public auction guns the court determines to be contraband. Under a Department of Public Safety administrative order, the state discontinued gun auctions in 1992.

Policy Board

The act puts the board in the Division of State Police for administrative purposes only. The board consists of the public safety commissioner; the chief state's attorney; the agent in Connecticut in charge of the federal Bureau of Alcohol, Tobacco and Firearms; the Connecticut Police Chiefs Association president; and five police chiefs the association designates, including one from a town with 100,000 or more people. Each police chief serves one year.

CORRECTIONAL AND JUVENILE DETENTION FACILITIES (§§ 16 TO 18)

Correctional Facility and Juvenile Detention Center Project

The act defines a "correctional facility project" as one which is part of a state program to repair, renovate, enlarge, or build Department of Correction (DOC) facilities needed immediately due to prison and jail overcrowding. A "juvenile detention center project" is defined the same way for facilities operated by the Judicial Department.

Construction and Consultant Services Contracts

The act establishes provisions similar to those governing emergency correctional, community court,

and University of Connecticut library projects. It requires the Department of Public Works (DPW) commissioner to select and interview at least three consultation services firms for any correctional or juvenile detention facility project and negotiate with the most qualified firm.

By law, the DPW commissioner must issue a request for proposals and award to the lowest responsible qualified bidder for most contracts over $500,000 to construct, reconstruct, alter, remodel, repair, or demolish public buildings. This act exempts correctional and juvenile detention facility projects from the competitive bidding process. As with other emergency and expedited projects, the act authorizes the commissioner to select and interview at least three responsible and qualified general contractors and negotiate a contract with one of them.

New Haven Armory

The act prohibits incarcerating in the New Haven Armory anyone charged with or convicted of a crime, including housing prisoners or detainees on a temporary or emergency basis.

MUNICIPAL EMPLOYEES' DEFERRED RETIREMENT OPTION (§ 98)

The act permits the Retirement Commission, which is located within the Comptroller's Office, to create a deferred retirement option plan (sometimes referred to as a "DROP" plan) for eligible members of the Municipal Employee Retirement Fund (MERF). The commission determines the plan's terms and the procedures that participating towns must follow to adopt it. The plan must (1) set five years as the maximum employee participation period and (2) establish a specific interest rate. The MERF consulting actuary must certify that the plan has no anticipated effect on MERF employer contribution rates.

A DROP plan allows employees to continue working beyond retirement age. Their retirement benefits are placed in an interest-bearing account administered by MERF while they remain employed, and they stop accruing additional retirement credits once they enter the plan.

REAL ESTATE APPRAISAL (§§ 54 TO 75)

Real Estate Appraiser Businesses

The act eliminates licensure for real estate appraiser businesses. As part of doing so, it redefines "person" for purposes of the real estate appraiser law by eliminating references to partnerships, associations, limited liability corporations, and corporations. Under the act, a "person" is an individual.

The act eliminates references to licensure of real estate appraisal businesses including (1) the requirement that every member or officer of a partnership, association, or corporation be licensed as a real estate appraiser for the business to be licensed and (2) the power of the Real Estate Commission to require business real estate appraiser applicants to submit information concerning the honesty, truthfulness, integrity, and competency of the officers of the corporation or members of the association or partnership.

Real Estate Appraiser Fee Reduction

The act reduces certain fees for real estate appraisers, as displayed in the following table.

Fee	*Reduction*
Application for Certification	From $60 to $45
Initial Fee for Certified Appraisers	From $450 to $300
Renewal Fee for Certified Appraisers	From $300 to $225
Reinstatement Fee for Certified Appraisers	From $300 to $225
Temporary Certification, License, or Provisional License Fee	From $150 to $100

Limited Real Estate Appraisers

The act (1) renames tenured appraisers as limited appraisers, (2) eliminates the license as of September 30, 2006, and (3) prohibits limited appraisers from performing an appraisal in connection with a federally related transaction as defined by federal law. Federal law defines a "federally related transaction" as one that a federal financial institution's regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates and for which it requires the services of an appraiser.

The law allows the Department of Consumer Protection (DCP) commissioner to adopt regulations implementing the real estate appraiser statute. The act requires these regulations to require limited appraisers to state that they will not perform an appraisal in connection with a federally related transaction in all written statements, including contracts, stationary, and business cards.

Temporary Certifications, Licenses, and Provisional Licenses

Prior law authorized DCP to issue temporary certificates, licenses, and provisional licenses for only one appraisal assignment. The act increases the duration of such temporary credentials from 90 to 180 days, authorizes their extension for one additional period up to 180 days for no additional fee, and eliminates the limitation that they be issued for only one appraisal.

Statutory Renewal Date

The act eliminates the statutory renewal date (April 30) for real estate appraiser credentials. The law already requires the DCP commissioner to adopt regulations establishing a staggered annual renewal schedule for all credentials the department issues.

LAND SURVEYOR (§ 53)

The act replaces the definition of land surveyor in the state licensing law with a more current definition. Under the act, a land surveyor is a person licensed under state law who is qualified by knowledge of mathematics, physical and applied sciences, and the principles of land surveying to (1) measure, evaluate, or map elevations, topography, planimetric features, or land areas of any portion of the earth's surface; (2) determine position of points with respect to horizontal or perpendicular data for topographic, planimetric, or cadastral mapping; (3) measure, evaluate, map, or mark on the ground property boundary lines, lot lines, easements, rights-of-ways, or streets; (4) measure, evaluate, map, or mark on the ground the horizontal location of existing or proposed buildings or other improvements with respect to property boundary, building, setback, zoning, or restriction lines, existing or proposed interior lot lines, easements, rights-of-way, or street lines; (5) measure, evaluate, map, or report the location of existing or proposed buildings, structures, or other improvements or their surrounding topography with respect to flood insurance rate mapping or Federal Emergency Management Agency mapping; (6) measure or map inland wetland boundaries delineated by a soil scientist; (7) create or map surveys required for condominiums or planned communities; (8) mark on the ground property subject to development rights, horizontal or vertical unit boundaries, leasehold real property, or limited common elements under the Common Interest Ownership Act; (9) evaluate or design the horizontal or vertical alignment of roads in conjunction with the layout and mapping of a subdivision; and (10) measure, evaluate, or map areas under the earth's surface and the beds of bodies of water.

Prior law defined land surveyor as a person who engages in the branch of engineering known as land surveying, which includes surveying and measuring any area of the earth's surface, the lengths and directions of boundary lines and the contour of the surface, for their correct determination and description and for conveyancing or recording, or for the establishment or reestablishment of land boundaries and the plotting of land and subdivisions and similar measurements involved in surveying mines.

LOCAL EMERGENCY RELIEF GRANTS (§ 97)

The act establishes an expedited process for reimbursing municipalities for emergency relief grants when the proceeds will be used to satisfy a local matching grant requirement for federal assistance under the federal Disaster Relief Act. Under prior law, the Local Emergency Relief Advisory Committee had to recommend approval or disapproval of all emergency relief grant applications, and the Finance Advisory Committee (FAC) had to approve the recommendation before the OPM secretary could certify to the comptroller the amount due to the municipality. The act requires OPM to approve the completed federal disaster application, eliminating the FAC and local committee's roles. As under existing law, (1) the OPM secretary must certify to the comptroller the amount due to the municipality, (2) the comptroller must draw an order on the treasurer within 15 days of the certification, and (3) the treasurer must pay the grant to the municipality within 15 days after this.

CASINO LIQUOR PERMIT (§§ 76 and 77)

The act creates a liquor permit for gaming facilities in which class III gaming is conducted (such as a casino or jai alai fronton). The permit applies to the premises in which gaming is conducted and to related facilities, such as restaurants, hotels, nightclubs, bingo halls, or convention centers.

The permit allows the (1) retail sale of all types of liquor for on-premises consumption; (2) manufacture, storage, and bottling of beer for on-premises consumption if the casino produces at least 5,000 gallons of beer annually on the premises; and (3) retail sale from guest bars located in hotel guest rooms. Such guest bars must be accessible only by key, magnetic card, or similar device given to a registered guest at least 21 years old by the hotel and not be restocked between the hours of 1:00 a.m. and 9:00 a.m.

The act sets the same permissible hours of sale for premises operating under a casino permit as for restaurants, cafes, and similar establishments. These are: Monday through Thursday from 9:00 a.m. to 1:00 a.m., Friday and Saturday from 9:00 a.m. to 2:00 a.m., and Sunday from 11:00 a.m. to 1:00 a.m. These establishments may stay open to 3:00 a.m. on New Year's Day. The act allows casino permittees, unlike restaurants and similar establishments, to sell on Christmas Day without requiring the permittee to have food available at the same time.

The annual casino permit fee is $2,400 plus $50 for each hotel room guest bar.

CATERER LIQUOR PERMIT (§§ 77 AND 78)

By law, the caterer liquor permit allows its holder to sell and serve all kinds of alcoholic liquor at gatherings or events. The permit holder must be regularly engaged in the business of providing food and beverages at such gatherings or events. The act exempts caterer liquor permit applicants from the requirements that they (1) specify the location where liquor will be sold in their application and sell liquor only from that location and (2) erect a sign on the outer door of the building where they intend to operate, stating the type of permit being sought and the name of the applicant. It exempts caterer liquor permit holders from the requirements that they (1) store liquor only in an approved location and (2) hang their permit in plain view.

The act restricts the hours during which a caterer liquor permittee may sell liquor to the same hours that restaurants may sell it.

LIQUOR SALES ON CHRISTMAS DAY (§ 77)

The act allows restaurants and similar liquor-selling establishments to sell liquor on Christmas Day if they have food available. Prior law allowed such sales only if the liquor was served with hot meals.

TAX CHANGES

Economic Development Tax Incentives (§§ 83 to 85 and 88 to 96)

The law authorizes property tax abatements and corporate business tax credits for certain businesses that build or expand facilities in designated areas or that acquire machinery and equipment. It specifies the process they must follow to obtain these tax benefits and deadlines for doing so. This act sets narrow conditions under which businesses that missed these deadlines or were denied benefits can reapply for them.

Biotechnology Tax Credits (§ 86)

The act authorizes property tax credits for manufacturing or biotechnology machinery and equipment meeting narrow criteria and requires the state to reimburse the towns for the revenue loss.

Payments in Lieu of Taxes (§§ 24 and 25)

The act requires the state to make payments in lieu of taxes to Madison (for 175 Cottage Road) and Preston (for Norwich State Hospital). OPM must pay Madison $1,011.54 in FY 2000-01 for the 1994 through 1997 assessment years and Madison must remove the property from the tax rolls. The state must pay Preston $563,024 in FY 2000-01, $422,268 in FY 2001-02, $281,512 in FY 2002-03, and $147,056 in FY 2003-04 for the assessment years 1998 through 2001, notwithstanding any pending or resolved administrative or judicial appeals.

Grants in Lieu of Taxes for Connecticut Valley Hospital (§§ 22 and 23)

Effective July 1, 2000, the act increases the grant in lieu of taxes to Middletown for the buildings and grounds of the Connecticut Valley Hospital (CVH) from 40% to 65% of the property taxes that would have been paid had the hospital not been exempt from taxation as state property.

The act also authorizes a supplemental grant in lieu of taxes of $544,179 for CVH for FY 1999-00. The grant is to be paid to Middletown during FY 2000-01.

Property Tax Abatements for School Buses (§ 50)

For assessment years starting on or after October 1, 2001, the act allows municipalities to abate up to 100% of the property taxes due on a new school bus. The abatement must be approved by the municipality's legislative body or, if the legislative body is a town meeting, its board of selectmen.

MISCELLANEOUS GRANT AND FUNDING CHANGES

Mashantucket Pequot and Mohegan Fund (§ 29)

The act states that grant payments to municipalities from the Mashantucket Pequot and Mohegan Fund for FY 2000-01 will be based on an appropriation of $135 million. If the state has not received any payment due from a municipality by July 1, 2000, the act requires the state to reduce its grant to the municipality by the amount owed.

Patriots' Lawsuit (§ 13)

The act shifts $1,921,661 that the state received from its lawsuit against the New England Patriots to OPM's other expenses account.

Grants for Sewage Treatment Facilities (§ 32)

The act requires OPM to give $50,000 grants to Cromwell, Naugatuck, New Haven, and Waterbury from its appropriation for the Waste Water Treatment Facility Host Town grant program.

Funding for Childcare Facility Capital Costs (§ 37)

The act transfers up to $1 million from General Fund debt service to the Connecticut Health and Educational Facilities Authority (CHEFA) for FY 2000-01, once the FAC approves. CHEFA must use the money to help pay the capital costs of relocating or rehabilitating existing childcare facilities. As a condition of receiving the CHEFA funding, the facilities must raise at least 15% of the total cost of the capital improvements from foundations or other nonprofit organizations.

Wadsworth Atheneum Restoration (§ 27)

The act allows the Department of Economic and Community Development to provide up to $12.5 million in financial assistance through December 31, 2002 to the Wadsworth Atheneum for restoration and improvements. The assistance can take the form of grants, loans, loan guarantees, insurance contracts, investments, or a combination of these and may be provided from state bond funds.

Lapsed Funds (§§ 26, 33 to 36, and 39)

The act specifies that appropriations to OPM for litigation and settlement costs do not lapse at the end of a fiscal year in which they are appropriated but continue to be available for their intended purpose until the end of the following fiscal year. Similarly, it specifies that appropriations to the Departments of Mental Retardation, Mental Health and Addiction Services (DMHAS), Correction, and Children and Families for workers' compensation claims do not lapse and continue to be available for their intended purpose during FY 2000-01. Finally, it specifies that up to $300,000 appropriated to DMHAS does not lapse and continues to be available for its intended purpose during FY 2000-01.

Reimbursement for State Park-Related Costs (§ 31)

The act requires the Department of Environmental Protection (DEP) to reimburse, within available appropriations, costs imposed on municipalities by the traffic generated by state parks if such traffic impedes traffic, limits the movement of emergency traffic, or creates a risk of breach of peace or a threat to public safety.

EDUCATION GRANTS

Educational Technology (§ 44)

The act transfers $300,000 from the Department of Information Technology to the Commission for Educational Technology established in PA 00-187. It requires the commission to allocate $150,000 each to the University of Connecticut (UConn) and the Connecticut State University (CSU) system. UConn and CSU must use the money to buy or lease laptop computers for students in teacher preparation programs related to integrating technology into the public school curriculum.

School Accountability Funding (§ 49)

The act transfers $2.2 million of the State Department of Education's (SDE) FY 1999-00 appropriation from school construction grants to school accountability.

Grant to Hartford for School System Audit (§ 47)

The act requires Hartford to transfer $300,000 of its state surplus revenue sharing funds to the Hartford school system, which must, in turn, transfer it to the Citizen's Committee for Effective Government. The committee must use the money to finish implementing the third and final year's recommendations of the fiscal and operations audit of the district required by the 1997 Hartford school takeover act. Under PA 00-187, which this provision amends, the city had to use the money for an operational audit of the Hartford school system.

Regional Educational Service Center (RESC) Grants (§ 52)

PA 00-187 requires the SDE, by October 15, 2000, to provide a one-time supplemental grant to each RESC that operates an interdistrict magnet school. This act reduces the amount that each such RESC receives under PA 00-187 for related support services to the schools from $200,000 to $118,750.

Vocational-Agriculture (Vo-Ag) Center Grants (§ 82)

By law, a local school board operating a vo-ag center that had more than 150 students from outside the district attending in the previous year receives a supplemental state operating grant of $500 for each enrolled secondary student. Vo-ag centers that do not meet this threshold receive $60 per secondary student. This act phases out over four years the grant for a center that, after July 1, 2000, falls below the 150-student threshold instead of cutting the per-student grant from $500 to $60 in one year. The phase-out schedule is as follows: for the first year the board does not qualify, $400 per secondary student; for the second successive year, $300; for the third, $200; and for the fourth, $100. Thereafter, such a board receives the regular $60-per-secondary-student grant.

ARTS GRANTS (§ 48)

The act allocates $6 million in arts grants. It identifies the 38 grantees that are to receive the grant and specifies how much each is to receive.

INFLATIONARY INCREASE FOR CERTAIN PRIVATE PROVIDERS (§ 38)

The act requires up to $4,650,000 appropriated to OPM for private providers to be distributed to the departments of Mental Retardation (DMR), Social Services, Correction, and Children and Families (DCF); the Children's Trust Fund; the Judicial Department; and the Board of Parole to provide an additional .5% inflationary increase to certain private providers. The providers must apply at least a proportionate amount of the increase to their wage and wage-related accounts. The act requires DMR, DMHAS, and DCF to monitor providers to ensure that the increase is distributed proportionately. The act specifies which providers must receive the inflationary increase.

FAMILY AND MEDICAL LEAVE ACT STUDY (§ 80)

By law, most Connecticut employers must grant their employees' requests for time-limited, unpaid leaves upon the birth or adoption of a child or when a serious medical condition affects them or a close family member. The act permits the OPM secretary to hire a consultant, within available appropriations, to conduct a cost/benefit study of providing "wage replacement" (paid leave) to employees who take these leaves. He must consult with the commissioners of administrative services and labor and the chairpersons and ranking members of the Labor Committee, or their designees, in doing so.

The study may include:

1. a projection of wage-replaced family and medical leave use;
2. if available, the percentage of family and medical leaves currently being taken under paid employer policies and the potential impact a state program would have on them;
3. the direct impact, if any, that providing paid leaves would have on other government program costs, such as Temporary Family Assistance (cash welfare), unemployment compensation, and Medicaid nursing home reimbursements;
4. an estimate of the average costs employees not receiving paid leave incur for necessary services such as infant care, elder care, or care for disabled family members;
5. how employers would be affected by a state family leave benefit, including its impact on overall employment, employee retention, recruitment and training costs, and productivity;
6. the costs of providing wage replacement through (a) existing state insurance systems such as unemployment insurance, (b) a new temporary disability insurance program, and (c) a new family and medical leave insurance account; and
7. the feasibility of job sharing, telecommuting, and the use of flex-time scheduling.

The secretary must report the consultant's findings to the Labor and Public Employees Committee by July 1, 2001.

MISCELLANEOUS CHANGES

Fair Market Value of Brownfields (§ 100)

The act changes the effective date of PA 00-89 from October 1, 2000 to May 26, 2000. That act requires redevelopment agencies to take into account the environmental condition and clean-up cost of a property being taken by eminent domain.

Adraien's Landing (§ 51)

The act removes the requirement, enacted in PA 00-140, that the state indemnify state officials or employees against financial losses, including legal expenses, in connection with agreements they make concerning the Adriaen's Landing project, UConn football stadium operations, or relevant portions of PA 99-241 (the previous version of the Adriaen's

Landing law). PA 00-140 exempts state officials and employees from personal liability for such agreements.

Waiver of Fee Under Electric Restructuring (§ 81)

With limited exceptions, electric customers must pay a fee to cover costs incurred by an electric utility that were in rates but whose recovery is jeopardized by the introduction of competition in the industry. The act allows the Department of Public Utility Control to waive part of the fee for manufacturers that meet specified criteria. The manufacturer must build a new plant or expand an existing one that will use at least 50 kilowatts of electricity and create or add at least 100 jobs. The department may adopt implementing regulations.

State Agency Cost Recoveries (§ 28)

Unless the OPM secretary waives the requirement, the act requires state agencies other than public higher education constituent units and institutions to deposit with the treasurer any indirect costs they recover from federal grants or other sources if the General Fund originally paid those costs. The treasurer must credit the reimbursements to General Fund revenues.

Union Negotiations with DMHAS Doctors (§ 14)

The act permits OPM's Office of Labor Relations to negotiate a supplemental agreement with the New England Health Care Employees Union, District 1199. The agreement would cover night duty, standby, and on-call payments to doctors, primarily psychiatrists, working at the Connecticut Valley and Cedarcrest hospitals, DMHAS's central office, and some of its larger regional mental health facilities. These doctors are currently represented by District 1199 and are working under a contract that expires June 30, 2001.

The act makes this bargaining non-arbitrable and permits the agreement to go into effect without legislative approval. These conditions presumably apply only to the negotiation of this supplemental agreement, and for future contracts these issues will be subject to the state employee bargaining law's interest arbitration and legislative approval provisions.

Home Improvement Contractor Registration (§ 79)

The law requires home improvement contractors and corporations acting as home improvement contractors to register annually with DCP. The act waives the registration renewal fee for a contractor who acts solely as the contractor of record for a corporation if he uses his registration solely to direct, supervise, or perform home improvements for the corporation.

Motor Fuel Tax Refund Application Deadline (§ 87)

By law, motor fuel used for certain purposes, such as farming, is exempt from the Connecticut motor fuel tax. The act extends the deadline, from May 31, 1997 to August 24, 2000, for eligible taxpayers to apply for refunds of taxes paid on exempt motor fuel they used 1996.

BACKGROUND

Office of Workforce Competitiveness

Executive Order 14-A established the OWC and a JOBS Cabinet to advise the governor. It makes the OWC director directly accountable to the governor and makes her the chairperson of the JOBS cabinet. The cabinet, comprised of the labor, economic and community development, education, and social services commissioners; the OPM secretary; and Community Technical Colleges chancellor, must explore, identify, and report to the governor and CETC on policies and actions necessary to ensure that Connecticut leads the nation in building a trained and employed workforce. The order remains in effect until July 2, 2004.

Workforce Investment Act

Congress enacted WIA in August 1998. It replaced the Job Training Partnership Act as of July 1, 2000. It requires states to coordinate roughly 60 federally funded job training programs, which it funds through three grants that target employment and training services for dislocated workers, adults, and disadvantaged youth. States must develop one-stop systems and must offer eligible participants a uniform training voucher system; up to three weeks of assessment, job search and placement help, and career counseling; intensive services; and training.

WIA requires states to establish a state workforce development board and local workforce development boards (in Connecticut, these are CETC and the eight Regional Workforce Development Boards (RWDBs)). It allows states to pass laws to implement it and requires state legislatures to appropriate its funds.

Connecticut Employment and Training Council

State law created the 24-member CETC in 1989 to plan, coordinate, and evaluate job training programs. A majority of its members represent business; the remainder represent state and local governments, unions, educators, and community-based organizations.

PA 99-195 designated CETC as the statewide workforce development board. It required CETC to implement WIA by (1) obtaining legislative approval of a statewide workforce development plan that includes 20 federally required elements and (2) submitting it to the governor by January 1, 2000. The state plan serves as a public policy, fiscal investment, and operational framework and is the "single state plan" required by WIA.

PA 99-195 also requires CETC to make periodic reports and recommendations to the governor, legislature, and RWDBs. It must develop and oversee a plan to continuously improve the RWDBs, develop programs that RWDBs will administer, and develop a strategy for providing comprehensive services to eligible youth.

PA 00-216—HB 5911
Appropriations Committee

AN ACT CONCERNING EXPENDITURES FOR THE PROGRAMS AND SERVICES OF THE DEPARTMENT OF PUBLIC HEALTH

SUMMARY: This act:

1. revises how tobacco settlement funds are distributed and invested, specifies the purposes of the Tobacco and Health Trust Fund, and establishes a 17-member board of trustees responsible for disbursing funds;
2. requires the departments of Public Health (DPH) and Mental Health and Addiction Services (DMHAS) to develop a plan to reduce tobacco and substance abuse and to address the state's unmet physical and mental health needs;
3. creates a biomedical research trust fund;
4. increases funding to local and district health departments;
5. requires health care facilities with public employees to use safe needle devices;
6. requires DMHAS to establish a pilot peer engagement specialist program for people needing personal outreach services because of their rejection of traditional mental health services and potential for violence;
7. establishes an Advisory Commission on Multicultural Health;
8. requires any payments made to the state as a result of a court settlement where the proceeds may be used for women's health to be deposited in an account for DPH to use for breast and cervical cancer treatment services;
9. allows the Department of Social Services (DSS) to seek necessary federal waivers or amend the state Medicaid plan to receive federal reimbursement for providing medical services to women diagnosed with breast and cervical cancer under DPH's early detection and treatment referral program;
10. requires health insurers to cover pain management treatment under certain conditions;
11. directs DPH, in consultation with DSS, to establish a pilot program on pediatric asthma;
12. requires the DMHAS and Department of Children and Families (DCF) commissioners to sign a memorandum of understanding concerning "Project SAFE";
13. establishes a program in DMHAS to provide grants to nonprofit corporations for support services to the homeless;
14. allows DPH to establish a program promoting environmentally safe housing;
15. allows DPH to adopt regulations authorizing nurse's aides to administer medications in nursing homes (subsequently repealed by PA 00-2, June Special Session);
16. clarifies the meaning of "medical protocols" under managed care;
17. directs DPH to study and undertake certain activities concerning nurse staffing levels and the nursing shortage;
18. provides alternative licensure requirements for certain psychologists and professional counselors;
19. transfers $30,000 from the Tobacco and Health Trust Fund to DPH to implement a recently enacted law (PA 00-57) on reporting of community benefits by managed care organizations and hospitals; and
20. requires certain DPH appropriations be used for traumatic brain injury (TBI) planning grant applications and school-based health centers.

EFFECTIVE DATE: The provisions on: (1) psychologist and professional counselor licensure, the tobacco funds, Tobacco Abuse Reduction and Health Plan, Biomedical Research Trust Fund, and

nurse shortage study take effect upon passage; (2) local and district health department funding, breast and cervical cancer treatment, safe needles, medical protocols, pediatric asthma pilot program, Project SAFE, multicultural health advisory commission, homeless grants, peer engagement specialist program, environmentally safe housing, funding transfer for the community benefits program, appropriations for TBI and school-based health centers, and the administration of medication by nurse's aides take effect July 1, 2000; (3) nurse staffing levels takes effect October 1, 2000; and (4) pain management coverage takes effect January 1, 2001.

TOBACCO SETTLEMENT FUND

Disbursements

The Tobacco Settlement Fund is a separate, nonlapsing repository for any funds the state receives from the 1998 Master Settlement Agreement. For FYs 1999-00 and 2000-01, annual disbursements from the fund must be made (1) to the General Fund in the amount identified as "Transfer from Tobacco Settlement Fund" in the General Fund revenue schedule adopted by the legislature and (2) $20 million to the Tobacco and Health Trust Fund (see below).

Under this act, beginning in FY 2001-02 and afterwards, Tobacco Settlement Fund disbursements are as follows: (1) $12 million to the Tobacco and Health Trust Fund, (2) $4 million to the Biomedical Research Trust Fund (see below), (3) the amount identified as "Transfer from Tobacco Settlement Fund" in the General Fund revenue schedule adopted by the legislature to the General Fund, and (4) any remainder to the Tobacco and Health Trust Fund.

Funds' Investment

The act requires the state treasurer to invest the amount in the Tobacco Settlement Fund, the Tobacco and Health Trust Fund, and the Biomedical Research Trust Fund in a reasonable and appropriate manner to achieve the funds' objectives, using a prudent person standard. The treasurer must consider rate of return; risk; term or maturity; portfolio diversification within the funds; liquidity; projected disbursements and expected payments; and deposits, contributions, and gifts to be received. The act specifies that she is not required to invest the funds directly in obligations of the state or any political subdivision or in any investment or other fund she administers. Fund assets must be continuously invested and reinvested consistent with fund objectives until disbursed.

TOBACCO AND HEALTH TRUST FUND

The Tobacco and Health Trust Fund is a separate, nonlapsing fund that can accept transfers from the Tobacco Settlement Fund and apply for and accept gifts, grants, or donations from public or private sources in order to carry out its objectives.

The act specifies that the fund's purpose is to create a continuing significant source of money to (1) support and encourage programs to reduce tobacco abuse through prevention, education, and cessation; (2) support and encourage program development for substance abuse reduction; and (3) develop and implement programs to meet the state's unmet physical and mental health needs. The trust fund is within the Office of Policy and Management (OPM) for administrative purposes only.

Board of Trustees

The act creates a 17-member board of trustees to administer the fund. Initial appointees, whose terms begin July 1, 2000, are: (1) four appointed by the governor, one serving a one-year term, two serving for two years, and one serving three years; (2) four appointees, two each appointed by the speaker of the House and the Senate president pro tempore, two serving for two years and the other two serving three years; (3) four appointees, two each appointed by the House and Senate majority leaders, two serving for one year, and two serving for three years; (4) four appointees, two each appointed by the House and Senate minority leaders, two serving for one year and two serving for two years; and (5) the OPM secretary, or his designee, as an ex-officio voting member. Following the initial terms, subsequent appointees serve three-year terms.

Trustees are not compensated except for reimbursement for necessary expenses incurred in performing their duties. The board of trustees must establish rules of procedure that must include criteria, processes, and procedures for selecting programs to receive money from the trust fund.

Trust Fund Disbursement

From July 1, 2000 to June 30, 2005, the board of trustees can, by majority vote, recommend disbursing funds for activities to reduce tobacco and substance abuse, address the unmet physical and mental health needs of the state, and for developing the Tobacco Abuse Reduction and Health Plan. The board may not recommend disbursement of more than 50% of net earnings from the trust fund's principal for such purposes. The board's recommendations must give

(1) priority to programs that address tobacco and substance abuse and serve minors, pregnant women, and parents of young children and (2) consideration to the availability of private matching funds. Recommended disbursements are in addition to any resources that the state would otherwise appropriate for such purposes. For FY 2005-06 and afterwards, the board can recommend disbursements of the total net earnings of the trust fund's principal for these purposes.

The board must submit its disbursement recommendations to the Public Health and Appropriations committees (the "standing committees"). Within 30 days of their receipt, these committees must advise the board of their approval, modification, or rejection of the recommendations. If they do not agree, the top six legislative leaders must each appoint one member from each committee to serve on a conference committee. The conference committee must report to both standing committees. The committees must vote to accept or reject the report. The conference committee's report cannot be amended. The board's recommendations are deemed approved if a standing committee rejects the conference committee's report. If the standing committees accept the conference report, the Appropriations Committee must advise the board of trustees of their approval or modification of the board's recommendations.

The board's recommendations for disbursement are deemed approved if the standing committees do not act within 30 days after receiving the board's recommendations. Trust funds must be disbursed according to the board's recommendations as approved or modified by the standing committees.

Modification of Authorized Disbursements

If the board modifies an authorized disbursement by $50,000 or more or 10% of the authorized amount (whichever is less) after recommendations for disbursement have already been approved or modified, it must submit the proposed modification to the Public Health and Appropriations committees and have it approved, modified, or rejected according to the procedures outlined above.

Notification of Disbursements

Notification of all disbursements from the trust fund must be sent to the Public Health and Appropriations committees through the Office of Fiscal Analysis.

Board of Trustees' Report

By February 1 annually, the board must report to the General Assembly on all disbursements and other expenditures from the trust fund. The report must evaluate the performance and effect of each program receiving trust fund monies and include the criteria and application process used to select these programs.

TOBACCO ABUSE REDUCTION AND HEALTH PLAN

The act requires DPH and DMHAS to develop, within available appropriations, a Tobacco Abuse Reduction and Health Plan. The plan must be submitted to the Public Health and Appropriations committees by April 1, 2001. It must consider and recommend actions to (1) reduce tobacco and substance abuse and (2) address the state's unmet physical and mental needs, considering DPH's most recent state health plan.

BIOMEDICAL RESEARCH TRUST FUND

The act creates a Biomedical Research Trust Fund as a separate nonlapsing fund that can accept transfers from the Tobacco Settlement Fund and receive gifts, grants, or donations from public or private sources. Beginning July 1, 2001, the DPH commissioner can make grants from this fund to nonprofit tax-exempt colleges and universities and to hospitals that conduct biomedical research in heart disease, cancer, and other tobacco-related diseases.

Total grants in FY 2001-02 cannot exceed $2 million. After that, the commissioner can grant up to half of the fund's balance as of the date he approves a grant. He must develop a grant application process by April 1, 2001 and may accept applications after that date.

LOCAL AND DISTRICT HEALTH DEPARTMENT FUNDING

The act increases funding to local and district health departments as follows:

Type of Health Department	***Prior Per Capita Subsidy***	***New Per Capita Subsidy***
Health District -Town Over 5,000 population	$1.79	$1.99
-Town Under 5,000 population	$2.09	$2.32
Full-Time Local Health Departments	$1.02	$1.13
Part-Time Local Health Departments	$0.53	$0.59

SAFE NEEDLES

This act requires health care facilities or institutions with public employees to use only safe needle devices. Prior law required only DPH-licensed health care facilities and institutions to use such devices if advised by the federal Occupational Safety and Health Administration. By law, these devices must be injectable equipment with secondary precautionary-type sheathing devices or alternate devices designed to prevent accidental needlestick injuries.

The act specifies that it does not apply to any prepackaged drug or biologic product with an administration system or used in a prefilled syringe and approved for commercial distribution or investigational use by the federal Food and Drug Administration (FDA) if a sharp injury protection disposal system is in place at the health care facility or institution.

PILOT PEER ENGAGEMENT SPECIALIST PROGRAM

The act requires DMHAS, within available appropriations, to establish a "pilot peer engagement specialist program" in one mental health region of the state. The program must provide intensive community support and case management services for people requiring individualized outreach services because they persistently reject traditional mental health services and are potentially violent. A person must be offered such a specialist after the DMHAS commissioner objectively determines that the person (1) has inflicted or threatened to inflict serious physical injury on another one or more times over the last five years, (2) has persistently rejected traditional services, and (3) needs and would benefit from services provided by an engagement specialist.

Peer Engagement Specialist Responsibilities

The act authorizes DMHAS, by September 1, 2000, to hire or contract with people recovering from psychiatric disabilities to act as peer engagement specialists. They would be accountable to DMHAS. Specialists must help in assessing people for the program and must also (1) assist in developing the person's recovery plan; (2) participate in or initiate conferences to set strategies; (3) consult with the primary care agencies; (4) participate in all treatment meetings; (5) provide outreach, support, and follow-up services; (6) ensure a partnership among the person, the specialist, and assigned care manager; (7) serve as a peer and role model; (8) teach life and interpersonal skills; (9) assist in developing community support systems; and (10) assist care managers on an ongoing basis.

Training

The specialist must get initial and periodic training concerning advance directives allowing program participants to specify the mental health intervention they would accept in a crisis. The specialists must tell all participants of these advance directives and encourage their use. DMHAS must ensure that technical assistance on advance directives is available to the specialist from an independent entity that is not a mental health provider. It must give a certificate to each specialist hired who satisfactorily completes the training.

Advisory Committee

The act requires the DMHAS commissioner to appoint a 12-member advisory committee by July 1, 2000 for program design and implementation. (But this provision of the act takes effect July 1, 2000.) Six members must be current or former mental health service consumers, consumer advocates, or family members knowledgeable about the engagement concept and recovery principles. The other six members must represent mental health services providers, DMHAS, or mental health professional organizations.

By January 15, 2002, DMHAS must submit a program evaluation report to the Public Health Committee. The report must include (1) the commissioner's findings and recommendations, including relevant clinical benchmarks for evaluating the program and its participants and (2) recommendations of the peer engagement specialists and advisory committee.

COMMISSION ON MULTICULTURAL HEALTH

By law, DPH contains an Office of Multicultural Health. The act establishes a 17-member Advisory Commission on Multicultural Health with a mission to eliminate disparities in health status among the state's cultural and ethnic communities and to improve the health of state residents.

Under the act, the office must provide necessary staff for the advisory commission.

The advisory commission members are as follows:

1. one member representing the National Association for the Advancement of Colored People, appointed by the House speaker;

2. one member of the legislature's Black and Puerto Rican Caucus, appointed by the Senate president pro tempore;
3. one member representing an advocacy group for Asian Americans, appointed by the House minority leader;
4. one member representing a Native American advocacy group, appointed by the Senate minority leader;
5. one member representing an Hispanic advocacy group, appointed by the governor;
6. the chairpersons of the Connecticut African-American Affairs Commission, Latino and Puerto Rican Affairs Commission, and Statewide Multicultural Health Steering Committee;
7. the chairperson of the Permanent Commission on the Status of Women; and
8. eight public members representing diverse multicultural and multiethnic backgrounds, with two each appointed by the top four legislative leaders.

(Public Act 00-1 of the June Special Session increases membership from 17 to 18 by adding a member from an affiliate of the National Urban League, appointed by the Senate president. Also, the member from the legislature's Black and Puerto Rican Caucus is appointed by the House majority leader instead of the Senate president and the member representing the Hispanic advocacy group is appointed by the Senate majority leader instead of the governor.)

Initial appointments to the commission must be made by November 1, 2000. The chairperson of the Statewide Multicultural Health Steering Committee serves as chairman until October 31, 2001. After that time, the DPH commissioner must appoint a chairperson. The members' terms are coterminous with the terms of the appointing authority or until a successor is chosen.

The commission must meet quarterly and (1) advise the public health commissioner and the Office of Multicultural Health director on preparing and implementing reports and strategic plans and coordinating issues and policies related to the office's functions, (2) advise the commissioner on developing a multicultural health promotion plan and monitor its implementation, and (3) make recommendations to the commissioner and the Public Health Committee on multicultural health issues, policies, and programs.

INSURANCE COVERAGE OF PAIN MANAGEMENT

Beginning January 1, 2001, this act requires certain individual and group health insurance policies that are delivered, issued for delivery, renewed, amended, or continued in Connecticut to provide access to pain management specialists and coverage for pain management treatment ordered by such specialist. Coverage includes the use of whatever means a specialist finds necessary to (1) make a diagnosis and (2) develop a treatment plan, including the use of medications and procedures. It defines "pain" to mean a localized sensation of severe discomfort, distress, or suffering, and it defines "pain management specialist" as a physician credentialed by the American Academy of Pain Management or a board-certified anesthesiologist, neurologist, oncologist, or radiation oncologist with additional training in pain management.

The requirement applies to hospital and medical service plans offered by HMOs and health insurance policies that offer the following types of coverage: (1) basic hospital expense, (2) basic medical-surgical expense, (3) major medical expense, (4) limited benefit expense, and (5) hospital or medical expense.

PEDIATRIC ASTHMA PILOT PROGRAM

The act directs DPH, in consultation with DSS, to establish a pilot program for early identification and treatment of pediatric asthma. The program is subject to available appropriations. DPH must make grants-in-aid for projects in two municipalities to identify, screen, and refer children with asthma for treatment. The projects must work cooperatively with maternal and child health providers such as local health departments, community health centers, Healthy Start, and Healthy Families to target for early asthma identification (1) children who were born prematurely, (2) premature infants, or (3) pregnant women at risk of premature delivery.

The projects can use private resources through public-private partnerships to establish public awareness programs and outreach initiatives targeting urban areas to encourage early screening of children with asthma risks.

DPH must evaluate the pilot program and report to the Public Health, Human Services, and Appropriations committees by October 1, 2001.

PROJECT SAFE

This act requires the DCF and DMHAS commissioners to sign a memorandum of understanding governing their collaboration to evaluate and provide services to families who require behavioral health services. DCF identifies the families. The collaboration (known as "Project SAFE") must include evaluation, service needs and delivery, housing, medical coverage, vocational and

employment support, and other related recovery support services. The Social Services and Labor departments must participate in specific cases, as needed. DCF initiated Project SAFE (Substance Abuse Family Evaluation) in 1995 as a way to connect its child protection system with the adult substance abuse treatment system.

SUPPORT SERVICES FOR THE HOMELESS

The act establishes a program in DMHAS to provide grants to nonprofit corporations to provide support services to people who are homeless or at risk of homelessness. Those eligible must also be affected by psychiatric disabilities, chemical dependency, or both.

Services must be designed to enable individuals to (1) obtain and keep permanent housing, (2) increase job skills and income, and (3) achieve greater self-determination.

DMHAS must leverage private and federal funding in providing the grants. It may adopt regulations for the program.

Under the act, "homeless" or risk of homelessness means (1) living on the street or in shelters, (2) leaving homeless programs or transitional housing with no permanent housing, (3) living in unsafe housing or abusive environments, (4) paying over 50% of income for rent, (5) living in overcrowded conditions, or (6) needing support services to keep permanent housing.

ENVIRONMENTALLY SAFE HOUSING

The act allows DPH to establish a program to promote environmentally safe housing for children and families utilizing education, medical screening, and appropriate and cost-effective repairs. Eligible families are those households (1) eligible for Medicaid, (2) with a child age 6 or younger, and (3) living in a building built before 1978. The program is authorized to (1) identify eligible families and through voluntary home visits; (2) provide education about lead exposure and how to lessen its effects; (3) provide blood lead screening for children 6 and under; (4) identify measures to lessen the effects of lead, including window repair or replacement; (5) apply to federal programs and other funding sources for program costs; and (6) continue to evaluate the program to plan for a phase-out in three to five years. DPH can contract with a nonprofit entity to operate the program.

Eligible program costs for the entity running the program include expenses of providing lead-safety education, interim measures, window repair or replacement or other remediation of dwellings, administration and management expenses, planning and start-up costs, and other necessary and reasonable costs.

ADMINISTRATION OF MEDICATION BY NURSE'S AIDES

The act allows DPH to adopt regulations authorizing registered nurse's aides to administer medications in nursing homes. The regulations must address (1) minimum education and training, (2) supervision, (3) restrictions on medications administered, and (4) discipline.

Under the act, DPH can implement procedures allowing nurse's aides to administer medication in nursing homes while it is in the process of adopting the regulations. DPH must give notice of its intent to adopt the regulations in the *Connecticut Law Journal* within 20 days of implementing the procedures. These procedures are valid until the final regulations are effective. (PA 00-2, June Special Session repeals these provisions.)

MEDICAL PROTOCOLS

Existing law requires managed care organizations to obtain information from active Connecticut physicians who practice in the relevant specialty area before implementing new medical protocols or substantially altering existing ones. This act specifies that "medical protocol" includes drug formularies or lists of covered drugs.

NURSING-RELATED ACTIVITIES AND STUDIES

Nursing Staffing

The act directs DPH to undertake a number of activities concerning nursing in Connecticut. It must:

1. develop a single, uniform method for collecting and analyzing standardized data on the linkage between nurse staffing levels and the quality of acute, long-term, and home care, including patient outcomes;
2. conduct an ongoing study of the relationship between nurse staffing patterns in hospitals and quality of health care, including patient outcomes;
3. obtain relevant licensure and demographic data that may be available from other state agencies and make it available to the public in a standardized form; and
4. collaborate with hospitals and the nursing profession concerning the collection of standardized data on patient care outcomes

at hospitals and make it available to the public in a report card format.

Nursing Shortage

The act requires DPH to study the nursing shortage in the state. The study must address (1) the causes of the shortage and recommendations for its alleviation; (2) make recommendations for implementing methods of collecting uniform data on nurse-to-patient ratios in hospitals, nursing homes, and home health agencies, including the feasibility of getting the data from other state and federal agencies; and (3) make recommendations for supplementing nursing care in response to the shortage, including recommendations on the feasibility of developing criteria for the certification, training, and supervision of medication technicians in long-term care facilities.

The commissioner must report his findings and recommendations to the Public Health Committee by December 31, 2000.

HEALTH PROFESSIONS LICENSURE

Psychologists

The act requires the Board of Examiners of Psychologists to approve the educational program of a license applicant who (1) graduated from an institution in another state whose graduates can take the state psychology licensing exam in that state, (2) passed the national psychology exam before January 1, 1996, (3) has been licensed to practice in that state for at least five years, (4) is a currently a practicing doctoral-level psychologist licensed in that state and has practiced there for at least five years, and (5) has had no discipline action anywhere. This provision expires 30 days from the act's passage.

Professional Counselors

The act allows an applicant for a license as a professional counselor to meet alternative license requirements. Instead of completing graduate semester hours at a regionally accredited higher education institution or receiving a degree from a regionally accredited institution, or both, the act allows a person to apply for licensure if he (1) satisfied the graduate semester hour or degree requirements at an institution that is not regionally accredited and (2) has continuously worked as a supervisor of psychologists, social workers, counselors, or similar professionals for at least 15 years within a five-year period immediately before applying.

But PA 00-1, June Special Session instead allows the person to apply for licensure if he (1) earned a master's degree in sociology before 1971; (2) passed the National Counselor Examination before July 1, 1999; and (3) continuously worked as a supervisor of the practitioners listed above for a minimum 15 years immediately before applying. This alternative is available for 30 days after the act takes effect.

APPROPRIATIONS

TBI Planning Grant

The act requires DPH to devote $33,000 from its FY 2000-01 appropriation for other expenses to apply for a traumatic brain injury (TBI) grant under a federal TBI demonstration grant program. The planning grant must be used for a statewide needs and resource assessment to develop a comprehensive state plan for community-based TBI care.

School-Based Health Centers

The act requires DPH to devote $50,000 from its FY 2000-01 appropriations for other expenses to support a contract with Child and Family Services of Southeastern Connecticut to establish two school-based health centers.

BACKGROUND

Related Acts

PA 00-208 requires any tobacco products manufacturer that sells cigarettes in Connecticut to either (1) enter into, and perform financial obligations under, the master settlement between Connecticut and four leading tobacco products manufacturers concluded on November 23, 1998 or (2) pay certain amounts into a qualified escrow fund.

PA 00-170 (§ 40) allocates $500,000 from the Tobacco Settlement Fund disbursements for FY 2000-01 to DMHAS for a grant to the Regional Action Councils and reduces the allocation to the Tobacco Health and Trust Fund from $20 to $19.5 million accordingly.

PA 00-1, June Special Session increases the membership from 17 to 18 on the Advisory Commission on Multicultural Health by adding a member from an affiliate of the National Urban League, appointed by the Senate president pro tempore. And it changes the appointing authorities of (1) the member from the legislature's Black and Puerto Rican caucus to the House majority leader

instead of the Senate president pro tempore and (2) the member representing the Hispanic advocacy group to the Senate majority leader instead of the governor.

PA 00-2, June Special Session (§ 52) repeals provisions of this act regarding the administration of medication by nurse's aides to nursing home residents.

PA 00-217—SB 635
Appropriations Committee

AN ACT CONCERNING CHARITABLE SOLICITATIONS

SUMMARY: This act:

1. increases the maximum criminal penalty, from $1,000 to $5,000, for violating the charitable solicitation law and applies the penalty only to knowing, rather than all, violations;
2. allows the attorney general to seek up to $2,500 as a civil penalty in suits brought to restrain violations of the charitable solicitation law;
3. exempts charities that raise less than $50,000 rather than $25,000 from the requirements that they register with the state and file an annual report; and
4. increases, from $100,000 to $200,000, the threshold for the requirement that a charity's annual report be audited and excludes revenue derived from funds held in trust for the charity's benefit from the calculation of revenue for this purpose.

EFFECTIVE DATE: October 1, 2000

CIVIL PENALTY

When requested by the commissioner of consumer protection, the law allows the attorney general to seek a temporary or permanent restraining order, restitution order, accounting, or other relief to make certain that charitable funds are "duly applied." The act also allows the attorney general to seek up to $2,500 as a civil penalty in cases in which a person has willfully engaged in conduct prohibited by the charitable funds law. For this purpose, a "willful violation" has occurred when the violator knew, or should have known, that the conduct was prohibited.

ANNUAL REPORT

The law requires each registered charity to file an annual report that includes a financial statement. Under prior law, if the organization's revenue was over $100,000, it had to include a copy of an audit report prepared by a certified public accountant. The act raises this threshold to $200,000.

BACKGROUND

Registration Requirements

The law requires most charities to register with the Department of Consumer Protection. The law exempts:

1. an organized religious corporation, institution, or society;
2. a parent-teacher organization or an accredited educational institution;
3. a licensed nonprofit hospital;
4. a governmental organization;
5. anyone who solicits solely for one of the above; and
6. charities that normally receive less than $25,000 annually (the amount being raised by this act to $50,000).

PA 00-231—sHB 5907
Appropriations Committee

AN ACT CONCERNING THE COMPENSATION OF ELECTED STATE OFFICIALS AND JUDGES

SUMMARY: This act increases the salaries of (1) statewide elected officials, (2) legislators, (3) judges, and (4) family support magistrates. It changes the rate at which some legislative employees earn compensatory time.

EFFECTIVE DATE: January 3, 2001, except the raises for constitutional officers take effect January 8, 2003.

EXECUTIVE SALARIES

The act increases salaries of the six constitutional officers as follows:

Office	***Prior Salary***	***New Salary As Of 1/8/03***
Governor	$78,000	$150,000
Lieutenant Governor	71,500	110,000
Treasurer	70,000	110,000
Secretary of the State	65,000	110,000
Comptroller	65,000	110,000
Attorney General	75,000	110,000

LEGISLATIVE SALARIES

The act increases the salaries of members of the General Assembly as follows:

Position	*Prior Salary*	*New Salary As Of 1/3/01*
House speaker and Senate president pro tempore	$30,108	$38,689
House and Senate majority and minority leaders	28,665	36,835
Deputy House speaker and House and Senate deputy majority and minority leaders	26,806	34,446
House and Senate assistant majority and minority leaders and majority and minority whips, and standing committee chairs	25,090	32,241
Standing committee ranking members	23,660	30,403
Rank and file members	21,788	28,000

The act also increases the rate for earning compensatory time for permanent, full-time legislative employees to one hour of compensatory time for every two hours, rather than three hours, of overtime an employee works.

JUDICIAL SALARIES

By law, the salaries of judges and family support magistrates are scheduled to increase on April 1, 2001. The act further increases salaries on April 1, 2002. The following chart displays the changes.

Position	*Existing Law*		*The Act*
	Salary As Of 4/1/00	*Salary As Of 4/1/01*	*Salary As Of 4/1/02*
Chief Justice of the Supreme Court	$135,861	$140,582	$149,582
Chief Court Administrator*	130,017	134,738	143,738
Supreme Court Associate Justice	124,683	129,404	138,404
Appellate Court Chief Justice	123,152	127,873	136,873
Appellate Court Judge	116,267	120,988	129,988
Deputy Chief Court Administrator*	113,896	118,617	127,617
Superior Court Judge	111,279	116,000	125,000
Chief Family Support Magistrate	99,587	103,600	108,821
Family Support Magistrate	94,587	98,600	103,569

*The chief court administrator earns this salary if he is a judge of the Supreme, Appellate, or Superior Court, and the deputy chief court administrator earns this salary if he is a Superior Court judge.

The act's provisions result in salary increases for other officials whose salaries are tied to those of judges. The salaries of human rights referees are equal to those of family support magistrates. The salaries of workers' compensation commissioners vary depending on experience and are tied to those of Superior Court judges. The salaries of probate court judges are capped at 75% of a Superior Court judge's salary.

PA 00-2—sHB 5016
Banks Committee

AN ACT CONCERNING BANK AND CREDIT UNION ACQUISITIONS

SUMMARY: This act expands the state's bank holding company law by redefining "holding company" as any company that controls an in-state bank, instead of only a bank holding company or savings and loan holding company. These latter terms, because of a reference to federal definitions of "bank," previously excluded companies controlling banks whose deposits are not federally insured or that do not engage in consumer retail banking.

The act specifies filing requirements for (1) a Connecticut-chartered bank to purchase all or a significant part of the assets and business of an in-state federal bank or federal credit union and (2) a Connecticut-chartered credit union that wants to engage in such a transaction with an in-state federal credit union. The act specifically requires the purchasing institution to file an application with the commissioner that includes (1) a copy of any related notice, application, or other information filed with federal or state banking or credit union regulators and (2) additional information the commissioner requires. By law, such purchases require the banking commissioner's prior approval.

The act also makes it clear that (1) the approval and specific filing requirements apply to a Connecticut bank's purchase of an out-of-state bank's assets or business and (2) the commissioner must disapprove such a purchase involving acquisition of a bank less than five years old. The law already contains a similar authorization for in-state banks to acquire a branch or a significant part of the assets of an out-of-state bank, subject to the other state's and Connecticut's laws for acquisitions between in-state banks.
EFFECTIVE DATE: Upon passage

PA 00-6—SB 10
Banks Committee

AN ACT CONCERNING CREDIT UNION HOLIDAYS AND EMERGENCY CLOSINGS

SUMMARY: This act (1) makes it clear that any legal holiday the governor proclaims as a bank holiday is also a credit union holiday and makes conforming changes in other statutes; (2) allows the banking commissioner to close Connecticut-chartered credit unions, like state-chartered banks, during an emergency and permits them, like banks, to close an office on their own initiative if, because of the emergency, they cannot obtain his prior approval; and (3) lets Connecticut-chartered credit unions, like banks, close their offices on college or university campuses or in other educational institutions when they are not in regular session, with prior notice to the commissioner.
EFFECTIVE DATE: October 1, 2000

PA 00-14—sHB 5015
Banks Committee

AN ACT CONCERNING BANK CONVERSIONS

SUMMARY: This act deletes statutory requirements that are inconsistent with federal rules for converting a mutual savings bank or savings and loan association into a capital stock bank. It also allows the state banking commissioner to waive any provision of the state bank conversion regulations if (1) the provision is inconsistent with federal Office of Thrift Supervision regulations or (2) the waiver is needed to comply with Federal Deposit Insurance Corporation requirements.

The deleted statutory requirements concern such things as (1) limits on the stock that deposit account holders can purchase through priority subscription rights (the right to buy stock in the converted institution before it is sold to the public), (2) account balances below which account holders receive no subscription rights, (3) notice requirements, and (4) requirements and procedures for liquidation accounts.

The act also makes several technical changes.
EFFECTIVE DATE: Upon passage

PA 00-15—sHB 5572
Banks Committee

AN ACT CONCERNING CHARGES FOR STOP PAYMENT ORDERS

SUMMARY: This act requires state and federally chartered banks and credit unions to make the fee they charge for stopping payment on a check cover not only the initial six-month stop payment period, but also the first six-month renewal. Under the state's Uniform Commercial Code, a written stop payment order is good for six months and the customer can renew it for additional six-month periods. A bank has no obligation to pay a check, other than a certified check, after six months, but it may pay it.

EFFECTIVE DATE: October 1, 2000

PA 00-28—sSB 320
Banks Committee

AN ACT PERMITTING A BANKERS' BANK TO PROVIDE SERVICE TO AND TO RECEIVE INVESTMENTS FROM CREDIT UNIONS

SUMMARY: This act allows credit unions in Connecticut, other New England states, and New York to join a group of banks that own a Connecticut-chartered bankers' bank and permits the bank to provide services to them. A "banker's bank" is a wholesale bank that provides services only to the institutions that own it and their directors, officers, and employees. It does not engage in retail banking. Connecticut currently has one such bank, Bankers' Bank Northeast.
EFFECTIVE DATE: October 1, 2000

PA 00-38—SB 318
Banks Committee

AN ACT CONCERNING CREDIT UNION POWERS

SUMMARY: This act lets Connecticut-chartered credit unions engage in the same activities as federal credit unions (except selling title insurance), after filing written notice with the state banking commissioner. The notice must describe the activity and its financial impact on the credit union, cite the federal legal authority for it, describe federal restrictions on the activity, and include other information the commissioner requires. The credit union can begin the activity unless the commissioner disapproves it within 30 days after the notice is filed.

The act allows the commissioner to adopt regulations to ensure that credit unions conduct these activities in a safe and sound manner, with adequate consumer protections. Finally, the act specifies that its provisions do not allow Connecticut credit unions or their subsidiaries to sell title insurance.
EFFECTIVE DATE: October 1, 2000

PA 00-40—SB 323
Banks Committee
Joint Committee on Legislative Management

AN ACT CONCERNING AN ANNUAL UPDATE ON THE BANK POWERS ACT

SUMMARY: This act requires the state banking commissioner, by January 1 annually, to submit a report to the Banks Committee summarizing actions he has taken to (1) let Connecticut-chartered banks engage in certain activities closely related to banking, (2) let them engage in activities permitted for federally chartered banks, and (3) approve a new kind of Connecticut-chartered bank (an uninsured bank that does not take retail deposits) and subsequently approve expanded powers for it.
EFFECTIVE DATE: October 1, 2000

PA 00-42—sSB 376
Banks Committee
General Law Committee

AN ACT CONCERNING THE REGULATION OF FEES CHARGED BY LICENSED PUBLIC ACCOUNTANTS

SUMMARY: This act allows licensed public accountants to (1) accept fees or commissions for referring clients to financial products or services under certain conditions and (2) perform services for clients based on contingent fees. But it continues to prohibit them from accepting such fees when performing specified services for their clients and in certain other situations. The act requires accountants accepting referral fees or commissions to disclose the fees to their clients and, for contingent fees, to disclose the method for determining the fee. It allows the State Board of Accountancy to adopt regulations implementing the provision concerning referral charges and the required disclosures. The act also specifies that it does not relieve accountants of federal or state obligations, if appropriate, to obtain other professional licenses, such as insurance agent or securities broker licenses, before making referrals.

The act adds certain other fees to the law's prohibition on accountants paying a commission to obtain a client. These include rebates, preferences, discounts, or any other considerations.
EFFECTIVE DATE: October 1, 2000

ACCEPTANCE OF REFERRAL FEES AND COMMISSIONS

Permitted and Prohibited Acts

The act allows accountants to accept fees or commissions for referring clients to third-party products or services, but only if the referrals are in

conjunction with professional services they provide to the clients.

The act prohibits accountants from working on commission for, or accepting commissions from, clients when they are performing any of the following services for the clients:

1. a financial statement audit or review;
2. a compilation of a financial statement if the accountant expects, or reasonably could expect, that a third party will use it unless the compilation report discloses the lack of independence; or
3. an examination of prospective financial information.

The act also prohibits accountants from working on commission for, or accepting commissions from, clients during the period covered by any historical financial statements involved in any of these three services.

Disclosures

The act requires accountants who may perform services for which they may accept a fee or commission, and who are being, or expect to be, paid a fee or commission, to disclose this to clients. They must also make this disclosure to anyone to whom they recommend a product or service on which they receive the fee or commission. "Fee" includes a commission, rebate, preference, discount, or any other consideration.

Regulations Authorized

The act allows the State Board of Accountancy to adopt regulations to implement the disclosure requirements, including specifying the terms and manner of referral fee and commission disclosures and any other requirements the board imposes on such disclosures. The regulations must require that the disclosures be written, clear and conspicuous, and signed by the recipient of the product or service. The disclosures must (1) state the amount or the basis on which it will be calculated and (2) identify the payment's source and the relationship between the source and the recipient. Accountants must present disclosures to clients before or when recommending the products or services.

CONTINGENT FEES

The act allows accountants to accept contingent fees. But it prohibits them from performing the above-listed services, as well as preparing original or amended tax returns or tax refund claims for clients for contingent fees or accepting contingent fees from clients during the same periods as apply to referral fees and commissions. The act defines "contingent fee" as a fee for performing a service (1) that will not be charged unless a specific finding or result is obtained or (2) where the amount depends on a specific finding or result. The act continues to exclude from the meaning of contingent fee (1) fees fixed by courts or other public authorities and (2) fees in tax matters based on results of judicial proceedings or government agency findings. It adds another exclusion: a fee that varies based solely on the complexity of the services.

The act requires a contingent fee arrangement between the accountant and a client to be in writing and to state the method by which the fee is determined.

PA 00-61—sHB 5017
Banks Committee
Judiciary Committee

AN ACT CONCERNING THE ENFORCEMENT AND EXAMINATION AUTHORITY OF THE BANKING COMMISSIONER

SUMMARY: This act generally prohibits licensees (presumably under the banking law) from engaging in fraudulent conduct and clarifies various prohibitions on false or misleading statements. It also requires the banking commissioner to consider more factors when annually assessing foreign bank branches or agencies in Connecticut for the Banking Department's costs. It lets the commissioner (1) impose civil penalties on mortgage lenders and brokers who fail to perform an agreement with a borrower and (2) revoke, suspend, or refuse to renew licenses of second mortgage lenders or brokers who break oral agreements. Finally, the act gives sales finance companies more flexibility over where they keep their records.
EFFECTIVE DATE: July 1, 2000

FRAUDULENT CONDUCT

The act generally prohibits licensees, in connection with the licensed activities, from (1) using any device, scheme, or artifice to defraud; (2) making untrue statements about or omitting material facts needed to make statements not misleading, in light of the circumstances; or (3) engaging in any act, practice, or course of business that operates or would operate to deceive anyone. The prohibitions are the same as those in the securities law for fraudulent conduct involving the offer and sale of securities.

FALSE OR MISLEADING ORAL STATEMENTS

The act also makes it clear that prohibitions against making false or misleading statements in any documents filed with the banking commissioner or in any proceeding, investigation, or examination under these laws also apply to oral statements.

FOREIGN BANKS' ASSESSMENTS

The act adds to the items the banking commissioner must consider when he determines the annual assessment on a non-U.S. bank that has a state branch or agency in Connecticut. Annual assessments on all banks help pay for the Banking Department's regulatory activities. Previously, the commissioner had to take into account only the assets of the state branches or agencies in Connecticut. The act adds:

1. the foreign bank's assets in the state relative to those of other foreign banks with state branches or agencies here,
2. the cost of any examination the commissioner conducts under the foreign bank law,
3. the assessment amount allocated to each Connecticut-chartered bank and credit union, and
4. any other factor the commissioner deems appropriate to administering the foreign bank law.

MORTGAGE LENDER AND BROKER NONPERFORMANCE

The act allows the commissioner to impose the same civil penalties on first and second mortgage lenders and brokers who fail to perform an agreement with a borrower that he can already impose for other types of offenses. These include imposing a civil fine of up to $7,500 and license suspension or revocation. It also makes a secondary mortgage lender's or broker's failure to perform any agreement, instead of only a written agreement, grounds for revoking, suspending, or refusing to renew the license, consistent with existing law for first mortgage lenders.

SALES FINANCE COMPANY RECORDS

The act gives a sales finance company five business days to make its books and records available at the business location specified in its license after the commissioner requests them, instead of always having to keep them there.

PA 00-123—sSB 9
Banks Committee
Government Administration and Elections Committee
Judiciary Committee

AN ACT CONCERNING CONFIDENTIAL RECORDS OF THE DEPARTMENT OF BANKING

SUMMARY: This act changes the scope of the confidentiality requirements for state Banking Department records by (1) making it clear that banks' operating and condition reports are not confidential and (2) limiting the law's nondisclosure requirements to directors and personnel of state-chartered banks and credit unions, instead of both state and federally chartered institutions. The act specifies the types of records that, under most circumstances, cannot be disclosed. If records are disclosed under permitted conditions, the act requires safeguards against further dissemination.
EFFECTIVE DATE: October 1, 2000

SCOPE OF CONFIDENTIALITY

Prior law made confidential all information the state banking commissioner or his employees obtained except what, in the commissioner's opinion, should be released for the performance of official duties. It made confidential examination, operating, and condition reports prepared by, for, or on behalf of the commissioner unless they were otherwise public records. Financial institutions' directors, officers, employees, or agents were prohibited from disclosing them or otherwise making them public, except with the commissioner's prior written consent.

The act deletes operating and condition reports from the confidentiality requirement. It limits the nondisclosure requirement to Connecticut-chartered banks and credit unions, instead of all financial institutions that are authorized to accept deposits in Connecticut, wherever chartered or organized. The state has examination and investigatory authority only over its own state-chartered institutions, not federally chartered ones.

RECORDS SUBJECT TO NONDISCLOSURE

The act specifies the following Banking Department records that, notwithstanding the requirements of other state laws (*e.g.*, the Freedom of Information Act), cannot be disclosed or be subject to public inspection or discovery, except as the act otherwise allows:

1. examination and investigation reports and information contained in or derived from them, including examination reports prepared by, for, or on behalf of the commissioner;
2. confidential supervisory or investigative information obtained from a state, federal, or foreign regulatory or law enforcement agency;
3. information obtained, collected, or prepared in connection with examinations, inspections, or investigations; and
4. complaints from the public made to the department.

The last two categories of records are exempt from disclosure only if they are protected by federal or state law or, in the commissioner's opinion, they would disclose, or reasonably lead to disclosure of (1) investigative information that would prejudice an investigation (but only until the investigation and all related administrative and legal actions are finished); (2) personal or financial information, including account or loan information, unless the affected individual consents to disclosure in writing; or (3) information that is harmful to a person's reputation or that would affect the safety and soundness of any entity whose activities in the state the commissioner supervises, if disclosure would not be in the public interest.

CONDITIONS FOR DISCLOSURE

The act allows the commissioner, without waiving any privilege, to disclose the listed records for any appropriate supervisory, governmental, law enforcement, or other public purpose. It requires such disclosure to be made under safeguards designed to prevent further dissemination. In any court proceeding, the act allows the court, in appropriate circumstances, to issue an order to protect the records' confidentiality and to (1) seal such records on file with the court (or filed in connection with the court proceeding) and (2) exclude the public from any part of the proceeding where such a record is disclosed.

PA 00-164—SB 378
Banks Committee

AN ACT CONCERNING FEES FOR DISHONORED CHECKS IMPOSED BY SMALL LOAN COMPANIES

SUMMARY: This act allows a licensed small loan company to impose a $20 bad check fee on a borrower whose loan payment check bounces. This is an increase from $10 for open-end loans and a new fee for closed-end loans. But the act prohibits imposing this fee if the check writer has stopped payment on the check or raised a reasonable defense as to the underlying debt's validity, or if the check was stolen.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Small Loan Companies

Lenders (other than banks or credit unions) who wish to make small consumer loans up to $15,000 at interest rates higher than the state's general 12% usury limit must obtain a license from the state banking commissioner under the state's small loan law. Once licensed, they can make two kinds of loans: (1) open-end loans, where the customer can borrow money from time to time and repay it on a revolving basis and (2) closed-end loans, where the customer receives a set amount at the beginning of the loan and repays fixed amounts at stated times, such as monthly, for a specified number of years. Small loan licensees have a statutory interest cap of 19.8% on open-end loans and $11 or $17 per $100 borrowed for closed-end loans, depending on the size and type of loan. They cannot charge any additional fees not listed in the statute.

PA 00-183—SB 322
Banks Committee

AN ACT CONCERNING THE RESIDENTIAL MORTGAGE REFINANCING GUARANTEE PROGRAM

SUMMARY: This act removes the requirement that applicants for the new Residential Mortgage Refinancing Guarantee program, created by PA 99-262, must have mortgage insurance on the property in order to qualify. Mortgage insurance is usually obtained, either through a government agency or a private mortgage insurance company, by borrowers who have only a small down payment when they buy a house. It protects the lender in case the borrower defaults.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Residential Mortgage Refinancing Guarantee Program

PA 99-262 created the loan guarantee program, which is not yet operational, to help homeowners refinance mortgages on homes whose market values have declined below what they owe on their mortgages. To be eligible, people must have purchased their homes between 1986 and 1992, have incomes below 120% of the state median, have loan-to-value ratios of no more than 125%, and meet other requirements. The Connecticut Housing Finance Authority must run the program, work with secondary market investors, and design the program to facilitate sale of the guaranteed loans to secondary mortgage markets.

PA 00-177—sHB 5028
Select Committee on Children
Judiciary Committee
Appropriations Committee
Public Safety Committee
Planning and Development Committee
Human Services Committee

AN ACT CONCERNING YOUTH IN CRISIS

SUMMARY: This act permits the Juvenile Court to assume jurisdiction over 16- and 17-year olds who are beyond their parents' control, run away from home, or fail to go to school. It terms such youths "youth in crisis." It allows (1) various people to refer such youths to the court, (2) the court to order the youth to participate in various services, and (3) the court to impose sanctions to enforce those orders. It specifies that a youth who violates such an order is not delinquent and cannot be incarcerated in a state detention or correctional facility.

The act authorizes police officers to look for runaway 16- and 17-year olds. Police officers who find them may report their location to the parents, refer them to Juvenile Court, take them to an agency that serves children, or keep them in custody for up to 12 hours. The law requires police to look for runaway children through age 15.
EFFECTIVE DATE: July 1, 2001

YOUTH IN CRISIS

Defined

The act defines a youth in crisis as a 16- or 17-year old who, within the last two years, has (1) run away from home or other authorized residence without just cause, (2) been beyond his parents' control, or (3) four unexcused school absences in a month or 10 in a year. This definition is similar to that for children age 15 and younger who can come under court supervision through the Families With Service Needs (FWSN) program.

Referral

As with the FWSN program, under the act, a youth can be referred to the court through a petition by a parent, foster parent, or representative of the child; a selectman, town manager, police officer, or local welfare department; a probation officer; a school superintendent; a youth service bureau; or a child-caring agency licensed or approved by the Department of Children and Families.

The petition must state (1) the youth's name, gender, birth date, and residence; (2) the parents', guardians', or responsible adult's name and residence; (3) the reason for the referral; and (4) the action the petitioner wants the court to take.

Court Action

The act implicitly requires the chief court administrator to establish policies for determining when a youth is eligible to come under the court's supervision. When, following these policies, a Juvenile Court judge determines a youth is in crisis, the act allows him to make and enforce orders, including:

1. prohibiting the youth from driving for a period the judge sets;
2. requiring him to work or perform community service;
3. requiring him to attend a court-approved local education program; and
4. requiring him to receive mental health services.

The act specifies that a youth who violates a judge's order cannot be considered a delinquent and cannot be sent to a state correction or detention facility.

Police Response to Runaways

The act authorizes police to look for a 16- or 17-year old whose parent or guardian reports he has run away. It allows the police, if they find the youth, to tell the parents where he is, but only if doing so would not jeopardize the youth physically or emotionally.

The act, like the FWSN law for younger children, gives the police several options for handling a runaway youth they locate. They can (1) bring him home or to another person's home; (2) refer him to Juvenile Court; (3) hold him in protective custody for up to 12 hours; or (4) bring or refer him, with or without his agreement, to an agency that serves children. The agency must provide temporary services to the youth unless or until his parents object. If the police keep a youth in custody, they cannot place him in a cell designed for adults and they can release him at any time.

It specifies that a police officer following its provisions is deemed to be acting in the course of his official duties.

PA 00-207—sHB 5023
Select Committee on Children
Judiciary Committee
Public Safety Committee
Public Health Committee
Human Services Committee

AN ACT CONCERNING SAFE HAVENS

SUMMARY: This act exempts a parent of a newborn from criminal liability for abandonment or risk of injury to a minor if he voluntarily leaves a baby with designated hospital staff. A parent can leave a baby anonymously, but the act permits the hospital staff to give him a numbered bracelet that can serve as identification if, in the future, he wishes to be reunited with the child. The Department of Children and Families (DCF) assumes custody of a baby left under these circumstances. A court must approve a parent's attempt to reunite.
EFFECTIVE DATE: October 1, 2000

SURRENDERING CUSTODY OF A NEWBORN

Leaving the Newborn at a Hospital

The act requires each hospital operating an emergency room to authorize all emergency room nursing staff to take physical custody of babies less than 31 days old if a parent or the parent's lawful agent voluntarily surrenders custody. Hospitals must have a designated employee on duty during regular business hours and a designated location in the emergency room where custody may be taken. If the parent or agent clearly says he will return for the baby, the employee does not take custody.

The designated employee can ask the parent or agent for his name or information on the baby's and the parents' medical history, but the person does not have to provide it. Any information the person gives is confidential. But the hospital employee must provide DCF with any medical information a parent provides. The employee can give the parent or agent a numbered bracelet to link the person to the baby. The bracelet serves to identify the individual in case he wishes to reunite with the baby. But possessing a bracelet does not entitle the person to take custody of the baby on demand.

The designated employee must give the person leaving the baby a pamphlet explaining (1) the process for voluntary surrender of custody, (2) the legal ramifications and protections for the mother or agent, (3) what will happen to the baby, (4) how to contact DCF about reunification, (5) the timelines for terminating parental rights, and (6) any other relevant information. DCF, in consultation with the Attorney General's Office, must publish the pamphlet as part of a public information program explaining the voluntary surrender process.

Termination of Parental Rights or Reunification

The employee receiving custody of the baby must report it to DCF within 24 hours following the statutory process for reporting abused children. This process requires a written report within 48 hours of making an oral report. Immediately on receiving this oral notice, DCF must assume care and control of the baby and take any legally authorized action to make him safe and place him in a permanent situation. The act deems this assumption of care to mean that the baby is in DCF custody. This appears to supersede the requirement, typical in neglect cases, that the Superior Court grant DCF temporary custody. Presumably, DCF must still initiate court action to obtain a finding of neglect, have the child committed to its care and custody, and terminate the parents' rights.

If someone claiming to be the parent or agent of the parent of an infant left at a hospital asks DCF to be reunited with the infant, the act permits DCF to identify, contact, and investigate him to determine if reunification is appropriate or if the parent's rights should be terminated.

If parental rights have not already been terminated, the Superior Court holds a hearing to make the final custody determination. This hearing follows the Superior Court procedure for terminating parental rights. The act presumes that a person possessing an identification bracelet linking him to the infant has standing in the action. But it does not create a presumption of maternity, paternity, or custody.

PA 00-153—sSB 449
Commerce Committee
Finance, Revenue and Bonding Committee

AN ACT PROVIDING MATCHING GRANTS FOR BUSINESSES NEW TO EXPORTING

SUMMARY: This act allows the economic and community development commissioner to help businesses develop the expertise they need to begin exporting goods and services to foreign markets. He must provide this assistance through economic clusters using existing Manufacturing Assistance Act bond funds. Clusters are groups of similar or related businesses formed to address common concerns.

The commissioner can provide matching grants or third party in-kind donations to the businesses or their representatives. Organizations receiving grants must give him information regarding their goals, methodology, budget, and accomplishments in a form and manner he specifies.
EFFECTIVE DATE: October 1, 2000

ELIGIBLE ACTIVITIES

Clusters or other organizations representing businesses new to exporting can use the grants to:

1. recruit and organize member businesses to help them collaborate on exporting their products and services to foreign markets,
2. research and identify markets where there is a demand for their products and services,
3. designate agents who can help members access public and private export assistance programs, and
4. identify and contract with representatives in foreign markets to promote and sell members' products and services.

PA 00-171—sSB 358
Commerce Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE SPECIAL CONTAMINATED PROPERTY REMEDIATION AND INSURANCE FUND

SUMMARY: This act:

1. expands Department of Economic and Community Development (DECD) site remediation related activities to include providing funds to eligible brownfield redevelopers for remediation insurance and insurance deductibles;
2. authorizes the DECD commissioner to make Special Contaminated Property Remediation and Insurance Fund (SCPRIF) loans for demolition projects that include lead and asbestos removal or abatement costs;
3. adds to the events that trigger SCPRIF loan principal repayment and permits DECD to seek partial repayment in some situations; and
4. permits DECD to set different interest rates, within limits, for municipal SCPRIF loans than for loans to private entities.

EFFECTIVE DATE: October 1, 2000

FURTHER EXPLANATION

Expanded Use of Manufacturing Assistance Act Funds

The act authorizes DECD to provide Manufacturing Assistance Act (MAA) funds for brownfield redevelopers to (1) buy insurance covering remediation costs and (2) pay insurance deductibles. The law already allows it to provide any combination of grants, credit, loans, loan guarantees, and participation interests in Connecticut Development Authority loans.

The act also explicitly makes remediation of contaminated sites eligible for MAA financial assistance.

SCPRIF Loans

The act permits the DECD commissioner to authorize SCPRIF loans for lead and asbestos removal or abatement costs as part of a demolition to prepare contaminated property for development.

It authorizes him to require repayment of the principal on a SCPRIF loan upon (1) the sale or release of a municipality's liens on the property or (2) the sale or lease of a portion of the property. The law already requires repayment upon the sale or lease of the entire property or upon the environmental protection commissioner's approval of a final remediation action report. By law, the DECD commissioner must waive principal repayment if the remediation cost makes the property's sale or lease, or the completion of remediation, economically unfeasible. The act allows the commissioner to seek partial repayment of a loan only if it is economically feasible.

The act also authorizes the commissioner to vary SCPRIF loan interest rates depending on whether the applicant is a municipality or a private entity. The law already allows him to vary the rate according to the length of the loan period. The law also caps the

interest rate for a particular loan at the interest rate the state pays for its borrowing for the loan. The act specifies the cap is calculated based on all state borrowing for SCPRIF.

BACKGROUND

Manufacturing Assistance Act

The MAA provides a unified financial assistance program for businesses and towns undertaking development-related real estate projects. DECD may provide funds to "economic base" businesses or businesses that demonstrate the qualifications to carry out projects.

Funds may be used for a variety of activities including (1) facility construction, renovation, expansion, or improvements; (2) purchase or lease of idle facilities; (3) job creation; (4) plant closing prevention or local assistance after such closings; and (5) community quality of life conservation or improvement.

SCPRIF

SCPRIF provides funds for DECD and the Department of Environmental Protection (DEP) to encourage the cleanup or remediation of polluted land or facilities known as brownfields. It is funded through fees, certain tax proceeds, bonds, settlements, and court-ordered alternative penalties.

DECD uses the fund to provide loans to towns, individuals, or firms for certain site assessment and demolition work. Generally, DEP uses the money to administer the Transfer Act and to remove or mitigate contamination where the property owner is an innocent landowner or has a covenant not to sue from the state.

PA 00-178—sSB 578
Commerce Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING SMART BUILDINGS, INTERNET BUSINESS DISTRICTS AND THE HIGH-TECHNOLOGY INFRASTRUCTURE FUND

SUMMARY: This act creates a high-technology infrastructure fund within the Connecticut Development Authority (CDA) to provide financial assistance for information technology projects and requires that principal, interest, or other return on investment payments to CDA be deposited in the new fund.

It authorizes CDA to provide financial assistance in the form of grants, loans, extensions of credit, guarantees, equity investments, and other forms of financing. The act exempts the assistance from the prohibition against state agencies providing more than $10 million in assistance for a business project during any two-year period without specific authorization from the General Assembly, and imposes new assistance limits.

The act (1) expressly allows CDA to provide assistance to information technology projects under all other CDA programs, (2) authorizes CDA to provide tenant lease guarantees and performance guarantees for any eligible project, and (3) permits Connecticut Innovations, Inc. (CII) to provide financial assistance to "smart buildings," incubator facilities, or other information technology intensive office and laboratory space.

EFFECTIVE DATE: October 1, 2000 (PA 00-1, June Special Session, changed the effective date to July 1, 2000)

HIGH-TECHNOLOGY INFRASTRUCTURE FUND

Eligible Projects

CDA's high-technology infrastructure fund may provide financial assistance to individuals, companies, partnerships, public or private corporations, eligible agencies, authorities, towns, or other governmental entities to develop information technology projects. The act defines an information technology project as any project (1) providing information technology intensive office or laboratory space, including smart buildings, incubator facilities, or any e-commerce or other high-speed communications technology project and (2) that CDA believes will create or retain jobs, promote the export of Connecticut goods, encourage innovation, or otherwise contribute to the state's economic base. CDA can provide the financial assistance directly or with other private or public institutions or individuals. CDA can enter into any contracts necessary for these financial arrangements.

Under the act, payments of principal, interest, or other forms of investment returns that CDA receives must be deposited in the fund or held on its behalf.

Appropriation and Fund Limits

The act does not appropriate funds to capitalize the fund. The fund is exempt from the existing $10 million state limit on assistance provided by a state agency, but new limits are imposed. The act specifies that in the case of assistance other than a grant (i.e., a

loan, equity investment, or other non-grant aid) no single project can receive an amount in excess of $15 million and terms cannot be longer than 30 years. It is not clear whether this $15 million limit also applies to grants.

Fund Uses

As long as the CDA executive director certifies that state law authorizes such payments, the act allows fund money to be used for:

1. financial assistance in many forms including grants, loans, extensions of credit, guarantees, equity investments, and other forms of financing and refinancing for the purchase, leasing, construction, expansion, continued operation, reconstruction, financing, refinancing, or placing in operation of an information technology project and
2. CDA purchase of foreclosure property on which it holds a mortgage, lien, or other interest.

Applicant Fees

Applicants for financial assistance must pay the administrative costs CDA deems reasonable for processing applications. These fees could include commitment fees and closing costs. The act also allows fund money to be used to cover administrative costs not paid by an applicant.

INFORMATION TECHNOLOGY PROJECTS

The act makes information technology projects eligible for all other CDA assistance, including authorizing CDA to insure all or part of their mortgage payments.

SMART BUILDINGS

The act defines a "smart building" as a building with an information or communications capability that tenants can use to transmit digital video, voice, and data over a high-speed wired, wireless, or other communications intranet and to deliver and receive high-speed digital video, voice, and data transmissions over the Internet.

INCUBATORS AND CONSORTIA

The act requires CDA to assist the development of high-technology businesses, incubators for high-technology businesses, and consortia for businesses creating partnerships with higher education facilities.

PA 00-212—sHB 5769
Commerce Committee

AN ACT CONCERNING REPORTING REQUIREMENTS OF THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

SUMMARY: This act reduces, from twice yearly to yearly, the frequency of the Department of Economic and Community Development (DECD) commissioner's reports on new and outstanding financial assistance submitted to the auditors of public accounts and the Appropriations; Commerce; and Finance, Revenue and Bonding committees. It requires the commissioner to submit the reports by November 1. Prior law required DECD to provide the reports by March 1 and October 1.

The act also makes three technical changes to statutes regarding DECD and Connecticut Innovations, Inc.

EFFECTIVE DATE: October 1, 2000

PA 00-13—sHB 5275
Education Committee

AN ACT CONCERNING TEACHER COMPETENCY

SUMMARY: This act permits a local school board to dismiss a tenured teacher for incompetence only on the basis of evaluations conducted according to (1) State Board of Education (SBE) guidelines for evaluation programs and (2) any other guidelines the board establishes by mutual agreement with the teachers' union. The restriction applies only to teachers notified on or after July 1, 2000 that their employing boards are considering their termination for incompetence.

By law, local and regional boards of education must establish and implement teacher evaluation programs consistent with SBE guidelines and with their own required professional development plans. Evaluations must cover at least the teacher's strengths, areas needing improvement, and strategies for improvement. School superintendents must evaluate teachers every year according to the guidelines and report the status of evaluations to their local boards of education by June 1 annually.
EFFECTIVE DATE: July 1, 2000

BACKGROUND

Grounds for Dismissing a Tenured Teacher

By law, a local school board may dismiss a tenured teacher only for (1) inefficiency or incompetence, (2) insubordination, (3) moral misconduct, or (4) a medically evident disability. It may also let a tenured teacher go if it eliminates the teacher's position, as long as there is no other position the teacher is qualified for being held by an untenured teacher and as long as it follows applicable collective bargaining contract procedures.

PA 00-48—sHB 5316
Education Committee

AN ACT CONCERNING SPECIAL EDUCATION

SUMMARY: This act:

1. expands the responsibilities of surrogate parents appointed by the education commissioner to represent children who may require special education in the absence of their real parents,
2. requires the commissioner to adopt regulations to monitor surrogate parents' effectiveness,
3. requires local school boards to notify surrogate parents of student discipline policies and student suspensions and expulsions in the same manner as they must notify regular parents,
4. requires parties to special education hearings to disclose additional information beforehand and allows the hearing officer to bar introduction of undisclosed material,
5. apportions responsibility between local school districts and interdistrict magnet schools for paying costs and providing services to magnet school students who require special education,
6. requires local school boards to pay state charter schools quarterly for the extra costs of educating special education students who live in their districts and attend charter schools,
7. incorporates by reference into state law the federal definition of special education "related services,"
8. changes state requirements for transition planning for special education students to conform with federal regulations, and
9. requires the appropriate state agency instead of the State Board of Education (SBE) to approve sheltered workshops or rehabilitation institutions that provide occupational training for children age 16 or over requiring special education.

The act also changes the schedule for the SBE's payments to the Department of Mental Health and Addiction Services (DMHAS) for providing education services to children in DMHAS facilities who require special education. By law, the SBE pays 100% of the reasonable cost of the services. Under the act, SBE must pay the first 85% of the amount in July instead of September. The SBE must continue to pay the balance in May.
EFFECTIVE DATE: July 1, 2000

SURROGATE PARENTS

Scope of Responsibilities

State and federal law require the education commissioner to appoint a surrogate parent to serve as the educational advocate of a child who may require special education whose parents cannot be identified or found, or who is a ward of the state. The surrogate parent must participate in the educational decision-making process for the child.

Under prior law, that process included all special education identification, evaluation, placement, hearing, mediation, and appeal procedures conducted for the student.

The act extends the scope of the surrogate parent's participation to include evaluation and planning procedures available to children under Section 504 of the federal Rehabilitation Act after they are no longer receiving special education. Section 504 requires federally assisted entities, such as public schools, to make reasonable accommodations for children who have, or are perceived to have, physical or mental impairments that substantially limit major life activities.

The act also requires the commissioner to appoint a surrogate parent for any child who received, but no longer requires, special education but who requires or may require Section 504 accommodations and services.

Local School Boards' Notice to Surrogate Parents

The act requires a local school board to inform surrogate parents as it must already inform regular parents (1) annually of board policies regarding student conduct and discipline and (2) if it suspends or expels their child for conduct that violates the board's policy and seriously disrupts the educational process, for carrying a weapon, or for selling or distributing illegal drugs.

DISCLOSURE OF INFORMATION BEFORE SPECIAL EDUCATION HEARINGS

The act requires each party to a special education hearing to disclose beforehand all completed evaluations and all recommendations based on those evaluations that it intends to offer in the hearing. It allows the hearing officer to bar a party from introducing any evaluations or recommendations it failed to disclose in a timely manner unless the other party agrees. Under prior law, parties already had to disclose beforehand all the documentary evidence they planned to present and witnesses they planned to call.

The act requires these disclosures to be made at least five business days, instead of five calendar days, before the hearing.

SPECIAL EDUCATION AND MAGNET SCHOOLS

The act divides responsibility for a student requiring special education who attends an interdistrict magnet school between the magnet school and the school district where the student lives. It requires the school district to (1) hold the planning and placement team meeting on the student and invite representatives from the magnet school to participate and (2) reimburse the magnet school for the extra cost of educating the student. The reimbursement is the difference between the reasonable cost of educating the student and the magnet school's state per-pupil grant plus any other state, federal, or local funds it receives, calculated on a per-pupil basis. As is the case for a special education student attending a regular public school, the act makes the local board eligible for state reimbursement of any such costs that exceed five times its average per-pupil costs.

If a student requiring special education attends the magnet school full-time, the act also requires the magnet school to ensure he receives the services mandated by his individualized education plan. As under prior law, either the student's local district or the school may actually provide the services.

SPECIAL EDUCATION PAYMENTS TO CHARTER SCHOOLS

The act requires local school districts to make special education payments to state charter schools quarterly. The payments cover the extra costs of educating a special education student who lives in the district and attends the school. By law, the local district must pay any costs for such a student that exceed state grant to charter schools plus any other state, federal, local, or private funds the school receives, calculated on a per-pupil basis.

FEDERAL CONFORMITY CHANGES

Special Education Related Services

Under state and federal law, school districts must provide special education and related services to children with specified disabilities to enable them to participate in school. This act incorporates the federal definition of "related services" into state law. All of the prior state-required services are also required by federal law. Thus, the act's only effect is to automatically update state law whenever the federal law is amended.

Transition Planning

In conformity with federal regulations, the act requires planning for a special education student's transition from school to a post-school program or community setting to begin when the student turns 14 instead of 15. (School districts must provide special education until an eligible student turns 21.)

It requires the planning and placement team (PPT) to update the student's transition statement every year and requires the statement to focus on the student's courses of study. When the student turns 16, the statement must detail the transition services the student will need, including interagency responsibilities. Under both prior law and the act, transition planning can begin before the specified ages, if the PPT considers it appropriate.

The act eliminates an explicit state provision that required the PPT to reconvene to identify alternate strategies to meet transition objectives if a participating noneducational agency fails to provide agreed-upon services. The provision is still a federal requirement.

BACKGROUND

State Magnet School Grants

Interdistrict magnet schools receive per-pupil state grants of up to 90% of the Education Cost Sharing (ECS) formula foundation amount. The actual percentage depends on the proportions of students from various districts that attend the school.

Federal Individuals with Disabilities Education Act (IDEA)

IDEA and its accompanying regulations require school districts to identify children with disabilities that affect their educational performance and who need special education and related services. Children must receive special education if they have one or more of the following disabilities: autism; deaf-blindness; deafness; hearing impairment; mental retardation; orthopedic or other health impairment; serious emotional disturbance; specific learning disability; speech or language impairment; traumatic brain injury; or visual impairment, including blindness.

IDEA defines "related services" as transportation and whatever developmental, corrective, and other support services may be required to help a child with a covered disability to benefit from special education. Related services include early identification and assessment of disabling conditions; speech-language pathology and audiology services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; social work services; counseling, including rehabilitation counseling; orientation and mobility services; and medical services needed for diagnosis and evaluation.

PA 00-124—sSB 154
Education Committee
Public Safety Committee

AN ACT CONCERNING HIGH SCHOOL DIPLOMAS AND VETERANS OF WORLD WAR II

SUMMARY: This act allows local or regional school boards to award high school diplomas to World War II veterans who did not receive them because they left high school for military service. It covers honorably discharged veterans who served actively between December 7, 1941 and December 31, 1946 in the U.S. Army, Navy, Marine Corps, Coast Guard, or Air Force.
EFFECTIVE DATE: May 29, 2000

PA 00-156—sHB 5274
Education Committee
Appropriations Committee

AN ACT REQUIRING A CIVICS COURSE FOR HIGH SCHOOL GRADUATION

SUMMARY: Starting with the class of 2004, this act requires students to take at least one-half credit of the three social studies credits they need to graduate from high school in civics and American government. The law already requires students to be "familiar" with U.S. history and government at the local, state, and national levels in order to graduate from any public or private elementary or secondary school whose property is tax-exempt.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Related Act

A provision of PA 00-187 is identical to this act, except that it takes effect July 1, 2000. Since PA 00-187 passed after this act, the July 1, 2000 effective date controls.

PA 00-157—sHB 5276
Education Committee
Appropriations Committee

AN ACT CONCERNING THE MANDATORY SCHOOL ATTENDANCE AGE

SUMMARY: Starting with the 2001-02 school year, this act requires students to stay in school until age 18, instead of age 16, unless (1) they graduate from high school or (2) their parents or others having control over them agree to their leaving school at age 16 or 17. In the latter case, the student's parent or person with control over him must go to the school district office and sign a form withdrawing the student from school. At that time, the school district must give the parent or person information about educational options available in the school system and in the community.

The act (1) extends a local school district's responsibility for ensuring that all school-age children who live in the district attend school to cover 16- and 17-year-olds who do not satisfy these conditions for dropping out, (2) extends the truancy laws to cover such 16- and 17-year-olds, and (3) allows the education commissioner to award a state high school diploma to a 16- or 17-year-old only if the student left school with his parents' consent.

Finally, the act gives a minor's legal guardian authority to make major decisions concerning his education as well as decisions concerning his welfare.

The act does not change a local school district's obligation to offer alternative educational opportunities to expelled students. As under prior law, a district must offer such opportunities only to expelled students under age 16.
EFFECTIVE DATE: July 1, 2001

TRUANCY LAW APPLICABILITY

The act makes a student under 18, instead of under 16, a truant if he is enrolled in school and has four unexcused absences in a month or 10 such absences in any school year. It makes a student under 18, instead of under 16, a habitual truant if he has 20 unexcused absences in any year.

By law, a school district's truancy policies must require it to hold a meeting with parents or others having control of a child who is truant and take other steps to address the problem. If the parent fails to attend the meeting or fails to cooperate with the school to address the child's truancy, the school superintendent must file a complaint with the Superior Court under the Families with Service Needs law. Also by law, towns may adopt ordinances concerning habitual truants and impose penalties of up to $20 for violating those ordinances.

POLICE AUTHORITY

The act extends towns' authority to adopt ordinances concerning the welfare of children to cover children between the ages of five and 18, instead of five and 16. As under prior law, ordinances may cover such children who are on the street, not working and not in school, and may impose penalties of up to $20 for violations.

The act also allows local police and other law enforcement authorities to stop any child under age 18, instead of under age 16, during school hours to see if the child is truant, and if he is, to send him to school.

BACKGROUND

Related Act

Beginning July 1, 2000, PA 00-177 allows superintendents to file a complaint concerning 16- and 17-year old truants who are termed "youth in crisis."

PA 00-187—sHB 5737
Education Committee
Appropriations Committee
Human Services Committee
Legislative Management Committee

AN ACT CONCERNING EDUCATION AID

SUMMARY: This act establishes new educational programs and makes myriad changes in existing programs, funding, and grants. Its major provisions include establishing a statewide educational technology program and a new commission to oversee it, encouraging development of a high-technology workforce and businesses in the state, establishing grants for schools identified as most in need of improvement under the 1999 school accountability act, and addressing the teacher shortage and the cost of health insurance for retired teachers.
EFFECTIVE DATE: July 1, 2000, except provisions concerning the following are effective on passage: an appropriation for an operational audit of the Hartford school system, youth service bureau funding, a $10 million funding transfer for education technology grants, a 2% set-aside for education technology commission staff and wiring and Internet assistance to school districts, a task force on retired teachers'

health insurance, the college dorm fire safety survey, and a grant to Aspirations Higher Precollegiate Learning Program in New Haven.

EDUCATIONAL TECHNOLOGY PROGRAM

The act establishes a Commission for Educational Technology to plan for and oversee educational technology in the state. It also establishes a statewide educational technology program that includes grants for local school districts; teacher and parent training; a network to link schools, college, libraries, and other institutions; and an online library.

Commission for Educational Technology (§ 37)

The act establishes a 20-member Commission for Educational Technology in the Department of Information Technology (DOIT) for administrative purposes. Under the act, "educational technology" includes (1) computer-assisted instruction; (2) information retrieval and data transfer; (3) telecommunications for voice, data, and video transmission of instructional materials and courses; (4) developing and acquiring educational software; and (5) using the Internet and other technologies for instruction.

Members. The following state officials or their designees are members of the commission: DOIT's chief information officer, the education and higher education commissioners, the state librarian, the Department of Public Utility Control chairman, and the state higher education constituent unit chief executive officers.

The remaining members and their appointing authorities are:

Member	***Appointed by***
1	Connecticut Conference of Independent Colleges
1	Connecticut Association of Boards of Education
1	Connecticut Association of Public School Superintendents
1	Connecticut Educators Computer Association
1	Connecticut Library Association
1 secondary school teacher	Connecticut Education Association
1 elementary school teacher	Connecticut Federation of Educational and Professional Employees
1 business person with expertise in information technology	Governor
1 business person with expertise in information technology	Lieutenant governor
1 business person with expertise in information technology	House speaker
1 business person with expertise in information technology	Senate president pro tempore

The commission elects a chairperson from among the members; the lieutenant governor must convene its first meeting by September 1, 2000.

Responsibilities and Powers. The commission must:

1. be state government's principal policy adviser on educational technology;
2. develop, oversee, and direct statewide technology goals;
3. coordinate state agencies', educational institutions', and other parties' activities to create and manage a network for transmitting video, voice, and data to libraries, schools, regional educational service centers (RESCs), and higher education institutions;
4. be the educational technology liaison among the governor, the General Assembly, and local, state, or federal entities;
5. develop and maintain a long-range plan for, and make recommendations to coordinate, educational technology;
6. measure Internet availability and use, including access sites maintained by various public and private entities, and recommend strategies to reduce disparities in Internet access and use across the state and among all potential users;
7. establish methods to ensure that the public, educators, librarians, higher education representatives, the legislature, and local officials are as involved as possible in educational technology;
8. organize necessary expert advisory boards;
9. enter into contracts and take other necessary actions to carry out the act; and
10. report annually starting January 1, 2001 to the Education and Appropriations committees, the State Board of Education (SBE), and the Board of Governors of Higher Education (BOG) on its activities, progress, and recommendations.

The commission, within available appropriations and according to state civil service procedures, may appoint an executive director and hire other necessary employees to carry out its duties. The act allocates

2% of DOIT's FY 1999-00 appropriation for educational technology initiatives for commission staff and for technical assistance to school districts for wiring and Internet connection.

The act authorizes the commission to ask state agencies for any information, reports, and assistance it needs to carry out its duties.

Long-Range Educational Technology Plan. The commission's plan for educational technology coordination must:

1. establish clear goals and a strategy for using telecommunications and information technology to improve education;
2. include professional development for teachers and faculty in how to use technology to improve education;
3. assess the telecommunications, hardware, software, and other services needed; and
4. include an evaluation process.

State Goals. The commission's educational technology goals must include:

1. connecting higher education institutions, libraries, public schools, RESCs, and others through a state-wide, high-speed, flexible video, voice, and data transmission network;
2. wiring all school classrooms and connecting them to the network and the Internet;
3. access for all public libraries to a core set of on-line, full-text resources and to collaborative purchasing for other collections;
4. student competency in computing by the sixth grade;
5. in cooperation with SBE, ensuring public school teacher competency in specific computing skills and integrating technology into the curriculum; and
6. ensuring that higher education institutions offer a wide range of online and distance-learning courses and degree programs.

School Technology Grant Program (§§ 41, 54)

Purposes. The act requires the State Department of Education (SDE) to provide grants to help school districts improve how they use technology in schools. Districts may use grants for (1) wiring, (2) computer purchasing and leasing, (3) interactive software, and (4) purchasing and installing software filters. SDE may also give other kinds of help, including purchasing under statewide DOIT contracts.

Applications and Eligibility. Districts must apply for grants when and how the education commissioner prescribes. To be eligible, a district must (1) have a local technology plan developed or updated within the past two years and, once the Commission for Educational Technology develops its long-range plan for the state, that is consistent with that plan; (2) allow the superintendent's office and each school to communicate with SDE via the Internet; (3) show they have applied or will apply for federal Universal Service Fund money; and (4) file a grant spending plan.

Grant Spending Plan. The grant plan must include:

1. goals for using telecommunications and information technology to improve education;
2. professional development plans to make sure teachers know how to use new technologies;
3. an assessment of the technology, equipment, and services it will need;
4. a budget for acquiring and maintaining the equipment and services; and
5. an evaluation process to allow schools to monitor progress and adjust to new developments and opportunities.

Grant Allocation. The act distributes the total grant appropriation as follows. First, each school district receives a minimum grant of $10,000. Second, SDE must use: (1) $100,000 of the grant appropriation for wiring and other technology initiatives at the vocational-technical schools; (2) $50,000 for grants to state charter schools; and (3) up to 1% for coordination, program evaluation, and administration. Finally, remaining funds must be allocated to priority and transitional districts and districts in towns ranked from one to 85 when towns are ranked in descending order by wealth. (PA 00-1, JSS changes the wealth ranking to ascending order, thus allocating the extra money to the 85 poorest rather than the 85 wealthiest school districts in the state.) The additional amounts are distributed based on the ratio of students in each such district to the total in all such districts. Grants to state charter schools must be distributed according to their shares of enrolled students.

Districts that participate in interdistrict magnet schools or endowed academies must provide funds from their grants to those schools. Amounts must equal the per-student grant amounts multiplied by the number of students from the town who go to those schools.

Unspent funds do not lapse and are available for spending in the next fiscal year.

Districts must file expenditure reports with SDE as the education commissioner requests. They must refund any money that either remains unspent at the close of the program or is not spent according to the approved application. They may not use grants to supplant federal, local, or other state technology

funding.

The act requires the commission, in its annual report, to recommend adjustments to the funding formula if any school districts are at a disadvantage in wiring or using technology in schools.

Funding. The act requires DOIT to transfer $10 million of its FY 1999-00 General Fund appropriation to SDE for the school technology grants.

Connecticut Education Network (§ 35)

Plan. The educational technology commission must develop a five-year plan for a Connecticut Education Network. The SBE, the BOG, and DOIT must help.

Network Components. The network must offer (1) state-of-the-art, high-speed, reliable Internet access and (2) video, voice, and data transmissions. It must link the state's public and private higher education institutions; libraries; public and private schools; and other entities including businesses, job centers, and community organizations.

Connecticut Digital Library (§ 35)

The network plan must include a digital library administered by the State Library and Department of Higher Education (DHE). The library must ensure citizens and students on-line access to (1) available electronic full-text databases, (2) a statewide electronic catalog and interlibrary loan system, and (3) electronic and physical delivery of library resources. The library must include elements designed to meet research and educational needs for the public and for K-12 and higher education students and teachers.

Universal Service Fund Application (§ 35)

The commission must oversee a statewide application for funds from the federal Universal Service Fund. The funds must be used to enhance connectivity to the Connecticut Education Network, encourage the maximum number of school districts to participate and get grants, and reduce administrative requirements that discourage local involvement.

The commission must prepare a feasibility report that (1) reviews methods used by other states that have successfully submitted statewide applications, (2) analyzes the specific items to include in Connecticut's application, and (3) outlines what it needs to do to complete an application. The commission must work with SDE and DHE on both the feasibility report and the statewide application.

The commission must submit a statewide application for universal service funding by March 31, 2001 and for every subsequent universal service funding cycle.

Teacher Training and Standards (§§ 3, 40, 42, 43)

Board for State Academic Awards Programs. The Board for State Academic Awards must establish innovative on-line programs to train teachers and higher education faculty to integrate technology into the public school curriculum and public higher education courses. Starting July 1, 2001, the program for public school teachers must conform to teacher competency standards the commission must adopt.

Competitive Teacher Training Grants. SDE must establish competitive grants for innovative programs to train teachers to integrate technology into the public school curriculum to improve student learning. On and after July 1, 2001, the training programs must be consistent with the commission's teacher competency standards.

Computer Science Certification. The act requires SBE to adopt regulations setting out standards for certifying computer science teachers. The regulations must allow people to meet certification requirements by (1) completing prescribed courses or (2) having whatever other experience the SBE thinks appropriate.

Competency Standard and Plan. The commission, in cooperation with SDE and by July 1, 2001, must develop a (1) statewide standard for teacher and administrator competency in using technology for instruction and (2) a statewide plan to help teachers and administrators achieve it. The commission must assess resources needed to achieve the goal. The commission must submit the plan to the General Assembly and update it every two years.

Assistance For Wiring And Internet Connection (§§ 36, 37)

DOIT, in consultation with SDE, must provide (1) technical assistance to school districts and regional vocational-technical schools to expand their technology capabilities, including wiring, technical support, and connecting to the Internet and (2) opportunities for districts to buy equipment under statewide contracts.

The act allocates 2% of DOIT's FY 1999-00 appropriation for education technology initiatives to this assistance and to the commission staff. DOIT must report annually to the Education Committee on the assistance it provides.

School Technology Standards (§ 38)

DOIT, after consulting with the commission and SBE, must develop minimum and model school technology standards, including standards for wiring,
state-assisted school construction projects, and the act's school technology grant program.

Connecticut Parent Technology Academy (§ 45)

The State Library, in consultation with the Educational Technology Commission, must issue a request for proposals and contract for a parent technology academy. The academy must serve as host network for developing increased opportunities for parents of K-12 students to learn about and demonstrate knowledge of information technology. The academy must:

1. identify existing programs and the best ways of delivering information technology training to parents;
2. coordinate development of curriculum models to train parents; and
3. seek business, philanthropic, community, and educational partners to expand training locations and options.

The commission must collaborate with the academy to negotiate discounts on computer purchases and upgrades and low-interest loans from banks for such purchases for parents who complete an information technology program.

Student Competency Standards (§ 44)

The act requires the SBE, by July 1, 2001, to adopt computer technology competency standards for students in grades K-12.

Educational Technology Fund (§ 34)

The act establishes an Educational Technology Fund into which the Educational Technology Commission must deposit private funds donated to further the state's educational technology goals. The money must be used for activities related to attaining the goals and to supplement state appropriations for those activities.

Education Technology Website (§ 46)

SDE must develop and maintain a website for educators to post and share suggested grade- or topic-specific lesson plans, curriculum resources, technology resource opportunities, and best methods of using technology in instruction.

School Technology Report (§ 44)

The education commissioner must report to the Education Committee on the status of public school educational technology. The report must include information on funding needed to meet technology needs in (1) infrastructure improvement, (2) educator professional development, (3) curriculum development, and (4) student competency. It must also include information on the computer competency standards for K-12 students.

JCET Elimination (§§ 47-53, 74)

The act eliminates the Joint Committee on Educational Technology (JCET), which had responsibility for planning, coordinating, and reporting on educational technology. It transfers from JCET to the new commission responsibility for (1) consulting with SDE on an existing program for wiring schools funded by state bonding, (2) helping the Department of Public Utility Control (DPUC) adopt regulations on quality standards for instructional and educational channels offered by cable television companies, and (3) certifying to the DPUC that educational agencies in a cable television franchise area have used the instructional channels for an average of at least 20 hours a week of credit and noncredit instructional programming and programming supporting school curricula and professional development.

HIGH TECHNOLOGY WORKERS AND BUSINESSES

Workforce Development Report And Plan (§ 28)

The act requires the Connecticut Employment and Training Commission (CETC) to develop a long-range strategic plan to address the state's information technology and electronic commerce workforce development and research needs. CETC must work with the education, higher education, and Department of Economic and Community Development (DECD) commissioners, and any appropriate business-related organization and association.

Planning Structure. CETC must create a planning structure by July 5, 2000. The structure must include representatives from the commission; the General Assembly; information technology and software companies; SDE, DHE, and DECD; Connecticut Innovations, Inc.; the Connecticut Business and Industry Association; the Connecticut Economic Resource Center; the Connecticut Technology Council; the state's higher education constituent units; the Connecticut Distance Learning

Consortium; the Connecticut Conference of Independent Colleges; and any other representatives CETC thinks necessary, including statewide regional business and technology associations.

Report. CETC must report to the governor and the General Assembly by October 16, 2000. The report must specify:

1. the number and job descriptions of information technology workers in information-technology-intensive occupations with associated occupational codes from the Bureau of Labor Statistics' Standard Occupational Code;
2. a forecast of demand by Connecticut employers for workers in those occupations in two, five, and 10 years from July 1, 2000;
3. ways to generate enough information technology graduates to meet identified needs, including scholarships and school-to-career and internship programs;
4. ways to effectively link trained graduates to information technology jobs in Connecticut, including loan reimbursement programs;
5. the programs and curricular emphases needed to support the growth of electronic commerce, software, and information technology industries;
6. ways for secondary and higher education and private industry to address changing information technology workforce needs;
7. an assessment of existing state high technology workforce development initiatives; and
8. a way to ensure that high technology industries are continually informed about these and other workforce development options as they are implemented.

The report must also include specifications for the long-range plan. CETC may release findings, data, or other information prior to completing its report.

Company Registry (§ 29)

The act requires DECD to maintain a registry of qualifying electronic commerce and information-technology-intensive companies for the student loan reimbursement and internship programs the act establishes (see below). The department must keep the registry updated and make it available on its web page.

Information Technology Scholarship Program (§ 30)

The act establishes a pilot Connecticut information technology scholarship program to provide grants for students enrolling in information technology-related degree or certificate programs at public or private higher education institutions in Connecticut. The scholarships must equal the cost of the student's tuition and fees up to a maximum of $3,000 a year. Students are eligible for each year they are enrolled in a high technology degree or certificate program up to a maximum of four years. Students may apply for the scholarships when and how the higher education commissioner prescribes. Future scholarships are available only to those who receive them for FY 2000-01.

DHE must administer the program and develop eligibility guidelines, which may include income guidelines. It may use up to 5% of the scholarship program appropriation for administration, promotion, recruitment, and retention. Unspent appropriations do not lapse but may be carried forward to future years.

High-Technology Student Loan Reimbursement Program (§ 31)

The act establishes a pilot student loan reimbursement for people who (1) majored and received degrees or terminal certificates in information technology-related fields from any college or university and (2) are newly employed on or after January 1, 2001 by an electronic commerce or information technology company and work in information-technology-intensive occupations as verified by the DECD commissioner and identified in the CETC's strategic plan.

The program provides grants of up to $2,500 for each year of employment for up to two years. Future reimbursements are available only to those who receive them in FY 2001-02. Grants are for loan repayments made while employed at a qualified company (i.e. listed on DECD's registry). Eligible people must apply to the DHE for grants when and how the higher education commissioner specifies. DHE must develop eligibility requirements, which may include income guidelines.

DHE may use up to 5% of the loan reimbursement program appropriation for administration, promotion, recruitment, and retention activities. Unspent appropriations do not lapse but may be carried forward to future years.

High-Technology Internship And Worker Recruitment And Retention Program (§ 32)

The act requires DECD to help high-technology companies develop (1) a cooperative internship program for students majoring in information technology-related fields and attending colleges or universities in or outside Connecticut and (2)

promotion and recruitment activities to increase the number of information technology workers in the state.

In developing the internship program, DECD must help to develop a partnership between organizations that include qualified electronic commerce or information technology-intensive companies, whether included on the DECD registry or not; nonprofit organizations; business associations; state agencies; and other public or private entities designated by the DECD commissioner.

Collaborative Research Program (§§ 55, 56, 58)

The act establishes a program, administered by Connecticut Innovations, Inc. (CII), to fund collaborative high technology research projects between businesses and universities. The program focuses on applied research and development in advanced materials, aerospace, bioscience, energy and environmental systems, information technology, applied optics, microelectronics, and other high technology fields.

CII is a quasi-public agency that invests in or provides funds to individuals, businesses, and universities researching and developing new technologies with commercial potential. It may already provide funds to public and private colleges and universities that collaborate with businesses on developing new technologies or invest in such collaborative ventures.

Any faculty member or researcher conducting applied research and development at any Connecticut college or university can apply for funds by submitting an application in the form and manner CII prescribes. CII must assess applications based on the collaboration that is being proposed and the scientific and economic aspects of the research, including:

1. the extent to which the commercial business partner uses advanced materials, aerospace, bioscience, energy and environmental systems, information technology, applied optics, microelectronics, and other high technology;
2. the proposal's chances of developing and commercializing high technology products and processes in Connecticut; and
3. the likelihood that the proposal will generate long-term, sustainable economic growth here.

The financial aid can be in various forms, including grants, loans, equity, leases, guarantees, royalty arrangements, or risk capital.

The act also allows CII to establish financial and other types of programs to attract and retain residents with post-secondary education in science, engineering, mathematics, and other disciplines integral to developing and applying technology.

CII may use its existing Connecticut Technology Partnership Assistance Program revolving account to provide assistance for collaborative research and attracting high-technology workers.

Capital Access Program (§ 57)

The act expands the range of lenders that can participate in the Connecticut Development Authority's (CDA) Capital Access Program (i.e., Urbank Program), which insures groups or portfolios of business loans that are somewhat riskier than conventional loans. Under prior law, only state and federally chartered banks and credit unions and licensed first and second mortgage lenders qualified for the program's guarantees. The act expands the list to include insurance and investment companies, mortgage bankers, trustees, executors, pension funds, retirement funds or other fiduciary or financial institutions, state agencies, municipalities, and other political subdivisions.

EDUCATION PROGRAMS, GRANTS, AND FUNDING

Schools Needing Improvement (§§ 1, 2)

Grant Program. The act establishes a grant program for school districts with one or more schools on the education commissioner's most recent list of schools needing improvement compiled under the 1999 school accountability law. Districts must use the grants to pay for (1) implementing required school improvement plans for those schools, (2) partnerships between the schools needing improvement and public libraries in the school district, and (3) actions needed for the schools to be accredited by the New England Association of Schools and Colleges.

District Spending Plans. Each eligible board of education must submit a spending plan that includes:

1. methods and school-based programs the commissioner identifies that address subjects, by grade level, in which students are most deficient on state mastery tests and
2. partnerships with public libraries designed to improve family literacy and parental involvement.

The commissioner must approve the plans after consulting with the state librarian about the library partnership programs.

Other Grant Requirements. Boards must set aside 10% of their grants for the library partnership

programs. They may not use grant funds to supplant other state, federal, or local funding to listed schools. They must file spending reports with SDE as the commissioner requests. Any unspent money and any money not spent in accordance with the district's grant application must be repaid.

Identifying Successful Education Programs. The act requires SDE to identify methods and programs, including professional development for teachers and administrators, instructional techniques, and governance and management structures and systems, that have been shown to be successful in improving student performance in such areas as math, reading, and writing. SDE must make information about the programs available to local school districts to help them address deficiencies in schools listed as needing improvement under the 1999 school accountability act.

The commissioner must report annually to the Education Committee on the implementation of improvement plans and on student achievement at listed schools.

SDE may use up to 1% of the overall grant appropriation for coordination, program evaluation, and administration.

School Readiness Program (§§ 4-7, 9-12)

Grants. The act extends priority school district eligibility for noncompetitive school readiness grants beyond five years even if a district no longer qualifies as a priority district. Starting in FY 2001-02, it also extends noncompetititve grants to transitional school districts that are not former priority districts. Under prior law, transitional districts with priority schools were eligible only for competitive grants. (Priority schools have relatively high concentrations of poor students.)

By law, 93% of the school readiness grant appropriation is allocated to noncompetitive grants to priority school districts and 6.5% is allocated to competitive grants for districts with priority schools.

Grant Distribution Data. The act changes the kindergarten enrollment data used to distribute money to priority and former priority school districts from the number of the district's kindergarten students for the preceding year to its average kindergarten enrollment over the previous three years. This change effectively smoothes out year-to-year grants. But the act also requires that no district receive a lower grant than it did the year before.

Districts With Priority Schools. Districts with priority schools are eligible for competitive school readiness grants. Prior law capped all such grants at $100,000 annually. The act allows the education commissioner, within available appropriations, to give larger grants to districts with more than one priority school.

Transitional Districts. Starting in FY 2001-02, the act requires the education commissioner, in consultation with the social services commissioner, to provide noncompetitive grants to enable eligible children who live in transitional districts to attend accredited or approved school readiness programs.

Grants must be provided to the town where the district is located. Grant eligibility continues for five years based on a district's designation as a transitional district in the year it first applies for a grant. Grant awards must be made annually based on available funding and a satisfactory evaluation.

The act does not allocate any specific percentage of the school readiness grant appropriation for transitional district grants. Instead, it requires those grants to be within available appropriations.

Staff Qualifications. Under the act, the education commissioner's school readiness program standards must require that, on and after July 1, 2003, at least one staff member in each classroom have a credential issued by an organization he approves plus nine college credits or an associate's or bachelor's degree in early childhood education or child development from a BOG or regionally accredited college or university.

Start-Up Funding. The act extends, through June 30, 2001, permission for towns to use school readiness grants to prepare a facility or staff for operating a school readiness program, if the commissioner approves.

Quality Enhancement Grants. The act allows school readiness quality enhancement grants to be used to establish a single-point-of-entry system. The law already allows grants to be used for 10 other things, including helping providers become accredited and training staff and mentor teachers.

Needs Assessment and Report. The act requires school readiness councils in priority districts and districts with severe-need schools to submit capital and operating school readiness needs assessments to the commissioner. The assessments must (1) estimate the numbers of three- and four-year-olds in the districts who are not enrolled in school readiness programs whose parents would likely enroll them if programs were available and (2) include a three-year plan to address any gap between the number of spaces available and the demand. Councils in transitional districts may submit such reports.

The commissioner must report to the General Assembly by January 1, 2001 on the needs assessments and recommend how to address unmet needs.

State-Subsidized Day Care. The act requires the social services commissioner to account for

differences in cost in the Department of Social Services' day-care reimbursement system based on program staff who have successfully completed 15 hours of annual in-service training or child-care directors and administrators who are "credentialed." (The act does not define this term.) The law already requires the commissioner to account for differences in a child's age, the number of children in the recipient's family, the geographic region, the type of care provided by licensed and unlicensed caregivers, and program accreditation.

Summer and Weekend Grants (§ 3)

The act requires priority districts receiving grants for summer and weekend programs for fourth and sixth graders to submit spending plans to the education commissioner that include:

1. criteria for participation, including priority for students whose reading is substantially deficient;
2. criteria for selecting teachers that emphasize the skills needed for the program;
3. summer program curricula selection criteria; and
4. a system for reporting, by school and grade, how many students attend and for assessing their performance in the program and during the school year.

In deciding where to establish a summer school program, a school district must give preference to elementary and middle schools with the most students substantially deficient in reading.

Hartford Funding (§§ 19, 20)

The act eliminates a $6 million grant increase in Hartford's Education Cost Sharing (ECS) grant for FY 2000-01. It requires Hartford to use $300,000 of its surplus revenue sharing under PA 00-13 for an operational audit of the district. (PA 00-192 amends the latter provision to require the Hartford school district to transfer the money to the Citizens' Committee for Effective Government to finish implementing the third and final year's recommendations from the fiscal and operations audit of the district required by the 1997 Hartford school takeover act.)

Education Cost Sharing (ECS) Grant (§§ 13, 14, 21)

Regional Bonus. The act increases the ECS bonus for K-12 regional school districts from $25 to $100 per student and increases the bonuses for regions with fewer grades by a proportional amount. The proportional amount is the ratio of the number of grades in the district to 13.

Minimum Expenditure Requirement. The minimum expenditure requirement (MER) requires districts to spend a minimum per-pupil amount on education in order to be eligible for state aid. For FY 1999-00, that amount is their MER for the previous year plus the increase in their ECS aid. The act makes that MER calculation permanent and specifies that, in calculating Hartford's MER, the aid increase must include the extra $6 million appropriated to the district in FY 1999-00.

The act also requires towns to adjust their MERs for FY 2000-01 only for decreases in enrollment between 1998 and 1999 but not for increases as previously required. Under the act, the MER for FY 2000-01 is each town's 1999-00 MER plus its ECS aid increase minus any decrease in enrollment from 1998 to 1999 multiplied by one-half the ECS foundation amount ($5,891).

Lighthouse Schools (§ 18)

The act makes permanent a competitive grant program for lighthouse school development in Hartford, New Haven, and Bridgeport that was scheduled to expire on June 30, 2001.

It limits the grant for any one school to $100,000 in any year but allows SDE to give a lower grant to a school for up to two additional years. SDE must set the lower grants according to what is reasonably needed to implement a lighthouse school program.

A lighthouse school is an existing public school or one planned before July 1, 1997 that has (1) a specialized program and (2) is designed to promote intra and interdistrict public school choice.

Public School Choice Program (§§ 15-17)

The act makes several changes in the interdistrict public school choice program. It:

1. increases the maximum state transportation grant for students participating in the program by $100 per student, from a statewide average of $2,000 per student to a statewide average of $2,100;
2. allows SDE, beginning in 2000, to provide for incremental expansion of the choice program to priority districts required to participate in the program; and

3. requires choice students to be counted for purposes of the state mastery exams as residents of the districts where they attend school. (Resident students who score below the remedial level on state mastery exams are weighted an extra 25% in a district's ECS student count.)

Youth Service Bureaus (§ 22)

The act expands the youth service bureaus eligible for SDE grants to include those that (1) were eligible for such grants in FY 1999-00 or (2) applied for a grant by May 15, 2000 after receiving approval of their town's matching contribution. Under prior law, only bureaus that were eligible for grants in FY 1998-99 or applied by May 15, 1999 could receive future grants. Youth service bureau grants are $14,000, with excess funds distributed among bureaus that received grants of more than $15,000 in FY 1994-95.

State Charter School Grant (§ 23)

The act changes the annual state per-student grant for students attending state charter schools from 110.3% of the ECS foundation amount, or $6,500, to $7,000.

Regional Educational Service Center (RESC) Funding (§§ 68, 73)

Annual Grants. The act changes the funding for the six RESCs from statutorily set amounts to amounts determined according to a formula. RESCs must receive at least as much aid as they received in FY 1998-99, so aid to RESCs receiving more aid under the formula than they did in FY 1998-99 must be proportionately reduced, if necessary. Each RESC must spend at least 6.25% of its aid annually to help local and regional boards of education to implement educational goals and objectives identified by SBE.

Under prior law, RESCs received the following grants:

RESC	***Location***	***Prior Grant***
Capitol Region Education Council (CREC)	West Hartford	$263,762
EDUCATION CONNECTION	Litchfield	$90,000
Cooperative Educational Services (CES)	Trumbull	$209,393
Area Cooperative Educational Services (ACES)	North Haven	$219,292
LEARN	Old Lyme	$81,623
Eastern Connecticut Regional Educational Service Center (EASTCONN)	Hampton/Willimantic	$299,161

Under the act, each RESC receives an annual amount equal to the sum of:

1. 50% of the total appropriation for RESCs divided by six,
2. 25% of the appropriation distributed according to the number of its member boards of education compared to the total number of RESC member boards statewide, and
3. 25% of the appropriation distributed according to the total ECS aid its member boards receive compared to total statewide ECS aid.

Additional Grants for RESCs Operating Magnet Schools. By October 15, 2000, the act requires SDE to provide the following one-time supplemental grants to each RESC operating an interdistrict magnet school:

1. $750,000 for each such school operating under a RESC's jurisdiction for the first time or expanding to a new location in FY 2000-01,
2. $325,000 for each such school continuing to operate under a RESC's jurisdiction in FY 2000-01, and
3. $200,000 for related support services provided by RESCs. (PA 00-192 reduces this amount to $118,750.)

Endowed Chair Investment Fund (§ 24)

The act increases the maximum state matching grant for University of Connecticut (UConn) and Connecticut State University (CSU) endowed chairs from $750,000 to $1 million. By law, to establish an endowed chair and receive a grant from the BOG-administered Endowed Chair Investment Fund, UConn or CSU must raise a nonstate contribution equal to the state contribution.

TEACHER SHORTAGE

Identifying Shortage Areas (§ 25)

The act requires the education commissioner, by December 1 annually, to identify the subjects and geographic areas that have a shortage of teachers. In

determining where teacher shortages exist, the commissioner must consider (1) how many vacancies there are in a subject or geographic area, (2) how many new certificates in those areas SDE issued over the previous year, and (3) how many and what kinds of classes are being taught by teachers not trained in that field.

The commissioner must certify the shortage areas to the Connecticut Housing Finance Authority (CHFA) for the mortgage assistance program the act establishes (see below).

Mortgage Assistance For Teachers (§ 26)

The act requires CHFA to develop and administer a mortgage assistance program for certified teachers who are employed by priority or transitional school districts or who teach in subject shortage areas identified by the education commissioner. The program, which must use down payment assistance or any other appropriate subsidy, must be available to help such a teacher to buy a house as his principal residence. If the teacher is employed by a priority or transitional district, the house must be in the district. The terms of the mortgage assistance must allow the mortgagee to realize a reasonable amount of equity gain on the sale of the house.

Commission on the Teacher and School Administrator Shortage And Minority Recruitment (§ 27)

Scope of Study. The act establishes an 18-member commission to study ways to attract and retain teachers and school administrators, including minorities. The commission must study incentives and credentialing alternatives to attract and retain educators in shortage areas and prevent future shortages. The incentives and alternatives must include (1) enhancements to the teacher mentoring program; (2) waiving teacher certification, endorsement, and teacher competency test fees; (3) changes in salary limits and other incentives for retired teachers to teach temporarily in subject or geographic shortage areas; and (4) changes in the alternative route to certification program.

Commission Members. The commission has eight ex officio and 10 other members. The ex officio members are the Office of Policy and Management (OPM) secretary, the commissioners of higher education and education, the Teachers' Retirement Board (TRB) executive director, and the chairs and ranking members of the Education Committee. Each of these members can appoint a designee. The other members are appointed as follows:

Members	***Representing***	***Appointed by***
1	National Association for the Advancement of Colored People	House speaker
1	Ct. Association of Colleges and Universities for Teacher Education	House speaker
1	Ct. Association of Public School Superintendents	Senate president pro tempore
1	A RESC	Senate president pro tempore
1	Ct. Association of Urban Superintendents	House majority leader
1	Ct. Federation of Educational and Professional Employees	Senate majority leader
1	Ct. Education Association	House minority leader
1	Ct. Association of Schools	House minority leader
1	Ct. Association of Boards of Education	Senate minority leader
1	Connecticut Federation of School Administrators	Senate minority leader

Appointments must be made by August 1, 2000.
Vacancies must be filled by appointing authorities.

The House speaker and the Senate president pro tempore must select the commission chairmen from among the members. The chairmen must call the first meeting by September 1, 2000. The commission terminates when it issues its report or on January 1, 2001, whichever comes first. The Education Committee's administrative staff serves as the commission's administrative staff.

TEACHERS' RETIREMENT

Health Insurance (§§ 59, 60, 62)

Premium Copayments. The act requires retired teachers covered by the TRB's basic and optional health insurance plans to pay 25% of the premium cost for those plans. For the optional plans, retirees must pay 25% of the premium on top of their existing payment of the difference between the premium cost of their optional plan and the basic plan premium. Under prior law, TRB had to provide the basic plan at no cost to retirees.

Coverage. The act extends coverage under both the state and local board health plans to the disabled dependent of a retired teacher who has no spouse or surviving spouse. Under prior law, coverage was limited to retired teachers and their spouses and surviving spouses after they died.

Premium Subsidy for Local Board Plans. The act eliminates the relationship between the state subsidy for retired teachers covered under local board

of education health plans and the TRB basic plan premium. It also freezes the subsidy at the amount paid in FY 1999-00 ($110 per member per month). Under prior law, the state subsidy had to equal the per-person premium for the TRB basic plan.

The act provides a $220-per-month subsidy to retirees who (1) are age 65 or over, (2) are not eligible for Medicare Part A, (3) are not receiving a spousal subsidy, (4) have 25 years or more of full-time service and (5) are receiving a monthly retirement benefit of less than $1,500 as of July 1, 2000.

Retired Teachers' Health Insurance Task Force. The act establishes a 10-member task force to study the health insurance benefits offered by TRB and the way the retired teachers' health insurance program is funded.

The task force must make recommendations concerning: (1) the long-term solvency of the retired teachers' health insurance fund; (2) the way the local board subsidy and the state plans are funded; (3) expected future costs to the state, active teachers, and retired teachers covered by the system; (4) the benefit levels the system should offer; and (5) the impact of an aging teacher population on the system's ability to provide benefits in the future. The task force must report to the governor and the General Assembly by December 15, 2000.

The task force members are: the TRB chairperson, the OPM secretary, the education and insurance commissioners, and the state comptroller, or their designees and four public members appointed by the legislative leaders. The public members appointed by the House speaker and Senate minority leader must be experienced in managing large health insurance plans. The public members appointed by the Senate president pro tempore and the House minority leader must represent plan participants. The OPM secretary or his designee serves as chairperson. All appointments must be made within 60 days of the provision's effective date. Vacancies must be filled by appointing authorities.

Retirement Benefit Changes (§§ 61, 63, 64, 67)

Benefit Refunds. For coparticipant benefits effective on or after January 1, 2001, the act allows TRB to refund the balance of a member's retirement contributions in a lump sum to the deceased member's or coparticipant's estate if the last survivor (member or coparticpant) dies without using up the member's full contribution plus credited interest. Under prior law, the balance was forfeited.

The lump sum payment is available if 25% of the total benefits paid are less than the member's contributions plus interest. The payment must equal the difference between the benefits paid and the contribution plus interest.

Sabbatical Leave. The act includes amounts paid to members while they are on sabbatical in the salary used to figure benefits, if mandatory retirement contributions were sent in during the sabbatical and the member teaches full-time for five years after returning from it.

Benefit Adjustments. The act permits any member who began receiving disability benefits on October 1, 1977 under former provisions to choose to receive benefits readjusted for a coparticipant option, if he gives TRB written notice of that choice by April 1, 2001.

It allows TRB to extend the deadline for a member to file for an optional recalculation of his disability retirement benefit to a normal retirement benefit if:

1. TRB finds that the member's health caused the filing delay,
2. the request for recalculation is filed on or after July 1, 1986,
3. the member's disability allowance became effective on or before November 1, 1976, and
4. the member turned 60 on or after August 1, 1984.

TRB Operations (§§ 63, 65, 66)

The act requires TRB to credit interest earned on contributions to a member's account based on the balance as of the previous June 30. Prior law required only that the interest be compounded on June 30 every year. The act also requires interest to be assessed on any mandatory contributions on salary paid that is due but not remitted to TRB by local school boards before the close of the school year.

The act extends the deadline by which towns must send member contributions to TRB from the last day of the month in which they are made to the fifth of the following month. It also requires local districts to transmit funds electronically starting on July 1, 2001.

The act imposes the interest penalty on overdue funds sooner. By law, boards that fail to transmit contributions by the deadline are subject to a 9% annual interest penalty. The penalty was formerly assessed when the funds were one month overdue. Under the act, interest applies starting on the fifth of the month following the month of the contribution. The act also specifies the interest must be compounded annually from the due date to the payment date.

The act lengthens the time TRB has to mail retirement checks by one day, by requiring it to mail

checks on the next to last business day before they are due rather than no later than three days before the due date.

It requires members who become eligible for retirement benefits beginning January 1, 2001 to identify a financial institution for TRB to electronically transmit payments. TRB must transmit the payment on the last business day of each month and may not mail these members' benefits.

MISCELLANEOUS PROVISIONS

Public School Information System (§ 8)

The act requires SDE to develop and implement a standardized electronic data collection and reporting system that (1) makes it easier to comply with state and federal reporting requirements, (2) improves the exchange of information among schools and school districts, and (3) maintains the confidentiality of individual student and staff data. The initial system design must focus on student information but must also incorporate future compatibility with financial, facility, and staff data. The system must track individual students' performance on Connecticut mastery tests to allow SDE to assess student progress and better analyze school performance in order to identify schools needing improvement under the 1999 school accountability law.

SDE must begin a pilot system by the 2002-03 school year and implement the system fully in the school year following the pilot's successful implementation. All school districts must participate, as long as SDE provides technical assistance and trains school staff to use the system.

The act exempts the student information database from the Freedom of Information Act.

Civics Requirement (§ 69)

Starting with the class of 2004, the act requires that at least one-half credit of the three credits in social studies needed to graduate from high school be in civics and American government. (PA 00-156 imposes the identical requirement but takes effect October 1, 2000, three months after this act.)

Sprinklers in College Dorms (§ 70)

The act requires the state fire marshal and the higher education commissioner to study whether change is needed in the Fire Safety Code for college dormitories. They must survey all college dormitories to learn how many lack automatic fire extinguisher systems. They must report their findings, including any recommended changes in the state Fire Safety Code, and a schedule for implementing the changes to the Education and Public Safety committees by January 1, 2001.

The Children's Center (§ 71)

The act allows employees of the Children's Center to participate in the state employee health plan. The center is a state-approved, private special education facility in Hamden.

Budget Carryover (§ 72)

The act carries over to FY 2000-01 up to $37,500 of SDE's FY 1999-00 other expense appropriation for a grant to the Aspirations for Higher Precollegiate Learning Program in New Haven.

BACKGROUND

Schools Needing Improvement

PA 99-288 requires the education commissioner to publish an annual list of elementary and middle schools needing improvement based on student performance and performance trends on statewide mastery tests. The act requires local boards with jurisdiction over those schools to develop and implement improvement plans for them. In 1999, the commissioner identified 28 schools in six districts that need improvement. The districts with one or more schools on the 1999 list are Bridgeport, Hartford, New Haven, New London, Waterbury, and Windham.

Priority Districts

The priority districts are the 14 most economically and educationally needy districts in the state based on various statutory criteria. In 2000-01, the districts are Bloomfield, Bridgeport, Danbury, East Hartford, Hartford, Meriden, New Britain, New Haven, New London, Norwalk, Stamford, Waterbury, West Haven, and Windham.

Transitional Districts

In 2000-01, the 12 transitional districts are Ansonia, Bristol, Derby, Groton, Hamden, Killingly, Manchester, Middletown, Norwich, Putnam, Stratford, and West Hartford.

Universal Service Fund

Among other things, the federal Universal Service Fund provides eligible schools and libraries with funds for educational technology infrastructure and discounted telecommunications service and Internet access. The fund, which was established by the Federal Communications Commission, is funded by assessments on telecommunications companies providing interstate long distance service.

Related Acts

PA 00-156 imposes the same high school civics requirement as this act, but takes effect October 1, 2000. The civics provision of this act takes effect July 1, 2000. Since this act passed later, the July 1 effective date controls.

PA 00-192 makes substantive and technical changes in this act. The substantive changes relate to the $300,000 appropriation to the Hartford Public Schools for an operational audit and the amounts in the extra grants for RESCs that operate interdistrict magnet schools.

PA 00-193 also allows districts eligible for grants for schools listed as needing improvement under the 1999 school accountability act to include "quality after-school" programs in their grant spending plans.

PA 00-193—sHB 5231
Education Committee
Appropriations Committee

AN ACT CONCERNING A COMPETITIVE GRANT PROGRAM FOR CERTAIN HIGH SCHOOL PROJECTS AND QUALITY AFTER SCHOOL PROGRAMS

SUMMARY: This act requires the State Department of Education to establish, within available appropriations, a competitive grant program for high school projects involving computers, engineering, math, physics, science, or technical construction. High schools seeking grants must apply through their school districts when and how the education commissioner determines.

The act also allows districts eligible for grants established in PA 00-187 for schools listed as needing improvement under the 1999 school accountability act to include "quality after-school" programs in their grant spending plans. It requires such programs to include (1) student participation criteria, (2) leisure activities that help social and cognitive development, (3) safe environments, (4) trained staff, (5) strategies to improve weaker students' academic performance and reduce social promotion, (6) family involvement, (7) an assessment of transportation needed to allow families to use the program, and (8) program evaluation.
EFFECTIVE DATE: July 1, 2000

BACKGROUND

Related Act

PA 00-187 establishes a grant program for districts with one or more schools listed by the education commissioner as needing improvement under PA 99-288. Districts must use the grants to pay for (1) the cost of implementing required school improvement plans for those schools, (2) partnerships between the schools needing improvement and public libraries in the school district, and (3) actions needed for the schools to be accredited by the New England Association of Schools and Colleges.

PA 00-204—SB 160
Education Committee

AN ACT CONCERNING CHANGES TO MISCELLANEOUS EDUCATION AND HIGHER EDUCATION STATUTES

SUMMARY: This act:

1. requires the State Board of Education (SBE) to maintain a continually updated five-year capital improvement plan for vocational-technical (V-T) schools;
2. requires the State Department of Education (SDE) to provide in-service training for certified V-T school staff;
3. allows SDE to buy tools and supplies needed to implement updated curricula with money from $15 million in annual bonding authorized for FYs 1999-00 and 2000-01 for V-T school equipment, vehicles, and technology equipment;
4. allows the chief court administrator to establish a pilot program for resolving special education administrative contested cases and requires SDE to provide the Judicial Branch with necessary program funding;
5. requires the Department of Labor (DOL) in cooperation with the Department of Social Services (DSS) and within available appropriations to provide state-funded work-study slots in (a) training programs certified under the 1998 Workforce Investment Act

and (b) training and education programs at public higher education institutions;

6. requires the regional community-technical colleges, the Connecticut State University system, and UConn to waive tuition for dependent children of any state or municipal employee killed in the line of duty, not just for those of municipal police officers and fire fighters killed in the line of duty;
7. requires the Hartford school system to implement in two schools a pilot two-way language program that provides instruction in each language for 50% of each day's instructional time; and
8. requires SBE to report on efforts to recruit minority nominees for the Teacher Negotiation Act (TNA) arbitration panel.

EFFECTIVE DATE: Upon passage, except the V-T school capital plan, the in-service training requirement for V-T staff, and the provision concerning use of the V-T school bonding in FY 2000-01 take effect July 1, 2000.

V-T SCHOOLS

Capital Improvement Plan

The act requires SBE to maintain a rolling five-year capital improvement plan for V-T schools. The plan must identify (1) the alterations, repairs, and renovations each school needs, including for grounds, athletic fields, heating and ventilation systems, wiring, roofs, and windows; (2) the cost of these projects; and (3) recommendations for energy efficiency improvements for each school and the costs.

The law already requires SDE to maintain for V-T schools a rolling five-year capital equipment plan that identifies the specific equipment each school is expected to need and its cost. This act combines that plan with the new capital improvement plan. SBE must submit the combined plan annually to the Education; Finance, Revenue and Bonding; and Appropriations committees.

The act also requires SBE to include a summary of capital equipment and capital improvement activities as part of the long-range plan of goals and priorities for the schools it must adopt every five years.

In-Service Training

The act requires SDE to provide the same kind of in-service training for certified V-T staff as local and regional public schools must provide for their certified staff. It also requires SDE to provide in-service training to enhance teachers' knowledge and skill in their vocational or technical fields.

SPECIAL EDUCATION PILOT PROGRAM

If the chief court administrator establishes a pilot program, the act allows SDE to refer up to 20 special education administrative contested cases and exempts the referred cases from the normal $185 entry fee for filing civil cases in the Superior Court. The cases must (1) be heard by judge trial referees or senior judges, (2) not be jury trials, (3) be heard as de novo cases in the Superior Court, and (4) be appealable directly to the Appellate Court.

STATE-FUNDED WORK-STUDY PROGRAM FOR NEEDY INDIVIDUALS

The work-study slots must be available for temporary family assistance (TFA) recipients and other needy individuals who do not receive TFA. The act defines "needy individuals" as parents or caretaker relatives of minor children who are members of a needy family pursuant to the state's Temporary Assistance for Needy Families plan.

DOL and DSS must design the program so that (1) individuals will not need TFA by the end of the 21-month TFA time limit and (2) it increases participants' ability to achieve economic self-sufficiency. (TFA benefits are limited to 21 months but extensions can be granted if recipients are unable to earn above a certain level.) The program must give priority to individuals whose earnings are at or below the federal poverty level ($14,150 for a family of three in 2000), include a specified number of slots for training and educational programs that serve job seekers entering a nontraditional field as defined by the U.S. Department of Labor (DOL), and include transportation and child-care assistance. The U.S. DOL defines a "nontraditional occupation" as a job or field where individuals from one gender make up less than 25% of the workers.

The labor commissioner must report to the General Assembly on the program's design and cost by January 1, 2001.

HARTFORD TWO-WAY LANGUAGE PROGRAM

SDE and the State Board of Trustees for the Hartford school system must evaluate the effectiveness of the pilot two-way language program and report the results to the Education Committee by July 1, 2001.

A "two-way" language program is one where two groups of students with different native languages learn to speak each other's language.

TNA ARBITRATION PANEL

The act requires the lists of nominees to the TNA arbitration panel submitted to the governor by the SBE, local school boards, and teachers' and school administrators' unions to include a report from SBE certifying that the process for soliciting panel applicants included adequate outreach to minorities and documenting that the number and type of minority applicants considered reflect the state's racial and ethnic diversity.

The act also specifies that the list of TNA arbitration panel nominees comply with existing law requiring appointing authorities to make a good faith effort to ensure that appointees are qualified and represent the state's gender and racial diversity.

BACKGROUND

In-Service Training for Certified Teachers

By law, local and regional boards of education must offer at least 18 hours of professional development activities per year at no cost to certified staff. The activities must qualify for the 90 hours of continuing educational credit each certified teacher or school administrator must take every five years to maintain his certificate. The activities must be (1) planned in response to specific needs, (2) provided by qualified instructors, (3) evaluated for effectiveness and contribution to school or district-wide goals, and (4) documented according to SDE procedures. Requirements for the activities must be shared with participants before they begin.

Workforce Investment Act

Congress enacted Workforce Investment Act (WIA) in August 1998. The act replaces the Job Training Partnership Act as of July 1, 2000. It requires states to coordinate roughly 60 federally funded job training programs and funds them through three grants to states that target employment and training services for dislocated workers, adults, and disadvantaged youth. WIA expressly allows state legislation that provides for implementation of job training activities and requires state legislatures to appropriate funds.

PA 00-220—sHB 5317
Education Committee
Appropriations Committee
Human Services Committee
Legislative Management Committee

AN ACT CONCERNING REVISIONS TO THE EDUCATION STATUTES

SUMMARY: This act makes various changes in the education laws concerning:

1. the State Board of Education's (SBE) authority to issue educator certificates to convicted felons,
2. school employees suspected of child abuse,
3. state-funded interdistrict programs,
4. transferring student records,
5. the standard of proof for revoking an educator certificate,
6. school construction grants,
7. assistive devices for disabled students,
8. the Special Education Advisory Council,
9. where new family resource centers must be located,
10. delegating fire prevention powers to UConn,
11. the number of students eligible for assistance under the minority teacher incentive program,
12. school crisis response drills,
13. the extended school building hours program,
14. costs for administering the Scholastic Achievement Grant Program,
15. the operations of the Connecticut Student Loan Foundation,
16. higher education accountability,
17. special education excess costs,
18. notice requirements for arbitration hearings under the Teacher Negotiation Act,
19. using school improvement grants to install video surveillance devices,
20. school activities to curb aggressive student behavior, and
21. the relocation of Three Rivers Community-Technical College.

The act also eliminates certain reporting requirements and obsolete provisions and makes technical changes.

EFFECTIVE DATE: July 1, 2000

EDUCATOR CERTIFICATES ISSUED TO FELONS

The act bars the SBE from issuing or reissuing a teacher or school administrator certificate to anyone who has been convicted of certain felonies until at least five years after the person finishes serving his

sentence (including any probation or parole) for the conviction. The felonies are capital or Class A felonies, arson murder, most Class B felonies, certain specified Class D felonies, and two drug crimes.

The limits apply to people convicted of the following crimes:

Crime	***Felony Classification***
Specified types of murder	Capital felony
Arson murder	Unclassified
Murder other than a capital felony	Class A
Felony murder	Class A
Kidnapping in the first degree	Class A
Arson in the first degree	Class A
Employing a minor in an obscene performance	Class A
Attempt or conspiracy to commit any class A felony	Class B
Attempt or conspiracy to commit any class B felony	Class B
Manslaughter in the first degree	Class B
Manslaughter in the first degree with a firearm	Class B
Assault in the first degree	Class B
Assault of victim 60 or older in first degree	Class B
Assault of Department of Correction employee in the first degree	Class B
Sexual assault in first degree	Class B
Aggravated sexual assault in the first degree	Class B
Sexual assault in spousal or cohabitation relationship	Class B
Promoting prostitution in first degree	Class B
Kidnapping in the second degree	Class B
Kidnapping in the second degree with a firearm	Class B
Burglary in the first degree	Class B
Arson in the second degree	Class B
Robbery in the first degree	Class B
Possession of a weapon or dangerous instrument in a correctional institution	Class B
Rioting at correctional institution	Class B
Promoting a minor in an obscene performance	Class B
Money laundering in the first degree	Class B
Vendor fraud in the first degree	Class B
Deprivation of equal rights by death	Class B
Manufacture of bombs	Class B
Importing child pornography	Class C
Risk of injury to child involving sexual contact or baby selling	Class C
Assault of a victim 60 or older in the second degree	Class D
Assault of a victim 60 or older in the second degree with a firearm	Class D
Promoting prostitution in the third degree	Class D
Substitution of children	Class D
Burglary in the third degree with a firearm	Class D
Intimidation based on bigotry or bias	Class D
Stalking in the first degree	Class D
Incest	Class D
Obscenity as to minors	Class D
Criminal use of a firearm or electronic defense weapon	Class D
Possession of a weapon on school property	Class D
Deprivation of civil rights by wearing a hood	Class D
Manufacture, distribution, sale, prescription, and dispensing of illegal drugs	Unclassified
Manufacture, distribution, sale, prescription, or administration of illegal drugs by a nondrug-dependent person	Unclassified

SCHOOL EMPLOYEES IN CHILD ABUSE CASES

Employees Holding SBE Credentials

The act extends the procedures for dealing with school employees required to hold certificates who are suspected of child abuse to any school employee holding a certificate, a permit, or other authorization from SBE. As under prior law, the Department of Children and Families (DCF) must notify the person's employing superintendent when it finds reasonable cause to believe the employee has abused a child.

The superintendent must suspend the employee from duty and notify the education commissioner and the local school board within 72 hours. The superintendent must disclose the records of the DCF investigation to the commissioner so he may review the status of any SBE-issued credentials, not just a certificate.

SBE issues permits and other authorizations to allow people to work in public schools, including coaches, substitute teachers, and those who teach subjects for which no certified teachers can be found.

Prosecutor Notification Requirements

The act requires prosecutors to notify the commissioner and the person's employing school superintendent or nonpublic school supervisory agent whenever someone who holds a teaching certificate,

permit, or other SBE-granted teaching authorization is convicted of injury or risk of injury to, or impairing the morals of, a minor under age 16.

Prosecutors already had to notify the commissioner whenever a person holding an SBE certificate is convicted of:

1. child abuse or neglect,
2. second-degree sexual assault, or
3. fourth-degree sexual assault.

The act extends these notice requirements to cover convictions of people holding SBE-issued permits or authorizations.

INTERDISTRICT PROGRAMS

Grants For Certain Interdistrict Magnet Schools

The act increases, to 90% of the Education Cost Sharing foundation amount, the maximum per-pupil state grant for each student at an interdistrict magnet school that serves two towns and that was established before January 1, 1993. Under the regular interdistrict magnet school grant formula, a magnet school can receive the maximum 90% per-pupil grant for all students only if students from each participating district represent no more than 30% of the students attending the school — an impossibility when a school has only two participating towns.

This provision applies only to the East Hartford/Glastonbury Magnet School.

Reporting Deadlines

The act moves up two reporting deadlines for the interdistrict choice program. It changes, from October 1 to July 1, the deadline for biennial reports from local school boards to regional educational service centers (RESCs) on school district activities to reduce racial, ethnic, and economic isolation. It requires the RESCs to report biennially to the education commissioner on these activities by October 1 rather than December 1. The new deadlines start with the 2000 reports.

The act also requires that, for purposes of the state transportation grant, the number of students to be transported as part of the interdistrict choice program be determined as of September 1 of each fiscal year.

SDE Responsibility Regarding Student Diversity

The act requires SDE to make sure that state-funded interdistrict programs and activities promote a diverse learning environment and allows the department to establish reasonable enrollment priorities for such programs so participating students are a racially, ethnically, and economically diverse group.

STUDENT RECORDS TRANSFERS

The act requires a student's new district to notify the old district in writing. The old district must send the student's records to the new district within 10 days of receiving the notice. Unless the student's parents authorized the records transfer in writing, the old district must also notify them when it sends the records.

The act eliminates a requirement that sending districts in the interdistrict school choice program transfer the records of participating students to receiving districts.

STANDARD OF PROOF FOR REVOKING EDUCATOR CERTIFICATES

The act codifies SBE practice by requiring it to establish the reason for revoking a teaching or school administrator certificate by a preponderance of evidence (more likely than not). The preponderance of evidence is the standard of proof required by the Uniform Administrative Procedure Act for state agency actions and the standard required for local boards of education in deciding on teacher terminations.

SCHOOL CONSTRUCTION GRANTS

Roof Replacement Projects

The act allows the education commissioner to approve roof replacement projects without placing them on the school construction priority list for approval by the General Assembly. The commissioner already had this authority for projects to correct damage from fires and other catastrophes or to remedy safety, health, and code violations.

It also allows districts to receive grants for replacing roofs that are between 15 and 20 years old even if they were not improperly designed or constructed. Under prior law, replacement of roofs less than 20 years old was not eligible for state reimbursement unless a registered architect or engineer determined it was improperly designed or built and the town recovered less than full damages from the responsible parties.

Under the act, the grant for replacing a roof that is between 15 and 20 years old must be reduced based on the ratio of the roof's age at the time of replacement to 20 years. The roof's age is the time, in whole years, between when it was installed and when the district applies for a grant for a new roof.

Thus, for example, replacement of a 15-year-old roof would receive a grant of 75% (15/20) of that for replacing a 20-year-old or older roof.

Audits

The act limits the time the SDE has to perform a full audit of a school construction project to five years from the date the school district notifies the department that the project is complete. Unless the department completes the audit within that time, it may review only (1) the total reported expenditures, (2) any off-site improvements, (3) whether the project complies with authorized space requirements, (4) interest on temporary bonds and notes, and (5) any other item the education commissioner considers appropriate.

The act bars SDE from making any adjustment in a district's school construction grant because an audit finds that a project change order was not bid publicly.

Renovation Projects

By law, a school district may receive a state school construction grant for a renovation project only if the renovation produces a school with a useful life comparable to that of a new school. The act also requires that the renovation cost less than, not merely be an alternative to, building a new facility. It requires the SDE to determine whether a renovation project meets this criterion and allows a district to submit an independent licensed architect's feasibility study and cost analysis of the renovation project to SDE before the department's final approval.

Grant Repayments

The act specifies that a school district must repay a school construction grant if it redirects the school building to any use during the grant amortization period that is not a public school use, not just if it decides to use it as a nonpublic school.

ASSISTIVE DEVICES FOR DISABLED STUDENTS

The act allows state and local educational agencies to loan, lease, or transfer an "assistive device" used by a student with a disability to the student or his parent or guardian or to another public or private nonprofit agency that provides services to people with disabilities regardless of whether the device is declared surplus. The sale or transfer must be based on the device's depreciated value and recorded in a written agreement.

An "assistive device" is any equipment, item, or product system used to increase, maintain, or improve a disabled person's ability to function. The device can be one that is acquired commercially "as is" or that has been modified or customized.

Municipalities that receive money from loans, leases, or transfers of assistive devices by local or regional boards of education must make the funds received available to the board as a supplement to other revenues the board receives.

SPECIAL EDUCATION ADVISORY COUNCIL

The act requires one of the House majority leader's two appointments to the Special Education Advisory Council to be a person who works in the special education-related services field rather than a member of the Connecticut Association of Urban Schools.

It also staggers the terms of council members by requiring the 15 appointed by executive branch officials (the governor and the commissioners of education, mental retardation, children and families, and correction) to serve three-year, and their successors to serve two-year, terms. The members appointed by legislative leaders continue to serve two-year terms.

FAMILY RESOURCE CENTERS

The act requires family resource centers established on or after July 1, 2000 to be located in public elementary schools unless the education commissioner waives the requirement. Centers established before that date continue to be governed by prior requirements, which are that they be located in or associated with any public school, not just an elementary school.

The act also requires the centers to meet SDE standards for school readiness programs. By law, the standards may include guidelines for staff-child interactions, curriculum content, lesson plans, parent involvement, staff qualifications and training, and administration.

DELEGATION OF FIRE PREVENTION DUTIES

The act allows the public safety commissioner to delegate any of his powers relating to fire prevention and safety to employees of the University of Connecticut's Storrs Division of Public Safety. Under prior law, the commissioner could delegate only to Department of Public Safety employees.

MINORITY TEACHER INCENTIVE PROGRAM

The act eliminates the 50-person cap on the number of minority students who can receive grants from the Department of Higher Education's Minority Teacher Incentive Program. To be eligible for a grant, a student must be entering a teacher preparation program in his junior or senior year in college or be enrolled in DHE's alternate route to certification program. The maximum grant is $5,000 per year for two years.

SCHOOL CRISIS RESPONSE DRILLS

The act allows school boards to substitute a crisis response drill for a required monthly school fire drill every three months.

EXTENDED SCHOOL BUILDING HOURS PROGRAMS

Use of Nonschool Building

Priority school districts receive grants to provide academic enrichment and support and recreation programs for their students.

The act allows those grants to be used to pay for programs held in buildings other than public schools when a local board of education shows that the building can adequately support the program's academic goals and it has a plan to provide adequate academic instruction.

Evaluation Report

The act eliminates a requirement that the education commissioner file a report on his annual program evaluation of the grant with the Education Committee and, if requested, any member of the General Assembly. It also eliminates a requirement that the commissioner mail a summary of the evaluation or, if the summary is more than two pages, notice of the report to each legislator. He must still file the report with the governor, the General Assembly, and the Office of Policy and Management.

SCHOLASTIC ACHIEVEMENT GRANT (SAG) ADMINISTRATIVE COSTS

The act allows the Board of Governors of Higher Education (BOG) to use 1% of the total annual appropriation for student financial assistance for administrative, instead of just for data processing, support for the SAG grant.

CONNECTICUT STUDENT LOAN FOUNDATION (CSLF)

Board Members

The act allows any member of the CSLF board of directors to make a general designation of a representative to act in his place with all his powers at meetings, instead of allowing only the BOG chairman and the higher education commissioner to do so only for particular meetings. As under prior law, the designation must be in writing to the board chair.

Annual Report

The act changes the submission deadline for the CSLF's annual report from September 1 to December 31 to conform with the foundation's fiscal year, which runs from October 1 to September 30. The report goes to the governor, the BOG, and the General Assembly.

Student Loan Payments

The act requires the comptroller to forward promptly to the CSLF any amount she withholds from a state payment to someone who has defaulted on a student loan.

HIGHER EDUCATION ACCOUNTABILITY

The act requires the higher education commissioner, with the Higher Education Coordinating Council's (HECC) concurrence, to develop a prototype accountability report that includes measures developed and approved for which the commissioner determines data can be collected. Once the BOG reviews and approves the prototype, the commissioner must submit it, by October 1, 2000, to the Education Committee.

Each higher education constituent unit must submit its first accountability report to the commissioner by January 1, 2001. The commissioner must compile and consolidate the reports and submit an accountability report covering the whole state higher education system, each constituent unit, and each public higher education institution to the Education Committee by February 1, 2001. The report must include baseline data on approved accountability measures for which data can be collected, along with comparable data for peer institutions as determined by the commissioner after consulting with HECC. The report must also include a timeline for collecting data and reporting remaining accountability measures and for identifying

performance improvement targets.

SPECIAL EDUCATION EXCESS COST GRANTS

The act requires town treasurers to credit state funds for special education excess costs to local or regional board of education accounts within 30 days after receiving documentation that the board's special education spending has exceeded its budgeted estimate for such costs. By law, the state reimburses districts for the cost of any special education placement that exceeds five times the district's average per-pupil expenditures.

NOTICE OF TEACHER CONTRACT ARBITRATION HEARINGS

The act requires arbitrators to notify a school district's fiscal authority of the time and place of the arbitration hearing held in the school district by registered mail, return receipt requested instead o f by regular mail. The hearings concern teacher or school administrator contract issues submitted for binding arbitration under the Teacher Negotiation Act.

INSTALLATION OF VIDEO SURVEILLANCE DEVICES

The act specifically allows priority school districts to use state school improvement grants to install video surveillance devices.

AGGRESSIVE STUDENT BEHAVIOR

The act requires the SDE to report to the Education Committee by January 1, 2001 on activities local boards of education have undertaken to counteract aggressive behavior by students in their schools. The report must include descriptions of school-wide and individual student activities.

THREE RIVERS COMMUNITY-TECHNICAL COLLEGE RELOCATION

The act requires the BOG and the Department of Economic and Community (DECD) to jointly analyze the educational and economic impact of the planned relocation of the Three Rivers Community-Technical College. The analysis must cover at least:

1. the effect of the relocation on the economy and property taxes of the community the institution is leaving and the one to which it is moving,
2. the resources available to students in each community, and
3. the accessibility of each location for students attending the institution.

The BOG must forward the findings to the Board of Trustees of the Community-Technical Colleges. If the General Assembly has authorized the State Bond Commission to issue bonds for the relocation, the BOG must submit a report on the analysis and its findings to the commission for its review and consideration prior to issuing bonds.

REPORTING REQUIREMENTS ELIMINATED

Teacher In-Service Training Program Plans

The act eliminates a requirement that local boards of education submit their in-service training programs for certified personnel to the education commissioner.

Foster Child Count

The act eliminates a requirement that each school district submit to SDE an annual count of foster children attending school in the district whose parents live elsewhere or who have no parents.

OBSOLETE PROVISIONS ELIMINATED

The act eliminates:

1. a provision granting local school boards authority over funds received from the Johns-Manville Corporation asbestos settlement fund and
2. a requirement that the higher education commissioner and the HECC assure that each public higher education institution implements a process of institutional assessment and continuous improvement based on goals, objectives, and measurable outcomes consistent with its mission.

PA 00-222—HB 5664
Education Committee
Finance, Revenue and Bonding Committee
Planning and Development Committee

AN ACT CONCERNING THE PROPERTY TAX ON MOTOR VEHICLES AND LOCAL SCHOLARSHIP FUNDS

SUMMARY: This act allows municipalities, by ordinance, to establish local scholarship funds to help town residents pay for postsecondary education. Towns may fund the scholarships through a check-off on local motor vehicle tax bills that allows residents to donate at least $1 to the fund in addition to their total tax payment.

The act allows a municipality to redesign its motor vehicle tax bills to accommodate the scholarship check-off program and to include an insert with its tax bills explaining the scholarship fund and the check-off system. The Office of Policy and Management must approve the redesigned tax bills before they are used.

Any town that establishes a local scholarship fund must also establish or designate a committee in the town to select scholarship recipients every year. The town treasurer must deposit all money received from the motor vehicle tax check-offs into the local scholarship fund along with any donations from other sources.

EFFECTIVE DATE: October 1, 2000

PA 00-17—sHB 5047
Energy and Technology Committee

AN ACT CONCERNING REVIEW OF PUBLIC UTILITIES

SUMMARY: This act gives the Department of Public Utility Control (DPUC) new options regarding two types of required rate review proceedings. It allows DPUC to conduct a general rate case instead of the periodic review required under prior law for large gas and electric distribution companies. Under prior law, DPUC had to conduct this review no later than four years from the last general rate case for companies with more than 75,000 customers. In this review, DPUC investigates the financial and operating records of the company and holds a hearing to review whether its rates and service comply with the law. DPUC must meet these review requirements, among others, in conducting a general rate case.

Under prior law, DPUC had to hold a special hearing when any utility exceeded its DPUC-authorized rate of return for six consecutive months or DPUC found that (1) changes in municipal, state, or federal tax law significantly increased the utility's rate of return or (2) the utility might be collecting rates that were more than just, reasonable, and necessary. The act also allows DPUC to conduct an investigation in conjunction with the periodic review or a general rate case under these circumstances. The act makes the following special hearing provisions apply to the alternative proceedings:

1. the utility must demonstrate that its overearning directly benefits its customers;
2. DPUC may order an interim rate decrease if it finds that the utility is overearning; and
3. the customers may be subject to a surcharge if the interim rates are less than those the department ultimately approves.

EFFECTIVE DATE: October 1, 2000

PA 00-41—sSB 324
Energy and Technology Committee
Banks Committee

AN ACT CONCERNING REPORTING DELINQUENT UTILITY BILLS TO CREDIT BUREAUS

SUMMARY: This act bars telecommunications companies and non-utility gas suppliers from reporting residential customers' nonpayment to credit bureaus until the customer is 60 days delinquent. It bars these companies from making a report while the customer has a complaint pending before the Department of Public Utility Control or on appeal. By law, these provisions apply to telephone companies and municipal and private electric, gas, and water utilities.

The act requires all of these companies to notify delinquent customers before reporting their nonpayment to credit bureaus. The notice must be sent by first class mail at least 30 days before the report. It must state that "as authorized by law, for residential accounts, we supply payment information to credit rating agencies. If your account is more than 60 days delinquent, the delinquency report could harm your credit rating."
EFFECTIVE DATE: October 1, 2000

PA 00-53—sSB 327
Energy and Technology Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO UTILITY LAWS

SUMMARY: This act allows regional water authorities to function as electric suppliers or electric aggregators under the laws opening the electric market to competition. (Suppliers sell electricity to retail customers; aggregators group customers to negotiate electricity purchases with suppliers.) There are currently three authorities: the Metropolitan District Commission, South Central Connecticut Regional Water Authority, and Southeastern Connecticut Regional Water Authority. The act also makes minor changes to the ability of municipalities to participate in the electric market.

The act also broadens the types of veterans' organizations eligible for reduced rate electric service. It does this by making any veterans' organization that is tax-exempt under section 501(c) of the Internal Revenue Code, rather than just subdivision 19 of that section, eligible for these benefits. (It appears that this would entitle the Disabled American Veterans, among other groups, to this benefit.) By law, electric distribution companies must provide distribution services to eligible organizations at the lower of the applicable residential or commercial rate. Municipal electric utilities must provide electricity at the lower of these two rates. These provisions do not supersede the laws governing municipal utilities, special acts, or municipal charters or ordinances.

The act delays, from January 1, 2000 to January 1, 2001, the date by which the Department of Public Utility Control (DPUC) must begin a program to educate consumers about implementation of competition among telecommunications companies.

By law, the department must implement the program in conjunction with the Office of Consumer Counsel.

Finally, the act makes technical changes, including adding a definition of gas registrants (*i.e.*, non-utility gas suppliers that are required by law to register with the DPUC).

EFFECTIVE DATE: October 1, 2000

REGIONAL WATER AUTHORITIES

The act allows regional water authorities to function as electric aggregators. The authority must register annually with DPUC if it aggregates the sale of generation services (1) to retail customers within the authority's boundaries or (2) for municipal facilities, street lighting, school boards, and other publicly-owned facilities within the municipalities in the authority's service area.

If the authority seeks to aggregate sales of generation services for other purposes, it must be licensed by DPUC. License applicants must demonstrate financial, managerial, and technical competence and meet many other criteria. (Similar requirements apply to applicants for licenses to serve as suppliers.) The act also appears to allow authorities to obtain licenses to serve as suppliers.

By law, a municipality is subject to the registration, rather than licensure, requirement if it joins with other municipalities to aggregate the purchase of generation services for publicly owned facilities. The act allows municipalities to do this independently.

PA 00-91—sSB 24
Energy and Technology Committee
Judiciary Committee
General Law Committee
Labor and Public Employees Committee

AN ACT LICENSING NATURAL GAS SUPPLIERS

SUMMARY: By law, non-utility gas suppliers must register with the Department of Public Utility Control (DPUC). This act establishes bonding and other requirements for registrants. It requires registrants to comply with utility law and DPUC orders and subjects those that do not comply to civil penalties.

The act requires suppliers to pay an annual registration fee, which cannot exceed DPUC's administrative costs. It requires DPUC approval to transfer a registration and allows DPUC to impose additional fees for its administrative costs of reviewing the application.

EFFECTIVE DATE: October 1, 2000

REQUIREMENTS FOR REGISTRANTS

By law, anyone other than a gas company, municipal gas utility, or gas pipeline company must register with DPUC before retailing gas in the state. The act requires registrants to:

1. maintain a bond or other security designated by DPUC to ensure its financial responsibility and its supply of gas to its customers under contracts or other arrangements;
2. have a contractual relationship with one or more entities to purchase gas supply;
3. comply with the National Labor Relations Act, if applicable; and
4. comply with the Connecticut Unfair Trade Practices Act (CUTPA) and applicable regulations. (Among other things, CUTPA bars deceptive acts and practices.)

The registrant must agree to cooperate with various entities in any emergency that threatens the safety and reliability of the state's natural gas system. These entities are: DPUC, gas companies, municipal gas utilities, pipeline companies, and other gas suppliers.

Each registrant must update information that DPUC considers relevant, at least annually, as DPUC requires. A registrant must also notify DPUC at least 10 days before changing the company's corporate structure.

CIVIL PENALTIES

The act subjects companies required to register to the civil penalties that apply to utilities and other entities that DPUC regulates. If the penalty is not specifically set by statute, the maximum is $10,000 per offense. Each distinct violation of statute, regulation, or DPUC order is a separate offense, as is each day of a continuing violation. DPUC can also suspend or revoke the registration or bar the registrant from accepting new customers.

PA 00-93—sHB 5754
Energy and Technology Committee
Environment Committee
Planning and Development Committee

AN ACT ENCOURAGING FUEL CELL TECHNOLOGY

SUMMARY: This act makes it easier to build or modify certain electric generating facilities. The law requires a Siting Council certificate to build or modify most types of electric generating facilities.

The process for granting a certificate is quasi-judicial in nature and is subject to extensive public hearing and notice requirements. But prior law required the council to use an expedited process called a declaratory ruling for facilities that (1) were on the site of a pre-July 1, 1998 generating plant, (2) used a fuel other than coal or nuclear materials, and (3) would not, in the council's determination, cause substantial environmental harm. The act appears to eliminate the third condition, thereby allowing the council to approve any facility that met the first two conditions by declaratory ruling.

By law, the ruling can determine the applicability of a law, regulation, or agency decision to specified circumstances. The council has 60 days to act upon a request for a ruling, compared to 180 days for a certificate.

The act also eliminates the need for a certificate for fuel cell generating facilities with a capacity of up to 10 kilowatts (the amount of electricity used by 100 100-watt light bulbs). More generally, it requires the council to approve the construction or location of any fuel cell by declaratory ruling, unless the council finds that will cause substantial environmental harm.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Fuel Cells

Fuel cells produce electricity using an electrochemical process rather than combustion. They produce virtually no air emissions other than carbon dioxide and water. The technology can be used for cogeneration, that is, the simultaneous production of electricity and hot water. By law, fuel cells that meet certain criteria are exempt from the council's jurisdiction.

PA 00-107—sSB 23
Energy and Technology Committee
Government Administration and Elections Committee
Joint Committee on Legislative Management

AN ACT CONCERNING THE PARTICIPATION OF THE DEPARTMENT OF PUBLIC UTILITY CONTROL BEFORE FEDERAL AGENCIES AND THE USE OF CONSULTANTS BY THE OFFICE OF CONSUMER COUNSEL

SUMMARY: This act reinstates the attorney general's authority to retain outside counsel at the request of the Department of Public Utility Control (DPUC), to participate on DPUC's behalf in proceedings before the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission and in appeals of these cases. This authority lapsed on April 1, 1999. The act extends it to include proceedings before the Department of Energy.

Under prior law, the affected utility companies had to bear the reasonable and proper expenses of the outside counsel. The act extends this funding mechanism to cover entities that are regulated by DPUC but are not utilities, *i.e.* telecommunications providers, electric suppliers, and gas registrants. The act also extends related provisions to cover these entities. The outside counsel's costs must be allocated in proportion to the revenue of each company (whether utility or non-utility) as reported to DPUC by law. DPUC must allow the affected companies to recover these expenses through rates. Outside counsel expenses for any single proceeding, including appeals, cannot exceed $250,000 per calendar year, unless DPUC finds good cause and gives the companies notice and an opportunity to comment.

By law, DPUC and the Office of Consumer Counsel can retain consultants to supplement their staffs. The act bars the agencies from retaining in a telecommunications case a consultant who is also working for a telephone company or telecommunications provider unless all the parties and intervenors in the case agree in writing.
EFFECTIVE DATE: Upon passage

PA 00-155—SB 500
Energy and Technology Committee
Environment Committee
Appropriations Committee

AN ACT CONCERNING THE NUCLEAR ENERGY ADVISORY COUNCIL

SUMMARY: By law, the environmental protection commissioner must provide clerical support to the Nuclear Energy Advisory Council. This act eliminates the restriction that he do so within available appropriations. The council's responsibilities include holding public meetings, working with government agencies and nuclear power plant operators to ensure public health and safety, and communicating concerns about the safety and operations of nuclear power plants to their operators.
EFFECTIVE DATE: October 1, 2000

PA 00-181—sSB 501(VETOED)
Energy and Technology Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE MEMBERSHIP AND MISSION OF THE CONNECTICUT ENERGY ADVISORY BOARD

SUMMARY: This act expands (from 16 to 17) and alters the membership of the Connecticut Energy Advisory Board and changes its mission. It requires the board to meet monthly or more frequently as it considers appropriate. It allows the board to impose reasonable reporting requirements on state agencies and private entities in the energy business to give the board the information it considers necessary to carry out its planning and decision-making responsibilities. It also allows the board to host forums to bring agencies and other parties together to discuss energy issues.
EFFECTIVE DATE: Upon passage

BOARD MEMBERSHIP

Under prior law, the board consisted of representatives of six agencies, four gubernatorial representatives, and three members each appointed by the Senate president pro tempore and the House speaker. The act removes the Transportation and Public Works commissioners (or their designees) from the board. On the other hand, it expands the board to include the heads of the (1) Office of Policy and Management, (2) Department of Social Services, and (3) Office of Consumer Counsel. The act allows these officials to appoint designees to serve on the board. It also expands the board to include appointees of the Consumer Education Advisory Council and the Energy Conservation Management Board. These organizations have statutorily specified responsibilities in implementing the electric utility restructuring law.

The act reduces the number of gubernatorial appointees from four to two and requires that one have a background in consumer advocacy with regard to energy but not be a public official, state employee, or utility company employee. It requires the other to represent organized labor; prior law required at least one of the governor's appointees to do so.

The act reduces the number of appointments by the Senate president pro tempore and the House speaker from three each to one each. Under the act, the Senate president's appointee must represent the energy industry. The speaker's appointee must represent hardship cases, i.e., people protected by law from utility shut-offs during the heating season.

The act adds one member each appointed by the House and Senate majority and minority leaders. The majority leaders' appointees must be members of the Energy and Technology Committee. The House minority leader's appointee must have a background in public utility regulation, but cannot be a public official, state employee, or utility company employee. The Senate minority leader's appointee must represent an environmental group.

All appointments must be made within 30 days after the act's effective date. Any vacancy must be filled by the appointing authority.

BOARD MISSION

The act requires the board to:
1. coordinate energy-related programs throughout the state and
2. provide a forum for state agencies regarding specified energy issues and synchronize their efforts to form a cohesive energy strategy.

The act eliminates the requirements that the board:
1. recommend long-range supply and demand options, emphasizing conservation and resource development in the state, to the governor and the legislature and
2. respond to legislative requests to review energy policy issues.

The act requires the board to recommend policies, programs, and strategies to improve energy-related efforts to the governor, the Energy and Technology Committee, and appropriate state agencies. Prior law required the board to issue recommendations on state energy management and implementation of state energy policy that went to the governor and the legislature as a whole. The act also requires the board to identify the state's opportunities for, and concerns regarding, its energy future rather than to act as a mediator and coordinator with regard to these issues.

PA 00-221—sHB 5495
Energy and Technology Committee

AN ACT CONCERNING THE REGULATION OF GAS COMPANIES AND ESTABLISHING A DATABASE OF PUBLISHED TELEPHONE NUMBERS

SUMMARY: This act requires telecommunications companies to cooperate in creating a statewide directory assistance database.

It also allows the Department of Public Utility Control (DPUC) to modify, suspend, or discontinue a purchased gas adjustment clause for one or more gas companies. By law, DPUC must approve a clause under certain circumstances. The clause adjusts gas rates to reflect changes in wholesale prices. Under the act, DPUC can take this action only at a company's request and as part of a performance-based rate plan. (Under such plans, a company's rates are tied to its performance on DPUC-specified criteria rather than the company's costs.) DPUC can notify, suspend, or discontinue a clause if it determines that doing so will (1) ensure safety and reliability, (2) provide substantial financial benefits to the ratepayers that are at least as great as those provided to the company, and (3) lower rates below what they would otherwise be.

Finally, the act requires DPUC, in consultation with other interested parties, to study how to encourage natural gas competition in the state and increase the number of natural gas suppliers. The other parties are the Office of Consumer Counsel, gas companies, and nonutility gas suppliers. DPUC must submit its recommendations to the Energy and Technology Committee by January 1, 2001.
EFFECTIVE DATE: October 1, 2000

DIRECTORY ASSISTANCE DATABASE

The act requires each telecommunications company that provides local service in the state to provide published listings of its Connecticut customers to the telephone company that has more than 100,000 customers (Southern New England Telephone) for directory assistance purposes. That telephone company or its agent or affiliate must compile the listings with the company's own published listings in a directory assistance database. In doing this, the telephone company must comply with the 1996 federal telecommunications act and applicable Federal Communications Commission regulations and orders. Among other things, these laws govern the timing and availability of updates and the rates that telephone companies can charge for providing directory assistance data to other telecommunications companies.

The telephone company must make the database available in electronic form to directory assistance providers. If a customer seeks directory assistance from a telecommunications company that does not provide this service, the company must connect the customer, at no charge, to an entity that does. Telecommunications companies must indemnify the telephone company for any damages caused by the telecommunications company's negligence in misidentifying a nonpublished customer.

PA 00-223—HB 5750
Energy and Technology Committee
Judiciary Committee
General Law Committee

AN ACT CONCERNING OIL SUPPLY SHORTAGES

SUMMARY: By law, petroleum wholesalers must notify the retail dealers they normally supply when they know of an impending petroleum shortage. This act requires the wholesalers to provide this notice immediately, rather than at least 30 days in advance of the shortage, and to notify the Office of Policy and Management (OPM) secretary immediately.

By law, a wholesaler that intends to stop supplying a dealer must provide at least 14 days advance notice to the dealer, the municipalities in the dealer's service area, and OPM. The act specifies that the last notice goes to the OPM secretary.

Finally, the act increases the fine for each violation of the notice requirements from $500 to $1,000 and makes minor changes.
EFFECTIVE DATE: October 1, 2000

PA 00-1—sSB 441
Environment Committee

AN ACT CONCERNING OPEN BURNING

SUMMARY: This act eliminates the requirement that all burning permits be issued by the local fire marshal. Instead, permits for burning brush by residents or their agents on their residential property must be obtained from a local open burning official, and permits for towns to burn at their landfills, transfer stations, or recycling centers must be obtained from the local fire marshal. The act eliminates the requirement that the Department of Environmental Protection (DEP) set application and inspection fees for municipal burns and instead authorizes DEP to adopt such fees by regulation.

The act also allows local open burning officials to issue burn permits for the following types of burns: (1) fire training, (2) insect control, (3) natural disaster clean-up, (5) wildlife habitat and vegetation management, and (6) ecological sustainability. It allows such burns on state property with DEP's written approval. It eliminates the requirement that DEP issue written approval for fires used to control forest fires or to reduce the risk of uncontrolled salt marsh fires.

The act establishes a process for nominating and certifying local open burning officials. The chief executive officer of the town in which the official will serve must nominate the official who must then be certified by DEP. The chief executive officer may revoke the nomination. The act authorizes DEP to adopt regulations establishing a certification process and governing open burning generally.

The act specifically allows for campfires and bonfires to the extent they do not represent a nuisance and do not conflict with any other burning restrictions. It also makes minor and technical changes.
EFFECTIVE DATE: Upon passage

PA 00-16—sHB 5584
Environment Committee

AN ACT CONCERNING THE TAKING OF MENHADEN FISH

SUMMARY: This act prohibits fishing for menhaden with any size purse seine or similar device. Exiting law already prohibits fishermen from using purse seines to take other fish. Using large purse seines for menhaden was prohibited until July 1, 2001. The act also eliminates corresponding permit requirements and fees for boats using purse seines.

A purse seine is a net with weights along one side and floats along the other. It is suspended vertically in the water, drawn into a circle, and cinched along the weighted bottom edge to trap fish.
EFFECTIVE DATE: Upon passage

PA 00-19—sHB 5060
Environment Committee
Judiciary Committee

AN ACT CONCERNING CRIMINAL VIOLATIONS OF ENVIRONMENTAL LAWS

SUMMARY: This act makes several changes to the enforcement laws regarding hazardous waste record keeping, handling, transportation, storage, and disposal, and it increases the penalties for violating them. It expands the state hazardous waste program to cover used oil and establishes corresponding penalties for used oil violations.

It increases, from one to two years, the maximum prison term for violating the laws related to asbestos disposal and solid waste handling and, from two to five years, the maximum term for subsequent violations.

It increases the maximum penalties for knowing (i.e., willful) violations of the state's water pollution control laws, environmental protection cease and desist orders, and activities authorized under the Department of Environmental Protection's (DEP) general authority. It also increases the penalty for knowingly making false statements, representations, or certifications in documents required in connection with such laws, orders, and activities.

It defines "dispose" for purposes of polychlorinated byphenyls (PCB) disposal permits and authorization and makes minor and technical changes.
EFFECTIVE DATE: October 1, 2000

STATE HAZARDOUS WASTE PROGRAM

The act specifies that the hazardous waste penalty provisions apply to Connecticut's hazardous waste program and regulations rather than to the federal Resource Conservation and Recovery Act generally. The state hazardous waste program incorporates the federal law and contains some additional and more stringent requirements.

Hazardous Waste Program Penalties

The act also increases the maximum penalties for violations of the hazardous waste laws. It makes penalties that previously applied to second violations apply to all subsequent violations.

The act increases the maximum penalty for knowingly violating the hazardous waste manifest and record keeping laws and the prohibition against making false representations on hazardous waste-related documents. It increases the maximum fine, from $25,000 to $50,000 per day, and maximum imprisonment from one to two years. The act also increases the maximum prison term for subsequent violations, from two years to five, while leaving the fine at $50,000 per day.

It increases, from two years to five, the maximum prison term for hazardous waste storage, treatment, disposal, and transportation violations, while leaving the fine at $50,000 per day. It also establishes a $100,000 per day maximum fine and 10-year prison term for subsequent violations. It specifies that the penalties apply to violations of DEP storage, treatment, or disposal orders as well.

It increases, from two years to 15, the maximum prison term for hazardous waste violations that place others in imminent danger of bodily injury or death. It eliminates the possible five-year prison term for such violations that show an extreme indifference to human life.

Used Oil Storage, Treatment, Disposal, and Handling Violations

The act establishes a maximum $50,000 per day fine and up to two years in prison for knowing violations of hazardous waste laws and permits pertaining to used oil regulated under the program but not listed as a hazardous waste. Anyone who knowingly stores, treats, disposes, recycles, transports or causes to be transported, or otherwise handles used oil in violation of the program or a hazardous waste permit is subject to the penalty. Under the act, subsequent violations are subject to a maximum $100,000 per day fine and up to five years in prison.

In addition, the act includes statements and records related to used oil in the existing hazardous waste penalties for making (1) false statements or (2) destroying, altering, concealing, or failing to maintain records. It makes such violations subject to the same hazardous waste penalties described above.

By law, used oil is a regulated waste in Connecticut and may be classified as a hazardous waste if contaminated with other substances.

Increased Penalty for Water Pollution Control Laws and Other DEP Orders and Requirements

The act increases the maximum penalty for knowing violations of the state's water pollution laws, DEP cease and desist orders, and activities authorized under DEP's general authority. Under prior law, the maximum penalty for knowing violations was the same as the penalty for criminally negligent violations.

The act increases the maximum fine for first time offenders from $25,000 per day to $50,000 per day and the maximum prison term from one year to three. It increases the maximum fine for subsequent offenses from $50,000 per day to $100,000 per day and the maximum prison term from two years to 10.

The act also increases, from $10,000 per day to $25,000 per day and six months imprisonment to two years, the maximum penalty for knowingly making false statements, representations, or certifications for documents required to be filed or maintained in connection with the laws, orders, and activities or tampering with monitoring equipment. It specifies that the penalty may apply to responsible corporate officers and municipal officers.

Definition of Dispose

By law, no one may dispose of PCB or any material containing PCB without a DEP permit or DEP written approval. Under the act, "dispose" means to: (1) incinerate or treat PCB or PCB-containing material or (2) discharge, deposit, inject, dump, or place such compound or material so that it is emitted into the air or discharged into ground or surface water, or otherwise enters the environment.

PA 00-23—sSB 385
Environment Committee

AN ACT CONCERNING SOLID WASTE ODOR CONTROL

SUMMARY: This act exempts certain solid waste facilities from the solid waste and air permit process when installing certain equipment for odor control. It requires the facilities to report such changes to the Department of Environmental Protection (DEP) for review and comment after the fact rather than apply for a permit modification or new permit.
EFFECTIVE DATE: Upon passage

SOLID WASTE FACILITY PERMIT PROCESS EXEMPTION

Under the act, solid waste facilities owned or operated by the Connecticut Resources Recovery Authority that contract with more than 50 municipalities may change their facility's design, processes, or operation to correct, abate, or mitigate solid waste odors without DEP approval. Specifically, the changes covered include the addition of thermal oxidizers and air pollution control equipment for odor control. Any such change is not considered a modification or a new source requiring a new or modified construction or operation air permit, unless it represents a major modification or a major source.

Under prior law, facilities altering or modifying their solid waste operations or making changes to their systems emissions had to apply for new or modified DEP solid waste or air permits. The process allows DEP to hold, or the public to petition for, a public hearing.

Under the act, facilities must inform the commissioner of covered changes in writing within 30 days after the change. The report must fully describe the changes and the reasons for it. The commissioner may review and comment on it.

BACKGROUND

Definition of Altering a Solid Waste Facility

Altering a permitted solid waste facility means substantially changing its approved design-capacity, process, or operation.

Thermal Oxidizers

Generally, thermal oxidizer systems are devices that vent or collect gas or volatile organic compound laden air from a facility using a draft fan. The air is heated and combusted in an internal high temperature chamber heated with a gas burner. The combustion byproducts are then released through an exhaust stack.

PA 00-26—sHB 5762
Environment Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO AGRICULTURE AND ENVIRONMENT LAWS

SUMMARY: This act makes a minor change to the state's open space acquisition goal, specifying that the overall goal is to have 21% of the land in the state held by the state, municipalities, nonprofit conservation groups, and water companies as open space, rather than only the state. It also makes technical changes to laws regarding livestock commission sales, open space, and commercial fishing vessel permits.
EFFECTIVE DATE: October 1, 2000

PA 00-29—sSB 384
Environment Committee

AN ACT CONCERNING THE DISPOSAL OF CONSTRUCTION AND DEMOLITION WOOD GENERATED BY RESIDENCES.

SUMMARY: This act expands the types of residential waste that may be disposed of in resource recovery facilities (RRFs) to include construction and demolition wood that is not pressure-treated and does not otherwise contain arsenic. It specifies that this wood and other items already allowed at RRFs are deemed municipal solid waste.

Under prior law, RRFs were required to apply for a special waste permit before accepting waste such as residential construction and demolition wood.
EFFECTIVE DATE: Upon passage

PA 00-62—sHB 5051
Environment Committee
Government Administration and Elections Committee

AN ACT CONCERNING EMERGENCY REGULATIONS REGARDING MARINE RESOURCES

SUMMARY: By law, emergency regulations are valid for up to 120 days and may be renewed for up to 60 days (180 days total). This act allows the Department of Environmental Protection (DEP) to extend certain emergency regulations for an additional 60 days (240 days total) if the Legislative Regulations Review Committee approves. The regulations must be necessary to comply with Atlantic States Marine Fisheries Commission orders or to address an unforeseen marine resource issue.

DEP may request approval of the extension when it submits the initial emergency regulation or up to 10 days before the first 60-day extension expires. If the committee fails to act on an extension request within 10 days, it is deemed approved.

EFFECTIVE DATE: October 1, 2000

PA 00-67—sHB 5672
Environment Committee

AN ACT CONCERNING PRIVATE LAND DEER PERMITS

SUMMARY: This act requires the Department of Environmental Protection (DEP) to issue free private land deer permits to Indians to hunt on their tribe's reservation lands. The reservation lands must be at least 250 acres for tribal members to be eligible. The permit allows them to hunt deer from November 1 through December 31 using a long gun, muzzleloader, or bow and arrow (the same period and firearms allowed for landowners with private land deer permits). Members are limited to one permit each year.

By law, Indians may hunt on their reservation lands without a license under the same regulations and during the same hunting season as licensed hunters generally.

The act also requires DEP to issue free, private land deer permits to corporate members of an S-corporation that is a farm or their immediate family. Immediate family means spouses, children, grandchildren, siblings or parents. S-corporations, sometimes called pass-through corporations, are small business corporations that meet the requirements of and elect to be treated differently from other corporations under the Internal Revenue Code. Generally, they are not taxed at the corporate level, rather their income is passed through to their shareholders and accounted for in their individual tax liabilities.
EFFECTIVE DATE: October 1, 2000

PA 00-88—sHB 5052
Environment Committee
Judiciary Committee

AN ACT CONCERNING ENFORCEMENT OF VIOLATIONS OF PROVISIONS REGARDING CERTAIN COMPANION ANIMALS

SUMMARY: This act increases, from $25 to $250, the maximum fine for violating animal quarantine orders for dogs, cats, or other animals that bit or attacked people. By law, the animal's owner may also be imprisoned for up to 30 days.

The act increases, from $25 to $250, the minimum fine for violating laws related to kennels or restraining or destroying dogs or cats, while eliminating the maximum penalty of $50. By law, the violator may also be imprisoned for up to 30 days.

The act makes technical changes.
EFFECTIVE DATE: October 1, 2000

PA 00-96—sHB 5055
Environment Committee
Judiciary Committee
Government Administration and Elections Committee

AN ACT CONCERNING SOIL AMENDMENTS AND AGRICULTURAL LIMING MATERIALS

SUMMARY: This act establishes programs to regulate the distribution and sale of soil amendments and agricultural liming material similar to the state's current requirements for commercial fertilizers.

It defines soil amendments and agricultural liming materials and prohibits their distribution unless they are registered with the Department of Agriculture (DAG). It establishes registration requirements and procedures and minimum labeling requirements. It prohibits the distribution of misbranded or adulterated soil amendments or liming materials and requires DAG to sample, inspect, analyze, and test them as necessary.

The act allows DAG to issue stop-sale orders under certain conditions and to adopt regulations for each program. It also allows DAG to cooperate or enter into agreements with other state or federal agencies. It establishes penalties for violations and authorizes the attorney general, upon a DAG complaint, to bring a civil action to recover the penalties.
EFFECTIVE DATE: July 1, 2000

SOIL AMENDMENTS

Definitions

The act defines "soil amendments" as any substance intended to improve the physical or chemical characteristic of soil but does not include commercial fertilizers, liming materials, animal and vegetable manures, compost, or other material DAG exempts. It also defines other related terms.

Registration

The act requires applicants to apply to DAG annually to register their soil amendments. The application must be on a department form and must include copies of the product labels and any

advertising literature. DAG may require proof of any claims made or that the product is useful. The proof may rely on experimental data, evaluations, or advice supplied from sources if the experiment design is related to state conditions. DAG may accept or reject sources of proof deemed reliable.

The commissioner may refuse registration of any brand of soil amendment if it violates the program requirements. She may cancel a registration upon satisfactory evidence that it was obtained fraudulently or uses deceptive practices. The registrant must have an opportunity to appear before the DAG commissioner before a registration is revoked.

Under the act, all registrations expire on September 30 of the year after they are issued. Registrants must reapply to DAG annually.

The act prohibits distribution of unregistered soil amendments, but distributors need not register a brand of soil amendments that is already registered if the labels are the same.

Labeling

All soil amendments must have readable and conspicuous labels on their packaging. The label must include the product's net weight and brand. It must have a guaranteed product analysis including a list of ingredients, the product's purpose and application directions, and the registrant's name and address. For bulk shipments, this information must accompany delivery but can be in hand-written or printed form.

The label may not list any soil amending ingredient without DAG approval. DAG may allow listing ingredients if satisfactory data substantiate their value and usefulness. DAG may rely on authoritative sources in evaluating data. If an ingredient is listed, it must be present in the product to a degree detectable by laboratory methods. The director of the Connecticut Agricultural Experiment Station may establish methods and procedures for soil amending ingredient inspection and analysis. The methods must be derived from an authoritative source such as the Association of Official Analytical Chemists International.

The label may not contain any false or misleading information regarding the use, value, quality, analysis, type, or composition of the product.

Misbranding

The act prohibits distribution of misbranded soil amendments. A product is misbranded if it:

1. has a false or misleading label;
2. is distributed under another soil amendment's name;
3. is not properly labeled;
4. is represented as containing a soil amendment it does not contain; or
5. does not meet the required soil amendment form, minimum percentages, labeling, or investigational allowances.

Adulterated

The act prohibits the distribution of adulterated soil amendments. A product is adulterated if it:

1. contains harmful or deleterious agents sufficient to harm beneficial plants or animal life when used as directed,
2. lacks adequate warnings and directions on its label needed to protect beneficial plants or animal life,
3. differs from the composition described on its label, or
4. contains unwanted crop or weed seed.

Sampling, Inspection, and Analyses Requirements

The act requires DAG to sample, inspect, analyze, and test soil amendments at any time and to any extent necessary to determine program compliance. DAG sampling and analysis methods must be approved by the Agricultural Experiment Station. DAG must annually publish the results of its analyses.

AGRICULTURAL LIMING AMENDMENTS

Definitions

The act defines "agricultural liming material" as a product containing calcium and magnesium compounds used to neutralize soil acidity. It also defines other related terms.

Registration

The act prohibits the distribution of unregistered agricultural liming material, but registrants may use or sell existing inventories of such material until July 1, 2001, and distributors are not required to register a brand of liming material that is already registered.

Registration Application

Applicants must apply to DAG annually. The application must be on a DAG form and must include a copy of the product label and any advertising literature. Upon approval, DAG must issue a registration. Under the act, all registrations expire

June 30 the year after they are issued.

Thirty days after registrations expire, registrants must provide DAG with an annual county-by-county statement of the tons of agricultural liming material sold for use in the state.

DAG may revoke, suspend, or refuse to issue a registration to anyone who willfully violates the program requirements.

Labeling

The act requires all agricultural liming material containers to be conspicuously and plainly labeled on the display or face of the container, except bulk deliveries may be accompanied by a delivery slip. The label must contain the:

1. manufacturer's or distributor's name and principal address;
2. brand and type of material;
3. net weight;
4. minimum percentage of calcium and magnesium oxide or carbonate; and
5. calcium carbonate equivalent determined in accordance with methods prescribed by the Association of Official Analytical Chemists International, and the minimum percentage of such material that will pass through standard sieves in accordance with DAG regulations.

The label may not contain any false or misleading information about the product's quality, analysis type, or composition.

Adulterated Materials

The act requires material adulterated after packaging but before delivery to consumers to be plainly marked by the vendor with the kind and degree of adulteration. For material delivered in bulk or at any site where consumers order bulk material, there must be a conspicuous sign regarding the adulteration of each brand.

Sampling, Inspecting, and Analyzing Agricultural Liming Materials

The act requires DAG to sample, inspect, analyze, and test agricultural liming material at any time and to any extent necessary to determine program compliance. DAG's sampling and analysis methods must be in accordance with those approved by the Connecticut Agricultural Experiment Station and derived from authoritative sources, including the Association of Official Analytical Chemists International.

The act requires the Connecticut Agricultural Experiment Station director to publish annually the results of its analyses.

PROVISIONS AFFECTING SOIL AND LIMING AMENDMENTS

Stop-Sale Orders

The act authorizes DAG to enter any public or private premises or common carriers during regular business hours and gives it access to amendments and records relating to their distribution.

DAG may issue and enforce orders to stop the sale or use of an amendment that violates the program requirements and to hold the product where it is being sold. DAG may rescind an order once the product complies with the requirements and all related expenses have been paid. The distributor must pay such costs and is liable for distribution of adulterated product.

Regulations

The act authorizes DAG to adopt regulations to implement the programs. The regulations may include provisions regarding sampling, analytic methods, form of amendments, minimum percentages, amendment ingredients, exempt materials, investigational allowances, definitions, records, labels or labeling, liability bonds, misbranding, mislabeling, and the distribution of amendments.

The regulations may also include a definition of soil amendment ingredient and the Association of American Plant Food Control Officials official regulations and terms regarding soil amendments. They may also incorporate any other association provisions by reference.

Penalty

The act establishes a maximum civil penalty of $1,000 for violating the registration or labeling requirements. Anyone who violates a stop-sale order or the misbranded or adulterated product provisions is subject to a civil penalty of $1,000 to $2,500.

The act authorizes the attorney general, upon DAG complaint, to bring a civil action in Superior Court to recover the penalty. Such actions have precedence in the order of trial.

PA 00-102—sHB 5862
Environment Committee
Planning and Development Committee

AN ACT REDUCING GRANTS TO MUNICIPALITIES BY THE AMOUNT OF UNCOLLECTED LAND USE FEES

SUMMARY: By law, towns must collect a $10 land use fee in addition to any town fees from an applicant for a zoning, subdivision, wetland, or coastal zone permit or approval. They may keep $1 of the fee and must submit the remaining $9 to the Department of Environmental Protection (DEP) to be deposited in the Environmental Quality Fund for the Environmental Review Teams Program, the Council on Soils and Water Conservation, and county soil and water conservation districts.

The act requires DEP to submit to the Office of Policy and Management (OPM) a quarterly list of towns that are not sending the fees to DEP. It requires OPM to reduce payments to such towns from the Mashantucket Pequot and Mohegan Fund by $500 for each of the preceding four quarters that they failed to "collect" the fee, up to $2,000 per fiscal year. OPM must deposit the withheld funds in the Environmental Quality Fund to be used for the same purposes as the land use fees. PA 00-196 amends these provisions by: (1) requiring DEP to submit the list to OPM annually by October 1 starting in 2001 rather than quarterly, starting in 2000, and (2) requiring OPM to certify the amount to be withheld and the comptroller to transfer the withheld money to the Environmental Quality Fund.
EFFECTIVE DATE: July 1, 2000

BACKGROUND

Environmental Review Teams Program

The Environmental Review Teams Program is a joint program of the DEP water management bureau, Council on Soil and Water Conservation, and county soil and water conservation districts. The teams, upon request of a municipality and without fee, help municipalities assess proposed development or preservation sites. The teams consist of environmental professionals from federal, state, and local agencies operating under the guidance of one of the two resource conservation and development area offices in the state.

PA 00-106—sHB 5580
Environment Committee
Judiciary Committee
Planning and Development Committee

AN ACT CONCERNING VIOLATION OF TREE CUTTING PRACTICES

SUMMARY: This act expands the penalties for illegally harming a tree or shrub in a public area or way. It also increases, from five to 10 days, the notice a tree warden must provide before pruning or removing a tree in his jurisdiction.
EFFECTIVE DATE: October 1, 2000

PENALTIES

Fines, Civil Penalties and Liability

Prior law subjected to a fine of up to $100 per offense anyone, other than a tree warden or his deputy, who willfully removed, pruned, injured, or defaced a shrub or ornamental or shade tree in a public area without proper authorization. The act eliminates the requirement that the violation be willful and sets the fine at the appraised value of the tree or shrub as determined by the local tree warden or forester, the Department of Transportation (DOT), the Department of Public Utility Control (DPUC), or other appropriate authority. The appraisal must be made in accordance with regulations that the Department of Environmental Protection (DEP) must adopt. The regulations may incorporate by reference the latest edition of *The Guide for Plant Appraisal*, published by the International Society of Arboriculture. Until DEP adopts the regulations, authorities may make appraisals in accordance with this guide.

By law, a tree warden may adopt regulations regarding the care and preservation of trees and shrubs along town roads. The act removes the $90 cap on fines for violating such regulations and instead requires that the fines be reasonable. The law establishes a notice and public hearing process for the tree warden to prune or remove such trees for public safety. The act increases, from five to 10 days, the minimum time between the posting of the notice and the removal or pruning of the tree.

By law, the affected property owner can sue the offender for damages. The act also gives the authority having jurisdiction over the tree or shrub this right. By law, permission to harm a tree or shrub can be issued by the tree warden, forester, or other authority having jurisdiction.

The act exempts a person who harms a tree or shrub within his legal rights from the fine and civil liability.

PA 00-142—sHB 5059
Environment Committee
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING HUNTING SAFETY

SUMMARY: This act creates the crimes of negligent hunting and hunting while under the influence or impaired. It imposes enhanced penalties for persistent offenders. It generally requires the person arrested for these crimes to surrender his weapon.

By law, a hunter whose license has been suspended for violation of hunting laws must complete a remedial hunter education course designed by the Department of Environmental Protection (DEP) before his license can be reinstated. The act additionally requires the hunter to demonstrate that he has passed a conservation education/firearms safety course or its equivalent, as specified by DEP.

EFFECTIVE DATE: October 1, 2000

NEGLIGENT HUNTING

The act establishes four degrees of negligent hunting. Hunting is:

1. pursuing, shooting, killing, and capturing a bird, four-legged animal, or reptile, or trying to do these things, whether or not this results in taking the animal or
2. any act of assistance in taking or attempting to take such an animal.

The act establishes, as *prima facie* evidence that someone was hunting, his possession of a loaded hunting weapon while at, entering, or leaving an area where a reasonable person would believe the objective was to take wildlife. But, the act allows a person to possess a loaded long gun one hour before sunrise during deer and turkey firearms season if it does not have a live round in it.

A loaded hunting weapon is:

1. a long gun with a live round in the chamber or in a magazine attached to the gun,
2. a muzzle-loaded gun with a percussion cap in place,
3. a flintlock firearm with powder in the pan,
4. a bow with an arrow notched on it,
5. a drawn crossbow with a bolt in place, or
6. a high velocity air gun charged with a projectile in the chamber or in an attached magazine.

First-Degree

A person is guilty of negligent hunting in the first degree when, with criminal negligence, he shoots a loaded hunting weapon and kills someone while hunting. Criminal negligence means failing to perceive a substantial and unjustifiable risk that a result or circumstance described in a statute will occur.

Negligent hunting is a class D felony subject to imprisonment of one to five years, a fine of up to $5,000, or both. In addition, DEP can suspend the hunter's license indefinitely.

Second-Degree

A person is guilty of this crime when, with criminal negligence, he (1) violates the law against jacklighting for deer or (2) shoots a loaded hunting weapon and causes serious physical injury to another person. A serious physical injury is one that creates a substantial risk of death or that causes serious (1) disfigurement, (2) impairment of health, or (3) loss or impairment of a bodily organ's function. The offense is a class A misdemeanor. The offender must be fined between $400 and $2,000 and can be imprisoned for up to one year. In addition, DEP can suspend his license for up to 10 years.

Third-Degree

A person is guilty of this crime if, while hunting he,

1. fires a loaded hunting weapon at a time of day when hunting is prohibited,
2. hunts on Sundays or outside of hunting season,
3. shoots a firearm from a vehicle,
4. hunts with a suspended license, or
5. discharges a firearm into a building occupied by people or domestic animals or used to store flammable or combustible material.

This crime is a class B misdemeanor. The hunter must be fined $200 to $1,000 and can be imprisoned up to six months. In addition, DEP can suspend his license for up to five years.

Fourth-Degree

A person is guilty of this crime if, while hunting,

1. hunts without buying the license, permit, or stamp required by law;
2. possesses a loaded hunting weapon during a time of day when hunting is prohibited; or
3. hunts from or fires a hunting weapon across a public highway.

A person is also guilty of this crime if he hunts with or fires a firearm within (1) 250 feet of a building occupied by people or domestic animals or used to store flammable or combustible material or (2) 125 feet of any of these buildings while hunting in tidal water. This provision does not apply if the hunter is carrying the written authorization of the building's owner.

The crime is a class C misdemeanor punishable by imprisonment for up to three months, a fine of up to $500, or both. In addition, DEP can suspend the hunter's license for up to three years.

Allocation of Fines

Under the act, fines for first- and second-degree negligent hunting go to the Criminal Injuries Compensation Fund. Fines for third- and fourth-degree negligent hunting go to the Conservation Fund for land management or acquisition of hunting easements.

HUNTING WHILE UNDER THE INFLUENCE OR IMPAIRED

Elements of the Crime

The act prohibits hunting while under the influence of or impaired by alcohol or drugs. A person is considered impaired if his blood alcohol content (BAC) at the time of the offense was .07% to .10%. A person is considered under the influence if his blood alcohol content is above .10%. If he has been previously convicted of hunting under the influence the threshold is .07%. A person can also be found to be under the influence independent of his BAC.

The act allows DEP enforcement officers to arrest people for this crime.

Alcohol Testing Procedures

The act extends the laws regarding alcohol tests that currently apply to drunk boating to hunting while under the influence or while impaired. The law requires the arresting officer to determine whether to give a blood, breath, or urine test; if the person is unwilling or unable to submit to a blood test, the officer must designate a breath or urine test. If the person refuses to submit to the test, none is administered. The refusal to submit to a test is admissible in court if the person was (1) placed under arrest, (2) informed of his constitutional rights, (3) given an opportunity to call a lawyer, and (4) informed that refusal is admissible and can be used against him.

Admissibility of Test Results

As under the boating laws, the test results are admissible if:

1. the hunter was given a chance to call a lawyer and submitted to the test;
2. a true copy of the test result was mailed or delivered to the defendant within 24 hours or the end of the next business day after the result is known, whichever is later;
3. the test was performed by or at the direction of a law enforcement officer, using methods and equipment approved by the Department of Public Health (DPH);
4. the test was performed by a person certified for this purpose by DPH or recertified by a DPH-certified instructor;
5. any blood sample was taken by a medical professional with specified credentials;
6. the testing device was checked for accuracy by a DPH-certified person at the beginning and by the end of the workday; and
7. evidence is presented that demonstrates that the BAC at the time of the test accurately reflected the BAC at the time of the alleged offense.

In addition, a second test of the same type must be administered at least 30 minutes after the first test and the testing device was checked for accuracy by a DPH-certified person. But the results of the first test can be admitted if reasonable efforts were made to conduct the second test even if the second test was not performed, was not performed within a reasonable time, or failed to meet the other criteria.

Penalties

Violation of the act's drunk hunting provisions is a class A misdemeanor, punishable by imprisonment for up to one year, a fine of up to $2,000, or both. The fines go to the Criminal Injuries Compensation Fund. In addition, DEP can suspend the hunter's license indefinitely.

PERSISTENT OFFENDERS

Under the act, a person convicted of (1) negligent hunting in the first, second, or third degree or (2) hunting while impaired or under the influence within five years of a conviction of negligent hunting is considered a persistent negligent hunter. A persistent negligent hunter must be fined at least twice the minimum provided for the second violation, that is, $400 for a conviction of negligent hunting in the third degree and $800 for a conviction of negligent hunting in the second degree. The hunter is also subject to the penalties for the next, more serious degree of negligent hunting or hunting while impaired or under the influence. The provision has no effect with regard to the drunk hunting crimes, since they have only one degree and no minimum fine.

SURRENDER OF WEAPON

The act requires anyone arrested for negligent hunting in the first, second, or third degree or hunting under the influence or impaired to surrender any weapon in his possession. The police or conservation officer must confiscate the weapon at the time of the arrest. If the hunter is acquitted or the charge is dismissed or nolled, the weapon must be returned in the same condition as when it was confiscated.

If the hunter is convicted, the weapon must be turned over to DEP. DEP can (1) retain the weapon for agency use; (2) convey it to the Department of Administrative Services for sale at auction, with the proceeds going to the Criminal Injuries Compensation Fund; or (3) destroy it.

These provisions to not apply to weapons used to jacklight deer, which are already subject to separate disposition procedures.

PA 00-152—sSB 32
Environment Committee

AN ACT CONCERNING URBAN HARBORS, BOATING SAFETY AND WATER SYSTEMS IN THE STATE

SUMMARY: This act (1) promotes revitalization of urban harbors, (2) facilitates dredging of Clinton Harbor, (3) requires the development of a management plan for the proposed Lake Whitney water treatment plant, (4) modifies boating laws, and (5) repeals legislation validating the corporate existence of the Brookfield Water Company. It requires state and municipal agencies, under certain circumstances, to promote the revitalization of inner city urban harbors and waterfronts by encouraging the appropriate reuse of historically developed shorefronts.

The act requires the Department of Environmental Protection (DEP) commissioner to grant a permit to the U.S. Army Corps of Engineers for emergency dredging of Clinton Harbor. He must do this within 15 days of receiving certification that the dredging will not harm the harbor or any area used to dispose of the dredged material.

The act requires the South Central Connecticut Regional Water Authority, in consultation with DEP, to develop a management plan establishing performance-based monitoring and mitigation procedures to be met while the proposed water treatment plant on Lake Whitney is operating. The program must protect the environmental quality of the lake and the Mill River corridor and avoid unacceptable harm to the area's ecology and aesthetics.

The act eliminates DEP's specific authority to enter into reciprocal agreements with other states having acceptable safe boating or boater certificate programs. It eliminates the right of a person who has successfully completed such a program in another state to operate a boat in Connecticut, and keeps the right of someone who has a certificate from another state that has a reciprocal agreement with Connecticut to operate a boat here.
EFFECTIVE DATE: October 1, 2000

URBAN HARBORS

Under the act, state and local agencies must promote the revitalization of inner city harbors and waterfronts. This may include minimal alteration of the existing shorefront to achieve a significant net public benefit if:

1. the shorefront site is permanently devoted to water-dependent use such as public access or public recreation;
2. any land created by landfill is owned by the state or one of its instrumentalities (e.g., a municipality) to ensure public use and access in perpetuity;
3. development of the site away from the shore is constrained by significant infrastructure facilities such as highways or railroads;
4. no other feasible, less environmentally damaging alternative exists;
5. the harm to coastal resources of any shorefront alteration is minimized, and the development includes compensation in the form of resource restoration to mitigate any remaining harm; and

6. the reuse is consistent with the appropriate municipal coastal program or development plan.

The law generally restricts development in coastal areas and requires agencies to promote various other policies.

BROOKFIELD WATER COMPANY

The act repeals legislation that authorized the continued incorporation of the Brookfield Water Company for the purpose of supplying Brookfield and its inhabitants with an abundant water supply. Under the repealed legislation, the town or any fire or school district in town could contract with the corporation for water and could assess and collect a tax to meet its liabilities under the contract. The repealed legislation authorized the company to:

1. open public streets and grounds to repair, install, replace, and maintain water pipes in Brookfield and its immediate vicinity;
2. construct, repair, and maintain reservoirs, aqueducts, canals, and other sources of water and associated facilities;
3. install fire hydrants; and
4. remove existing nuisances and prohibit building other nuisances on streams used for water supply.

The company could take and hold land, springs, streams, or ponds necessary to supply water, preserve its purity, and prevent its contamination. To anyone whose property would be injured by the taking, it would have had to pay just compensation in accordance with the determination of three disinterested people appointed by the Superior Court to set the amount. The court would have had to approve the award, and its approval would have constituted a final judgment.

These provisions would have become effective as an amendment to the company's certificate of incorporation if, not later than October 1, 1999, they were accepted at a meeting of the corporation's stockholders and filed after the meeting with the secretary of the state.

PA 00-175—sSB 571
Environment Committee
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING THE USE OF MTBE

SUMMARY: This act requires the Department of Environmental Protection (DEP), in conjunction with the Northeast Regional Fuels Task Force, to develop and implement a plan to eliminate methyl tertiary butyl ether (MTBE) as a gasoline additive by October 1, 2003. It also requires DEP to seek a federal Environmental Protection Agency waiver to stop the use of MTBE as a gasoline additive in Connecticut. Beginning January 1, 2001 and annually thereafter through 2003, the act requires DEP to report to the Environment Committee on the plan and regional efforts to reduce MTBE levels in gasoline.

The act requires DEP to direct certain petroleum industry groups to develop a public education campaign regarding the proper handling of gasoline.

The act establishes a penalty for anyone, including a responsible corporate official, who discharges gasoline willfully or with criminal negligence. The penalty for first-time offenders is a fine up to $50,000 per day and imprisonment for up to three years. For subsequent offences, the penalty is a fine up to $100,000 per day and imprisonment for up to 10 years.

The act increases, from $1,000 to $5,000, the fine for failing to report the discharge, spillage, uncontrolled loss, seepage, or filtration of gasoline. It increases the fine for the employer of someone who fails to report from $5,000 to $10,000.

EFFECTIVE DATE: July 1, 2000

EDUCATION PROGRAM

Proper Gasoline Handling Education Campaign

The act requires the Connecticut Petroleum Council, National Petroleum Refiners' Association, Oxygenated Fuels Association, and Independent Petroleum Council, under DEP's direction, to develop a public education campaign regarding the proper handling of gasoline.

The campaign must be directed at homeowners, marine trades, businesses, and all other gasoline users. It must include (1) a warning about proper handling at the point of sale; (2) instructions on proper handling of portable gasoline containers sold after July 1, 2000; and (3) newspaper, radio, and television information advertisements.

BACKGROUND

The Federal Clean Air Act and MTBE

MTBE is a chemical first added to gasoline to boost octane levels in fuels as a replacement for lead and more recently used in higher concentrations to increase oxygen levels in gasoline. Oxygenates like MTBE produce more complete fuel combustion and result in less carbon monoxide and ozone-forming emissions. For several reasons, MTBE has become

the most practical oxygenating additive for use in most of the country.

Beginning in 1995, the federal Clean Air Act required implementation of a reformulated gasoline program in the nine worst ozone standard nonattainment areas in the country, including most of Connecticut. The act requires reformulated gasoline to contain a minimum oxygen content of 2%, by weight, all year round. According to a recent DEP study of MTBE use, approximately 95% of the gasoline sold in Connecticut contains MTBE as an oxygenate.

The EPA administrator has authority under the Clean Air Act to control or prohibit a fuel or fuel additive when an emission product from it either (1) causes or contributes to air pollution that may reasonably be anticipated to endanger the public health or welfare or (2) will significantly impair the performance of an emission control device or system. The act also allows a state to prescribe and enforce a control or prohibition on a fuel or fuel additive if the EPA administrator finds the action is necessary to achieve the national ambient air quality standard and the control or prohibition appears in the state implementation plan. This is commonly known as a "Section 211 waiver."

PA 00-189—sSB 381
Environment Committee

AN ACT CONCERNING TRANSFER OF COMMERCIAL LOBSTER LICENSES

SUMMARY: This act allows, under certain conditions, commercial lobster fisherman (including those using trawls) to transfer their licenses, without compensation, despite the existing moratorium on commercial fishing license transfers.

It also makes technical changes.

EFFECTIVE DATE: October 1, 2000

TRANSFER OF COMMERCIAL FISHING LICENSES

The act allows active commercial fishermen who (1) held a license and landed lobsters in at least three of the four calendar years between January 1, 1995 and June 8, 1998 and (2) reported their lobster catches as required by law to transfer it, without remuneration, upon notifying the DEP commissioner. However, the license holder may not transfer it to anyone who has had his commercial fishing license, registration, or vessel permit suspended in the preceding 12 months or revoked. Under the act, the transfer must be made before October 1, 2002 (the existing moratorium on new commercial licenses ends December 31, 2001).

The person to whom the license is transferred can only fish the number of pots the transferor fished and reported during the 1995-1998 period, except a transferee who already holds a license may choose to fish the number of pots actively fished under his own license or under the newly acquired one, whichever is greater.

PA 00-201—sHB 5763
Environment Committee
Appropriations Committee
Finance, Revenue and Bonding Committee
Judiciary Committee

AN ACT CONCERNING THE UNDERGROUND STORAGE TANK AMNESTY PROGRAM

SUMMARY: This act makes many changes to the residential underground storage tank (UST) amnesty program. The program provides protection from civil liability to the state for residential UST owners who remove or replace their tanks between July 2, 1999 and December 31, 2001. It allows contractors registered with the Department of Environmental Protection (DEP) to recover related remediation expenses from bond funds for the removal or replacement of such tanks.

The act:

1. expands the scope of the program and establishes a subaccount to hold the bond funds;
2. extends the amnesty to future property owners, but makes people who violate DEP orders to remove or discontinue use of a tank ineligible for the amnesty;
3. authorizes the governor to appoint an additional member to the existing 13 member UST Petroleum Clean-Up Account review board;
4. requires the board to develop guidelines for reimbursement decisions and for contractor training and qualifications (in addition to the existing statutory qualifications); and
5. establishes an appeals process for board decisions.

The act changes contractor registration procedures and requirements. It: (1) requires additional people to register, (2) allows DEP to reject applications and revoke registrations that fail to meet certain regulatory standards, and (3) establishes a $250 registration renewal fee.

The act requires DEP to adopt residential UST regulations and requires contractors to comply with them and meet existing remediation standards. It requires contractors to clearly inform customers of costs that the program may not be cover. Under the act, contractors must submit all eligible costs to the board for reimbursement. They may not a bill customer for such costs beyond the first $500 if they fail to do so, unless they have a separate contract with the customer. Contractors must notify DEP when remediation estimates exceed $10,000, and DEP must conduct an investigation. The act allows reimbursement of costs above $50,000 under certain circumstances.

EFFECTIVE DATE: Upon passage

SCOPE OF THE PROGRAM

Under prior law, the UST amnesty program covered only underground storage tanks and ancillary equipment that serve residential properties with up to four units. The act expands the program to cover above ground storage tank systems that serve such properties.

The act establishes a subaccount within the existing UST petroleum clean-up account exclusively for paying claims for residential tank remediation. By law, the program is funded by up to $4 million in general obligation bonds. The act authorizes the review board to pay such claims from the subaccount and makes corresponding changes.

AMNESTY

The law provides amnesty from civil liability to the state for costs related to a spill from a residential UST to anyone who (1) has their tank removed or replaced between July 2, 1999 and December 31, 2001 and (2) meets DEP notice and documentation requirements. The act specifies that the amnesty does not apply to those who fail to discontinue the use of or fail to remove a residential tank in accordance with a DEP order. The act extends the amnesty to cover future owners (i.e., makes it run with the land).

UST PETROLEUM CLEAN-UP ACCOUNT REVIEW BOARD

The act expands the review board from 13 to 14 members. The new member, appointed by the governor, must be a licensed environmental professional (LEP) with experience investigating and remediating UST contamination. The board reviews residential tank reimbursement applications from registered contractors and determines the amount of any reimbursement.

The act requires the board, by July 1, 2000, to establish (1) guidelines for determining reasonable remediation costs for residential tanks and (2) requirements for financial assurance, training, and performance standards for registered contractors. (By law, registered contractors must have at least $250,000 in financial assurances.)

The act requires the board, after reviewing an application and determining the amount of reimbursement, to send a copy of its decision to the contractor by certified mail return receipt requested and to DEP. Within 20 days of the decisions issuance, DEP or an aggrieved contractor may request a hearing before the board. The board may consider any information it receives at the hearing and may modify or affirm its initial decision. It must send notice of its decision following the hearing in the same manner as the initial decision.

REGISTERED CONTRACTORS

Registration Requirements

Prior law required anyone in the business of removing or replacing residential USTs to register with DEP if its business involved remediation of contaminated soil or groundwater to be paid for from the state fund. The act expands this requirement to apply to anyone who (1) engages in such action, whether or not they are in this business and (2) subcontracts for removal and replacement of such tanks. The act modifies who can apply for registration. Under prior law, the registrant must have removed at least three storage tanks. The act specifies that the tanks must have been residential tanks and it allows someone who has contracted for the removal of three such tanks to register.

Registration Renewal

The act requires contractors with a valid registration on July 1 to pay DEP a $250 annual renewal fee by August 1. DEP must deposit the renewal fees in the Environmental Quality Fund. By law, contactors pay a $500 initial registration fee, which is also deposited in this fund.

Registration Revocation and Rejection

The act authorizes DEP to revoke a contractor's registration for cause. It also authorizes DEP to reject any registration application that does not satisfy its regulations once such regulations are adopted.

UST REMEDIATION

Standards and DEP Regulations

The act requires that remediation of contaminated soil or groundwater under the program be performed in accordance with the existing remediation standard regulations governing groundwater protection for current and future water supply areas and direct exposure and pollutant mobility criteria for soil.

By law, tanks removed under the program must be replaced with tanks that meet all new UST standards. The act requires residential tanks to meet residential UST standards that the DEP may adopt. The regulations may include (1) design, installation, operation, maintenance, and monitoring criteria; (2) life expectancy after which tanks must be removed; and (3) new tank installation and existing tank replacement waiver standards.

Notice of Certain Remediation and DEP Confirmation

By law, registered contractors must notify DEP if their initial or any subsequent cost estimates for a UST remediation exceeds $5,000. The act requires the contractors to provide that notice immediately or upon making the determination.

By law, the DEP may assess projects over $5,000 to confirm whether the proposed remediation is appropriate and necessary, or it may authorize a LEP to do so. Under the act, DEP, its designee, or a contracted LEP must inspect and confirm that the proposed remediation is reasonable if the estimated costs exceed $10,000. The inspection costs can be recovered from the subaccount.

UST Remediation Contracts and Reimbursement

Under prior law, a registered contractor or a person authorized to handle hazardous wastes could apply to the board for reimbursement of residential UST remediation expenses after the first $500 and for up to $50,000. The act limits this authority to registered contractors. It eliminates the $50,000 cap but requires the board to deny reimbursement for costs above this amount unless DEP finds that the costs are warranted to protect public health and the environment.

The act requires, rather than allows, registered contractors to apply for reimbursement and specifies that they must submit all cost for work performed under the remediation contract.

The act specifies that the owner is not liable to the contractor for costs eligible for reimbursement after the first $500. It prohibits the contactor or any subcontractor from billing the tank owner for such costs, unless the owner enters a separate contract for such services. The owner must have the right to cancel such a contract after the first three days. The contract must clearly identify all costs that may not be eligible for payment from the program including mark-up costs.

The act expands contractors' potential liability by making them liable for costs that "may be eligible" under the program if they fail to submit such costs to the board. By law, the contactor is liable for costs rejected by the board and may not sue the tank owner to recover them.

By law, the board may deny remediation costs that exceed $5,000 if the contractor did not notify DEP of the costs in accordance with the law. The act adds a similar provision for sites with costs over $10,000 that are not inspected in accordance with the act's requirements. It specifies that the board may reject costs it determines are unreasonable but requires that the determination be based on the guidelines the board must establish.

PA 00-203—sHB 5883
Environment Committee
Finance, Revenue and Bonding Committee
Appropriations Committee
Public Health Committee

AN ACT CONCERNING THE OPEN SPACE TRUST FUND

SUMMARY: This act establishes the Charter Oak Open Space Trust Account to fund two new open space purchase programs. In FY 2000-01, the act allocates 40% of the funds to a state program to buy open space and watershed lands. Land acquired under this program must to meet the criteria and use limits of the existing protected open space and watershed land acquisition program. It allocates the remaining 60% to a matching grant program for land acquisitions by municipalities and nonprofit land conservation organizations. Land acquired under either new program must be permanently preserved by a conservation easement. The Department of Environmental Protection (DEP) commissioner authorizes expenditures from the accounts for the programs.

The new programs expire when the state meets its total open space goal (currently 21% of the state's total land area). At that time, any balance remaining in the two accounts reverts to the Recreation and Natural Heritage Trust program.

Under the act, the sale or other transfer of certain water company lands must be accompanied with a permanent conservation easement in order to obtain the Department of Public Health (DPH) permit required by law.

Beginning with the tax year starting January 1, 1999, the act allows the open space donation corporate tax credit to be carried forward for up to 10 years. It also defines "use value" for the purpose of calculating the open space donation corporate tax credit as the fair market value of the land at its high and best use as determined by a certified real estate appraiser.

The act requires the Department of Agriculture (DAG) to prepare a list of properties for which it has a purchase price agreement for development rights and requires the State Bond Commission to consider the list when issuing bonds for the farmland preservation program. It also requires the bond commission to issue bonds for that program to the extent they are authorized but not allocated as of July 1, 2000.

EFFECTIVE DATE: Upon passage for the definition of use value and farmland preservation provisions, with the former applicable to donations made in income years starting in 1999; July 1, 2000 for the remaining provisions.

THE CHARTER OAK OPEN SPACE PROGRAM

The Charter Oak Open Space Trust Account

The act establishes the Charter Oak Open Space Trust Account. The account is a non-lapsing account in the General Fund and must be held separately from any bond funds for open space purposes. The act also establishes the (1) Charter Oak State Parks and Forest Account and (2) Charter Oak Open Space Grant Account.

In FY 2000-01, 40% of the money in the trust account must be deposited in the state parks and forest account and the remaining 60% in the open space account. Both accounts may receive other funds as allowed by law such as gifts or donations for the purposes described in the existing protected open space and watershed land acquisition program. These accounts are also separate, non-lapsing accounts in the General Fund. Investment earnings of each account must be credited to the fund, but neither account may receive proceeds or investment earnings on proceeds of general obligation bonds.

At least half of the money transferred from the trust account to the open space account must be used to provide grants to municipalities and nonprofit land conservation organizations. If these entities have not used this money by July 1, 2003, the remaining funds can be transferred to the state parks and forests program.

OPEN SPACE GRANT

Charter Oak State Parks and Forest Account

This account must be used for state acquisition of open space and watershed land. All land acquired using the fund must be permanently preserved in the land's natural scenic and open condition, while allowing recreation consistent with protecting the resource as specified in the existing protected open space and watershed land acquisition program.

When purchasing land with account funds DEP must give the following priority to open space land:

1. in municipalities with a population density of 1,500 people per square mile or greater, and
2. owned by an electric utility or supplier or designated as water company lands.

Charter Oak Open Space Grant Program and Account

The act establishes this account to provide grants to municipalities and nonprofit land conservation organizations to acquire land or permanent interests in open space or watershed protection land. Municipalities may not receive funds unless their development plan includes an open space plan.

To be eligible, the lands must meet the criteria and limitations established in the existing protected open space and watershed acquisition program (see BACKGROUND). Unlike the existing program, the new program cannot be used to provide grants to distressed municipalities or municipalities with enterprise zones to restore or protect natural features of open space that the municipality already owns.

Municipalities and nonprofit land conservation organizations may receive matching grants based on purchase price (not to exceed the fair market value) as follows:

Maximum Grant	***To…***	***For…***
60%	Municipalities	Land within municipalities with population densities of 1,500 people per square mile or greater
50%	Municipalities and nonprofits	Land not owned by a water company that is on a public drinking water watershed or aquifer area, or

		within 150 feet of a distribution reservoir or first-order tributary to a reservoir, or land owned by an electric distribution company or electric supplier

All land acquired under the program must have a permanent conservation easement in favor of the state through DEP or its designee, which may include municipalities or land conservation organizations in conjunction with the state. The lands must be permanently preserved in their natural scenic and open condition and must allow recreation consistent with protecting the resource as specified in the existing protected open space and watershed land acquisition program, except the act expands those uses slightly to allow for needed water company vehicles and motorized wheelchairs.

Applicants must submit a copy of the application to the Natural Heritage, Open Space and Watershed Land Acquisition Land Review Board for comments. The DEP commissioner must make grant award decisions at least twice a year. DEP can use up to 2% of the grant funds for administrative expenses.

By September 1, 2000, the commissioner must develop written guidelines and a ranking system to ensure consistency and equity in the program grants. DEP's grant award decisions must consider the selection criteria of the existing protected open space and watershed land acquisition program.

DPH APPROVAL OF CLASS II LAND TRANSFERS

By law, water companies cannot transfer class II lands or change their use without a DPH permit. (Class II lands are those (1) on a watershed but more than a specified distance from a water supply source or (2) off a watershed but within 150 feet of a reservoir or major tributary.) Prior law allowed the commissioner to issue the permit if the land met at least one of the statutory standards and he determined that the transfer or change would not significantly harm the public water supply. Under the act, the transfer or change must meet both standards, which are:

1. the permit applicant must demonstrate that (a) the transfer or change of use would not significantly harm the purity and adequacy of water supply and (b) any use restrictions could be enforced against subsequent owners, and
2. the parcel being transferred had to include class III land (off-watershed land more than 150 feet from a reservoir or major tributary) that cannot be developed due to restrictions on the class II land.

In addition, under the act, the DPH commissioner must require a conservation easement when approving the transfer of class II land. The easement must ensure that the land is preserved in its natural scenic and open condition while allowing recreation consistent with protecting the resource and providing safe, adequate potable water. It must prohibit use for commercial, residential, industrial, or recreational purposes that require intense development. Under the act, pathways for pedestrians, motorized wheelchairs, and non-motorized vehicles are not considered intensive development, but following uses are:

1. golf courses,
2. driving ranges,
3. tennis courts,
4. ball fields,
5. swimming pools, and
6. use by motorized vehicles other than needed water company vehicles.

The easement requirement applies starting July 1, 2000 for transfers to a municipality, a nonprofit land conservation organization, or another water company. Starting January 1, 2003, the requirement applies to all transfers, except when the class II land is needed to provide access to or egress from a parcel of class III land that has been approved for sale.

The act specifies that the conservation easement requirements do not prohibit (1) non-intensive recreational use of the land or (2) improvements for water supply purposes, leasing of existing structures, and radio and telecommunication towers on existing structures.

By law, the DPH commissioner cannot issue a permit unless he determines that the transfer or change in use will not significantly harm the public drinking water supply.

AGRICULTURAL LAND PRESERVATION PROGRAM

The act requires the DAG to prepare by April 1, 2001 a list of agricultural lands for which it has a written agreement regarding the purchase price of the lands' development rights pursuant to the state's agricultural lands preservation program and submit it to the State Bond Commission. The bond commission must consider the list when authorizing bonds for that program. The DAG must makes its development right purchases from properties on the list and must update the list every six months.

The act requires the bond commission to issue bonds authorized by the General Assembly for the development rights program to the extent that the bonds authorized for the program on or after July 1, 2000 have not been allocated.

PA 00-01 of the June Special Session (1) requires DAG to submit its initial list by October 1, 2000 rather than April 1, 2001, (2) eliminates the requirement for six-month updates, and instead requires a single update by October 1, 2001, and (3) eliminates the bond allocation provision.

BACKGROUND

Criteria and Limitations for Open Space Acquisitions

Municipal and nonprofit acquisitions must:

1. protect land especially valuable for recreation, forestry, fishing, or conservation of wildlife or natural resources;
2. protect land that includes or contributes to a prime, natural feature of the state's landscape such as shorelines, rivers, tributaries, watersheds, aquifers, mountainous areas, ridgelines, wetlands, or other important geological features;
3. protect habitat for threatened or endangered native plant or animal species or those of special concern;
4. protect relatively undisturbed outstanding examples of uncommon native ecological communities;
5. enhance and conserve lakes, rivers, and coastal water quality; or
6. preserve local agricultural heritage.

Water company land acquisitions must protect class I and II lands.

Program grants may not be used for:

1. acquiring land for commercial or recreational purposes requiring intensive development such as golf courses, driving ranges, tennis courts, ball fields, swimming pools, or motorized vehicle use (but pathways for pedestrians or non-motorized vehicles are allowed);
2. acquiring property with contamination over a significant portion, unless the remediation is complete before acquisition and the use of the land is not restricted for environmental reasons;
3. protecting land already committed for public use;
4. paying development costs such as for ball fields, tennis courts, parking lots, or roadways;
5. acquiring land by eminent domain; or
6. reimbursing in-kind services or incidental expenses related to land acquisition.

Grant Selection

In making grant decisions, the DEP must consider, in addition to the land criteria:

1. whether the land is adjacent or complementary to public lands or class I or class II water company lands;
2. equitable geographic distribution of fund awards;
3. proximity to urban areas or areas with open space shortages and underserved populations;
4. whether the land is particularly vulnerable to incompatible development;
5. the state's conservation and development plan;
6. whether the land protects more than one category of resource such as farmlands, water, or scenery;
7. the extent to which existing man-made improvements may diminish or overshadow the resource or its value relative to the acquisition costs;
8. whether the land (or water body) is a sink for carbon dioxide (a "greenhouse gas"); and
9. timely comments received from the 21-member review board.

PA 00-43—sHB 5884
Finance, Revenue and Bonding Committee
Judiciary Committee
Government Administration and Elections Committee

AN ACT CONCERNING POWERS AND DUTIES OF THE TREASURER AND THE INVESTMENT ADVISORY COUNCIL

SUMMARY: This act establishes various new restrictions and limits on the operations of the state treasurer's office and on political contributions by firms doing business with the treasurer, and provides additional oversight for the investment of public funds.

It restricts who the treasurer can go to work for one year after her term ends; bans political contributions from certain types of firms doing business with the treasurer; bars the treasurer and high-ranking treasury employees, Investment Advisory Council (IAC) members, and treasurer candidates from asking for campaign contributions from such firms; and extends the state Ethics Code and financial disclosure rules to all IAC members.

The act also bans finder's fees and requires disclosure of third-party fees paid in connection with investing public funds, requires state investments to be carried out according to an approved and publicly disclosed investment policy statement, enhances IAC oversight of the treasurer's investments, and limits the power of lame-duck and acting treasurers to make unilateral investment decisions.

The act replaces the assistant treasurer for investments with a new chief investment officer, requires the IAC to approve the officer's appointment, and allows the treasurer to set his salary without regard to regular state compensation scales. It restricts the governor's power to appoint a new treasurer to fill a vacancy in the office when the General Assembly is not in session and requires the deputy treasurer fill out the rest of the term when the job becomes vacant in a year that an election for treasurer is scheduled.

Finally, the act increases the portion of state trust funds that can be invested in common stock.

EFFECTIVE DATE: Upon passage, except the provisions raising the limit on investments in stock and requiring the treasurer to invest trust funds according to the investment policy are effective January 1, 2001.

REVOLVING DOOR PROVISIONS

The act prohibits the state treasurer from negotiating for, seeking, or accepting a job with any party to an investment services contract valued at $50,000 or more that she authorized, negotiated, or renegotiated for one year after the term in which she did so ends.

CAMPAIGN CONTRIBUTIONS LIMITS

The act bars high-ranking people associated with investment services firms to which the treasurer pays compensation, expenses, or fees or issues a contract from contributing to the campaign of any candidate for public office, not just a candidate for state treasurer. It also prohibits the treasurer, the deputy treasurer, candidates for treasurer, and IAC members from soliciting campaign contributions for any candidate from such people. Finally, it prohibits the appointed members of the IAC (the 10 union and public members) from making campaign contributions to, or soliciting contributions for, a candidate for treasurer.

The firms covered are those that provide legal, investment banking, financial or investment advisory, underwriting, or brokerage services. The people affected are firm owners, managers, officers, directors, partners, and employees with managerial or discretionary responsibility to invest, manage funds, or provide investment services for brokerage, underwriting, and financial advisory activities in the treasurer's statutory and constitutional purview.

ETHICS CODE

The act subjects the IAC's appointed members to the State Ethics Code. It also requires all IAC members to file annual financial disclosure statements with the State Ethics Commission. The appointed IAC members are the 10 members representing the public and the teacher and state employee unions appointed by the governor and legislative leaders.

FINDER'S FEE BAN

The act bars anyone from paying or receiving a direct or indirect finder's fee in connection with any investment transaction involving the state, a quasi-public agency, or a municipality.

Covered Fees

The act defines a "finder's fee" as any compensation in cash, cash equivalents, or anything of value that a third party is paid or receives for any services in connection with an investment transaction to which the state, a quasi-public agency, or a municipality is a party. Finder's fees include

lobbying fees.

The act requires the Ethics Commission, in consultation with the treasurer, to adopt regulations that further define prohibited fees and allows the treasurer to prescribe other prohibited fees until the regulations are adopted.

Excluded Fees

The ban does not apply to (1) compensation for legal, investment banking, investment advisory, underwriting, financial advisory, or brokerage firm services; (2) compensation paid to a licensed real estate broker or salesperson; or (3) marketing or due diligence fees that meet criteria specified in the Ethics Commission regulations or the treasurer's interim requirements and are earned in connection with the offer, sale, or purchase of a security or investment interest. Under the act, "offer" includes any attempt to dispose of securities, and any solicitation of offers to buy securities, for value and "sale" includes contracts to sell or dispose of a security for value.

The act also excludes from the ban fees paid to (1) "investment professionals" engaged in the ongoing business of representing investment services providers and (2) third parties in connection with issuing debt that meet the criteria in the Ethics Commission regulations or the treasurer's interim requirements.

The act defines "investment professionals" as people or firms whose primary business is bringing together institutional funds and investment opportunities. They must (1) be registered or licensed as broker-dealers or investment advisors under Connecticut law or under federal law with the Securities and Exchange Commission or the National Association of Securities Dealers, as appropriate; (2) be licensed as real estate brokers or sales people in Connecticut or in the jurisdiction where the investment property is located; or (3) furnish an investment manager with "marketing services" and meet the criteria in the Ethics Commission regulations or the treasurer's interim requirements.

"Marketing services" include developing an overall marketing strategy focused on several institutional funds, designing or publishing marketing brochures or other presentation material such as logos and brands for investment products, responding to requests for proposals, completing due diligence questionnaires, identifying potential investors, or providing other services specified in the Ethics Commission regulations or the treasurer's interim requirements.

Adopting Regulations

The act requires the Ethics Commission to send its proposed regulations to the treasurer at least 120 days before the public comment period on them begins and to consider the treasurer's comments or recommendations concerning them. The commission must ensure that the regulations will not hurt the state competitively in legitimate financial markets.

THIRD-PARTY FEES

Disclosure Requirements

Before the treasurer or any quasi-public agency contracts for legal, investment banking, investment advisory, underwriting, financial advisory, or brokerage firm services, the act requires the parties to the contract to disclose to the treasurer or agency all third-party fees attributable to it.

The parties must disclose the fees in sworn affidavits in a form the treasurer requires in regulations or the agency requires in procedures each must adopt within three months of the act's effective date. The treasurer must make the information available to the public in accordance with the Freedom of Information Act.

Under the act, third-party fees include management, placement agent, solicitation, referral, promotion, introduction, matchmaker, and due diligence fees.

Ban On Directed Third-Party Fees

The act bars the treasurer from directing payment of third-party fees to anyone, except for third-party fees paid in connection with state bond sales and fees permitted by federal tax law in connection with guaranteed investment contracts related to issuing debt. It bars the treasurer and her agents and employees from making personal use of any credit or item of value given by a broker or firm in connection with trust fund investments.

INVESTMENT ADVISORY COUNCIL OVERSIGHT

Investment Oversight

The act:

1. eliminates the IAC's authority to review the treasurer's civil list fund investments, leaving it with oversight of trust fund investments only;
2. requires the treasurer to give the council any information she considers relevant to its

review and any information the council requests; and
3. requires the council to notify the auditors of public accounts and the comptroller promptly if it knows of any actual or contemplated trust fund handling or spending that is unauthorized, illegal, irregular, or unsafe, or that constitutes a breakdown in safekeeping.

The treasurer must report to the council at each regular meeting on the status of trust funds and significant changes that have taken place or may be pending.

Review of Contracts for Investment-Related Services

Starting January 1, 2001 or after first approval of the investment policy statement, whichever is later, the act bars the treasurer from awarding any contract for trust fund investment-related services until the IAC has reviewed her recommendation. The treasurer must notify the council of her recommendation at a council meeting. The IAC then has 45 days to file a written review of the treasurer's selection with the treasurer's office. The review must be available for public inspection. The treasurer may proceed with the contract at the end of the 45-day review period.

Oversight of Lame-Duck and Acting Treasurers

The act requires the treasurer, the deputy treasurer, or any acting treasurer to get IAC approval for any private equity or real estate investment between any of the following events and the end of her term of office:
1. defeat for nomination as a candidate for treasurer at a convention, in a primary vote, or primary recount, whichever is later;
2. defeat in a general election for the Office of Treasurer or in a general election recount; or
3. resignation.

INVESTMENT POLICY STATEMENT

The act requires the treasurer to recommend to the IAC an investment policy statement that sets standards for investing state trust funds and, in conformity with the new requirement, eliminates the IAC's responsibility to recommend investment polices to the treasurer outside of the investment policy statement adoption powers. It requires her, either on or after January 1, 2001 or after the statement is first adopted, whichever is later, to invest funds according to the policy statement. Investments in common stock remain subject to the statutory limits on such investments.

Contents

For each trust fund, the policy statement must include at least:
1. investment objectives;
2. asset allocation policies and risk tolerance;
3. definitions of classes of assets, including types of permissible investments within each class and any limits or other considerations governing fund investments;
4. guidelines for investment managers and for evaluating investment performance;
5. guidelines for selecting and terminating investment advisors, external money managers, investment consultants, custodians, broker-dealers, lawyers, and other similar investment industry personnel who provide investment-related services; and
6. guidelines for proxy voting.

Approval Process

The treasurer must submit a draft statement to the IAC at a council meeting and make it public. She must publish notice of the statement's public availability in at least one newspaper that circulates generally in each municipality at least two weeks before she submits it at the IAC meeting.

The IAC must review the draft statement and publicize any recommended changes in the same way. The treasurer must, with the approval of a majority of the IAC's appointed members, adopt the statement with any of the IAC's changes she considers appropriate. If a majority fails to approve the changes, they must give the treasurer their reasons. The treasurer may submit a revised proposal at a later regular or special meeting. The revised proposal must be made public under the Freedom of Information Act.

If the treasurer revises or adds to the statement after it is adopted, she must follow the same procedure. She must review the statement every year and consult the IAC about possible revisions.

CHIEF INVESTMENT OFFICER

The act eliminates the job of assistant treasurer for investments and substitutes a chief investment officer for the Connecticut retirement, pension, and trust funds. As is the case with the assistant treasurer, the treasurer appoints this officer with the IAC's advice and consent. The act gives the treasurer authority to set the officer's compensation within a range she establishes in consultation with the IAC. It exempts the officer's compensation from the

requirement that salaries of executive branch employees that are not set by law be determined by the commissioner of administrative services and approved by the Office of Policy and Management (OPM) secretary.

The chief investment officer's duties are the same as the assistant treasurer's, namely to advise the treasurer on investments (limited to trust fund investments under the act) and perform other duties as the treasurer directs.

The act eliminates the IAC's duty to advise and consent to the treasurer's appointment of all investment department personnel.

FILLING VACANCIES IN THE OFFICE OF TREASURER

The act eliminates the governor's power to appoint someone as treasurer to fill the entire unexpired term if the office becomes vacant when the General Assembly is not in session. Instead, if the vacancy occurs when the General Assembly is not in session or if the General Assembly fails to make an appointment and it is not a year when a regular election for treasurer is to be held, the governor must appoint an acting treasurer.

The acting treasurer must serve until the next regular General Assembly session. At that time, the governor must nominate a successor as treasurer and that person must be approved by the General Assembly. If the vacancy occurs when the General Assembly is not in session or if it fails to make an appointment in a year when a regular election for treasurer is to be held, the deputy treasurer must fill out the unexpired part of the term.

PENALTIES

The act imposes a civil penalty of up to $2,000 for each violation of its third-party fee disclosure requirements. For violating the finder's fee ban, the minimum fine is the amount of the fee paid or received and the maximum fine is triple that amount.

Upon the treasurer's or the Ethics Commission's complaint, the attorney general may sue in the Hartford Superior Court to recover penalties for any violation of the third-party disclosure requirements or finder's fee ban that affects a trust fund. A municipality or quasi-public agency may sue to recover penalties for violations involving funds under their control.

PAYMENT OF CERTAIN PENALTIES TO AFFECTED FUNDS

The act requires penalties for violating its third-party disclosure requirements and finder's fee ban to be paid into the affected state trust fund or fund under the control of a municipality or quasi-public agency.

In addition, any fines, penalties, or damages the State Ethics Commission collects for ethics code violations by public officials in the treasurer's office or by lobbyists and any civil penalties or fines paid to the State Elections Enforcement Commission for violations of campaign financing laws that apply to the treasurer's office must be deposited in affected trust funds on a pro rata basis.

AUDITORS OF PUBLIC ACCOUNTS

The act expressly requires the auditors of public accounts and the comptroller, when they conduct required annual audits of the treasurer's books and accounts, to examine those of the trust funds. It allows the auditors to hire independent auditors to help them audit the treasurer's office and the funds.

EQUITY INVESTMENT LIMIT

The act increases, from 55% to 60%, the general limit on the market value of each trust fund the treasurer may invest in common stocks. Under the act, the treasurer can, if she considers it to be in a fund's best interest, allow the stock portion to rise to 65% rather than the previous 55% for up to six months in the event of market fluctuations.

BACKGROUND

Trust and Civil List Funds

Trust funds include the Municipal Employees Retirement Fund; Soldiers, Sailors and Marines' Fund; State's Attorney Retirement Fund; Teachers' Annuity Fund; Teachers' Pension Fund; Teachers' Survivorship and Dependency Fund; School Fund; State Employees' Retirement Fund; and the Hospital Insurance Fund.

Civil list funds contain the proceeds of state general obligation bond sales before they are disbursed.

Investment Advisory Council

The council has 12 members. Five are public members, one each appointed by the governor and legislative leaders, three represent teachers' unions, and two represent state employee unions. The treasurer and the OPM secretary are ex officio members.

Quasi-Public Agencies

The quasi-public agencies are the Connecticut Development Authority, Connecticut Innovations, Inc., Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing Authority, Connecticut Resources Recovery Authority, Connecticut Hazardous Waste Management Service, Connecticut Coastline Port Authority, Capital City Economic Development Authority, and Connecticut Lottery Corporation.

PA 00-82—sSB 563
Finance, Revenue and Bonding Committee

AN ACT CONCERNING TREATMENT OF HOLOCAUST REPARATIONS IN DETERMINING INCOME FOR TAX AND OTHER PURPOSES

SUMMARY: This act exempts settlement payments to Holocaust victims from the state income tax. It also excludes such payments from income calculations that determine a person's (1) eligibility for or level of benefits under any state program based on need and (2) ability to repay the state as a legally liable relative of someone who received state assistance.

The act defines "Holocaust victim" and "Holocaust victim settlement payment" for purposes of the exemption and exclusions and makes technical and conforming changes. It applies to income tax years beginning on or after January 1, 2000 and to applications for state assistance pending on its effective date.

EFFECTIVE DATE: Upon passage

HOLOCAUST VICTIM

The act covers anyone who died or lost property because of discriminatory laws, policies, or actions aimed at groups based on race, religion, ethnicity, sexual orientation, or national origin between January 1, 1929 and December 31, 1945 in:

1. Nazi Germany;
2. European countries allied with Nazi Germany;
3. European countries occupied by Nazi Germany or its allies; and
4. any neutral European country or area under the influence of, or threat of invasion by, Nazi Germany, its allies, or occupied countries.

The act also covers (1) people who lost property or died because they helped or tried to help members of targeted groups and (2) the spouse or descendant of any Holocaust victim.

HOLOCAUST VICTIM SETTLEMENT PAYMENTS

The tax exemption and income exclusions apply to payments, and any interest accrued on them through the payment date:

1. from the settlement of a class action lawsuit against Swiss banks;
2. under German or other countries' laws regulating unresolved property claims or providing payments for Holocaust victims; or
3. as a result of settling any other Holocaust claim, including insurance, looted art, looted financial assets, or slave labor wage claims.

The exemption and exclusions do not cover (1) assets acquired with Holocaust victim settlement payments or (2) proceeds from the sale of any asset recovered, returned, or given as a Holocaust settlement payment.

BACKGROUND

Legally Liable Relatives

Parents of a minor child and the spouse of someone receiving state support or care in a state humane institution are liable for the cost of that care. The relative's contribution is scaled according to income.

Swiss Bank Holocaust Settlement

Swiss banks and other Swiss entities have agreed to pay $1.25 billion to settle a class action lawsuit arising out of their conduct related to World War II and the Holocaust. (*In re Holocaust Victim Asset Litigation*, 96 Civ. 4849 (E.D.N.Y.)) Members of certain specified Nazi-targeted groups can receive compensation if they:

1. had assets deposited in a Swiss bank, investment fund, or similar custodian before May 9, 1945;
2. may have claims against Swiss entities for assets looted by the Nazi regime, or used to benefit that regime, between 1933 and 1946;
3. performed slave labor for companies or entities that deposited the proceeds of that labor in or through Swiss entities; or

4. unsuccessfully sought to enter Switzerland to avoid Nazi persecution or who, after entering, were deported or mistreated.

Those forced to perform labor in facilities and at work sites controlled by Swiss companies, whether or not they belong to any of the specified Nazi-targeted groups, are also eligible for compensation.

Other Recent Settlements

On February 15, 2000, the Insurance Commission on Holocaust Era Insurance Claims announced a settlement of claims by Holocaust victims, survivors, heirs, and beneficiaries under life, education, and dowry insurance policies issued between 1920 and 1945. On March 24, 2000, the Jewish Claims Conference announced a $5 billion settlement by the German government and German companies for surviving forced laborers from World War II. Holocaust victims have also been awarded $40 million in partial settlement of a class action lawsuit against Austrian banks (*In re Austrian and German Bank Holocaust Litigation*, 80 F. Supp. 2d 164 (S.D.N.Y. 2000)).

PA 00-122—sSB 614
Finance, Revenue and Bonding Committee
Planning and Development Committee

AN ACT CONCERNING CERTAIN EMPOWERMENT ZONES

SUMMARY: This act allows municipalities designated as urban empowerment zones under federal law to issue revenue bonds to provide funding for enterprise zone businesses with qualified zone property. Regardless of the municipality's regular bond issuing requirements, empowerment zone bonds must be authorized by a resolution adopted by the municipality's legislative body. Federal law exempts such bonds from federal taxation.

The bonds may be payable solely from, and secured solely by, income, proceeds, and revenue from borrowers who use bond proceeds to finance zone facilities or lenders who borrow bond proceeds in order to re-lend them for such financing. They are not (1) considered municipal general obligations, (2) chargeable against municipal property, or (3) included in municipal debt calculations or limits. No bondholder can compel the municipality to levy a tax to repay them.

The act also allows municipalities to issue taxable bonds to pay issuance or other costs related to providing tax-exempt bond financing to enterprise zone businesses. The municipal board, officer, or agency charged with issuing the bonds must find they are in the municipality's best interest and that they further the act's purposes.

The act states that the municipal powers it confers benefit the public health, safety, welfare, and security and that, in exercising them, a municipality performs an essential government function. It also allows government agencies, banks, insurance and investment companies, and all fiduciaries to invest in empowerment zone bonds; allows state and municipal public bodies to receive and deposit them as security; and, once registered, makes them negotiable instruments under the Uniform Commercial Code.

EFFECTIVE DATE: Upon passage

MUNICIPAL ISSUING AUTHORITY

Under the act, the municipal legislative body or the board, officer, or agency to which the legislative body delegates authority for issuing the tax-exempt bonds must decide (1) how the bonds will be issued and sold; (2) their interest rate and when interest will be paid; (3) their term, which may be no more than 30 years; (4) whether and under what terms bonds may be purchased or redeemed; and (5) all other issuing conditions.

BOND ISSUANCE PROCEEDINGS

Bond issuance proceedings may contain provisions:

1. concerning custody of bond proceeds, including requirements that they be held separately from other municipal funds;
2. for investing proceeds until they are used for project costs and for disposing of excess proceeds and investment earnings;
3. for executing agreements in connection with credit facilities;
4. for collecting, holding, investing, reinvesting, and using revenue pledged to repay the bonds;
5. regarding reserves and sinking or other funds and accounts;
6. for agreements regarding establishing and maintaining facilities and property;
7. for issuing additional bonds that have parity with earlier ones; and
8. regarding rights and remedies available to bondholders in case of default.

The bond issuance proceedings may also contain other provisions and agreements consistent with the act that the municipality considers necessary or desirable to better secure the bonds and make them more marketable, or that are in the municipality's

best interest.

The bond issuance proceeding provisions may be replicated in any trust indenture that secures the bonds.

TRUST INDENTURE

The act allows a municipality to enter into a trust indenture with a trustee such as a bank. (A trust indenture sets out the terms and conditions governing a trustee's conduct and a trust beneficiary's rights.) The indenture may contain reasonable provisions for protecting and enforcing bond owners' rights. It may include agreements concerning the municipality's duties and the custody, safety, and application of funds. The municipality may agree as part of the indenture to pay to the trustee or to some other depository all revenue pledged for the bonds. The indenture may also include a method for disbursing the revenue, with safeguards and conditions.

The expenses of carrying out any such indenture must be treated as part of the project cost.

BACKGROUND

Empowerment Zones

The Department of Housing and Urban Development establishes empowerment zones to create jobs and expand business opportunities in low-income communities. Empowerment zones receive preferences for federal grants. Businesses located in these communities are entitled to tax-exempt bond financing for renovations and expansions, and tax credits for employing workers who live in the zone. In Connecticut, part of New Haven has been designated as an empowerment zone.

PA 00-130—sSB 608
Finance, Revenue and Bonding Committee

AN ACT CONCERNING A PROPERTY TAX EXEMPTION FOR CERTAIN ORGANIZATIONS PROVIDING CITIZENSHIP CLASSES

SUMMARY: This act allows a municipality to abate up to 100% of the annual property taxes due on real or personal property belonging to a nonstock corporation that provides U.S. citizenship classes. The municipality must exercise this option by a vote of its legislative body or, if its legislative body is a town meeting, by vote of the board of selectmen.

No officer, director, or member of a corporation that receives an abatement may receive profits or profit distributions from its operations for any year in which the tax abatement is in effect, other than reasonable compensation for expenses or services for the classes.

EFFECTIVE DATE: October 1, 2000 and applicable to assessment years beginning on that date.

PA 00-167—sSB 140
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE AUTHORIZATION OF BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS AND OTHER PURPOSES

SUMMARY: This act authorizes $263.7 million in state general obligation (GO) bonds in FY 2000-01 and $20 million in FY 2001-02. It also authorizes $21 million more in special tax obligation (STO) bonds in FY 2000-01 for transportation projects and $40 million in additional revenue bonds for Bradley International Airport. It also reduces prior GO bond authorizations by $70 million.

Among other things, the act:

1. doubles funding for cleaning up and removing residential underground storage tanks from $2 million to $4 million for FY 2000-01;
2. authorizes $50 million in grants over two years to New London for economic development and additional improvements to the Fort Trumbull peninsula;
3. increases school construction and Manufacturing Assistance Act authorizations for FY 2000-01 by $54 million and $66 million, respectively;
4. expands the types of projects for which towns can use Local Capital Improvement Program (LoCIP) funds and gives towns an extra two years to use the money; and
5. authorizes $20 million for the University of Connecticut's new Waterbury campus.

EFFECTIVE DATE: July 1, 2000

GENERAL OBLIGATION BONDS FOR STATE PROJECTS

New Authorizations

The act authorizes $96.7 million in 20-year GO bonds backed by the state's full faith and credit for the following projects:

Agency	*Purpose*	*Authorization ($)*
Military	West Hartford Armory improvements and renovations	1,000,000
UConn	Waterbury campus	20,000,000
Central Connecticut State University	Energy Center	7,620,000
"	Copernicus Hall renovations	13,300,000
"	Willard and DiLoreto Hall renovations and in-fill addition	2,827,000
"	Admission Center	800,000
"	Site improvements associated with closure of Wells St.	2,899,000
"	Athletic and practice field development	2,300,000
Eastern Connecticut State University	Media and Goddard Halls and North Heating Plant roof replacements	1,369,000
"	J.E. Smith Library renovations	2,106,000
Western Connecticut State University	Football field relocation	447,000
Southern Connecticut State University	Engleman Hall	4,794,000
Regional Community-Technical College System	Development of consolidated facilities	3,200,000
Correction	Inmate housing, programming and staff training space, and inmate capacity	25,000,000
Children and Families	Community residential facilities for juvenile offenders	9,000,000

The bond proceeds must be used for land, buildings, and site improvements for the projects; architectural, engineering, demolition, and related costs; or long-range capital programming and space utilization studies. The State Bond Commission must approve the bond allocations.

Requests to the commission for approval must identify the project and recommend available federal, private, or other money that may be added to state money for it. The treasurer must use any such money subsequently received to pay off bonds issued for the projects. Pending their use for this purpose, any such funds must be considered part of the state's debt retirement funds.

Any money left over after completion any of the listed projects may be used to complete the other projects, if the State Bond Commission directs it. Any balance of bond sale proceeds that exceeds the cost of all the projects must be credited to the General Fund.

Increased Authorizations

The act increases authorizations for the following:

Agency	*Purpose*	*Old Authorization ($)*	*New Authorization ($)*	*Increase ($)*
Education	School construction projects	2,511,360,000 (339,000,000 available 7/1/00)	2,565,360,000 (393,000,000 available 7/1/00)	54,000,000
Economic and Community Development	Manufacturing Assistance Act	399,300,000 (35,000,000 available 7/1/00)	465,300,000 (101,000,000 available 7/1/00)	66,000,000

Reduced Authorizations

The act reduces authorizations for the following:

Agency	*Project*	*Old Authorization ($)*	*New Authorization ($)*	*Reduction ($)*
Motor Vehicles	DMV facilities	5,000,000	4, 200,000	(800,000)
Military	New Haven Armory	1,650,000	650,000	(1,000,000)
Environmental Protection	State-owned recreational and conservation areas	5,000,000	4,943,815	(56,185)
"	Sherwood Island State Park bath houses	650,000	482,160	(167,840)
Mental Health and Addiction Services	Security improvements at inpatient facilities	2,000,000	1,575,050	(424,950)
"	Alterations, renovations, additions, improvements, and new construction in accordance with agency master campus plan	6,500,000	1,500,000	(5,000,000)
Correction	Grants-in-aid for community residential facilities	3,300,000	1,594,233	(1,705,767)
Central Connecticut State University	Energy conservation renovations and improvemen	850,000	91,600	(758,400)

	ts			
"	DiLoreto Hall project planning	530,000	50,000	(480,000)
"	Willard Hall improvements planning	506,000	50,000	(456,000)
Office of Policy and Management	Purchasing emission reduction credits	210,000	110,000	(100,000)
Mental Retardation	Americans with Disabilities Act compliance projects at all regional facilities and Southbury Training School	1,100,000	100,000	(1,000,000)
"	Additions to the Community Residential Revolving Loan Fund	2,000,000	1,000,000	(1,000,000)
"	Land acquisition, construction, or purchase of specialized groups homes	1,365,000	365,000	(1,000,000)
Western Connecticut State University	Access road and sidewalk to Westside Campus	605,000	158,000	(447,000)
Education	School construction interest subsidy grants to municipali-ties	188,100,000 (61,000,000 available 7/1//00)	144,100,000 (17,000,000 available 7/1/00)	(44,000,000)
Connecticut Innovations Inc.	Research, development, and marketing of new technologies	48,250,000	47,854,900	(395,100)

Cancellations

The act cancels the following authorizations:

Agency	***Project***	***Authorization ($)***
Connecticut Innovations, Inc.	Grants-in-aid for Connecticut Small Business Innovation Research Assistance	1,000,000
Public Safety	Planning renovations for Troop I Barracks, Bethany	150,000
State Library	Grants to public libraries for National Information Infrastructure Readiness	100,000
Central Connecticut State University	Emma Willard Hall alterations	4,355,000
"	Planning for Maria Sanford Hall alterations	440,000
"	Maria Sanford Hall alterations	4,979,000
"	DiLoreto Hall improvements and alterations	5,080,000

GENERAL OBLIGATION BONDS FOR MUNICIPAL GRANTS-IN-AID

Grants-In-Aid

The act increases overall funding for grants-in-aid authorized in 1999 by $67 million, from $85,071,000 to $152,071,000. It specifies that $132,071,000 of the total is effective July 1, 2000 and the remaining $20 million takes effect July 1, 2001.

It increases the authorization for municipal grants and loans from the Department of Environmental Protection (DEP) by $2 million, from $10 million to $12 million. Municipalities must use funds to acquire land for public parks, recreational and water quality improvements, water mains, water pollution control facilities (including sewer projects), and leaking underground storage tank removal and cleanup. It also expressly allows municipalities to use grants to upgrade culverts and drainage projects.

The act earmarks $4 million of these funds for residential underground storage tank removal and cleanup in FY 2000-01. It increases the authorization for DEP grants for municipal incinerator and landfill improvements by $10 million, from $5 million to $15 million, and expressly allows money to be used for bulky waste landfills.

BRADLEY AIRPORT REVENUE BONDS

The act increases the total revenue bond authorization for Bradley Airport by $40 million, from $254 million to $294 million.

SPECIAL TAX OBLIGATION BONDS

The act increases the 1999 STO bond authorization for certain transportation projects by $21 million, from $134,191,000 to $155,191,000. It allocates the increase as follows:

Purpose	*Old Authorization ($)*	*New Authorization ($)*	*Increase ($)*
Interstate Highway Program	7,200,000	11,500,000	4,200,000
Intrastate Highway Program	30,000,000	31,500,000	1,500,000
Urban Systems Projects	7,000,000	12,000,000	5,000,000
Soil, water supply, and groundwater remediation at or near maintenance facilities and former disposal areas	1,800,000	6,000,000	4,300,000
State bridge projects	14,000,000	20,000,000	6,000,000

PROJECT AND PROGRAM CHANGES

State Projects

The act changes the scope of the following state projects authorized in 1999:

Agency	*Authorization ($)*	*Old Scope*	*New Scope*
Public Safety	500,000	Renovations and improvements in buildings for use as a forensic lab in Meriden	Planning for additions to the forensics lab in Meriden, including demolition
Community-Technical Colleges	2,500,000	Renovations and improvements to facilities, including fire, safety, energy conservation, and code compliance	Adds equipment and renovations for additional programs in the community
Environmental Protection	15,000,000	Municipal grants-in-aid for incinerator and landfill improvements	Expressly includes bulky waste landfills
Judicial	5,000,000	Alterations, renovations, and improvements to state-owned and maintained facilities, including Americans with Disabilities Act compliance, code improvements, and energy conservation measures	Limited to alterations, renovations, and improvements at a state-owned building in Hartford for use as an appellate court

New London Economic Development and Fort Trumbull

The act authorizes a $50 million grant from the Department of Economic and Community Development to New London for economic development and additional improvements to the Fort Trumbull peninsula. Of the total, $30 million is effective July 1, 2000 and the remaining $20 million on July 1, 2001.

The act increases by $5 million, from $750,000 to $5,750,000, funding for Department of Mental Health and Addiction Services (DMHAS) grants to private, nonprofit organizations for altering and improving their facilities.

It allows the DMHAS commissioner to give a grant to a nonprofit entity to design and build an addition to the Connecticut Mental Health Center in New Haven. The grant must be made according to a contract between the entity and the DMHAS commissioner, in consultation with the public works commissioner. The contract must (1) require a project oversight committee composed of representatives from the departments and the entity and (2) specify terms and conditions for designing and building the addition, including how the construction project is to be managed.

Capital Equipment Purchase Fund

By law, the Office of Policy and Management (OPM) secretary administers a Capital Equipment Purchase Fund that is used to acquire capital equipment either by buying it or by exercising prepayment or purchase options in existing equipment leases. The act narrows the type of equipment that the secretary can acquire with fund money by requiring equipment to have a remaining useful life of at least five, rather than three, years from the purchase date.

Local Capital Improvement Projects

The act allows municipalities to use LoCIP funds for (1) constructing, renovating, enlarging, or repairing flood control projects; (2) thermal imaging systems; and (3) bulky waste and landfill projects.

It also gives towns up to seven years instead of five to use their authorized LoCIP funds. The act extends the expiration date to seven years after the project authorization date. It requires the OPM secretary, on or before five years and on or before six years after that date, to notify the municipality in writing of the elapsed time and of the date on which the authorization expires.

UConn Waterbury Campus

The act gives UConn responsibility for overseeing the planning, design, and development of the Waterbury Campus, provided it files a written request to do so with the Department of Public Works. The university must use the same bidding, contracting, and permitting processes it uses for UConn 2000 projects. The act also makes $10 million of the $20 million authorization for the project contingent on the Department of Higher Education approving expansion of the university's bachelor's and master's degree programs in business.

Urban Action Bonds

The act allows $5 million in urban action bonds to be used for grants to nonprofit organizations and $5 million for library renovations and improvements.

By law, urban action bonds must be used either for grants to eligible municipalities or for projects in eligible municipalities. The act expands the municipalities that are eligible for projects to include those classified as public investment communities. (Public investment communities are determined according to a formula that considers residents' income, town tax base and rates, and percentage of residents on welfare.) Projects in distressed municipalities and municipalities classified as urban centers and projects that the State Bond Commission determines will help meet the program's goals are already eligible.

By law, eligible projects may include economic and community development, transportation, environmental protection, public safety, and children and families and social service projects.

Private Activity Bond Commission Meetings

The act reduces the minimum number of meetings of the State Private Activity Bond Commission from two to one per year.

School Construction Grants For Coventry

The act requires the State Department of Education to delay remaining adjustments to school construction grants for six school construction projects in Coventry until after June 30, 2001.

BACKGROUND

State Private Activity Bond Commission

This 11-member legislative-executive commission may, on its own initiative or in response to a gubernatorial recommendation, modify the allocation of private activity bonds for a single, current calendar year when the General Assembly is not in session. By law, the state's private activity bond limit is allocated as follows: 40% to the Connecticut Housing Finance Authority, 32% to the Connecticut Development Authority, 18% to municipalities, and 10% for contingencies.

PA 00-170—sSB 523
Finance, Revenue and Bonding Committee

AN ACT CONCERNING REDUCTION OF VARIOUS TAXES AND FEES, SUNSET OF CERTAIN INSURANCE REINVESTMENT FUNDS, CREDITING OF INTEREST ON THE ATTORNEYS' CLIENT SECURITY FUND, A TAX ON SNUFF TOBACCO PRODUCTS, FUNDS FOR THE FISHERIES ACCOUNT, INCENTIVES FOR URBAN SITE REINVESTMENT AND USE OF THE TOBACCO SETTLEMENT FUND

SUMMARY: This act reduces many taxes and establishes new tax credits and exemptions.

It reduces the per-gallon tax on gasoline and gasohol by seven cents as of July 1, 2000 and requires dealers to pass the reduction on to consumers by reducing their retail prices by a comparable amount and maintaining the reduced price for 120 days. It transfers petroleum products and motor vehicle sales tax revenues from the General Fund to the Special Transportation Fund (STF) and eliminates a requirement that any annual fund balance over $20 million be used to reduce debt service on special tax obligation bonds.

The act increases, from $50 to $75, the cost of clothing and footwear that is exempt from sales tax; eliminates the sales tax on clothing and footwear costing less than $300 during the third week of August each year; and exempts several additional items from the sales tax.

It eliminates the 4.5% hospital gross earnings tax beginning April 1, 2000; phases out the tax on gifts under $1 million over six years starting January 1, 2001; requires multi-state manufacturers and broadcasters to use a single factor to apportion net income for the corporation tax; and makes a financial institution (Warburg, Dillon, Reed) with at least 2,000 qualified employees at a facility or facilities in a municipality with more than 100,000 people eligible for Manufacturing Assistance Act (MAA) assistance and additional tax credits.

The act:

1. gives tax credits to health maintenance organizations (HMOs) for providing health coverage to children under the HUSKY Plans and to businesses for donating computers to public schools and school systems;
2. removes a ceiling on housing tax credits that businesses can qualify for under the low- and moderate-income housing tax program and allows S corporations to qualify;
3. gives a certain type of taxpayer who makes

computer-related investments in Connecticut higher education institutions a sales tax credit for computer equipment it uses for electronic commerce;
4. changes the tax on snuff tobacco from 20% of the wholesale price to 40 cents per ounce; and
5. bans the sale of single cigarettes or cigarettes in packs of fewer than 20.

With respect to the admission tax, the act exempts events at the Connecticut Exposition Center in Hartford and establishments that were subject to the former cabaret tax and reduces the tax on movie tickets costing more than $5 from 10% to 6% over two years.

The act (1) allocates an additional $1 million in motor fuel tax revenue to the fisheries account within the Conservation Fund and specifies how the account is to be allocated, (2) allocates $500,000 from the Tobacco Settlement Fund for FY 2000-01 to the Department of Mental Health and Addiction Services for the regional action councils and reduces the amount transferred to the Tobacco and Health Trust Fund by a corresponding amount, (3) exempts attorneys employed by municipalities and probate courts from the occupational tax on attorneys, (4) changes the financing of the Client Security Fund, (5) eliminates a juvenile probation fee, and (6) requires the revenue services commissioner to waive income tax interest and penalties for taxpayers who owe additional tax for 1999 because New York's commuter tax was declared unconstitutional.

Finally, the act establishes a new urban sites reinvestment incentive program. It authorizes up to $500 million in business tax credits for businesses that invest in new facilities in designated towns or in large projects to clean up and redevelop contaminated or potentially contaminated sites anywhere in the state. Towns may also abate taxes on properties receiving investments under the program if the properties do not qualify for benefits under any other law.

On July 1, 2000, the act eliminates business tax credits for investing in Connecticut-based insurance companies. It considers the state-registered fund managers for those investments to be registered for making investments under the new program if they notify the Department of Economic and Community Development (DECD) commissioner that they intend to participate.

EFFECTIVE DATES: Upon passage for the:
1. Internet access service sales tax phase-out,
2. gift tax phase-out,
3. hospital gross earnings tax repeal,
4. HMO tax credit,
5. computer donation tax credit,
6. single-factor corporation tax apportionment formula,
7. assistance and tax credits for Warburg, Dillon, Reed,
8. insurance investment tax credit elimination, and
9. New York commuter tax provision.

July 1, 2000 for the:
1. sales tax changes regarding vending machine sales, clothing and footwear, child car seats, college textbooks, fuel-efficient cars, and professional employer organization employees;
2. gas tax reductions and STF revenue enhancements;
3. admission tax provisions;
4. sales tax credits for computer investments in higher education institutions;
5. ban on sale of cigarettes in packs of less than 20;
6. juvenile probation fee elimination;
7. Client Security Fund financing provisions;
8. snuff tax change;
9. Conservation Fund and Fisheries Account provisions;
10. urban sites redevelopment incentive program; and
11. Tobacco Settlement Fund change.

July 1, 2001 for sales tax exemptions for certain closed circuit television equipment, canes, medically necessary support hose, caskets, smoking cessation items, and high-speed data transmission equipment. Changes for these items apply to sales occurring on or after July 1, 2001.

The HMO, computer donation, and housing tax credits apply to income years beginning on and after January 1, 2000; the attorney's occupational tax exemption applies to attorneys practicing in Connecticut on and after January 1, 2000; and the New York commuter tax provision applies to taxable years beginning on and after January 1, 1999.

GAS TAX

Tax Reduction (§ 10)

The act reduces the tax on gasoline from 32 to 25 cents and the tax on gasohol from 31 to 24 cents per gallon as of July 1, 2000.

The tax is paid by gasoline and gasohol distributors. Distributors (1) import or cause fuel to be imported into the state for sale or use here; (2) produce, refine, manufacture, or compound fuel in the state; (3) distribute fuel by tank wagon in the

state; or (4) store fuel in tanks or containers over a certain size.

Dealer Price Reduction Requirements (§ 14)

Gasoline dealers must pass on the tax reductions by reducing their retail prices a corresponding amount between July 1 and November 1, 2000 and maintaining the lower price for 120 days. A dealer must reduce prices by July 3, 2000, or the close of business on the day on which he sells all the gas that was in his inventory at midnight on July 1, 2000, whichever is later.

The same price reduction requirements applied to the gas and gasohol tax reduction that took effect July 1, 1998 except that, for that reduction, dealers were required to maintain the lower price for 90, rather than 120, days.

Penalties (§ 14)

The act applies the same penalties to a dealer who fails to lower his prices as applied in 1998. The dealer is subject to the penalties for false statement, which are a maximum $500 fine, six months in prison, or both. In addition, the Department of Consumer Protection (DCP) commissioner may suspend or revoke his license. Such violations are deemed unfair or deceptive trade practices. The act requires the DCP commissioner, when deciding whether to issue or renew a dealer license, to consider whether the dealer has been found to have violated the price reduction requirements.

A dealer has the following affirmative defenses against a violation complaint: (1) the wholesale price of gas increased after the tax reduction, (2) another gas tax increased after the tax reduction, or (3) another bona fide business cost increased and caused him to decide not to reduce his gas prices or keep them at a reduced level.

SPECIAL TRANSPORTATION FUND REVENUES

Petroleum Products Gross Earnings Tax (§ 11)

The act increases, from $9 million to $11.5 million per quarter, the amount of petroleum products gross earnings tax revenue that the commissioner of revenue services must transfer from the General Fund to the STF, starting with the quarter ending September 30, 2000.

Casual Motor Vehicle Sales (§ 12)

Starting in FY 2000-01, the act transfers from the General Fund to the STF all, rather than part, of the revenue from casual sales of motor vehicles. Under prior law, the motor vehicles commissioner had to transfer only the amounts shown below.

FY 2000-01	$20 million
FY 2001-02	$30 million
FY 2002-03 and thereafter	$40 million

The act also requires the commissioner to deposit the revenue in the STF monthly.

Debt Service (§ 13)

The act eliminates the $20 million cap on the amount carried forward in the STF from year to year and the requirement that the state treasurer use any STF balance over $20 million to reduce future special tax obligation bond debt service.

SALES TAX

Clothing and Footwear (§§ 3 and 15)

The act increases the sales tax exemption for clothing and footwear to items costing less than $75 rather than $50. It also eliminates the sales tax on clothing and footwear costing less than $300 from the third Sunday in August to the following Saturday annually.

As under prior law, the following items are excluded from the exemptions:

1. special athletic and protective clothing and footwear not normally worn except for its specialized use, and
2. jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items that people carry but do not wear like clothing or footwear.

Fuel-Efficient Cars (§ 6)

The act establishes a two-year sales and use tax exemption for passenger cars that the federal Environmental Protection Agency estimates will get 50 miles per gallon or more during highway driving. The exemption expires June 30, 2002.

High-Speed Data Equipment (§ 5)

Starting July 1, 2001, the act exempts from the sales tax equipment that telecommunications and cable television companies use to provide

telecommunications, high-speed data transmission, or broadband Internet services. To qualify for an exemption, the equipment must provide service that transmits information at a minimum speed of 200 kilobits per second in at least one direction.

Other Exemptions

The act exempts child car seats and college textbooks from the sales tax as of July 1, 2000 (§ 6). It exempts the following from the tax as of July 1, 2001:

1. closed-circuit television equipment used to help visually impaired people read (§ 1);
2. canes for invalids and handicapped people (§1);
3. support hose specially designed to help blood circulation bought by someone with a medical need for it (§ 1);
4. specially formulated gum, inhalants, or similar products to help people stop smoking (§ 5); and
5. burial caskets (§ 4).

The exemption for college textbooks applies to textbooks sold to a full or part-time student enrolled in a college or university who presents a valid student ID card. The textbook must be required or recommended for a college or university course.

The exemption for caskets expands an existing exemption for property used by funeral homes in preparing for or conducting burials and cremations, up to $2,500 per funeral. The new exemption applies to caskets sold by anyone, not just funeral homes.

Vending Machine Items (§ 2)

The act increases the sales tax exemption for nonfood items sold from vending machines from those costing no more than a penny to those costing no more than 50 cents.

Internet Access (§ 7)

The act eliminates the sales tax on Internet access services one year early, by July 1, 2001 instead of by July 1, 2002. The tax on sales of all computer and data processing services, including Internet access, is in a six-year phase-out. The tax on those services is scheduled to drop from 3% to 2% on July 1, 2000; 1% on July 1, 2001; and to be eliminated on July 1, 2002.

Professional Employer Agreements (§§ 17 and 18)

The act extends a sales tax exemption for separately stated wages and benefits paid to or on behalf of certain leased employees to also cover such wages and benefits paid to worksite employees by professional employer organizations under professional employer agreements.

It defines "professional employer agreements" as written contracts between a professional employer organization (PEO) and a customer under which the PEO agrees to provide at least 75% of the employees at the customer's worksite ("worksite employees"). Under the contract, the worksite employees must be permanent. The contract must allocate employer responsibilities for the worksite employees, including hiring, firing, and discipline, between the PEO and the customer.

It excludes worksite employees provided under a professional employer agreement from the definition of temporary employees hired by a temporary help service and assigned to support or supplement a customer's workforce. Leased employees are already excluded from that definition.

GIFT TAX (§ 8)

The act phases out the state tax on gifts under $1 million over six years from January 1, 2001 through December 30, 2006. The state tax applies to gifts subject to the federal gift tax (certain gifts valued at more than $10,000). The phase-out schedule is as follows:

2000 Rates		As of 1/1/01		As of 1/1/02		As of 1/1/03	
Gift	Tax	Gift	Tax	Gift	Tax	Gift	Tax
$25,000 or under	1%						
$25,001 - $50,000	$250 plus 2% over $25,000	$25,001 - $50,000	$250 plus 2% over $25,000				
$50,001 - $75,000	$750 plus 3% over $50,000	$50,001- $75,000	$750 plus 3% over $50,000	$50,001- $75,000	$750 plus 3% over $50,000		
$75,001- $100,000	$1,500 plus 4% over $75,000	$75,001- $100,000	$1,500 plus 4% over $75,000	$75,001- $100,000	$1,500 plus 4% over $75,000	$75,001 $100,00	$1,500 plus 4% over $75,000
$100,001 $200,000	$2,500 plus 5% over $100,000	$100,001- $675,000	$2,500 plus 5% over $100,000	$100,001- $700,000	$2,500 plus 5% over $100,000	$100,00 $700,00	$2,500 plus 5% over $100,000
Over $200,000	$7,500 plus 6% over $200,000	Over $675,000	$31,250 plus 6% over $675,000	Over $700,000	$32,500 plus 6% over $700,000	Over $700,00	$32,500 plus 6% over $700,000

As of 1/1/04		As of 1/1/05		As of 1/1/06	
Gift	Tax	Gift	Tax	Gift	Tax
$100,001- $850,000	$2,500 plus 5% over $100,000				
Over $850,000	$40,000 plus 6% over $850,000	Over $950,000	$45,000 plus 6% over $950,000	Over $1 million	$47,500 plus 6% over $1 million

CORPORATION TAX APPORTIONMENT (§ 25)

The act requires multi-state manufacturers and broadcasters to apportion net income for corporation tax purposes based on a single factor: gross receipts

from sales in Connecticut compared to total receipts. Under the act, "broadcasters" include television and radio broadcasters, cable television systems and networks, and affiliated program production entities.

An apportionment formula based only on receipts allows manufacturers and broadcasters with lots of property and employees in the state to pay less if most of their sales are outside Connecticut. Conversely, companies whose share of sales in Connecticut is greater than their share of property and payroll here pay more under a single-factor formula.

Under prior law, manufacturers and broadcasters had to use a three-factor apportionment formula as follows:

1. a property factor that represents the average book value of all tangible property the company holds or owns in the state, plus the value of any such property it rents;
2. a payroll factor consisting of the total wages, salaries, and other compensation paid to officers and employees in this state; and
3. a receipts factor, which is the share of the company's gross receipts from sales or other sources assignable to the state.

Receipts had a double weighting in the old apportionment formula.

Under prior law and the act, the receipts factor includes receipts from:

1. sales of tangible property delivered and shipped to a purchaser in Connecticut, with one exclusion;
2. services performed here;
3. rents and royalties from properties located here;
4. royalties from use of patents and copyrights here;
5. interest earned from assets managed or controlled here;
6. net gains from sale or other disposition of tangible or intangible assets managed in the state; and
7. all other receipts in this state.

Manufacturers

Manufacturing companies must change to the single-factor formula starting with estimated tax payments for calendar quarters beginning July 1, 2001. A manufacturer that makes 75% or more of its gross sales directly or, as a subcontractor, indirectly to the federal government may choose to continue apportioning net income according to the triple-factor formula. If a company makes that choice, it may not change for the following five years.

Broadcasters

Broadcasters must switch to single-factor apportionment based on receipts starting with the income year beginning October 1, 2001. Under the act, a "broadcaster" is a company that broadcasts film or radio programming over the air or by cable, satellite, or other means through a television or radio broadcast network or station or a cable television network or system.

The single-factor formula applies to a broadcaster's receipts from video or audio broadcast programming. If the broadcaster is a cable network, the single factor formula applies to all its net income from programming, including broadcasting, entertainment, electronic and print publishing, electronic commerce, and licensing any intellectual property created in pursuing such activities. For eligible affiliates that provide video or audio programming production services, the single-factor formula applies only to income they derive from such services.

"Video or audio programming" covers all performances; events; and productions, including news, sports, plays, stories and other entertainment, and literary, commercial, educational, and artistic works exhibited live or on tape, disc, or in any other format or medium.

The broadcaster's gross receipts from programming attributable to this state must include advertising revenue, affiliate and subscriber fees, and other receipts derived from covered activities including broadcasting, entertainment, electronic and print publishing, electronic commerce, and licensing intellectual property created in pursuing such activities.

Over-the-air broadcasters must attribute programming to this state based on Connecticut's share of the total domestic and foreign audience for a program. Cable television networks and systems must attribute programming to Connecticut based on the network's or system's Connecticut subscribers compared to their total domestic and foreign subscribers. A network must count as a subscriber anyone who (1) subscribes to a cable system affiliated with the network and (2) receives the network's programming. The audience or subscriber share must be determined by taxpayer records or by published rating statistics. The method used to determine the share must be consistent from year to year and fairly represent the taxpayer's activities in the state.

Eligible production entities must assign gross receipts to Connecticut based on the ratio of receipts they derive from video or audio programming production services for events that occur here

compared to their total receipts for such events.

ASSISTANCE FOR WARBURG, DILLION, READ (§§ 26 - 31)

Manufacturing Assistance Act (MAA) Assistance

The act authorizes DECD to give a certain financial institution (Warburg, Dillon, Read) MAA assistance and exempts the assistance from the requirement that economic development assistance to any company that exceeds $10 million in two years be specifically approved by the General Assembly.

Corporation Tax Credits

Under prior law, Warburg, Dillon, Reed (WDR— formerly Swiss Bank) was eligible for credits against 50% of its corporation tax, up to $120 million, for 10 years if it (1) built a new facility in the state for its direct or indirect corporate purposes that had at least 900,000 square feet, (2) received a temporary certificate of occupancy for the building, and (3) employed an average of 2,000 qualified employees during the year it claimed a credit. Also under prior law, the company could receive a 25% credit for the following five consecutive years if it employed at least 3,000 qualified employees both in the last year of its 50% credit eligibility and in each of five years it was eligible for the 25% credit. The company's eligibility period for the credits was triggered when the company received a DECD eligibility certificate.

Under the act, the initial qualified year for the tax credits is the income year DECD executes an agreement to provide the new MAA financing. The company cannot claim the 50% credits for the 10 years following the initial qualified year. But it may receive the 25% credits in the 11th through the 15th years if it has at least 3,000 qualified employees in the state in the 10th year and in each of the subsequent five years. The company's total credits are limited to $25 million.

Property Tax Exemption

Financial institutions in targeted investment communities (those with enterprise zones) were already eligible for five-year property tax abatements of up to 80% on new or expanded facilities and new machinery and equipment. Abatements for new or expanded facilities vary based on the value of the investment, with an abatement of 80% for an investment exceeding $90 million. The act extends these abatements for an additional five years if a financial institution has at least 4,000 qualified employees.

It imposes the same conditions on the abatement extension for new machinery and equipment that already applied to abatement extensions for new or expanded facilities. Those conditions are that (1) the employees be new hires and not transferred from another facility in the state operated by the applicant and (2) the DECD commissioner approves the extension in accordance with applicable regulations.

Qualified Employees

Under prior law and this act, in order to receive tax credits WDR must employ a specified number of "qualified employees." To be "qualified," employees must be new to the state and must either work here or perform services outside Connecticut that are merely incidental to their work here. They must work an average of at least 35 hours per week for at least eight weeks and be employed by WDR, one of its independent consultants, or an unrelated company that derives at least 80% of its gross revenue from WDR or a related company.

The act requires WDR's agreement with DECD for financial assistance to contain the dates, numbers, and specification for determining the qualified employees. But the agreement cannot be more favorable to the institution than the above definition.

BUSINESS TAX CREDITS

HMO Tax Credit (§ 19)

The act gives HMOs a credit against their net direct subscriber tax of $55 for each child they cover under the HUSKY A, HUSKY B, or HUSKY Plus health insurance programs. The total credit is figured by multiplying the number of such children the HMO covers on the first day of each month of the income year for which they are claiming the credit by $55 and dividing the total by 12.

HMOs must take the credit into account on their annual tax returns but may not do so in their estimated quarterly tax payments. By law, annual returns must be submitted by March 1 of the year following the tax year. But HMOs must pay estimated tax in four quarterly installments during the tax year. The first two are 30% and the last two are 20% of the HMO's estimated annual payment, which must be at least 90% of the tax for the year or 100% of the tax they paid in the previous year, whichever is less.

HUSKY Part A provides health coverage for children in low-income families under Medicaid, HUSKY Part B is a federal health insurance program for children in families with incomes above 185% of

the federal poverty level, and HUSKY Plus provides coverage for children with severe physical or behavioral disabilities who qualify for HUSKY B.

Computer Donation Credit (§ 20)

The act gives companies that donate new or used computers less than two years old to local or regional boards of education or public schools a tax credit equal to 50% of the computers' fair market value. The maximum annual credit for any one business is $75,000 and the total of all credits cannot exceed $1 million in any fiscal year. Credits cannot be carried forward to subsequent years and cannot be used to reduce the taxpayer's liability below zero.

The credit applies to the corporation tax; premium taxes on insurance companies and HMOs; and gross earnings taxes on air carriers, railroad companies, express, telegraph, cable, and community antenna television companies, and utilities.

Businesses must apply for the credits on a Department of Revenue Services (DRS) form that must state, at least, the number and fair market value of the donated computers and to whom and when they were donated. The application must be accompanied by a written agreement between the business and the receiving board of education or school that (1) provides for the board or school to accept the computers; (2) acknowledges that they are in good working order; and (3) requires the business to install, set up, and provide staff training on the computers.

Businesses may apply for credits on an ongoing basis. The DRS commissioner must review each application and approve or reject it within 30 days. His decision must be in writing and, if he approves the application, must state the maximum credit the business is allowed. The company must attach a copy of the decision to its tax return when it claims the credit.

Housing Tax Credits (§§ 23 and 24)

The act removes the $75,000 annual ceiling on housing tax credits that businesses can qualify for under the low- and moderate-income housing tax program. Businesses receive tax credit vouchers from the Connecticut Housing Finance Authority (CHFA) in exchange for making contributions to nonprofit developers of low- and moderate-income housing. The act maintains the annual $5 million limit for total credits.

The act allows only cash contributions to qualify for tax credits; removes the requirement that a business must at least match its previous year's contribution to receive a credit in a second year; and eliminates the prohibition on banks, insurance companies, savings associations, building and loan associations, or any other business from qualifying for the tax credit if the contribution is part of their normal course of business.

The act also allows subchapter S corporations to claim 100% of the housing tax credit for income years 1999 and 2000, even though their tax liability is being phased out. Beginning in income year 2001, S corporations will not be taxed on their net income.

Finally, the act specifies that the CHFA executive director must approve a nonprofit corporation's articles of incorporation before it can receive a donation for which the donor earns a credit. This authorizes CHFA, the agency that issues the tax credit vouchers, to approve nonprofits to receive tax-credit-eligible contributions. The act requires the approval to be in accordance with existing DECD regulations.

Computer Equipment Provided to Higher Education Institutions (§ 21)

The act gives a company that is selected by the commissioner of higher education and is a direct pay permit holder a credit against sales and use taxes it owes on computer equipment it buys on or after July 1, 2000 to use in Connecticut for electronic commerce. (A direct-pay permit holder buys tangible property or services under circumstances that make it difficult to determine, at the time of purchase, how the property or services will be used.)

The amount of the credit equals the resources the permit holder provides on or after July 1, 2000 to a Connecticut college or university for (1) designing, planning, building, or renovating buildings or classrooms; (2) acquiring computer equipment; or (3) acquiring property or licenses needed to operate computer programs used for student instruction in business studies related to electronic commerce or workforce development. In calculating the amount of the resources provided, a company can include cash and the value of property and services. The maximum credit is $2 million.

For the credit to be allowed, the commissioner must certify that the permit holder has provided the required resources and the related projects have been completed. The commissioner's certification must be made in a manner that satisfies the commissioner of revenue services. The act allows the DRS commissioner to adopt regulations prescribing procedures for the direct pay permit holder to claim the credit.

TOBACCO TAXES

Snuff Products Tax (§§ 35 and 36)

The act changes the tax on snuff tobacco from 20% of the wholesale price to 40 cents per ounce and a proportionate tax on smaller amounts. The tax is to be computed based on the product's net weight as listed by the manufacturer. As under prior law, the tax is paid by distributors and unclassified importers when the product is first manufactured, bought, imported, received, or acquired in Connecticut. The tax does not apply to snuff products exported from Connecticut or that are exempt from state taxes by federal law.

Cigarettes (§ 22)

The act prohibits the sale of cigarettes in any form other than in sealed packages of 20 or more. Under prior law, cigarettes could be sold in any size package, as long as it was sealed.

ADMISSION TAX (§ 16)

Cabarets

The act exempts from the 10% admission tax admissions to establishments whose admission charges were subject to the former cabaret tax. The cabaret tax was eliminated on July 1, 1999. It applied to places that serve refreshments and provide music, dancing, and other entertainment for profit. The tax was 5% of the total amount charged for admission, food and drinks, service, and merchandise.

Movies

The act reduces the admission tax on movie tickets costing more than $5 from 10% to 8% as of July 1, 2000 and to 6% as of July 1, 2001. Movies tickets costing less than $5 are exempt from the tax.

Connecticut Exposition Center

The act exempts events at the center from the admission tax.

FISHERIES ACCOUNT (§ 37)

The act increases, from $2 million to $3 million, the amount of tax revenue generated from the sale of motor fuel by distributors to boatyards, marinas, or other such facilities that must be deposited in the Conservation Fund. It allocates the extra $1 million to the fisheries account and allocates the fisheries account as follows:

5. at least $75,000 to UConn for the Long Island Sound Councils,
6. at least $75,000 to DECD for an economic impact study of the lobster industry in the Sound, and
7. at least $850,000 to DEP to enhance recreational fishing.

The DEP must submit its allocation for recreational fishing to the Environment Committee by October 1, 2000.

OCCUPATIONAL TAX ON ATTORNEYS (§ 32)

The act exempts attorneys practicing law as employees of a political subdivision of the state or of the probate court from the $450 annual occupational tax on attorneys.

JUVENILE PROBATION FEE (§ 33)

The act eliminates a $200 court-assessed fee a child's parents, guardians, or custodians must pay when the services of juvenile probation staff are required.

CLIENT SECURITY FUND FINANCING (§ 34)

The act requires the state treasurer to credit to the Client Security Fund any future interest the fund earns and retroactively to credit any it has earned since its inception. The Client Security Fund reimburses clients for losses resulting from dishonest attorney conduct in the course of the attorney-client relationship.

TOBACCO SETTLEMENT FUND (§ 40)

The act allocates $500,000 from the Tobacco Settlement Fund disbursements for FY 2000-01 to the Department of Mental Health and Addiction Services for a grant to the Regional Action Councils and reduces the allocation to the Tobacco Health and Trust Fund from $20 to $19.5 million accordingly.

NEW YORK COMMUTER TAX (§ 41)

The act requires the DRS commissioner to waive income tax interest and penalties for taxpayers who, in filing tax returns or making estimated payments for tax year 1999, claimed a credit for the New York commuter tax declared unconstitutional on April 4, 2000. Taxpayers must file an amended return and pay the extra tax due. The waiver applies to interest and penalties on the extra tax only.

URBAN SITES REINVESTMENT PROGRAM (§§ 30 AND 38–39)

Tax Credits

The act allows businesses to claim up to $100 million in business tax credits for the amounts they invest in projects in designated towns or in redeveloping contaminated or potentially contaminated properties. Businesses can invest the funds directly in a project or through a fund manager registered under the act. Those making direct investments qualify if the investment exceeds $20 million. Businesses investing through a fund manager qualify if the fund's total value exceeds $60 million in the first year they claim the credits. Investments can be in the form of a loan made to the fund for the benefit of a taxpayer who guarantees the loan.

The commissioner must submit requests for credits over $20 million to the legislature for approval as discussed below. He must also determine if requests exceeding $100 million would benefit the state and recommend statutory changes needed to accommodate them.

The credits equal 100% of the invested amount spread out over 10 years from when it was made. A business can begin claiming the credits three years after that date. It can claim 10% per year during the next four years and 20% during the last three.

Businesses can carry forward for up to five years tax credits they cannot use during the year in which they can be claimed. They can do this until the full amount is used.

Fund Managers

Registration. The act allows businesses to invest funds through fund managers that register with the DECD commissioner. A manager can apply for registration if its primary place of business is in Connecticut. The manager must submit the application under oath to the commissioner, providing evidence documenting the manager's financial responsibility, integrity, professional competence, and experience in managing funds. The commissioner can revoke the registration, after a hearing, if the manager fails to maintain adequate fiduciary standards.

Reporting. The manager must report by March 1 annually to the revenue services commissioner. The report must describe each fund's investment objectives and relative performance. It must specify the name, address, and social security or employer identification number of each investor; the year in which each investment was made; and the amounts invested. The report must describe each fee and expense the fund charged and the amounts. It must also include the expenses the fund incurred.

Asset and Investor Requirements. A qualified fund must have at least three investors and total assets over $60 million. The investors must not be related to each other or to any person in whom any investment is made other than through the fund at the date the investment is made. The act specifies criteria for determining if the investors are related.

An investor can claim the credits only if the fund is closed to additional investments or investors beyond the amount that was subscribed when the fund was formed.

Connecticut Insurance Reinvestment Act Fund Managers. Prior law authorized tax credits for investments made through a state-registered fund manager in Connecticut-based insurance companies. The act ends the DECD commissioner's authority to register these managers on July 1, 2000. But it deems those registered before July 1, 2000 to be registered for making investments under the act if they notify the commissioner that they intend to do so. He can ask these managers about their financial responsibility, integrity, professional competence, and experience in managing investment funds.

Project Eligibility Requirements

Urban Reinvestment Projects. Businesses qualify for credits for investing in new facilities in designated towns. These are the 17 towns with enterprise zones, the 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).

Besides being in a designated town, a project qualifies if it will generate significant additional state or local tax revenue and needs the credit to attract private investment. It must be economically viable and generate benefits that outweigh the cost of the investment. The project must be consistent with the state's and the town's strategic economic development priorities.

The project must generate new economic activity and create new jobs in the facility. These jobs must go to new hires or current employees transferred from other states. The employees holding these jobs must do so on a permanent, regular, and full-time or full-time equivalent basis.

The act specifies a formula for limiting the total number of new employees the business can count when calculating the tax credit amount, but it does not base the credits on the number of new employees working at the facility. Under this formula, the total number of new employees cannot exceed the difference between (1) the number of employees

working for the business when it applied for the credits plus the number of new employees that count toward the credit and (2) the highest number of employees working for the business during the year before it applied for the credits.

Industrial Site Projects. Businesses qualify for credits for investing in a project to remediate and redevelop a property where hazardous materials were produced, stored, or discharged and that may need the credits to attract private investment. The project qualifies if it will add new economic activity and employment in the town and generate additional state tax revenue after it has been remediated to the DEP's standard.

As with urban reinvestment projects, industrial site projects must be economically viable and generate direct and indirect economic benefits to the state that exceed the amount invested during the 10-year period for claiming the credits. The project must be consistent with the town's and the state's strategic economic development priorities.

Applying for Credits

Businesses or registered fund managers must apply to the DECD commissioner for tax credits. In doing so, they must:

1. show that the proposed project meets the act's criteria,
2. describe the type of investment they propose to make,
3. indicate the project's location,
4. identify the number of jobs the project will create or retain,
5. describe the physical infrastructure that may be created or preserved,
6. provide feasibility studies or business plans,
7. project the amount of state revenue the project will generate, and
8. provide other information demonstrating the project's financial viability and showing how it will benefit the state's economy and create jobs for residents of the town and the state.

Businesses and fund managers must also show how a remediation project will meet DEP's standards.

The commissioner must set an appropriate application fee.

Commissioner Review and Approval

Determining Project Eligibility. The commissioner must determine if the project meets the eligibility criteria and needs the credits to be economically viable. He must also determine how the project will affect the town, the extent to which it will create new jobs and produce other economic benefits, and whether it conforms to the State Plan of Conservation and Development. He can require the business to provide any additional information he needs in order to evaluate its application.

Revenue Impact Assessment. The commissioner must prepare a revenue impact assessment to estimate the state and local taxes the project will generate and prepare a study to determine the project's economic feasibility. He can hire people to prepare these studies and charge the applicant for the cost. The commissioner cannot give credits that exceed the revenue projected by the revenue impact assessment.

Approval Deadline and Requirements. The act allows the commissioner to approve an investment if he decides that the project meets the act's criteria. When deciding whether to approve a project, he must consider the information contained in the application, the revenue impact assessment, and any additional information he required.

The commissioner must decide whether to approve the application within 90 days after he receives it. If the commissioner rejects the application, he must identify its defects and explain the reasons for rejecting it. He must issue a certificate of eligibility if he approves the application.

The commissioner can use his existing powers when approving the application. These include extending other types of economic development assistance, such as grants, loans, and loan guarantees.

General Assembly Approval

The commissioner must submit applications requesting over $20 million in credits for a single investment to the Finance, Revenue and Bonding Committee and advise the Senate president pro tempore and the House speaker as to whether the credits should be approved. He must do this within 30 days of receiving the request. The commissioner can approve the request if neither chamber rejects it within 60 days.

The commissioner must notify the legislature of any request for over $100 million in credits. He must evaluate the request's benefits and recommend necessary statutory changes if he determines that it would benefit the state economically.

Claiming Credits

Eligibility Certificate. The act specifies how businesses must claim the credits. A business must submit a copy of the eligibility certificate with its tax return for each year it claims credits.

Businesses claiming credits for an investment under the act cannot claim credits under enterprise zone and Connecticut Insurance Reinvestment Fund programs for the same investment. The act also prohibits two businesses from claiming credits for the same investment, employee, or facility.

Combined Returns. The DRS commissioner can treat businesses filing a combined return as one taxpayer when determining if they meet the act's requirements. In these cases, the credit applies only to the amount of the combined tax attributable to the businesses as a single taxpayer. The combined tax attributed to a business must be in proportion to its share of the net income apportioned to Connecticut. The business must disregard any net loss apportioned to Connecticut when computing its share of net income.

Assigning Credits

The act allows businesses to assign their credits to other businesses, which can claim them only during the same tax year that the assigning business could have claimed credits. The businesses or the funds receiving the credits must give the DRS commissioner information about the assignment, including the names of the businesses that held the credit at the end of the previous calendar year, if he requests it. They cannot subsequently assign the credits to another taxpayer.

Recapturing Credits

Revenue Study. Businesses must repay the credits if the project fails to generate the projected revenue. The DECD commissioner may annually determine the state revenue each project generates and will continue to generate. He can hire people by July 1 annually that he needs to prepare this analysis and charge the business or the fund manager that made the investment for the cost. If the analysis shows that the project is not generating enough revenue to cover the total value of the credits that were actually claimed, the commissioner can determine the repayment ("recapture") amount and revoke the project's eligibility certificate.

Recapture Amounts. A business must recapture its pro rata share of the total recapture amount. It can claim no more credits unless the commissioner reinstates its eligibility certificate. The amount is the share of the approved investment that was actually invested in the project. The business' pro rata share is its share of the actual investment.

The business must recapture its pro rata share of the credits on its tax return. The size of the share depends on the year in which the business must recapture the credits. It must recapture 90% of its share if the commissioner requires recapture during the first year the business claimed the credit. The share decreases for the subsequent years as follows: 65% for the second year, 50% for the third, 30% for the fourth, 20% for the fifth, and 10% for years six through 10. As noted above, the business receives no credit for the first three years, 10% for years four through seven, and 20% for years eight through 10.

The DRS commissioner can recapture these shares from the taxpayer who claimed the credits. If he cannot recapture all or part of the share because the credits were assigned to another business, then the commissioner can recapture the credits from the business that received them. The recapture amount must at least equal the share that was assigned. The act specifies that the commissioner can also recapture shares from any fund through which an investment was made.

Reinstating Eligibility Certificates. A business can ask the commissioner to reinstate its certificate. He must conduct a new economic impact assessment and reinstate the credit if the amount of state revenue the project is generating exceeds the total value of the credits the business claimed as of the date of the study. The business cannot request reinstatement during the year in which the commissioner revoked its certificate. The commissioner must conduct the assessment each subsequent year and obtain other economic analyses he needs.

Property Tax Benefits

The act allows towns to abate or exempt the property taxes on properties receiving investments under it. They can abate or exempt 50% of the taxes attributable to the improvement for five years if the property does not qualify for property tax benefits under any other law. The benefits end if the owner transfers or sells the property without the town's approval. The town can recapture the tax benefits, but the recapture amount cannot exceed the value of the benefits.

Towns must notify the commissioner and the secretary of the Office of Policy and Management within 30 days of extending the benefits. They must identify the property owner or purchaser and the property's address.

BACKGROUND

Related Acts

PA 00-216, An Act Concerning Expenditures for the Programs and Services of the Department of

Public Health, revises how tobacco settlement funds are distributed.

PA 00-56, An Act Concerning Prohibited Cigarette Sales, also bans sale of cigarettes in packs of fewer than 20. That act takes effect October 1, 2000 while the identical provision of this act takes effect July 1, 2000. Since this act passed after PA 00-56, the earlier effective date applies.

PA 00-174, An Act Making Administrative Changes and Clarifications to Various Tax Statutes, Providing a Tax Credit for Insurance Guaranty Funds, and Exempting the Teachers' Retirement System from the Tax on Health Care Centers, also changes the tax on snuff tobacco.

PA 00-174—sSB 525
Finance, Revenue and Bonding Committee

AN ACT MAKING ADMINISTRATIVE CHANGES AND CLARIFICATIONS TO VARIOUS TAX STATUTES, PROVIDING A TAX CREDIT FOR INSURANCE GUARANTY FUNDS, AND EXEMPTING THE TEACHERS' RETIREMENT SYSTEM FROM THE TAX ON HEALTH CARE CENTERS

SUMMARY: This act:

1. changes and clarifies the applicability of, and administrative procedures governing, various state taxes, including sales and use, income, and corporation taxes;
2. transfers certain functions among the Department of Revenue Services (DRS) and other state agencies;
3. eliminates requirements for filing sworn affidavits under various tax laws;
4. updates definitions in various tax laws by adding corresponding references to the 1997 North American Industrial Classification System manual to existing references to the 1987 Standard Industrial Classification manual; and
5. makes technical changes and deletes obsolete references.

EFFECTIVE DATE: The effective dates and applicability of each of the act's substantive provisions are included in the explanations below.

SALES AND USE TAX

Tax Exemptions (§§ 4, 6, 9, 10, 11)

Food and Beverages. The act exempts from the sales tax:

1. candy, confectionery, and nonalcoholic beverages sold to organization or institution members in a student cafeteria, dining hall, dormitory, fraternity, or sorority in a school or higher education institution;
2. food, nonalcoholic beverages, candy, and confectionary sold to such members under prepaid meal plans;
3. candy, confectionary, and beverages sold to residents or people receiving care in hospitals and residential care, convalescent, nursing, and rest homes; and
4. food, candy, confectionary, and beverages sold to patients, residents, or people receiving care in assisted living facilities, senior centers, and day care centers.

Animal Drugs. It expands an existing sales tax exemption for nonprescription human drugs and related products to cover the same items for animals.

Items Taken From Inventory. It exempts from the use tax tangible personal property that a retailer bought for resale and later withdraws from inventory and donates to a government or nonprofit agency.

Motor Fuels. The act clarifies the sales and use tax exemption for motor vehicle fuels. Under prior law, gross receipts from distribution, storage, use, and consumption of motor vehicle fuel were exempt if the fuel distribution was "subject to" the motor vehicle fuels tax. (Certain sales, such as to municipalities, are not subject to the tax.) Under this act, fuel used in vehicles licensed for public highway use in Connecticut is exempt whether or not the motor vehicle fuels tax has been paid on it. Fuel used in any other way is exempt only if the motor fuel tax has been paid and not refunded.

Labor on Vessels. The act specifies that an exemption for labor performed on or after July 1, 1999 on vessels applies only to fabrication and special-order labor on existing vessels.

The foregoing exemptions are effective October 1, 2000 and apply to sales on and after that date.

Prepaid Phone Service (§§ 1, 2, 3)

The act requires a person to pay sales tax when he buys or recharges prepaid phone service and exempts calls made with such services from sales taxes paid by telecommunications companies. In deciding where the sales tax applies when prepaid phone service is not sold or recharged at a retailer's place of business, DRS must use the customer's shipping address or, if no item is shipped, his billing address or the location associated with his mobile phone number.

The act applies to services that allow customers to use access numbers or authorization codes to make phone calls for which they have paid in advance and

that allow them always to know how many units of calling, such as minutes, remain.

The prepaid phone provisions are effective October 1, 2000 and apply to sales on and after that date.

Farmer Exemption (§ 12)

The act relaxes conditions working farmers must meet to qualify for sales and use tax exemption permits for personal property and equipment they use exclusively in agricultural production. Under the act, a farmer qualifies if his average income from farming for the preceding two years, not just for the preceding year, is at least $2,500. It eliminates a requirement that the income be reported on specific federal income tax forms and requires only that it be his income for federal tax purposes.

Under certain circumstances, DRS can issue an exemption permit to a farmer who (1) buys a farm from another permit holder or (2) earned less than $2,500 from farming in the preceding year. The act reduces the time such a farmer has to promise to stay in business after receiving a permit from five to two years and makes him liable for two rather than five years of back taxes if he does not.

The act allows DRS to issue permits to startup farmers (those who were not engaged in farming in the preceding year) under the same conditions. Startup farmers are liable for back taxes if, two years after they receive a permit, their gross income from farming and their agricultural production expenses drop below $2,500 in either the preceding year or averaged over the previous two years. Such a farmer is also ineligible for a new permit. DRS may adopt regulations to administer the startup farmer provision.

The new farmer exemption provisions take effect October 1, 2000.

Commercial Fishing Exemption (§ 75)

By law, vessels, machinery, and equipment used exclusively for commercial fishing are exempt from the sales and use tax. To be exempt, at least 50% of the purchaser's income in the year before the purchase or use must be derived from commercial fishing. The act specifies that the year in question must be the purchaser's taxable year rather than the calendar year and that the 50% of income derived from fishing must be 50% of the income reported on the purchaser's federal income tax return.

The act extends the exemption to those who earned less than 50% of their income from fishing in the preceding year if they satisfy the commissioner that they intend to carry on fishing as a business for at least two years after buying a boat and equipment. If the purchaser fails to stay in business for that length of time, he is liable for the full tax. A purchaser also becomes liable for back taxes if, two years after he receives an exemption, he has derived less than 50% of his gross income in either the preceding year or averaged over the two preceding years from commercial fishing. Such a person is ineligible for a new exemption.

The fishing exemption provisions take effect October 1, 2000.

Canned and Custom Software (§§ 71, 72,73,74)

The act specifies that the existing sales tax on computer and data processing services covers programming, writing code, modifying existing programs, feasibility studies, and installing and implementing software programs and systems. The tax applies to such services rendered in connection with (1) developing, creating, or producing software held for general or repeated sale, license, or lease ("canned" software); (2) supplying computer programs at a single customer's special order ("custom software"); and (3) licensing custom software. The act also specifies that selling, leasing, or licensing canned or prewritten software is taxable.

Under the act, "canned software" includes combining prewritten programs and modifying a prewritten program to accommodate a customer's hardware requirements. Any software that is repeatedly or generally sold, leased, or licensed is regarded as canned even if it was first developed as custom software for in-house use. (Under revised definitions adopted in PA 00-1, JSS, taxable canned software excludes combinations and modifications of prewritten programs. That act also specifies that the sale, licensing, or lease of canned software first developed as custom software for in-house use is taxable only when the transaction involves an unrelated third party.)

The act states that its provisions (as revised by PA 00-1, JSS) are intended to clarify existing sales and use tax applicability to computer software. The changes are effective on passage and apply to all open tax periods.

Patient Care Services (§§ 68, 89, 70)

The act clarifies the definition of "patient care services" for purposes of the hospital gross earnings and sales taxes. It specifies that only tangible personal property, rather than any type of tangible property, is taxable and then only when it is transferred in connection with, not just "incidental to," therapeutic and diagnostic services a hospital provides to inpatients and outpatients. It also defines

the services for purposes of the hospital gross earnings tax in the same way. (By law, the hospital gross earnings tax applies to a hospital's total charges for all patient care services minus any refunds caused by errors or overcharges. PA 00-170 eliminates the tax as of April 1, 2000.)

The act states that these changes are intended to clarify existing law. They are effective on passage and apply to all open tax periods.

Resale Certificates (§§ 5, 7)

The act extends existing taxability presumptions and procedures for resale certificates to services as well as property. By law, property or services bought for resale are not taxed. Resale certificates, which must be in a form prescribed by DRS, testify that the purchaser is buying for resale. The change takes effect October 1, 2000 and applies to sales on an after that date.

Information Disclosure (§§ 4, 6, 14)

The act allows DRS to disclose to the town whose information led to the action, certain information about a vessel buyer against whom DRS assesses unpaid use tax. DRS may disclose the person's name and address and the amounts assessed and collected. The commissioner can already share with the town up to 50% of the amount he collects when a buyer fails to file a return. This act also allows him to share up to 50% of what he collects when a taxpayer underpays the tax owed. The new provisions apply to assessments made on or after October 1, 2000.

As of October 1, 2000, the act also eliminates requirements that the DRS commissioner furnish information about sales and use tax rates in other states.

Tax Assessment Challenges (§ 15)

The act extends the right to challenge sales and use tax assessments against retailers who willfully fail to pay the taxes to (1) parties responsible for paying taxes on a retailer's behalf and (2) successor owners of retailers that owe taxes. It affects assessments made on and after July 1, 2000.

Successor Liability (§ 16)

The act extends sales and use tax liability to anyone who takes over any kind of business that was supposed to pay the tax, not just a retailer. It adds a third possible beginning to a successor's liability by allowing it to start when the predecessor quits the business. The existing alternatives are when the predecessor sells his business or stock or when the tax assessment against him becomes final. As under prior law, liability starts with the event that occurs last.

The new provisions apply to sales of businesses and goods on or after October 1, 2000.

Security Requirements for Out-of-State Contractors (§ 17)

The act reduces, from 5% to 2%, the tax payment security and withholding requirements for nonresident contractors of direct payment permit holders. (A direct payment permit holder pays sales and use taxes directly to DRS rather than through vendors.)

It requires all nonresident contractors, regardless of whether they are dealing with direct payment permit holders, to pay the security to DRS at the start of the contract. In addition, it requires a person dealing with a nonresident contractor who does not have a DRS certificate stating that the contractor posted the required security, to pay the required 5% withholding (or 2% in the case of a direct payment permit holder) from the amount payable under the contract to DRS within 30 days after the contract starts.

The changes apply to contracts entered into on or after October 1, 2000.

Casual Sales of Motor Vehicles, Vessels, Snowmobiles, and Aircraft (§ 18)

Under prior law, nondealer sales of motor vehicles, vessels, snowmobiles, and aircraft in connection with a corporate organization, reorganization, or liquidation or the organization or termination of a partnership or limited liability company were not taxable if they met three conditions: (1) the tax was paid on the item's last taxable sale or use; (2) the buyer, in the case of a corporation, is the corporation itself or one of its stockholders or, in the case of a partnership or limited liability company, the partnership or company itself or one of its members or partners; and (3) the gain or loss to the seller is not recognized for federal income tax purposes. This act eliminates the third condition. It takes effect on passage.

INSURANCE PREMIUMS TAX (§§ 50, 76, 77, 82)

Deductibility of Guaranty Association Payments

The act allows insurance companies to credit against from their premium tax liability the full amount of any assessments they pay to the Connecticut Insurance Guaranty Association (CIGA)

and the Connecticut Life and Health Insurance Guaranty Association (CLHIGA). They must spread the credit over the five years following the assessment, offsetting their premium tax liability each year by 20% of the assessment payment. It also allows them to transfer offsets to their affiliates. (An affiliate is a company that, directly or indirectly, the insurer controls; controls the insurer; or along with the insurer, is controlled by a third entity.)

Under prior law, insurers could credit 50% of their CLHIGA assessment only and they had to take the entire credit in one year.

The new credits apply to income years starting on and after January 1, 2000.

Association Refunds

Insurers who credit payments must pay the state 100% of any refunds they receive from an association when association assets exceed liabilities. Under prior law, insurers had to pay back 50% of any refunds they received from CLHIGA only.

The act requires CLHIGA to notify DRS when it makes refunds and specifies that CLHIGA's existing required refund notification go to DRS. It also requires CLHIGA to "promptly" give DRS (1) the names and addresses of insurers who receive refunds, (2) refund amounts, and (3) the dates it mailed the refunds. It requires insurers to repay the required amounts to DRS within 30 days after the mailing date and imposes interest of 1% per month or fraction of a month for late payments. The enhanced notice and interest requirements do not apply to CIGA refund repayments.

Finally, the act eliminates a requirement that insurance companies pass through their CIGA assessments in premiums. These provisions take effect July 1, 2000 and apply to refunds made on or after that date.

HMO SUBSCRIBER TAX EXEMPTION (§ 78)

The act excludes from the tax on HMO subscriber charges those the state pays under new or renewal contracts or policies (1) entered into on or after February 1, 2000 and (2) covering retired teachers and their spouses or surviving spouses under health insurance plans provided by the state Teachers' Retirement System. Charges the state pays for health coverage for state employees, retired state employees, and dependents; Medicaid recipients; and eligible HUSKY recipients are already tax-exempt, as are charges paid by the federal government for coverage of Medicare patients. The new exemption is effective on passage.

DUES TAX LOCKER RENTAL EXEMPTION (§ 19)

The act exempts locker rental charges imposed by certain social, athletic, and sporting clubs from the 10% dues tax. Such charges remain subject to the sales tax. Clubs that (1) charge less than $100 for memberships or (2) are sponsored and controlled by charitable or religious organizations, nonprofit educational institutions, or government agencies are already exempt from the dues tax. The exemption applies to charges made on or after October 1, 2000.

INCOME TAX

"Claim of Right" Repayment Deductions (§ 46)

The act allows a taxpayer to reduce his state taxes for the current year when he repays income he received in a previous year to which he thought he had an unrestricted right (called a "claim of right") and on which he therefore paid Connecticut income taxes. In such a case, if the taxpayer properly determines his federal tax liability under the federal claim of right law, he can deduct from his current state liability the decrease in his prior year's taxes that would have resulted had he not counted the income.

No state tax reduction is allowed if the repayments are deductible when the taxpayer computes his federal adjusted gross income. A taxpayer who excluded part of the income in the prior year because he was a nonresident or part-year resident must reflect that exclusion in the repayment deduction. If the deduction exceeds the tax due in the current year, the taxpayer receives a refund or credit against future taxes. Finally, even if a federal repayment deduction results in the taxpayer having a net operating loss for the year for federal tax purposes, he cannot claim a state income tax refund by carrying that loss back to prior years.

The new provision applies to taxable years starting on or after January 1, 1999 but a taxpayer cannot receive interest on overpayments stemming from applying the change to the 1999 taxable year.

Connecticut Residency (§ 38)

The act adopts the "548-day rule" as one test of Connecticut residency for income tax purposes. Under that rule, a person is considered a state resident unless (1) during any 548-day period he spends 450 days or more in a foreign country and no more than 90 days in Connecticut; (2) does not have a permanent residence here at which his spouse (unless legally separated) or minor children live for

more than 90 days during the period; and (3) for the taxable years in which the 548-period begins and ends, the ratio of the number of his resident days to 90 is no greater than the ratio of the number of his nonresident days to 548.

The act also modifies one of the other residency tests by specifying that an armed forces member from out-of-state who lives here for more than 183 days in any tax year can only be considered a nonresident if he is here on active service. The changes apply to taxable years starting on or after January 1, 2000.

Credit Against Alternative Minimum Tax (§ 37)

The act eliminates a credit against Connecticut's alternative minimum income tax for alternative minimum taxes paid to a Canadian province. Alternative minimum taxes paid to other U.S. states or the District of Columbia are still creditable. The change applies to taxable years starting on or after January 1, 2000.

Deductions from Gross Income (§ 39)

The act eliminates a deduction from taxable gross income for refunds or credits of overpayent of income taxes paid to a Canadian province.

It extends the tax exemptions for Social Security benefits by specifying that they apply to single filers and married joint filers. Under prior law, the exemptions applied only to married people filing separately and heads of households. The same income cutoffs ($50,000 for single and married separate filers and $60,000 for joint filers and heads of households) apply in determining whether a taxpayer qualifies for a full or partial exemption.

The act also clarifies the description of taxable Social Security benefits (25% of benefits received for taxpayers with incomes greater than the thresholds specified above).

The changes apply to taxable years starting on or after January 1, 2000.

Standard Deduction for Unmarried Single Filers (§ 40)

PA 99-173 increased the personal exemption for unmarried single filers from $12,250 to $15,000 over eight years starting with the 2000 taxable year. That act also reduced the exemption by $1,000 or a fraction of $1,000 for incomes over certain amounts, with each $1,000 of income above the thresholds triggering a $1,000 reduction in the exemption. This act reduces those thresholds for the first six years as follows:

Income Year	***Exemption***	***Prior Threshold***	***New Threshold***
2000	$12,250	$25,000	$24,500
2001	12,500	26,000	25,000
2002	12,750	27,000	25,500
2003	13,000	28,000	26,000
2004	13,500	29,000	27,000
2005	14,000	30,000	28,000
2006	14,500	29,000	No change
2007	15,000	30,000	No change

The change takes effect on passage.

Payment Deadline for Extensions (§ 41)

By law, a person who receives a tax filing extension who is found to owe additional tax must pay interest on the additional amount owed from the original due date to the payment date. But the taxpayer owes no penalty if the additional tax is less than 10% of the tax shown on the return and the taxpayer pays the balance due with his return. This act specifies that, to avoid a penalty, the taxpayer must submit the return and payment by the extended due date. The change applies to taxable years starting on or after January 1, 2000.

Notice of Amended Return (§ 42)

By law, a taxpayer who files an amended federal return must file an amended state return with DRS within 90 days. The act specifies that this requirement applies both to individual taxpayers whose reported federal adjusted gross income changes and to trusts and estates when their federal taxable incomes change.

The act also specifies that the requirement applies to tax changes under the federal "claim of right" law. That law allows a taxpayer to reduce his federal tax if he paid too much in a prior year or years on the mistaken assumption that he had an unrestricted right to certain income.

The change applies to returns for taxable years starting on or after January 1, 1999.

Refund Claims (§ 43)

By law, a claim for a tax refund must be filed within three years of the payment due date. This act specifies that, when the taxpayer received a filing extension, a refund claim is timely if it is filed within three years after the date he filed his return or within three years of the extended due date, whichever is earlier.

By law, the state has 90 days to pay a refund. If a refund claim is filed before the tax filing deadline

date, the 90-day clock starts to run on the filing date. Under the act, the filing deadline must be determined without regard to filing extensions.

The change applies to taxable years starting on or after January 1, 2000.

Deficiency Assessments (§§ 44, 45)

By law, when a taxpayer underpays his taxes, DRS must, in general, mail a deficiency assessment within three years after he filed the return. Under prior law, DRS could make assessments after the three-year deadline only if a return was both false and fraudulent and if the taxpayer who filed it intended to evade taxes. Under this act, the only requirement is that the return be either false or fraudulent.

In addition, the act specifies that deficiency assessment deadlines and exemptions from them apply to amended returns resulting from federal "claim of right" changes.

By law, whenever when a person fails to file a return within three months after the filing deadline, DRS can file a return for him on the basis of available information and assess taxes and penalties based on it. This act specifies that the DRS filing does not start the clock running on the three-year time limit on deficiency assessments or prosecutions for willful violations.

The changes apply to returns for taxable years starting on or after January 1, 1999.

CORPORATION TAX

Tax Credits for New Jobs (§ 22)

Manufacturers and specified service and entertainment businesses qualify for tax credits if they acquire or develop facilities in enterprise zones or other designated areas and consequently create new jobs at these facilities. This act qualifies them for these credits when they transfer jobs to the facility from another eligible facility within the same municipality. The change takes effect on passage.

Voluntary Traffic Reduction Credits (§ 23)

The act specifies that a business can claim a tax credit for participating in a voluntary traffic reduction program only for that part of the program it conducts in Connecticut for Connecticut employees. This change limits the 50% credit to the amount the company spends in Connecticut on the program and sets the maximum credit at $250 per Connecticut employee. It applies to income years starting on or after January 1, 2000.

Welfare Hiring Incentive (§ 25)

Companies can receive tax credits for employing certain former welfare recipients for a minimum of 30 hours a week (those who have been receiving Temporary Family Assistance benefits for more than nine months and who meet other requirements the labor commissioner establishes in regulations). Under prior law, to receive a credit, the company had to employ the recipients during and after fiscal year 1999-00. The act changes the fiscal year to corporate income years. The change applies to income years starting on or after January 1, 2000.

Alternative Minimum Tax Apportionment in Combined Returns (§ 26)

By law, affiliated companies can file a combined tax return and base their tax liability on their combined net income or loss or their combined alternative minimum tax base allocated to Connecticut. In calculating the combined income or loss, one company may exclude payments and related interest costs for use of such things as patents and trademarks as long as the combined return also covers the company that received the payments. Under this act, those excluded expenses must also be excluded in the companies' alternative minimum tax apportionment. The change applies to income years starting on or after January 1, 2000.

UTILITY COMPANIES TAX – GAS DISTRBUTION COMPANIES (§ 27)

Starting July 1, 2000, the act prohibits local gas distribution companies (those that sell or transmit gas within a franchise area to end users) from transmitting gas for any seller that is not registered with DRS for purposes of the utility companies tax. The prohibition does not apply to sellers that are regulated gas companies or municipal gas utilities or to gas transmission and pipeline companies that are subject to the corporation business tax. The act allows the DRS commissioner to publicize the names and addresses of the covered sellers that have registered.

CIGARETTE TAX

Cigarette Distributors' Licenses (§ 29)

By law, cigarette distributors must have licenses from DRS. As part of an initial license application, the applicant must file affidavits from three "recognized" cigarette manufacturers that they intend to supply the applicant if he gets a license. This act

allows the DRS commissioner to publish a list of recognized cigarette manufacturers. The change takes effect July 1, 2000.

TOBACCO PRODUCTS TAX

Snuff Tobacco (§§ 81, 82)

The act imposes a tax on snuff tobacco products of 40-cents-per-ounce and a proportionate tax on fractional amounts in addition to the existing tax of 20% of the wholesale price levied on all tobacco products, including snuff. (But PA 00-170 makes only the new 40-cent per ounce tax apply to snuff.)

The tax must be computed based on the product's net weight as listed by the manufacturer. As under existing law, the snuff tax is paid by distributors and unclassified importers when the product is first manufactured, bought, imported, received, or acquired in Connecticut. Also as under existing law, the new tax does not apply to snuff products exported from Connecticut or that federal law exempts from state taxes.

The change in the snuff tax takes effect July 1, 2000.

Returns (§ 30)

The act changes the due date for monthly tobacco products tax returns and payments from the 10th to the 25th of the month following the month the return covers. It also eliminates a requirement that the information the DRS commissioner requires on the returns be specified in regulations. The change applies to reports for periods beginning on or after July 1, 2000.

ALCOHOLIC BEVERAGES TAX (§ 31)

The act transfers responsibility for issuing certificates allowing people to import alcoholic beverages into the state for personal consumption from the Department of Consumer Protection (DCP) to DRS. Under prior law, in order to get a certificate, a person had to apply to DCP and include with the application a DRS certificate showing that he paid required state alcoholic beverages taxes. Under the act, the application goes to DRS along with a return that reports the required alcoholic beverage use taxes and the tax payment. The transfer applies to applications filed on or after July 1, 2000.

PETROLEUM PRODUCTS GROSS EARNINGS TAX EXEMPTION (§ 80)

The act exempts earnings from the sale of paraffin (kerosene) and microcrystalline waxes from the petroleum products gross earnings tax. The exemption takes effect July 1, 2000.

MOTOR VEHICLE FUELS TAX

Surety Bond Requirements (§ 32)

The act changes the bond requirements for motor fuel distributors licensed by DRS. Under prior law, the bond was $5,000 or the DRS commissioner's estimate of the total tax payable on all the fuel the distributor sold or used, whichever was greater. Under the act, the commissioner must set the bond amount at whatever level is needed to secure the distributor's tax payments. It requires the distributor to file the bond annually and to maintain it for three years and one month after the end of the bond year instead of after the license expiration date. The change applies to license applications filed on or after July 1, 2000.

Nontaxable Fuel Sales (§ 33)

By law, distributors who make only nontaxable fuel sales (such as home heating oil dealers) may file reports instead of tax returns with DRS. The act eliminates the requirement that the reports be sworn. It also allows distributors merely to maintain a record of, rather than include in each report, information on (1) who he bought his fuel from; (2) who he sold it to, in what quantities, and when; and (3) any other information the commissioner considers reasonable. The change applies to reports for periods starting on and after July 1, 2000.

CONTROLLING INTEREST TRANSFER TAX EXEMPTION (§ 36)

The act exempts from the controlling interest transfer tax any sale or transfer of a covered entity that changes its ownership identity, form, or organization but not its beneficial ownership. Transfers or sales of controlling interests in any entity that has an interest worth $2,000 or more in real property is subject to a tax of 1.11%. Transfer of controlling interest in property located in an enterprise zone is already exempt. The new exemption applies to sales or transfers on or after July 1, 2000.

CONNECTICUT SITING COUNCIL ASSESSMENTS (§ 47)

The act transfers responsibility for collecting quarterly assessments for the Connecticut Siting

Council's administrative expenses from DRS to the council. Companies that provide communications services and that have come before the council in the preceding year are subject to assessments. The change applies to assessments due and payable on and after July 1, 2000.

MUNICIPAL INTERLOCAL RISK MANAGEMENT AGENCY LOAN REPAYMENTS (§ 79)

The act extends, from July 1, 2000 to June 30, 2001, the deadline by which interlocal risk management agencies must repay loans they received from the Municipal Liability Trust Fund committee. The extension is effective on passage.

TAX COLLECTION PROCEDURES

Information Disclosure (§ 51)

The act allows the DRS commissioner to disclose to tourism districts the names and addresses of taxpayers who operate hotels and lodging houses.

Tax Warrants On Intangible Personal Property (§ 52)

The act allows a tax warrant on the intangible personal property of someone who fails to pay state taxes to be served on a third person who possesses or is obligated with respect to the property by e-mail or fax as well as by certified mail, return receipt requested. As under existing law, in such a situation, the state collection agency must give 30 days prior notice of its intent to issue the warrant to the property's owner in person, by leaving it at his home or place of business, or sending it by certified mail, return receipt requested.

Both changes in collection procedure take effect on passage.

AFFIDAVITS ELIMINATED

Sales and Use Tax

Motor Vehicle Sales to Armed Services Members (§§ 4, 6). By law, members of the armed forces who are on full-time active duty in Connecticut but are residents of other states pay 4.5% rather than 6% sales or use tax when they buy a motor vehicle here or buy one to use here. The act eliminates a requirement that a motor vehicle dealer get an affidavit from such a buyer concerning where he lives. It instead requires only the buyer's declaration on a form prescribed by the DRS commissioner and signed under penalty of false statement.

Exemption Permits (§ 63). Business people do not have to pay sales tax on items they buy from Connecticut retailers that they either ship out-of-state for use in their business or that they make into some other tangible personal property that they ship for use and consumption out-of-state. The act requires applicants for these sales tax exemption permits for such purchases to file declarations under penalty of false statement rather than affidavits and notarized applications.

Nonresident Motor Vehicle or Vessel Purchaser (§ 64). The act requires that, to avoid paying sales tax when buying a motor vehicle or vessel, a nonresident purchaser file a declaration rather than an affidavit. The declaration must be in a form prescribed by the DRS commissioner and signed under penalty of false statement.

Farmer Exemption Permits (§ 12). The act eliminates a requirement that a farmer applying for an exemption permit file a notarized application and instead requires him to file a declaration in a form prescribed by DRS and signed under penalty of false statement.

These affidavit eliminations take effect October 1, 2000.

Succession and Transfer Taxes

Charitable Exemption Claims (§ 58). The act allows the DRS commissioner to require a recipient claiming an exemption from the transfer tax for property transferred to it for charitable, educational, literary, scientific, or historical purposes to file a declaration rather than an affidavit that none of its officers, members, shareholders, or employees has or will receive any profit from the operation of the property, other than reasonable compensation for services in effecting its purposes or as a charitable beneficiary. The declaration must be in a form prescribed by the DRS commissioner and signed under penalty of false statement.

Farmland (§§ 59, 67). When farmland is bequeathed at the owner's death, the act requires the decedent's succession tax return to include a declaration rather than a sworn statement of the land's fair market value. The declaration must be in a form prescribed by the DRS commissioner and signed under penalty of false statement. The act makes the same change in the gift tax requirements for farmland given away during the owner's life.

Succession Tax Returns (§ 60). The act eliminates a requirement that the succession tax returns that fiduciaries or others receiving property from estates must file with the probate court be sworn. It also eliminates the requirement that

corrections and changes in such returns be sworn. Instead, it requires the returns to be filed in a form prescribed by the DRS commissioner and signed under penalty of false statement.

Generation-Skipping Transfer and Estate Taxes (§§ 61, 62). The act eliminates the requirement that corrections to generation-skipping transfer and estate tax returns be in affidavit form and instead requires taxpayers to file amended returns.

All the foregoing affidavit eliminations take effect on passage.

Gift Tax (§ 66)

The act requires the donor to make a declaration under penalty of false statement, rather than swear an affidavit, that the property he is showing on his gift tax return constitutes the entire gift.

The change takeS effect on passage.

Corporation Business Tax (§§ 53, 54, 55)

The act requires corporations to submit amended tax returns rather than affidavits when federal officials change their income, profits, or earnings in a way that affects their state corporation business tax liability. The change takes effect July 1, 2000.

Cigarette Tax (§ 57)

The act eliminates the DRS commissioner's option of requiring cigarette dealers and distributors who do not acquire unstamped cigarettes to file affidavits instead of monthly tax returns. The commissioner can still allow such dealers to file annual reports but they must be in a form he prescribes and filed under penalty of false statement. The change takes effect July 1, 2000.

Utility Companies Tax (§ 56)

The act requires an electric distribution company officer or authorized agent to sign, rather than swear to, its quarterly utility company tax returns. The change is effective July 1, 2000.

Motor Vehicle Fuels Tax (§ 65)

The act requires farmers and aviators who are exempt from the motor fuels tax to file with the fuel distributor a statement rather than an affidavit that the fuel is strictly for farming or aviation purposes. The statement must be in a form prescribed by the DRS commissioner and signed under penalty of false statement. The change takes effect July 1, 2000.

BACKGROUND

Related Act

PA 00-170 eliminates the hospital gross receipts tax as of April 1, 2000. It also imposes the same new tax on snuff tobacco as this act but makes it apply instead of the existing tax and not in addition to it.

The Insurance Guaranty Associations

The Connecticut Insurance Guaranty Association pays the valid claims of state residents when a property-casualty insurer becomes financially impaired or insolvent. The Connecticut Life and Health Insurance Guaranty Association pays valid claims of residents and others when a Connecticut-chartered or a licensed nonresident life and health insurer becomes financially impaired or insolvent.

PA 00-186—sSB 530
Finance, Revenue and Bonding Committee
Energy and Technology Committee

AN ACT CONCERNING THE ASSESSMENT OF THE PERSONAL PROPERTY OF CERTAIN PUBLIC SERVICE COMPANIES, REQUIRING THE REGISTRATION OF ELECTRIC GENERATING FACILITIES AND EXEMPTING CERTAIN PERSONS INVOLVED WITH COMMUNICATIONS-RELATED PROPERTY NEGOTIATIONS FROM THE REAL ESTATE BROKER LICENSING STATUTES

SUMMARY: This act allows the assessors of 11 municipalities to audit the personal property of telecommunications companies subject to a statewide mill rate. When the audit is complete, the municipality must notify the companies of any problems with their returns. The company must file an amended return or challenge the assessor's findings. The assessors must report on their audits to the Finance, Revenue and Bonding Committee by January 1, 2001.

The act requires the Department of Public Utility Control (DPUC), in consultation with the Office of Policy and Management (OPM), to study the assessment of electric distribution, gas, and water company personal property. The study must examine the effect of different assessment methods on utility rates. DPUC must report its findings and recommendations to the Energy and Technology and Finance, Revenue and Bonding committees by January 1, 2001.

The act exempts communication-related property brokers from the real estate broker and salesmen-licensing law.

By law, a DPUC certificate is required to provide most forms of telecommunications services in the state. The act eliminates the requirements that the notice of an application given to interested parties be (1) in writing and (2) given within 30 days of the application. It requires DPUC to notify the public as well as interested parties. It allows DPUC to forgo holding a hearing on an application if no party requests one.

Finally, the act requires entities that operate electric generating facilities in Connecticut to register with DPUC. DPUC must adopt regulations by January 1, 2001 to establish registration procedures and standards. The registration requirement does not apply to hydroelectric facilities, generators with a capacity of four or fewer megawatts, and generators owned and operated by electric distribution or gas companies.

EFFECTIVE DATE: October 1, 2000 for the registration requirement, telecommunications certification, and real estate licensure provisions and upon passage for the remaining provisions.

AUDIT OF TELECOMMUNICATIONS PROPERTY

Existing Law

By law, the personal property of telephone companies is subject to a statewide tax rate of 47 mills, rather than the locally applicable mill rate. The companies must list their property with OPM, which determines the amount of taxes to be paid to each municipality where the company owns such property. Other telecommunications companies can choose to have their personal property subject to this provision.

Audit

The act allows the assessors in Bridgeport, Cheshire, Fairfield, Hartford, Mansfield, Meriden, New Haven, New London, Southbury, Stamford, and Windsor to audit the companies' lists. The assessor must give written notice of the time and place of the audit to the company or other person who knows about the property or its value. The notice must be delivered personally or by registered or certified mail. It must require the audited party to appear before the assessor or his designee with accounts and other documents to be examined under oath regarding the property and its value. The auditors must use the assessment method specified in the law, which among other things sets depreciation rates.

After finishing the audit, the assessors must notify the audited party in writing within 30 days. The notice must identify any property (1) improperly included in the list provided to OPM, (2) not included on the list, or (3) improperly valued. A copy of the notice must be sent to OPM.

Recalculation of Taxes

If property has been improperly included, the OPM secretary must determine the amount of taxes paid on it and deduct this amount from the subsequent year's payment to the municipality. (Presumably, the municipality could seek payment of the tax on the property at the local mill rate.) With regard to the other property subject to the assessor's notice, the property owner must file an amended return or a written notice challenging the assessor's findings within 30 days of receiving the notice.

An amended return must reflect the value of the property not included in the list, using the valuation method in existing law. If the list contained inaccurate values, they must be corrected. The OPM secretary must calculate the tax, add a penalty of 25% (in the case of undeclared property) or 10% (in the case of undervalued property), and notify the owner of the amount due. The owner has 30 days to pay.

Challenge of Audit Results

If the owner decides to challenge the assessor's findings, it must submit a written notice to the OPM secretary identifying why it believes the findings are wrong. Within 60 days of receiving the challenge, OPM must notify the company and the assessor of the time and place of a hearing to review the assessor's findings and the owner's response. The secretary must issue his decision, including whether the owner must file an amended return, within 30 days of the hearing's conclusion. An aggrieved owner or municipality can appeal to the Superior Court in the judicial district where the property is located.

REAL ESTATE LICENSURE EXEMPTION

The law generally requires a real estate broker's or salesmen's license for anyone who, on behalf of another and for a fee, commission, or other valuable consideration, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of an estate or interest in real estate.

The act exempts people and their regular employees from licensure if they, as owner, lessor, licensor, representative, or agent, (1) manage, lease,

or license space on or in a tower, building, or other structure that houses facilities for personal wireless or private mobile services, as defined under federal law, and (2) install and maintain devices, ancillary equipment used to operate such devices and equipment at such facilities, and equipment shelters of up to 360 square feet per service.

The act also allows such people to exercise any right to gain access to each facility and connect or use appropriate utilities in the operation of their wireless or mobile service business. It requires each (1) facility to be unattended and (2) device installed and maintained at the facility to be authorized by the Federal Communications Commission.

PA 00-194—sSB 605
Finance, Revenue and Bonding Committee

AN ACT CONCERNING ASSESSMENT PRACTICES FOR CONSTRUCTION IN ENTERPRISE ZONES AND DESIGNATION OF ENTERPRISE CORRIDOR ZONES

SUMMARY: This act bars a municipality from levying property taxes on improvements to real property in an enterprise zone while the improvements are being built. By law, property taxes on improvements to buildings located in enterprise zones are deferred according to a fixed, seven-year schedule, although a municipality may negotiate assessments on any part of a commercial or retail improvement worth more than $80 million.

The act also increases the limit on the populations of contiguous towns that may form enterprise corridor zones from 35,000 to 60,000. The law allows three or more such contiguous towns to form an enterprise corridor zone if (1) they are public investment communities and (2) at least half are located along the same interstate highway or limited access state highway or are located on intersecting interstate or limited access highways. Businesses located in enterprise corridor zones are eligible for the same benefits under the same conditions as businesses located in enterprise zones.
EFFECTIVE DATE: Upon passage

PA 00-208—sSB 528
Finance, Revenue and Bonding Committee
Judiciary Committee

AN ACT CONCERNING THE REGULATION OF CERTAIN CIGARETTE MANUFACTURERS

SUMMARY: This act requires any tobacco products manufacturer that sells cigarettes in Connecticut to either (1) enter into, and perform financial obligations under, the master settlement agreement between Connecticut and four leading tobacco products manufacturers concluded on November 23, 1998 or (2) pay certain amounts into a qualified escrow fund.

A manufacturer that chooses the latter option must establish an escrow fund and, by April 15 of any year in which it sells cigarettes in the state, pay into it a specified amount for each such cigarette sold. The amount starts at just over one cent per cigarette for the second half of 2000 and rises to 1.9 cents per cigarette for 2007 and each year thereafter. The amounts must be adjusted for inflation.

Escrowed funds must be used to pay judgments or settlements on released claims brought against the manufacturer by the state or any other party to the master settlement agreement located or living here. Tobacco manufacturers receive any interest or other appreciation on money in the fund as it is earned. Any unused funds must be released to the manufacturer 25 years after they are deposited. Manufacturers must certify their compliance with the escrow requirements to the attorney general annually. Any manufacturer that fails to place funds in escrow by April 15 annually must do so within 15 days.

The attorney general may sue violators on the state's behalf. If the court finds a violation, the act allows it to impose a civil penalty of up to 5% of the improperly withheld amount for each day of violation up to 100% of that amount. For a knowing violation, the penalty may be up to 15% of the improperly withheld amount per day up to 300% of that amount. For a second knowing violation, a violator is barred from selling cigarettes in the state, either directly or indirectly, for up to two years. Each failure to make the required annual deposit is a separate violation.
EFFECTIVE DATE: July 1, 2000

COVERED TOBACCO PRODUCT MANUFACTURERS

The act covers any entity or successor that, after July 1, 2000, directly and not through an affiliate, (1) manufactures cigarettes intended for sale in the United States (regardless of where they are manufactured) or (2) is the first purchaser anywhere of cigarettes for resale in the United States, even if their manufacturer did not intend them for sale in the United States.

It does not apply to:

1. a manufacturer that intends to sell cigarettes in the United States exclusively through an importer that is responsible for payments for

those cigarettes under the master settlement agreement, as long the manufacturer does not market or advertise the cigarettes in the United States; and

2. affiliates of tobacco manufacturers that do not meet the criteria for a covered manufacturer.

Under the act, an affiliate is an entity that directly or indirectly owns or controls the manufacturer, is controlled by it, or together with it is under the common control of a third entity.

ESCROW CONTRIBUTION

The act requires covered manufacturers to pay into their qualified escrow accounts the following amounts, adjusted for inflation, for each cigarette sold:

Calendar Year	*Per-Cigarette Payment*
2000 after 7/1/00	$.0104712
2001 and 2002	$.0136125
2003-2006	$.0167539
2007 and after	$.0188482

The contribution applies to each cigarette sold in Connecticut by a covered manufacturer during the year in question including both direct sales and sales through distributors, dealers, or similar intermediaries. The number of cigarettes is measured by Connecticut excise taxes collected on stamped packs or "roll your own" tobacco containers. Each .09 ounces of roll-your-own tobacco counts as one cigarette. The Department of Revenue Services must adopt regulations needed to determine the excise tax amounts each covered manufacturer pays.

ESCROW FUND

To meet the act's requirements, an escrow arrangement must be with a state or federally chartered financial institution with at least $1 billion in assets that is not affiliated with the tobacco manufacturer. The arrangement must allow the institution to hold the funds for the principal benefit of parties to a settlement and must prohibit the manufacturer from using, accessing, or directing them.

If a manufacturer shows that the amount it had to place in escrow in any year was more than the state's share of the total payment the manufacturer would have had to make for that year under the master settlement agreement, the excess must be released from escrow and returned to the manufacturer.

Funds must be released from escrow in the order they were placed there.

BACKGROUND

Model Statute

This act is the "model statute" required under the tobacco master settlement agreement. States that do not pass the model statute have their allotments from the settlement reduced by up to 65%.

PA 00-214—sHB 5888
Finance, Revenue and Bonding Committee

AN ACT CONCERNING A PROPERTY TAX EXEMPTION FOR VEHICLES OWNED BY PARENTS OF A DISABLED CHILD

SUMMARY: This act extends towns' authority to adopt ordinances defining and exempting from property taxes vehicles that are specially equipped for use by people with disabilities. Prior law exempted only such vehicles owned by the people with disabilities themselves. The act allows towns to extend exemptions to such vehicles owned by a disabled person's parent or guardian.

The act also eliminates a requirement that an exempt vehicle be one that is retrofitted with special equipment after manufacture and instead requires only that it have the equipment.

EFFECTIVE DATE: October 1, 2000

PA 00-215—sHB 5885
Finance, Revenue and Bonding Committee
Planning and Development Committee

AN ACT CONCERNING PAYMENT IN LIEU OF TAX REVENUE FOR ELECTRIC GENERATION FACILITIES, CERTAIN PROPERTY ASSESSMENT AND TAX EXEMPTION RELATED FORMS AND PROPERTY TAX ABATEMENTS FOR SURVIVING SPOUSES OF POLICE OFFICERS AND FIREFIGHTERS

SUMMARY: This act advances the date by which municipalities can be reimbursed for part of any losses in the value of electric generating plants due to electric industry restructuring. Prior law required tax assessors to certify the loss in value to the Office of Policy and Management (OPM) secretary by June 15 of the year after the assessment year in which the loss occurred. The act instead requires them to make

certification by the June 15 following the assessment date. By law, utilities reimburse municipalities for some of the property taxes they lose as a direct result of restructuring.

It also requires local assessors, rather than the OPM secretary, to provide certain property tax-related forms, and transfers from OPM to local assessors the authority to approve extensions of deadlines for applying for certain property tax exemptions.

The act eliminates a requirement that owners of new commercial trucks, truck tractors, tractors and semitrailers, and vehicles used in combination with them that are eligible for five-year property tax exemptions file annual exemption applications. Instead, it requires owners to file new applications only when they modify the vehicle or register it in another town.

Finally, the act allows a municipality, by ordinance, to establish a property tax abatement program for surviving spouses of police officers or fire fighters killed in the line of duty. The program may abate all or part of property taxes due on an eligible spouse's principal residence.

EFFECTIVE DATE: Upon passage. The provisions concerning forms, filing deadlines, and exemptions for new commercial vehicles apply to assessment years beginning on and after October 1, 2000.

FORMS

Under prior law, OPM had to provide or approve forms for certain property tax-related filings. The act instead requires local assessors to provide the forms. It applies to forms for:

1. reporting annual income and operating expenses for rental property appraised by the capitalization of net income method and
2. filing quadrennial exemption claims for (a) real property owned or held in trust for a scientific, educational, literary, historical, or charitable corporation and used exclusively for those purposes; (b) property used in connection with an agricultural fair and belonging to, or held in trust for, a nonprofit agricultural or horticultural society; and (c) property belonging to or held in trust for a nonprofit hospital or sanatorium.

The act also changes the deadline for filing the latter three forms from the last day required for filing assessment returns to November 1.

FILING DEADLINE EXTENSIONS

The act transfers from the OPM secretary to local assessors authority to approve extensions of deadlines for filing applications for property tax exemptions for:

1. a manufacturing or service facility located in a distressed municipality, targeted investment community, or enterprise zone;
2. machinery and equipment used in such facilities; and
3. machinery and equipment acquired as part of a technological upgrade of a manufacturing process at a location in a distressed municipality, targeted investment community, or enterprise zone.

EXEMPTION FOR NEW COMMERICAL VEHICLES

By law, new commercial trucks, truck tractors, tractors and semitrailers, and vehicles used in combination with them that meet certain criteria are exempt from property taxes for five years after the assessment year in which they were first registered. Under prior law, vehicle owners had to apply for the exemption every year and include in the application information about any modifications to the vehicle. The act requires owners to apply for the exemption only in the first year, unless they modify the vehicle or register it in another town.

PA 00-227—sHB 5772
Finance, Revenue and Bonding Committee

AN ACT CONCERNING FULFILLMENT SALES COMPANIES

SUMMARY: Under this act, an out-of-state retailer not otherwise engaged in business in Connecticut is not required to pay Connecticut sales tax solely because it purchases fulfillment services from an unaffiliated in-state company or owns property stored on that company's premises. Likewise, the act exempts a fulfillment company from any requirement to pay sales tax on items it stores or ships for an unaffiliated out-of-state retailer.

A company provides "fulfillment services" when it receives orders from a retailer or its agent, fills them from the retailer's inventory stored on its premises, and ships them to the retailer's customers.

In order to be considered "unaffiliated" under the act, the retailer and the fulfillment company cannot directly or indirectly own more than 5% of each other nor can a third entity or a group of affiliated entities directly or indirectly own more than 5% of both.

EFFECTIVE DATE: October 1, 2000

PA 00-229—sHB 5865
Finance, Revenue and Bonding Committee
Planning and Development Committee

AN ACT CONCERNING THE PROPERTY TAX STATUS OF HISTORICALLY TAX-EXEMPT RESIDENTIAL HOUSING PROPERTIES

SUMMARY: This act exempts from local property tax any real or personal property owned or leased by a nonprofit organization for a nonprofit nursing home, rest home, or residential care home. The provision does not affect (1) for assessment years starting on or after October 1, 2000, the taxability of any property that was taxable on the preceding year's net grand list as adjusted by the board of assessment appeals or (2) any time-limited, written agreement with a municipality concerning the property's taxability that exists on July 1, 2000. To be covered by the exemption, a home must be licensed by the Department of Public Health (DPH). DPH licenses such homes that, in single or multiple facilities, furnish needed services beyond basic food, shelter, and laundry to two or more people who are not related to the home's proprietor.

The act also exempts certain Mohegan and Mashantucket Pequot property from the requirement that property be revalued every four years. The exemption applies to real estate (1) designated within the 1983 settlement boundary and taken into trust by the federal government for the Mashantucket Pequots before June 8, 1999 and (2) taken into trust by the federal government for the Mohegans.

The act requires municipalities to increase veterans' property tax exemptions after revaluation in proportion to increases in their net taxable grand lists instead of in proportion to increases in their total grand lists. It thus precludes big increases in the exemptions attributable solely to the addition of a large tax-exempt property to a town's grand list.

The act allows municipalities to share with their special services districts payments they receive from the state in lieu of taxes for tax-exempt property located in those districts. It also allows municipalities, by vote of their legislative bodies, to provide grants to people who own residential property in such districts and who are not delinquent in paying taxes due on the property. The grant authority covers owner-occupied, one- to three-family properties used as permanent residences by their occupants.

Finally, the act increases, from 0.8% to 1% of the gross amount wagered at the Plainfield dog track, the amount that the Division of Special Revenue (DSR) must pay to Plainfield. It eliminates the permanent grant equal to 0.2% of the dog track's gross wagers that DSR must pay to the Northeast Connecticut Economic Alliance, Inc. every year and instead requires Plainfield to pay that amount to the alliance for FY 2000-01 only.

EFFECTIVE DATE: Upon passage and applicable to assessment years beginning October 1, 1998, except for the dog track provision, which takes effect July 1, 2000.

BACKGROUND

Northeast Connecticut Economic Alliance, Inc.

The alliance is a nonprofit economic development organization. It maintains a revolving loan fund used for gap financing, loan guarantees, micro loans, lines of credit, and conventional loans.

PA 00-230—sHB 5889
Finance, Revenue and Bonding Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE TAX STATUTES.

SUMMARY: This act makes technical changes in various tax laws.

EFFECTIVE DATE: October 1, 2000

PA 00-24—sSB 369
General Law Committee

AN ACT CONCERNING GIFT PACKAGES SOLD BY PACKAGE STORES

SUMMARY: This act allows gift packages sold by package stores to contain any kind of nonalcoholic item other than tobacco or food. The law prohibits package stores from selling any commodity other than those specifically allowed. Package stores can sell, among other things, gift packages of alcoholic liquor (alcohol, spirits, beer, or wine) if the dollar value of the nonalcoholic items is less than the value of the alcoholic items. The act retains the limit on the value of the nonalcoholic items.
EFFECTIVE DATE: October 1, 2000

PA 00-46—SB 573
General Law Committee
Judiciary Committee

AN ACT CONCERNING IDENTITY THEFT

SUMMARY: This act allows anyone aggrieved by a violation of the identity theft law to sue the violator for damages. It requires the court to award a prevailing plaintiff the greater of $1,000 or triple damages, plus costs and reasonable attorney's fees.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Identity Theft

It is a class D felony for anyone to intentionally obtain another's personal identifying information and use it for an unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, or medical information (see Table on Penalties). A person is guilty of the crime if he acquires and uses the information without the subject's authority or consent. The law defines "personal identifying information" as a driver's license, Social Security, employee identification, demand deposit, savings account, or credit card numbers or someone's mother's maiden name.

PA 00-71—sHB 5589
General Law Committee
Judiciary Committee

AN ACT REQUIRING DISCLOSURE OF RATE INFORMATION ON PREPAID CALLING CARDS

SUMMARY: This act requires a prepaid calling card company to disclose clearly and conspicuously at the time of sale (1) any fees or surcharges applying to the use of a card, including monthly fees, per call access fees, and surcharges for the first minute or unit of use; (2) any rounding of time used and the formula used to calculate it; (3) any application or other fees; (4) any restrictions on using the card; and (5) a toll-free consumer assistance telephone number. The act applies to companies that use their own network or resell prepaid calling services that other companies provide. A "prepaid calling service" is a prepaid telecommunications service that allows a consumer to make a call using an access number or authorization code.

The act authorizes the consumer protection commissioner to adopt regulations prescribing additional information that must be disclosed at the time of purchase.

A violation is an unfair trade practice.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Connecticut Unfair Trade Practices Act

Under the Unfair Trade Practices Act, the consumer protection commissioner may 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, accept voluntary statements of compliance, and issue regulations defining what constitutes an unfair trade practice. The act also allows individuals to bring suit. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties up to $5,000 for willful violations and $25,000 for violating restraining orders.

PA 00-100—sHB 5586
General Law Committee
Judiciary Committee

AN ACT CONCERNING A CONSUMER'S RIGHT TO PRIVACY

SUMMARY: This act, with certain exceptions, prohibits retailers who issue discount cards from selling, leasing, or relinquishing consumer information (1) without giving the consumer reasonable prior written notice and the opportunity to object to the disclosure or (2) after a consumer objects. "Consumer information" is identifying information obtained from a consumer's use of a discount card or device issued by a retailer in the course of business, other than financial information.

The act applies to retailers who (1) sell goods primarily for personal, family, or household use at retail and (2) issue or have issued discount cards or devices in this state.

A violation is an unfair trade practice.

EFFECTIVE DATE: October 1, 2000

NOTICE REQUIREMENTS

The act requires consumer notices to:

1. state that the consumer information may be sold, leased, or relinquished to other people, firms, or corporations;
2. describe how the information would be used; and
3. include a form the consumer may use to prevent the retailer from releasing the information.

Retailers must permit consumers to object to disclosure when they apply for a card or receive an unsolicited card.

EXCEPTIONS

Retailers may give consumer information to another person, firm, or corporation without notice or the opportunity to object for purposes of delivering the retailer's own billing statements or promotional offers.

Retailers may give consumer information to a credit reporting agency, called credit rating agency under state law, if the discount card is also a credit card. Further, the act does not apply to the exchange of information between (1) subsidiaries of the same parent company or (2) parent companies and their subsidiaries.

BACKGROUND

Connecticut Unfair Trade Practices Act

Under the act, the consumer protection commissioner may 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, accept voluntary statements of compliance, and issue regulations defining what constitutes an unfair trade practice. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties up to $5,000 for willful violations and $25,000 for violating restraining orders.

PA 00-118—SB 365
General Law Committee
Judiciary Committee
Joint Committee on Legislative Management

AN ACT CONCERNING TELEPHONE SOLICITATION

SUMMARY: This act prohibits, with certain exceptions, telephone solicitors from making, or causing to be made, unsolicited telephone sales calls to consumers who have registered their wish not to receive them with a state "no sales solicitation calls" list. It authorizes the Department of Consumer Protection (DCP) to operate the list or to contract with an organization that has maintained a national list for at least two years to operate it. The contract must require the vendor to provide the list in printed or other format at a cost that is no more than the cost to produce.

The act prohibits telephone solicitors from calling before 9:00 a.m. and after 9:00 p.m. Because federal law already prohibits calls before 8:00 a.m. and after 9:00 p.m., the act has the effect of prohibiting calls from 8:00 a.m. to 9:00 a.m.

The act also prohibits telephone solicitors from (1) sending electronically transmitted facsimiles and (2) intentionally using a blocking device or service to circumvent a consumer's use of Caller ID.

It authorizes the DCP commissioner to adopt implementing regulations.

The act requires list marketers to delete from their marketing lists and underlying databases the names, addresses, and telephone numbers of consumers whose names are on the state list. This requirement applies whether or not the names on it

were obtained from published telephone directories or from other sources. The act exempts both telephone companies that publish telephone directories or cause them to be published and anyone publishing telephone directories under an agreement with a telephone company from its marketing list requirements.

It makes a violation of its provisions an unfair or deceptive trade practice and establishes a defense for telemarketers that take prescribed steps to implement the act.

Finally, it requires DCP to study regulation of automatic dialing devices.

EFFECTIVE DATE: January 1, 2001, except the study provision is effective October 1, 2000.

TELEPHONE SOLICITORS DOING BUSINESS IN THIS STATE

Under the act, a "consumer" is a state resident who is a prospective recipient of consumer goods or services. "Consumer goods or services" include articles and services acquired primarily for personal, family, or household purposes, including financial products such as stocks, bonds, mutual funds, and annuities. A solicitor is "doing business in this state" when he conducts sales calls (1) from a Connecticut location or (2) from outside of the state to consumers residing here.

The act defines "telephone solicitor" as an individual or business doing business in this state that makes or causes to be made telephonic sales calls. A "telephonic sales call" is a telephone call made by a solicitor to (1) engage in a marketing or sales solicitation, (2) solicit an extension of credit for such goods or services, or (3) obtain information to use in the solicitation of a sale or credit extension. "Marketing or sales solicitation" means making a telephone call or sending a message to encourage the purchase or rental of, or investment in, property, goods, or services except those made or sent (1) with the consumer's prior express written or verbal permission, (2) by a tax-exempt nonprofit organization, or (3) in response to a consumer's visit to an establishment with a fixed location that sells, leases, or exchanges consumer goods or services.

Such a call is an "unsolicited telephonic sales call" if it is not made (1) in response to an express written or verbal request of the person called; (2) primarily in connection with an existing debt or contract that has not been paid or performed; or (3) to an existing customer, unless the customer has informed the solicitor that he no longer wishes to receive the solicitor's calls.

"NO SALES SOLICITATION CALLS" LIST

The act allows any consumer who wishes to be on the list to notify DCP by calling a toll-free telephone number or in the way and at the times the DCP commissioner prescribes. The act requires DCP to notify consumers about the list. A consumer must be deleted from the list when he requests this in writing. DCP must update the list at least quarterly and make it available on request.

EXCEPTION

The act permits calls to listed consumers by a solicitor who (1) first began to do business in this state on or after January 1, 2000, (2) has operated in this state for less than one year, and (3) was not previously told not to call by the consumer.

DEFENSE FOR TELEPHONE SOLICITORS

A violation of the act is an unfair or deceptive trade practice. But the act provides that a solicitor is not liable for a violation if it has (1) established and implemented written procedures to comply with the act's restrictions on making unsolicited telephonic sales calls, (2) deleted from its call list consumers on the current quarterly No Sales Solicitation Call list, and (3) called the consumer inadvertently.

RECORDED MESSAGES AND FACSIMILES

The act prohibits telephone solicitors from (1) using recorded message devices and (2) soliciting by electronic facsimiles. A violator is subject to the Connecticut Unfair Trade Practices Act (CUTPA). The law prohibits anyone from sending advertisements or unsolicited offers to sell through a machine that sends electronic facsimiles or one that automatically sends recorded telephone messages. The sole means of enforcement is private suit. The law also prohibits using any device that sends a recorded telephone message for a commercial purpose that continues after the recipient hangs up; it imposes a fine of up to $500.

IMPLEMENTING REGULATIONS

The act authorizes the DCP commissioner to adopt regulations that may include (1) provisions concerning the availability and distribution of the state list and (2) notice requirements for consumers who wish to put their names on the state list.

STUDY OF AUTOMATIC DIALING

The act requires the DCP Commissioner to review and report to the General Law Committee on the feasibility of regulating automatic dialing to minimize the number of telephone calls received by consumers that do not have solicitors on the line ready to speak with them.

BACKGROUND

Connecticut Unfair Trade Practices Act

Under CUTPA, the consumer protection commissioner may 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, accept voluntary statements of compliance, and issue regulations defining what constitutes an unfair trade practice. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties up to $5,000 for willful violations and $25,000 for violating restraining orders.

PA 00-128—SB 367
General Law Committee

AN ACT CONCERNING SHEET METAL WORKERS AND NEW HOME CONSTRUCTION

SUMMARY: This act:

1. exempts anyone holding a state professional or occupational license, registration, or certificate from the new home construction contractor law if they are working within the scope of their credential and
2. redefines "heating, piping and cooling work" for purposes of the occupational licensing law to include, rather than exclude, sheet metal work.

EFFECTIVE DATE: Upon passage

BACKGROUND

New Home Construction Contractors

The law requires new home construction contractors to register with the Department of Consumer Protection (DCP), make certain disclosures, and include their registration numbers in all advertisements. The act applies to anyone who contracts with a consumer to build a new home, or a portion of one, before it is occupied. A "new home" is a newly built single family dwelling; any dwelling of up to two units; or a unit, common element, or limited common element of a condominium or common interest community. PA 00-132 adds additional exemptions from the new home construction contractor law.

Sheet Metal Work

The law requires sheet metal contractors and journeymen to be licensed by DCP, which issues licenses when authorized by the licensing board for both heating and cooling and sheet metal workers.

PA 00-132—sHB 5590
General Law Committee
Finance, Revenue and Bonding Committee
Judiciary Committee

AN ACT CONCERNING CONSUMER PROTECTION FOR NEW HOME CONSTRUCTION

SUMMARY: This act makes anyone with a contract to sell a new home register as a new home contractor, but it exempts certain categories of contractors and professionals from the requirement. It requires the commissioner of the Department of Consumer Protection (DCP) to reimburse anyone exempted by this act for their registration fees and guaranty fund payments if they were registered as new home construction contractors since the law became effective on October 1, 1999.

The law requires anyone engaging in the business of new home construction or holding himself out as a new home construction contractor to register. The act defines "engage in the business" to mean doing so for the purpose of pay or profit.

The act also (1) revises the requirement for contractors to provide consumers with a list of references; (2) defines when a new home is completed; (3) requires registration applicants to state (a) the identity of their worker's compensation insurance provider, if required by state statute to have coverage and (b) the name and address of an agent for service of process if required to have one by law; and (4) revises the law's penalty provision.

Finally, it requires registration applicants to provide their business street address rather than either their business or home address.

EFFECTIVE DATE: Upon passage

EXEMPTIONS

The act exempts from the new home construction contractor law (1) licensed real estate brokers and salespeople if they are working within the scope of their credential; (2) anyone licensed or authorized under mobile manufactured home law to sell or place such a home in a mobile manufactured home park, space, or lot if he only works within the scope of his license or authorization; (3) licensed, registered, or certified professionals or tradesmen if they are working within the scope of their credential (PA 00-128 also contains this same exemption); and (4) any new home construction contractor who enters into contracts that have an aggregate value of less than $3,500 with respect to a single home.

Reimbursement

The act requires the DCP commissioner to reimburse registration fees ($120) and payments to the New Home Construction Guaranty Fund ($480) paid by contractors and other professionals who request in writing by June 30, 2001 and who are exempt from registering under this act if they registered as new home contractors.

LIST OF REFERENCES

Prior law required new home contractors to give consumers a notice that, in part, advises them to ask for a list of the 15 most recent individuals for whom the contractor has engaged in new home construction. The act, instead, requires contractors to give notice advising them to request a list of the consumers of the last 12 new homes built to completion by the contractor during the previous 24 months or, if the contractor has not completed 12 new homes during this period, a list of all consumers for whom he has built a new home to completion during the previous 24 months. The act defines "completion" as the construction stage in which the contractor has obtained a municipal certificate of occupancy.

The effect of this change is to (1) reduce the number of references the consumer is advised to request from 15 to 12, (2) exclude from the list homes that are not completed by the contractor, and (3) make the requirement inapplicable to subcontractors who work on a new home but do not build it to completion.

RENEWAL FEE EXEMPTION

The law exempts registered home improvement contractors from paying the application fee for a new home contractor registration. The act also exempts them from paying a renewal fee for such registration.

PENALTY PROVISIONS

The act makes a contractor who fails to refund a deposit within 10 days liable for triple damages. The law makes other violations of the new home construction contractor law a class A misdemeanor (see Table on Penalties).

PA 00-176—sHB 5594
General Law Committee
Judiciary Committee

AN ACT CONCERNING GASOLINE FRANCHISES

SUMMARY: This act establishes conditions that apply when a gasoline franchisor intends to sell, transfer, or assign its interest in (1) a single marketing premises or (2) two or more gasoline stations as a package. It also establishes conditions applying to the sale, transfer, or assignment of a gasoline station by a successor owner.

The act defines "marketing premises" as the premises that, under the franchise agreement, are used by the franchisee to sell, consign, or distribute motor fuel.

The act applies to franchise agreements in effect on and after July 1, 2000.
EFFECTIVE DATE: July 1, 2000

A SINGLE MARKETING PREMISES

The act requires a franchisor intending to sell, transfer, or assign its interest in a gasoline station occupied by a franchisee under a lease, sublease, or other grant of authority to (1) make a bona fide offer to do so to the franchisee or (2) if applicable, offer the franchisee a right of first refusal of a bona fide offer made by another and agreeable to the franchisor. The franchisee must accept or reject the offer within 45 days.

A PACKAGE OF GASOLINE STATIONS

After a franchisor has sold, transferred, or assigned its interest in two or more gasoline stations as a package, the act requires any change in terms and conditions of the franchise agreement in effect at the time of the sale, transfer, or assignment to be made by mutual agreement of the franchisee and successor owner. The act also requires the successor owner, at the time that agreement expires, to renew

the franchise agreement for the same number of years as the prior agreement, up to a maximum of five years. For example, a three-year agreement must be renewed for three years and a 10-year agreement must be renewed for five years. The act requires the successor owner to submit any changes in the agreement in good faith and both the successor owner and franchisee to negotiate them in good faith.

The act prohibits the successor owner from requiring the franchisee to (1) take part in the successor owner's promotional campaigns, (2) meet sales quota, (3) sell products at a price suggested by the successor owner or supplier, (4) keep the premises open and operating during hours documented by the franchisee as unprofitable to the franchisee or after 10:00 p.m. and before 6:00 p.m., and (5) disclose to the successor owner or supplier financial records relating to the operation of the franchise which are not related or necessary to the franchisee's obligation under the franchise agreement. The act states that these provisions do not affect the successor owner's ability to terminate, cancel, or fail to renew a franchise agreement for good cause shown.

SALE, TRANSFER, OR ASSIGNMENT BY SUCCESSOR OWNERS

If a successor owner sells, transfers, or assigns a station occupied by a franchisee under a lease, sublease or other grant of authority, the act requires the new owner to first (1) make a bona fide offer to sell, transfer, or assign the gasoline station to the franchisee or (2) if applicable, offer the franchisee a right of first refusal of a bona fide offer made by another and agreeable to the franchisor. The franchisee must accept or reject the offer within 45 days.

PA 00-182—sSB 371
General Law Committee
Public Health Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE CLASSIFICATION AND REGULATION OF DRUGS BY THE DEPARTMENT OF CONSUMER PROTECTION AND THE ISSUANCE OF A TEMPORARY PERMIT TO PRACTICE PHARMACY

SUMMARY: This act (1) classifies 1,4 butanediol as a "restricted drug or substance," (2) establishes a temporary permit to practice pharmacy for pharmacists licensed in other states, (3) changes requirements for pharmacists to state the expiration date on prescription medicine containers, (4) alters one of the ways a prescription drug is deemed misbranded, (5) makes controlled substance practitioner registration annual, and (6) makes technical changes.
EFFECTIVE DATE: October 1, 2000

1, 4 BUTANEDIOL

The act classifies 1,4 butanediol, also known as "BD," as a restricted drug or substance, thereby making it illegal to possess, sell, prescribe, dispense, compound, process, deliver, or administer to another person except as permitted by law. These substances are restricted only if they are used to produce a stimulant, depressant, or hallucinogenic effect by breathing, inhaling, sniffing, or drinking.

TEMPORARY PERMIT

The act authorizes the Department of Consumer Protection (DCP), when authorized by the Pharmacy Commission, to issue a temporary permit to practice pharmacy to someone who:

1. is licensed in good standing in another state or jurisdiction that grants reciprocal privileges to Connecticut pharmacists,
2. has applied to the Pharmacy Commission for a pharmacy license based on the fact the pharmacist is licensed in another jurisdiction, and
3. has no actions pending against him by another jurisdiction's pharmacy board or commission.

The act requires a temporary permit holder to work under the direct supervision of a licensed pharmacist. The permit expires when the pharmacist receives a Connecticut pharmacist license or three months from the date the permit is issued, whichever is sooner. The permit fee is $100. An individual may obtain only one temporary permit, but the Pharmacy Commission may, in its discretion, authorize a three-month extension.

The act incorporates the temporary permit into the licensing system for pharmacists. Accordingly, it:

1. allows a temporary permit holder to practice pharmacy and dispense prescription drugs and devices,
2. requires temporary permit holders to have their permit available for inspection, and
3. subjects temporary permit holders to discipline on the same grounds as pharmacists.

EXPIRATION DATES ON PRESCRIPTION DRUGS

The law requires pharmacists to include on each prescription container's label a prominently printed expiration date that can be read and understood by the ordinary individual. The act requires that the date be based on the manufacturer's recommended conditions of use and storage rather than on customary conditions of purchase, use, and storage based on the manufacturer's recommended guidelines.

MISBRANDED DRUGS

Under current law, a prescription drug is misbranded if it (1) contains any quantity of certain substances, (2) is one of certain habit-forming drugs, (3) has a toxic or harmful effect or its method of use is unsafe, or (4) is a cosmetic limited to use under the professional supervision of a licensed professional or sold under a prescription. Under the act, a prescription drug is misbranded if it is not administered, dispensed, prescribed, or otherwise possessed or distributed in accordance with federal and state law (see BACKGROUND).

CONTROLLED SUBSTANCE PRACTITIONER REGISTRATION

The law requires medical practitioners who distribute, administer, or dispense controlled substances to register with DCP. The act requires them to register annually rather than biennially and reduces the renewal fee from $25 to $10.

BACKGROUND

Misbranded Drugs

The law prohibits:

1. obtaining, or attempting to obtain, any misbranded drug or to procure, or attempt to procure, any such drug by (a) fraud, deceit, or subterfuge, (b) forgery, (c) concealment of a material fact, or (d) making a false statement;
2. manufacturing, possessing, controlling, selling, prescribing, administering, dispensing, or compounding any such drug except as permitted by law;
3. falsely assuming the title of a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person to obtain such a drug;
4. forging a prescription to obtain such a drug; or
5. attaching a false label to a container holding such a drug.

The DCP commissioner can investigate and take samples for testing. A violator is subject to a penalty of six months in prison, a fine of up to $500, or both. The penalty is doubled for subsequent convictions and for violations committed with intent to defraud or mislead.

PA 00-219—HB 5852
General Law Committee
Judiciary Committee

AN ACT CONCERNING LEASED MOTOR VEHICLES

SUMMARY: This act delays by one year, from July 1, 2000 to July 1, 2001, implementation of the 1999 law requiring motor vehicle lessors to (1) use a specified formula to disclose the lease rate to consumers and (2) disclose the lease amount financed, the lease finance charge, and the lease rate. It also makes unenforceable any provision in a retail motor vehicle lease that attempts to exclude or modify an implied warranty of merchantability or fitness, or a remedy for breach of such warranties. Finally, it requires these lessors to make the disclosures required by the federal Consumer Credit Protection Act and Regulation M to a consumer, before the consumer signs the lease, regardless of whether the lease is subject to that act.
EFFECTIVE DATE: October 1, 2000, except the delay in implementing the provisions of the 1999 law (PA 99-278) is effective upon passage.

BACKGROUND

Lease Amount Financed

The law defines "lease amount financed" as the adjusted capitalized cost in a motor vehicle lease minus any included lease finance charge and an advance lease payment or nonrefundable security deposit due on or before delivery.

Lease Finance Charge

The law defines "lease finance charge" as the rent charge and any other charge payable, directly or indirectly, by the lessee and imposed, directly or indirectly, by the lessor as part of the lease agreement. It includes an origination or acquisition charge; a charge for assigning, servicing or carrying

the lease; broker fees; a disposition or pick-up charge due on lease termination; and taxes unique to leases. The law excludes charges of a type payable in a cash purchase, such as official fees or for an extended warranty contract; charges for late payment or other delinquency or default; refundable security deposits; insurance premiums; additional mileage charges; application fees charged whether or not the lease is consummated; and fees prescribed by law to be paid to public officials to perfect, release, or satisfy a security interest.

Lease Rate

The law defines "lease rate" as the nominal annual percentage rate that reflects the amortization of the lease amount financed to the ending balance over the scheduled term of the lease, calculated by an actuarial method of allocating base periodic payments made on a debt between the lease finance charge and the lease amount financed, according to which a payment is applied first to the accrued finance charge and then to the unpaid lease amount financed.

Federal Law

The federal act applies to leases for the use of personal property for more than four months and for a total contractual obligation of $25,000 or less primarily for personal, family, or household purposes. The act requires lessors to disclose:

1. a brief description of the property;
2. the amount the lessee must pay at the start of the contract;
3. the amount the lessee must pay for official fees, registration, certificate of title, or license fees or taxes;
4. the amount and description of other charges the lessee must pay, other than the periodic payments, and whether the lessee is liable for the differential, if any, between the anticipated fair market value of the property and its appraised value at the end of the lease;
5. a statement of the amount of, or a method of determining, liabilities the lease imposes on the lessee at the end of the lease and whether the lessee has the option to purchase;
6. a statement identifying all express warranties and guarantees made by the manufacturer or lessor;
7. a brief description of the insurance provided or paid for by the lessor or required of the lessee;
8. a description of the security interest kept by the lessor;
9. the number, amount, and due dates of lease payments and their total amount;
10. if the lease makes the lessee responsible for the fair market value of the property at the end of the lease term, the fair market value at the start of the lease, the aggregate cost of the lease, and the difference between the two; and
11. a statement of the conditions under which both the lessee and the lessor may terminate the lease before the end of its term and the amount, or method of determining, the amount of any penalty or other charge (15 USC § 1667a).

Regulation M implements the federal statute. It includes model disclosure forms (12 CFR Part 213).

PA 00-25—sHB 5682
Government Administration and Elections Committee

AN ACT CONCERNING CONTROLLABLE PROPERTY FILING REQUIREMENTS AND ELECTRONIC STATE PURCHASES

SUMMARY: This act allows state agencies to purchase goods and services electronically.

By law, the comptroller can authorize an agency to self-verify and -certify that its budget includes appropriated funds to cover an expenditure. After this certification, the comptroller must certify that the funds exist and charge the cost of the expenditure to the agency. Under law, she must adopt regulations prescribing the procedure for delegating this authority and for meeting the certification and transmission requirements. The act eliminates the regulations requirement and instead requires the agencies to use authorized electronic methods to transmit the information. Once the information is received, the act requires the comptroller to charge the electronic transmission to the agency and electronically certify that the agency has the funds to complete its purchase. Once the agency receives the certification, it sends the purchase order to the named vendor.

The act removes a legal redundancy by eliminating a requirement for state agencies to use a purchase order and commitment when securing goods and services. It conforms law to practice by requiring the agencies to use a purchase order and any other documents needed to process the transaction. (A purchase order is a form of commitment.)

It gives state agencies more time to complete inventories of state property in their custody by delaying, from August 1st to October 1st each year, the date they must send the inventories to the comptroller.

It eliminates a requirement for state agencies to send the comptroller an inventory of property valued at less than $1,000. Instead, the act requires the agencies to keep a list of the property for audits.

EFFECTIVE DATE: October 1, 2000

PA 00-44—sHB 5102 (VETOED)
Government Administration and Elections Committee
Judiciary Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

AN ACT PROPOSING COMPREHENSIVE CAMPAIGN FINANCE REFORM FOR STATE-WIDE CONSTITUTIONAL OFFICES AND GENERAL ASSEMBLY OFFICES

SUMMARY: This act establishes a two-part system of public financing for election campaigns. The first part sets up a voluntary spending limit program for the general election that grants state funding only after (1) a participating candidate's opponent exceeds the spending limit or (2) a participating candidate is the target of an independent expenditure. To participate in the program, a candidate must agree to the spending limits and receive a threshold level of contributions and receipts. The act makes this program available to state office candidates for the 2002 election only and to legislative candidates for the 2004 election and thereafter.

Under the second part, beginning with the 2006 state election, candidates for state offices who receive qualifying contributions and agree to limit their spending and comply with other requirements are eligible to receive state grants for their campaigns. The limits apply and the grants are available after a political party's nominating convention for a primary, if there is one, and during the general election campaign.

State office candidates are those running for governor, lieutenant governor, attorney general, state comptroller, secretary of the state, and state treasurer. For purposes of the new programs, the campaign finance laws' definitions apply.

The act creates a Citizens' Election Fund to pay for the programs. The sources of the fund are (1) income and corporate tax checkoffs and add-ons, (2) voluntary contributions, (3) donations of candidate or certain political committee (known as PACs) surpluses, (4) penalties and late fees for election law violations, and (5) its investment earnings.

The act also:

1. reduces certain contribution limits;
2. for purposes of program implementation, expands campaign finance reporting requirements for candidates and those who make independent expenditures;
3. lowers the threshold and subjects legislative office candidates to the mandatory electronic filing requirement for campaign finance statements;
4. bans campaign contributions to certain candidates from those who are associated with businesses that have state contracts worth over $250,000;
5. prohibits a state contract award for a year to an individual or business whose PAC has made a campaign contribution to certain elected officials;

6. extends the State Elections Enforcement Commission's (SEEC) authority to include personal jurisdiction over a nonresident, or his agent, who contributes to any candidate, party committee, or PAC; and
7. creates a Blue Ribbon Commission to study public financing and the state's nominating process.

The act makes the SEEC responsible for administering and enforcing the new financing provisions. Each year it must report on the status of the fund. If, at the beginning of an election year, the SEEC discovers that the fund cannot cover its obligations to participating candidates, it must distribute money in equal shares to all of them and the candidates can resume accepting contributions and spend up to the program limits.

The act creates penalties for violating program requirements and gives candidates the opportunity to have a hearing before the SEEC. Candidates for state offices can file a complaint in Superior Court if they claim they have been harmed with respect to this program in the same way they may complain about other election violations.

The act requires the secretary of the state to provide qualifying candidate committees with a free electronic copy of the statewide computerized voter registry list.

EFFECTIVE DATE: The campaign finance provisions are effective July 1, 2000, the electronic filing and access provisions are effective January 1, 2001, and the Blue Ribbon Commission section is effective upon passage. The tax provisions apply to tax years beginning January 1, 2000.

CITIZENS' ELECTION FUND SOURCES (§§ 2-7 AND 17)

The act establishes a Citizens' Election Fund from which payments are made to participating candidates. The fund includes proceeds from (1) income and corporate tax add-ons or refund contributions, (2) income and corporate tax checkoffs, (3) voluntary contributions, (4) contributions of campaign committee surpluses and of certain other committees that dissolve, (5) participating candidates' committee surplus distributions, (6) all civil penalties and late fees the SEEC and the secretary of the state impose for election law violations, and (7) the fund's own investment earnings. The fund is a separate, nonlapsing account in the General Fund, administered by the state treasurer.

Tax Add-On

The act creates an income tax and corporation business tax add-on system, which taxpayers can use to contribute to the fund. They can contribute either an amount from their tax refund, an additional amount of money, or both by indicating the amount on their tax returns, beginning with the 2000 tax year. Contributions taken from a refund count as a refund when determining a subsequent year's tax obligation.

The revenue services commissioner must revise the tax return forms and include in accompanying instructions a description of the fund's purposes. The department can keep up to 4% of the money contributed in a fiscal year (but no more than its costs) to pay for program implementation costs, if the Office of Policy and Management secretary approves.

Tax Checkoff

The act permits individual income taxpayers to designate a $5 tax checkoff ($10 for both husband and wife who file a joint return) for the fund. The taxpayer must have a tax liability of at least $5 (or $10) before (1) individuals apply any property tax credit or (2) corporations apply any tax credits. The designation does not increase the amount of taxes due. Corporate taxpayers can designate the full amount of their tax liability to the fund if it is less than $200. A corporation whose tax liability is $200 or more can designate a $200 checkoff to the fund.

Voluntary Contributions

The act allows a person, business, organization, party committee, or PAC to contribute directly to the fund. Contributions must be sent to the SEEC and be paid by check or money order.

Donations of Committee Surplus

Any candidate committee or a political committee, other than an ongoing PAC or an exploratory committee, can contribute its surplus to the fund when it dissolves. The law requires committee treasurers to spend or distribute surplus funds within 90 days of (1) a primary when a candidate loses, (2) an election, or (3) a referendum. The act adds the fund to the existing eligible recipients: party committees, ongoing PACs, charitable organizations, or contributors on a prorated basis.

Any candidate committee that receives money from the fund must return any surplus to it. The surplus of a participating lieutenant governor candidate's committee must be turned over to the

fund when the candidate joins a gubernatorial candidate's campaign.

VOLUNTARY SPENDING LIMITS PROGRAM (§§ 8-9)

The act establishes a voluntary spending limits program for major, minor, and petitioning party candidates for state office campaigns for the 2002 general election and for legislative candidates beginning in 2004 and thereafter. Under the program, a participating candidate (one who agrees to the spending limit and has met the threshold for qualifying contributions) receives money from the fund when an independent expenditure promotes his defeat or his nonparticipating opponent exceeds the limit.

To qualify to participate, a candidate must have received the following in contributions and receipts:

1. $500,000 for governor,
2. $75,000 for other state offices,
3. $32,500 for state senator (25% of the spending limit), and
4. $12,500 for state representative (25% of the spending limit).

The spending limits are:

1. $6 million, for the combined spending of a gubernatorial and lieutenant governor candidate;
2. $750,000 for the other state office candidates;
3. $130,000 for state Senate candidates; and
4. $50,000 for House of Representative candidates.

In-kind contributions from a party committee for coordinated campaign expenditures, such as phone banks and voter lists that are available to all party-endorsed candidates, are excluded from the spending limits.

The SEEC must adjust the spending limits for legislative candidates, based on the Consumer Price Index for urban consumers (CPI-U) on January 15, 2006, and biennially thereafter.

Participation Procedures

Under the act, when an individual files a statement of candidacy, he must also file an affidavit stating whether he intends to abide by the spending limits. If he does, he must also include a certification agreeing to guarantee the lawful use of any funds he receives from the state and to personally repay any amount that is improperly spent. The SEEC must prepare lists of the participating and non-participating candidates and make them available to the public.

Every candidate for the covered offices must file campaign finance statements with both the secretary of the state and the SEEC (1) monthly, once he has received contributions totaling 75% of the spending limit, during the four months before the election and (2) weekly during the six weeks before the election. Before reaching this threshold, the candidate committee must file campaign finance statements with the secretary according to the existing schedule. Failure to file a statement subjects the campaign treasurer to a civil penalty of up to $1,000.

Disbursement from the Fund

The SEEC must review all campaign finance statements to determine if and when a nonparticipating candidate exceeds the limit. When that happens and the candidate has a qualified, participating opponent, the commission informs the comptroller who must pay to the participating candidate's campaign an amount equal to the excess spending. The comptroller has two business days to do so. A nonparticipating candidate's subsequent excess spending results in the same award to the participating opponents following the same procedures.

A participating candidate is eligible for money from the fund when he is the target of an independent expenditure. The SEEC must, immediately upon making such a determination, authorize a payment equal to the independent expenditure, which the comptroller has two business days to pay.

CITIZENS' ELECTION PROGRAM

Eligible Candidates (§§ 10 and 16)

The act's Citizens' Election Program covers candidates for state offices, beginning in 2006. Major or minor party candidates can participate during a primary campaign for their party's nomination. Major, minor, and petitioning party candidates can participate in the program for the general election campaign. SEEC must prepare lists that are available to the public showing the "participating" and "nonparticipating" candidates.

A candidate who wants to participate in the Citizens' Election Program must have received the required amount of qualifying contributions (see below). He must agree to limit his campaign spending to the specified cap and comply with program requirements. When a candidate forms a campaign committee, he must file an affidavit with the SEEC indicating whether he intends to abide by the spending limits.

A qualified candidate who received money from the fund for a primary and becomes the party

nominee is automatically eligible for a general election grant. The comptroller must pay it within two business days of receiving the SEEC's notification that the secretary declared the results of the primary.

Qualifying Contributions (§ 11)

Candidates who want to participate in the program must qualify by raising a specified amount from individual donors, with a minimum of 90% coming from individuals who are state residents in maximum amounts that vary by office (see Table 1). Every contributor must provide his name and address. The contributions to a candidate's exploratory committee that meet the criteria for qualifying contributions are counted toward the qualifying thresholds.

Table 1: Qualifying Contributions

Candidates for	*Qualifying Total*	*Including In-State Contributions of at Least:*	*Maximum Countable Contribution*
Governor	$500,000	$450,000	$500
Other state offices	75,000	67,500	250

SPENDING LIMITS *(§ 12)*

Participating candidates for state offices are subject to the spending limits shown in Table 2. In a primary, a party's endorsed candidate can spend more money from the fund than a challenger who received at least 15% of the delegate support at the nominating convention. A challenger's limit is based on the percentage of any roll-call vote taken on the endorsement; that is, a nonendorsed gubernatorial candidate can spend $500,000 for qualifying to primary and $28,500 for each percentage point over 15% of the delegates present and voting on any roll-call vote.

In-kind contributions from a party committee for coordinated campaign expenditures such as phone banks and voter lists that are provided to all party-endorsed candidates are excluded from the spending limits.

Table 2: Primary and General Election Spending Limits

Candidates for	*Primary*	*General Election*
Governor		$6 million
Endorsed	$1.5 million	
Non-endorsed*	500,000	
Non-endorsed, for each % over 15%	28,500	
Other State Offices		750,000**
Endorsed	500,000	
Non-endorsed*	150,000	
Non-endorsed, for each % over 15%	10,000	

* And for a non-endorsed candidate when the convention fails to make an endorsement (such a candidate cannot spend extra for receiving additional convention delegate support).

**Excluding candidates for lieutenant governor.

The act requires the SEEC to adjust the spending limits for inflation on January 15, 2006 and every four years thereafter. The change must be based on any change in the CPI-U for the prior four years.

Grants from the Fund (§ 13)

Candidates who receive the qualifying amount of contributions and agree to limit spending are entitled to receive grants from the Citizens' Election Fund equal to the spending caps for the primary or general election. A particular candidate's grant is reduced by the amount he has already spent or incurred before applying for money from the fund, except for spending on research that has already been conducted, office equipment, or furniture. The act prohibits using a grant to pay off a candidate committee's deficit. Once a candidate committee has received money from the fund, its treasurer must deposit in the fund any money on hand from other sources.

Candidates for lieutenant governor can receive grants for a primary, but not for the general election when they must run together with a gubernatorial candidate whose committee may participate in the program.

Application Process (§ 14)

A qualified candidate may apply to the SEEC for campaign funds:

1. after the close of the convention for a primary,
2. after the close of the convention for an endorsed candidate who will not have to run in a primary,
3. after the close of the convention for a candidate who is the only one to qualify for a primary and there is no endorsement,
4. after a primary for the winner, or
5. after the secretary of the state approves the nominating petition for a petitioning candidate.

The SEEC must review each application and has three business days to determine whether the candidate qualifies for a grant and the amount of funds for which the candidate is eligible. It must

notify the comptroller and the candidate. The comptroller has two business days after the SEEC notifies her to issue a check to the candidate's committee.

The candidate's application must include written certification, signed by both the candidate and the campaign treasurer, that:

1. the candidate's committee has received the required qualifying contributions;
2. the committee has repaid all loans;
3. the committee has returned contributions from any donor received without the person's name and address;
4. the campaign committee treasurer will comply with the program's requirements;
5. public funds for the candidate committee will be deposited in the committee's bank account as soon as they are received;
6. the treasurer will spend program funds only for items permitted by law; and
7. if the candidate withdraws, becomes ineligible, or dies, his committee will return unspent grants it received from the fund.

Along with the application for program funds, the committee must include a sworn cumulative itemized accounting of its receipts and expenditures (those paid and encumbered) for the period up to three days before the application date.

REMEDY FOR AN AGGRIEVED CANDIDATE (§ 34)

The act permits any state office candidate who claims he has been harmed by a violation of the laws establishing the public financing program to file a complaint in Superior Court.

RESTRICTIONS ON PARTICIPATING CANDIDATES

Loans (§ 18)

A candidate committee that receives funds can borrow up to $1,000. Other than the candidate or, for a general election, a state central committee, no individual, PAC, or party committee can endorse or guarantee more than a $500 loan, which is the maximum amount considered to be a qualifying contribution to a gubernatorial candidate's campaign. As long as the loan is outstanding, the endorsement or guarantee is considered to be a contribution and no additional contribution from the person or committee is allowed. Borrowed funds cannot be included as contributions for the purpose of reaching the qualifying threshold. Repayment of all loans and certification of repayment are required before a candidate is eligible to apply for or receive funds.

No Additional Deposits (§ 15)

After a candidate deposits program funds in his campaign account, he cannot deposit any other contribution, loan, personal funds, or other funds into it. But he can deposit fund money he receives because he is the target of an independent expenditure or an opponent exceeds the limit.

GOVERNOR AND LIEUTENANT GOVERNOR (§ 17)

The act requires a party's candidates for governor and lieutenant governor to be considered as running jointly for purposes of participating in the gubernatorial financing program as soon as that determination can be made. That occurs as soon as (1) the results of a primary are known, if there is a primary for either or both offices; (2) at the convention, if there is no primary; or (3) when party-endorsed candidates declare that they will campaign as a single ticket, that is they will run together in the general election so that electors can cast a single vote for both candidates. Candidates other than party-endorsed candidates can also declare that they are campaigning jointly.

Under the act, any candidate for lieutenant governor must dissolve his own candidate committee if he is running jointly with a gubernatorial candidate. After the candidates' status determination is made, the treasurer of the lieutenant governor candidate's campaign committee must:

1. within 15 days, file a statement with the secretary of the state listing the committee's contributions and expenditures since the last filed report and showing the balance or deficit and
2. within 30 days, return any surplus to (a) the fund if the candidate participated in the program or (b) those eligible to receive a surplus distribution under existing law or to the fund if the candidate did not participate.

DISREGARD OF SPENDING LIMITS

Penalties for Participating Candidates (§ 19)

The act penalizes a candidate committee that receives program money and exceeds the spending limits by:

1. requiring it to repay the full amount of the grant received;
2. prohibiting it from receiving additional program funds for the remainder of the

election cycle;
3. subjecting it to civil penalties imposed by SEEC; and
4. making the candidate a "nonparticipating candidate" for program purposes.

Failure to return any unspent grant funds within 90 days after a primary or an election constitutes larceny, subject to criminal penalties that are dependent on the amount involved.

Opponent Exceeds Spending Limits (§ 20(a))

A qualified candidate who receives program funds is entitled to additional money from the fund if his opponent exceeds the spending limits (whether his opponent is receiving program funds or financing his campaign from other sources). The additional money is equal to the excess amount the opponent spends. The extra funding must be paid immediately after the SEEC verifies a violation.

Independent Expenditures (§ 21)

When SEEC receives a report that someone has made an independent expenditure in an effort to oppose a participating candidate, it must immediately direct the comptroller to provide the candidate with additional money equal to the independent expenditure. She has two business days to do so.

CONTRIBUTION LIMITS

Individuals (§ 28)

The act lowers the limits on contributions individuals can make as follows:

To Candidates for	*Prior Law*	*For 2002 Campaigns*	*For 2006 Campaigns and After*
Governor	$2,500	$1,500	$1,000
Other State Offices	1,500	1,000	750

Business PACs (§ 30)

The act lowers the limits on business PAC contributions as follows:

To Candidates for	*Prior Law*	*For 2002 Campaigns and After*
Governor	$5,000	$3,500
Other State Offices	3,000	2,000

Election Cycle Limit (§§ 28 and 30-31)

Prior law applied the contribution limits to primaries and elections separately thereby allowing contributions from each contributor up to the limit for each. For example, the prior $2,500 limit meant an individual could donate as much as $5,000 to a gubernatorial candidate running in both a primary and the general election. The act imposes the limit as a single, aggregate for the entire election cycle for state office candidates for contributions from individuals and business and labor PACs.

CAMPAIGN FINANCE REPORTS

Candidate Committees (§§ 22 and 27)

The act requires each candidate for statewide office, beginning January 1, 2002, and each candidate for legislative office, beginning January 1, 2004, to file a copy of every campaign finance statement with the SEEC, in addition to the original that he files with the secretary of the state.

Beginning with state office elections in 2006, in addition to the campaign finance reports that committee treasurers must file with the secretary of the state, the act requires the treasurers of candidate committees for state offices to file more frequent sworn statements once they have received contributions, receipts, and grants equal to 75% of the general election spending limit. At that point, they must file a monthly statement in each of the four months before the election, then weekly during the last six weeks of the campaign. The statements go to the secretary and the SEEC. The committee treasurer is subject to a penalty of up to $1,000 (imposed by the commission) for each failure to file on time.

Nonparticipating Candidates (§ 20(b))

A nonparticipating candidate must report to the SEEC any expenditure he makes or incurs that exceeds the spending limits. The report is due within 48 hours if the spending occurs more than 20 days before the primary or election or within 24 hours if it occurs 20 days or less before either event. The SEEC determines whether the spending constitutes an excess expenditure, subject to an award for a participating opponent.

Independent Expenditures (§ 29)

The act broadens the procedures for reporting independent expenditures over an aggregate of $1,000 made to promote a candidate's success or defeat. It applies them to a committee, corporation,

or any other legal entity, in addition to an individual, who was covered under prior law. Beginning July 1, 2000, it requires the reports of such spending for statewide office campaigns to go to the SEEC rather than to the secretary of the state or town clerks. The person making the payment must file the report within 48 hours of doing so, rather than by the deadlines for candidate committee and PAC statements. Within 20 days of a primary or election, anyone making an independent expenditure must report it within 24 hours.

The report must include a statement (1) identifying the candidate who is the beneficiary or target of the expenditure; (2) affirming that the expenditure is truly independent; and (3) affirming that the spender is not or has not served as the candidate's treasurer, deputy treasurer, or committee chairman during the same election cycle. The person files the statement under penalty for false statement, which is a fine of up to $2,000, up to one year in prison, or both (the punishment for a class A misdemeanor). Anyone can file a complaint with SEEC alleging a false report or statement or that a report was not filed at all. SEEC must promptly decide on the complaint.

Electronic Filing (§§ 35 and 38)

Under prior law, all PACs and party committees, as well as candidate committees for statewide offices who spent less than $250,000 and candidates for all other offices had the option to file campaign finance statements electronically. Those above the threshold had to file electronically. The act lowers the campaign receipt and expenditure threshold, from $250,000 to $100,000 for candidates for statewide offices. Beginning January 1, 2003, it adds to those who must file electronically candidates for all legislative offices who have raised or spent 75% of the spending limit ($90,000 for Senate candidates and $33,750 for House candidates).

The act imposes a deadline of two business days for the secretary to make all computerized campaign finance statements filed in her office available to the public at computer terminals in her office or on the Internet. It postpones, from January 1, 2000 to January 1, 2001, the requirement that she make the statements available on computers.

INSUFFICIENT FUNDS (§ 24 (b) AND (c))

By January 1 of the year in which an election for state offices is to be held, the SEEC must determine whether the amount of money in the fund is sufficient to meet the expenses for making grants to candidates. If it decides that there is not enough money, it has three days to recalculate the amount qualified candidates can receive and notify them. After the candidates receive their share of money from the fund, they can resume accepting contributions up to the amount they would have received from the fund if it had had sufficient resources.

The act requires the SEEC to report on its determination that there has been a shortage, permitting candidates to resume raising money.

The SEEC must set aside the first $25,000 deposited in the fund each year in a reserve account. This account must be used during the last week of the campaign for candidates who received partial payments or who are the targets of independent expenditures and entitled to matching funds.

SEEC POWERS AND DUTIES (§§ 2, 29, AND 32-33)

The SEEC must decide whether there is enough money in the Citizens' Election Fund to fund state office candidates' campaigns and must report if the amount is insufficient.

The commission must prescribe the program application form and the one used for itemized accounting, after consulting with the secretary of the state. It must receive and process candidates' applications for program funds, determine that a candidate is eligible, and notify the comptroller of the amount due and payable to each qualified candidate's committee. The act authorizes the commission to decide whether a nonparticipating candidate's spending exceeds the spending cap. It can deduct from the fund money to pay its program implementation costs, up to 2% of the funds contributed in a fiscal year. If the commission does not spend this 2% in a year, it can use the balance to pay costs in subsequent years.

The act extends some of SEEC's existing authority to enforce the provisions of the public financing program. With respect to the program, the SEEC can (1) investigate complaints and alleged violations and hold hearings, (2) impose civil penalties up to $2,000, (3) issue an order to a recipient candidate committee to comply with program requirements after granting an opportunity for a hearing under the Uniform Administrative Procedure Act, (4) inspect and audit campaign records and accounts, (5) attempt to secure voluntary compliance with program requirements, (6) adopt regulations, and (7) refer evidence to the chief state's attorney or the attorney general.

It extends the designation of law enforcement agency to the SEEC for its investigations of possible criminal violations of the act for certain purposes under the Freedom of Information Act (FOIA).

Thus, certain of its records pertaining to this activity would not be subject to public disclosure under the FOIA.

The act also authorizes the SEEC to decide on a complaint alleging failure to file or falsehood in the statement that a person making an independent expenditure must file with the commission. It must notify a committee treasurer who has failed to file the copy of a campaign finance statement with the SEEC that he is in violation of the law if the report is not sent within 21 days of the deadline.

The act allows the SEEC to exercise personal jurisdiction over a nonresident who makes a campaign contribution or expenditure on behalf of a committee or candidate. It thereby authorizes the commission to require the person to appear in person or to present documents. It allows service of process on the secretary of the state for a nonresident.

SEEC REPORTS (§ 24 (a))

Beginning by June 1, 2001, the SEEC must annually report on the status of the fund for the previous calendar year. The report must include an accounting of the deposits, fund sources, number of contributions and contributors, expenditures, fund recipients, and administrative costs. The revenue services commissioner must provide the SEEC the information it needs by May 15 each year, beginning in 2001.

BAN ON STATE CONTRACTORS' CONTRIBUTIONS (§ 36)

The act prohibits certain candidates from soliciting, and individuals and PACs from making, campaign contributions if the contributor is connected with a business that has a large contract with the state, one valued at $250,000 or more. The prohibition applies during the term of the contract. In addition, the act bars individuals or business PACs that make contributions to statewide office candidates from getting a contract award for one year after the election for which they made the contribution.

The prohibition applies to contributions from any individual who (1) is an officer, director, owner, partner, or stockholder (with at least 5% of the total outstanding stock) of a business with a large state contract and (2) has substantial authority related to the contract. It also applies to business PAC contributions.

Candidates for governor and lieutenant governor cannot accept or solicit such contributions on behalf of a candidate for any public office, any PAC, or political party committee.

The act prohibits candidates for the offices of attorney general, comptroller, and secretary of the state from accepting or soliciting such contributions for any candidate, PAC, or party committee from an individual or PAC associated with a business that has a large contract with the office for which the candidate is running. No such individual or business can contribute to a candidate for the office with which he or it has a contract during its term. Anyone or any business PAC that makes a contribution to a candidate for a particular office is barred from getting a contract with the office for one year after the election. These provisions apply to candidates for the office of state treasurer, in addition to the law's restrictions on contributions from individuals and businesses providing investment services to that office.

The act applies the same restrictions to candidates for state senator and state representative with respect to individuals and businesses that have contracts with the General Assembly with a value of at least $250,000.

BLUE RIBBON COMMISSION (§ 37)

The act establishes an eight-member Blue Ribbon Commission to study the state's political party nominating process and make recommendations about it in the context of the voluntary spending limits program and the Citizens' Election Program. The commission is in the Office of the Secretary of the State for administrative purposes only.

By May 30, 2000, each of the four legislative leaders must appoint two commission members (who may be legislators). The House speaker and Senate president pro tempore name the chairmen from among the commission members.

The chairmen must schedule the first meeting, which must be held before June 30. By January 1, 2001, the commission must issue a report on its findings and recommendations, at which time it terminates.

PA 00-66—sHB 5637
Government Administration and Elections Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO CERTAIN GOVERNMENT ADMINISTRATION AND ELECTIONS AND RELATED STATUTES

SUMMARY: This act makes technical, grammatical, and formatting changes to the laws related to:

1. the Code of Ethics for Public Officials,
2. freedom of information,
3. the Single Audit Act,
4. purchasing,
5. state property,
6. the Department of Information Technology,
7. elections, and
8. the State Commission on the Arts.

It repeals obsolete provisions dealing with consultant contracts and the Council to Monitor Construction Management.
EFFECTIVE DATE: October 1, 2000

PA 00-68—HB 5676
Government Administration and Elections Committee
Judiciary Committee

AN ACT CONCERNING NAME CHANGES RELATED TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES

SUMMARY: This act requires the Department of Administrative Services (DAS) commissioner to collect incarceration costs from the estates of inmates who die leaving only a personal estate of up to $20,000. The act applies the same debt collection procedures that apply when people die while supported by the state through the departments of public health, mental retardation, mental health and addiction services, children and families, or social services.

It renames the General Services Revolving Fund the DAS Revolving Fund to reflect department usage. The fund, as required by law, consists of appropriations to state agencies for supplies, materials, equipment, and contractual services.

The act deletes obsolete references to the Bureau of Collection Services and the Bureau of Personnel and Labor Relations (formerly within the department) and replaces them with DAS.
EFFECTIVE DATE: October 1, 2000

DAS COLLECTING STATE DEBT FROM DECEDENTS' ESTATES

When an inmate dies owing the state incarceration costs and leaving only personal assets of $20,000 or less, the act requires the DAS commissioner to file a certificate with the appropriate probate court claiming that (1) the decedent's estate is under $20,000 and (2) his debt, including the state's claim; his last medical bills, up to $375; and funeral and burial expenses equal or exceed the value of the estate.

The court must issue a certificate making the commissioner legal representative of the decedent's estate for the purposes of:

1. claiming the estate;
2. discharging the liability of the person who turns the estate over to her; and
3. settling the estate by paying medical bills, funeral, and burial expenses and accepting the balance as full or partial payment of incarceration costs.

The commissioner must file a statement with the court when the estate is settled.

PA 00-69—sHB 5683
Government Administration and Elections Committee
Judiciary Committee

AN ACT CONCERNING FREEDOM OF INFORMATION AND SECURITY IN STATE FACILITIES

SUMMARY: With one exception, this act allows the Department of Public Works (DPW) commissioner to direct public agencies to withhold certain records from members of the public who request disclosure under the Freedom of Information Act (FOIA). It requires these agencies to notify the commissioner when they receive requests for these records.

The act gives the chief court administrator, rather than the commissioner, the implicit authority to determine the confidentiality status of records concerning Judicial Department facilities.

The act also restricts the commissioner's responsibility to review and approve preliminary designs for renovation projects to those that have "significant," rather than just any, impact on security.
EFFECTIVE DATE: Upon passage

EXEMPT RECORDS

The act exempts the following records from disclosure under the FOIA if the DPW commissioner, or the chief court administrator in the case of records concerning Judicial Department facilities, has reasonable grounds to believe that their release could pose a safety risk, including harm to anyone or any state-owned or -leased facility or equipment. They include, for state institutions or facilities:

1. engineering and architectural drawings;
2. security systems' operational specifications (except a general description and the cost and quality of such a system);
3. training manuals that describe security procedures, emergency plans, or security equipment;

4. internal security audits; and
5. logs or other documents containing information on security personnel movement or assignments.

The act also exempts, under the same circumstances, (1) security manuals, including emergency plans, and (2) staff meeting minutes or recordings, or portions of them, that contain or reveal information about security or otherwise exempt records.

NOTIFICATION

When a public agency, other than the Judicial Department, receives a request for a public record covered under the act, it must promptly notify the DPW commissioner in the manner he prescribes. The commissioner can deny the request if the act exempts the record from disclosure. The act makes the commissioner or chief court administrator, as the case may be, rather than the agency, the defendant in the event of an appeal. However, under the act, the chief court administrator is not notified of a request for disclosure of such records related to Judicial Department facilities.

PA 00-77—sHB 5822
Government Administration and Elections Committee
Labor and Public Employees Committee

AN ACT CONCERNING THE OFFICE OF LABOR RELATIONS

SUMMARY: This act transfers collective bargaining functions from the Department of Administrative Services (DAS) commissioner to the Office of Policy and Management (OPM) secretary to reflect current practice. The responsibility covers representing the state in bargaining negotiations for:

1. changes to the state employees retirement system and health and welfare benefits and
2. all other collective bargaining matters, including negotiation and administration of all agreements and supplemental understandings between the state and employee unions for executive branch employees other than those in the Division of Criminal Justice and the faculty and professional employees of the higher education constituent units.

The act authorizes the secretary to designate a staff member to act as the employer representative.

The OPM secretary replaces the DAS commissioner in the statutory grievance processes for classified, nonunionized employees with respect to duties related to:

1. appeals of the Employees' Review Board's decisions;
2. regulations governing employee reprimands, demotions, suspensions, layoffs, and dismissals;
3. notification of an intended demotion and authority to transfer an employee; and
4. notification of an employee's dismissal.

EFFECTIVE DATE: Upon passage

PA 00-79—sHB 5890
Government Administration and Elections Committee

AN ACT CONCERNING THE NUMBER OF AVAILABLE PAPER BALLOTS WHEN VOTING MACHINES ARE DAMAGED OR FOR ELECTORS WITH DISABILITIES

SUMMARY: By law, paper ballots (the same as those used for absentee voting) are used at polling places as emergency paper ballots when a voting machine breaks down and by electors with disabilities who are unable to use a voting machine. This act establishes the number of paper ballots that the town clerk must give to the moderator of each polling place for these purposes before the polls open. The clerk must provide (1) a number equal to at least 1% of the number of electors eligible to vote at each polling place or (2) as many as the clerk and registrars of voters agree will protect people's voting rights.

EFFECTIVE DATE: October 1, 2000

PA 00-92—sHB 5677
Government Administration and Elections Committee
Planning and Development Committee
Judiciary Committee
Environment Committee

AN ACT CONCERNING THE DUTIES OF TOWN CLERKS AND THE ESTABLISHMENT OF ETHICS AGENCIES BY SPECIAL DISTRICTS

SUMMARY: This act authorizes any special district to establish an agency to investigate charges of unethical conduct, corrupting influence, or illegal activities made against district officials, officers, and employees. It can do so by adopting a charter provision or ordinance. The act also applies to an elected official of a district that has established an ethics board or commission the ban against taking official action on a matter in which the official has a

substantial conflict of interest. Under the law, an official has a "substantial conflict" when he has reason to believe that he, his spouse, dependent child, or an associated business will derive a direct monetary gain or suffer a direct monetary loss as a result of an official action.

The act makes minor changes to certain town clerks' duties and removes others that are obsolete. It:

1. adds recording a partial release or assignment of a mortgage or lien to clerks' recording duties and establishes directions for noting a release, partial release, or assignment when public records are not in paper form;
2. eliminates payments between towns for recording vital statistics when the annual amount is less than $26;
3. requires all copies of marriage and death records that clerks provide to be certified at a cost of $5 per copy; and
4. deletes requirements that cooperative and professional associations file with the town clerk where they are located.

Finally, the act allows a town to prepare and print materials, other than an explanatory text, about local referendum proposals or questions as long as they do not advocate approval or disapproval. The town's legislative body must vote to do so and its attorney must approve. (PA 00-1, June Special Session makes this provision effective upon passage, that is May 26, 2000.)

EFFECTIVE DATE: October 1, 2000

MORTGAGE OR LIEN RECORDING

The act (1) requires clerks to note an assignment of a mortgage or lien and specifies that a release on a mortgage or lien also includes a partial release and (2) directs them to follow the public records administrator's rules when noting a release, partial release, or assignment when the land records are not on paper.

VITAL STATISTICS

By law, towns where a birth, marriage, or death occurred annually bill the appropriate towns of residence of the child's parents, either party of the marriage, or the deceased for recording certificates and making copies and endorsements. The fee is $2 per record. The act prohibits registrars of vital statistics (town clerks) from billing towns for amounts less than $26 and the payment is abated.

OBSOLETE PROVISIONS REMOVED

The act eliminates the following outdated provisions.

1. It eliminates fees for obsolete registrar of vital statistics duties.
2. It eliminates the requirement that a cooperative association file a certified copy and the town clerk record its articles of association, initial organizational details, and annual reports in the town where its principal office is located. But it still must file them in the Office of the Secretary of the State.
3. It removes the requirement that town clerks receive and index articles of association of those forming a professional association in order to practice in the state as well as any amendments to them or a dissolution agreement.
4. It removes the town clerk from the special board convened to decide the quantity and stumpage value of cut timber subject to a yield tax when there is a dispute between the landowner and the town assessors. The removal leaves only the town's first selectman and the state forester on the board.
5. It deletes the requirements that town clerks receive a certificate of election of the trustees and the certificate of incorporation for each Methodist Church in the state.
6. It repeals laws regulating the impoundment, disposal, subsequent return, or sale of horses, cattle, asses, mules, sheep, goats, swine, or geese, the violation of which is an infraction.
7. It repeals the law requiring anyone who finds anything valued at over $1 or a stray animal valued at up to $5 whose owner is unknown to register a description with the town clerk where it was found, or if the value is greater, to advertise in a newspaper. It repeals the provisions on restoration to the owner and the procedures for unclaimed property.

BACKGROUND

Definition of "Districts"

The act applies to any fire district; sewer district; 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 that has the power to appropriate

money and levy taxes.

Cooperative and Professional Associations

Seven or more state residents can form a cooperative association for trade or business purposes, such as a food or electrical cooperative. Currently, there are some 25 to 30 in the state.

Professionals, such as doctors or attorneys, can form professional associations to practice. However, typically they incorporate or form a limited liability company, and there are few professional associations.

PA 00-134—sHB 5679
Government Administration and Elections Committee

AN ACT AMENDING STATUTES RELATED TO THE DEPARTMENT OF INFORMATION TECHNOLOGY

SUMMARY: This act exempts information technology system standards, procedures, processes, software, and codes, not otherwise available to the public, from the Freedom of Information Act's disclosure requirements. The exemption applies only if disclosure would compromise the system's integrity or security.

The act permits the Department of Information Technology's chief information officer, in consultation with the Office of Policy and Management secretary, to adopt regulations applicable to all executive branch state agencies on the creation, use, distribution, and maintenance of electronic records. It eliminates the chief information officer's authority to determine, in regulation, the type of electronic signature an agency may accept.

The act specifies that the executive branch regulations adopted by the chief information officer do not apply to offices of the state treasurer, comptroller, secretary of the state, and attorney general. These offices may adopt their own regulations.

By law, all state agencies may adopt regulations regarding electronic records. The act limits this authority to regulations that (1) address the adopting agency's needs and circumstances, (2) carry out the purpose of the executive branch regulations adopted by the chief information officer, and (3) are consistent with the executive branch regulations.
EFFECTIVE DATE: October 1, 2000

PA 00-136—sHB 5684
Government Administration and Elections Committee
Commerce Committee
Planning and Development Committee

AN ACT CONCERNING THE FREEDOM OF INFORMATION ACT

SUMMARY: This act:

1. subjects to the Freedom of Information Act (FOIA) municipally designated agencies that prepare and implement economic development plans,
2. expands exemptions under the act,
3. broadens the Freedom of Information Commission's (FOIC) authority to dismiss an appeal without a hearing,
4. requires the commission to establish and publish a model ordinance establishing a municipal freedom of information advisory board, and
5. grants towns the power to adopt the model ordinance and establish a municipal freedom of information advisory board.

EFFECTIVE DATE: October 1, 2000, except the model ordinance requirement and the exemption for reports or audits on a state information system's internal control structure are effective July 1, 2000.

NEW AGENCIES SUBJECT TO THE FOIA

The act subjects to the FOIA municipally designated agencies that prepare and implement economic development plans. These agencies may include an economic development or public works commission; sewer, water, port, harbor, or parking commission or authority; redevelopment agency; nonprofit development corporation; or any other agency the town designates.

FOIA EXEMPTIONS

Department of Economic and Community Development (DECD) Contracts

The act limits the FOIA disclosure exemption for financial assistance applications filed with DECD and Connecticut Development Authority (CDA) and for information obtained by these agencies regarding any person or project. Applications are exempt from disclosure only if they are submitted before October 1, 2000. Information regarding a person or project, including all financial, credit, and proprietary information, is exempt if the agencies obtain it (1) before October 1, 2000 or (2) on or after that date if an agreement entered before October 1, 2000 requires

it.

Under prior law, there were no limitations on the disclosure exemption for this information.

Trade Secrets Generally

The act exempts as a trade secret information that (1) gets its value when it is not known, or readily available, to people who could derive an economic gain from its use or disclosure and (2) is confidential. The information includes formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, and customer lists. Under prior law, a "trade secret" was an unpatented, secret, commercially valuable plan, appliance, formula, or process used to make, prepare, compound, treat, or process confidential trade commodities.

"Trade secrets" continue to include commercial and financial information given in confidence but not required by law.

Financial Assistance Trade Secrets

The act eliminates an exemption under FOIA for grant, credit, and loan applications to DECD and CDA and all information obtained by them regarding any person or project. It instead exempts as trade secrets under FOIA, applications to DECD, CDA, or an implementing agency for grants, credits, or loans that include:

1. trade secrets, patents, marketing or business plans, plans for new products or services, reports of customer orders or sales, capital or strategic plans, or personal affairs;
2. information that will become a trade secret;
3. material that will be patented;
4. research and development information; or
5. other documents that would disclose information about the applicant's customers, potential customers, credit, or finances.

The act specifies that this list does not include all of the information that may be exempted as a trade secret under FOIA. The exemption for applications to DECD, CDA, and implementing agencies also applies to their advisory boards and committees.

Audit Reports

The act exempts from disclosure under FOIA any audit or report prepared by the state auditors on a state information system's internal control structure.

FOIC'S AUTHORITY TO DISMISS APPEALS

The act allows FOIC to dismiss an appeal without a hearing if it finds, after examining the appeal notice and construing the allegations in the appellant's favor, that the agency committed harmless error that does not infringe the appellant's rights under FOIA. The authority is limited to appeals from an agency's denial where the agency asked for a dismissal without a hearing. The commission already has the authority to dismiss appeals, using the same procedures, if it finds that the agency did not violate FOIA.

FOIC'S DUTY TO ESTABLISH A MODEL ORDINANCE

The act requires the FOIC, by December 31, 2001, to create, publish, and provide to each town a model ordinance establishing a municipal freedom of information advisory board to facilitate the informed and efficient exchange of information between the commission and the town. The commission must provide the ordinance to the town's chief elected official and may occasionally amend it.

PA 00-138—HB 5689
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING NOTARY PUBLIC FEES

SUMMARY: This act increases the maximum fee for any act a notary public performs from $2 to $5, and travel reimbursement from 25 cents to 35 cents per mile.
EFFECTIVE DATE: July 1, 2000

PA 00-139—sHB 5893
Government Administration and Elections Committee
Transportation Committee
Legislative Management Committee
Judiciary Committee

AN ACT LIMITING DISCLOSURE OF INDIVIDUALS' PHOTOGRAPHS AND COMPUTERIZED IMAGES BY STATE AGENCIES

SUMMARY: This act, with limited exceptions, prohibits a state agency, other than the Department of Motor Vehicles (DMV), from disclosing pictures or computerized images that they take of applicants for state documents unless the applicants give their express consent in writing or some other form provided in regulations. The regulations must permit

an applicant to withdraw his consent. PA 00-98 authorizes the DMV commissioner to disclose photographs or computerized images with the expressed consent of the subject to a legitimate business or its agents, contractors, or employees for fraud prevention.
EFFECTIVE DATE: July 1, 2000

CONSENT REQUIRED FOR DISCLOSURE OF PICTURES OR IMAGES

Agencies, other than the DMV, need applicants' expressed consent before disclosing their photographs or images to others. Even with the applicant's expressed consent, an agency may only disclose the information to a legitimate business or its agent, employee, or contractor. The act prohibits the requesting party from re-disclosing any personal information he receives to anyone other than his agent, employee, or contractor.

The consent requirement does not apply to agencies disclosing the pictures or images in a civil, criminal, administrative, or arbitration proceeding. The exemption extends to service of process, enforcement or execution of judgments and orders, pre-litigation and law enforcement investigations, court orders if the requestor is a party to the action, and court-ordered registration for sex offenders under Megan's law.

The act defines "disclose" as engaging in a practice or conduct to make information pertaining to one individual available and known to other people, organizations, or entities.

PA 00-158—HB 5686
Government Administration and Elections Committee
Planning and Development Committee

AN ACT CONCERNING MEMBERSHIP ON COMMUNITY ACTION BOARDS AND DESIGNATION OF VIOLENCE-FREE ZONES

SUMMARY: This act removes term limits for members of community action agency boards who represent a neighborhood's poor residents and its business, labor, and community groups. Prior law limited the service of two-thirds of the members (those who are not elected public officials) to five consecutive years or a total of 10 years. One-third of the members must represent the poor and one-third must be officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

The act also allows community action agencies to designate violence-free zones in accordance with federal law to address the needs of youth. The agencies can designate the zones in the 17 towns with enterprise zones (i.e., targeted investment communities). The program's purpose is to support the primary role of the family, focus on youth problems and crime prevention, and promote increased community cooperation.

For purposes of the act, "violence-free zone" means a geographic area that (1) is within a targeted investment community and (2) has chronically high levels of crime, violence, unemployment, family dissolution, or juvenile delinquency, and a low rate of home ownership.
EFFECTIVE DATE: Upon passage

BACKGROUND

Community Action Agency Boards

Community action agencies receive federal Community Services Block Grant and other federal funds that are administered by a tripartite board. The 1998 Communities, Accountability, and Training and Educational Services Act deleted the reference in the federal law to board members' term limits (P.L. 105-285, 42 U.S.C.A. 9910).

Violence-Free Zones

The federal block grant funds programs for establishing violence-free zones involving youth development and intervention models (such as models for youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs).

Targeted Investment Communities

By law, any town with an enterprise zone is a targeted investment community. The 17 towns with enterprise zones are: Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

PA 00-168—sHB 5892
Government Administration and Elections Committee

AN ACT CONCERNING THE CONVEYANCE OF CERTAIN PARCELS OF STATE LAND

SUMMARY: This act revises existing provisions and conditions on state property conveyances in Stratford, Old Saybrook, Vernon, Hartford, and

Avon. It authorizes new conveyances in Groton, Hartford, Litchfield, Manchester, New Britain, New Milford, Newington, Newtown, Norwalk, Wethersfield, and Wilton. Each of the new conveyances is subject to the State Properties Review Board's (SPRB) approval and must be made at a cost equal to the administrative cost of the conveyance, unless otherwise noted. The property reverts to the state if the recipient uses the parcel for any purpose other than that specified in the act. The act transfers custody of property in Preston from the Department of Public Works (DPW) to the Department of Environmental Protection (DEP).

The act gives the Connecticut Historical Commission authority to lease historic structures and landmarks that it acquires to private organizations or municipalities. They in turn may restore, maintain, and operate the properties.

It also authorizes the commissioner of public safety to contract with the Connecticut State Police Academy Alumni Association, Inc. to construct and donate to the state a building on the land at the Col. Leo J. Mulcahy Complex in Meriden. If the commissioner decides to proceed, he has final approval over the project and can require the association to comply with state and federal laws and regulations, post a performance bond, and acquire insurance.

Under the act, the state waives any title claim it may have on the Stratford Army Engine Plant.

The act validates the Prospect Grange No. 144, Inc.'s conveyance of property at 23 Center Street in Prospect to the town.

It bans transfer of any interest in a certain property in Milford to the Ryder Park Residents Association, Inc. until final resolution of a court case (*McQuillan et al. v. Engelman et al.*).

EFFECTIVE DATE: Upon passage

CONVEYANCE REVISIONS

Connecticut-Stratford Shakespeare Theater

The act requires the DEP to convey the Shakespeare Theater to the Stratford Festival Theater, Inc., rather than to an unspecified applicant. It names Stratford Festival Theater, Inc. as the party responsible for renovating and operating the theater. It sets the administrative costs of the conveyance as the price.

It deletes the provision of earlier conveyance legislation (PA 95-127, as amended by SA 98-1) that required the DEP commissioner to use the proceeds from the conveyance for the Connecticut Recreation and Natural Heritage Trust Program. It also removes a provision requiring conveyance to the town of Stratford in the event that the property reverts to the state. It deletes the requirement that the theater annually present at least one Shakespearian performance for the next 20 years.

Old Saybrook

The act makes the Maritime Education Network, Inc., rather than the Tradewinds Education Network, Inc., the recipient of a Department of Transportation (DOT) conveyance in Old Saybrook that was authorized in 1994. The act changes the use of the parcel from a marine and maritime school to programs in marine and maritime education.

Vernon

The act adds to the DPW commissioner's existing authority to enter a lease-purchase agreement for development of a courthouse in Vernon the authority to enter into easement agreements with owners of property adjacent to the courthouse garage. The authority is subject to SPRB approval.

It also removes a deed restriction on property conveyed to Vernon from DOT in 1985. Under the restriction, the property had to be used for highway purposes only. The act permits the town to convey the property and allows it to be used for any other purpose.

Hartford

The act changes the permitted use of a parcel conveyed to Hartford from a new fire and police department headquarters to economic development purposes. In the event Hartford sells the property, the sales proceeds go to the Special Transportation Fund.

Avon

The act allows Avon to use for public safety purposes property it acquired pursuant to a 1963 special act in addition to the educational purposes that are permitted under existing law. By law, Avon can exchange any or all of the land for other parcels that would have to be used for recreation and conservation or schools.

NEW CONVEYANCES

The act requires the commissioner of agriculture to convey the Noank Aquaculture-Marine Laboratory and its land (.97 acre) to the town of Groton, subject to SPRB approval, for its administrative costs. The town must make part of the lab and land available to its shellfish commission for aquaculture purposes and

use the rest for municipal purposes. If it does not, the property reverts to the state. If Groton refuses to accept the conveyance, the commissioner must convey the land to the Noank Fire District. The fire district must make part of the lab available to the town shellfish commission.

The act requires the following conveyances from the agencies to the recipients named for the purpose specified:

1. from DOT to Norwalk (if the city agrees to accept it as is) for urban renewal, economic development, and housing (6.7 acres), but if Norwalk sells the land for economic development, it must use the proceeds to build a parking garage for the Maritime Aquarium;
2. from DPW to Newtown for recreational purposes (3.6 acres);
3. from DOT to Wethersfield for open space and passive recreation (35.8 acres);
4. from DOT to Newington for open space and passive recreation (four parcels totaling 73.9 acres);
5. from DOT to Manchester for open space (4.15 acres);
6. from DOT to Manchester partially for open space (12 acres) and partially for recreational purposes (10 acres) by March 1, 2001;
7. from DOT to five adjacent property owners, for a cost of $1 each, property in Manchester that was formerly Bridge Street (.24 acre);
8. from DPW to Hartford for sidewalk relocation (678 square feet);
9. from DPW to the Horace Bushnell Memorial Hall Corporation for expansion of the Bushnell Theater in Hartford (.069 acre);
10. from DOT to the New Milford Affordable Housing, Inc. for affordable housing purposes (.5 acre);
11. from DOT to New Britain for municipal purposes (.04 acre); and
12. from DOT to Orem's Diner of Wilton, Inc. at the property's fair market value (1.5 acres in "as is" condition).

The act requires DEP to convey a .741 acre parcel of land in Litchfield to five named individuals for $22,500. The state maintains all development rights to the property and no structures of any kind may be put on it. The conveyance is subject to SPRB approval.

INTRA-AGENCY TRANSFER

The act requires DPW to transfer the custody and control of 53 acres in Preston to DEP. DEP must create a 500-foot "No Hunting" zone along the western edge of the property.

PA 00-60—sHB 5424
Select Committee on Housing
Planning and Development Committee
Public Safety Committee

AN ACT CONCERNING PERMITS TO CONSTRUCT OR ALTER BUILDINGS OR STRUCTURES

SUMMARY: This act prohibits municipal building officials from issuing building permits to home improvement contractors unless their applications clearly show the contractor's name, business address, and Department of Consumer Protection (DCP) registration number. Contractors must also present their certificates of registration as home improvement contractors. These requirements apply to contractors that perform more than $1,000 in home improvements per year, and are thus required by law to register with the DCP.
EFFECTIVE DATE: October 1, 2000

PA 00-173—sSB 357
Select Committee on Housing
Planning and Development Committee
Commerce Committee

AN ACT CONCERNING TENANT RIGHTS IN STATE PUBLIC HOUSING

SUMMARY: This act requires public housing authorities that operate state-funded projects to adopt certain practices and procedures with respect to their tenants. They must give tenants written leases and encourage them to participate in state-funded housing programs that the authorities operate. The authorities must also help tenants become involved in managing their projects where appropriate.

The act requires authorities to adopt procedures for hearing tenants' complaints and grievances. Those that also operate federally funded projects must adopt the same grievance procedure for both types of projects, thus giving tenants in state-funded projects the same substantive and procedural rights as those in federally funded projects. The authorities must also adopt procedures for soliciting comments from tenants on proposed policy and procedural changes, including those regarding admission and occupancy requirements.

The economic and community development commissioner must adopt regulations setting minimum standards for the practices and procedures the act requires. The act supercedes an obsolete statute that required him to adopt uniform minimum standards for leases, grievance procedures, and tenant comment and participation regarding policy and procedural changes and project management.
EFFECTIVE DATE: October 1, 2000

FEDERAL GRIEVANCE PROCEDURES AND REQUIREMENTS

The act requires housing authorities operating state-and federally funded projects to adopt the same grievance procedures for tenants in both types of projects. Since authorities operating federally funded projects must comply with federal regulations, the act extends the same substantive and procedural rights enjoyed by tenants in these projects to those in state-funded projects.

Federal regulations require housing authorities operating federally funded housing projects to have written procedures giving tenants the opportunity to air a grievance at a hearing. The authorities must include the procedure in their leases or cite them by reference. They must also give tenants at least 30 day's notice before changing the procedure.

The regulations require a tenant to first present his grievance in person or in writing to the authority to see if the parties can resolve the dispute without a hearing. The authority must make a written record of the meeting and send the tenant a copy. The tenant can request a hearing by submitting a written request stating the reason for the grievance and the relief he seeks.

The authority appoints a hearing officer in the manner the grievance procedure specifies, and it must comply with his decision. The decision does not block the tenant from challenging the decision in court.

PA 00-195—HB 5523
Housing Committee
Planning and Development Committee

AN ACT CONCERNING TECHNICAL AMENDMENTS TO THE HOUSING STATUTES AND REPEALING THE PILOT PROGRAM FOR PRIVATIZATION OF PUBLIC HOUSING PROJECTS

SUMMARY: This act eliminates a four-year pilot program operated by the Department of Economic and Community Development to promote the rehabilitation and private management of moderate rental housing projects owned by a town's housing authority.

It also makes technical corrections to references to the federal Fair Housing Act in the human rights and opportunities statutes. The act adds the federal

act's U.S. Code citation and specifies that references to the act include all subsequent amendments.
EFFECTIVE DATE: October 1, 2000

PA 00-206—sHB 5107
Housing Committee
Planning and Development Committee
Judiciary Committee
Appropriations Committee
Commerce Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE BLUE RIBBON COMMISSION TO STUDY AFFORDABLE HOUSING REGARDING THE AFFORDABLE HOUSING APPEALS PROCEDURE

SUMMARY: This act makes many changes to the affordable housing land use appeals procedure. Under this procedure, towns bear the burden of proving certain facts to the court if a developer appeals their decision rejecting a proposed affordable housing development. (Normally, developers in land use appeals bear this burden.) The procedure is available in towns with little or no affordable housing, as defined by law. Currently, 139 towns fall into this category.

The act changes one of the factors the Department of Economic and Community Development (DECD) must use when it annually identifies the towns where developers can use the procedure. It requires DECD to compute a town's share of affordable units based on its housing stock as of the last U.S. census instead of its current stock.

The act increases the percent of units developers must agree to make affordable in order to use the procedure and lengthens from 30 to 40 years the time during which they must remain affordable. It also imposes new conditions limiting the amount of rent that developers can charge for the affordable units.

The act gives local land use commissions more tools to assess proposed affordable housing developments. It requires developers to submit plans showing how they intend to comply with the law's affordability requirements. The DECD commissioner must adopt regulations delineating some of the elements the plans must contain. The act allows commissions to require developers to submit conceptual site plans if they need a zone change to build an affordable housing development.

It changes several procedural requirements for acting on an application after a developer modifies and resubmits it to the commission that initially acted on it.

The act requires the court to decide for itself whether the evidence in the record supported the commission's decision to reject a proposed development. Under prior law, the court only had to determine if there was enough evidence for the commission to have reached the decision it did. Under the act, the court must evaluate the evidence and decide for itself if it shows that the decision was necessary to protect public interests, that those interests outweighed the need for affordable housing, and that the proposed development could not be changed in a way that does not harm the interests.

The act gives any land use commission that acted on an affordable housing development the same power to enforce the conditions for using the procedure that zoning commissions have to enforce their orders and regulations.

It changes the time period and conditions under which towns can obtain a moratorium on affordable housing appeals. Under prior law, towns could obtain a one-time, one-year moratorium on affordable housing appeals if they participated in certain state housing programs and created units that equaled 1% of their current housing stock. Instead, the act allows towns to obtain a three-year moratorium each time the total number of certain types of housing units equals 2% of the housing stock as of the last census or 75 unit-equivalent points, whichever is greater. It specifies the types of units that count toward a moratorium and assigns points to them. DECD must adopt regulations specifying how towns can obtain a moratorium and certify if they qualify for one.

The act allows towns to adopt ordinances providing property tax credits to residential owners if they agree to sell or rent their property only to low- and moderate-income people at prices they can afford. The owners must impose deeds restricting the sale or rental of the property to these groups for 40 years. These units count toward a moratorium and an exemption from the procedure.
EFFECTIVE DATE: October 1, 2000

DETERMINING IF A TOWN IS SUBJECT TO THE PROCEDURE

Calculating the Percent of Affordable Units

The act changes one of the factors DECD must use to identify the towns where developers can use the procedure. By law, DECD annually calculates the percent of affordable units in each town and lists those where developers can use the procedure. Under prior law, developers could use the procedure in towns where less than 10% of their current housing stock qualifies as affordable housing under the law.

The act changes the denominator DECD must use to determine if a town's affordable housing stock exceeds the 10% threshold. DECD must tally the number of affordable units a town currently has and determine if this number exceeds 10% of the total units the town had as of the last 10-year U.S. census.

Deed Restricted Units

The act changes one of the criteria for determining if a deed-restricted unit counts towards the 10% threshold. Under prior law, the unit counted toward the 10% threshold if it was subject to a deed restricting its sale or rental to a price a low- and moderate-income family can afford. A family met this criterion if it earned no more than 80% of area median income and the unit cost them no more than 30% of their income. Under the act, the unit counts toward the threshold if it is affordable to people earning no more than 80% of the area's or the state's median income, whichever is less.

SET-ASIDE DEVELOPMENTS

Unit Set-Aside Requirements

The act tightens the conditions that proposed, privately-financed developments must meet if their developers intend to use the procedure (i.e., "set-aside developments"). The law requires developers to make a portion of the units in these developments affordable to low- and moderate-income people and place deeds on these units with provisions restricting their sale or rental to prices these people can afford during the required period. People fall into this income group if they earn 80% or less of the area's or the state's median income, which ever is less.

The act increases from 25% to 30% the total share of units developers must make affordable to people in the low- and moderate-income range and lengthens the period during which they must remain affordable from 30 to 40 years.

The law requires developers to reserve a portion of the affordable units for people at the lower end of the income scale (i.e., those earning less than 60% of the area's or state's median income, whichever is less). The act increases this portion from at least 10% to at least 15%. Developers must make that number of units affordable to people at the higher end of the scale needed to reach the new minimum 30% unit set-aside requirement. People in this range have incomes ranging from 60% to 80% of the area's or the state's median income, whichever is less.

Limits on Rents for the Set-Aside Units

The act limits the rents developers can charge for the set-aside units to the fair market rents (FMR) the U.S. Department of Housing and Urban Development calculates for its Section 8 rent subsidy program. The limits are different for the two types of set-aside units.

The act limits the rents to 100% of the FMR for those units reserved for people earning 60% or less of the median income. And it limits the rents to 120% of the FMR for those people earning between 60% and 80% of the median income. Developers must base the rents on the maximum housing costs that people in these income ranges can afford to pay. That cost cannot exceed 30% of their income. If they do, developers cannot charge rents that exceed the FMR levels the act specifies.

Housing Cost to Income Ratios

The act prohibits developers from imposing housing cost to income ratios that exceed those for federal or state rental assistance programs. This provision applies only to prospective tenants receiving subsidies from these programs. The ratio defines how much income a person can devote to housing and still meet his other needs. Some rental assistance programs subsidize that portion of rent that exceeds 30% of the tenant's housing cost, which consists of several components defined in regulations.

DEVELOPER SUBMISSION REQUIREMENTS

Affordability Plan

The act requires affordable housing applications to include a plan showing how the developer intends to make the project affordable. This requirement applies to government funded and privately financed set-aside developments.

The affordability plan must contain the following elements:

1. the person, entity, or agency responsible for administering the plan, the income limits, and sales or rental restrictions during the period in which the deed restrictions are effective;
2. an affirmative fair housing marketing plan governing the sale or rental of all units;
3. an example of how the developer intends to calculate the maximum rental or sales prices for the affordable units;
4. the sequence in which the developer intends to build the affordable units and offer them

for occupancy and the location of these units within the overall development; and
5. draft zoning regulations, conditions of approvals, deeds, restrictive covenants, or lease provisions that will govern the affordable units.

The act requires the DECD commissioner to adopt regulations, within available appropriations, regarding the affordability plan specifying:

1. the formula for determining rent levels and sales prices, including the maximum allowable down-payments when calculating maximum allowable sales prices;
2. the costs developers must include when calculating maximum allowable rents and sales prices;
3. how developers must equate family size and bedroom counts in establishing maximum rental and sales for the affordable units; and
4. the factors developers must consider when computing income.

The regulations may include other criteria.

Conceptual Site Plan

The act allows local land use commissions to adopt regulations under which they can require developers seeking zone changes to submit a conceptual site plan along with their affordable housing application. The plan must indicate the total number of units the developer plans to build, how he intends to arrange them on the site, and the proposed sewage disposal, water supply, and roads and traffic circulation.

APPROVING MODIFIED AFFORDABLE HOUSING APPLICATIONS

The act changes some of the procedures land use commissions must follow when acting on an affordable housing application after the developer modified and resubmitted it. The law allows a developer to modify and resubmit an application after the commission rejected or approved the original application with restrictions affecting the development's feasibility. He must do this within the time the law allows for filing an appeal.

The act specifies that the rule for determining the day when the developer submitted the original application must also determine the day he resubmitted the modified application.

The act also changes the conditions under which the commission must hold a public hearing on the modified application. Prior law allowed the commission to hold the hearing, but the act requires it to do so if it held one on the original application.

The act requires the commission to render a decision on the modified application not later than 65 days, rather than 45 days, after receiving it. But it automatically adds 35 days if the applicant needs a wetlands permit and the commission's deadline expires before the 35 days the wetland agency has to issue the permit. The act also makes a conforming technical change.

BURDEN OF PROOF

The law, unchanged by the act, places the burden on the commission to prove certain facts in order to defeat an appeal brought under the procedure. Prior law required the commission to show that:

1. the record contains sufficient evidence to support the decision;
2. the decision was necessary to protect substantial public interests in health, safety, or other matters the commission may legally consider;
3. these interests clearly outweighed the need for affordable housing; and
4. the interests could not be protected by making reasonable changes to the proposed development.

The Connecticut Supreme Court ruled that the first standard (i.e., sufficient evidence in the record to support the decision) sets the scope that the courts had to apply to the other three standards. In other words, the court had to review the record to see if there was sufficient evidence to support the commission's decision regarding the second, third, and fourth standards (*Christian Activities Council, Congregational v. Town Council of Glastonbury et al.*, 249 Conn. 566 (1999)).

The act still requires the court to determine if the record contains sufficient evidence to support the decision and the reasons given for it. But it also requires the court to independently evaluate the evidence and decide if it shows that:

1. the decision was necessary to protect substantial public interests in health, safety, or other matters that the commission can legally consider;
2. these interests clearly outweigh the need for affordable housing; and
3. the interests cannot be protected by making reasonable changes to the proposed development.

ZONING ENFORCEMENT

The act appears to give all land use commissions or their designated authorities the power to force developers to comply with the terms and conditions

governing affordable housing developments. It does this by giving them the same powers and remedies that zoning commissions already have to enforce their regulations.

The remedies include fines for violating zoning regulations and civil penalties for failing to comply with cease and desist orders. The fines range from $10 to $100 for each day a violation continues and from $100 to $250 per day, imprisonment for up to 10 days, or both if willful. The civil penalties can be up to $2,500 for failing to comply with a cease and desist order.

MORATORIA

Time Period

The act changes the time period, frequency, and conditions under which towns can obtain a moratorium on affordable housing appeals. Prior law allowed towns to obtain a one-time, one-year moratorium on these appeals. The act instead allows towns to obtain a three-year moratorium each time they meet the act's requirements for obtaining a moratorium.

Affected Projects

The act imposes the moratorium on affordable housing appeals for applications that were filed with a commission after the moratorium took effect. But developers who submitted applications before it took effect can still use the procedure if the commission subsequently rejects their applications. Developers who submit applications after the moratorium took effect can still appeal decisions under the conventional procedure, which requires them to bear the burden of proof.

The act exempts from the moratorium applications for a proposed development that receives government funds. In these situations, the developer can use the procedure during the moratorium if:

1. 95% of the units in the proposed development are restricted to people or families earning 60% or less of the median income or
2. the development contains 40 or fewer units, regardless of whether any income restriction applies.

Moratoria under prior law applied to all affordable housing applications.

Requirement for Obtaining a Moratorium

A town qualifies for a moratorium under the act each time it adds certain types of units equal to 2% of the total number of units it had as of the last 10-year census or 75 unit-equivalent points, whichever is greater. (As discussed below, a unit-equivalent point is the value that the act assigns to certain types of units.) The town qualified for a moratorium under prior law if it added certain types of units equal to 1% of its current housing stock and it actively participated in certain state housing programs.

Eligible Units

The act expands the range of units that must be added in a town before it qualifies for a moratorium. And it weights some of these units (i.e., unit-equivalent points). Under prior law, a town qualified for a moratorium only for units that were added under the Connecticut Housing Partnership and Regional Fair Housing Compact programs, which are no longer active.

Under the act, units that became affordable July 1, 1990 count toward a moratorium if they were:

1. built with government funds,
2. built with private funds and occupied by tenants receiving state or federal rent subsidies,
3. subject to deeds restricting their sale or rental to low- and moderate-income people for at least 40 years, or
4. developed under the appeals procedure (including both deed-restricted and market rate units).

The town cannot count a unit toward a moratorium until it receives its certificate of occupancy or the deed restrictions take effect.

The act weights those units based on their tenancy and level of affordability. The weights apply to privately financed developments completed under the procedure and government funded new construction. Table 1 shows the weights the act assigns to these units.

Table 1: Housing Unit-Equivalent Point Schedule

Type of Unit	*Points*
Market-rate units in a set-aside development	0.25
Family* ownership units affordable to people at or below 80% of median income	1.00
Family ownership units affordable to people at or below 60% of median income	1.50
Family ownership units affordable to people at or below 40% of median income	2.00
Family rental units affordable to people at or below 80% of median income	1.50
Family rental units affordable to people at or below 60% of median income	2.00
Family rental units affordable to people at or below 40% of median income	2.50
Units affordable to elderly people at or below 80% of median income	0.50

*Family units are those without age restrictions.

The act gives towns additional unit points for set-aside developments containing rental units for families if their applications were filed with the commission before July 6, 1995. The additional points equal 22% of the total number of unit-equivalent points the town received for the project.

Towns must tally the number of units that count toward a moratorium and deduct those that are no longer affordable because of its actions. It is not clear if these units include those lost because of the actions of towns' housing authorities, which are quasi-public agencies with limited ties to the towns.

Units count toward a subsequent moratorium if they were included in an affordable housing development that was proposed before the moratorium took effect and completed during the moratorium period. The units must still meet the certificate of occupancy or deed restriction requirements before the town can count them toward the subsequent moratorium.

Applying for a Moratorium

The act requires the DECD commissioner to adopt regulations, within available appropriations, specifying the process towns must follow to obtain a moratorium. The regulations must also specify the method towns must use to document the units they count toward a moratorium.

The act also provides a procedure towns can follow before DECD adopts the regulations. Towns can apply to the commissioner for a certificate of affordable housing completion, providing documentation showing that they have obtained the required number of points during the applicable time period. The documentation must indicate the location of each unit, the number of points assigned to it, and how the town calculated that number.

The commissioner must publish a notice in the *Connecticut Law Journal* after he receives the application advising the public that it has 30 days to comment on the application. He must approve or reject the application within 90 days after receiving it. In either case, the commissioner must state in writing the reasons for his decision. He must publish a certificate of affordable housing completion in the *Journal* if he approves the application.

The application is provisionally approved if the commissioner failed to act on it within the 90-day period. The town can publish a notice of provisional approval in a conspicuous manner in a local newspaper, stating that the moratorium takes effect on the publication date. It must send a copy of the notice to the commissioner. The moratorium ends if the commissioner subsequently rejects the application and notifies the town to that effect.

The commissioner must certify whether a town meets the conditions for imposing a moratorium on affordable housing appeals. If it has, he must publish a notice to that effect in the *Connecticut Law Journal*.

The moratorium period begins on the day the commissioner publishes the notice or the town publishes a notice of provisional approval.

PROPERTY TAX CREDITS FOR DEED-RESTRICTED UNITS

Eligibility Requirements

The act allows towns to adopt ordinances providing property tax credits to residential property owners who agree to file a deed in the land record containing covenants that restrict the property's sale or rental to low- and moderate-income people at prices they can afford. The restriction must remain in place for 40 years. Towns can give the credits to single-family homeowners and multifamily homeowners who occupy one of the units. These units count toward a moratorium and the 10% threshold a town must meet to be exempted from the procedure.

The covenants must bind the owner and subsequent owners from acting either unilaterally or with others to remove the restrictions during the period. The town or any of its residents must be able to enforce the restrictions during the period.

Affordability Requirements

The deed-restricted units must be affordable to people who earn no more than 80% of the area's or the state's median income, whichever is less. They can afford a unit if its annual costs do not exceed 30% of their income.

PA 00-4—SB 345
Human Services Committee

AN ACT REQUIRING A BIENNIAL REVIEW OF ADOPTION SUBSIDIES

SUMMARY: This act requires the Department of Children and Families (DCF) to (1) conduct eligibility reviews of families receiving subsidies for adopting children with special needs once every two years, rather than annually, and (2) establish a subsidy review schedule.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Adoption Subsidy Program

DCF administers a subsidy program as an adoption incentive for children it certifies as being difficult to place. The program covers children with, or at high risk for, physical or mental disabilities; serious emotional maladjustment; and age, racial, or ethnic factors that present adoption barriers. It also covers siblings who should be placed together, and DCF-certified children with significant emotional ties to foster parents who are prospective adopters. Usually, DCF makes subsidy decisions before adoptions become final.

Adoptive parents may qualify for periodic DCF cash payments (up to the current foster care payment amount) until the child turns age 18 or is no longer their legal responsibility. DCF can reduce or end these payments when the condition (or a related condition) that led to the child's certification no longer exists. Parents can appeal the agency's decisions to an administrative review panel and, if still dissatisfied, file suit in Superior Court.

PA 00-39—sSB 344
Human Services Committee
Judiciary Committee

AN ACT CONCERNING RECOVERY IN CONSERVATOR OF ESTATE MATTERS

SUMMARY: This act eliminates the requirement that an estate pay the Department of Social Services (DSS) conservator costs from its assets when DSS acted as a conservator of the estate or person and the probate court approved.

By law, the probate court can direct DSS to appoint a conservator of anyone age 60 or older who is found incapable of managing his affairs or caring for himself, whose liquid assets are worth no more than $1,500, and whose health and welfare is determined to be in jeopardy. The conservator of the estate provides basic financial management services; the conservator of the person makes health care decisions and generally supervises the person's personal affairs.
EFFECTIVE DATE: Upon passage

PA 00-83—SB 395
Human Services Committee
Appropriations Committee

AN ACT CONCERNING STATE-FUNDED ASSISTANCE TO LEGAL IMMIGRANTS

SUMMARY: This act makes people who formerly held "permanently residing under color of law" (PRUCOL) immigration status eligible for state-funded cash assistance in the Temporary Family Assistance (TFA) and cash assistance under the (1) Reach for Jobs First waiver, (2) state-administered general assistance (SAGA), and (3) town-administered general assistance (GA) programs. It also makes them eligible for medical assistance through SAGA, GA, HUSKY B (the state's children's health insurance program), and the Connecticut Home Care Program for Elders (CHCPE). As with "qualified aliens" and "other lawfully residing immigrant aliens" who were already eligible for these programs, the act applies only to those who are barred from assistance programs that get federal funding.

The act exempts PRUCOLs who are domestic violence victims or have mental retardation from residency, eligibility cutoff, and citizenship pursuit requirements.
EFFECTIVE DATE: July 1, 2000

CITIZENSHIP PURSUIT AND RESIDENCY

Under the act, PRUCOLs participating in most state cash and medical assistance programs must pursue citizenship to the maximum extent allowed by law unless the Department of Social Services (DSS) excuses them or they are incapable of doing so because of a medical problem or language barrier. Those who entered the United States after August 22, 1996 must live in Connecticut for six months before becoming eligible unless DSS had found them eligible before July 1, 1997. Under prior law, unchanged by the act, the same requirements apply to most recent arrivals in the other covered immigrant categories. PRUCOLs, qualified aliens, and "other lawfully residing legal aliens" will become ineligible for these programs on July 1, 2001.

Under the act, PRUCOLs may participate in Norwich's GA program (which is the only town-administered assistance program in the state) without meeting residency or citizenship pursuit requirements, although the other immigrant groups must meet the same rules described above. CHCPE has no citizenship pursuit requirement for any covered immigrant group, and under the act, no residency requirement for PRUCOLs. (Other legal immigrants must be Connecticut residents for at least six months.) Although qualified aliens and "other lawfully residing immigrant aliens" become ineligible for GA and CHCPE on July 1, 2001, under the act PRUCOLs will not.

BACKGROUND

PRUCOL

Prior to federal immigration reform, the Immigration and Naturalization Service (INS) assigned PRUCOL status to noncitizens without permanent resident status whom the agency chose not to deport. Because INS now classifies many who had this status as "non-immigrants," some apparently were ineligible for state assistance under prior law. (In practice, DSS allowed them to participate in its state-funded programs.)

Welfare Reform

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), the 1996 federal welfare reform law, barred most legal immigrants from federally funded assistance programs, including TFA and Medicaid. "Qualified aliens," including asylees, refugees, and other disadvantaged groups may qualify after they have lived in the United States for five years. Only those admitted into this country before the federal law went into effect (August 22, 1996) who are refugees, asylees, veterans' families, or have worked here for 10 years remained eligible.

PRWORA permits states to enact laws setting up separate state-funded programs for legal immigrants. PA 97-2 (June 18 Sp. Sess.) established two-year, state funded cash, medical assistance, and home care programs for qualified aliens and an undefined group of "other lawfully residing immigrant aliens." PA 99-279 extended these programs through June 30, 2001.

PA 00-117—HB 5530
Human Services Committee
Appropriations Committee

AN ACT CONCERNING THE MAXIMUM PAYMENT UNDER THE INDIVIDUAL AND FAMILY GRANT DISASTER RELIEF PROGRAM

SUMMARY: This act increases the maximum grant the governor (through the Department of Social Services (DSS)) can provide under the Individual and Family Grant Program (IFGP) from $5,000 to the federal maximum, which is currently $13,600 for each disaster. This program helps individuals and families pay for the repair or replacement of disaster-related, uninsured, damaged residential or personal property, as well as related medical, dental, funeral, and transportation costs. The federal government pays 75% of the grant and the state contributes 25%.
EFFECTIVE DATE: Upon passage

BACKGROUND

IFGP

To be eligible for a grant, an applicant must have uninsured or underinsured losses and have applied for and been denied a U.S. Small Business Administration disaster loan. The grants cannot be used to pay for improvements or additions to real or personal property, recreational property, luxury, or decorative items, or business or self-employment expenses. The maximum grant is adjusted each year for inflation.

PA 00-127—sHB 5531
Human Services Committee
Joint Committee on Legislative Management
Government Administration and Elections Committee
Education Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE BRAILLE LITERACY TASK FORCE

SUMMARY: This act establishes a nine-member Braille Literacy Advisory Council. It must study and, beginning January 1, 2001, make annual reports and recommendations to the Education, Human Services, and Appropriations committees about Braille services for, and the literacy of, blind or visually-impaired school-age children. The council also must, by January 1, 2001, report to the Human Services and Aging committees on the need for a task

force to evaluate the unmet needs of adults with low vision.

The act requires the State Department of Education (SDE) and the Board of Education and Services for the Blind (BESB) to submit reports to the Education and Human Services committees and the advisory council.

EFFECTIVE DATE: Upon passage

ISSUES TO STUDY

The advisory council must:

1. review school-age visually impaired children's ability to read and write Braille and assess the availability of services for them;
2. find out how often, and why, their special education plans do not include Braille instruction;
3. evaluate learning media assessments being used to select instructional materials and teaching strategies for students and decide whether there should be a common, periodically reviewed, standard;
4. develop a plan to attract to Connecticut qualified teachers for children with visual impairments;
5. assess methods to better coordinate Braille instruction, teaching, and other activities between BESB and local education agencies (LEAs) that employ teachers for their visually impaired students (commonly referred to as "itinerant teachers"), and expand professional development programs for these teachers;
6. encourage school districts to require vendors to provide schools with Braille textbooks, or electronic versions in ASCII or other text-based computer accessible formats, in a timely manner;
7. review the caseloads of BESB education consultants and itinerant teachers and the amount of time they spend on one-on-one instruction; and
8. assess the ability of visually impaired children to read and write (presumably by comparing their skills with those of their sighted peers).

ADVISORY COUNCIL MEMBERS

The act makes the education commissioner and BESB executive director, or their designees, council members. Legislators must appoint the remaining seven members by June 27, 2000, and fill council vacancies, as follows:

1. a National Federation of the Blind of Connecticut representative, appointed by the Senate president pro tempore;
2. a Connecticut Council of the Blind representative, appointed by the House minority leader;
3. a BESB education consultant, appointed by the Senate majority leader;
4. an itinerant teacher, appointed by the Senate minority leader;
5. a public school administrator, appointed by the House speaker;
6. a visually impaired, Braille-literate public high school student, appointed by the House majority leader; and
7. a parent of a visually impaired public school student, appointed by the governor.

The speaker and Senate president pro tempore must select chairpersons for the first council meeting, which must be held by July 27. The council must then elect a chairperson.

Any member who attends fewer than half of a calendar year's meetings is deemed to have resigned.

BESB AND SDE REPORTS

BESB and SDE must report to the Education and Human Services committees and the council by January 1, 2002 on the agencies' efforts to create certification requirements for teachers of the visually impaired. By the same date, BESB must report to them on: (1) how much of BESB's per-pupil education subsidy (up to $6,400 per year for children with visual impairments only, and up to $11,000 for those with multiple disabilities) LEAs have requested for each of their pupils entitled to them and (2) each LEA's access to, and use of, BESB uncharged support services, such as in-service training and other professional development programs.

PA 00-188—sHB 5525
Human Services Committee
Appropriations Committee
Government Administration and Elections Committee
Legislative Management Committee
Judiciary Committee

AN ACT ESTABLISHING A CHILDREN'S BEHAVIORAL HEALTH ADVISORY COMMITTEE TO THE STATE ADVISORY COUNCIL ON CHILDREN AND FAMILIES AND A CHILDREN'S BEHAVIORAL HEALTH COUNCIL

SUMMARY: This act establishes a 31-member Children's Behavioral Health Advisory Committee to the State Advisory Council on Children and Families to promote and enhance behavioral health (BH) service delivery for children. The committee must submit to the council (1) annual reports (by October 1) on local systems of care and practice standards of state-funded BH programs and (2) biannual recommendations concerning BH service delivery.

The act eliminates a requirement that at least three members of the 15-member council be individuals between the ages of 15 and 22, but retains the requirement that at least nine council members represent young people, parents, and other interested parties.

The act also establishes a 23-member Children's Behavioral Health Council to advise the executive and legislative branches on children's behavioral health service delivery in the state.

And it requires the Department of Social Services (DSS) commissioner by January 1, 2001 to (1) evaluate the eligibility process for HUSKY Parts A and B and (2) develop a plan to improve both this process and the eligibility renewal process. She must submit her findings to the governor and the Human Services Committee. (The act does not specify a deadline for the commissioner to report.) (Section 45 of PA 00-1, June Special Session, repeals these requirements).

EFFECTIVE DATE: July 1, 2000, except the Behavioral Health Council provisions are effective upon passage.

BEHAVIORAL HEALTH ADVISORY COMMITTEE

Membership

The committee is composed of the following individuals who serve without compensation for two-year terms:

1. the DSS and departments of Children and Families (DCF), Education (SDE), Mental Health and Addiction Services (DMHAS), and Mental Retardation (DMR) commissioners, or their designees;
2. the executive director of the Children's Health Council, or her designee;
3. the chief court administrator, or his designee;
4. a parent of a child receiving BH services and a BH provider, both appointed by the governor;
5. six individuals knowledgeable on issues related to children needing BH services and family supports, one each appointed by House and Senate majority and minority leaders; and
6. 16 individuals appointed by the DCF Advisory Council chairperson.

The committee's membership must fairly and adequately represent parents of children who have a serious emotional disturbance (SED), and at least half must be (1) parents or relatives of children who have or had SEDs or (2) people who had SEDs as a child. The committee elects two co-chairmen, one of whom must be a parent of a child with an SED.

The appointments must be made within 60 days after the act's effective date (by August 30, 2000). Vacancies must be filled by the appointing authority.

Responsibilities

The act requires the committee to meet at least once every other month. By October 1 of each odd-numbered year, the committee must submit recommendations to the council that address at least the following:

1. the target population, assessment and benefit options, and appropriateness and quality of care for children with BH needs;
2. the coordination of BH services under the HUSKY program with those provided by other publicly-funded programs;
3. performance standards for preventive service, family supports, and emergency service training programs;
4. community-based and residential care assessments;
5. outcome measurements by reviewing provider practice; and
6. medication protocols and standards for monitoring medication and after-care programs.

CHILDREN'S BEHAVIORAL HEALTH COUNCIL

Membership

The council is composed of the following:

1. the chairmen and ranking members of the Human Services and Public Health committees, or their designees;
2. the commissioners of DCF, DSS, SDE, DMHAS, DMR, and public health, or their designees;
3. the secretary of policy and management or his designee;
4. the Commission on Children's director or her designee;
5. the Child Advocate, or her designee;

6. two community BH providers, one each appointed by the House speaker and Senate president pro tempore;
7. two representatives of Medicaid managed care companies or their subcontractors (presumably behavioral health ones), one each appointed by the House majority leader and Senate minority leader; and
8. two family representatives of children currently receiving BH services, one each appointed by the Senate majority leader and House minority leader.

The House speaker and Senate president pro tempore select the council's chairmen (presumably two) from the council membership, who must convene the group no later than June 1, 2000.

Duties

The council must consider all relevant reports and ongoing work addressing children's BH needs and services in the state and make recommendations concerning their coordination and access to them. It must submit a report to the Human Services and Public Health committees by February 1, 2001. The council terminates as soon as it submits the report but no later than February 1, 2001.

BACKGROUND

Serious Emotional Disturbance (SED)

SEDs are disorders that severely disrupt a child's daily functioning in home, school, or the community. They include depression, attention-deficit/hyperactivity, anxiety, schizophrenia, and conduct and learning disorders. Children with SED diagnoses are often involved with several state agencies (*i.e.*, DCF, DSS, DMHAS, DMR, or the SDE) and need services at varying intensity levels over extended periods.

HUSKY

HUSKY A is the state's Medicaid managed care program for children living in households with incomes up to 185% of the federal poverty level ($26,178 for a three-person family). HUSKY B's subsidized portion covers uninsured children between 185% and 300% of the federal poverty level (some premium and co-pay charges are assessed, depending on income). Uninsured children with higher family incomes can also enroll, but must pay full premium and co-pay charges.

The HUSKY plans cover a range of BH services, including hospitalization, residential treatment, and community-based care. Children eligible for subsidized coverage who have intensive behavioral health needs may also be eligible for more services through the HUSKY Plus program. The federal government provides matching funds for most HUSKY expenditures.

Systems of Care

Under the system-of-care model, state and local agencies including schools, community service providers, families, and advocacy groups collaborate to deliver family-centered services to meet children's emotional, behavioral, and educational needs. One entity (the "lead service agency") usually takes on the chief administrative and fiduciary role for the system. Currently, there are 19 systems of care in various stages of development throughout Connecticut.

Related Act

PA 00-2, June Special Session, requires the DSS and DCF commissioners to develop and jointly administer an integrated behavioral health service delivery system and specifies additional DCF services for children and youths with SEDS.

PA 00-213—HB 5778
Human Services Committee
Appropriations Committee

AN ACT PROVIDING WORK INCENTIVES FOR PERSONS WITH DISABILITIES

SUMMARY: This act requires the Department of Social Services (DSS) to amend the state Medicaid plan to establish a "buy-in" program authorized under federal law to provide health care coverage for certain people who have disabilities and are regularly employed. Individuals must contribute towards their care once their countable income reaches 200% of the federal poverty level (FPL) (currently $1,392 per month for one person) and can accrue substantial assets without losing eligibility. The act requires the DSS commissioner to seek a waiver of federal Medicaid law to permit individuals participating in the new program to continue to receive Medicaid under these new rules if they involuntarily stop working.

The act requires the DSS commissioner to amend the federal Personal Care Assistance (PCA) waiver to enable people qualifying for the buy-in program to keep their PCA benefits even though their incomes exceed the waiver's limits. (PCAs provide assistance with activities of daily living.) It provides

for people currently in the state-funded PCA working person's program or the community-based services (CBS) program to transition into the PCA waiver. It permits people who are receiving CBS on October 1, 2000 to keep these benefits if they participate in the buy-in program. It also codifies the CBS program, which formerly existed only in regulation.

The act also requires the DSS commissioner to cooperate with the Social Security Administration (SSA) with regard to demonstration projects which provide additional work incentives for people eligible for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI), as allowed under federal law.

The act requires DSS to submit an interim report to the Human Services and Appropriations committees by July 1, 2001 and a final report by July 1, 2003.

Finally, the act makes a technical change.

EFFECTIVE DATE: October 1, 2000

MEDICAID "BUY IN" PROVISIONS

Who Qualifies

Under the act, the Medicaid buy-in coverage is available to people who (1) are between the ages of 16 and 65, (2) would be considered to be receiving Supplemental Security Income (SSI) except for excess income, and (3) whose assets and income do not exceed any limits the state establishes. This means that a person can participate only if he has a medically determinable physical or mental impairment that results in marked and severe functional limitations and which can be expected to last at least 12 months or result in death.

"Regularly Employed"

While the act does not define the phrase "regularly employed," to be eligible for the buy-in program an individual must be engaged in a substantial and reasonable work effort that the DSS commissioner determines and federal law permits.

Income Limits

Under the act, adjusted gross annual income is limited to $75,000. DSS, when determining eligibility, must disregard all countable income up to 200% of the FPL. Countable income must deduct impairment related work expenses (IRWE). Existing state regulations define "counted" income in the Medicaid program as total available income, minus excluded income. The regulations likewise require DSS to deduct several types of expenses when determining countable income, including IRWEs. IRWEs are those work expenses related to enabling individuals with disabilities to work, such as attendant services and prosthetics.

DSS must also disregard spousal income for purposes of initial eligibility.

Asset Limits

The act requires DSS to establish a $10,000 asset limit for a single individual and a $15,000 one for married couples. In the Medicaid "medically needy" eligibility category, into which most individuals affected by the act previously fell, assets are limited to $1,600 for single people and $2,400 for married couples. (Medicaid has several different coverage categories, each with its own set of financial eligibility criteria.)

In addition, DSS must disregard the individual's or his spouse's retirement and medical savings accounts and any money in accounts designated for purchasing goods or services that will increase the individual's employability, which the commissioner approves.

Client Contribution

The act requires participants to contribute towards the costs of care any countable income above 200% of the FPL. (In this instance, both the individual and his spouse's income would be counted.) The contribution is 10% of the excess less any premiums paid from income for health insurance coverage by any family member. The maximum contribution is limited to the maximum allowed under federal PL 106-170.

Implementation

The act requires the DSS commissioner to implement policies and procedures necessary to carry out the program while in the process of adopting regulations, provided she publishes notice in the *Connecticut Law Journal* within 20 days of implementing the program. The policies and procedures are valid until the regulations go into effect.

PCA AND RELATED SERVICES

The act requires the DSS commissioner to amend the PCA waiver to allow people eligible for or participating in the buy-in program to also receive Medicaid-funded PCA services. Previously, to qualify for PCA waiver services, a person's gross income could not exceed 300% of the SSI limit

(currently $1,536 per month). The act provides that the amendment is not subject to the state law that requires DSS to submit a federal waiver request to the Appropriations and Human Services committees for their approval, rejection, or modification, provided its content is limited to making the changes needed to ensure that people enrolled in the buy-in program can continue to receive personal care assistance. (This waiver program has a limited number of slots.)

As a corollary, the act makes people who are participating in the buy-in program ineligible for the state-funded PCA Working Person's Program, which provides up to $15,000 annually to purchase PCA services to people age 18 and over with severe physical disabilities who are working or likely to work. Annual income for this program is limited to $30,000. Under the act, eligibility for this program continues until the federal government approves the PCA waiver amendment.

The act codifies the existing Community-Based Services (CBS) program, a DSS program that, within available appropriations, offers services such as chore persons and homemakers to people with disabilities who (1) are between the ages of 18 and 65 and (2) have income of no more than 143% of the benefit amount paid to someone with no income under the Temporary Family Assistance (TFA) program (currently $476 for one person living in most parts of the state). The act makes an exception to the financial eligibility rules for people eligible for the buy-in program if they are receiving CBS services on October 1, 2000.

The act requires the DSS commissioner to determine whether someone eligible for the buy-in program who is receiving CBS is eligible for PCA waiver services. Individuals who are eligible and are actually enrolled in the PCA waiver program are disqualified from receiving CBS.

The DSS commissioner must implement the program while in the process of adopting regulations, provided notice is published in the *Connecticut Law Journal* within 20 days of implementing the program. (Regulations already exist so this presumably applies to the changes required by the act.)

MEDICAID WAIVER FOR INVOLUNTARY WORK STOPPAGES

The act requires the DSS commissioner to seek a waiver of federal Medicaid rules to allow someone participating in the buy-in program to keep his Medicaid eligibility if he must stop working involuntarily. The individual does not have to re-apply for Medicaid but must (1) request that the buy-in coverage continue for up to 12 months after he stops working and (2) maintain a connection to the workforce during this period, as the DSS commissioner determines. At the end of the 12-month period, if the person is still not working, he must otherwise meet the Medicaid eligibility criteria (presumably those for the medically needy program) to continue to receive assistance. But any funds saved for retirement, medical savings, or employability accounts, as permitted by the act, would be exempt assets.

SOCIAL SECURITY ADMINISTRATION WAIVERS

The act requires the DSS commissioner to cooperate with the SSA with regard to any demonstration projects or experiments which the SSA commissioner is authorized to operate under PL 106-170.

REPORTING REQUIREMENT

The act requires DSS, by July 1, 2001, to submit an interim report to the Human Services and Appropriations committees. She must submit a final report by July 1, 2003. The interim report must include:

1. the number of people enrolled in the Medicaid buy-in program;
2. the number of people receiving PCA waiver services who are in the buy-in program;
3. the number of people who transfer from the CBS program to the PCA waiver program;
4. the types of jobs, hours worked, earnings, and availability of employer-sponsored health insurance for people enrolled in the buy-in;
5. the number of buy-in enrollees who stop working involuntarily; and
6. the feasibility of establishing any additional programs or providing additional services as authorized by PL 106-170.

BACKGROUND

SSDI, SSI, and Public Health Insurance

The two primary federal cash assistance programs for people with disabilities are SSDI and SSI. Both use the same definition of disability. SSDI is available only to people who have worked, have contributed to the Social Security trust fund, and become disabled before retirement age. The benefit paid is based on the amount contributed.

SSI is a means-tested program providing monthly cash income to low-income people with

limited resources on the basis of age and disability. To be eligible currently, countable monthly income cannot exceed just slightly more than $500. Assets are limited to $2,000 for single people and $3,000 for married couples.

Generally, SSDI and SSI allow beneficiaries to earn no more than a substantial gainful activity (SGA) level (currently $700 per month).

Medicare benefits (Parts A and B) are available to SSDI recipients who have received such assistance for at least two years; SSI recipients with disabilities are not eligible for Medicare. Medicare benefits are available for several years after a recipient begins working above the SGA level. Medicare does not cover prescription drugs and PCA services.

Both SSDI and SSI recipients can qualify for Medicaid benefits (which cover prescription drugs and PCAs) but the pathways to eligibility are different, especially when one is working. For SSDI recipients, eligibility is basically limited to the "medically needy" category (people with severe disabilities who are not working at the SGA level). Anyone with income above the medically needy income limit ($476 per month, after certain deductions are taken) must "spend down" the excess on unpaid medical bills to qualify.

For SSI recipients the rules are a bit more liberal. SSI recipients whose earnings exceeed the SGA level but still qualify for SSI cash or state supplement benefits, and those who lose eligibility for SSI due to earnings can retain their Medicaid eligibility without having to spend down to the lower, medically needy income level. Instead, their income can go as high as approximately $28,000 annually, with no client contribution.

PL 106-170, "Ticket To Work And Work Incentives Improvement Act Of 1999"

This federal legislation was enacted to provide health care and employment preparation and placement services to individuals with disabilities to "enable them to reduce their dependency on cash benefit programs." The Medicaid expansion provisions in the act allow states to offer buy-in programs to individuals who, except for excess earnings, would qualify for SSI with incomes above 250% of the FPL. It allows states to require participants to pay 100% of a premium if their income is above 250% of the FPL, but the premium cost can be no more than 7.5% of income for people whose incomes are between 250% and 450% of the FPL. States must require individuals with incomes above $75,000 to pay 100% of the premium.

The act also extends Medicare coverage for these individuals.

The act defines "employed" as either working at least 40 hours per month at the minimum wage or being engaged in a work effort that meets the "substantial and reasonable threshold" for hours worked. But this definition only applies to another newly authorized Medicaid category for people with "medically improved" disabilities.

The act gives both specific (that is, a $1 reduction in SSDI benefits for every $2 earned once they reach the SGA level) and general authority to the SSA commissioner to carry out demonstration projects which will change the way the agency treats work activities performed by SSI and SSDI recipients.

PA 00-7—HB 5125
Insurance and Real Estate Committee

AN ACT CONCERNING APPROVAL OF AUTOMOBILE AND HOMEOWNERS INSURANCE UNDERWRITING GUIDELINES

SUMMARY: This act establishes uniform procedures for insurers to file automobile liability and homeowners' insurance underwriting rules and regulations with the insurance commissioner and sets a deadline for their approval. Underwriting rules and regulations determine which risks insurers will or will not accept.

Prior law required insurers to file the rules and regulations by January 1, 1978 for automobile insurance and January 1, 1983 for homeowner's insurance. Modifications had to be on file for 30 days before they became effective.

Beginning October 1, 2000, the act requires insurers to file their rules and regulations 30 days before they become effective. The commissioner may extend the waiting period by up to 30 days by notifying the insurer within the original 30-day period. He may also authorize the use of a filing he has reviewed before the waiting period expires.

Under the act, filings are deemed approved unless the commissioner disapproves them within any waiting period. To disapprove, he must notify the insurer, specify his reasons for disapproval, and state that the filing will not become effective.

Insurers aggrieved by a disapproval may request a review and hearing by giving the commissioner written notice within 30 days of receiving notice of disapproval.
EFFECTIVE DATE: October 1, 2000

PA 00-21—HB 5809
Insurance and Real Estate Committee

AN ACT MAKING MINOR CHANGES TO THE REAL ESTATE STATUTES

SUMMARY: This act makes several technical changes to the real estate statutes.
EFFECTIVE DATE: October 1, 2000

PA 00-30—sSB 443
Insurance and Real Estate Committee

AN ACT CONCERNING STATUTORY ACCOUNTING PROCEDURES

SUMMARY: This act updates Connecticut's statutory accounting rules for insurance. It requires the insurance commissioner to use the accounting rules published in the January 1, 2001 version of the National Association of Insurance Commissioners' (NAIC) Accounting Practices and Procedures Manual (APPM) and Annual Statement Instructions Manual (ASIM) when analyzing the annual financial statement that insurers must file with him. The act eliminates obsolete or otherwise inconsistent financial reporting provisions of the General Statutes to implement this change.

Specifically, the act requires the following to be reported and calculated in accordance with the updated accounting rules: (1) certain reserves and loss adjustment expenses; (2) money set aside to cover unearned premium and incurred claims; and (3) the value of real or personal property owned, held, or leased by fraternal benefits societies.

The act makes other changes to comply with the updated accounting rules. It adds operating software to the definition of "qualified asset," modifies the term "surplus," reduces the time period to depreciate the cost of electronic data processing equipment from five to three years and includes operating software in the depreciation schedule.

Finally, the act revises the definition of "policy loan," adds a definition of "capital," and makes technical changes.
EFFECTIVE DATE: January 1, 2001

PREMIUM AND LIABILITY RESERVES

Accident and Health Insurance

The act requires certain insurers to calculate premium reserves they must maintain in accordance with the January 1, 2001 APPM. They are: (1) domestic, (2) out-of-state, and (3) foreign insurers that insure:

1. the health of individuals;
2. people against bodily injury or death caused by accident; or
3. people, firms, or corporations against loss or damage on account of bodily injury or death by accident of any person for which such person, firm, or corporation is responsible.

Prior law required insurers to maintain premium reserves equal to the unearned portion of the gross premium charged for covering the risk.

HMO Liability

The act requires HMOs to determine their liability in accordance with the January 1, 2001 APPM. HMO liability includes estimated aggregate

amounts for unearned premiums; payment of incurred health care claims, whether reported or not; unpaid health care claims for which the HMO is or may be liable; and loss adjustment expenses.

Prior law required HMOs to calculate their liability in accordance with older versions of the APPM and ASIM.

CONTINGENCY RESERVE

The act requires financial guaranty insurers to establish and maintain a contingency reserve calculated in accordance with the January 1, 2001 version of APPM.

Prior law required the reserve to be maintained at the greater of 50% of premiums written for each investment class or a set percentage of guaranteed principal as follows: (1) 1% for investment grade obligations secured by collateral or with a remaining term of seven years or less; (2) 1.5% for other investment grade obligations; (3) 2% for noninvestment grade obligations secured by collateral; and (4) 2.5% for other noninvestment grade obligations.

Under prior law, contributions to the contingency reserve had to be made every quarter as follows: (1) for 15 years in an amount that equaled one-sixtieth of the total reserve for investment grade obligations secured by collateral and other investment grade obligations and (2) for 10 years in an amount equaled to one-fortieth of the total reserve for noninvestment grade obligations secured by collateral and other noninvestment grade obligations. Contributions could be discontinued if the total reserve for each investment class exceeded the percentage amounts specified when applied against unpaid principal.

UNPAID LOSS AND LOSS EXPENSE RESERVE

The act requires financial guaranty insurers to calculate the reserve for unpaid loss and loss expense in accordance with the January 1, 2001 APPM.

Prior law specified that the insurance commissioner could use the basis or some other method to determine loss reserves. The loss reserve had to include a reserve for claims reported and unpaid minus any collateral and allow for the time value of money determined by use of a discount rate equal to the average rate of return on the insurer's admitted assets as of the computation date of the reserve. The discount rate had to be adjusted at the end of each calendar year. The reserve also had to include a component for incurred but unreported claims if deemed necessary by the insurer or following an examination or actuarial analysis by the commissioner.

UNEARNED PREMIUM RESERVE

The act requires financial guaranty insurers to establish and maintain an unearned premium reserve calculated in accordance with the January 1, 2001 APPM.

Prior law required them to calculate the unearned premium reserve minus reinsurance with respect to all unearned premiums. When premiums were paid in installments, the reserve had to be computed on a monthly pro rata basis net of reinsurance and written premiums were earned in proportion with the expiration of exposure or by some other method the commissioner approved.

VALUE OF REAL AND PERSONAL PROPERTY

The act requires fraternal benefit societies that own, hold, or lease personal or real property for charitable, benevolent, or educational purposes for the benefit of their members, their families, and dependents and children insured by the society to report the property on the society's annual statement in accordance with the January 1, 2001 APPM, and it allows them to claim the property as an admitted asset.

Prior law prohibited societies from claiming the property as an admitted asset.

SURPLUS

The act defines "surplus" to include total statutory surplus less capital stock, adjusted for the par value of any treasury stock, calculated in accordance with the January 1, 2001 APPM.

Prior law defined "surplus" as the excess of qualified assets over the sum of paid-in-capital and liabilities.

POLICY LOAN

The act defines "policy loan" as a loan to a policyholder, under the provisions of an insurance contract that is secured by the cash surrender value or collateral assignment of the policy or contract. It includes (1) cash loans, including those resulting from early payment of benefits, when the contract specifies that such payments are policy loans secured by the policy and (2) automatic premium loans made in accordance with policy provisions that allow delinquent premium payments to be automatically paid from the policy's cash value at the end of the premium payment grace period.

Prior law defined a "policy loan" as any loan or any premium loan made under a policy to pay one or more premiums that were not paid when due.

CAPITAL

Finally, the act defines "capital" as the capital stock component of statutory surplus as defined in the January 1, 2001 version of APPM.

PA 00-33—HB 5126
Insurance and Real Estate Committee

AN ACT CONCERNING ASSIGNMENT OF BENEFITS TO A DENTIST OR ORAL SURGEON

SUMMARY: This act prohibits insurers, health maintenance organizations (HMOs), dental service plans, and hospital and medical service corporations offering certain individual and group health insurance policies from refusing to accept or make reimbursement through an assignment of benefits by an insured, subscriber, or enrollee to a dentist or oral surgeon. The dentist or oral surgeon must charge no more than he would charge an uninsured patient for the same services and must allow the insurer, HMO, dental service plan, hospital or medical service corporation, or other entity to review his patient's records during normal business hours if they give at least 48 hours prior notice. The prohibition applies to policies delivered, issued for delivery, renewed, continued, or amended in Connecticut beginning July 1, 2000.

The act defines an "assignment of benefits" as the transfer of dental care coverage reimbursement or other rights under an insurance policy, subscription contract, or dental service plan by an insured, subscriber, or enrollee to a dentist or oral surgeon.

The requirement applies to dental service plans, hospital and medical service plans offered by HMOs, and health insurance policies that offer the following types of coverage: (1) basic hospital expense, (2) basic medical-surgical expense, (3) major medical expense, or (4) hospital or medical expense.
EFFECTIVE DATE: July 1, 2000

PA 00-34—sHB 5123
Insurance and Real Estate Committee

AN ACT CONCERNING LONG-TERM CARE INSURANCE RIDERS ON LIFE INSURANCE POLICIES

SUMMARY: This act allows insurers licensed for both life and health insurance in this state to offer policies that combine, for a single premium, (1) life insurance, endowment or pure endowment insurance, or a straight or survivorship annuity and (2) long-term care coverage. It applies certain regulations governing long-term care insurance policies to long-term care riders and life insurance policies that include long-term care benefits.

The act allows insurers that offer life insurance policies with long-term care benefits to sell them in conjunction with a long-term care benefit rider. In such sales, the act (1) allows long-term care benefits under the rider to be paid after exhaustion of the life insurance policy's cash value, (2) prohibits the long-term care rider from including any waiting period, and (3) prohibits the life insurance policy from including a waiting period greater than 100 days. It also specifies that such policies may include a provision that calculates a waiver of premium from the date benefits are paid.

Under prior law, long-term care policies could not have a waiting period that exceeded 100 days and had to have a waiver of premium in effect. Existing law continues to require insurers to explain any continuing premium payment the insured may have at the time benefits are claimed.

A waiting period is the period of time between the policy's effective date and the date benefits begin. A waiver of premium sets the conditions under which and the length of time a policy is kept in-force without payment.
EFFECTIVE DATE: October 1, 2000

PA 00-63—HB 5120
Insurance and Real Estate Committee

AN ACT CONCERNING INSURANCE COVERAGE FOR CARE AND TREATMENT OF PATIENTS WITH AN OSTOMY

SUMMARY: This act requires certain individual and group health insurance policies that are delivered, issued for delivery, renewed, or continued in Connecticut beginning October 1, 2000 to cover, up to $1,000 annually, medically necessary ostomy-related appliances and supplies, including collection devices, irrigation equipment and supplies, and skin barriers and protectors. Policies that cover ostomy, colostomy, ileostomy, or urostomy surgery must include this benefit.

The act prohibits the application of any such payments towards any durable medical equipment benefit maximum. It also specifies that ostomy payments may not be used to decrease policy benefits

in excess of the $1,000 limit.

The benefit applies to individual and group hospital and medical service plans offered by HMOs and health insurance policies that offer the following types of coverage: (1) basic hospital expense, (2) basic medical-surgical expense, (3) major medical expense, and (4) hospital or medical expense.

An ostomy is a surgically formed artificial opening in the bowel or intestine. A colostomy is an artificial opening in the colon, an ilesotomy an artificial opening in the small intestine or ileum, and an urostomy an artificial opening in the tubes that run from the kidney to the bladder.

EFFECTIVE DATE: October 1, 2000

PA 00-95—SB 445
Insurance and Real Estate Committee
Banks Committee

AN ACT CONCERNING INSURANCE REQUIRED BY MORTGAGE LENDERS

SUMMARY: This act broadens the prohibition against mortgage lenders requiring prospective buyers of residential real estate to purchase insurance in excess of the premises' replacement value as a condition of granting a mortgage. It extends the prohibition to flood insurance; other extended coverage insurance; or any combination of insurance, including fire insurance. Prior law prohibited lenders from requiring fire insurance in excess of the premises' replacement value.

EFFECTIVE DATE: October 1, 2000

PA 00-105—HB 5859
Insurance and Real Estate Committee

AN ACT CONCERNING INSURANCE PRODUCERS AND TECHNICAL CORRECTIONS

SUMMARY: This act exempts public officials from the continuing education requirements licensed insurance producers must satisfy during the period they serve as public officials if they are barred from selling insurance during this time. The act specifies that a "public official" is any statewide elected officer, any member or member-elect of the General Assembly, or a senator or representative in Congress.

EFFECTIVE DATE: July 1, 2000

BACKGROUND

Continuing Education Requirement

By law, resident and nonresident insurance producers must satisfy Connecticut's continuing education requirements. Every two years, resident producers must earn at least 24 credits from Connecticut-approved continuing education courses. Of the total, at least three credits must be in laws, regulations, and ethics, and at least six credits must be in each line of insurance for which the producer is licensed. Nonresident producers can meet Connecticut requirements when they satisfy continuing education requirements in their home state.

PA 00-111—sHB 5856
Insurance and Real Estate Committee

AN ACT CONCERNING THE METHOD OF PAYMENT FOR AUTOMOBILE INSURANCE CLAIMS

SUMMARY: This act expands the methods insurers use to pay automobile physical damage and total loss claims. It adds electronic transfer and other means that provide the claimant with immediate access to funds as methods of payment. Prior law allowed payment by check only.

EFFECTIVE DATE: October 1, 2000

PA 00-114—SB 407
Insurance and Real Estate Committee

AN ACT CONCERNING HEALTH INSURANCE RATES FOR CERTAIN SMALL PRIVATE SCHOOLS

SUMMARY: This act exempts from the small employer group rating law private schools that buy health insurance through a private school association-sponsored plan or arrangement.

EFFECTIVE DATE: Upon passage

BACKGROUND

Small Employer Group Rating Law

Small employers are individuals, firms, corporations, limited liability companies, partnerships, or associations in business for three consecutive months that employed up to 50 employees for at least 50% of the working day for the

preceding 12 months. Small employer health plans are community rated but may take into account demographic characteristics such as age, gender, family composition, location, group size, and industry classification in determinating premium. Insurers may not inquire into the small employer's or his employees' health status or claims experience in determining premium.

PA 00-126—SB 444
Insurance and Real Estate Committee
Judiciary Committee

AN ACT CONCERNING RESTITUTION ORDERS UNDER THE UNFAIR INSURANCE PRACTICES ACT

SUMMARY: This act gives the insurance commissioner the authority to order violators of the Unfair Insurance Practices Act to make restitution of money obtained in violation of the act or its implementing regulations.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Penalties for Violating the Unfair Insurance Practices Act

The commissioner may issue cease and desist orders to anyone engaged in unfair methods of competition or unfair or deceptive acts or practices. For enumerated unfair or deceptive acts or practices, he may order (1) payment of up to $1,000 per violation up to a $10,000 maximum, or up to $5,000 per violation up to a $50,000 maximum for knowing violation; (2) revocation or suspension of a violator's license for knowing violations; or (3) both.

PA 00-160—HB 5857
Insurance and Real Estate Committee
Judiciary Committee
General Law Committee

AN ACT CONCERNING COMMERCIAL REAL ESTATE TRANSACTIONS AND BROKERS' LIENS

SUMMARY: This act establishes conditions under which real estate licensees may recover commissions, compensation, or other payments for services rendered in commercial real estate transactions and modifies the three-day advance notice of lien real estate brokers must give owners and prospective buyers.

The act specifies that there should be no statutory barrier to recovery if (1) it would be inequitable to deny recovery and (2) a licensee substantially complies with its requirements.

Under the act, a "commercial real estate transaction" involves the sale, lease, sublease, or exchange of real property other than a building or structure occupied or intended to be occupied by four or fewer families or a single building lot used for family or household purposes.
EFFECTIVE DATE: October 1, 2000

LAWSUIT FOR COMMISSIONS

Beginning October 1, 2000, the act prohibits licensees acting in commercial real estate transactions from initiating lawsuits to recover commissions or other payments unless their services were performed under either (1) a contract or authorization or (2) a memorandum, letter, or other writing.

Contract or Authorization

The contract or authorization must (1) be in writing, (2) include the names and addresses of the broker performing the service and the person for whom the services are performed, (3) show the date the contract was entered into or the authorization given, (4) include any contract or authorization condition, (5) be signed by the broker or his authorized agent and the person or persons for whom the acts were done or services rendered or their authorized agent, and (6) include the following statement: "THE REAL ESTATE BROKER MAY BE ENTITLED TO CERTAIN LIEN RIGHTS PURSUANT TO SECTION 20-325a OF THE CONNECTICUT GENERAL STATUTES."

Memorandum, Letter, or Other Writing

The memorandum, letter, or other writing must (1) state for whom the licensee will act or has acted, (2) be signed by the party for whom the licensee will act or has acted, (3) state the duration of the authorization, (4) state the amount of any compensation payable to the licensee, and (5) provide notice about the lien to the owner or prospective buyer at or before the execution of the contract, authorization, memorandum, letter, or other writing. The notice must state: "THE REAL ESTATE BROKER MAY BE ENTITLED TO CERTAIN LIEN RIGHTS PURSUANT TO SECTION 20-325a OF THE CONNECTICUT GENERAL STATUTES." The notice must be delivered to the

owner or prospective buyer at or before the execution of any contract or other written agreement and may be made a part of the contract, authorization, memorandum, letter, or other writing.

ADVANCE NOTICE OF LIEN

The act requires the broker to give written notice of his claim for a lien to the owner and the prospective buyer or tenant three days before the later of either the date of conveyance as established in the sales contract or lease or the actual date of conveyance or the date when the tenant takes possession.

Prior law required written notice three days before the date of the conveyance as set in the sales contract.

PA 00-179—sHB 5635
Insurance and Real Estate Committee
General Law Committee

AN ACT REQUIRING SELLERS TO INCLUDE INFORMATION ON MUNICIPAL ASSESSMENTS IN RESIDENTIAL PROPERTY DISCLOSURE REPORTS AND CONCERNING INFORMATION ABOUT THE RESIDENCE ADDRESS OF CRIMINALS

SUMMARY: This act requires the consumer protection commissioner to add, by regulation, two new statements to the residential property condition report that people offering residential real estate for sale, exchange, or lease must give prospective buyers before the execution of any binder, contract to purchase, option, or lease containing a purchase option.

The first statement is about municipal assessments. The report must include a statement with information about the property's sewer, water, and any other municipal assessment, including (1) whether the assessment is in effect and the amount; (2) whether there is an unpaid assessment on the property and the amount; and (3) to the extent the seller knows, whether there is reason to believe that the municipality may impose an assessment in the future.

The second statement is about the availability of certain information about people convicted of crimes. The report must include a statement that (1) information about the residence addresses of people convicted of crimes may be obtained from law enforcement agencies or the Department of Public Safety (DPS) and (2) DPS maintains an internet site that includes the residence addresses of people required to register with DPS under the sexual offender registration law, and who have registered.
EFFECTIVE DATE: October 1, 2000

PA 00-211—sHB 5692
Insurance and Real Estate Committee
Judiciary Committee
Public Safety Committee
Legislative Management Committee

AN ACT CONCERNING THE REPORTING OF INSURANCE FRAUD

SUMMARY: This act requires the public safety commissioner, the workers' compensation fraud unit, and insurance companies to report to the insurance commissioner actual or suspected incidents of insurance fraud involving arson, workers' compensation, and automobile insurance. It requires the insurance commissioner to annually report insurance fraud information to the Insurance and Real Estate Committee.

The act requires people, including insurers, who have actual or suspected knowledge of health insurance fraud to give notice and any evidence in their possession to the insurance commissioner.

It also requires insurers to permit the insurance commissioner or his designee to inspect their records pertaining to any actual or potential automobile insurance loss or fraud when the local police department or the departments of Public Safety or Motor Vehicles request the insurer to release any investigative information they have collected.

Finally, the act broadens the definition of "insurance fraud" to cover acts of fraud in most major lines of insurance and "insurance company" to include corporations, associations, partnerships or other entities doing any kind or form of insurance business other than that of a fraternal benefit society, instead of only companies that offer fire, liability, and allied lines insurance to owners of 1, 2, or 3-family and seasonal dwellings.
EFFECTIVE DATE: October 1, 2000

REPORTING REQUIREMENTS

Public Safety Commissioner

The act requires the public safety commissioner as state fire marshal to submit quarterly reports to the insurance commissioner, within available appropriations, detailing all cases in which he has determined that a fire or explosion was the result of arson.

Workers' Compensation Fraud Unit

The act adds the insurance commissioner as a recipient of the workers' compensation fraud unit's quarterly report about its investigation of alleged fraud cases. Existing law requires the unit to submit the report to the chairman and Advisory Board of the Workers' Compensation Commission.

Insurance Companies

Beginning December 15, 2000, and by July 31 annually thereafter, the act requires all insurers to provide the insurance commissioner with an annual report detailing investigations they have conducted involving fraudulent automobile insurance claims. The reports must be filed in a manner prescribed by the commissioner.

Insurance Commissioner

The act requires, beginning January 15, 2001, the commissioner to submit an annual report to the Insurance and Real Estate Committee that details information he has received during the past year about arson, workers' compensation, and automobile insurance fraud and related investigations.

DEFINITION OF INSURANCE FRAUD

The act broadens the definition of insurance fraud to include all major lines of insurance (rather than only fire, liability, and allied lines insurance) when a person, with the intent to injure, defraud, or deceive an insurer presents or causes to be presented an oral or written statement, including a computer-generated document, in support of an application for a policy, claim, or benefit knowing it contains false or misleading information about a fact or thing material to the application, claim, or benefit.

Under prior law, only insurance policies that covered damage or loss to real or personal property caused by fire were subject to insurance fraud.

PA 00-218—sHB 5858
Insurance and Real Estate Committee
Appropriations Committee
Human Services Committee

AN ACT CONCERNING SELF-EMPLOYED INDIVIDUALS INSURED UNDER THE SMALL EMPLOYER HEALTH PLAN

SUMMARY: :This act makes self-employed people eligible for small employer coverage by adding them to the definition of "small employer." For groups containing only one member, the act allows insurers and HMOs to require proof that an individual has been self-employed for at least three consecutive months. It also eliminates HMOs' ability to refuse to insure small employer groups of fewer than three eligible members.

Prior law defined a small employer only as a person, firm, corporation, limited liability company, partnership, or association actively engaged in business for three consecutive months and employing no more than 50 employees.

EFFECTIVE DATE: October 1, 2000

PA 00-3—HB 5134
Judiciary Committee

AN ACT CONCERNING THE APPOINTMENT OF SPECIAL JUVENILE PROSECUTORS AND SPECIAL INSPECTORS

SUMMARY: This act allows the chief state's attorney to hire special juvenile prosecutors and special inspectors temporarily by contract. Under existing law, which the act does not change, he may contract with special assistant state's attorneys and special deputy assistant state's attorneys for undefined, temporary periods. The Criminal Justice Commission appoints state's attorneys in most other circumstances.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Inspectors

Inspectors investigate crimes, gather evidence, and carry out other tasks the state's attorneys assign. The chief state's attorney appoints four chief inspectors to assist all the state's attorneys on a statewide basis. He also appoints as many other inspectors as, in his opinion, he needs to carry out the business of his office and determines how many inspectors the state's attorneys can hire for their respective judicial districts.

PA 00-5—HB 5148
Judiciary Committee

AN ACT CONCERNING THE RIGHT OF A PARENT TO DETERMINE FUNERAL ARRANGEMENTS FOR A MINOR CHILD

SUMMARY: This act gives a dead child's guardians, that is, the child's parents or a court-appointed guardian, including the Department of Children and Families, the right to make decisions about the funeral and disposition of the body.
EFFECTIVE DATE: October 1, 2000

PARENTS AS A MINOR CHILD'S GUARDIANS

Unless a probate court orders otherwise, the father and mother are equal guardians of their minor child. If one parent dies, the survivor becomes the sole guardian.

A probate court can remove as guardians one or both of a child's living parents under some circumstances (generally, by consent or where the child has experienced serious abuse or neglect while under the parent's care or supervision) and appoint someone else. The act specifies that whoever had guardianship of a child at the time of death has the authority to make funeral arrangements and decide how to dispose of the body.

PA 00-9—HB 5140
Judiciary Committee

AN ACT CONCERNING POSSESSION OF A SHOPLIFTING DEVICE

SUMMARY: This act makes it a class A misdemeanor (see Table on Penalties) to possess a shoplifting device under circumstances indicating an intent to use it to shoplift. A shoplifting device is any device, instrument, or other thing specifically designed or adapted to advance or facilitate shoplifting by defeating an anti-theft or inventory control device.

By law, shoplifting is intentionally possessing goods, wares, or merchandise offered for sale in a store or other mercantile establishment and intending to keep them without paying for them.
EFFECTIVE DATE: October 1, 2000

PA 00-11—HB 5138
Judiciary Committee

AN ACT CONCERNING THE CRIMINAL LIABILITY OF AN INDIVIDUAL FOR CONDUCT PERFORMED IN THE NAME OF OR IN BEHALF OF A LIMITED LIABILITY COMPANY

SUMMARY: This act makes a person criminally liable for actions he performs or causes to be performed in the name of or on behalf of a limited liability company to the same extent as if they were performed in his name or on his behalf.
EFFECTIVE DATE: October 1, 2000

PA 00-12—sSB 419
Judiciary Committee

AN ACT CONCERNING THE REVIEW AND DISMISSAL OF DISCRIMINATORY PRACTICE COMPLAINTS BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

SUMMARY: This act authorizes the Commission on Human Rights and Opportunities (CHRO) to dismiss a discrimination case without a full investigation if the executive director or her designee determines the person accused of discrimination is exempt from the anti-discrimination laws. CHRO already has authority to dismiss a case that does not state a claim for relief, is frivolous on its face, or has no reasonable possibility that investigation will result in a reasonable cause finding. Neither the law nor the act applies to housing discrimination cases.

To exercise this authority, the executive director or her designee must review the case file within 90 days after the respondent files his answer with CHRO. The review must include the (1) complaint; (2) respondent's answer and responses to CHRO's requests for information, if any; and (3) complainant's comments about the answer and responses, if any.

The act allows the complainant to ask for reconsideration of a dismissal. The request must be made within 15 days after the dismissal. CHRO can conduct whatever additional proceedings it needs to make a decision.

EFFECTIVE DATE: October 1, 2000

PA 00-18—HB 5715
Judiciary Committee

AN ACT CONCERNING CERTAIN PROPERTY ASSESSMENT APPEALS

SUMMARY: This act changes where some property assessment and land classification appeals must be filed. It makes the Superior Court for the judicial district in which the property or land is located, rather than the Superior Court for the New Britain judicial district, the court for all such appeals. It applies to decisions about nonprofit organization property tax exemptions, forest land and timber valuation, and state forester's forest land classifications. It also makes technical changes and removes an obsolete reference to tax lists.

EFFECTIVE DATE: July 1, 2000

RETURN TO PRIOR PRACTICE

In 1995, the legislature designated the New Britain Superior Court as the location for filing all property assessment appeals, changing prior practice of filing in the court in the judicial district where the property was located. This law was repealed in 1996 for all appeals except those specified in this act. The act returns these appeals to those local courts.

PA 00-20—sHB 5702
Judiciary Committee

AN ACT CONCERNING THE CRIMINAL JUSTICE INFORMATION SYSTEM

SUMMARY: This act gives the Division of Public Defender Services access to conviction information, public information, and any information regarding its clients. This information includes electronically maintained offender and case data on felonies, misdemeanors, violations, motor vehicle offenses punishable by imprisonment, and infractions.

The act specifically lists the Office of the Victim Advocate as a "criminal justice agency" for the purpose of determining access to criminal records. By law, criminal justice agencies have access to criminal history record information, which includes conviction and nonconviction information but not intelligence, presentence investigations, investigative information, or certain information maintained by the Bail Commission.

EFFECTIVE DATE: Upon passage

PA 00-31—sHB 5141
Judiciary Committee

AN ACT CONCERNING THE ISSUANCE OF A SEARCH WARRANT

SUMMARY: This act requires judges to include on each search warrant the date and time of its issuance. The warrant must still (1) state the grounds or probable cause for its issuance; (2) identify the property to be searched for; (3) name or describe the person, place, or thing to be searched; and (4) command the officer to conduct the search within a reasonable time.

The act provides that a warrant is not invalid solely because the judge inadvertently failed to include the time of issuance on it.

EFFECTIVE DATE: October 1, 2000

PA 00-36—SB 550
Judiciary Committee

AN ACT CONCERNING PROTECTION FOR EQUIPMENT RENTAL

SUMMARY: This act gives people who lease construction equipment and machinery the same right to a mechanic's lien as those who furnish material or provide services. This applies to equipment used to construct, raise, or remove buildings; improve any

lot; or develop sites or subdivide any plot.

It limits the bond protection afforded to those who lease equipment used in connection with public works contracts exceeding $50,000 to construction equipment and machinery.

EFFECTIVE DATE: October 1, 2000

BACKGROUND

Mechanic's Liens

A mechanic's lien is a claim, created by statute, to secure payment for work performed or material furnished to erect or repair a building or improve land. The underlying purpose is to encourage construction and building repairs and to protect contractors, subcontractors, and suppliers by trying to ensure that they will be paid for services rendered and material provided.

Bond Protection for Public Works Projects

By law, each contract exceeding $50,000 for the construction, alteration, or repair of any public building or public project of this state or any of its subdivisions must include the requirement that the person performing the contract secure a performance bond to protect those who supply labor or material.

PA 00-45—sSB 50
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING FEES OF WITNESSES

SUMMARY: This act increases the amount people get for travel expenses when they are summoned to appear as witnesses in court, before the General Assembly, or before any other legal authority.

Under prior law, witnesses summoned to appear in criminal cases received 10 cents per mile the first day, and their actual traveling expenses up to 10 cents per mile for each additional day. Witnesses summoned to appear in civil proceedings and before the General Assembly received 10 cents per mile for each day.

The act instead requires that any person summoned to appear receive the same amount per mile that the commissioner of administrative services, with the approval of the secretary of policy and management, establishes for state employees. The current rate is 32.5 cents per mile.

The act also eliminates the prohibition against paying fees to bystanders called as witnesses in criminal trials. Thus, it requires that they receive the travel allowance as well as the 50 cents per day paid to all other people summoned to be witnesses in criminal cases.

EFFECTIVE DATE: October 1, 2000

PA 00-49—sSB 479
Judiciary Committee
Human Services Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT AND THE OFFICE OF THE CHILD ADVOCATE

SUMMARY: This act makes several changes to the statutes governing the child advocate and minor and technical changes to a new uniform law governing child custody proceedings involving parties living in different states.

The act requires the associate child advocate to serve as acting child advocate whenever there is a vacancy in that office until a new child advocate is named. It specifically authorizes the child advocate to assist a child or family, including advocating on their behalf with an agency or provider. It requires any agency responsible for a child, and the chief medical examiner in certain circumstances, to provide the child advocate and the child fatality review panel with timely notice of a child's death. The agencies must also notify them of "critical incidents" involving a child. Finally, it makes the child advocate and her employees mandated child abuse reporters.

The act also makes minor changes in the new Uniform Child Custody Jurisdiction and Enforcement Act (PA 99-185), which takes effect on July 1, 2000 (PA 00-191 amends two of these provisions). It specifies that when the term "person" is used in that act, it includes public agencies. It requires parties to use a form prescribed by the chief court administrator when alleging that disclosure of a child's location would endanger his health or safety.

EFFECTIVE DATE: July 1, 2000, except the provision making the associate child advocate the acting advocate when a vacancy exists is effective upon passage.

OFFICE OF THE CHILD ADVOCATE

Acting Child Advocate

The act makes the associate child advocate the acting child advocate when that position becomes vacant. She must serve until a new candidate has

been confirmed by the General Assembly, or designated by the governor when the General Assembly is not in session. The acting child advocate is entitled to all of the compensation, privileges, and powers of the child advocate.

Advocating for a Child

The act specifically authorizes the child advocate, when investigating complaints, to provide needed assistance to a child or his family, including advocating on behalf of the child's best interest with any agency or provider.

Notice of a Child's Death or a Critical Incident

The act requires the chief medical examiner to provide timely notice to the child advocate and the chairman of the child fatality review panel whenever he determines that he must investigate a child's death. The act also requires any agency responsible for a child's care or custody to give timely notice to the advocate and review panel when the child dies or is involved in a critical incident.

UNIFORM CHILD CUSTODY JURISDICTION ACT

Chief Court Administrator's Form

Under PA 99-185, each party to a child custody proceeding must provide the court with certain information. But a party can allege, in an affidavit or pleading under oath, that a child's or party's health, safety, or liberty would be endangered by disclosure of identifying information. The information then must not be disclosed unless the court, after a hearing, decides that disclosure is in the interests of justice. This act requires a party to use a form prescribed by the chief court administrator, rather than an affidavit or pleading, to make this allegation. It still must be made under oath. (PA 00-191 allows an affidavit or pleading to be used as well as the form.) The act also specifies that the information to be withheld is the child's location rather than his identity.

Hearing to Contest Registration

Under PA 99-185, when a party registers copies of a child custody decree from another state for enforcement here, he must provide by certified mail or personal service notice to people named in the filing, and they must request a hearing to contest the registration within 20 days. This act makes a grammatical change to make it clear that they must request a hearing only if they wish to contest the registration. PA 00-191 requires any such hearing to be held within 20 days of the request for it.

BACKGROUND

Uniform Child Custody Jurisdiction and Enforcement Act

PA 99-185 replaced the prior child custody law. It specifies more clearly which state has jurisdiction when parties in a custody or visitation dispute live in different states.

PA 00-50—SB 602
Judiciary Committee

AN ACT CONCERNING THE UNIFORM PARTNERSHIP ACT

SUMMARY: This act changes the circumstances under which a partnership for a definite term or a particular undertaking is dissolved. Under prior law, dissolution occurred 90 days after a partner died or dissociated from the partnership in certain other ways, unless partners holding a majority interest in the partnership agreed to continue it. The act instead requires dissolution only if, after a partner dies or dissociates, a majority of the remaining partners express the desire to dissolve it. It specifies that a partner can express the desire to dissolve the partnership by giving it notice of his intention to withdraw, as long as he has the right to do so.

The act also clarifies the duty of the other partners to satisfy the partnership's obligations when a partnership dissolves and a partner does not pay what he owes. It specifies that this duty applies when a partner does not pay the full amount he owes.

The act specifies that the partnership law in existence prior to adoption of the Uniform Partnership Act (July 1, 1997) applies to partnerships formed prior to that date unless the partnership elects to be covered by the uniform act. By law, the Uniform Partnership Act applies to all partnerships after January 1, 2002.

EFFECTIVE DATE: October 1, 2000, but the provision specifying the controlling law for partnerships formed before July 1, 1997 is effective upon passage.

PA 00-64—sHB 5132
Judiciary Committee
Public Health Committee

AN ACT CONCERNING DISCLOSURE OF INFORMATION

SUMMARY: This act gives the Department of Mental Health and Addiction Services (DMHAS) access to the Office of Adult Probation's (OAP) presentence investigation reports and related files for purposes of diagnosis and treatment.

It eliminates one of the two situations under which OAP must complete a presentence investigation report. Under the act, OAP does not have to complete reports for felony offenders whose last convictions were more than five years before the present convictions. OAP must continue to complete a report for first-time felony offenders. As always, courts may order a presentence investigation for any defendant accused of any crime other than a capital felony.

The act permits the Judicial Department to honor an agreement requiring nonconviction information to be disclosed to DMHAS for (1) court-ordered evaluations and (2) programs and services to people with psychiatric disabilities and substance abuse treatment needs. By law, "nonconviction information" means erased criminal records, youthful offender status information, and continuances that are more than 13 months old. It does not include conviction or current offender information.
EFFECTIVE DATE: October 1, 2000

PA 00-70—sHB 5615
Judiciary Committee

AN ACT CONCERNING RIGHT TURNS WHEN PASSING A BICYCLIST

SUMMARY: This act prohibits a person operating a vehicle that overtakes and passes a bicyclist moving in the same direction from making a right turn at an intersection, private road, or driveway unless the turn can be made with reasonable safety and will not impede the travel of the bicyclist. As with other turning violations, turning in front of a bicyclist is an infraction (see Table on Penalties).
EFFECTIVE DATE: October 1, 2000

PA 00-72—sHB 5710
Judiciary Committee
Appropriations Committee
Public Safety Committee

AN ACT CONCERNING INTIMIDATION BASED ON BIGOTRY OR BIAS

SUMMARY: This act creates the crimes of intimidation based on bigotry or bias in the first and third degree and makes the crime of intimidation based on bigotry or bias a second-degree crime.

It creates a hate crimes diversion program under the accelerated rehabilitation (AR) program, and allows the court to require people charged with certain bias crimes to participate in it as a condition of being granted AR. And it allows the court, as a condition of probation or conditional discharge, to require an offender to participate in an anti-bias crime education program if he is convicted of (1) the act's bigotry and bias crimes; (2) deprivation of rights, desecration of property, or cross burning; or (3) deprivation of a person's civil rights by a person wearing a mask or hood.

The act requires that basic or review training programs conducted or administered by the State Police, Police Officer Standards and Training Council, or municipal police departments include training on bigotry and bias crimes. It creates a Hate Crimes Advisory Committee in the Office of the Chief State's Attorney.

The act also makes conforming changes, including adding the new crimes to the statutes that (1) increase penalties for persistent offenders, (2) require local law enforcement officials to report to the State Police on crimes of intimidation based on bigotry or bias, and (3) provide a civil cause of action for damages from criminal acts of intimidation based on bigotry or bias.
EFFECTIVE DATE: July 1, 2001, except that provisions establishing first, second, and third degree bigotry and bias crimes and certain conforming changes are effective October 1, 2000.

CRIMES

First-Degree

The act creates the crime of intimidation based on bigotry or bias in the first degree. A person commits this crime if he maliciously and with intent to intimidate or harass another person because of his actual or perceived race, religion, ethnicity, or sexual orientation causes serious physical injury to that person or a third person. This crime is a class C felony.

Second-Degree

As under prior law, a person is guilty of intimidation based on bigotry or bias if he acts maliciously and intends to intimidate or harass someone because of his race, religion, ethnicity, or sexual orientation by:

1. making physical contact with the victim;
2. damaging, destroying, or defacing property; or
3. threatening to do either of these things and gives the victim reasonable cause to believe he will carry out the threat.

The act makes this offense a crime in the second degree (but it remains a class D felony); specifies that it applies because of the victim's actual or perceived race, religion, ethnicity, or sexual orientation; and eliminates the definition of "sexual orientation."

The act also eliminates the provision specifying that this crime and the persistent offender law do not expand any civil rights remedies a victim of intimidation based on bigotry or bias has beyond those that existed on October 1, 1990.

Third-Degree

The act creates the crime of intimidation based on bigotry or bias in the third degree. A person commits this crime if he intends to intimidate or harass a person or group of people because of their actual or perceived race, religion, ethnicity, or sexual orientation and (1) damages, destroys, or defaces any property or (2) threatens to do so by word or act or advocates or urges another person to do so and gives the victim reasonable cause to believe the act will occur. This crime is a class A misdemeanor.

Persistent Offenders

The act expands the law that provides higher penalties for a person convicted of certain bias crimes for a second time to include the new crimes in the act.

The law allows the court to sentence a persistent offender to the next highest sentence class. To do so, the court must find that the character and history of the individual and the nature and circumstances of the crime indicate that the increased penalty best serves the public interest.

HATE CRIMES DIVERSION PROGRAM

The act creates a hate crimes diversion program under AR and allows the court to require participation in the program as a condition of probation. It applies to people charged with (1) deprivation of rights, desecration of property, and cross burning; (2) deprivation of a person's civil rights by a person wearing a mask or hood; and (3) the crimes of intimidation based on bigotry or bias in the first, second, and third degrees.

By law, people charged with certain crimes are excluded from participating in AR and someone charged with a class C felony must show "good cause" to participate. Because the new crime of intimidation based on bigotry or bias in the first degree is a class C felony, people charged with this crime must show "good cause" to participate in AR.

The act requires the hate crimes diversion program to include an educational program and supervised community service. The Office of Adult Probation must contract with service providers, develop standards, and oversee the programs to ensure that they meet the act's requirements.

The act requires the defendant to pay the court a $425 fee, rather than the $100 fee paid by other AR participants. But the court cannot exclude a person who is unable to pay if it finds that he cannot pay based on his affidavit of indigency or inability to pay and the Office of Adult Probation confirms this.

The act allows a person to attend a program in another state with similar or higher standards if his employment or residence makes it unreasonable to attend a program here. But the court must approve it, and the same application and program fees apply.

HATE CRIMES ADVISORY COMMITTEE

The act requires the chief state's attorney to establish a Hate Crimes Advisory Committee. The committee (1) coordinates federal, state, and local efforts on enforcing bigotry and bias crime laws and programs increasing community awareness, reporting, and combating these crimes and (2) makes recommendations on training police officers about bigotry and bias crimes.

BACKGROUND

Deprivation of Rights, Desecration of Property, and Cross Burning

By law, it is a crime to:

1. deprive someone of any legally-guaranteed right because of his religion, national origin, alienage, color, race, sex, blindness, or physical disability;
2. intentionally desecrate any public property, monument, or structure; religious object, symbol, or house of worship; cemetery; or private structure; or
3. place a burning cross or simulation of one

on public or private property without the written consent of the owner.

This crime is a class A misdemeanor, but it is a class D felony if there is more than $1,000 of property damage.

Deprivation of a Person's Civil Rights by Person Wearing a Mask or Hood

By law, penalties are increased for the crimes involving depriving someone of his constitutional rights, desecrating property, or burning a cross under certain circumstances if the person (1) commits the crime while wearing a mask, hood, or other device designed to conceal his identity and (2) intends to deprive another person of any legally guaranteed right because of his religion, national origin, alienage, color, race, sex, blindness, or physical disability. This is a class D felony.

Police Officer Standards and Training Council

This council, within the Department of Public Safety, develops and updates police training programs, sets minimum course requirements, and certifies officers who have successfully completed minimum and review training, among other things.

Accelerated Rehabilitation

This program is for people accused of nonserious crimes or motor vehicle violations and who (1) have no prior convictions or specified motor vehicle violations, (2) have not previously been adjudged a youthful offender, (3) are not eligible for certain other pretrial programs, and (4) the court believes are unlikely to offend again. The program allows them to waive trial and be placed on probation for up to two years, subject to any conditions the court orders. All charges are dismissed on successful completion of probation.

PA 00-74—HB 5716
Judiciary Committee

AN ACT CONCERNING ESCROW ARRANGEMENTS

SUMMARY: This act specifies that escrow agreements are not unenforceable solely because the escrow holder is a party's attorney, law firm, or agent. An escrow agreement is a written or oral agreement that requires a party or person to deliver money, documents, instruments, or property to a third party. The third party holds the items for delivery to a party or person when a specified event or condition specified in the agreement occurs. The escrow holder is the third party that receives and later disburses or delivers the money, documents, instruments, or property.

The act applies to escrow agreements existing on or after its effective date.

EFFECTIVE DATE: Upon passage

BACKGROUND

Appellate Court Decision

The Appellate Court recently ruled that money is not in escrow if it is given to an attorney or agent of one of the parties under an agreement. In that case, the court ruled that the attorney's duty at all times was to the plaintiff and he was obligated to deliver the funds to the plaintiff on demand (*Galvanek v. Skibitcky*, 55 Conn. App. 254 (1999)).

PA 00-75—sHB 5781
Judiciary Committee
Human Services Committee

AN ACT CONCERNING PROTECTION OF CHILDREN IN PROBATE COURTS

SUMMARY: This act establishes deadlines that the Department of Children and Families (DCF) and other agencies must meet when a probate court asks them to investigate suspected child abuse and neglect. It also allows a probate court to order medical and psychological tests in emancipation cases.

It requires the probate court to notify DCF of hearings in cases involving temporary custody and removal of a parent's guardianship, except for hearings on *ex parte* orders for temporary custody. This makes DCF a party to the case and allows it to appeal the court's decision. Notice must be sent by regular mail at least five days before the hearing.

It requires the probate court to appoint an attorney to represent a child in guardianship and termination of parental rights (TPR) cases when abuse or neglect is alleged and allows such appointments in other cases when it is not. It removes the requirement that a guardian ad litem appointed to represent a child's best interest in these cases be an attorney.

The act allows a probate judge to transfer a contested TPR or guardianship case to another probate court. Prior law allowed a judge to transfer such a case to the Superior Court. The act establishes a mechanism for the probate court system to identify

probate judges who specialize in children's matters to receive these transfers.

It allows the probate court to make a specific finding of neglect in cases to remove a parent as guardian and allows the Superior Court or another probate court to use a prior probate finding of neglect in a TPR case.

EFFECTIVE DATE: October 1, 2000

INVESTIGATIONS

Custody and Guardianship Hearings

The act sets specific deadlines for DCF to report investigative findings to the probate court in certain cases. Prior law required a probate court to ask DCF or a DCF-licensed or -approved agency to investigate any case involving an order for temporary custody, removal of a parent as guardian, and appointment or reinstatement of a guardian, unless the court waived the requirement for good cause.

Under the act, when the petitioner alleges that the child in any of these cases has been abused or neglected, or the probate judge reasonably believes this has occurred, DCF or the other investigative agency must submit a written report within 90 days of receiving the court's request. It allows the court to set a different timeline in cases asking for immediate temporary custody or temporary custody. The report must examine the child's and parents' physical, mental, and emotional status; the parents' financial condition; and other facts to help the court determine whether the proposed action is in the child's best interest. The act also extends the investigation requirement to cases involving the designation of a standby guardian.

The act makes the report admissible evidence, and any party can call the investigator as a witness. This is already a probate court practice.

Emancipation of a Minor Hearings

The act expands the types of reports a probate court can ask for in emancipation cases. It allows a probate judge hearing an emancipation case to order medical or psychological tests of the child, if he finds reasonable cause exists, on his own motion or a motion by one of the parties. He can also order an examination of a parent whose competency or ability to care for the child is questioned. The court can use the test results in its decision. The law requires a probate judge to ask DCF to investigate, unless he waives this investigation for good cause. It allows a Superior Court judge, if he deems it appropriate, to ask DCF, a probation officer, or someone else to investigate and to make any other orders, presumably including ordering such a test.

The party asking for the test must pay for it; if the court orders a test, the petitioner (the child or his parents) must pay for it. If they cannot pay, the Judicial Department must pay. But if the Judicial Department's budget does not include funds to pay for such tests in a probate matter, payment must come from the Probate Court Administration Fund.

APPOINTMENT OF ATTORNEYS AND GUARDIANS AD LITEM

The act expands the probate court's authority to appoint counsel to represent children. Prior law allowed the court to appoint an attorney knowledgeable in children's needs and protection to represent the child's best interests in temporary custody and guardianship cases. The act requires a probate judge to appoint an attorney to represent the child whenever abuse or neglect is alleged, or when the judge reasonably suspects it, in a case involving an order for temporary custody, removal of a parent as guardian, appointment or reinstatement of a guardian, and TPR. And it requires him to appoint a guardian ad litem (GAL) to represent the child's best interests when he deems it appropriate in these cases. The GAL need not be an attorney, but he must be knowledgeable about children's needs and protection. The act continues to authorize a judge to appoint an attorney for all other cases, extends this authority to TPR cases, and makes it clear that the attorney represents the child, not the child's best interests.

By law, when the court appoints counsel for a respondent, that party must pay. If he cannot, payment comes from Judicial Department funds, or if none are budgeted, from the Probate Court Administration Fund.

TRANSFERRING CASES AMONG PROBATE COURTS

The act allows a probate judge to transfer a contested guardianship or TPR case to another probate judge. He may do this following a motion by any interested party or on his own motion. Existing law (1) requires a probate judge to transfer contested guardianship cases to Superior Court on a motion by any party other than the one who asked for the parent's removal, (2) requires him to transfer a contested TPR case on the motion of any party except the petitioner, and (3) allows him to transfer a contested TPR case on his or the petitioner's motion.

The act requires the probate court administrator to establish a panel of qualified probate judges who specialize in children's matters. The Probate Court

Assembly's executive committee must approve his selections. If a probate judge transfers a contested case, the probate court administrator appoints a member of the panel to hear it. The hearing takes place in the original probate court, unless all parties and DCF agree to move its location. The clerk of the original probate court is responsible for transferring case files to the clerk of the new probate court.

PROBATE COURT FINDING OF NEGLECT

The act permits a probate court to make a specific finding that a child is neglected or uncared for and use this as a factor in determining whether to remove the child's parent as his guardian. And it allows the Superior Court or a probate court subsequently to use such a finding as a ground to terminate a parent's rights to a child.

The statutory definition of neglect the act references covers (1) abandonment, (2) denial of proper care, (3) living under injurious conditions, and (4) abuse. The probate court could already remove a parent as a guardian on grounds nearly identical to the statutory definition of these terms. It could do this if it finds (1) the parent has abandoned the child; (2) the child has been denied the care, guidance, and control necessary for his physical, educational, moral, or emotional well-being; (3) the child has physical injuries inflicted on him by the parent or someone whom the parent has given access to the child; (4) the child's injuries do not correspond to the history given for them; or (5) the child's condition results from maltreatment, including sexual molestation, malnutrition, emotional maltreatment, or cruel punishment.

PA 00-76—sHB 5782
Judiciary Committee

AN ACT CONCERNING PROBATE MATTERS

SUMMARY: This act allows a parent to use documents other than a will to appoint an unmarried minor child's guardian, guardian of the estate, or both in the event of the parent's death. The act removes the requirement that only the surviving parent can make an appointment. It also prohibits a parent removed as guardian from making an appointment.

The act removes the requirement that the Department of Children and Families commissioner file in the probate court for the district where the parent, guardian, child, or youth lives for dispositional hearings in cases of voluntary commitment of children. The probate court can still transfer the file for cause on a motion of a party to a probate court in a district other than the one that had the initial or dispositional hearing.

The act also moves the date for probate judges to report their incomes to April 1 of each year rather than March 1. The report allows the probate court administrator to monitor court income for purposes of payments and allocations. It includes information on income received from the office, expenses, and various payments.

The act also makes technical changes.
EFFECTIVE DATE: October 1, 2000

APPOINTMENT OF GUARDIANS

The act allows a parent to use documents other than a will to appoint an unmarried minor child's guardian, guardian of the estate, or both in the event of the parent's death. The document must be signed by the parent and attested by at least two witnesses.

The act specifies that the latest effective appointment by the last surviving parent has priority if there are multiple documents appointing guardians, including wills. The law provides that an appointment does not supersede an earlier appointment by the probate court and the ward of a guardian who is at least age 12 can petition the probate court to substitute another person as guardian.

The law requires a guardian to file written acceptance of guardianship. The act makes the appointment effective when the guardian files written acceptance in either the court where the minor resides or, in the case of a will, where the will is probated.

PA 00-78—HB 5880
Judiciary Committee

AN ACT CONCERNING THE RECEIPT OR USE OF PROPERTY BELONGING TO A MINOR

SUMMARY: This act increases, from $5,000 to $10,000, the amount of a minor's property that his parent, guardian, or spouse can receive or use without being appointed guardian of the minor's estate by the probate court. As under current law, the parent, guardian, or spouse can still hold property as a custodian without being appointed guardian of the minor's estate.

The act also makes a release given by both parents, a parent with legal custody, a guardian, or a spouse valid for amounts up to $10,000 rather than $5,000.
EFFECTIVE DATE: October 1, 2000

PA 00-80—sHB 5903
Judiciary Committee

AN ACT CONCERNING THE STATUTE OF LIMITATIONS FOR PROSECUTION OF SEXUAL ASSAULT AND FOR REQUESTING A NEW TRIAL

SUMMARY: This act increases the statute of limitations for the six most serious sexual assault crimes and increases the time someone has to request a new trial when DNA evidence is available.

It increases the time period within which a person may be charged with these sexual assault crimes, in many cases by 15 years, when the perpetrator is identified by DNA analysis and the victim notified the police or a prosecutor of the offense within five years of its commission. This provision applies to first-degree sexual assault, aggravated first-degree sexual assault, sexual assault in a spousal or cohabiting relationship, second-degree sexual assault, and third-degree sexual assault, with and without a firearm.

The act also removes a three-year limit on how long a person has to request a new trial in a civil or criminal matter when the request is based on DNA evidence. It allows such a request anytime if it is based on evidence that was not discoverable or available at the time of the original trial.

EFFECTIVE DATE: Upon passage and applicable to offenses committed anytime, including prior to its passage.

STATUTE OF LIMITATIONS FOR SEXUAL ASSAULT CRIMES

Statute of Limitations Law

By law, the general rule is that all felonies (except for death penalty cases, class A felonies, and arson murder) must be prosecuted within five years of the date of the offense. This time period is tolled for any time that the accused has fled and resides outside the state. Special rules exist for offenses involving the sexual abuse, exploitation, or assault of a minor. Such prosecutions must be brought within (1) two years of the victim attaining the age of majority or (2) five years of the victim reporting the offense to the police or a prosecutor, whichever is earlier, but the time period cannot be less than five years. Thus, depending on the facts, the period of time could be significantly more than five years. For example, if a very young child was sexually assaulted but the assault was not discovered and reported to police until the child was a teenager, a prosecution could still be brought up to five years after the report.

Statute of Limitations Under the Act

The act allows a prosecution for any of the six specific offenses to be brought up to 20 years after the offense if:

1. the victim notified the police or a prosecutor within five years of the offense's occurrence and
2. the offender's identity is established through the use of a DNA profile comparison using evidence collected at the time of the offense.

Offenses Covered

The act's statute of limitations provisions apply to:

1. first-degree sexual assault (a class B felony), which involves having sexual intercourse by force or threat of force or with a victim under age 13, or committing second-degree sexual assault with the help of other people;
2. aggravated first-degree sexual assault (a class B felony), which involves committing first-degree sexual assault and (a) being armed with a deadly weapon, (b) disfiguring or injuring the victim, (c) creating a risk of death and injuring the victim, or (d) using the assistance of others;
3. sexual assault in a spousal or cohabiting relationship (a class B felony), which involves compelling a spouse or cohabitor to have sexual intercourse by force or threat of force;
4. second-degree sexual assault (a class C felony), which involves having sexual intercourse with a victim who is underage or physically or mentally cannot give meaningful consent, or when the offender is in a position of power or authority over the victim;
5. third-degree sexual assault (a class D felony), which involves having sexual contact by force or threat of force or having sexual intercourse with a relative (incest); and
6. third-degree sexual assault with a firearm (a class D felony), which consists of using or threatening to use a firearm while committing third-degree sexual assault.

PA 00-84—sSB 593
Judiciary Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO VALIDATING PROVISIONS AND VALIDATION OF A GRAND LIST IN WESTBROOK

SUMMARY: This act validates deeds, mortgages, powers of attorney, releases, assignments, and other documents affecting any real estate interest recorded after January 1, 1997 that (1) transfer a land interest by referring to a filed map or subdivision plan that does not comply with provisions of a special act or municipal ordinance or regulation or (2) do not specify the town and state where the real estate is located.

The act specifies that the use, occupancy, or presence of any building or other structure cannot be deemed illegal or invalid solely because (1) the lot on which it is located is not shown on an approved subdivision plan or (2) a filed or recorded subdivision map or plan on which it is shown does not comply with state law or local law or regulation.

It makes certain provisions of the 1999 validating act apply to errors, irregularities, and omissions occurring on or after January 1, 1999 instead of on or after July 1, 2000. These relate to local assessment lists, local taxes, local tax collector certificates, continuing real estate tax liens, releases or assignments of mortgages by out-of-state fiduciaries, condominium surveys or plans, time limits to challenge noncompliance with certain notice requirements, and land sales ordered by probate court.

The act validates actions taken by the Criminal Justice Commission at its June 5, 1996 meeting authorizing the expenditure of funds.

Finally, the act validates Westbrook's grand list abstract for the assessment year beginning October 1, 1999, as signed by the town assessor even though the assessor did not lodge the abstract for public inspection by January 31, 2000. It establishes time frames for hearings the Westbrook Board of Appeals may hold concerning property assessments included in that grand list abstract.

EFFECTIVE DATE: July 1, 2000, except for the provision relating to the Criminal Justice Commission, which is effective upon passage.

WESTBROOK GRAND LIST ABSTRACT

The act authorizes the Westbrook Board of Assessment Appeals to hold a hearing on property assessments included on the grand list abstract if anyone asks by April 20, 2000. It requires the board to send the requestor notice of the time and date of the hearing at least seven calendar days before it is held, but no later than May 1, 2000. The board may hold the hearings in April or May and must complete its hearing duties by May 31, 2000. If it decides not to hold a hearing for any commercial, industrial, utility, or apartment property assessed at more than $500,000, it must notify the taxpayer by May 1, 2000.

The act specifies that existing requirements concerning appeals to boards of assessment appeals and the extension of time to complete the duties of assessors and boards of assessment appeals apply to Westbrook, except those that conflict with the extension of filing and notification dates the act establishes.

PA 00-86—HB 5712
Judiciary Committee

AN ACT CONCERNING PAROLE OF A PRISONER AFTER AN ADMINISTRATIVE REVIEW

SUMMARY: This act expands eligibility for parole without a hearing before the parole board (administrative parole) to inmates eligible for special parole under PA 99-196. With the exception of capital felons, inmates are eligible for special parole if they (1) have six months or less of their sentence remaining, (2) have served at least 95% of their sentence, (3) agree to supervised parole for one year, and (4) agree to serve the remainder of their term at the prison they were paroled from if they violate parole.

By expanding administrative parole in this way, the act makes eligible for administrative parole inmates who are ineligible for regular parole because they were convicted of murder, felony murder, arson murder, an offense committed with a firearm within 1,500 feet of an elementary or secondary school, or an offense involving the use, attempted use, or threatened use of force.

The law continues to prohibit the administrative parole of inmates convicted of manslaughter; vehicular misconduct; criminally negligent homicide; first-degree assault; first-degree assault of an aged, blind, or disabled person; first-degree sexual assault; first-degree aggravated sexual assault; sexual assault in a spousal or cohabiting relationship; first-degree kidnapping; first-degree kidnapping with a firearm; first-degree robbery; and employing a minor in an obscene performance.

The act also makes eligible for administrative parole inmates sentenced to more than four years

imprisonment but who have less than three years left to serve.
EFFECTIVE DATE: October 1, 2000

PA 00-87—HB 5146
Judiciary Committee

AN ACT CONCERNING THE STATUTE OF LIMITATIONS FOR PROSECUTION OF THE CRIME OF ESCAPE

SUMMARY: This act eliminates the five-year statute of limitations for the class C felony of first-degree escape, thus allowing someone to be prosecuted for this offense anytime. The act applies to all first-degree escapes, including those that took place prior to its passage.

First-degree escape consists of:

1. escaping from a correctional institution;
2. escaping from a group home, halfway house, mental health facility, or community placement while under the custody of the correction commissioner;
3. escaping from a correctional work detail or school;
4. failing to return from a correctional furlough, work release, or educational release;
5. escaping from a mental hospital while confined as not guilty by reason of mental disease or defect; and
6. leaving the state while under the authority of the Psychiatric Security Review Board without its authorization.

EFFECTIVE DATE: Upon passage

BACKGROUND

Crimes With No Statute of Limitations

The other crimes that have no statute of limitations are (1) capital felony; (2) arson murder; and (3) class A felonies, which are murder, felony murder, first degree kidnapping with and without a firearm, first degree arson, and employing a minor in an obscene performance.

PA 00-94—SB 514
Judiciary Committee

AN ACT CONCERNING SMALL CLAIMS CASES

SUMMARY: This act increases, from $2,500 to $3,500, the maximum amount of damages that may be claimed in small claims court actions. It authorizes the judicial authority hearing a small claim by a tenant to recover his security deposit for a dwelling to award damages and costs authorized by law exceeding the $3,500 limit. By law, residential landlords are liable for twice the amount of the security deposit if they violate their statutory duty to return the deposit within certain time frames.
EFFECTIVE DATE: October 1, 2000

PA 00-99—sHB 5832
Judiciary Committee
Appropriations Committee
Government Administration and Elections Committee
Labor and Public Employees Committee

AN ACT REFORMING THE SHERIFF SYSTEM

SUMMARY: This act transfers on December 1, 2000, if a constitutional amendment eliminating county sheriffs is approved by the voters, (1) responsibility for transporting prisoners to courthouses, custody of prisoners at courthouses, and courthouse security from the county sheriffs to the Judicial Department and (2) service of process functions to state marshals.

It requires the Judicial Department to employ judicial marshals for prisoner transport and custody and courthouse security. All deputy sheriffs and special deputy sheriffs serving as prisoner custody or transportation or court security personnel on April 27, 2000 can continue their service as Judicial Department employees. The Judicial Department must recognize the special deputy sheriffs' bargaining unit for collective bargaining with the judicial marshals. The act requires the Judicial Department to form agreements with state agencies on the management, training, and coordination for courthouse security and prisoner custody and transportation (PA 00-210 changes this provision to allow rather than require agreements).

The act creates the position of state marshal and authorizes them to provide legal execution and service of process. Qualified deputy sheriffs who are serving on June 30, 2000 become state marshals. The act allows the same number of state marshals in each county as prior law allowed deputy sheriffs. It makes state marshals independent contractors who are compensated on a fee-for-service basis. The fee is determined by agreements with attorneys, courts, or public agencies requiring execution or service of process, but it is subject to any minimum rate set by the state. State marshals must meet the same bonding

and personal liability insurance requirements that apply to sheriffs and deputy sheriffs. The act bans, for two years, appointment to the position of state marshal of anyone who has given anything of value for political purposes to those who name the members of the State Marshal Commission.

The act creates a State Marshal Commission as an autonomous body in the Judicial Department for budget purposes only. The commission consists of eight appointed members. It fills vacancies in state marshal positions and can adopt rules for the application and investigation process for state marshals. The commission can remove a state marshal only for cause after notice and a hearing. The act also creates a State Marshals Advisory Board consisting of 24 state marshals elected by the state marshals.

The act amends various service of process and execution statutes to allow state marshals to carry out the current duties of sheriffs and deputy sheriffs. It gives state marshals the same powers as deputy sheriffs, including service of process, execution, and tax collection.

The act eliminates most statutory references to sheriffs, deputy sheriffs, and special deputy sheriffs but does not transfer all of their functions to the new officers. It makes judicial marshals performing their duties and state marshals exercising their statutory authority "peace officers." This gives them certain arrest powers. It eliminates sheriffs, deputy sheriffs, and special deputy sheriffs as peace officers.

The act increases the membership of the Sheriffs Advisory Board from five to seven. It requires the board, which administers the prisoner transportation and courthouse security system under the statutes, to cooperate with and ensure that the sheriffs, deputies, special deputies, and their staff cooperate with the Judicial Department for the transition of functions. It requires the board to approve an appointment or removal of a deputy sheriff or special deputy sheriff. It prohibits a sheriff from appointing or removing a deputy or special deputy sheriff after December 1, 2000. The board is eliminated on December 1, 2000 if the voters approve the constitutional amendment.

The act prohibits a sheriff from directly or indirectly soliciting campaign contributions from certain individuals.

It also makes conforming changes.

EFFECTIVE DATE: December 1, 2000, but certain provision are effective on passage and all of the act's provisions are ineffective if the constitutional amendment eliminating county sheriffs is not approved by the voters. The provisions effective on passage include: (1) the creation of the State Marshal Commission and the State Marshals Advisory Board, (2) the number of state marshals, (3) the changes to the Sheriffs Advisory Board and the requirement that it approve any appointment or removal of a deputy or special deputy, (4) the Department of Administrative Services' responsibility for sheriffs administrative functions as of December 1, 2000 (PA 00-210 makes this provision effective on December 1, 2000), (5) the requirement for sheriffs' cooperation with the Judicial Department, (6) the chief court administrator's (CCA) appointment of certain deputy sheriffs as state marshals and notification to him of whether deputies want to be state or judicial marshals, (7) the prohibition on sheriffs appointing or removing deputy or special deputy sheriffs as of December 1, 2000, (8) the transfer of funds by the governor, and (9) the prohibition on solicitation of campaign contributions and expenditures by sheriffs.

JUDICIAL DEPARTMENT FUNCTIONS

The act transfers to the Judicial Department the sheriffs' current responsibility for transporting prisoners to courthouses, custody of prisoners at courthouses, and courthouse security. It transfers responsibility for operating the lockup at the Lafayette Street courthouse (used for people arrested by the Hartford police to be presented to the court at its next session) from the Hartford County sheriff to the Judicial Department. It also makes the Judicial Department responsible for transporting arrestees before arraignment from Hartford police booking facilities. The CCA is responsible for custody, care, and control of the courthouses.

Local police remain responsible for custody if they are operating a lockup designated by the CCA as a courthouse lockup and are responsible for escorting prisoners to the courthouse if the lockup is not in the same building.

The act transfers all property used by sheriffs for prisoner transportation and court security to the Judicial Department. It requires complete separation of male and female prisoners during transportation between courthouses and community correction centers.

In addition, the act requires the CCA to employ staff, within available appropriations, to perform the functions transferred from the county sheriff system. He must first offer employment to qualified people employed in administering the county sheriff system on July 1, 2000.

JUDICIAL MARSHALS

The act requires the Judicial Department to employ judicial marshals for transportation and custody of prisoners and courthouse security. It requires judicial marshals or constables to attend

sessions of the Superior Court and family support magistrates instead of sheriffs, deputy sheriffs, or special deputy sheriffs. It also allows a judge trial referee to have judicial marshals attend a hearing and eliminates this provision for sheriffs and deputy sheriffs.

The act allows the CCA to establish employment standards and appropriate training programs to assure secure prisoner transportation and court security. These standards must be in force by December 1, 2000. After April 27, 2000, he must require judicial marshal applicants to submit to a criminal record background investigation conducted by the Department of Public Safety and the Federal Bureau of Investigation. The applicant must pay processing fees for this investigation.

The act requires judicial marshals to receive the same training from the Office of Victim Services on victims' rights and services that special deputy sheriffs previously received.

The act transfers the following powers and duties from sheriffs and deputy sheriffs to judicial marshals:

1. transporting a person for immediate treatment for alcohol or drug dependency under a court order,
2. adjourning the Supreme Court in certain circumstances, and
3. overseeing the jury in a capital punishment case if the judge orders the jury members to remain together.

Special Deputy Sheriff Retirement Provisions

The law allows retired state employees who return to work for the state to receive both a state pay check and their state pension payment for up to 90 days per year (but a collective bargaining agreement supersedes this provision and allows up to 120 days). If they work more than 120 days, they cannot receive further pension payments and must reimburse the state for the cost of the pension payments they received for the 120 days. Special deputy sheriffs are exempt if they (1) were employed as a special deputy sheriff on July 1, 1999 and (2) were not employed as a special deputy sheriff prior to their retirement.

The act continues this exemption for those who continue as judicial marshals. But, it bars these retirees from earning additional state employee retirement credit while they receive pension payments.

STATE MARSHALS

The act gives state marshals the various duties and powers sheriffs or deputy sheriffs currently have regarding service of process and other related court functions, including:

1. general authorization for service of civil process,
2. service of process for state collection agencies,
3. executions for eminent domain condemnations,
4. evictions,
5. ejectments,
6. service of a summons regarding a prejudgment remedy,
7. taking possession of a vessel under an attachment,
8. sale of certain goods at public auction, and
9. taking possession of an estate under probate court order.

It makes state marshals rather than sheriffs and deputy sheriffs levying officers for purposes of post-judgment procedures and it makes state marshals rather than sheriffs and deputy sheriffs responsible for several other statutory duties. A state marshal:

1. must promptly execute all process directed to him and give a receipt for civil process without a fee;
2. must pay money collected on behalf of another person to that person within 30 days (prior law allowed 90 days) of its collection or upon collecting $1,000, whichever is first;
3. cannot fill out process unless it is for his own case;
4. must file a financial statement disclosing the amounts and sources of income earned; and
5. can authorize a proper person to serve process for him on special occasions.

The act gives state marshals the right to enter private property for execution or service of process and exempts them from personal liability for damage or injury in discharging these functions unless their conduct is wanton, reckless, or malicious.

Requirements for State Marshals

The act eliminates the bond requirement for sheriffs and deputy sheriffs and places the same requirements on state marshals. They must give the State Marshal Commission a $10,000 bond for the faithful discharge of their duties and to cover any damages caused by improper conduct. As with deputy sheriffs under prior law, the state pays the premium. A $100,000 bond is required to collect state or municipal tax warrants.

The act eliminates the personal liability insurance requirement for sheriffs and deputy sheriffs and requires the same amounts for state marshals. The insurance must be $100,000 for damages to one person or his property and $300,000 for damages to

more than one person or their property.

Deputy sheriffs who perform courthouse functions and become judicial marshals do not have to post a bond or carry personal liability insurance.

The act prohibits a state employee from being a state marshal at the same time. It requires the secretary of the state to keep a list of state marshals for public inspection (previously required for sheriffs).

The act prohibits state marshals, instead of sheriffs and deputies, from appearing in court as attorneys or pursuing lawsuits to profit from the collection fees. It also prohibits justices of the peace and judges other than probate judges from being state marshals instead of from being sheriffs and deputy sheriffs.

The act prohibits a state marshal from knowingly billing or receiving fees for work he did not actually perform.

The act establishes a two-year waiting period for appointment to the position of state marshal for anyone who for political purposes pays, lends, or contributes anything of value to those who name the members of the State Marshal Commission.

Deputy Sheriffs Applying to the CCA

The act allows the CCA to appoint as state marshal a person who (1) was a deputy sheriff on May 31, 1999 (PA 00-210 changes this date to on or after May 31, 1995), (2) served for at least four years, and (3) applies no later than June 30, 2000. Until the State Marshal Commission members are appointed he can appoint people regardless of the limits imposed by the act on the number of state marshals in each county. (PA 00-210 gives people appointed under this provision the same powers, duties, and liabilities of a deputy sheriff from their appointment date until December 1, 2000.)

The act requires deputy sheriffs serving on April 27, 2000 to notify the CCA no later than June 30, 2000 if they want to be appointed state marshals. Any deputy sheriff performing courthouse security or prisoner custody or transportation can also ask to be a judicial marshal. The CCA must notify the State Marshal Commission in writing of the deputy sheriffs' decisions.

(PA 00-210 prohibits a high sheriff who appoints himself or is appointed by another sheriff as a deputy sheriff from becoming a state marshal on or after December 1, 2000 unless he notifies the CCA by June 30, 2000 that he wants to be a state marshal and resigns as sheriff effective December 1, 2000.)

If the CCA's appointments exceed the limits on the number of marshals in each county, the State Marshal Commission cannot add marshals until the number drops below the limit.

Number of State Marshals

The act allows the same number of state marshals in each county as prior law allowed deputy sheriffs. The limits are:

1. 55 in Fairfield County,
2. 72 in Hartford County,
3. 30 in Litchfield County,
4. 21 in Middlesex County,
5. 62 in New Haven County,
6. 38 in New London County,
7. 22 in Tolland County, and
8. 18 in Windham County.

Other Powers

The act gives state marshals various other powers and duties in place of sheriffs and deputy sheriffs. State marshals:

1. can arrest a person under a capias from the claims commissioner for failing to respond to a subpoena;
2. can commit a person to a community correctional center on a warrant from a military court;
3. can, at the court's direction, summon and attend a jury to re-estimate the damages or benefits of laying out or altering a state highway;
4. are considered officers for purposes of enforcing certain motor vehicle laws;
5. have the same authority as Department of Motor Vehicle (DMV) inspectors for removing abandoned motor vehicles under certain circumstances;
6. can sell motor vehicles at auction without obtaining a DMV permit;
7. can, on request from the Department of Children and Families (DCF), arrest and hold a child or youth who escaped from DCF custody;
8. are exempt from certain statutory provisions governing closing-out sales;
9. are exempt from certain securities registration requirements for their transactions; and
10. can arrest and hold a parolee or inmate without a warrant when requested by the Department of Correction or the Board of Parole.

STATE MARSHAL COMMISSION

The act creates the State Marshal Commission to fill vacancies in state marshal positions and establish professional standards, including training requirements and minimum fees for execution and service of process. The standards must be in force by December 1, 2000. Applicants must follow the commission's application and investigation requirements. In appointing marshals for counties, the commission must appoint an applicant who is an elector in that county. The commission can remove a state marshal for cause after notice and hearing. The act allows the commission to adopt rules for conducting its internal affairs and for the application and investigation process for hiring state marshals.

The commission must periodically review and audit the records and accounts of state marshals. When a state marshal dies or is disabled, the commission must appoint a qualified individual to oversee and audit that person's records and account to the commission.

Commission Members

Each of the following people appoint one member of the commission:

1. Supreme Court Chief Justice (appointee must be a Superior Court judge),
2. House speaker,
3. Senate president pro tempore,
4. House minority leader,
5. Senate minority leader,
6. House majority leader
7. Senate majority leader, and
8. governor (appoints a member who must serve as chairperson).

The chairperson serves a three-year term. All appointments to replace members whose terms expire are for three-year terms. If a vacancy occurs, the appointing authority must appoint a replacement for the unexpired term.

The act prohibits more than four members (excluding the chairperson) from belonging to the same political party. And at least three of the seven non-judicial members (excluding the chairman) must not be members of any state bar. No member can be a state marshal.

Commission members cannot receive compensation for serving, but they are reimbursed for actual expenses incurred while engaging in their duties.

STATE MARSHALS ADVISORY BOARD

The act creates a State Marshals Advisory Board which consists of 24 state marshals. The state marshals in each county annually elect the members:

1. four each from Fairfield, Hartford, and New Haven;
2. three each from Litchfield and New London; and
3. two each from Middlesex, Tolland, and Windham.

The first election must occur between November 9, 2000 and November 14, 2000. Members serve for one year and can be reelected.

The CCA must designate a date and time for the state marshals in each county to elect members to the board on or after the act's passage. A majority of the state marshals in a county is a quorum and a majority of those present elects a state marshal to serve on the board. They must forward the names of elected state marshals to the CCA who must designate a date and time for the board's first meeting. The meeting must be as soon as practicable after November 14, 2000.

STATE MARSHALS AND JUDICIAL MARSHALS

Peace Officers

The act removes sheriffs, deputy sheriffs, and special deputy sheriffs from the definition of peace officers. It makes judicial marshals in the performance of their duties and state marshals exercising their statutory authority "peace officers." A peace officer can arrest a person during the commission of an offense within his jurisdiction without a warrant, or on speedy information of others, within his precinct. The act defines the precinct or jurisdiction of a state marshal or judicial marshal as wherever he is required to perform his duties, the same definition that applied under prior law for deputy sheriffs and special deputy sheriffs.

Under the act, state marshals certified by the Police Officer Standards and Training Council who perform criminal law enforcement duties can, if they are in immediate pursuit, pursue an offender outside their precincts and can arrest him. The act eliminates these powers for sheriffs, deputy sheriffs, and special deputy sheriffs.

The act also replaces sheriffs and deputy sheriffs with state marshals and judicial marshals with respect to exercising statutory duties as peace officers under certain gambling statutes.

Other Provisions

The act makes it a capital felony to murder a state marshal exercising his statutory authority or a judicial marshal performing his duties. Prior law applied this offense to a sheriff or deputy sheriff.

The act requires a state marshal or judicial marshal rather than a sheriff, deputy sheriff, or special deputy sheriff to receive diagnostic and prophylactic treatment if he is exposed in the line of duty to blood or bodily fluids that may carry blood-borne disease.

It allows judicial marshals and state marshals to participate in hospital, medical, and surgical insurance plans selected by the comptroller on December 1, 2000. Both pay the full cost of the coverage, but judicial marshals can participate through collective bargaining.

The act prohibits a state marshal or judicial marshal from having a liquor permit.

SHERIFFS

The act requires the sheriffs to cooperate with the CCA in carrying out their duties to ensure the efficient operation of their office and the transition of the functions to the Judicial Department prior to December 1, 2000.

It adds two members to the Sheriffs Advisory Board, (1) a representative of DOC in addition to the DOC commissioner and (2) a representative of the Judicial Department appointed by the CCA in addition to the CCA. It abolishes the board on December 1, 2000. It appears to prohibit any further agreements (those made after April 12) between the board and the DOC or other agencies for transportation and custody of prisoners.

It makes the Department of Administrative Services responsible for the administrative functions of the Office of the County Sheriff on December 1, 2000.

The act makes the sheriffs' salaries full compensation for all of their legal duties and eliminates a provision allowing them to keep fees for service of process. (PA 00-210 returns to prior law and allows sheriffs to keep fees but eliminates this provision on December 1, 2000 if the voters approve the constitutional amendment.)

Restrictions on Contributions

The act prohibits a sheriff from directly or indirectly soliciting a campaign contribution or an expenditure from a (1) deputy sheriff; (2) special deputy sheriff; (3) sheriff's employee; (4) business client with whom he did official business in the last 12 months; or (5) spouse, child, or parent of, or dependent relative living with a deputy sheriff, special deputy sheriff, or sheriff's employee. The solicitation ban applies to contributions to and expenditures for (1) a sheriff's exploratory or candidate committee, (2) his PAC or his agent's PAC, (3) the support of or opposition to a referendum question, or (4) any other purpose subject to the state's campaign finance laws.

In addition, under the act, a sheriff is guilty of violating the ban if (1) a person agrees with the sheriff to engage in conduct that violates the ban, (2) the sheriff intends the person to commit the act, and (3) the person commits an act to further the agreement. A violation is a class D felony.

Funds

The act allows the governor, with the approval of the Finance Advisory Committee, to modify or reduce requisitions for allotments in the Office of the County Sheriffs during FY 2000-01 regardless of the usual statutory procedures for doing so. The governor can transfer funds to the Judicial Department or other appropriate agencies to establish and transfer positions.

Eliminated Powers and Duties of Sheriffs and Deputy Sheriffs

Beginning December 1, 2000, the act eliminates statutes granting sheriffs various powers including:

1. executing process;
2. suppressing riots and breaches of the peace;
3. commanding people to assist them; and
4. appointing or removing deputies and special deputies and appointing a chief deputy.

It also eliminates salaries for chief deputies, the per diem compensation for deputies and special deputies attending court, and the attorney general's responsibility to represent sheriffs and chief deputies. It removes the application to sheriffs of statutes for conducting elections and collecting and accounting for contributions.

The act removes sheriffs and deputy sheriffs from additional statutes and does not replace them with state marshals. It eliminates:

1. sheriffs from the prohibition on employment or receiving money or things of value for supporting or opposing a legislative action;
2. sheriffs and deputy sheriffs from the definition of public officials for purposes of the code of ethics for public officials;
3. specific responsibilities of sheriffs related to stolen or recovered motor vehicles;
4. the requirement that sheriffs take custody of

and store abandoned aircraft;
5. the sheriff's duty to assist agricultural authorities when called upon for the eradication of bovine and avian diseases;
6. the sheriff's duty to submit fingerprints and information of arrested people to the State Police;
7. the power of sheriffs to inspect the stock of machine gun manufacturers;
8. the duty of sheriffs and deputies to attend and assist state referees and Superior Court judges at an inquiry into campaign finance violations or to procure the attendance of witnesses;
9. the authority of sheriffs and deputies to arrest habitual truants;
10. the authority of sheriffs and deputies to remove cancelled registration plates from motor vehicles in parking areas and return them to the DMV;
11. the requirement that the Hartford County sheriff attend Board of Pardons sessions and collect a fee;
12. the power of sheriffs and deputies to enter the premises of a liquor permittee to ascertain how he is conducting the business and to preserve order; and
13. the power of sheriffs and deputies to arrest people escaping from Long Lane, Connecticut School for Boys, Connecticut Juvenile Training School, or Southbury Training School (the act makes a conforming change to reflect the effective date of PA 99-26).

It also requires the CCA or his designee, rather than the sheriff, to execute a mittimus to commit convicts to the Connecticut Correctional Institution, Somers. It also requires a court-issued mittimus to transfer a person at Somers awaiting execution who is insane to a state hospital for mental illness to go to the DOC rather than the Tolland County sheriff or his deputies.

The act removes sheriffs and deputy sheriffs from the list of those to whom a driver involved in an accident is prohibited from giving false information or refusing to give information. It eliminates the duty of deputy sheriffs to go anywhere in the state as required by the public safety commissioner and to have the powers of state policemen when acting under this directive.

It eliminates references to sheriffs in the laws on purchase or receipt of pistols and revolvers.

OTHER OFFICERS

The act amends a number of statutes involving other officials by removing references to sheriffs and deputy sheriffs, but it does not appear to alter the powers of the underlying officials.

The act specifies that constables have the power to serve process in their towns rather than the same power as a sheriff to serve process. It also allows them to attend the Superior Court or family support magistrates, but it eliminates the daily fee for their work.

BACKGROUND

Constitutional Amendment

The voters will decide at the 2000 general election whether to adopt a constitutional amendment eliminating sheriffs as constitutional officers (SJ 15).

PA 00-109—HB 5717
Judiciary Committee

AN ACT CONCERNING INVESTIGATIONS BY THE JUDICIAL SELECTION COMMISSION

SUMMARY: This act allows the Judicial Selection Commission, when necessary and within existing appropriations, to contract with others to investigate candidates for judicial appointments and reappointments.

The 12-member commission seeks, evaluates, and furnishes the governor with a list of qualified candidates for nomination as judges. It also evaluates and makes judicial reappointment recommendations.

EFFECTIVE DATE: October 1, 2000.

PA 00-110—sHB 5128
Judiciary Committee

AN ACT CONCERNING APPLICATIONS FOR PAYMENT OF CRIME VICTIMS' COMPENSATION

SUMMARY: This act allows crime victims' dependents to apply for victim compensation (1) up to two years after they discover or reasonably should have discovered that the person upon whom they were dependent was victimized or (2) by August 24, 2000, whichever is later. The applicant must sign a statement under penalty of false statement setting forth the date the victimization was discovered and why it took more than two years after the crime to

discover it.

The act establishes a rebuttable presumption that the dependent person is entitled to compensation if he files the statement and is otherwise eligible for compensation. By law, "dependent" means a deceased victim's (1) relatives who were wholly or partially dependent upon his income at the time of his death or (2) child born after his death.

EFFECTIVE DATE: Upon passage

BACKGROUND

Crime Victim Compensation

The Office of Victim Services may compensate crime victims or their immediate families when the victim is deceased, incapacitated, or a minor child, for reasonable and necessary expenses, lost wages, pecuniary losses, and other loss resulting from injury or death. Maximum awards are $15,000 for personal injuries and $25,000 for death. Eligible victims must have been injured or killed during (1) their attempt to prevent crime, aid police, or apprehend suspects; (2) attempts or actual commissions of crime by another person; (3) international terrorism; or (4) another person's violation of enumerated motor vehicle offenses.

PA 00-113—SB 473
Judiciary Committee

AN ACT CONCERNING ATTACHMENT OF GOVERNMENT PENSION PAYMENTS

SUMMARY: This act permits:

1. the state to recover incarceration costs from a prisoner's state, federal, or municipal pension, other than individual retirement accounts and Keogh plans, and
2. crime victims to collect court-awarded damages from one of these benefit plans when the pension-holder or a beneficiary committed a crime that caused their damage.

Prior law prohibited creditors from attaching or seizing pension payments for these purposes. The act requires the state and crime victims to use the statutory procedures for wage executions and prohibits these recoveries from taking precedence over court orders diverting pension payments for alimony or child support.

Under federal law, federal civil service retirement benefits are exempt from attachment except in connection with divorce or legal separation proceedings or to enforce a court judgment against a person for physically, sexually, or emotionally abusing a child. State law also exempts Teachers' Retirement System payments from attachment and execution. It appears that the act does not affect these restrictions.

EFFECTIVE DATE: October 1, 2000

BACKGROUND

Court Procedure

The wage execution procedure requires the state and crime victims to get a court order for installment payments when they obtain a money judgment for incarceration costs or victim compensation. If the debtor fails to make these payments, the state or victims may then file a court application for a wage execution to satisfy the judgment. Because pension benefits are considered deferred compensation for services rendered, presumably this procedure would apply to those payments.

By law, the maximum wage execution is the lesser of:

1. 25% of the debtor's disposable weekly earnings or
2. the amount by which his disposable earnings exceed 40 times the applicable minimum wage.

Court clerks must issue wage execution orders if the application is complete and accompanied by a $10 fee. The debtor must get notice of his rights and a claim form to use if he challenges the legality of the execution.

Department of Correction Assessments

By law, the Department of Correction commissioner can assess inmates the costs of incarceration. Regulations specify that these are calculated using the same formula that the comptroller uses to set per diem costs in state mental hospitals and other state residential facilities. When an inmate's prison account balance is too small to pay these charges, the Department of Administrative Services may recoup them from other income sources, including by obtaining court judgments and executing upon certain property.

PA 00-115—sSB 595
Judiciary Committee
Government Administration and Elections Committee

AN ACT CONCERNING COLLECTION ATTORNEYS

SUMMARY: This act allows the Department of

Administrative Services (DAS) commissioner, with the attorney general's approval, to refer certain debts owed to state agencies to attorneys admitted to the bar in this state who practice debt collection law. By law, state agencies must refer these debts to DAS. The law allows DAS to refer these debts to licensed consumer collection agencies. DAS must give the debtor 30 days notice before referring the debt.
EFFECTIVE DATE: October 1, 2000

PA 00-116—sSB 58
Judiciary Committee
Public Health Committee

AN ACT CONCERNING JURORS

SUMMARY: This act

1. gives the jury administrator authority to create and maintain a list of people in specified categories to be excluded from the juror summoning process;
2. requires the jury administrator, when compiling the master file for summoning jurors, to delete the names of deceased people and certain people excluded from service;
3. requires the Department of Public Health (DPH) commissioner to give the jury administrator, upon request, a list of deceased people annually;
4. allows the chief court administrator to authorize the jury administrator to use the previous year's master file to summon jurors if the new master file is unavailable or defective;
5. reduces, from one year to 10 months, the time that a summoned juror can postpone jury service but allows the jury administrator to grant postponement for up to one year from the date of the original summons; and
6. allows the court, in a criminal trial, to retain alternate jurors after deliberations begin and allows an alternate juror to join the regular panel of jurors during deliberations if a juror becomes unable to serve.

EFFECTIVE DATE: September 1, 2000, except for the provisions on alternate jurors, which are effective October 1, 2000.

EXCLUSIONS FROM THE SUMMONING PROCESS

The act gives the jury administrator authority to create and maintain a list of people to be excluded from the juror summoning process. The list must include (1) people permanently disqualified from jury duty because of a disability, (2) people age 70 or older who ask not to be summoned, and (3) constitutional officers and judges during their terms of office. The law already disqualifies these people from jury service.

The act requires anyone permanently disabled or age 70 or older to give the jury administrator his name, address, date of birth, and federal Social Security number for use in matching names. A disabled person must also submit a letter from a licensed physician stating that the disability is permanent and prevents him from giving satisfactory jury service. A person can rescind a request to be excluded at any time by written notice to the jury administrator.

The constitutional officers are the governor, lieutenant governor, secretary of the state, treasurer, comptroller, and attorney general. Judges include family support magistrates and judges of the probate court, Superior Court, Appellate Court, Supreme Court, and federal court.

COMPILING THE MASTER FILE

The law requires the jury administrator to create the master file for summoning jurors from voter, licensed driver, unemployment compensation recipient, and state personal income taxpayer lists. The administrator annually combines the lists, deleting duplicate names where possible so that names only appear once.

The act requires the DPH commissioner to give the jury administrator the most recent list of deceased people. The administrator can remove these names from the master file. He can also remove the names of other deceased people if the public health commissioner provides the death certificates or other satisfactory proof. The administrator, where possible, must also delete the names of people excluded from service on the list created by the act.

The act also requires DPH's list to include Social Security numbers or the reason they are unavailable.

ALTERNATE JURORS

The act allows a court in criminal cases to retain alternate jurors after deliberation begins. It allows alternate jurors to become part of the regular panel of jurors during deliberation. Previously, they could only join the regular panel before deliberation. The act requires the court to (1) issue an appropriate instruction when an alternate joins the regular panel and (2) instruct the jury to begin deliberations again if the alternate joins after deliberation begins.

BACKGROUND

People Disqualified from Jury Service

Jurors must be at least age 18, electors or U.S. citizens, and state residents with a home in the state. A person is disqualified from jury service if he:

1. has a quality (but not deafness or hearing impairment) that the judge finds impairs his capacity to serve as a juror;
2. had a felony conviction in the past seven years, is a defendant in a pending felony case, or is in the custody of the correction commissioner;
3. cannot speak and understand English;
4. is a constitutional officer;
5. is a family support magistrate or judge of the probate court, Superior Court, Appellate Court, Supreme Court, or federal court;
6. is a member of the General Assembly while in session;
7. is age 70 or older and chooses not to perform jury service; or
8. is incapable of rendering satisfactory jury service due to physical or mental disability.

Alternate Jurors

After jury selection, the court can add two or more jurors as alternates in criminal cases likely to be lengthy. They must have the same qualifications as jurors and be selected in the same manner. They attend the trial seated with or near the regular jurors with an equal opportunity to see and hear the trial. If a juror becomes unable to continue, the court can excuse him and order an alternate juror drawn by lot to become part of the regular panel.

PA 00-133—HB 5610
Judiciary Committee
Planning and Development Committee
Education Committee

AN ACT CONCERNING THE PROTECTION OF CHILDREN BEING TRANSPORTED TO SCHOOL

SUMMARY: This act allows people, including special education students, to sue school boards or towns when they are injured going to or from school in state-mandated transportation. Previously, only people injured while being taken to or from regular education programs could sue.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Sovereign Immunity

Sovereign immunity protects the state from being sued without its consent. Although it generally does not protect towns and local governments, school boards implementing state-mandated special education programs act as the state's agents, and thus share its immunity (*Cheshire v. McKenney*, 182 Conn. 253, 258 (1980)). Several courts have also ruled that sovereign immunity bars special education students' suits against school boards for injuries occurring in vehicles the boards provide to take them to school (*Todd M. v. Richard L.*, 44 Conn. Sup. 527 (1995)).

PA 00-137—sHB 5707
Judiciary Committee
Human Services Committee
Appropriations Committee

AN ACT CONCERNING THE ADOPTION OF CHILDREN FROM THE FOSTER CARE SYSTEM

SUMMARY: This act:

1. allows intended adoptive parents and birth parents of a child in foster care to enter a court-sanctioned agreement governing postadoption communication and contact with the child and among the parents;
2. speeds up the process for reviewing plans made for foster children who could be adopted and provides for more thorough assessment of adoption placement efforts;
3. requires the Department of Children and Families (DCF), within available funds, to maintain and distribute a photo listing in book and electronic formats of children available for adoption and contract with a nonprofit agency to maintain the electronic photo-listing service;
4. prohibits DCF from discriminating against prospective adoptive parents because they do not become foster parents; and
5. makes other minor changes in adoption laws.

EFFECTIVE DATE: October 1, 2000

POSTADOPTION AGREEMENTS

The act permits either or both birth parents and an intended adoptive parent to agree to terms governing communication and contact between the

birth parents and child after adoption. An agreement is made as part of a proceeding to terminate parental rights (TPR) in either Superior or probate court. Only a birth parent who is a party to the agreement is bound by its terms. The act states that a court-ordered agreement is in addition to any made under common law. It also states that without an agreement there is no presumption of communication or contact between birth and intended adoptive parents.

Conditions for Agreement

An agreement can be made if (1) the child is in DCF custody, (2) a TPR order has not yet been entered, and (3) the birth parent or parents agree to terminate their rights voluntarily. They can do the latter even if they did not originally consent to termination.

Terms of an Agreement

An agreement may include provisions concerning (1) communication and contact between the child and either or both birth parents, (2) contact between the birth and adoptive parents, and (3) maintenance of the medical history of the birth parents who are party to the agreement. It does not have to contain all of these terms.

An agreement must contain (1) the birth parents' acknowledgement that the termination of their rights and the adoption are irrevocable, even if the adoptive parents do not abide by the agreement and (2) the adoptive parents' acknowledgement that the birth parents can enforce the agreement.

Granting and Implementing an Agreement

The child's attorney (who represents the child) and his guardian ad litem (who represents the child's best interest) can comment on the proposed agreement. The court can enter an order approving the agreement if (1) it determines the agreement is in the child's best interest; (2) each intended adoptive parent consents to allowing communication and contact; (3) the child, if age 12 or older, consents; (4) all parents who are parties sign the agreement and file it with the court; and (5) the court approves.

The order approving the agreement becomes part of the final TPR order. The adoption or TPR can become final even if the agreement is not implemented. (In probate court cases, the agreement apparently is not contingent on the adoption being finalized, but the language is unclear.) The agreement does not affect the ability of the adoptive parents and child to move anywhere.

Disagreements

An adoptive parent, the child's guardian ad litem, or the court on its own can ask for a review of the order. They can do this in Superior Court if one of them alleges it is in the child's best interest; in probate court an adoptive parent must believe the child's best interests are compromised. The Superior Court can modify or end the order as it determines in the child's best interests. The probate court can terminate communication or contact or make other orders concerning them as it deems in the child's best interests.

The person asking to modify or enforce the order must first show that he has tried in good faith to resolve the dispute through mediation or another dispute resolution process. The act appears to bar a court from acting on a petition unless the parties share the costs of the required dispute resolution process, but its language is unclear.

A disagreement between the birth and adoptive parents or litigation to enforce or modify the agreement does not affect the validity of the TPR or the adoption and cannot be the basis for orders affecting the child's custody.

ADOPTION PLANNING

Permanency Planning Before TPR

By law, after a court commits an abused or neglected child to DCF, DCF must develop a plan for returning the child to his family or arranging for some other permanent placement, which can include adoption. The court periodically reviews these permanency plans to determine whether to continue, modify, or terminate them. The act requires the court to review the child's status and the progress toward implementing the plan and to set a timetable for achieving the plan's goals.

The act requires plans that identify adoption as an option to include a "thorough adoption assessment" and "child specific recruitment" methods. It defines the former term as documented face-to-face interviews with the child, foster parents, and other significant parties. It defines the latter as recruiting efforts to meet a specific child's needs, including using the media, photo-listing services, and other in- and out-of state resources, unless extenuating circumstances indicate they are not in the child's best interests.

A 1999 law required DCF to establish a concurrency planning program that permits it, during the TPR process, both to try to reunify the family and identify prospective adoptive parents. The act requires this concurrency planning program to

involve the parents and fully disclose to them their rights and responsibilities.

The act requires DCF, within six months of placing a child in foster care or some other out-of-home placement, to assess, based on progress to date, whether reunification with one or both birth parents is likely. If the assessment shows a poor prognosis for reunification during this six months, DCF must develop a concurrent plan for the child. It must file both the assessment and the plan with the court.

The act eliminates the law that revokes a child's commitment to DCF 60 days after (1) he is removed from long-term foster care or an independent living program, (2) a TPR petition is dismissed, or (3) a motion to transfer guardianship is denied. The revocation occurred by operation of law unless a court ordered otherwise.

Planning and Review After TPR

By law, when the Superior Court terminates parental rights and no parent with rights remains, the court appoints a statutory parent, usually DCF, for the child. DCF must develop a plan for the child and report periodically to the court on its status.

The act speeds up the schedule for developing the plan. It requires the plan's submission 30, rather than 60, days after the TPR judgment is entered. It requires subsequent reports on implementing plans for children who DCF determines are appropriate for adoption to describe the agency's reasonable efforts to expedite and finalize an adoption, including child-specific recruitment.

If the court determines DCF has not made reasonable efforts or that its reasonable efforts have not resulted in an adoptive placement, the act allows the court to order DCF to contract with a private agency it licenses to arrange for the adoption. The contract must be made within DCF's available appropriations. The law already encourages DCF to do this for any child free for adoption. DCF remains the child's statutory parent and if it is ordered to contract for adoption arrangements, must continue to provide foster care and services for the child.

PHOTO-LISTING AND ADOPTION EXCHANGE

The act establishes in DCF an electronic photo-listing format of children available for adoption in addition to the book DCF is currently required to establish. It requires DCF, within its available appropriations, to establish, maintain, and distribute the book and to contract with a nonprofit agency to establish and maintain the electronic format. It eliminates a requirement that DCF provide the service directly, but it retains a requirement for the commissioner to employ people under her control necessary for it to operate effectively.

It reduces, from three months to 30 days, the time an available child must be in foster or institutional care before his picture is listed. It allows a Superior or probate court judge to condition a TPR order on DCF's photo-listing the child within 30 days if the court finds this is in the child's best interest. But it requires a child age 12 or older to consent to being listed in this situation. The act requires that whenever a child is registered for listing, it be reported to the court that ordered the TPR.

When no adoptive family is found for a child within 180 days of his parents' rights being terminated, the act requires DCF to refer him, if it is appropriate, to a national adoption exchange. The commissioner must establish criteria for determining that a referral is not necessary and must monitor the status of children she does not refer.

DISCRIMINATION IN ADOPTION PLACEMENT

The act prohibits DCF from discriminating in preparing a home study of a prospective adoptive family or in placing a child with them based on the parents' willingness to be foster parents while the adoption is pending. It requires the information DCF provides to prospective parents to contain a statement that DCF cannot refuse to place a child or delay his placement solely on the basis of differences in race, color, national origin, or on the willingness to be a foster parent. And it requires DCF to give this information to prospective parents at the beginning of the home study process, rather than at any time during it.

MINOR CHANGES

Current law makes a parent's conviction for sexual assault, except statutory rape, resulting in the child's conception one of the grounds for terminating a parent's rights to that child. The act makes it clear that this ground applies whether the conviction was in adult or juvenile court. It also allows a probate court to terminate a parent's rights at any time after such a conviction. The Superior Court already possesses this authority.

The act permits serving notice of a TPR hearing and providing a copy of the petition to a party's usual residence in addition to the current notice by personal service or, if the party is out of state, by certified mail.

PA 00-141—sSB 60
Judiciary Committee

AN ACT CONCERNING ELECTRONIC MONITORING

SUMMARY: This act specifies that judges may order electronic monitoring as a condition of probation, conditional discharge, or pretrial release. It authorizes the court to require people subject to such orders to pay a monitoring fee directly to the electronic monitor service provider. The court must waive the fee for people it finds are indigent and unable to pay. The act requires that contracts between the Judicial Department and service providers cap the cost at $5 a day. This cost must be indexed annually to reflect the rate of inflation.

The act requires the Court Support Services Division to notify the local law enforcement agency whenever a court determines a child or youth has violated probation by not complying with electronic monitoring requirements.

The act makes it a class D felony for someone to intentionally damage electronic equipment owned or leased by the state or its agents and required as a condition of probation, conditional discharge, or pretrial release if (1) he has no reasonable basis to believe he has a right to do so and (2) the damage interrupts the equipment's ability to function. A class D felony is punishable by up to five years in prison, a fine of up to $5,000, or both.

Under prior law, the penalty for intentionally damaging property was primarily determined by the amount of damage. If damages exceeded $1,500, it was a class D felony; if they exceeded $250 but were less than $1,500, it was a class A misdemeanor (up to one year in prison, up to a $2,000 fine, or both); if they were $250 or less, it was a class B misdemeanor (up to six months in prison, a fine of up to $1,000, or both).
EFFECTIVE DATE: October 1, 2000

PA 00-143—HB 5144
Judiciary Committee
Insurance and Real Estate Committee

AN ACT CONCERNING FEDERAL BENEFITS IN AUTOMOBILE ACCIDENT CASES

SUMMARY: This act prohibits insurers from reducing uninsured and underinsured motor vehicle insurance coverage payment by the amount of Social Security disability benefits the insured individual receives.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Related Case

The state Supreme Court recently interpreted state law as authorizing insurers to deduct Social Security disability benefits that insured individuals have or will receive from the amount insurers are liable for under the uninsured motorist provision of motor vehicle insurance policies (*Vitti v. Allstate Insurance Company*, 245 Conn. 169 (1998)).

PA 00-159—HB 5827
Judiciary Committee

AN ACT CONCERNING AGREEMENTS WITH CATERERS AND CATERING ESTABLISHMENTS THAT ARE VOID AS AGAINST PUBLIC POLICY

SUMMARY: The act declares void and against public policy any provision of a contract or agreement that exempts a caterer from liability for damages arising out of bodily injury to people or damage to property caused by or resulting from the negligence of the caterer, his agents or employees, or of patrons at the event the provision relates to.

The act applies to catering contracts or agreements entered into after December 31, 2000.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Related Case Law

The Superior Court recently held that an agreement relating to a wedding reception that relieved someone from liability for his own negligence was valid. The provision was challenged as violating public policy. The case involved an injury sustained at a wedding reception when someone fell on a stairway owned and controlled by the party who was relieved from liability by the agreement (*Degeralomo v. AL and SAL Caterers, Inc.* 1998 WL 638475 (1998)). The court relied on an earlier Appellate Court decision that upheld the validity of a contractual provision that relieved a car lessor from its own negligence (*Burkle v. Car and Truck Leasing Company, Inc.* 1 Conn. App. 54 (1983)).

PA 00-161—HB 5882
Judiciary Committee

AN ACT CONCERNING SEXUAL ASSAULT

SUMMARY: This act increases the penalty for having sexual intercourse with someone who is mentally incapacitated to the extent that he or she cannot consent to the intercourse. Previously, this crime was second-degree sexual assault, which is a class C felony with a nine-month mandatory minimum sentence (see Table on Penalties). The act makes it first-degree sexual assault, which is a class B felony. The offender must serve a combination of imprisonment and special parole that totals at least 10 years. He must serve at least 10 years imprisonment if the victim is under age 10 and at least two years if the victim is older.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Special Parole

The court may sentence people convicted of offenses committed after September 30, 1998 to a term of imprisonment and a period of special parole. The Board of Parole must supervise people on special parole after their release from prison and may return them to prison for violating parole. The Board of Parole and its chairman can set rules and conditions for special parole.

Mentally Incapacitated

For purposes of the sexual assault laws, people are mentally incapacitated if they are temporarily incapable of controlling or appraising their conduct because of the influence of a drug or intoxicating substance administered to them without their consent.

PA 00-166—sSB 594
Judiciary Committee
Human Services Committee
Appropriations Committee

AN ACT CONCERNING THE RESPONSIBILITIES OF THE OFFICE OF PROTECTION AND ADVOCACY FOR PERSONS WITH DISABILITIES

SUMMARY: This act eliminates a requirement that the Office of Protection and Advocacy for Persons with Disabilities (OP&A) designate a panel of experts which probate court judges must use in proceedings to determine whether a person is competent to give informed consent to sterilization. Under prior law, judges appointed impartial experts from OP&A's list of physicians, psychologists, educators, and social and residential workers. By law, the experts must have recently observed, examined, or worked with the person whose ability to consent to the procedure is at issue, and must give the court written opinions about the person's competency. The act requires the court, rather than OP&A, to give experts the form they must use for these reports.

When the affected person cannot afford it, the act makes the probate court, rather than OP&A, responsible for paying these experts. An apparent conflict arose under prior law between OP&A's roles as advocate for the disabled person and expert panel designator and payor.

The act also makes the Probate Court Administration Fund, rather than the Department of Social Services, responsible for paying court-appointed attorneys in these proceedings. It removes an obsolete reference to the Department of Consumer Protection, to which OP&A was assigned for administrative purposes until 1994.
EFFECTIVE DATE: October 1, 2000

PA 00-172—sSB 569
Judiciary Committee
Human Services Committee
Government Administration and Elections Committee

AN ACT REQUIRING THE EVALUATION OF THE COSTS AND BENEFITS OF PROGRAMS SERVING JUVENILE OFFENDERS

SUMMARY: This act requires the chief court administrator to enter an agreement with the Connecticut Policy and Economic Council (CPEC) to evaluate programs serving juvenile offenders. The evaluation must determine if programs offered by state or municipal agencies or private providers are cost-effective in reducing recidivism. CPEC must submit a preliminary report on its activities to the Judiciary and Human Services committees by January 1, 2001.

It creates a board to advise CPEC in the evaluation. The board is composed of the children and families and correction commissioners and the chief court administrator, or their designees, and the chairmen and ranking members of the Judiciary and Human Services committees.
EFFECTIVE DATE: October 1, 2000

CPEC EVALUATION

The evaluation must determine the extent to which each program evaluated:

1. targets juveniles who are diverted from the juvenile justice system and those adjudicated as delinquent;
2. provides maximum structured supervision in the community using natural surveillance and "community guardians" like teachers and mentors to the greatest extent possible;
3. promotes good work ethics and educational skills and competencies that enable offenders to function effectively in the community;
4. maximizes the delivery of treatment services to reduce risk factors, the reintegration of offenders into the community after confinement, and offenders' opportunities to make full restitution to victims and amends to the community;
5. supports and encourages increased court discretion in imposing community-based intervention strategies;
6. is compatible with research identifying effective prevention and early intervention strategies;
7. recognizes the diversity of local needs;
8. is based on outcomes to be achieved or that have been achieved; and
9. includes methods to assess strategies most likely to change offenders' behavior and norms and an evaluation component.

CPEC must use a uniform data collection and methodology to compare programs.

BACKGROUND

CPEC

CPEC is a nonprofit, nonpartisan public research organization supported by businesses, professional firms, municipalities, and civic organizations. It conducts research and analysis of local and state tax and spending policies, economic competitiveness, education, and transportation.

PA 00-190—sSB 478
Judiciary Committee
Public Health Committee

AN ACT CONCERNING PRIVILEGED COMMUNICATIONS BETWEEN A PATIENT AND A LICENSED PROFESSIONAL COUNSELOR

SUMMARY: With several specified exceptions, this act makes confidential and not subject to disclosure, communications between a patient and his licensed professional counselor or between the patient's family and the counselor. The patient or his authorized representative may, however, give the counselor written consent to disclose the information. This consent may be withdrawn at any time, but withdrawal has no effect on information already disclosed.

The act defines "authorized representative" as (1) a person the patient authorizes to assert the information's confidentiality, (2) a deceased patient's personal representative or next of kin, (3) an incompetent patient's court-appointed guardian or conservator, or (4) the incompetent patient's nearest relative who may act until a guardian or conservator is appointed.

EFFECTIVE DATE: October 1, 2000

EXCEPTIONS TO THE CONSENT REQUIREMENT

Professional counselors do not need consent to disclose a patient's diagnosis and treatment:

1. in court-ordered mental health assessment cases if the patient knew that his communications would not be confidential and if the disclosure is limited to issues about his mental health;
2. in civil proceedings where the patient or, in the event of his death, someone representing him or his beneficiary introduces the patient's mental health into evidence and the judge finds that the interest in disclosure outweighs the privilege;
3. when statutorily mandated to do so;
4. if they believe in good faith that failure to disclose would present a clear and present danger to someone's health or safety;
5. if they believe in good faith that a patient poses a risk of imminent personal injury to himself or to others or their property;
6. if they know, or in good faith suspect, that a child, elderly adult, or disabled or incompetent person is being abused; or
7. when making a claim to collect fees for services rendered.

When trying to collect fees, counselors may disclose to a collection agency the patient's name and address and the amount he owes. The counselor must give the patient at least 30 days advance written notice of the disclosure. If a dispute arises or additional information is needed to substantiate the claim, the counselor may disclose (1) that the patient was receiving professional counseling, and (2) the

dates and types of service.

PA 00-191—sHB 5130
Judiciary Committee
Finance, Revenue and Bonding Committee
Appropriations Committee

AN ACT CONCERNING COURT OPERATIONS

SUMMARY: This act makes several unrelated changes to the laws relating to courts and court procedures.

Specifically, it:

1. requires the state treasurer to credit to the Client Security Fund any interest the fund earns and any it has earned since its inception;
2. allows the revenue services commissioner to designate another person or entity to collect and record payments for the Client Security Fund and deposit them with the state treasurer;
3. eliminates the requirement that municipal civil service rules be filed with, and preserved and indexed by, court clerks;
4. changes the location where municipal hearing officers must file unpaid parking violation and citation assessments;
5. requires a return receipt for service of process by certified mail on nonresident individuals and out-of–state partnerships;
6. requires that notice of a federal or out-of-state judgment filed with a Connecticut court for enforcement be mailed to the judgment debtor by registered or certified mail, return receipt requested;
7. authorizes a Supreme Court justice who becomes 70 years old to (a) continue to deliberate and fully participate in any case, if he heard it before becoming 70, until the case decision is officially released, and (b) consider a motion for reconsideration if it is filed within 10 days after the decision is officially released;
8. specifies that any candidate or incumbent judge nominated by the governor to be chief justice from the list submitted by the Judicial Selection Commission and appointed Chief Justice by the General Assembly serves an eight-year term from the date of appointment (the constitution establishes the term of office for Supreme Court justices as eight years);
9. requires that an associate Supreme Court justice nominated by the governor to be chief justice and appointed chief justice by the General Assembly must serve an initial term as chief justice equal to the remainder of his term as associate justice;
10. conforms PA 00-49 to PA 99-185 by requiring location information contained in child custody documents to be sealed if any party alleges in an affidavit or pleadings that its disclosure would jeopardize a party's or child's health, safety, or liberty;
11. requires the hearing to contest the validity of the registration of an out-of-state child custody order to be held within 20 days after the court receives the request for a hearing;
12. authorizes the Superior Court to appoint lawyers serving as state referees to take evidence in any civil non-jury case, including appeals from zoning commissions, planning commissions, and other land use board and commissions, requires these referees to report on the evidence to the court with findings of fact, and makes this report a part of the proceeding upon which the court makes its determination, and
13. makes technical changes to the laws relating to where small claims cases must filed.

EFFECTIVE DATE: Upon passage except the child custody provisions take effect July 1, 2000; the provisions relating to hearing procedures for citations, service of process for foreign partnerships, and technical changes to certain small claims provisions take effect September 1; and the provisions relating to civil service rules, parking violations, foreign judgments, state referees, and technical changes to certain other small claims provisions take effect October 1, 2000.

CIVIL SERVICE RULES

The act eliminates the requirement that municipal civil service boards file civil service rules with the Superior Court clerk within 10 days after they adopt them. It also eliminates the clerk's duty to preserve and index these rules. The rules continue to be available to public and civil service boards which must continue to notify the public where they can be found.

UNPAID PARKING ASSESSMENTS

The act changes where municipal parking violation hearing officers must file certified copies of unpaid assessment notices and citations. It requires that they file them with the clerk of a Superior Court

facility designated by the chief court administrator in the judicial district where the municipality is located instead of with the clerk of the court for the geographical area where the municipality is located.

FOREIGN JUDGMENTS

The act imposes an additional requirement on people asking Connecticut courts to enforce foreign judgments (judgments secured in some other state or in federal court). Specifically, it requires that they mail notice to the judgment debtor by registered or certified mail, return receipt requested.

By law, a Connecticut court may not distribute the proceeds from the enforcement of a foreign judgment to the judgment creditor sooner than 30 days after proof that the notice has been mailed. The act specifies that the proof be filed with the clerk of the court where enforcement of the judgment is sought.

The act imposes notice requirements on judgment debtors of a foreign judgment when a Connecticut court stays enforcement. Specifically, it requires them to provide notice of the stay to the judgment creditor either by registered or certified mail, postage prepaid, return receipt requested; restricted delivery; or by verified delivery to the judgment creditor by private messenger, delivery, or courier service.

SUPREME COURT JUSTICES

The act allows a Supreme Court justice, who is required by law to retire because he has reached age 70, to deliberate and participate in all matters concerning the disposition of any case he heard before his 70th birthday until the case is officially released. It also allows him to participate in a motion to reconsider the case if the motion is filed within 10 days of the decision's official release.

BACKGROUND

Client Security Fund

The Client Security Fund reimburses clients for losses resulting from the dishonest conduct of attorneys in the course of the attorney-client relationship.

PA 00-196—sHB 5898
Judiciary Committee

AN ACT CONCERNING THE REVISOR'S TECHNICAL CORRECTIONS TO THE GENERAL STATUTES AND CERTAIN PUBLIC AND SPECIAL ACTS

SUMMARY: This act requires the Department of Environmental Protection to submit the land use report required by PA 00-102 annually starting in 2001 rather than quarterly starting in 2000 and makes minor technical changes.

The act makes numerous other technical changes in the statutes and public and special acts to correct erroneous or obsolete references and grammatical or typographical errors.

EFFECTIVE DATE: October 1, 2000, except the technical changes relating to actuaries and construction fees are effective upon passage.

PA 00-200—sHB 5785
Judiciary Committee
Appropriations Committee
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING VICTIM'S RIGHTS

SUMMARY: This act prohibits a person convicted of any offense involving the use, attempted use, or threatened use of physical force against another person from being released on bail while awaiting sentencing or appealing his conviction. It also makes several statutory changes in favor of crime victims. Specifically, it:

1. eliminates the statute of limitations for filing a wrongful death lawsuit against someone convicted of first-degree manslaughter or first-degree manslaughter with a firearm, or found not guilty of either offense because of mental disease or defect;
2. permits the Office of Victim Services (OVS) to include low interest loans in compensation payments for monetary losses suffered by a murder or manslaughter victim's spouse or dependent;
3. requires, rather than allows, towns to waive all or a portion of any interest on delinquent property taxes for recipients of victim compensation;
4. permits prosecutors to show one photograph of a deceased victim to the jury during their opening and closing arguments;
5. specifies that victims who make a statement at sentencing may state their opinion of any plea agreement;
6. permits a victim impact statement to be read in court at the sentencing hearing of a defendant found guilty of a capital felony;

7. requires victims of violent crimes or the representative or immediate family of such deceased victims to be permitted to attend all court proceedings that are part of the court record;
8. requires all state, local, and private agencies to cooperate with investigations conducted by the Office of the Victim Advocate;
9. gives the victim advocate full access to any records necessary to carry out his duties, rather than access limited to that of crime victims; and
10. requires an assistant or deputy state's attorney to sign a statement indicating his unsuccessful attempt to notify a victim, or any family member if the victim is deceased, of the date, time, and place of a sentencing hearing.

EFFECTIVE DATE: October 1, 2000

STATUTE OF LIMITATIONS IN WRONGFUL DEATH CASES

Under prior law, a wrongful death lawsuit had to be filed within two years from the date of death and five years from the date of the act or omission. The act eliminates the statute of limitations and allows the lawsuit to be filed at any time.

LOW INTEREST LOANS

The act permits OVS to provide a low interest loan as compensation for monetary losses suffered by the spouse or dependent of a murder or manslaughter victim. The loan must be used to pay essential living expenses that directly result from the loss of the deceased victim's income or preexisting financial obligations that are not forgiven or excused. The Office of the Chief Court Administrator must establish loan application and repayment forms and procedures.

To be eligible for the loan, the spouse or dependent must otherwise qualify for compensation. The loan may be up to $100,000 with a maximum interest rate of 1%. The recipients must begin repaying the loan five years after it is awarded.

PHOTOGRAPHS OF DECEASED VICTIMS IN COURTROOMS

The act allows an 8x10 inch pre-crime photograph that fairly and accurately represents a deceased victim to be shown to the jury during the prosecutor's opening and closing arguments in the criminal trial of the person charged with the offense. The photograph cannot be inflammatory on its own, and must be solely of the victim.

VICTIM IMPACT STATEMENT

By law, the court can appoint anyone to act as an advocate for a crime victim. The victim advocate has a number of responsibilities, including preparation of a victim impact statement for court files. The act permits reading this statement at the sentencing hearing of defendants convicted of a capital felony.

PA 00-209—sSB 475
Judiciary Committee
Human Services Committee

AN ACT CONCERNING ESCAPE FROM CUSTODY, YOUTHFUL OFFENDERS AND REARREST WARRANTS

SUMMARY: This act makes certain delinquent juveniles guilty of the crime of escape from custody if they fail to return from an authorized leave or escape from a facility where they have been placed by the Department of Children and Families (DCF). It also allows release of any information necessary to facilitate their return to custody and allows it to be released to more than just law enforcement agencies.

The act allows law enforcement agencies to release information about youthful offenders who have escaped from the institution to which they have been committed or for whom an arrest warrant has been issued. Such information could already be released about juveniles under age 16 who escape from a detention center or facility where they have been placed.

The act allows a judge to enter a rearrest warrant in a central computer system, and the person named in the warrant may be arrested based on the warrant's existence in the system.

Finally, it allows the court to grant accelerated rehabilitation to someone previously adjudged a youthful offender, provided at least five years have passed since that occurred.

EFFECTIVE DATE: October 1, 2000

ESCAPE FROM CUSTODY

The act makes a convicted delinquent who has been committed to DCF guilty of escape from custody if he (1) fails to return from a leave authorized by the DCF commissioner or (2) escapes from a public or private facility where DCF placed him.

Escape from custody is a class C felony if the escapee's underlying offense is a felony and a class A

misdemeanor otherwise (see Table on Penalties).

RELEASE OF INFORMATION CONCERNING JUVENILE ESCAPEES

Previously, the superintendent or director of a juvenile institution or facility had to disclose its records to appropriate law enforcement agencies when a child failed to return from an authorized leave. Under the act, only information necessary to facilitate the child's return can be released, instead of all records created or obtained by the agency. But the information can be disclosed to anyone, not just law enforcement agencies.

PAPERLESS REARREST WARRANTS

The act allows the court to have a rearrest warrant entered into a central computer system, and its existence in the system constitutes prima facie evidence of the issuance of the warrant. Anyone named in the warrant may be rearrested based on the warrant's existence in the system. Anyone arrested upon such a warrant must be given a copy of it.

ACCELERATED REHABILITATION AND YOUTHFUL OFFENDER STATUS

Under prior law, any person previously adjudged a youthful offender was ineligible for accelerated rehabilitation. The act removes this restriction for people who were not adjudged a youthful offender within the preceding five years. In determining whether to grant accelerated rehabilitation to someone previously adjudged a youthful offender, the court must have access to the person's youthful offender records and may consider the nature and circumstances of the crime the person was charged with as a youth.

BACKGROUND

Youthful Offenders

This diversion program allows the court to erase the criminal records of first-time youthful offenders (16- and 17-year-olds) who successfully complete a court-imposed sentence. A youth is ineligible if he (1) committed a class A felony or serious sexual assault crime, (2) was previously convicted of a felony, (3) was previously adjudged a serious juvenile offender or serious juvenile repeat offender, or (4) was previously granted accelerated rehabilitation.

Accelerated Rehabilitation

The accelerated pretrial rehabilitation program is for people accused of nonserious crimes or motor vehicle violations and who have no prior convictions or specified motor vehicle violations, have not previously been adjudged a youthful offender, and who the court believes are unlikely to offend again. The program allows them to waive trial and be placed on probation for up to two years and then to have all charges dismissed upon successful completion of probation.

PA 00-210—SB 472
Judiciary Committee

AN ACT CONCERNING REVISIONS TO THE SHERIFFS' REFORM BILL

SUMMARY: This act amends PA 00-99. PA 00-99 creates the position of state marshal to perform service of process functions and makes qualified deputy sheriffs serving on June 30, 2000 state marshals. This act prohibits a high sheriff who appoints himself or is appointed by another high sheriff as a deputy sheriff from becoming a state marshal on or after December 1, 2000 unless he (1) notifies the chief court administrator (CCA) by June 30, 2000 that he wants to be a state marshal and (2) resigns as high sheriff effective December 1, 2000.

PA 00-99 makes sheriffs' salaries full compensation for all of their legal duties and eliminates a provision allowing them to keep fees for service of process. This act returns to prior law and allows them to keep fees. But if the voters approve the constitutional amendment eliminating county sheriffs, the act (1) eliminates this provision, thus prohibiting them from keeping fees as of December 1, 2000, and (2) makes the Department of Administrative Services responsible for the administrative functions of the Office of the County Sheriffs on December 1, 2000.

PA 00-99 allows a person who was a deputy sheriff on May 31, 1999 and who served at least four years to apply by June 30, 2000 to the CCA to be a state marshal. This act requires the person to have been a deputy sheriff on or after May 31, 1995 instead of on May 31, 1999. It also gives people appointed by the CCA under this provision the same powers, duties, and liabilities of a deputy sheriff from their appointment date until December 1, 2000.

PA 00-99 transfers responsibility for prisoner transportation and custody and courthouse security from the sheriffs to the Judicial Department. This act allows, rather than requires, the department to form

agreements with state agencies on managing, training, and coordinating courthouse security and prisoner custody and transportation.
EFFECTIVE DATE: Upon passage, except that the provision on Judicial Department agreements is effective December 1, 2000 and the provision on sheriffs' fees is no longer effective on December 1, 2000 if the voters approve the constitutional amendment eliminating sheriffs.

BACKGROUND

Related Legislation

SJ 15 is a proposed constitutional amendment to eliminate county sheriffs. If it is approved by the voters, PA 00-99 transfers, on December 1, 2000, (1) responsibility for transporting prisoners to courthouses, custody of prisoners at courthouses, and courthouse security from the county sheriffs to the Judicial Department and (2) service of process functions to state marshals. It also eliminates most statutory references to sheriffs, deputy sheriffs, and special deputy sheriffs.

PA 00-228—sHB 5830
Judiciary Committee
Human Services Committee

AN ACT CONCERNING THE BEST INTEREST OF CHILDREN IN ADOPTION MATTERS

SUMMARY: This act allows someone who shares parental responsibility for a child with the child's parent to adopt or join in the adoption of the child even though the two adults are not married. For the probate court to approve the adoption, it must find it to be in the child's best interest, and the adoption must include the procedures, including an agency home study, that govern most adoptions.

The act makes a series of findings concerning the best interests of a child and the state's public policy on marriage. It requires the agency report concerning the proposed adoption to consider if the child's best interests are served in accordance with these findings.

The act also states that nothing in its provisions can be construed to establish or endorse any public policy regarding marriage, civil union, or any other form of relationship between unmarried people or any of their rights. But it exempts the rights and responsibilities of the unmarried people concerning a child adopted under the act's provisions from this disclaimer.
EFFECTIVE DATE: October 1, 2000

LEGISLATIVE FINDING

Through the act the General Assembly finds that:
1. a child's best interests are promoted by having people in his or her life who show a deep concern about the child's growth and development;
2. a child's best interests are promoted when the child has as many people loving and caring for him as possible;
3. a child's best interests are promoted when the child is part of a loving, supportive, and stable family, whether that family is nuclear, extended, split, blended, single parent, adoptive, or foster; and
4. the state's current public policy is limited to a marriage between a man and a woman.

ADOPTION PROVISIONS

Who May Give a Child in Adoption

In so-called stepparent adoptions, the law allows the parent of a minor child (under age 18) to agree in writing with his or her spouse, subject to probate court approval, to adopt or join in adopting the child if that parent is:
1. the child's surviving parent;
2. his mother, and the child was born out of wedlock (provided any father who has been notified has had his parental rights terminated);
3. a former single person who adopted him and later married; or
4. the child's sole guardian, if the other parent's parental rights have been terminated.

The act additionally allows a minor child's parent to agree in writing with one other person who shares parental responsibility for the child to adopt or join in adopting the child. This can occur only if the parental rights of anyone other than the parties to the agreement have been terminated, and it is subject to probate court approval.

Adoption Process

The act authorizes the probate court to accept an adoption application from a person sharing parental responsibilities, thus allowing the adoption to proceed following the normal probate court procedure. Another statute, unchanged by the act, waives the requirements for an investigation and report (home study) for stepparent adoptions. But the new provision governing people sharing parental responsibilities does not fall within this exception, so

in these cases an investigation and report must be done. The act requires the report to consider whether the child's best interests will be served in accordance with the criteria set forth in the legislative findings. And, as in all adoptions, the probate court must find that the adoption is in the child's best interest.

Effect of Final Adoption Decree

The statutes contain a list of the legal effects of an adoption decree. The act exempts stepparent and shared-parental-responsibility adoptions from three of these. They are the ones relating to (1) the legal relationship between the adopted child and his biological parents and relatives, (2) the rights of inheritance between the biological parents and the adopted child, and (3) the legal relationship as construed in legal documents and instruments between the adopted person and his biological parents. The apparent intent of these exemptions is to take into consideration that in some of the adoptions occurring under the act, biological parents will still be involved with the child and their relationship should not be severed.

BACKGROUND

Related State Supreme Court Case

In the case of *In Re the Adoption of Baby Z* (247 Conn. 474 (1999)) the state Supreme Court ruled on a long and complex case involving the attempts of a mother to have her same-sex partner jointly adopt her child. The issue was who could give a child in adoption, and an attempt was made to obtain a waiver from the Adoption Review Board for the adoption to proceed as a stepparent adoption. The court held that the Adoption Review Board's waiver authority was limited to statutory parent adoptions, where the child is being placed either by the Department of Children and Families or a child-placing agency, and that it did not extend to stepparent adoptions.

SJ 15
Judiciary Committee
Government Administration and Elections Committee

RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION TO ELIMINATE COUNTY SHERIFFS

SUMMARY: This resolution proposes a constitutional amendment eliminating sheriffs as constitutional officers. It specifically eliminates constitutional provisions:

1. requiring election of sheriffs in each county every four years;
2. requiring sheriffs to submit a bond to the treasurer to ensure that they faithfully discharge their duties;
3. allowing the General Assembly to remove a sheriff from office;
4. allowing the governor to fill a vacancy in the office of sheriff caused by a death, resignation, or removal until the General Assembly fills the vacancy; and
5. allowing sheriffs to deliver notices for a special legislative session on redistricting in certain circumstances.

The ballot designation to be used when the amendment is presented at the general election is: "Shall the Constitution of the State be amended to eliminate county sheriffs?"
EFFECTIVE DATE: The resolution will appear on the 2000 general election ballot. If a majority of those voting approve the amendment, the provisions on sheriffs are removed from the state constitution.

BACKGROUND

Related Acts

The county sheriffs and their deputies and special deputies are responsible for service of process (formal delivery of legal papers such as a summons, complaint, or subpoena), transporting prisoners to courthouses, custody of prisoners at courthouses, and courthouse security. If this constitutional amendment is approved by the voters, PA 00-99 transfers responsibility for these functions on December 1, 2000. Under the act, responsibility for (1) transporting prisoners to courthouses, custody of prisoners at courthouses, and courthouse security is transferred to the Judicial Department and (2) service of process functions are given to state marshals, a new position created by the act. Current deputies and special deputies will be transferred to continue performing these functions. PA 00-210 amends several provisions of this act.

PA 00-8—SB 67
Labor and Public Employees Committee

AN ACT CONCERNING PERMANENT PARTIAL DISABILITY BENEFITS

SUMMARY: This act adds injury to a woman's reproductive organs to the statutory list of injuries for which workers may receive permanent partial disability benefits under the workers' compensation system. Specifically, it adds the ovaries, uterus, and vagina. Men's reproductive organs are already on the list.

The act provides 35 weeks of benefits for injury to the ovary (which equals the benefit duration for injury to the testis) and between 35 and 104 weeks of benefits for injury to the uterus and vagina (which equals the benefit duration for injury to the penis).

Permanent partial disability benefits are for loss of a body part or reduction of function in a body part. The duration of awards is set in statute.
EFFECTIVE DATE: October 1, 2000

PA 00-58—HB 5536
Labor and Public Employees Committee
Judiciary Committee
Government Administration and Elections Committee
Joint Committee on Legislative Management

AN ACT CONCERNING ILLEGAL SUBCONTRACTING

SUMMARY: This act extends an existing $300-per-violation civil fine for violating certain wage laws to employers or their agents who attempt to defraud an insurance company that provides them with workers' compensation coverage. They are subject to the fine if they misclassify employees as independent subcontractors or misrepresent the number of their employees to receive lower premiums. The labor department may use fines collected under the act to investigate employee misrepresentation fraud.

The act also gives the labor department commissioner, minimum wage director, and wage enforcement agents the authority to investigate employee misrepresentation fraud.
EFFECTIVE DATE: October 1, 2000

PA 00-65—HB 5157
Labor and Public Employees Committee
Education Committee

AN ACT CONCERNING WAGE PAYMENTS TO CERTIFIED EMPLOYEES OF LOCAL AND REGIONAL BOARDS OF EDUCATION

SUMMARY: This act allows local and regional school boards and unions that represent a board's certified employees to agree to wage payment schedules that differ from the statutory requirements that all wages be paid (1) fully within eight days of the end of the preceding pay period; (2) weekly on a regular pay day; and (3) by cash, check, or bank deposit.
EFFECTIVE DATE: Upon passage

PA 00-73—sHB 5544
Labor and Public Employees Committee
Planning and Development Committee
Appropriations Committee

AN ACT ALLOWING FOR DEFERRED RETIREMENT OPTION PLANS IN THE MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

SUMMARY: This act allows the Retirement Commission to establish a deferred retirement option plan. Participants in the Municipal Employees' Retirement Fund (MERF) who are eligible for retirement may participate in the plan if their town adopts it. A town may adopt the plan if a majority of its legislative body votes to do so.

The commission determines the plan's terms, but it must (1) set five years as the maximum employee participation period and (2) establish a specific interest rate.

The commission must have the MERF consulting actuary certify that the plan will have no anticipated effect on MERF employer contribution rates.
EFFECTIVE DATE: July 1, 2000

BACKGROUND

Deferred Retirement Option Plans

These plans allow municipal employees to continue working when they are eligible to retire while their retirement benefits are placed in an interest-bearing account administered by MERF. Participating employees stop accruing additional retirement credit once they enter the plan.

Related Act

The PA 00-192 contains similar provisions to, and supersedes, this act. But it requires the Retirement Commission to determine how towns may adopt the deferred retirement option plan instead of allowing a town to adopt it if a majority of its legislative body votes to do so.

PA 00-144—sHB 5160
Labor and Public Employees Committee
Planning and Development Committee
Appropriations Committee

AN ACT INCREASING THE MINIMUM WAGE

SUMMARY: This act increases the minimum wage by 55¢ over two years, from $6.15 to $6.40 an hour beginning January 1, 2001 and to $6.70 beginning January 1, 2002. By law, which the act does not change, whenever the federal minimum wage increases, the state minimum increases to that level, plus 0.5%.

The law requires state Labor Department regulations to grant restaurant and hotel employers a 23% credit against the minimum wage for tipped employees. As a result of the credit, they currently pay tipped employees $4.74 per hour. The act requires those regulations to freeze the amount at $4.74 until January 1, 2003, when the employers must pay $5.16 ($6.70 minus 23%). It requires employers to pay bartenders who regularly receive tips $6.15 per hour until January 1, 2003, when they must receive $6.70.

Finally, the act allows 15-year-olds to work in retail food stores on any Saturday. Prior law barred them from doing so unless school was not in session for at least five consecutive days. The act applies current daily and weekly hour restrictions to these 15-year-olds.

EFFECTIVE DATE: October 1, 2000

PA 00-54—HB 5171
Planning and Development Committee

AN ACT CONCERNING REGIONAL PLANNING COMMISSIONS

SUMMARY: This act allows a regional council of governments (COG) to carry out its planning duties and responsibilities on its own instead of through a regional planning commission. These duties include formulating a regional plan of development. The act allows, rather than requires, the bylaws of the regional COG to include provisions for organizing a regional planning commission. By law, the commissions are subdivisions of COGs and act on their behalf.

The act allows a regional COG to buy real property for administrative office space.

By law, regional COGs can enter into contracts to carry out their purposes. The act specifies that the COG must approve any such contract in the manner the council prescribes.
EFFECTIVE DATE: Upon passage

BACKGROUND

Regional Planning Organizations

There are 15 state-designated planning regions. Towns in a designated planning region can form three types of regional planning organizations: regional council of elected officials (RCEO), regional planning agency (RPA), or regional council of governments (RCOG). An RPA and RCEO may co-exist in the same region, but not with an RCOG. The region must terminate the RPA and RCEO if it wants to establish an RCOG, which then assumes their duties.

PA 00-85—SB 77
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING VOLUNTARY MUNICIPAL REVENUE SHARING

SUMMARY: This act allows the chief elected officials of two or more municipalities (towns, cities, or boroughs) to initiate a process to agree to share real and personal property tax revenue. The agreement must be negotiated, with an opportunity for public participation, and adopted by resolution of each participating municipality's legislative body. A municipality's legislative body is the council, board, town meeting, or other body that has general legislative authority.

The agreement must contain all of the provisions on which the municipalities agree and procedures for amending, terminating, and withdrawing from it. The provisions can include (1) which tax revenue will be shared and (2) how it will be collected and shared. Municipalities can enter these agreements notwithstanding provisions of other state laws, charters, or home rule ordinances.
EFFECTIVE DATE: July 1, 2000

PA 00-89—sHB 5175
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING FAIR MARKET VALUE OF BROWNFIELDS

SUMMARY: This act requires the determination of the value of property taken by a municipal redevelopment agency or certain other agencies to take into account any evidence of its fair market value, including its environmental condition and the cost of environmental remediation, when the valuation is challenged.
EFFECTIVE DATE: October 1, 2000

DETERMINATION OF FAIR MARKET VALUE

By law, when redevelopment agencies, local and regional school districts, regional pollution control authorities, and a variety of community development agencies take property by eminent domain, they must prepare a statement. The statement must describe the property and specify the amount of compensation to be paid for it. Anyone aggrieved by the statement can appeal to the Superior Court. The court must appoint a referee to view the property, revise the statement as he considers appropriate, and report back to the court. The report must contain a detailed statement of the referee's findings.

The act requires the report to take into account any evidence relevant to the property's fair market value, including its environmental condition and any required environmental remediation. The referee must make a separate finding for the remediation cost. The act entitles the property owner to a setoff of such costs in any pending or subsequent suit to recover remediation costs for the property. Thus, if the referee determined that clean-up costs reduced a property's fair market value by $200,000, the owner could deduct this amount if he were sued for property clean-up costs.

BACKGROUND

Related Court Cases

A number of recent Superior Court cases, most recently *Northeast Economic Alliance, Inc. v. ATC Partnership*, (Superior Court, Judicial District of Windham at Putnam, Docket No. 049248 (June 22, 1998)), have held that evidence of environmental contamination or cost estimates of remediation cannot be considered in eminent domain proceedings under relevant statutes.

PA 00-98—sSB 311
Planning and Development Committee
Appropriations Committee
Labor and Public Employees Committee

AN ACT CONCERNING OBSERVANCE OF MARTIN LUTHER KING DAY

SUMMARY: This act requires all towns to include a provision in each collective bargaining agreement that is executed after the act's effective date (April 26, 2000) stating that the town's nonessential town offices will be closed on Martin Luther King Day.

The act requires towns that did not close all nonessential offices in observance of Martin Luther King Day on January 17, 2000 to close them on the holiday in the future. These towns must reopen all collective bargaining agreements exclusively to negotiate compensation or benefits exchange, if any, for Martin Luther King Day. The holiday must be observed on the same date that the state observes it.

It establishes mediation and binding arbitration processes that towns and their unions must use if they fail to agree on the compensation and benefits issue by specified dates.

EFFECTIVE DATE: Upon passage

MEDIATION

If the parties fail to agree by May 31, 2000, they must submit the issue to the State Board of Mediation and Arbitration (SBMA) for mediation. The SBMA must make every effort to resolve the issue by June 30, 2000.

BINDING ARBITRATION

Submitting Issue to Arbitration

If the parties fail to agree through SBMA mediation by June 30, 2000, they must submit the issue to an arbitration panel by July 15 for binding arbitration. The panel must resolve the issue by September 30.

If the parties fail to submit the issue to the panel by July 15, SBMA must notify them that binding arbitration is imposed on them. It must send the notification by registered or certified mail.

Selecting the Arbitration Panel

Within two days of receiving notice of imposed arbitration, the town and union must each select one panel member. The two panel members then select a third arbitrator from a list of neutral arbitrators that the SBMA establishes by law. This arbitrator must be impartial and represent the public's interest. He serves as the panel's chairman. (The act does not specify the process for selecting a panel unless arbitration is imposed.)

The SBMA must select any member of the arbitration panel that the parties fail to select. Any SBMA-selected arbitrator must be a Connecticut resident and the neutral member must be randomly selected from the list of neutral arbitrators.

Hearing Process

The panel chairman must (1) hold a hearing in the affected town within two days of the panel's selection and (2) preside over the hearing. The SBMA secretary serves as the panel's staff.

The act gives the panel certain powers, including authority to take testimony, administer oaths, and summon testifiers, records, or other documents by subpoena. The panel can ask the Superior Court to order individuals to comply. Failure to obey the court order constitutes contempt and may be punished accordingly.

The hearing must conclude within 15 days. Within 10 days after the hearing, the panel must render a decision through a majority vote and file it with the SBMA.

Each panel member must state the reason and standards used in making his decision. When making a decision, the panel must accept the last best offer after considering:

1. the public interest and the town's financial capability (it is not clear whether the panel must give priority to this criteria as arbitrators must under the regular municipal binding arbitration law);
2. pre-arbitration negotiations;
3. the union's welfare and interest;
4. cost-of-living changes; and
5. salaries, fringe benefits, and other employment conditions prevailing in the labor market, including private-sector wage

and benefit developments.

The SBMA must immediately give the parties a copy of the decision, which is final and binding on the town and the union unless (1) the town's legislative body rejects the decision or (2) one party moves to modify or vacate the decision based on fraud or coercion in the decision-making process and proves this in Superior Court.

Cost

The act requires the town and the union to cover the cost for their respective arbitrators regardless of whether they or SBMA appoint him. The parties split the cost of the neutral arbitrator.

Towns' Ability to Reject the Panel's Decision

The act gives a town's legislative body until October 30 to reject the arbitration panel's decision by a two-thirds majority vote of members present at a regular or special meeting called for that purpose. If a town rejects the decision, it must state its reasons in writing to the union and the SBMA by November 10. The union must submit a reply to the town and the SBMA by November 20.

By November 20, the SBMA must select an arbitration panel, whose costs the town pays, that must review the rejection by December 10. The review must be limited to the hearing's record, the panel members' written explanations of the reasons for their vote, and written responses provided by either party.

The panel consists of three members (or one, if the parties agree). Members must be Connecticut residents and labor relations arbitrators approved by the American Arbitration Association. They cannot be members of the panel that issued the rejected award.

By December 15, 2000, the panel or single arbitrator, as the case may be, must issue its decision, which is final and binding on the town and union. But a court can vacate or modify the decision if a party proves that undue influence or coercion was involved.

The decision must (1) be one of the parties' last best offers, (2) be in writing, (3) include the specific reasons and standards relied on, and (4) be filed with the parties. The standards relied on must be limited to:

1. the public interest and the town's financial capability (it is not clear whether the panel must give priority to this criteria);
2. pre-arbitration negotiations;
3. the union's welfare and interest;
4. cost-of-living changes; and
5. salaries, fringe benefits, and other employment conditions prevailing in the labor market, including private-sector wage and benefit developments.

The panel must give a copy of its decision to the parties. The legislative body must pay the cost of the arbitrators and the transcript. If the town legislative body is a town meeting, the board of selectmen must perform all of the act's requirements.

PA 00-108—sSB 76
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING TRANSCRIPTS OF MEETINGS OF MUNICIPAL LAND USE AGENCIES

SUMMARY: This act sets conditions under which courts must admit into the record of a land use appeal a transcript of a meeting at which a land use commission acted on a permit, petition, application, or request. The transcripts may be prepared for the party appealing the decision or for any other party as long as they meet the act's standards. The court must accept them if the commission held a public hearing on the application and did not provide its own transcript of the meeting.

The act also requires courts to admit into the record of an appeal a transcript of a meeting at which a zoning board of appeals sustained a zoning enforcement officer's order and a meeting at which a chief elected official upheld a citation for violating the dumping laws.

The act drops the requirement that parties appealing a decision (other than municipalities) post surety bonds to the commission that made the decision. The bonds guarantee that the parties will prosecute the appeal and comply with the court's orders.

EFFECTIVE DATE: October 1, 2000

ADMISSIBLE TRANSCRIPTS

Affected Commissions

The act requires courts to admit as part of the record transcripts that were prepared on behalf of a party involved in an appeal of a commission's decision. It specifically applies to petitions, requests, and applications made to a zoning commission, planning commission, combined planning and zoning commission, or a zoning board of appeals and to permits issued by an inland wetlands agency.

The act appears to apply to appeals by individuals ordered to comply with zoning ordinances or cited for violating dumping laws. Zoning boards of appeals hear appeals from zoning orders, and their decisions can be appealed to Superior Court. Chief elected officials or their designees can cite a landowner for violating the dumping laws and must hold a hearing on the citation if the landowner requests one. The landowner can appeal the decision to Superior Court in the same manner the statutes provide for appealing land use decisions.

Conditions for Admitting Transcripts

The court must admit into the record a transcript of a commission's decision or deliberation on the petition, request, or application if:

1. the commission held a public hearing on it;
2. the commission did not provide a transcript of the meeting's stenographic and sound recording; and
3. the transcript submitted on behalf of the parties is a certified, true, and accurate transcript of the meeting's stenographic or sound recording.

PA 00-120—sHB 5757
Planning and Development Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

AN ACT PROVIDING A PROPERTY TAX ABATEMENT FOR CERTAIN PERSONAL PROPERTY, TECHNICAL CORRECTIONS REGARDING THE VETERANS EXEMPTION AND REVISIONS TO REQUIREMENTS OF BOARDS OF ASSESSMENT APPEALS AND ESTABLISHING A PROPERTY TAX CREDIT RELIEF PROGRAM FOR FIREFIGHTERS AND EMERGENCY MEDICAL PERSONNEL

SUMMARY: This act: (1) allows municipalities to provide property tax exemptions to volunteer emergency service personnel as an alternative to a tax abatement authorized by law, (2) makes nonsalaried civil preparedness directors eligible for these benefits, (3) permits the ordinances establishing these benefits to authorize interlocal agreements to provide tax relief for people who live in one municipality but volunteer in another, and (4) allows municipalities to abate taxes on the personal property in a building severely damaged by fire or weather.

The act allows municipalities to adopt ordinances authorizing their legislative bodies to appoint additional members to their boards of assessment appeals for the assessment year before the year in which revaluation becomes effective. Municipalities already have this authority for the revaluation year and the following year.

By law, planning commissions can designate for municipal approval open space areas in their plans of conservation and development. The act allows land in such areas to be designated as open space for purposes of payments in lieu of taxes if there has been no change in the area's use that has harmed its open space characteristics between the time the plan was adopted and the time land is classified. This provision already applies with regard to the designation of the land for property taxation.

The act also makes minor and technical changes regarding the property tax, including property tax benefits for veterans.

EFFECTIVE DATE: Upon passage, with the provision regarding personal property tax abatements applicable to assessment years starting October 1, 1998 or after, the provisions for emergency service personnel applicable to assessment years starting October 1, 1999, and the remaining tax provisions applicable to assessment years starting on or after October 1, 2000.

PROPERTY TAX RELIEF FOR EMERGENCY SERVICES PERSONNEL

By law, a municipality's legislative body can adopt an ordinance establishing a property tax relief program for volunteer emergency services personnel. Under prior law and this act, the program can provide property tax abatements of up to $1,000 per year for residents who are volunteer firefighters, emergency medical technicians, paramedics, or ambulance drivers. The act eliminates the requirement that the volunteer be a resident of the municipality and allows the program to provide a property tax exemption as an alternative to the abatement. The maximum exemption is $1 million divided by the mill rate (expressed as a whole number per $1,000 of assessed value) at the time of the assessment. The act also makes non-salaried, local civil preparedness directors eligible for these benefits.

ABATEMENT OF PERSONAL PROPERTY TAXES

The law allows a municipality to reduce the assessment on a building that has been so damaged by fire or weather that it must be totally rebuilt before it can be returned to its prior use. The municipality must reduce the assessment if the building requires total reconstruction and the owner has demolished it.

The act allows the municipality to abate all or part of the tax on the personal property in such a building. The abatement is allowed if the personal property was so damaged by fire or weather that it cannot be used for its prior use. The action must be adopted by a vote of the municipality's legislative body (the board of selectmen in towns with town meeting). The abatement runs from the date of the damage to the following October 1.

BACKGROUND

Related Act

PA 00-131 expands the definition of wartime service, for purposes of veterans' property tax benefits and other benefits, to include service in (1) South Korea's demilitarized zone after February 1, 1955; (2) Somalia after December 2, 1992; and (3) Bosnia after December 20, 1995.

PA 00-140—SB 640
Emergency Certification

AN ACT IMPLEMENTING THE MASTER DEVELOPMENT PLAN FOR THE ADRIAEN'S LANDING PROJECT AND THE STADIUM AT RENTSCHLER FIELD PROJECT

SUMMARY: This act makes numerous changes in the funding, development, control of, and requirements for, the Adriaen's Landing Project in downtown Hartford and the University of Connecticut (UConn) football stadium as established in 1999 legislation (PA 99-241). Most of the changes reflect (1) a shift in control over the project's development to the Office of Policy and Management (OPM) and of the stadium location from Hartford to East Hartford and (2) the inclusion of hotel, retail, entertainment, and housing components (and their related parking facilities) in the project's scope in addition to the convention center and its related parking facilities, which were covered by the 1999 law. These changes result in revisions to (1) bond authorizations and their uses, (2) the powers and responsibilities of the OPM secretary and the Capital City Economic Development Authority (CCEDA), and (3) the scope of exemptions from various state laws and taxes.

Under the act, the state will own the Adriaen's Landing and stadium sites; CCEDA will own the convention center; and private entities will own the convention center hotel and entertainment, retail, housing, and office facilities.

The act:

1. requires (a) the governor to certify to the treasurer and Bond Commission that the state has received at least $210 million in legally enforceable private financial commitments before bond funds are issued and (b) the legislature to approve any changes in the master development plan that materially change the project's components;
2. shifts control over $187 million in bond funds for the convention center from the Department of Economic and Community Development (DECD) to OPM and shifts $24.25 million in bonds authorized for the former sportsplex for use for other development at Adriaen's Landing;
3. expands the purposes for which bond funds can be used to include site preparation, infrastructure improvements, and relocation costs; construction management and development services fees; incentive payments for on-time and below-budget project completion; title insurance; and establishment of reserve funds related to project financing;
4. establishes a range of fiscal controls on the project, including the appointment of an independent auditor and the designation of a senior OPM staff person as project comptroller responsible for overseeing the public funds spent on the project;
5. relocates the UConn football stadium to East Hartford, authorizes $91.2 million for its construction, gives the OPM secretary control over its name and authorizes naming it Rentschler Field for 15 years in return for a $2 million donation from United Technologies Corporation (UTC) that will be used for road improvements, and permits the sale of the name after 15 years with UTC's approval;
6. authorizes the secretary to acquire (a) the UConn stadium facility site, (b) land for all of the Adriaen's Landing components, and (c) other property he deems necessary for off-site infrastructure improvements at either location rather than, as under prior law, just the sportsplex and its parking facility, and adapts to the reconfigured project his existing powers to take and acquire land;
7. requires the secretary and CCEDA to (a) make sure contractors on Adriaen's Landing and stadium projects pay prevailing wages or enter a project labor agreement, follow state set-aside laws, and hire qualified members of minority groups and Hartford

and East Hartford residents for construction and operating positions and (b) appoint independent compliance monitors to make sure these requirements are followed, and make CCEDA's contract with a private convention center manager a state contract requiring the payment of standard wage rates;

8. allows CCEDA to control parking facilities at Adriaen's Landing, set rates and rules for them, lease and sublease the air rights over and under them and the convention center, and use revenues from them, after paying operating and debt service costs, to cover operating losses or capitalize reserve funds;
9. requires the state to make payments in lieu of taxes (PILOT) to Hartford on the convention center and related parking facilities and allows the city to negotiate assessments on real property improvements for retail, commercial, and housing uses for up to 15 years;
10. exempts the project from additional state laws and broadens the existing exemptions from state laws and sales and conveyance taxes to cover more parts of the project;
11. establishes a local advisory committee, chaired by East Hartford's mayor and including UTC and town police and fire representatives, to identify, discuss, and make recommendations about the stadium's relationship with the town;
12. allows the payment of preliminary costs incurred before its effective date, thus legitimating payments of any preliminary costs incurred between passage of PA 99-241 and this act's passage; and
13. deems its passage the fulfillment of PA 99-241's conditions for project financing.

EFFECTIVE DATE: Upon passage

THE OVERALL PROJECT: ADRIAEN'S LANDING AND THE STADIUM

Definitions (§ 6)

Overall Project and Overall Project Costs. The act expands the definition of the "overall project" to include developing, designing, constructing, finishing, furnishing, and equipping the on-site private development at the Adriaen's Landing site. Under prior law, the term covered the convention center, the sportsplex (now stadium), and related parking. The act also expands the definition of "overall project costs" to include site preparation, infrastructure improvements, and relocation costs; project and construction management and development services fees; incentive payments for on-time and below-budget project completion; title insurance; and establishment of reserve funds related to project financing. By law, the term already covered preliminary, site acquisition, bond issuance, labor and material, insurance, legal, accounting, engineering, and other professional costs.

Site Acquisition and Preparation Costs. The act defines "site acquisition" to include purchase, condemnation, lease, lease-purchase, and exchange of real property in the Adriaen's Landing and stadium sites by the OPM secretary or any other state or quasi-public agency. It includes (1) acquiring other property if the secretary decides it is necessary for infrastructure improvement related to either site, including land for temporary use for construction staging and temporary parking during construction and (2) exchanging or leasing other property to acquire land at Adriaen's Landing. It specifically excludes any private party acquiring or developing property or improvements that are not on the Adriaen's Landing site.

The act broadens the definition of site preparation to cover the entire Adriaen's Landing site, not just the convention center and its parking facilities, and the stadium site. It thus includes the hotel, retail, entertainment, housing, and office sites. It includes activities undertaken by OPM or any other state or quasi-public agency.

OPM Secretary's Powers (§ 9)

Acquiring Property. The act authorizes the OPM secretary to acquire (1) the Adriaen's Landing and stadium facility sites, (2) other property he deems required for off-site infrastructure improvements related to both sites, and (3) property he deems necessary for construction staging or replacement parking during construction as contemplated by the master development plan. Prior law permitted him to acquire sites for the sportsplex and its parking facility. The act specifically allows the secretary to acquire land by gift or exchange in addition to his current powers of condemnation, purchase, lease, lease-purchase, or otherwise.

The act revises the secretary's powers to apply them to the reconfigured project. His leasing powers are applied to the overall project, on-site related private development, and off-site property in connection with site acquisition arrangements, on terms he determines.

*Making Agreements***.** The act authorizes the secretary to make agreements to (1) acquire or provide the stadium site and all or a portion of the Adriaen's Landing site instead of just the sportsplex

and parking facilities and (2) plan for and implement site preparation and improvements and development of the overall project. This includes agreements to transfer ownership and other rights and obligations related to the parking facilities after the project is completed or at another time he and CCEDA determine. And it authorizes him to contract with private parties to carry out the overall project rather than just the sportsplex and parking projects (§ 10).

Accepting or Using Funds. The law authorizes the secretary to accept gifts, funds, property, and services for the overall project. The act specifies that he is not authorized to spend on (1) the overall project any state funds that are not authorized, appropriated, or otherwise designated for the purpose by state law or in the master development plan filed with the House and Senate clerks on March 3, 2000 and (2) the stadium project any funds other than those the act authorizes ($91.2 million).

The act authorizes the secretary to pay CCEDA and the university in the same way that he may pay other state agencies for the project costs, including costs incurred before July 1, 1999, the effective date of PA 99-241.

Planning and Building. The secretary's powers to plan, develop, and build the project are expanded to include development and project management contracts or arrangements, in addition to his power to enter construction, construction management, and design-build agreements. The act extends his power to make agreements to include the overall project and, subject to the proper allocation of costs, all or any portion of the on-site related private development including provisions concerning incentive fees for timely completion of improvements at or under budget. The act requires the development or project management agreement with the project manager to require that construction contracts for all major elements of the overall project to be awarded on a GMP (guaranteed maximum price) basis at prices consistent with the project budget. It authorizes the secretary to enter into contracts concerning assurances of performance or completion he determines appropriate to assure adherence to the project budget.

The act defines "project manager" as the development professional selected to supervise and coordinate the development of the Adriaen's Landing site on behalf of the OPM secretary and CCEDA.

Project Jobs (§ 10)

The act requires the OPM secretary to require each prime construction contractor, in connection with the development of the overall project or on-site related private development, to either (1) comply with prevailing wage laws or (2) enter a project labor agreement. Prior law required the sole prime contractor on the project to do so. The secretary must also require each construction contractor to make reasonable efforts to hire, or cause to be hired, (1) available and qualified Hartford and East Hartford residents and minorities at all levels of construction activity for the stadium project and (2) available and qualified Hartford residents and minorities for all other aspects of the overall project and on-site related private development. The act applies the secretary's powers to award contracts by open-bid, negotiated basis or, in certain instances, by prequalification and a public letting process to the overall project instead of to the sportsplex and parking facilities.

The act authorizes all state agencies doing work related to the overall project to select and hire professionals, consultants, and contractors in the same manner as the secretary, notwithstanding any state statute.

Environmental Evaluations (§ 17)

In lieu of the public hearings required by law or regulation, the act requires the environmental protection commissioner to adopt a master administrative process that requires that, to the extent practicable, one public hearing be held for the convention center and parking facility projects and a separate public hearing be held for the stadium project.

Construction Account (§ 29)

PA 99-241 created a General Fund account to hold money to be spent on the sportsplex. The act renames the account and requires that the money designated for the construction of the former Patriot's stadium go into it to pay the overall project costs, rather than the cost of the sportsplex.

Paying Preliminary Costs (§ 30)

PA 99-241 established conditions for project funding and generally barred expenditure of state funds before the legislature approved the project. But it allowed CCEDA and the state to pay preliminary costs incurred before July 1, 1999, when PA 99-241 took effect. The act expands this provision to allow payment of preliminary costs incurred before this act's effective date. It thus validates payments of any preliminary costs incurred since July 1, 1999.

PA 99-241 also allowed CCEDA and the state to award contracts and the state to pay up to $8 million from the stadium construction account prior to legislative approval. By changing the allowed uses

of the account, the act allows this money to be spent on any project component at the Adriaen's Landing site.

ADRIAEN'S LANDING

Defining the Components

Adriaen's Landing Site Defined (§ 6). The act defines this term as the approximately 33 acres in Hartford designated in the master development plan as the location for the convention center, convention center hotel, parking facilities, and related private development.

The Convention Center Project (§ 1). The act adds a definition of "convention center facilities" that includes the parking facilities at the Adriaen's Landing site that CCEDA develops, owns, or operates. The definition explicitly excludes the convention center hotel. The act redefines the "convention center project" to allow CCEDA to pay for site acquisition costs for the center and the parking facilities and to issue revenue bonds for this purpose. It specifies that the convention center hotel includes its second phase, which is to be constructed at a later date, conditioned on financing factors.

On-Site and Other Related Private Developments (§ 6). The act designates as "on-site related private development" the convention center hotel, housing, entertainment, recreation, retail, and office development on the Adriaen's Landing site that is contemplated in the master development plan. It specifically includes the second phase of the hotel but excludes additions, expansions, demolition, conversion, and other changes to the other developments unless the secretary agrees they further the master plan's objectives.

It expands the definition of "related private development" (which the law already defined to cover those projects and facilities in the Capital City Development District associated with the convention center) specifically to include housing and offices and privately developed or financed improvements. Under the act, these related developments need only be contemplated in the master plan, not specifically identified in it as required under prior law.

Project Financing (§§ 2, 3 and 8)

Convention Center (§ 3). The act shifts control of $187 million in bond authorizations for the convention center from DECD to OPM and expands the purposes for which the funds may be used. DECD retains the remaining $3 million. Both must grant the funds to CCEDA.

For the convention center and its related parking, the additional uses of funds include (1) site acquisition and preparation; (2) relocation (including interim parking arrangements for Hartford businesses whose current parking facilities are incorporated in the project); (3) on-site infrastructure improvements, or off-site improvements if the OPM secretary determines they are necessary; (4) construction management and development services fees, including incentive payments for timely and under-budget project completion; and (5) reserve accounts.

The act allows some of these funds to be used for preliminary, site acquisition and preparation, and infrastructure improvement costs associated with the hotel, retail and entertainment, housing, and stadium development to the extent the OPM secretary and CCEDA attribute them to convention center project costs.

It states that bonds sold after the Bond Commission authorizes them are conclusively presumed to be fully and duly authorized and no one may question their authorization, sale issuance, execution, or delivery.

Convention Center Naming Rights (§ 2). The act specifies that CCEDA must use any proceeds from selling the right to name the convention center remaining after it pays for the center's start-up and operating costs for center operating or capital replacement reserves.

Other Project Funding (§ 8). The act increases, from $50 million to $73.8 million, a bond authorization dedicated to parking facility development and allows its use for any Adriaen's Landing (but not stadium) project costs. As under current law, OPM can use it for project financing or, if it finds a need to induce parking development, as grants or other forms of financial assistance to public or private project developers in connection with revenue bonds.

If any of the bond proceeds remain after the projects are completed, the act permits depositing the remainder in the General Fund or using it to redeem or defease outstanding bonds, as well as to pay bond principal and interest as current law provides.

The act fixes the bonds' maturity date at 30 years from the date they are issued; not, as under prior law, that date or 30 years after the parking facilities are completed, whichever is later. It conclusively presumes the bonds are fully and duly authorized after the Bond Commission authorizes them, not after they are issued, as prior law prescribed.

Extending CCEDA Powers to the Hotel and Related Parking (§ 2)

The act allows CCEDA to own and operate the convention center and the parking facilities at the Adriaen's Landing site. It extends to the hotel and these parking facilities CCEDA's power to acquire and transfer land, condemn property, and lease property rights as both lessor and lessee. The authority already had this power in respect to the convention center and its parking facilities. And it specifically allows CCEDA to sublease, as sublessor or sublessee, air rights above and below all of these facilities.

It extends to the hotel's construction, CCEDA's authority to adopt procedures that require its contractors and subcontractors to (1) use affirmative action in hiring, (2) pay prevailing wages, and (3) hire Hartford residents and available and qualified members of minority groups during construction and for subsequent operations. It permits, in all CCEDA projects at Adriaen's Landing, a project labor agreement to supersede prevailing wage requirements.

The act permits CCEDA to make arrangements with the OPM secretary concerning the development, ownership, and operations of all parking facilities at Adriaen's Landing. The law already allowed it to purchase and lease completed parking facilities for the convention center. It allows CCEDA to contract with private entities to manage and operate these facilities and deems these to be state contracts for purposes of the law that requires employers with state contracts to pay their employees standard wage rates.

It allows CCEDA to set parking rates and rules and procedures governing all parking facilities' use, as long as these are consistent with federal tax law. It allows CCEDA to use the net revenue from these facilities and the convention center, after allowing for operating costs, debt service, and other costs, for any authority expenses, including covering operating losses or paying into operating or capital reserves for the convention center or parking facilities.

Prohibition on Hotel Developer Transfers (§ 12)

The act empowers CCEDA to enter an agreement with the hotel developer prohibiting the developer from voluntarily transferring its interest, or an affiliate's interest, in the hotel in the first five years after the hotel is completed unless CCEDA gives its prior written consent. The agreement can permit a transfer after five years only to a party CCEDA reasonably believes is financially responsible and experienced in owning and operating first-class hotels in urban settings. The developer's interest includes its rights under a ground lease, air rights, and other agreements it has with the state.

Acquiring Land For The Landing (§ 12)

Taking Land. The act adapts to the reconfigured project the OPM secretary's powers to take and acquire land. Prior law authorized him to take real property in the capital city economic development district for the sportsplex and established procedures for him to do so and pay property owners. The act, instead, authorizes such taking in the Adriaen's Landing site and requires him to follow the same procedures. The law also authorizes such taking for off-site property necessary to make related infrastructure improvements. The act specifies that the secretary determines what property is necessary. It allows construction of the convention center, related parking facilities, on-site related private development, and related site preparation and infrastructure improvements to begin at any time after the property is assessed by the secretary. Prior law allowed only sportsplex construction to begin at that point.

Purchasing Land. The act allows the secretary to buy property required for the construction of the convention center, related parking facilities, on-site private development, and related site preparation instead of property for sportsplex construction. Similarly, the act authorizes him to take or purchase property abutting or near the Adriaen's Landing site, the on-site private development, and the infrastructure improvements rather than land abutting or near the sportsplex, convention center, and parking facility.

Relocating Public Service Facilities. The act authorizes the secretary to order the relocation of public service facilities for the on-site related private development, related site preparation, and infrastructure improvements for the same reasons he could do so for the sportsplex. The law defines "public service facility" as all privately, publicly, or cooperatively owned lines, facilities and systems, and related property interests, for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water (including heated or chilled water), steam, waste, storm water not connected with highway drainage, and similar commodities.

Government-Owned Property. The act authorizes the secretary to petition government agencies to take their property for on-site related private development and related site preparation and infrastructure improvements and eliminates his authority to do so to construct the sportsplex.

Conducting Surveys and Tests. The act authorizes the secretary to enter private property to make surveys and inspections and perform borings, soundings, or other tests before building on-site related private development or conducting related site preparation and infrastructure improvements and eliminates such authority regarding the sportsplex. His authority to do so to build the convention center and parking facilities is unchanged.

Appeal Of Secretary's Assessment (§ 13). Prior law established a procedure to appeal the secretary's assessments for the sportsplex project and provided that an application for reassessment would not prevent or delay the construction of the sportsplex and its parking facilities. The act instead applies this provision to the convention center, related parking facilities, on-site related private development, and related site preparation and infrastructure improvements.

Property Exempt From Secretary's Condemnation Powers (§ 15). The act exempts certain Hartford property from its provisions authorizing (1) the secretary to condemn land for the convention center, related parking facilities, on-site private development, or related site preparation or infrastructure and (2) appeals of his actions in court. Prior law had the same provision concerning land taken for the sportsplex and its parking facility. The exempted property is the property for which the city of Hartford is either (1) liable to pay the owner damages or (2) to receive benefits from its owner, except benefits from condemnation under the act's provisions.

Interest Owed For Late Payment (§ 16). The act applies to the Adriaen's Landing site the late payment interest provisions that prior law applied to the sportsplex and its parking facilities. It requires the state to pay 4% interest on amounts owed for more than 90 days following a stipulated agreement to purchase between the OPM secretary and the property owner.

Payments in Lieu of Taxes (PILOT) (§§ 19 and 28)

The act eliminates a provision of PA 99-241 that: (1) exempted the real property in the overall project from property tax, (2) exempted the state from having to pay a PILOT for this property, and (3) required the owner of the hotel and "non-event business areas" to pay a 100% PILOT under certain circumstances. As a result, the act subjects privately owned property at the project site to property tax and requires the state to make a PILOT for state-owned property. It specifically provides that the convention center and the related parking facilities owned by CCEDA are considered state-owned property, thereby entitling Hartford to PILOT payments for them.

It also requires the state to make a PILOT for any land on the Adriaen's Landing site that OPM leases from its current owners for a term of at least 99 years.

Hartford Tax Agreements (§ 33)

The act allows Hartford to negotiate and fix assessments on improvements (buildings) for retail, commercial, and residential uses for up to 15 years. To be eligible, the improvements must be (1) a capital city project receiving at least $5 million in aid from CCEDA or (2) located within the Adriaen's Landing site, including on-site related private developments. Capital city projects include such things as civic center renovations and downtown housing. Existing law authorizes towns to negotiate assessments on improvements, but not for 15 years.

Allocation of Lodgings Gross Receipts (§ 31)

By law, 4.5% of the gross receipts from room rentals in Hartford, go to CCEDA (which receives 90% of the revenue) and the Greater Hartford Arts Council (which receives the remaining 10%). The act specifies that this split applies to the revenues attributable to new hotels or rooms opened in Hartford after May 2, 2000.

The act also allocates to CCEDA half of the growth over the FY 1999-2000 base in the gross receipts revenues that do not already go to CCEDA. This provision runs from July 1, 2000 until CCEDA determines that this revenue source is no longer needed to meet current or projected convention center operating fund deficiencies.

Under the act, CCEDA can use these revenues for any purpose, including the convention center's startup and operating costs and replacement reserve.

Relation To Other Laws (§ 21)

The law specifies that the laws governing Adriaen's Landing and CCEDA prevail over other statutes. The act extends this provision to cover the hotel and other related on-site private developments. The act also subjects the project manager to the laws governing Adriaen's Landing and the CCEDA.

STADIUM

Stadium Site (§ 6)

The act relocates the stadium to Rentschler Field in East Hartford. The stadium includes parking facilities or improvements or arrangements for

parking such as licensing or leasing, and the act's legislative findings state that UTC has, as part of donating the land for the stadium, offered to license for $1 a year approximately 6,500 parking spaces for use at stadium events (§ 5). Like its predecessor sportsplex, the stadium must meet NCAA standards for Division 1-A football, contain at least 40,000 seats, and be expandable to 50,000. Unlike its predecessor, the stadium need not contain a capacity for state-owned amenities for other sports, artistic and cultural events, office, retail, dining, and recreational facilities. And the act eliminates the explicit authorization for the stadium's seating to include premium seating areas.

Stadium Financing (§ 7)

The act reduces, from $115 million to $91.2 million, the bond authorization for the stadium. It expands the purposes for which the funds can be used to include acquiring property related to the site. Funds can already be used for design, development, furnishing, and equipping the facility and site. If the stadium costs less than $91.2 million to build, the act permits using any unused bond proceeds to redeem or defease outstanding bonds as well as to pay bond principal and interest or to place the money in the General Fund as is required under existing law.

The act removes the requirement for the Bond Commission to find that the legislature has approved the project master plan as required by PA 99-241. It conclusively presumes the bonds are fully and duly authorized after the Bond Commission authorizes them, not after they are issued, as prior law prescribed. And it specifies that the bonds mature 30 years from the date they are issued not, as under prior law, that date or 30 years after the stadium is completed, whichever is later.

Stadium Ownership (§ 10)

Under the act, the state, or its public instrumentality, always owns the stadium and all furniture, fixtures, and equipment purchased as a part of it with bond proceeds or other state money.

Stadium Operations (§ 9)

The act authorizes the secretary to make agreements with anyone, not just UConn as under prior law, concerning events involving the university and others at the stadium and related parking facilities. It authorizes him to make agreements concerning easements and right-of-way for stadium access and lease, license, rental or other use agreements, including a parking license agreement with UTC, and for stadium parking and shuttle service, sufficient to meet projected peak parking demand.

It authorizes the secretary to license or manage any retail or commercial area within the stadium. Under prior law, he could license or manage nonevent business areas at the sportsplex.

The act requires the stadium facility manager to make reasonable efforts to hire, or cause to be hired, available and qualified Hartford and East Hartford residents and minorities at all levels of the stadium's operations.

The act adds professional liability insurance to the types of insurance the secretary may pay for or procure in relation to the stadium and related parking facilities.

Local Stadium Operations Advisory Committee (§ 9)

The act requires the secretary, through East Hartford's mayor, to establish an ongoing process for community input to the secretary and the stadium facility manager about matters of local concern relating to facility operations. This includes establishing a local advisory committee to identify, discuss, and formulate recommendations about the relationship between the facility and the town. The committee must be chaired by the mayor and include two neighborhood residents and representatives of the facility manager, UTC, the town police and fire departments, OPM, and UConn. Members serve without compensation and meet when called by the mayor.

The act requires the agreement with the stadium manager to include limits on the types of events and hours of operation, as determined by the secretary to be reasonable and appropriate. In making the determination, the secretary must consider the stadium's public purposes and the stadium's impact on neighboring areas.

The secretary must make an agreement with East Hartford and any other affected town to reimburse them for their reasonably determined incremental costs of additional public safety personnel required before, during, and after events to handle crowds, traffic, and event-related activities. The costs may be allocated among the secretary, UConn, or other event sponsors.

Stadium Naming Rights (§ 10)

The act gives the OPM secretary control of the stadium's naming rights. It authorizes him to make an agreement with UTC in which (1) he agrees, for a period of up to 15 years from the date of the first event at the stadium, to forego offering the naming

rights for commercial purposes and to call the stadium "Rentschler Field;" (2) UTC donates $2 million for the secretary to use for traffic and road improvements near the stadium; and (3) the secretary agrees, when offering the naming rights at the expiration of the 15-year period for commercial or other purposes, to (a) give UTC the right of first refusal, (b) to offer naming rights on the condition that the phrase "at Rentschler Field" will follow the selected commercial name, and (c) UTC will have the right to approve the name. The act provides that the approval will not be unreasonably withheld or delayed.

At the end of the period defined in the agreement with UTC and subject to any limits stated in it, the act authorizes the secretary to offer and sell the naming rights on a request for proposals basis and a process of competitive negotiation, subject to advice of bond counsel concerning private activity or similar restrictions that would result in any tax-exempt bonds becoming taxable.

Stadium Facility Enterprise Fund (§ 11)

The act renames the "Hartford Sportsplex Enterprise Fund" as the "Stadium Facility Enterprise Fund" and the "Hartford Sportsplex Capital Replacement Account" as the "Stadium Facility Capital Replacement Account." The secretary can use the fund to pay for stadium operations. The fund is capitalized by revenue from operating the stadium and related parking facilities, including revenue from the sale of naming rights and from state appropriations or other governmental or private sources. It does not include the amount made available to the secretary by UTC for traffic and road improvements. The account consists of certain money left in the fund at the end of the fiscal year to be used to replace and improve the stadium.

The act requires the secretary to prepare an annual operating and capital budget for the stadium facility instead of for the sportsplex and parking facilities. He must submit it to the Appropriations and Finance, Revenue and Bonding committees.

Environmental Evaluation (§ 17)

The act requires OPM, rather than CCEDA, to prepare the evaluation of the stadium project's impact on the environment. It allows OPM to help East Hartford prepare any environmental impact statement required under federal law. And it allows OPM and the town to enter into a memorandum of understanding regarding the allocation of costs in connection with this assistance.

PROJECT OVERSIGHT MECHANISMS

Conditions For Project Funding (§ 34)

PA 99-241 establishes conditions for project funding, including a review by the legislature. The act deems certain of these conditions to be met with its passage. Specifically, it provides that (1) the master plan is validated and is considered to meet the provisions of PA 99-241 that required the governor to certify that the master plan is substantially complete and the required commitments of private investments have been made and (2) the feasibility and implementation studies have shown the economic viability of the project.

Commencing Development (§ 36)

The law establishes various conditions for the release of funds for the project. The act additionally requires the governor to certify to the state treasurer and the Bond Commission that the state has received commitments for at least $210 million in private investment in the project, of which at least $40 million is for the convention center hotel. It requires the certification to include the governor's findings that (1) the commitments are legally enforceable; (2) they relate to the related private developments, as defined by the act; and (3) they would not have been made without the development of the convention center and related parking and the preparation of the Adriaen's Landing site.

The act repeals (1) a requirement that the governor submit a similar declaration to the Appropriations and Finance, Revenue and Bonding committees and (2) the legislature's authority to reject the master development plan by a majority vote in both houses.

Modifications To Master Plan (§ 35)

The act allows the secretary to modify the master development plan for a variety of unforeseen reasons, including development constraints and market conditions. But, any modification must be consistent with PA 99-241 and the act's fiscal controls and procedural provisions. If the secretary determines that a modification will materially change the purpose or character of the stadium, convention center, or related parking facilities, he must file a description of the modification with the House and Senate clerks for transmittal to the Finance, Revenue and Bonding Committee. The committee has 30 days to reject the modifications, after which time the modifications take effect.

Fiscal Controls (§ 32)

Once work on the overall project begins, the act requires the secretary to take reasonable steps to ensure that (1) public spending on it is subject to adequate financial controls and (2) construction conforms to applicable standards and approved plans and specifications.

The secretary must designate one of his senior staff to serve as project comptroller. The project comptroller must (1) oversee public spending on the project and authorize any bills payable by the state treasurer; (2) monitor the project budget, including cost estimates for site preparation and project development; (3) review all audit reports pertaining to the project; and (4) obtain all necessary information and monitor all aspects of the planning and implementation of the overall project.

The secretary must select an independent firm to audit all invoices and other documents related to public improvements managed by the project manager. The firm must report quarterly to the secretary, CCEDA, and the project comptroller. The project comptroller must prepare quarterly reports for the secretary, CCEDA, and the public auditors. He must also give them a summary each quarter of all expenditures from state funds, noting any significant variances from the budget.

The secretary must also provide for experienced people to oversee the project manager and other contractors and professionals the state retains directly or indirectly in the construction of the convention center, parking facilities, and stadium. He can do this by agreement with the departments of Public Works (DPW) or Transportation (DOT), by directly hiring someone, by contract, or by any combination of these.

The secretary and CCEDA must select project managers for public improvements in accordance with applicable procurement procedures. The managers are responsible for day-to-day management of public improvement construction activities in accordance with agreements with the secretary or CCEDA. They must report to the project comptroller as requested.

Any contract that the secretary or CCEDA enters into must require the maintenance of complete accounting records. The records must be kept on an open-book basis providing access to the secretary, CCEDA, the auditing firm, and the public auditors. Each contract for architectural services entered into by the secretary or CCEDA must require the architect to monitor conformance of the construction with the plans and specifications. The architect must report any material variances to the secretary, CCEDA, and project comptroller. In addition, copies of the architect's report must go to the state building inspector and fire marshal.

The secretary must select environmental consultants in accordance with applicable procurement procedures. The consultants must monitor conformance of environmental remediation with approved plans and report any material variances to the secretary, CCEDA, and the project comptroller.

All allocations of costs between public and private improvements must be made by written agreement and be consistent with the proposed budget.

The state building inspector and fire marshal must review and approve all construction plans and specifications. These officials must periodically inspect the overall project as it is built and report quarterly to the secretary, CCEDA, and the project comptroller on the conformance of the construction to the plans and specifications.

Independent Construction Contract Compliance Officer (§ 10)

The act requires the secretary and CCEDA jointly to select an independent construction contract compliance officer to monitor compliance by the secretary, CCEDA, the project manager, and each prime contractor with the provisions of applicable law, including this act, and with applicable requirements of contracts relating to (1) set-asides for small contractors and minority business enterprises and (2) required efforts to hire available and qualified members of minorities and Hartford and East Hartford residents for construction jobs.

The independent contract compliance officer must file quarterly written reports with findings and recommendations with the secretary and CCEDA during the projects' development. The officer may be an officer or agency of a political subdivision of the state, other than CCEDA, or a private consultant experienced in similar public contract compliance matters.

Stadium and Convention Center Contract Compliance Officers (§§ 9 and 37)

The act requires the secretary and CCEDA to designate facility operations contract compliance officers. OPM's compliance officer monitors the stadium while CCEDA's officer oversees the convention center, hotel, and related parking facilities. Both monitor the facilities' operations for compliance with provisions of applicable law, including this act, and with applicable requirements of contracts relating to (1) set-asides for small

contractors and minority business enterprises and (2) required efforts to hire available and qualified members of minorities and Hartford and East Hartford residents for facility operations (Hartford residents for the Adriaen's Landing site; Hartford and East Hartford residents for the stadium). They must file an annual written report, including findings and recommendations, with their appointing authorities.

EXEMPTIONS FROM STATE LAWS AND TAXES (§§ 17, 18, 24, 22, and 23)

Assembling Property (§ 24)

The act exempts conveyances associated with the hotel and other on-site related private development from the Transfer Act, which regulates sales and other transfers of properties that had been the site of a business handling hazardous materials. The exemption previously applied to the convention center, sportsplex, and parking facilities.

Environmental Evaluations (§§ 17 and 18)

The act specifies that the environmental evaluations required by law in connection with the convention center hotel and related private developments do not have to be completed before the projects are funded or contracts awarded. It exempts the convention center, parking facilities, the hotel, and other related on-site private development from a requirement for state agencies to submit construction plans to the Council on Environmental Quality for its review.

Construction

The act broadens the project's exemptions from state law provided by PA 99-241. It exempts the convention center project, the hotel, and other on-site related private development from state laws governing:

1. the municipality's right of first refusal when disposing of surplus state property;
2. administrative procedures for adopting regulations and reconsidering contested cases (part of the UAPA);
3. the Department of Administrative Service's (DAS) functions, including state purchasing and bidding, (other than nondiscrimination and affirmative action provisions);
4. the application of the state plan of conservation and development; and
5. the DPW governance of state property, construction contracts, leases, and consultant selection, and matters subject to review by the State Properties Review Board.

PA 99-241 exempts the overall project from several additional laws, including those dealing with historic preservation, regulation of major traffic generators, and citizen suits regarding environmental protection. By expanding the definition of the overall project, the act extends these exemptions to the facilities and activities covered by the expansion. The act also gives the state building inspector and fire marshal, rather than their local counterparts, original jurisdiction to administer and enforce the state building and fire safety codes for the overall project.

On the other hand, the act subjects the stadium and parking projects to the laws allowing contractors to take the state to court or to arbitration over the awarding of highway or public works contracts or any disputed contract provision.

The act exempts the convention center and on-site related private development from the building code education fee (16 cents per $1,000 of construction value). The stadium and parking projects are already exempt.

Operations

The act exempts convention center operations from:

1. laws governing DAS' functions;
2. the DPW's governance of state contracts and property;
3. historic preservation laws;
4. laws requiring the Board of Education and Services for the Blind to operate food service facilities, vending machines, and other facilities; and
5. the requirement to obtain a certificate from the State Traffic Commission as a major traffic generator.

With regard to other laws, regulations, and ordinances, the act requires that the convention center be regulated in the same way as state facilities.

Taxes

Sales Tax (§ 22). The act exempts from the sales tax goods and services used in the preparation of, and infrastructure improvements to, the stadium and parking facilities project sites. It also exempts sales of goods and services used in the demolition, remediation, or preparation of the entire Adriaen's Landing and stadium sites, rather than just the convention center, stadium, and parking facilities sites. As a result, goods and services used for these purposes in connection with on-site related private development will be tax-exempt.

Conveyance Tax Exemption (§ 23). The act exempts from the conveyance tax property transfers on the entire Adriaen's Landing site, rather than just the convention center, stadium, and parking facilities sites.

INDEMNIFICATION OF EMPLOYEES (§ 20)

The act exempts state officers and employees executing agreements in connection with (1) the overall project or its components, (2) the operations of the stadium project, or (3) the implementation of relevant provisions of PA 99-241, as amended, from personal liability under the agreements. The state must indemnify the officers and employees against financial losses, including legal expenses. (But PA 00-192 removes the requirement for the state to indemnify them.)

REPEALED PROVISIONS (§ 39)

The act repeals (1) a requirement that the DOT study parking and transportation near the former stadium site and recommend how to optimize access to and from the stadium, (2) a requirement that the Department of Consumer Protection adopt regulations to preclude price gouging for parking near the sportsplex site and its authority to impose fines for violations, and (3) a provision of a 1997 special act that conveyed four parcels in downtown Hartford from DOT to the Phoenix Insurance Company.

PA 00-145—sHB 5177
Planning and Development Committee

AN ACT CONCERNING VILLAGE DISTRICTS

SUMMARY: This act specifies criteria for the designation of village districts, makes substantive and procedural changes with regard to the regulation of developments in the districts, and makes related changes. By law, municipal zoning commissions can establish such districts in areas with distinctive characteristics, landscapes, or historic structures and can regulate development in these areas.
EFFECTIVE DATE: October 1, 2000

DESIGNATION OF VILLAGE DISTRICTS

The act requires village districts to be located in areas of distinctive character, landscape, or historic value that are specifically identified in the municipality's plan of conservation and development. It allows districts to be established in municipalities that zone under special act as well as those whose zoning ordinances are adopted under the statutes.

SUBSTANTIVE CHANGES IN DEVELOPMENT REGULATION

By law, commissions can adopt regulations governing development within the district. The act requires the regulations to establish criteria enabling a property owner and the zoning commission to make reasonable determinations of what is allowed in the district. It specifies that the regulations can cover new construction, rather than alterations and improvements of properties that can be seen from the road. By law, the regulations can also cover substantial reconstruction and rehabilitation of these properties.

Prior law required that new spaces and structures visible from the road be designed to add to the visual amenities of the surrounding area. The act instead requires that they be designed to be compatible with the elements of the area and extends this requirement to include related site improvements. It also requires the location of commercial and residential property and proposed signs and lighting to be evaluated for compatibility with the local architectural motif and historic features. The law already requires that various architectural aspects of the proposed developments undergo this evaluation.

The act requires the regulations to encourage the conservation of existing buildings and sites in the district, as well as their conversion and preservation. It requires that this be done to maintain the district's historic or distinctive character, rather than its historic, natural, and community character.

Prior law required the provisions of regulations concerning structure and site exteriors to be consistent with a guidebook prepared by the state historical commission. The act alternatively allows them to be consistent with the district's unique characteristics as identified in the plan of conservation and development.

Prior law required that development in the district be designed to meet specified compatibility objectives with other uses in the immediate neighborhood of the development, as defined by statute. The act makes the district, rather than the neighborhood, the basis of this comparison and eliminates a statutory definition of neighborhood. It eliminates the following objectives:

1. that the arrangement and orientation of a proposed building or site improvement be similar to its neighbors and
2. that a proposed landscape design reinforce the "functional qualities" of the existing landscape.

It creates an objective that signs, site lighting, and accessory structures be compatible with their surroundings rather than presenting a harmonious relationship with the neighborhood. The law sets as an objective that proposed parking lots reinforce existing buildings and streetscape patterns and not harm the area. The act broadens this provision to apply to all included site improvements.

PROCEDURAL CHANGES

The act requires the zoning commission to state on the record its reasons for granting or denying an application. In the case of denial, the commission must state the specific regulation under which the application was denied. The commission must publish notice of its decision in a local newspaper. An approval becomes effective upon filing of a copy of the decision in the office of the municipal clerk and on the land record. It limits the land record filing requirement to approvals rather than all commission decisions.

The act makes it clear that various procedural requirements that apply to zoning regulations apply to village district regulations. Among other things, these include notice and public hearing requirements. The act also extends these requirements, with regard to village districts, to zoning commissions operating pursuant to special act.

RELATED CHANGES

By law, a consultant selected by the commission must review all applications for new construction and substantial reconstruction in the district visible from the road. As an alternative to an architect or architectural firm, the act allows the consultant to be a landscape architect or planner certified by the American Institute of Certified Planners or an architectural review board with at least one architect, landscape architect, or certified planner.

The act allows the commission to seek the recommendations of the regional planning agency in addition to those entities already specified by law.

PA 00-146—sHB 5178
Planning and Development Committee
Finance, Revenue and Bonding Committee
Government Administration and Elections Committee
Education Committee
Appropriations Committee

AN ACT CONCERNING REAL ESTATE FILINGS AND THE PRESERVATION OF HISTORIC DOCUMENTS

SUMMARY: This act creates a mechanism to generate funds for preserving and managing state and local historic documents. The mechanism is a dedicated, nonlapsing General Fund account capitalized by a new additional $3 fee town clerks must charge for recording documents, except those recorded by public employees as part of their official duties. The clerks must keep $1 and remit $2 to the state treasurer for deposit in the account. They must use their share to preserve and manage historic documents.

The public records administrator must establish a grant program and annually fund it with 70% of the funds in the account. Towns can apply for these grants, which are in addition to their share of the revenue the fee generates. They can use the grant to enhance or improve the way they preserve and manage historic documents. The administrator must use the remaining 30% to administer the grant program and provide funds for preserving and managing the State Library's historic documents. The administrator, the State Library, and towns receiving grants must comply with the act's procedural and reporting requirements.

The state librarian must adopt regulations for administering the funds. He must establish a committee to advise him about developing and implementing regulations. The committee must include representatives of different size towns from different regions of the state.

EFFECTIVE DATE: July 1, 2000

PRESERVING AND MANAGING HISTORIC DOCUMENTS

The act establishes a fee to generate funds for preserving and managing historic documents. Towns and the State Library can use the funds to:

1. restore and conserve land records, land record indexes, maps, or other records;
2. microfilm these documents;
3. manage and track historic documents using information technology;
4. assess or upgrade facilities where records are retained;
5. recover documents after a disaster; and
6. train staff to maintain and track historic documents.

In addition to, or instead of, these activities, towns can use their share of fee-generated revenue for any activities to preserve and manage historic documents.

COLLECTING THE FEE

The act requires town clerks to collect a $3 fee in addition to those fees the law already requires them to collect for recording land documents. PA 00-01, June Special Session, exempts documents recorded by public employees as part of their official duties. Public employees include those employed by the state, cities and towns, boroughs, and taxing districts. The latter fees vary up to $15 for indexing a subdivision survey.

The clerks must keep $1 of the new fee and send the remainder to the state treasurer for deposit in the historic documents preservation account, which the act establishes. They must remit the state's share by the 15th of the month following collection. They can use their share only for preserving and managing historic documents. Towns also qualify for grants funded out of the state's share.

HISTORIC DOCUMENTS PRESERVATION ACCOUNT

The act establishes this account within the General Fund as a separate nonlapsing account. The treasurer must deposit the state's share of the fee-generated revenue in the account, plus any other funds the law directs. She must also credit the account with its investment earnings.

TOWN GRANT PROGRAM

Applications

The public records administrator must annually allocate 70% of the funds in the account for grants to towns. Towns may apply by describing how they intend to use the grants and specifying the amount they plan to spend on each activity. Each town's chief executive officer can direct its clerk to apply for the grants.

Awarding Grants

The administrator must adopt regulations setting priorities for awarding grants. He can consider the towns' relative needs for preserving and managing documents, ways to award grants consistently and equitably, and the extent to which the applications serve the goal of preserving and managing historic documents. He can also establish other grant award criteria. He must develop and disseminate a pamphlet, by February 1, 2001, describing how he will evaluate the applications.

In awarding grants, the administrator must consult with the state archivist and any other person he deems necessary. He must award the grants twice each fiscal year, on July 31 and December 31.

Municipal Reporting and Grant Recapture Requirements

Towns that received grants must describe how they used them in a report to the administrator by September 1 of the next fiscal year. The report must be on a form the administrator prescribes. The chief executive officers can direct the town clerks to submit these reports.

The administrator can require towns to repay grants that were used for other purposes or to replace funds from other sources.

ALLOCATION TO STATE LIBRARY

The administrator can use 30% of the funds in the account to provide funds to the State Library for preserving and managing historic documents and to cover the administrative cost of awarding grants. The State Library must annually report to the Government Administrations and Elections Committee on how it used the funds during the prior year. It must submit the first report by September 1, 2001. This report is in addition to the one submitted by the administrator, which must also describe how the library used the funds.

LEGISLATIVE REPORTS

The administrator must report on the grants to the Government Administration and Elections Committee by January 1, 2002 and annually thereafter. The report must describe the grants he awarded during the previous fiscal year, specify the amounts and how they were used, and state any findings and recommendations about the program's operation and effectiveness. The report must also describe how the State Library used the funds it received for preserving and managing historic documents.

PA 00-199—SB 392
Planning and Development Committee
Judiciary Committee
Government Administration and Elections Committee
Appropriations Committee
Commerce Committee

AN ACT TRANSFERRING ENFORCEMENT OF THE SET-ASIDE PROGRAM FROM THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO THE

DEPARTMENT OF ADMINISTRATIVE SERVICES AND THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES AND CONCERNING THE REOPENING OF MATTERS BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

SUMMARY: This act completes the transfer of the Small Business Set-Aside Program from the Department of Economic and Community Development (DECD) to the Department of Administrative Services (DAS) that was started by PA 99-233. The act transfers an administrative function to DAS and requires state agencies to submit set-aside reports to it instead of DECD. Agencies must still send reports to the Commission on Human Rights and Opportunities (CHRO), and those that fail to do so violate the law requiring all agencies to cooperate with CHRO.

The act requires CHRO to monitor, assess, and report on the extent to which state agencies achieve their set-aside goals.

The act sets conditions under which CHRO can reopen a case after disposing of it.

EFFECTIVE DATE: Upon passage.

TRANSFERING SET-ASIDE PROGRAM

Calculating Set-Aside Goals

The act completes the transfer of the Small Business Set-Aside Program from DECD to DAS. The program requires state agencies and political subdivisions, other than municipalities, annually to set aside a portion of their contracts for bidding exclusively by small businesses and those owned by women, members of specified minority groups, people with disabilities, and nonprofit organizations.

The act transfers from DECD to DAS the authority to approve agency requests to exclude the value of certain contracts when calculating the total value of contracts they plan to set aside. By law, agencies must total the value of all contracts they anticipate letting during the year and set aside 25% of the amount for bidding by small businesses (and a portion of that amount for bidding by minority businesses). Agencies may (1) exclude contracts that cannot be set aside under federal rules and (2) after approval, exclude those for goods and services that small businesses do not customarily provide.

Reporting on Set-Aside Goals

The law requires agencies to prepare annual reports specifying their set-aside goals and quarterly reports measuring their progress toward meeting those goals. Prior law required them to submit both reports to DECD, CHRO, and the Planning and Development Committee.

The act retains the requirement for the annual reports to go to CHRO and the Planning and Development Committee, but it substitutes DAS for DECD and adds the Government Administration and Elections Committee to the list of recipients.

It requires the agencies to submit the quarterly reports to DAS instead of DECD and drops the requirement that they submit them to the Planning and Development Committee.

CHRO Monitoring and Reporting

The act requires CHRO to monitor the extent to which agencies are achieving their set-aside goals and report back quarterly to them on their progress. CHRO must also submit these reports to DECD, DAS, and the Planning and Development and Government Administration and Elections committees.

REOPENING CHRO CASES

The act sets conditions under which CHRO can reopen a case that it had previously closed. CHRO can reopen a case on its on motion if justice requires it and the case was not appealed to Superior Court. It must notify all of the parties to a case it decides to reopen.

CHRO can also reopen a case if a complainant or respondent asks for it. The requesting party must show good cause for reopening and that doing so is in the interest of justice. Parties that want to reopen a case that was closed before October 1, 2000 must apply within six years after CHRO closed the case or before October 1, 2000, whichever comes first. After that date, they must apply within two years after CHRO closed the case.

BACKGROUND

PA 99-233

PA 99-233 transferred to DAS the responsibility to certify whether businesses meet the statutory criteria for bidding on set-aside contracts; the authority to adopt regulations, including those for making random visits to businesses seeking certification; and the authorization to audit businesses awarded set-aside contracts. DAS shares the latter with the awarding agencies and CHRO.

PA 00-225—HB 5265
Planning and Development Committee
Government Administration and Elections Committee

AN ACT AUTHORIZING MUNICIPALITIES TO ESTABLISH FOUR-YEAR TERMS

SUMMARY: This act broadens the circumstances under which municipalities can set four-year, rather than two-year, terms for local elected officials. By law, a municipality can establish four-year terms by charter for members of its legislative body and for chief elected executive officials and the treasurer. The act allows the municipality to do this by ordinance as well, and specifies that the officials include members of boards of selectmen. But the provisions of an ordinance regarding terms of office do not supersede the municipality's charter.

By law, a municipality can, by ordinance, set a four-year term for town clerks and registrars of voters. The act extends the four-year option to treasurers and allows the option, with regard to any of the officials, to be exercised by charter. Like that of the town clerk, the term of a treasurer elected to a four-year term starts, with limited exceptions, on the first Monday in January following the election, unless the election is on the first Monday in May in odd-numbered years, in which case the term begins the following July 1.

EFFECTIVE DATE: Upon passage

PA 00-150—sHB 5285
Program Review and Investigations Committee
Judiciary Committee
Joint Committee on Legislative Management

AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

SUMMARY: This act requires that both houses of the General Assembly approve appointees to the Commission on Human Rights and Opportunities (CHRO). By law, the governor appoints five commissioners and the Senate president pro tempore and minority leader and the House speaker and minority leader appoint one each.

The act also requires CHRO, in consultation with its executive director and the chief human rights referee, to develop regulations and rules to ensure consistent procedures governing contested case proceedings.

EFFECTIVE DATE: October 1, 2000

PA 00-162—sSB 164
Program Review and Investigations Committee
Public Health Committee
Appropriations Committee

AN ACT CONCERNING MEMBERSHIP OF THE MUNICIPAL EMPLOYEES' RETIREMENT FUND

SUMMARY: This act makes employees of regional emergency telecommunications centers (RETCs) and tourism districts eligible to participate in the Municipal Employees Retirement Fund (MERF).

Towns can participate in MERF if their legislative bodies pass a resolution to do so. The act establishes that a representative board for an RETC and a tourism board's directors serve as their respective employees' legislative bodies.

The act defines an RETC as an entity that the Department of Public Safety authorizes to handle 911 calls for at least three municipalities.

By law, there are 11 tourism districts. They represent Fairfield County, the greater Waterbury area, the greater New Haven area, the Connecticut Valley, the Southeastern district, the Litchfield Hills area, Central Connecticut, the greater Hartford area, the Northeastern district, the Housatonic area, and the Tobacco Valley district.

EFFECTIVE DATE: October 1, 2000

PA 00-10—sSB 84
Public Health Committee

AN ACT CONCERNING CHANGES OF NURSING HOME OWNERSHIP

SUMMARY: By law, the Department of Public Health (DPH) licenses nursing homes. DPH must give its prior approval if there is a change in ownership or beneficial ownership of 10% or more of the stock of a corporation that owns, conducts, operates, or maintains a nursing home.

This act specifies that a public offering of any such stock is not considered a change in ownership or beneficial ownership of that facility if (1) the licensee and the officers and directors of the corporation do not change, (2) the public offering cannot result in an individual or entity owning 10% or more of the corporation's stock, and (3) the owner provides information to DPH that allows it to properly identify the current ownership and beneficial ownership status of the facility.
EFFECTIVE DATE: October 1, 2000

PA 00-22—sSB 90
Public Health Committee
Judiciary Committee

AN ACT CONCERNING THE CONFIDENTIALITY OF PROBATE COURT PROCEEDINGS INVOLVING INDIVIDUALS WITH MENTAL RETARDATION

SUMMARY: This act makes confidential any probate court proceedings involving the involuntary placement, guardianship, or sterilization of individuals with mental retardation.

Under the act, the application and all records of such proceedings, except for the name of the individual's guardian, must be sealed and made available only to the individual, his counsel or guardian, and the Department of Mental Retardation (DMR) commissioner or his designee. The records can be disclosed if the court, after a hearing with notice to the individual, his counsel or guardian, and the commissioner, determines that they should be disclosed for cause.
EFFECTIVE DATE: October 1, 2000

PA 00-27—sHB 5836
Public Health Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO TITLE 19A OF THE GENERAL STATUTES AND CERTAIN OTHER PUBLIC HEALTH STATUTES

SUMMARY: This act makes technical changes to public health-related statutes.
EFFECTIVE DATE: Upon passage

PA 00-37—sSB 88
Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF MENTAL RETARDATION REGISTRY OF INDIVIDUALS TERMINATED OR SEPARATED FROM EMPLOYMENT AS A RESULT OF SUBSTANTIATED ABUSE OR NEGLECT

SUMMARY: The law requires the Department of Mental Retardation (DMR) to create and maintain a registry of people terminated or separated from employment because of substantiated abuse or neglect of a DMR client. It applies to people employed by DMR or by an agency, organization, or individual licensed or funded by DMR. This act directs DMR to notify these employers at least semiannually of the names, addresses and Social Security numbers of people placed on the registry, and the type of abuse or neglect.

The act also allows, rather than requires, DMR to respond to initial inquiries about whether a person has been separated or terminated from employment by using telephone voice mail or other automated response.
EFFECTIVE DATE: Upon passage

PA 00-47—HB 5650
Public Health Committee

AN ACT CONCERNING THE SCOPE OF THE PRACTICE OF PARAMEDICINE

SUMMARY: This act restricts licensed paramedics' scope of practice to those activities authorized in Department of Public Health (DPH) regulations governing emergency medicine. By law, those activities must be performed under the supervision,

control, and responsibility of a licensed physician. Paramedics operating within this scope of practice are exempt from the prohibition against practicing medicine without a physician's license. Prior law permitted paramedics to practice paramedicine outside the emergency medical system under a doctor's supervision.

The act allows paramedics to administer controlled substances (e.g., morphine, demerol, and valium) under a licensed physician's written protocols or standing orders. Prior law required them to be in simultaneous communication with a supervising doctor when administering these drugs. Finally, the act specifies that paramedics do not have to be in simultaneous communication with a supervising doctor to use an automatic external defibrillator.

EFFECTIVE DATE: October 1, 2000

PA 00-52—SB 537
Public Health Committee

AN ACT CONCERNING THE TRAINING OF STUDENTS IN NATUREOPATHIC MEDICINE

SUMMARY: This act allows a state-approved naturopathic medicine college or program to include in its curriculum the didactic and clinical training necessary for it to qualify for Council on Naturopathic Medical Education accreditation. This can include training outside of the scope of naturopathy practice.

The act allows the program's students and licensed faculty members to do all procedures that are part of the program's curriculum if (1) they are incidental to the course of study and (2) the students are under the direct supervision of a faculty member who is licensed to perform such procedures in the state.

EFFECTIVE DATE: October 1, 2000

PA 00-55—HB 5182
Public Health Committee
Judiciary Committee

AN ACT CONCERNING THE USE OF PHYSICAL RESTRAINT IN TRANSPORTING CERTAIN PERSONS RECEIVING SERVICES FROM THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

SUMMARY: The law prohibits anyone who cares for or supervises people in state-operated or -licensed institutions from using involuntary physical restraint on a person, except in an emergency or as necessary to transport someone under the jurisdiction of the Department of Mental Health and Addiction Services' (DMHAS) Whiting Forensic Division.

This act expands the permitted use of mechanical restraints when transporting people to include those in the criminal justice system who are committed to or receiving services from DMHAS. It applies to people:

1. committed to DMHAS who face a criminal charge and have not posted bail or bond,
2. whose competency to stand trial must be examined,
3. ordered to undergo a presentence psychiatric exam after conviction for serious felonies and violent sex offenses,
4. who are inmates in a Department of Correction facility and need confinement in a psychiatric hospital, and
5. who were found not guilty by reason of insanity and are under the jurisdiction of the Psychiatric Review Board.

It requires the head of the DMHAS facility providing services, or his designee, to determine in each case that restraints are needed and appropriate to protect the public safety. Each use of restraints must be documented in the person's medical record. The documentation must (1) state the reason the restraint was used, including the person's clinical condition, the risk of his fleeing, and the danger he posed to the public and (2) describe the nature of the restraint and how long it lasted. If use of the restraint results in the person's serious physical injury or death, the facility head must report it to the DMHAS commissioner who, in turn, must report it to the director of the Office of Protection and Advocacy for Persons with Disabilities.

EFFECTIVE DATE: October 1, 2000

PA 00-56—HB 5291
Public Health Committee
General Law Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING PROHIBITED CIGARETTE SALES

SUMMARY: This act prohibits the sale of cigarettes in any form other than in sealed packages of 20 or more. Prior law allowed cigarettes to be sold in sealed packages of any amount.

EFFECTIVE DATE: October 1, 2000

BACKGROUND

Related Act

PA 00-170 makes an identical change as this act effective July 1, 2000.

PA 00-57—sHB 5292
Public Health Committee
Insurance and Real Estate Committee
Appropriations Committee

AN ACT ESTABLISHING THE REPORTING OF COMMUNITY BENEFIT PROGRAMS BY MANAGED CARE ORGANIZATIONS AND HOSPITALS

SUMMARY: This act requires each hospital and managed care organization (MCO) to submit an annual report to the Department of Public Health (DPH) commissioner on whether it has a "community benefits program." If it does, the report must describe the status of the program and the extent to which it has met certain guidelines. The first report is due by January 1, 2001. The act defines "community benefits program" as a voluntary program to promote preventive care and to improve the health status of working families and populations at risk in the communities within the geographic service areas of a managed care organization or hospital.

The act also requires the DPH commissioner to summarize and analyze the required reports annually and make the summaries available to the public when requested.

EFFECTIVE DATE: October 1, 2000

COMMUNITY BENEFITS ANNUAL REPORT

By January 1, 2001, and annually afterwards, each MCO and hospital must provide the commissioner with a report on whether it has a community benefits program. The act requires each MCO and hospital that has a program to report annually on its status. The report must include:

1. the MCO's or hospital's community benefits policy statement;
2. the mechanism for soliciting and incorporating community participation;
3. the community health needs considered in developing and implementing the program;
4. a narrative description of the community benefits, services, and preventive health education provided or proposed;
5. measures to evaluate the program results and proposed revisions;
6. to the extent feasible, a program budget and a good faith effort to measure program expenditures and administrative costs, including cash and in-kind support; and
7. a summary of the extent to which the MCO or hospital has developed and met certain community benefit guidelines the act establishes.

The hospital or MCO must make a copy of the report available to the public upon request.

COMMUNITY BENEFIT GUIDELINES AND PRINCIPLES

Under the act, an MCO or hospital can develop community benefit guidelines designed to promote preventive care and improve the health of working families and populations at risk, whether or not they are hospital patients or members of the MCO. The guidelines must focus on:

1. adopting and publishing a community benefits policy statement;
2. responsibility for overseeing the development and implementation of the community benefits program, resources to be allocated, and regular program evaluation;
3. assistance and meaningful participation from the communities in an MCO's or hospital's service area in defining the targeted population and specific health needs to be addressed (the MCO or hospital must give priority to the public health needs outlined in DPH's most recent state health plan); and
4. developing the program based on an assessment of the health care needs and resources of the targeted populations, particularly low- and middle-income medically underserved populations, and barriers to access to health care such as cultural, language, and physical barriers.

SUMMARY OF REPORTS

The act requires the commissioner to summarize and analyze the community benefits program reports and review them for adherence to the guidelines. He must make the summary and analysis available to the public annually, beginning October 1, 2001.

PA 00-90—sHB 5184
Public Health Committee
Judiciary Committee
Appropriations Committee
Planning and Development Committee
Energy and Technology Committee

AN ACT CONCERNING THE CERTIFICATION OF WATER TREATMENT PLANT AND WATER DISTRIBUTION SYSTEM OPERATORS

SUMMARY: This act broadens and specifies the Department of Public Health (DPH) commissioner's authority to adopt regulations governing the operation of public water supply facilities and the qualifications, certification, and training of water treatment plant operators. The regulations must be adopted by February 1, 2001, and must be consistent with federal law and regulations regarding plant operators.

The act bars anyone from operating a water supply plant or distribution system without DPH certification. It authorizes DPH to discipline plant operators for certain acts of fraud, deception, incompetence, and negligence, and for illegal activity in the same way professional health licensure boards can discipline members of their professions, other than imposing a civil penalty.

The act specifies that DPH can impose a maximum civil penalty of $5,000 per violation per day, rather than $5,000 in total, on a water company for certain health code and water supply planning violations. It expands the types of violations subject to such penalties to include violations of water standards, testing requirements, plant operation standards, water company land sales requirements, and other operator training and certification requirements. It also requires DPH to consider the number of people served by, or the size of, a water company when developing regulations with a penalty schedule. By law, DPH cannot impose any civil penalties until it adopts these regulations.

The act requires DPH to adopt regulations requiring water companies to report elevated copper levels in public drinking water and makes minor and technical changes.

EFFECTIVE DATE: Upon passage

PUBLIC WATER SUPPLY

Certification and Regulation of Plant Operators

Existing law authorizes DPH to adopt regulations approving the qualifications of water treatment plant and distribution system operators. The act broadens DPH's authority by specifying that it may adopt regulations governing (1) plant and system operation standards, (2) operator certification standards and procedures, (3) operator training standards, and (4) certification renewal procedures every three years. Operators must have a DPH certificate to operate a plant or system.

The regulations must be consistent with federal law and Environmental Protection Agency guidelines regarding water facility operator certification.

Discipline of Certified Operators

The act authorizes DPH to discipline a certified operator if he:

1. obtains, renews, or reinstates a certificate fraudulently or with material deception;
2. performs his professional activities incompetently, negligently, illegally, fraudulently, or with material deception;
3. is convicted of a felony; or
4. fails to complete required operator training.

DPH may discipline operators with any of the statutory measures available to a professional health licensure board to discipline members of its profession, except imposing a civil penalty. It can:

1. revoke or suspend an operator's license or permit;
2. censure an operator;
3. issue a letter of reprimand;
4. place an operator on probation and require him to regularly report to DPH, limit his professional activities, or complete continuing professional education requirements; or
5. summarily take any of the above actions upon proof that the operator was found guilty of a felony under state law or is subject to disciplinary action similar to the above in any other jurisdiction.

PA 00-97—sHB 5796
Public Health Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE CONFIDENTIALITY OF INFORMATION REPORTED TO OR OBTAINED BY THE OFFICE OF PROTECTION AND ADVOCACY FOR PERSONS WITH DISABILITIES

SUMMARY: By law, certain state agencies must report to the Office of Protection and Advocacy for Persons with Disabilities serious injuries or deaths

resulting from the use of physical restraint or seclusion in an institution they operate, license, or support. This act exempts from Freedom of Information laws (1) the name, address, and other personally identifiable information of the person injured or killed and anyone who provides information to the office for its investigation and (2) any confidential records the office obtains during its investigation.

The act allows the office to disclose personally identifiable or confidential information if the person legally authorized to release it consents. It also allows the office to issue reports and provide information to policy-making bodies as long as it does not disclose the identity of anyone with a disability or provide any way to discover such a person's identity.

EFFECTIVE DATE: October 1, 2000

PA 00-101—SB 89
Public Health Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE COMPOSITION OF THE BOARD OF MENTAL HEALTH AND ADDICTION SERVICES

SUMMARY: This act adds nine members to the Board of Mental Health and Addiction Services, increasing its membership from 40 to 49. It gives the governor four additional appointees (for a total of 19). Two of the governor's new appointees must represent families of individuals with psychiatric disabilities and the other two, families of individuals recovering from substance abuse.

The act retains as members, the chairman of, and one designee from, each of the five regional mental health boards (10 members). Instead of one designee from each of the 15 substance abuse subregional planning and action councils, the act substitutes 20 designees as follows:

1. two from each of the five subregions represented by the substance abuse subregional planning and action councils (10 members);
2. one from each of the five subregions representing individuals recovering from substance abuse problems, and selected by the councils in collaboration with advocacy groups (5 members); and
3. one from each mental health region, representing individuals with psychiatric disabilities and selected by the regional board in collaboration with advocacy groups (5 members).

The act specifies that "appointed" members (presumably those appointed by the governor) serve four-year terms, while the "designee" members serve at the pleasure of their designating authority. Under the act, appointed members cannot serve more than two successive terms plus the balance of any unexpired term to which they were appointed.

Finally, the act allows, rather than requires, that board members include representatives of nongovernment groups and state agencies concerned with planning, operating, or using facilities providing mental health and substance abuse services.

EFFECTIVE DATE: October 1, 2000

BACKGROUND

Board of Mental Health and Addiction Services

By law, the board must meet monthly with the Department of Mental Health and Addiction Services commissioner to review and advise him on department programs, policies, and plans.

PA 00-104—SB 87
Public Health Committee
Government Administration and Elections Committee
Human Services Committee

AN ACT CONCERNING THE CONNECTICUT ALCOHOL AND DRUG POLICY COUNCIL

SUMMARY: This act makes the commissioner of the Department of Children and Families (DCF) a cochairperson of the Connecticut Alcohol and Drug Policy Council. Previously, the Department of Mental Health and Addiction Services commissioner alone chaired the council and the DCF commissioner was a member. The act also makes technical changes.

EFFECTIVE DATE: October 1, 2000

PA 00-119—sSB 539
Public Health Committee
Appropriations Committee
Education Committee

AN ACT CONCERNING LINGUISTIC ACCESS IN ACUTE CARE HOSPITALS

SUMMARY: This act requires acute care hospitals to undertake a number of activities to ensure that patients who do not speak English have access to their services. Specifically, each hospital must:

1. develop and annually review a policy on

providing interpreter services to non-English speaking patients;
2. ensure, to the extent possible, the availability of interpreter services to patients whose primary language is spoken by a group comprising at least 5% of those residing in the hospital's geographic service area;
3. keep a list of qualified interpreters;
4. notify hospital staff of interpreter requirements;
5. post multilingual notices about interpreter availability;
6. review standardized forms to determine the need to translate them;
7. consider giving hospital staff picture and phrase sheets to communicate; and
8. establish liaisons to the non-English speaking communities in the service area.

EFFECTIVE DATE: October 1, 2000

PA 00-121—sSB 435
Public Health Committee
Insurance and Real Estate Committee

AN ACT CONCERNING HEALTH INSURANCE PORTABILITY

SUMMARY: This act extends the period of health insurance portability.

By law, health insurers must cover the preexisting condition of a newly insured person who was covered for that condition under his preceding coverage if that coverage did not lapse for more than 62 days before coverage under the new plan began. The act extends the maximum lapse period to 119 days.

Under the law, if an insured person loses coverage because of involuntary loss of employment and obtains new coverage, the preexisting condition is covered if he obtained new coverage within 90 days of losing it and applies for it within 63 days of eligibility. The act extends the lapse period from 90 to 150 days but reduces the application period to 30 days.

By law, a newly insured person who was previously covered, but not for a preexisting condition, gets credit for the time covered under the old plan towards any preexisting condition exclusion under the new plan if the lapse in coverage did not exceed 62 days. The act extends the lapse period to 119 days. If the person lost his coverage because of involuntary loss of employment, the act increases the lapse period from 90 to 150 days and reduces the application period from 63 to 30 days.

EFFECTIVE DATE: October 1, 2000

PA 00-135—sHB 5792
Public Health Committee
Insurance and Real Estate Committee
Government Administration and Elections Committee

AN ACT MAKING TECHNICAL AND OTHER CHANGES TO CERTAIN PUBLIC HEALTH STATUTES

SUMMARY: This act makes a number of changes, some technical, to a variety of public health-related statutes. Specifically, it:

1. adds licensed professional counselors to those health care providers who must be reimbursed by individual and group health insurers for providing mental or nervous condition treatment;
2. establishes continuing education requirements for marital and family therapists and hypertrichologists;
3. extends for one year, until October 1, 2001, the pilot program that allows hospices to establish residences for offering home care and supplemental services to terminally ill people;
4. specifies that advanced practice registered nurses (APRNs) certified as nurse anesthetists do not have to have malpractice liability coverage if working under a physician's direction;
5. requires that an APRN licensee be "eligible" for a registered nurse (RN) license instead of "maintaining" such a license;
6. requires the Department of Public Health (DPH) to reinstate, without conditions, an RN whose license became void for failure to pay the annual license fee in 1998 or 1999, or both, upon application and payment of the fees;
7. extends an insurance coverage requirement for certain dental services to include outpatient or one-day dental services in addition to inpatient dental services under certain conditions;
8. allows various state agencies to invite providers to participate in committees, task forces, and other related activities without it being considered lobbying;
9. requires the Department of Mental Retardation (DMR) commissioner to monitor, as well as conduct, abuse and neglect investigations;
10. specifies that, for purposes of DPH licensing

and registration, child day care services do not include those administered by a municipal agency or department and located in a public school building for students enrolled in that school;

11. eliminates the right of a license applicant for a day care center, group day care home, or family day care home to appeal DPH's denial of a license application;
12. modifies the DPH commissioner's duty to adopt regulations concerning emergency medical services (EMS) personnel;
13. amends PA 00-151 concerning an EMS pilot program on primary service area assignment; and
14. allows certain trained emergency medical technicians (EMTs) to administer epinephrine under certain conditions.

The act also establishes an Advisory Commission on Services and Supports for Persons with Developmental Disabilities and adds 10 members to the existing Long-Term Care Advisory Council.

EFFECTIVE DATE: Upon passage, except that the EMT-epinephrine provisions take effect January 1, 2001, the EMS pilot program change takes effect July 1, 2000, and the Developmental Disabilities Advisory Commission provisions take effect October 1, 2000.

LICENSED PROFESSIONAL COUNSELORS

By law, certain health care providers must be reimbursed under individual and group health insurance policies for mental or nervous condition diagnosis and treatment services. Providers include (1) licensed physicians or psychologists, (2) licensed clinical social workers who pass the clinical exam and complete at least 2,000 hours of post-master's social work in a tax-exempt nonprofit, municipal, state, or federal agency, or a DPH-licensed institution; (3) social workers certified as independent before October 1, l990; (4) licensed marital and family therapists who complete at least 2,000 hours of post-master's work experience in a tax-exempt nonprofit, municipal, state, or federal agency or a DPH-licensed institution; (5) marital and family therapists certified before October 1, l992; and (6) licensed or certified alcohol and drug counselors.

The act adds licensed professional counselors to the list of providers who must be reimbursed for such services. Licensed professional counselors can receive reimbursement when they provide services in a residential treatment facility or provide outpatient services in a (1) nonprofit community mental health center, (2) licensed nonprofit adult psychiatric clinic operated by an accredited hospital, or (3) residential treatment facility. By law, services must be within the scope of the license issued to the center, clinic, or facility.

CONTINUING EDUCATION REQUIREMENTS

The act requires licensed marital and family therapists to participate in continuing education and provide DPH with satisfactory evidence of such participation in order to renew their licenses. DPH must adopt regulations (1) defining basic requirements for continuing education, (2) specifying qualifying programs, (3) establishing a control and reporting system, and (4) providing for a waiver of continuing education for good cause.

The act also requires hypertrichologists seeking license renewal to participate in continuing education. Again, DPH must adopt regulations addressing the same factors listed above. Hypertrichologists remove superfluous hair by electrical or other methods.

NURSE ANESTHETISTS AND MALPRACTICE

By law, APRNs providing direct patient care services must have professional liability insurance or other indemnity against professional malpractice liability. The act exempts from this requirement any APRN maintaining current certification from the American Association of Nurse Anesthetists and providing services under a physician's direction.

DENTAL CARE COVERAGE

The law requires individual and group health insurance policies to cover general anesthesia, nursing, and related hospital services provided in conjunction with inpatient dental services if certain conditions are met. These are: (1) the anesthesia, nursing, and related services are deemed medically necessary by the treating dentist or oral surgeon and the patient's primary care physician according to the health insurance policy's requirements for prior authorization of services and (2) the patient is either (a) a child under age four with a dental condition of significant complexity requiring that certain procedures be done in a hospital as determined by a licensed dentist, in conjunction with a licensed primary care physician specialist or (b) a person with a developmental disability, as determined by a physician specializing in primary care, that places him at serious risk.

The act extends this coverage requirement to outpatient or one-day dental services that meet the conditions described above.

PROVIDER PARTICIPATION IN AGENCY ACTIVITIES

The act allows DPH, DMR, the Department of Mental Health and Addiction Services, and the Office of Health Care Access to invite any provider to participate in any informal policy-making committee, task force, work group, or other ad hoc committee it establishes. Such participation is not deemed lobbying under the act. "Provider" means any independent contractor or private agency under contract with a department to provide services.

DAY CARE LICENSE APPLICATIONS

The act eliminates the right of an applicant for a license to operate a day care center, group day care home, or family day care home to appeal the public health commissioner's decision to deny the application. Prior law allowed applicants to ask for an administrative hearing and then a court hearing. But the DPH commissioner must notify an initial applicant for a license of the denial and the reasons for it by mailed written notice.

EMS RELATED PROVISIONS

Regulations

Prior law required DPH to adopt regulations on state-wide standardization or certification for "emergency medical technician–intermediate." This act instead requires regulations on state-wide certification standardization for each class of (1) EMTs, including paramedics; (2) EMS instructors; and (3) medical response technicians.

Pilot Program

PA 00-151 requires DPH, by February 1, 2001, to provide the Public Health Committee with a plan to implement a pilot program in one or more towns concerning assigning of primary service areas to EMS providers. This act specifies that the committee must approve the plan or amend and approve it by February 1, 2002.

Administration of Epinephrine

The act allows an EMT to administer epinephrine using automatic prefilled cartridge injectors or similar automatic injectable equipment if he has been trained to do so according to national standards recognized by DPH. Epinephrine must be administered according to written protocols and standing orders of a licensed physician serving as an emergency department director.

The act requires all EMTs to receive this training and requires all licensed or certified ambulances to have epinephrine in such injectors or equipment for administration.

The act defines EMT, for these purposes, as (1) any class of EMT certified under DPH regulations including EMT-intermediate and (2) any licensed paramedic. Epinephrine is used therapeutically as a vasoconstrictor, a cardiac stimulant, and to relax bronchioles. It is used to check local hemorrhage and to relieve asthmatic attacks.

ADVISORY COMMISSION FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

The act establishes a 27-member Advisory Commission on Services and Supports for Persons with Developmental Disabilities. The commission must advise the DMR commissioner on the needs of people with developmental disabilities who are not mentally retarded. This includes identifying (1) the population to serve, (2) the needed types of supports and services, (3) how they can best be delivered, and (4) their costs.

DMR must provide necessary staff for the commission. The commission includes (1) four members of the General Assembly, one each appointed by the House speaker, the Senate president pro tempore, and the House and Senate minority leaders; (2) a governor's representative; (3) the Office of Policy and Management secretary or his designee; (4) the commissioners of the departments of Mental Retardation, Mental Health and Addiction Services, Children and Families, Social Services, and Education or their designees; and (5) 16 people who have developmental disabilities but are not mentally retarded, representatives of providers serving such individuals, or family members of, or advocates for, such individuals. Of these 16 members, three each are appointed by the House speaker, Senate president pro tempore, and House and Senate minority leaders; and the remaining four by the governor.

LONG-TERM CARE ADVISORY COUNCIL

The council currently has nine members. The act adds the following 10 members:

1. the Connecticut Hospital Association president or his designee;
2. the executive director of the Connecticut Assisted Living Association or his designee;
3. the executive director of the Connecticut Homecare Association or his designee;
4. the president of Connecticut Community

Care, Inc. or his designee;
5. a member of the Connecticut Association of Area Agencies on Aging, appointed by the agency;
6. the executive director of the Connecticut Alzheimer's Association or his designee;
7. a member of the Adult Day Care Association, appointed by the association;
8. the president of the Connecticut Chapter of the American College of Health Care Administrators or his designee;
9. the president of the Connecticut Council for Persons with Disabilities or his designee; and
10. the president of the Connecticut Association of Community Action Agencies or his designee.

PA 00-147—sHB 5180
Public Health Committee

AN ACT CONCERNING THE ISSUANCE OF EMERGENCY CERTIFICATES FOR EXAMINATION OF PERSONS BELIEVED TO HAVE A PSYCHIATRIC DISABILITY BY CLINICAL SOCIAL WORKERS AND ADVANCED PRACTICE REGISTERED NURSES UNDER CERTAIN PROGRAMS OF THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

SUMMARY: This act permits certain licensed clinical social workers (LCSWs) and advanced practice registered nurses (APRNs) to issue emergency certificates authorizing people with mental illness to be taken to a general hospital for examination. To do this, they must reasonably believe, based on direct evaluation, that the person (1) has a psychiatric disability, (2) is dangerous to himself or others or gravely disabled, and (3) needs immediate care and treatment. The person must be examined within 24 hours and released within 72 hours unless he is committed to a psychiatric facility. Existing law permits police officers and psychologists to issue emergency certificates authorizing such exams under these conditions.

The act applies to LCSWs and APRNs who, as members of mobile crisis teams, jail diversion programs, or assertive case management programs operated by, or under contract with, the Department of Mental Health and Addiction Services (DMHAS), have received at least eight hours of specialized training in conducting the kind of direct evaluations the act prescribes.

It requires the DHMAS commissioner to collect statistical and demographic data on emergency certificates issued by LCSWs and APRNs.
EFFECTIVE DATE: October 1, 2000

PA 00-151—sHB 5287
Public Health Committee
Appropriations Committee
Public Safety Committee
Planning and Development Committee
Legislative Management Committee

AN ACT CONCERNING EMERGENCY MEDICAL SERVICES DATA COLLECTION AND EMERGENCY MEDICAL DISPATCH

SUMMARY: This act makes a number of changes in the state's emergency medical services (EMS) system including:
1. requiring the Department of Public Health (DPH) to collect specific EMS data from licensed and certified ambulance services and other EMS-related entities on a quarterly basis and prepare an annual report based on this data;
2. allowing DPH to impose penalties on those not submitting the required data;
3. requiring each public safety answering point (PSAP) to submit information quarterly to the Office of State-Wide Emergency Telecommunications on EMS calls received and requiring the office to provide DPH with this information annually;
4. requiring each PSAP, by July 1, 2004, to provide emergency medical dispatch (EMD) or arrange for it to be provided by a public or private safety agency or regional telecommunications center, for 9-1-1 calls the PSAP receives that require emergency medical services;
5. requiring the office to provide or approve an EMD training course and to assist PSAPs or centers with EMD training;
6. providing funding, through the enhanced emergency 9-1-1 program funding mechanism, for the DPH data collection activities and certain EMD costs;
7. requiring DPH to develop outcome measures for the EMS system;
8. requiring each municipality to establish a local EMS plan and requiring the Office of Emergency Medical Services to develop model local EMS plans;
9. allowing any municipality to petition the DPH commissioner to remove a primary service responder not meeting certain

performance standards;
10. requiring DPH to develop a plan for a pilot program for assigning primary service;
11. requiring DPH to adopt regulations addressing procedures and conditions for filing rate increase requests; and
12. requiring DPH to study an expedited approval or waiver process for additional EMS vehicles and locations.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2000

DATA COLLECTION SYSTEM

By law, the DPH commissioner must develop a data collection system that follows a patient from initial entry into the EMS system through discharge from the emergency room. The act, instead, directs DPH to develop the EMS data collection system by October 1, 2001, and follow the patient from initial EMS entry through emergency room arrival. The act requires DPH to collect the following on a quarterly basis from each licensed or certified ambulance service providing EMS:

1. the total number of calls for EMS service received during the reporting period;
2. the level of EMS required for each call;
3. the response time for each ambulance service given during that period;
4. the number of passed, cancelled, and mutual aid calls during that period (a "mutual aid call" is a call for EMS that, according to a written agreement, a secondary or alternate EMS provider responds to because the primary or designated provider cannot because it is responding to another call or the vehicle is out of service); and
5. the prehospital data for the unscheduled transport of patients for that period.

This information can be submitted in any DPH-approved written or electronic form the service chooses. DPH must consider the services' needs in approving the form. DPH can audit the service as necessary to verify the reported information's accuracy.

Beginning October 1, 2006, DPH must also collect this information from each licensed or certified EMS person or organization. That information must be included in DPH's annual report (see next section) beginning October 1, 2006.

DPH Report

The act directs DPH to prepare a report for the year that includes:

1. the total number of calls for EMS received during the reporting year by each licensed or certified ambulance service;
2. the level of EMS required for each call;
3. the name of the provider of each level of EMS given during the reporting year;
4. the response time (in time ranges or fractile response times) for each provider, using a common definition of response time; and
5. the number of passed, cancelled, and mutual aid calls.

This report must categorize the information for each town in which the EMS was provided, grouped according to urban, suburban, and rural categories. Annually, beginning by March 31, 2002, DPH must submit this report to the Public Health Committee, make it publicly available, and post it on the Internet.

Penalties

Under the act, the commissioner can impose certain penalties on a licensed or certified ambulance service that fails to submit the required information. DPH must issue a written order directing the service to comply with the reporting requirement if (1) the service does not submit information for six consecutive months or (2) if DPH believes the service knowingly or intentionally submitted incomplete or false information.

If the service does not fully comply with the order within three months from its issuance, DPH (1) must hold a hearing at which the service must show cause why its primary service area assignment should not be revoked and (2) can take a variety of disciplinary actions against the service (*e.g.*, license revocation or suspension, censure, letter of reprimand, probation, civil penalties) as it deems appropriate. Licensed or certified persons or EMS organizations required to provide the information are also subject to these penalties beginning October 1, 2006.

PSAP REPORTING

Beginning January 1, 2001, the act requires each PSAP to submit quarterly reports to the Office of State-Wide Emergency Telecommunications of the EMS calls it received. A "PSAP" is a facility operated 24 hours a day to receive 9-1-1 calls and, as appropriate, directly dispatch emergency response services or transfer or relay emergency 9-1-1 calls to other public safety agencies.

The report must include (1) the number of 9-1-1 calls during the quarter involving a medical emergency and (2) for each call, the elapsed times between when the call (a) was received and answered, and (b) was answered and emergency

response services were dispatched or the call was transferred or relayed to another public or private safety agency (this must be reported in time ranges or fractile response times). The information can be submitted in any written or electronic form chosen by the PSAP and approved by the public safety commissioner. He must consider the PSAP's needs in approving the method. Quarterly, the office must give this information to DPH, make it available to the public, and post it on the Internet.

EMERGENCY MEDICAL DISPATCH

Under the act, by July 1, 2004, each PSAP must itself provide or arrange for emergency medical dispatch (EMD) to be provided by a public or private safety agency or a regional emergency telecommunications center for all 9-1-1 calls received by the PSAP that require EMS. "Emergency medical dispatch" means the management of requests for emergency medical assistance using a system of (1) tiered response or priority dispatching of emergency medical resources based on the level of assistance needed and (2) prearrival first aid or other medical instructions given by trained personnel who are responsible for receiving 9-1-1 calls and directly dispatching emergency response services. Any PSAP arranging for EMD from a public or private agency or regional center must file with the emergency telecommunications office documentation demonstrating that the agency or center satisfies the act's requirements.

An EMD program must include:

1. medical interrogation, dispatch prioritization, and prearrival instructions for 9-1-1 calls requiring EMS that are provided only by personnel who have satisfactorily completed an EMD training course the office offers or approves;
2. a medically approved EMD priority reference system;
3. EMD continuing education;
4. a mechanism to detect and correct discrepancies between established EMD protocols and actual practice; and
5. a quality assurance component, prepared with the assistance of an emergency medicine physician, to monitor EMD time intervals, use of EMD program components, and appropriateness of EMD instructions and protocols. (There must be an ongoing review of the EMD program's effectiveness.)

EMD Training

By July 1, 2001, the act requires the office either to provide or approve an EMD training course and a continuing education course that meets requirements of the U.S. Department of Transportation, National Highway Traffic Safety Administration, EMD: National Standard Curriculum.

The act requires the office to provide each PSAP or regional center doing EMD with initial training of EMD personnel and an EMD priority reference card set.

FUNDING FOR ENHANCED EMERGENCY 9-1-1

Existing law requires the public safety commissioner to determine and specify the funding needed for development and administration of various components of the enhanced Emergency 9-1-1 (E 9-1-1) program. This includes (1) purchasing and maintaining new PSAP terminal equipment, (2) subsidizing regional public safety emergency centers, (3) establishing a transition grant program to encourage regionalization of public safety communication, (4) establishing a regional emergency telecommunications service credit to support regional dispatch services, (5) necessary personnel training, (6) recurring expenses and future capital costs of the telecommunications network used to provide E 9-1-1 services, and (7) administrative expenses of the office.

To pay for the expenses of the E 9-1-1 program, the Department of Public Utility Control (DPUC) establishes a monthly assessment on each local telephone and commercial mobile radio service subscriber as defined by federal law.

This act adds, for FY 2000-01 and afterwards, the expenses of developing the EMS data collection system and reporting by DPH to the items that determine the amount of funding the E 9-1-1 system needs. It specifies that the expenses for the data collection and reporting activities cannot exceed $250,000 in any fiscal year. It specifies that, for FY 2000-01 and afterwards, the regional emergency telecommunication service credit for coordinated EMS must be based on a factor of 15 cents per capita and cannot be reduced each year.

The act also adds, beginning in FY 2000-01, the reimbursement for initial training of EMD personnel, an EMD reference card set, and EMD training and continuing education.

EMS RATE INCREASES

By law, DPH must establish EMS rates and adopt regulations that establish rate-setting methods. The act requires the regulations to specify that, beginning July 1, 2000, (1) rate increase requests can

be filed only once a year; (2) only licensed and certified ambulance services that file for a rate increase and do not accept the maximum allowable rates contained in any voluntary statewide rate schedule established by the commissioner for the rate application year must file detailed financial information; (3) licensed and certified ambulance services that do not apply for an increase in a given year or accept the maximum allowable rates in the voluntary rate schedule must file, by July 15, (a) an audited financial statement or an accountant's review report for the most recently completed fiscal year including total revenue and total expenses, (b) a statement of call volume, and (c) if the service is not applying for an increase, a written declaration that it will not change its current maximum rates during the rate year; and (4) detailed financial and operational information filed by licensed and certified ambulance services seeking a rate increase must cover the time period since their last request.

OUTCOME MEASURES

The act requires the DPH commissioner to research, develop, and track appropriate, quantifiable outcome measures for the state's EMS system. By July 1, 2002 and annually afterwards, he must report to the Public Health Committee on his progress and, after the measures are implemented, on the outcomes.

LOCAL EMERGENCY SERVICES PLANS

The act requires each municipality to establish a local EMS plan by July 1, 2002. It must include written agreements or contracts between the town, its EMS providers, and the PSAP covering the municipality. The plan must also include (1) identification of levels of EMS including (a) the responsible PSAP, (b) the EMS provider notified initially, (c) basic ambulance service, (d) advance life support level, and (e) mutual aid call agreements; (2) the person or entity responsible for each EMS level identified in the plan; (3) performance standards for each part of the town's EMS system; and (4) any subcontracts, written agreements, or mutual aid call agreements that EMS providers have with other entities.

In developing the plans, municipalities can get help from their regional EMS council and coordinator, regional EMS medical advisory committees, and any sponsor hospital located in the plan area. The plan must be given to the regional EMS council for review and comment.

Model Local EMS Plans

By July 1, 2001, the act requires the Office of Emergency Medical Services (OEMS), with the advice of the EMS Advisory Board and the regional EMS councils, to develop model local EMS plans and performance agreements to aid municipalities in developing such plans. OEMS must consider (1) the difference in delivering EMS in urban, suburban, and rural settings; (2) the statewide plan for coordinated delivery of EMS; and (3) guidelines, standards, and contracts or written agreements used by towns with similar populations and characteristics.

PRIMARY SERVICE AREA RESPONDERS

The act allows any town to ask the DPH commissioner to remove a responder. A "responder" is any primary service area responder (1) notified for initial response, (2) responsible for basic life support, or (3) responsible for intensive and complex prehospital care above basic life support that is consistent with acceptable emergency medical practices under the control of physician and hospital protocols. A "primary service area responder" is the EMS provider designated to respond in a primary service area. A "primary service area" is a specific municipality or part of one to which one designated EMS provider is assigned for each category of emergency medical response services.

The act requires the DPH commissioner to establish primary service areas and assign in writing a primary service area responder for each primary service area. He can revoke a primary service area assignment in the best interests of patient care.

Responder Removal

A municipality can petition the commissioner for a responder's removal (1) at any time based on an allegation that an emergency exists and the safety, health, and welfare of the primary service area's citizens are jeopardized by the responder's performance or (2) not more than once every three years on the basis of unsatisfactory responder performance under the local EMS plan established by the town and associated agreements or contracts. A hearing on a petition is a contested case under the Uniform Administrative Procedure Act (UAPA).

After a hearing, the commissioner can (1) revoke the responder's primary service area assignment and require the affected town's chief administrative official to submit a plan acceptable to the commissioner for alternative primary service responder responsibilities, (2) issue an order for

alternative EMS provision, or (3) do both. To take any of these actions, he must find that (1) an emergency exists and the responder's performance jeopardizes the health and safety of those in the affected area, (2) the responder's performance is unsatisfactory based on the local EMS plan, or (3) it is in the best interests of patient care.

Performance Standards

A municipality can ask the commissioner to hold a hearing if it cannot reach a written agreement with its responder on performance standards. The hearing must be held within 90 days after receiving the petition. This hearing is not a contested case under the UAPA.

In the hearing, the commissioner must determine if the performance standards in the town's local EMS plan are reasonable, based on the statewide plan for the coordinated delivery of EMS, model local EMS plans, and the standards and agreements used by similar municipalities.

If the commissioner determines, after the hearing, that the performance standards in the local EMS plan are reasonable, the responder has 30 days to agree to them. If the responder fails or refuses to agree to the standards, the commissioner can (1) revoke the responder's primary service area assignment and require the town's chief administrative official to submit an acceptable plan for alternative primary area responder responsibilities, (2) issue an order for alternative EMS provision, or (3) do both.

If the commissioner determines, after the hearing, that the adopted standards are unreasonable, he must provide reasonable performance standards based on the statewide plan for coordinated EMS delivery, model EMS plans, and the standards and agreements used by similar towns. If the town refuses to agree to such performance standards, the responder must meet the minimum performance standards in state regulations.

By law, DPH must adopt regulations on licensure and certification of EMS organizations' operations, facilities, and equipment. Under the act, these regulations must require that, as an express condition of purchasing any business that holds a primary service area, the purchaser must agree to abide by any performance standards to which the business was obligated according to an agreement with the municipality.

PRIMARY SERVICE AREA ASSIGNMENT PILOT PROGRAM

By February 1, 2001, the DPH commissioner must provide the Public Health Committee with a plan for implementing a pilot program in one or two towns that examines the effect of assigning primary service areas to select EMS providers based on periodic requests for proposals (RFPs) with a right of first refusal to the provider holding the primary service area when the RFP is issued.

DPH's plan must address (1) procedures for selecting the towns for the pilot, (2) design and measurement of standards, (3) assessment factors, (4) who will evaluate the program, and (5) the period for program completion and reporting. The commissioner must hold a public hearing before he submits the plan.

The Public Health Committee must meet to consider the plan within 60 days of its submittal. If it rejects the plan, the commissioner must submit a revised plan within 90 days. The pilot program must begin on October 1, 2005, unless otherwise modified or rejected by the committee.

The pilot program must at least establish:

1. an appropriate time frame before the municipality's current EMS contract expires for it to initially issue RFPs and select an EMS provider under the pilot program (but a participating municipality could select or renew a contract with its current EMS provider);
2. an appropriate time period from the date of initial selection after which the municipality can solicit RFPs from alternative EMS providers (sufficient to allow the initial provider to recoup any investment made to provide EMS in the town, but not more than eight years);
3. criteria for selecting and approving an alternative EMS provider that submits a bona fide proposal including (a) a right of first refusal for the provider in place when the RFP was issued, (b) a requirement for approval by the municipality's legislative body by a greater than majority vote, and (c) approval of the alternative provider by the commissioner as appropriate to protect public health and safety; and
4. requirements for reporting the pilot program's status and results to the Public Health Committee as well as the commissioner's recommendations for continuing or expanding the program.

The act specifies that it should not be construed to authorize terminating any contract in effect when the pilot program begins or otherwise interfere with any contractual rights or duties.

ADDITIONAL EMS VEHICLES AND LOCATIONS

The act requires DPH to study and make recommendations on implementing an expedited approval or reporting process or a waiver of any required approval to operate additional ambulances, invalid coaches, nontransport emergency vehicles, and branch locations by licensed or certified people or EMS organizations. Such operations must not be a new service offered by the person or organization and cannot result in a rate change.

DPH must report on the study to the Public Health Committee by December 31, 2000.

BACKGROUND

Related Act

PA 00-135 requires the Public Health Committee to approve DPH's plan to implement a pilot program concerning primary service area assignment or amend and approve it by February 1, 2002.

PA 00-205—SB 172
Public Health Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE COMPOSITION OF MEDICAL HEARING PANELS AND THE PRESCRIPTIVE AUTHORITY OF PHYSICIAN ASSISTANTS

SUMMARY: Under prior law, the public health commissioner had to establish a list of 16 individuals to serve as members of medical hearing panels in conjunction with the state Medical Examining Board. This act increases the number to 18 by (1) requiring that one of the panel members be a licensed physician assistant and (2) increasing public members from eight to nine. The remaining eight members must be licensed physicians in the state, at least one of whom must be a graduate of an American Osteopathic Association-accredited medical education program.

The act also expands the prescriptive authority of physician assistants.

EFFECTIVE DATE: October 1, 2000

PRESCRIPTIVE AUTHORITY OF PHYSICIAN ASSISTANTS

By law, physician assistants can prescribe Schedule II through V controlled substances, but prescribing Schedules II and III is limited to short-term hospital settings. The act expands the prescriptive authority of physician assistants by allowing them to (1) prescribe Schedule IV and V controlled substances in all settings; (2) renew prescriptions for Schedule II and III controlled substances in outpatient settings; and (3) prescribe Schedule II and III to an inpatient in a short-term hospital, chronic disease hospital, emergency room satellite of a general hospital, or a chronic and convalescent nursing home after a physician's admission evaluation.

As under existing law, the physician assistant's supervising physician must cosign the prescription order for a Schedule II or III controlled substance within 24 hours.

BACKGROUND

Controlled Substances

Controlled substances are grouped in Schedules I through V according to their decreasing tendency to promote abuse or dependency.

PA 00-226—sHB 5794
Public Health Committee
Appropriations Committee
Judiciary Committee
Finance, Revenue and Bonding Committee
Education Committee

AN ACT CONCERNING ATHLETIC TRAINERS AND PHYSICAL THERAPIST ASSISTANTS

SUMMARY: This act requires the Department of Public Health (DPH) to license athletic trainers and physical therapy assistants (PTAs). Previously, athletic trainers certified by the National Athletic Trainer Association, Inc. (NATA) could practice in Connecticut, while physical therapy assistants had to register with the department.

Under the act, licensed athletic trainers can work only with people who belong to sports teams or who participate in sports or recreation activities at least three times a week and then only to treat injuries they sustain in those activities. Prior law allowed them to treat anyone with an athletic injury. The act establishes two classes of trainers, those who practice under a physician's standing orders and those who do not. The former can treat injured athletes for up to four days and then, if the symptoms do not improve, must refer them to a health care provider. The latter can perform initial evaluations and provide temporary help but must otherwise immediately refer an injured athlete to a physician.

The act establishes educational requirements for each license, allows certain people to be licensed without examination, and permits others to practice without a license. It sets the fee for an initial athletic trainer license at $150 and renewals at $100. A PTA must pay $150 to take the licensing exam or to obtain a license without an exam and must pay a $30 annual professional services fee. The act subjects both licenses to the same disciplinary actions that can be imposed on other licensed health care providers.
EFFECTIVE DATE: October 1, 2000 or when the public health commissioner publishes notice in the *Connecticut Law Journal* that he is implementing the act's licensing provisions, whichever is later.

ATHLETIC TRAINERS

Scope of Practice

The act limits athletic trainers to working only with athletes who suffer injuries while exercising or participating in sports or recreational activities. It defines an "athlete" as someone who participates at least three times a week in sports or recreational activities, including training and practice, or is a member of a sports team. Prior law permitted trainers to evaluate and treat athletic injuries and apply methods and procedures for athletes' preconditioning, conditioning, and reconditioning, but it did not explicitly define either "athletic injury" or "athlete."

The act requires an athletic trainer practicing under standing orders from a licensed physician, podiatrist, naturopath, or chiropractor to make a written or oral referral to such a provider if an athlete's symptoms do not improve within four days. As under prior law, trainers must also refer when (1) athletic training methods are contraindicated for an athlete's physical or medical condition or (2) an athlete's condition requires evaluation and treatment beyond the scope of athletic training. The act also requires referrals for suspected medical emergencies or illnesses, physical or mental illness, and significant tissue or neurological pathologies.

Athletic trainers who are not practicing under a licensed provider's standing orders may only perform initial evaluations or temporarily splint or brace an injured athlete. They must refer injured athletes to a provider without delay. But they can perform any kind of care authorized in their scope of practice for an athlete a licensed provider refers to them.

The act defines "standing orders" as a health care provider's written and signed protocols, recommendations, and guidelines for treatment and care in athletic training practices. They may include appropriate treatments for specific athletic injuries, injuries and conditions that require immediate referral, and appropriate conditions for immediate referral by various age groups.

The act permits trainers to work under the direction and with the consent of a physician, physician assistant, chiropractor, podiatrist, or naturopath. Under prior law, they worked on referral from, or under the general direction of, these practitioners and osteopaths.

The act adds organizing and administering athletic training programs to trainers' scope of practice. As under prior law, trainers can evaluate and treat athletic injuries; apply appropriate preventive and supportive devices; and educate athletes, parents, coaches, and medical personnel about preventing and caring for athletic injuries. The act requires them to conduct their educational work and to organize athletic training programs under the direction of one of the licensed providers noted above.

License Requirements

The act prohibits people without a DPH license from using the title "licensed athletic trainer" or implying that they are licensed to practice. It sets the initial license fee at $150 and requires annual renewal during their birth month costing $100. Previously, trainers certified by NATA and those without certification who had practiced for at least 15 years before October 1975 could perform athletic training.

To obtain a license under the act, an applicant must have:

1. a BA from a regionally accredited U.S. college or university or a legally chartered foreign college or university;
2. successfully completed a course of study that was, when completed, accredited by NATA, the Committee on Allied Health Education and Accreditation, or the Commission on Accreditation of Allied Health Education Programs; or
3. instead of the above course, successfully completed a minimum two-year, 1,500 hour training program under the supervision of a trainer certified by the NATA Board of Certification, Inc. that included at least 1,000 hours working in scholastic, college, or professional sports and at least three semester credits of formal education in each of nine specified areas; and
4. passed a national certification exam sponsored by NATA or the NATA Board of Certification, Inc.

Applicants practicing in other states can obtain a license without meeting the above requirements if

they show DPH that the state in which they are licensed, certified, or otherwise entitled to practice has requirements at least equivalent to Connecticut's and they are not facing any disciplinary action or unresolved complaints. Applicants practicing here can obtain a license without meeting the act's requirements if, before January 1, 2001, they show DPH that they are certified by the NATA Board of Certification, Inc. or that they have practiced continually since October 1, 1979.

License Exemptions

An athletic training license is not needed by:

1. a state-licensed or –certified practitioner performing within his practice scope,
2. a student intern or trainee in an athletic training program who is identified as such and being supervised by a licensed trainer,
3. a paid or volunteer amateur athletics coach providing first aid to one of his athletes,
4. a person helping in an emergency, and
5. a trainer licensed in another state or certified by the NATA Board of Certification, Inc. who works in Connecticut for less than 30 days a year.

Under prior law, students enrolled in an accredited college's athletic training program and interns working toward NATA certification under a certified trainer's supervision could perform without a certificate.

Disciplinary Actions

The act subjects licensed athletic trainers to the same disciplinary actions DPH can currently take against a certified trainer or other licensed health professionals. These include:

1. suspending or revoking a license,
2. issuing a letter of reprimand to or censuring a person,
3. placing a practitioner on probation,
4. assessing a civil penalty of up to $10,000, or
5. taking summary action against a license if the practitioner is found guilty of a state or federal felony or subject to disciplinary action in another jurisdiction.

Regulations

The act allows DPH to adopt regulations governing athletic trainer licensing and scope of practice. It requires DPH to administer athletic trainer licensure within available appropriations.

PHYSICAL THERAPY ASSISTANTS

Scope of Practice

The act requires PTAs, like physical therapists, to work on referral from a physician, physician assistant, podiatrist, naturopath, chiropractor, dentist, or advanced practice registered nurse licensed in Connecticut or a bordering state whose licensing requirements meet Connecticut licensing board approval. As under prior law, they must work under the supervision of a licensed physical therapist. The act retains the existing definition of physical therapy assistance. This specifically excludes interpreting referrals, evaluating or assessing a patient initially or when discharged, or determining or modifying a discharge plan.

License Requirements

Under prior law, PTAs had to register with DPH and pay a $25 fee before they could practice. Registrants must have (1) graduated from a PTA program approved, with the commissioner's consent, by the state Physical Therapy Examiners Board; (2) graduated from a U.S. therapy assistant school approved by the board; or (3) been employed as PTAs for 20 years before October 1, 1989.

The act prohibits people from practicing or calling themselves a registered, licensed, or other PTA (or using initials to that effect) without a DPH license. It requires DPH to administer this licensing program within available appropriations. To obtain a license, a person must:

1. have graduated from a physical therapy or PTA program accredited by the Commission on Accreditation in Physical Therapy or
2. have graduated from a foreign physical therapy school that has graduation requirements at least equal to those required for graduates of U.S. physical therapy schools as shown by satisfactory documentation the candidate furnishes to DPH, and
3. pass a DPH test.

DPH develops the test, sets the passing score with the consent of the physical therapy examining board, and determines how it will be administered. It must give candidates at least two weeks notice before the test. Test applicants must pay $150. Licensed PTAs must pay the state treasurer an annual $30 professional services fee and, annually during their birth month, register with DPH. They must provide their full name, residence and business addresses, and any other information the department requests.

As under prior law, PTA students in an approved school can work as required by their programs without a license. And licensing test applicants who have graduated from an approved U.S. PTA school or an approved physical therapy school can work under the direct and immediate supervision of a licensed physical therapist between the time they apply and when the test results are published. If they fail the test, they lose this privilege, but they can reapply and pay to retake the test.

Licensing Without an Examination

The act permits a person to obtain a license without an exam if he:

1. is licensed or registered as a PTA in another state or country whose requirements are at least equal to Connecticut's when he applies here;
2. was eligible to be registered as a PTA before October 1, 2000; or
3. as of July 1, 2000, had graduated from a board-approved U.S. physical therapy school or had worked as a PTA for 20 years before October 1, 1989; and
4. pays a $150 fee.

Disciplinary Actions

The act subjects to a fine of up to $500, five years in prison, or both anyone who (1) uses willful or fraudulent misrepresentation to obtain a PTA license, (2) works without a license, or (3) works without a referral. In the latter two situations, each instance of patient contact is a separate violation. DPH can revoke a PTA's license for violations. Under prior law, it could impose a civil penalty of up to $100 on a person who performed PTA activities without registering.

The act authorizes the Physical Therapy Examiner's Board to suspend or revoke a PTA's license, after notice and a hearing, for:

1. conviction in any court of a crime involving his practice;
2. aiding or abetting the unlawful practice of physical therapy;
3. illegal, incompetent, or negligent practice;
4. treating people without a proper referral;
5. fraud or deception in obtaining a license;
6. fraud or material deception in providing professional services or activities; or
7. violating any provisions of physical therapy law or regulation.

PA 00-32—HB 5727
Public Safety Committee
Government Administration and Elections Committee

AN ACT ESTABLISHING AN EMERGENCY MANAGEMENT ASSISTANCE COMPACT

SUMMARY: This act enacts and commits Connecticut to the terms of the Emergency Management Assistance Compact (EMAC), which requires member states (called party states) to provide mutual aid to manage emergencies and disasters declared by the governor of any of the party states. It repeals the narrower Interstate Civil Defense and Disaster Compact, which generally committed parties to provide mutual aid for military and biological disasters.

The compact provides a legal framework for states to request and provide interstate assistance. States agree to standard operating procedures for such requests and assistance. States that get assistance are legally responsible for reimbursing states that provide it and barring lawsuits against out-of-state personnel who acted in good faith.

Connecticut's emergency management director is the state's compact representative and must formulate interstate mutual aid plans and procedures necessary to implement the compact.

The state may withdraw from the compact by repealing this act.
EFFECTIVE DATE: October 1, 2000

PURPOSE OF THE COMPACT

The compact's purpose is to provide a mechanism for party states to (1) help each other manage emergencies and disasters declared by the governor of any party state and (2) participate in emergency-related exercises, testing, or other training or activities when no emergency exists. The compact covers natural and man-made disasters, technological hazards, civil emergencies arising from a shortage of resources, community disorders, insurgencies, or enemy attacks. It is open to all the states, the District of Columbia, Puerto Rico, and all U.S. territorial possessions.

STATE RESPONSIBILITIES

Connecticut's emergency management director is the state's compact representative. He must perform the duties the compact requires. Designated emergency management officials in other party states serve as their representatives.

Each state must formulate procedural plans and programs for cooperating with member states and performing compact responsibilities. In doing so, the state, so far as practical, must:

1. review state hazards analyses and, to the extent reasonably possible, determine potential emergencies party states might jointly suffer;
2. review member states' emergency plans and develop an interstate mechanism for managing and providing interstate emergency assistance;
3. develop interstate procedures to fill identified gaps and resolve identified inconsistencies or overlaps in existing or new plans;
4. help to warn communities adjacent to or crossing state boundaries;
5. protect and ensure uninterrupted delivery of services; medicine; food and water; energy and fuel; and search and rescue, and critical lifeline equipment, services, and resources;
6. make an inventory and set procedures for interstate loans and delivery of resources, with procedures for reimbursement or debt forgiveness; and
7. provide, to the extent authorized by law, for temporarily suspending any statutes.

Emergency management officials and appropriate representatives from affected party states must consult frequently with the U.S. government, freely exchanging information about plans and resources relating to emergency capabilities.

AID REQUESTS

The emergency management director can request help from another state's authorized representative verbally or in writing. Compact provisions apply only to requests made by and to authorized representatives. Verbal requests must be confirmed in writing within 30 days. Requests must state the (1) emergency services required, such as fire, law enforcement, and emergency medical services; (2) amount and type of resources needed and for how long; and (3) specific place and time for the assisting party to respond and a point of contact at that location.

DEPLOYMENT AND CONTROL OF EMERGENCY PERSONNEL

Any state asked to provide mutual aid or conduct mutual aid training and exercises must take necessary action to make resources covered by the compact available. But it may withhold resources it needs to reasonably protect itself.

The state can use National Guard forces when providing aid under the compact in accordance with the National Guard Mutual Assistance Compact or by agreement between states. But the Guard cannot use military force outside its home state in any emergency in which the president can federalize the Guard or for which use of the Army or Air Force would, in the absence of express statutory authorization, be prohibited under federal law.

Emergency forces are under the command and control of their regular leaders, but the emergency services authorities of the state receiving assistance control their organizational units. These conditions may be activated, as needed, only when the governor declares a state of emergency or disaster or when exercises or training for mutual aid begin. They must continue for the duration of the disaster or emergency or as long as other states' loaned resources remain in the states receiving aid, whichever is longer.

LIABILITIES

Member states must give responding states' emergency personnel operating pursuant to the compact the same duties, rights, and privileges available to their own emergency services personnel. But such personnel cannot arrest anyone unless the receiving state specifically authorizes it.

Responding personnel are considered agents of the requesting state for tort liability and immunity purposes. They cannot be held legally responsible for acts or activities that occurred or were omitted in good faith while performing pursuant to the compact. But they are not protected against lawsuits involving claims of willful misconduct, gross negligence, or recklessness.

COMPENSATION

Connecticut is responsible for paying any compensation and death benefits it would normally offer to personnel injured or killed while responding in another compact state. Other party states must do the same for their emergency personnel injured or killed here.

RECIPROCITY

People licensed, permitted, or certified in responding states are qualified to render emergency aid in their areas of expertise in member states requesting assistance. But requesting state governors may set limitations and conditions on such people.

SUPPLEMENTARY AGREEMENTS

Member states can enter supplementary agreements with each other or maintain existing ones. Such agreements may address provisions to evacuate and receive injured people and exchange emergency and other related personnel, equipment, and supplies.

REIMBURSEMENT

States that get aid must reimburse responding states for losses, damages, or expenses incurred in providing service or using equipment. Responding states may choose to assume all costs, provide free services, or loan equipment. States may enter supplementary agreements for different cost allocations except for compensation and death benefits.

EVACUATION PLANS

Party states and emergency management directors must develop and maintain emergency evacuation plans for civilians where incidents requiring evacuations might occur. The evacuees' state must enact the plan and include the method of transporting evacuees. The plan must include, among other things, the number of evacuees and provisions to register, house, feed, and clothe them and notify their relatives. It must provide for reimbursing out-of-pocket expenses a state incurs to receive and care for evacuees, and other expenditures. Such expenditures must be reimbursed as agreed by the evacuees' home state. When the emergency or disaster ends, the evacuees' home state must assume responsibility for supporting and repatriating the evacuees.

RECORDS

States must deposit duly authenticated copies of the compact and any supplementary agreements, when approved, with the Federal Emergency Management Agency and other appropriate federal agencies.

CONSTRUCTION AND SEVERABILITY

The compact must be liberally construed to achieve its purposes. If any provision is found unconstitutional or inapplicable to any person or circumstances, the rest remain in effect.

WITHDRAWAL

A state may withdraw from the compact by repealing its enacting statute. Withdrawal is effective 30 days after the governor sends written notice to the governors of the other party states. Withdrawal does not affect obligations the state assumed before withdrawing.

PA 00-51—HB 5725
Public Safety Committee

AN ACT CONCERNING THE CONNECTICUT POLICE CORPS PROGRAM

SUMMARY: This act allows the Police Officer Standards and Training Council to (1) recruit, select, and appoint probationary candidates and (2) provide recruit training for Connecticut Police Corps Program participants in accordance with the federal Police Corps Act.
EFFECTIVE DATE: Upon passage

BACKGROUND

Probationary Candidates

A probationary candidate is a police officer who has satisfied pre-employment requirements and works as a law enforcement officer, but has not completed basic training.

Police Corps Program

This federally funded program recruits people pursuing or about to pursue four-year college degrees to join the police force. It gives them up to $30,000 in the form of scholarships or reimbursements for educational expenses. In return, they must agree to serve as police officers for at least four years immediately after graduating. In addition to the college degree, participants must complete a 16- to 24-week police corps training program and any required department training.

Participants that fail to satisfy the education, training, and service requirements must repay the money plus 10% interest. They can substitute community service if their failure is a result of physical or emotional disabilities or other good cause.

Police departments that hire police corps officers get $10,000 per officer per year for the four years of service.

Eligible Towns

The Office of Policy and Management (OPM) administers the program in Connecticut. Under OPM's requirements, Connecticut towns can participate in the program if they get direct awards from the U.S. Department of Justice under the Local Law Enforcement Block Grant or participate in the Safe Neighborhood or Drug Enforcement programs. The following 29 towns are eligible:

Ansonia	Groton	New Britain	Torrington
Bloomfield	Hamden	New Haven	Vernon
Bridgeport	Hartford	New London	Waterbury
Bristol	Manchester	Norwalk	Waterford
Danbury	Meriden	Norwich	West Hartford
East Hartford	Middletown	Stamford	West Haven
Enfield	Milford	Stratford	Wethersfield
			Windham

PA 00-103—sSB 459
Public Safety Committee
Judiciary Committee
Transportation Committee

AN ACT CONCERNING THE ALTERATION, DEFACING OR REMOVAL OF VEHICLE IDENTIFICATION NUMBERS

SUMMARY: This act includes construction equipment, agricultural tractors, and farm implements within the meaning of the term "motor vehicle" for purposes of the criminal statutes governing (1) larceny; (2) possessing a motor vehicle or a major component part of a motor vehicle with a mutilated, altered, or removed vehicle identification, factory, or engine number; (3) altering, removing, obliterating, or defacing an identification number; and (4) operating an illegal motor vehicle "chop shop." For most purposes, these three types of equipment fall outside of the general definition of a motor vehicle because they are not normally operated on a highway and do not have to be registered as motor vehicles.

The act increases the criminal penalty for (1) willfully removing, changing, obliterating, or defacing a vehicle's factory, serial, or other identification number and (2) knowingly purchasing, selling, or possessing a vehicle or major component part with a mutilated, altered, or removed vehicle identification, factory, or engine number. The penalty increases from a fine of up to $500, imprisonment for up to one year, or both, to a fine of up to $2,500, imprisonment for up to three years, or both, for a first offense and a fine of up to $5,000, imprisonment for up to five years, or both, for a

second or subsequent offense.

With respect to the larceny statutes, the act also makes possessing a motor vehicle with an altered, mutilated, or removed vehicle identification number prima facie evidence that the person in control or possession of the vehicle knows or should have known that the vehicle was stolen. Prior law stated only that it was prima facie evidence of "larcenous intent." (Prima facie evidence is evidence that is sufficient to support but not compel a conclusion.)
EFFECTIVE DATE: October 1, 2000

PA 00-131—SB 558
Public Safety Committee
Appropriations Committee

AN ACT CONCERNING THE SOLDIERS, SAILORS AND MARINES' FUND AND GRANTING VETERANS OF SERVICE IN SOUTH KOREA, SOMALIA AND BOSNIA WARTIME VETERAN STATUS

SUMMARY: This act adds to the definition of "wartime service" active duty for service in (1) South Korea's demilitarized zone after February 1, 1955; (2) Somalia after December 2, 1992; and (3) Bosnia after December 20, 1995. By law, wartime veterans, and in some cases their spouses and children, are eligible for a range of benefits unavailable to other veterans.

The act also extends benefits from the Soldiers, Sailors and Marines' Fund to veterans of more wars by adopting the general definition of "wartime service" used to determine eligibility for wartime service benefits. It makes the law conform to practice by requiring that eligible veterans have at least 90 days of service, unless they were separated earlier by a service-connected disability or the war or conflict ended sooner.
EFFECTIVE DATE: October 1, 2000

SOLDIERS, SAILORS AND MARINES' FUND

This fund provides benefits, such as food, clothing, medical and surgical aid, and general care and relief to veterans who served in any branch of the military in specified wars or conflicts and meet other criteria.

Veterans of these wars or operations now qualify for benefits.	***The act extends benefits to veterans of these wars or operations.***
Spanish-American War (*April 21, 1898 to July 4, 1902*)	Boxer Rebellion (*June 20, 1900 to May 12, 1901*)
Participation in the Moro Province (*up to July 15, 1903*)	
World War I (*April 6, 1917 to November 11, 1918*)	Cuban Pacification (*September 12, 1906 to April 1, 1909*)
World War II (*December 7, 1941 to December 31, 1946*)	Nicaraguan Campaign (*August 28, 1912 to November 2, 1913*)
Korean Hostilities (*June 27, 1950 to December 31, 1955*)	Haitian Campaign (*July 9, 1915 to December 6, 1915*)
Vietnam Era *(February 28, 1961 to July 1, 1975*)	Punitive expedition into Mexico (*March 10, 1916 to April 6, 1917*)
Operation Desert Shield and Operation Desert Storm (*August 2, 1990 to June 30, 1994*)	South Korea's demilitarized zone (*after February 1, 1955)*
	Lebanon Conflict (*July 1, 1958 to November 1, 1958*)
	Berlin Crisis (*August 14, 1961 to June 1, 1975*)
	Service in a combat support role during the peace-keeping mission in Lebanon (*September 29, 1982 to March 30, 1984*)
	Grenada Invasion (*October 25, 1983 to December 15, 1983*)
	Operation Earnest Will, involving the escort of Kuwaiti oil tankers flying the U.S. flag in the Persian Gulf (*February 1, to July 23, 1987*)
	Panama Invasion (*December 20, 1989 to January 31, 1990*)
	Somalia *(after December 2, 1992*)
	Bosnia (*after December 20, 1995*)

BACKGROUND

Wartime Service Benefits

Veterans who serve in time of war, and in some cases their spouses and children, are eligible for a range of benefits unavailable to other veterans. In order to meet the definition, war service must last at least 90 days unless the veteran was separated from the service sooner because of a Veterans' Administration-rated, service-connected disability or the military operation lasted fewer than 90 days and the veteran served for its duration. Some of the major benefits are listed below.

Property Tax Exemption. Wartime veterans who are state residents are eligible for a minimum $1,500 local property tax exemption. Exemptions increase for veterans with Veterans' Administration-rated disabilities. An exemption represents a reduction of the property's assessed value for tax purposes.

Education Benefits. The law waives tuition at the state's public colleges and universities for wartime veterans. The waiver applies to the community-technical colleges, Connecticut State University, and the University of Connecticut.

The law also provides state education aid, up to $400 per year, to children between ages 16 and 23 of veterans killed in action, who die in accidents or from illness while on active duty, or who are totally and permanently disabled. The child must attend an approved school.

Medical Treatment. Wartime veterans are eligible for admission to the Veterans' Home and Hospital. Wartime veterans with no adequate means of support are also eligible for admission to any other hospital at the state's expense. They must have been state residents when they enlisted or were inducted or have lived in the state continuously for at least two years.

Civil Service Examination Preference. The law gives wartime veterans bonus points on initial state civil service examinations. Wartime veterans receive five bonus points and disabled veterans get 10 bonus points as long as they meet the minimum competency scores. The same bonus awards apply to initial municipal civil service examinations.

Fee Exemption. Wartime veterans are eligible for an exemption from any local itinerant vendor's license fee, if they live in Connecticut for two years before applying.

Vehicle Registration Fee Exemptions. A disabled wartime veteran with certain service-connected disabilities qualifies for registration fee exemptions for up to three vehicles in the (1) passenger, (2) camper, or (3) combination passenger and commercial registration categories, whether the veteran owns or leases them. The veteran's license plate exempts him from overtime parking fines, provided he or someone operating the vehicle while accompanying him does not leave it at the same location for more than 24 hours. By law, the spouse may retain the registration plates for life or until remarriage.

Veterans' Cemetery. Wartime veterans are eligible for burial in the state veterans' cemetery. They must have enlisted from Connecticut or have been state residents for at least five years at the time of death.

Firing Squad. Any veteran with wartime service is entitled to a firing squad at his funeral. The commander of any accredited veterans' organization or the friends or relatives of the deceased veteran may make the request to the adjutant general, who is the head of the military department. The adjutant general must order a uniformed firing squad from the National Guard, the Naval Militia, the State Guard, or the organized militia to attend the funeral.

Temporary Financial Assistance. Wartime veterans who need help because of disability or other causes incident to service are eligible for temporary financial assistance from the veterans' affairs commissioner. The amount and duration of the assistance are at the commissioner's discretion.

Related Act

PA 00-120 makes minor and technical changes regarding the property tax, including property tax benefits for veterans.

PA 00-154—sSB 462
Public Safety Committee
Judiciary Committee
Government Administration and Elections Committee
Legislative Management Committee

AN ACT CONCERNING RACIAL DISPARITY IN THE CRIMINAL JUSTICE SYSTEM

SUMMARY: This act creates the 21-member Commission on Racial and Ethnic Disparity in the criminal justice system and establishes its duties. The commission, which the chief court administrator chairs, must meet as it deems necessary and:

1. develop and recommend policies to reduce the number of African-Americans and Latinos who are (a) in pretrial and sentenced correctional populations and (b) crime victims;
2. examine the impact of statutes and administrative policies on racial and ethnic disparity in the criminal justice system and recommend legislation to the governor and legislature to reduce it;
3. research and collect data on the impact of disparate treatment of African-Americans and Latinos in the criminal justice system;
4. develop and recommend a training program for personnel in criminal justice agencies on the impact of disparate treatment;
5. research criminal sentencing guidelines and recommend whether the legislature should create a commission to establish such guidelines for state courts;
6. examine the implementation of policies and procedures consistent with the American Bar Association's policies intended to ensure that death penalty cases are administered fairly, impartially, and in accordance with due process to (a) minimize the risk of executing innocent people and (b) eliminate discrimination in capital sentencing based on the victim's or defendant's race;
7. annually prepare and distribute a comprehensive plan to reduce racial and

ethnic disparity in the criminal justice system without affecting public safety;

8. develop and recommend policies and intervention strategies to reduce the number of African-Americans and Latinos in the juvenile justice system;
9. analyze the key stages in the juvenile justice system to determine if any stage disproportionately affects racial or ethnic minorities, including the decision to (a) arrest or place a juvenile in detention; (b) nonjudicially dispose of the case or file a delinquency petition; and (c) resolve the case by placement on probation, at a residential facility, or at Long Lane School or the Connecticut Juvenile Training School;
10. annually prepare and distribute a juvenile justice plan to reduce the number of African-Americans and Latinos in the juvenile justice system;
11. develop a curriculum to train employees in the juvenile justice system on cultural competency issues and strategies to address disproportionate minority confinement;
12. annually report to the governor and the legislature on (a) the number of African-Americans and Latinos in the pretrial and sentenced population of correctional facilities and progress in reducing those numbers; (b) the adequacy of court interpreters, legal representation for indigent defendants, and residential and nonresidential treatment slots for African-Americans and Latinos; and (c) other information the commission considers appropriate; and
13. annually report to the legislature by January 1 on what additional resources should be made available to reduce racial and ethnic disparity in the criminal justice system without affecting public safety.

EFFECTIVE DATE: October 1, 2000

JUVENILE JUSTICE PLAN

The commission's juvenile justice plan must include (1) development of standard risk assessment policies and an impartial review system; (2) culturally appropriate diversion programs for minority juveniles accused of nonviolent felonies; (3) intensive, in-home services to families of pretrial delinquents and youths on probation; (4) school programs for juveniles being transferred from detention centers, Long Lane, or the Connecticut Juvenile Training School; (5) recruitment of minority employees to serve at all levels of the juvenile justice system; (6) use of minority juvenile specialists to guide minority juvenile offenders and their families through the system; and (7) community service options instead of detention for juveniles arrested for nonserious offenses.

COMMISSION MEMBERSHIP

In addition to the chief court administrator, the commission consists of one member appointed by each of the six legislative leaders; a municipal police chiefs' representative; a representative of a coalition representing police and correction officers; two gubernatorial appointees; and the following or their designees:

1. chief state's attorney;
2. chief public defender;
3. commissioners of public safety, correction, and children and families;
4. child advocate;
5. victim advocate;
6. Board of Parole chairman;
7. Latino and Puerto Rican Affairs Commission chairman; and
8. African-American Affairs Commission chairman.

PA 00-163—SB 125
Public Safety Committee
Appropriations Committee

AN ACT CONCERNING FIRING SQUADS AT FUNERALS OF VETERANS OF THE UNITED STATES ARMED FORCES OR NATIONAL GUARD

SUMMARY: This act increases, from $30 to $50, the daily pay for each firing squad member at a veteran's funeral. Prior law's rate was 75% of one day's basic pay, but it could not be less than $15 or more than $30. (In practice, it was $30.)

Under prior law, the National Guard paid the members from appropriations for Guard pay. The act also requires it to make payments from federal funds it receives for this purpose. A new federal law (P.L. 106-65) allows the secretary of defense to appropriate such funds.

EFFECTIVE DATE: July 1, 2000

PA 00-165—sSB 556
Public Safety Committee
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING ELEVATORS

SUMMARY: This act eliminates the inspection and permit renewal requirements for elevators in private residences and changes the inspection frequency for other elevators.

The act allows the state building inspector to grant variations or exemptions from, or approve equivalent or alternate compliance with, standards in the Department of Public Safety (DPS) regulations governing elevators when strict compliance entails practical difficulty or unnecessary hardship or is judged unwarranted. It allows appeals of his decisions to the DPS commissioner or his designee within 30 days after he makes them and appeals of the commissioner's decisions to Superior Court.

The act also requires plans and specifications for constructing, relocating, or altering elevators to be submitted in triplicate, instead of duplicate, to DPS for approval.

EFFECTIVE DATE: October 1, 2000

ELEVATOR INSPECTIONS

Prior law required DPS, at least annually, to inspect all elevators, except those subject to full-maintenance contracts, which it had to inspect at least every two years. In practice, it inspected all of them at least annually (apparently because the law did not define a full maintenance contract).

The act eliminates the inspection and permit renewal requirements for private residence elevators, instead allowing inspections at owners' requests. It eliminates references to full-maintenance contract elevators and escalators and the requirements for inspecting them and renewing required permits every two years for $120. Instead, the act requires all elevators and escalators not in private residences to be inspected at least once every 18 months. By law, the certificate of operation for these elevators and escalators must be renewed annually for $40.

PA 00-185—SB 553
Public Safety Committee
Government Administration and Elections Committee
Judiciary Committee
Legislative Management Committee

AN ACT ADOPTING THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT AND THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

SUMMARY: This act enacts the National Crime Prevention and Privacy Compact and the Interstate Compact for Adult Offender Supervision.

The National Crime Prevention and Privacy Compact provides a legal framework for states and the federal government to share electronically with each other criminal history records, excluding sealed records as defined by the act, for authorized noncriminal justice purposes, such as background checks for government licensing and employment. (Nonconviction information, which is not disclosable under Connecticut law for criminal justice purposes, will not be disclosable under this compact.)

Under the compact, (1) Connecticut must establish and maintain a criminal record repository to provide information to the Federal Bureau of Investigation (FBI) national record indices and participate in the National Fingerprint File and (2) the FBI and compact states agree to make the information in their databases, including arrests and dispositions, available to each other for the compact's purposes.

The act establishes a compact council to adopt rules, standards, and procedures and to initially adjudicate disputes and resolve compact questions. An FBI compact officer must administer and ensure compliance with the compact at the federal level. Connecticut's chief administrator of the state's criminal history record repository or his designee must ensure this state's compliance.

When ratified, the compact has the full force and effect of law. Connecticut can withdraw from it by repealing the legislation that enacted it. Withdrawal becomes effective 180 days after the state gives written notice to the members and the federal government.

The act also creates a new system for Connecticut and other states adopting the Interstate Compact for Adult Offender Supervision. Its stated purpose is to (1) track offenders, (2) effectively transfer supervision, and (3) return offenders to their original jurisdictions when necessary.

The act replaces the existing compact, eliminating specific provisions on the supervision of out-of-state offenders. It creates the Interstate Commission for Adult Offender Supervision, which is required to make rules to cover these general areas. In addition, it repeals all current rules 12 months after the commission's first meeting and requires the commission to adopt the new rules during this period.

Under the act, the commission oversees the interstate movement of adult offenders between the compact states. The commission consists of a

commissioner from each state adopting the compact and other members that represent certain organizations. Only the commissioners can vote on commission actions. The commission's executive committee is responsible for daily operations. The act includes requirements for adopting rules, holding meetings, enforcing the compact, and collecting annual assessments from compact states for the commission's budget.

The act creates the State Council for Interstate Adult Offender Supervision to oversee the state's participation in the interstate commission.

EFFECTIVE DATE: July 1, 2000, except (1) the provisions requiring the state to establish and maintain a criminal history record repository and to participate in the National Fingerprint File are effective on January 1, 2002 unless the public safety commissioner certifies to the U.S. attorney general an earlier date for participating and (2) the provisions on the Interstate Compact for Adult Offender Supervision are effective when a 35th jurisdiction enacts the compact but no earlier than July 1, 2001.

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

The compact organizes an electronic sharing system among the federal government and states to exchange criminal history records, except sealed record the information, for noncriminal justice purposes authorized by state or federal law. The system is called the Interstate Identification System (III System). It includes the (1) National Fingerprint File, which is an FBI database of unique personal identifying information on people arrested and charged with crimes; (2) National Identification Index, which is an FBI database of names, identifying numbers, and other descriptors of people with criminal history records in the III System; and (3) criminal history repositories of party states and the FBI.

"Sealed record information" means, with respect to adults, any information (1) not available for criminal justice uses; (2) not supported by fingerprints or other accepted means of positive identification; or (3) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order or federal or state statute. With respect to juveniles, sealed record information is any information the state determines is sealed under its own law or procedures.

"Criminal history records" means information collected by criminal justice agencies that can be used to identify people, and notations of arrests, detentions, indictments, or other formal criminal charges and their dispositions. They do not include identification records, such as fingerprint records, if this information does not indicate involvement with the criminal justice system.

"Noncriminal justice purposes" means legally authorized purposes not relating to criminal justice, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

The FBI and party states agree to maintain detailed databases of their criminal history records, including arrests and dispositions, and to make them available for authorized noncriminal justice purposes.

Purposes of the Compact

The compact's purposes are to:

1. provide a legal framework for establishing a cooperative federal-state system for states and the federal government to use to exchange criminal history records for noncriminal justice uses;
2. require the FBI to permit party states to use the national indices (National Identification Index and the National Fingerprint File) and to provide timely federal and state criminal history records to requesting states, in accordance with the rules, procedures, and standards of the council established by the compact;
3. require party states to provide information and records for the national indices and to provide criminal history records, in a timely fashion, to other states' criminal history record repositories and the federal government for noncriminal justice purposes, in accordance with the compact and council rules, procedures, and standards;
4. provide for establishing a council to monitor III System operations and to prescribe system rules and procedures to effectively and properly operate the III System for noncriminal justice purposes; and
5. require the FBI and party states to adhere to III System standards for record dissemination and use, response time, system security, data quality, and other duly established standards, including those enhancing the accuracy and privacy of such records.

FBI Responsibilities

The FBI director must appoint an FBI compact officer to:

1. administer the compact within the U.S. Department of Justice (DOJ) and among

federal and other agencies that submit search requests to the FBI and ensure that they comply with rules, procedures, and standards;
2. regulate the use of records received through the III System from party states when the FBI supplies them directly to other federal agencies;
3. provide to federal agencies and state repositories for noncriminal justice purposes criminal history records in the FBI database, including information from any state that is available from the FBI, but not from the party state, through the III System;
4. provide a telecommunications network and maintain centralized facilities for exchanging criminal history records, ensuring that record exchanges for criminal justice purposes have priority over exchanges for noncriminal justice purposes; and
5. modify or enter into user agreements with nonparty state criminal history record repositories requiring them to establish record request procedures conforming to those in the compact.

The FBI must manage the federal data facilities that provide a significant part of the infrastructure for the system.

State Responsibilities

Each party state must:
1. appoint a compact officer to administer the compact in the state; ensure that the state complies with the compact and council rules, procedures, and standards; and regulate in-state use of records received through the III System from the FBI and other party states;
2. establish and maintain a criminal history record repository to provide information and records for the national indices and the state's III System-indexed criminal history records for noncriminal justice purposes;
3. participate in the National Fingerprint File; and
4. provide and maintain telecommunications links and related equipment necessary for compact services.

The public safety commissioner must designate the chief administrator of the state's criminal history record repository as Connecticut's compact officer. He in turn may designate a full-time employee of the repository to serve.

Compliance with III System

In carrying out their responsibilities, the compact parties must comply with the council's rules, standards, and procedures for the III System record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

Maintenance of Record Services

Use of the III System for compact-authorized noncriminal justice purposes must not diminish the level of services provided for criminal justice purposes, and the administration of the compact must not reduce service to authorized noncriminal justice users when the compact becomes effective.

Authorized Record Disclosures

The FBI, to the extent authorized by the Federal Privacy Act, must provide, on request, criminal history records (excluding sealed records) to state repositories for noncriminal justice purposes allowed by federal law or executive order, or a state law approved by the U.S. attorney general authorizing national indices' checks.

Criminal Justice and Other Government Agencies

The FBI, to the extent authorized by the Federal Privacy Act and state repositories, must provide criminal history records (excluding sealed records) to criminal justice and other agencies for noncriminal justice purposes allowed by federal law or executive order, or a state statute approved by the U.S. attorney general authorizing national indices' checks.

Procedures

Records obtained under the compact can be used only for requested purposes. Each compact officer must establish procedures consistent with the compact and council rules, procedures, and standards to protect the accuracy and privacy of records. The compact officer must (1) ensure that records are used only by authorized officials for authorized purposes; (2) require new record checks when a new need arises; and (3) ensure that record entries that cannot legally be used for particular noncriminal justice purposes are deleted from responses and, if no information authorized for release remains, send a "no record" response to requestors.

Request Procedures

All requests for criminal history record checks for noncriminal justice purposes must include the subject's fingerprints or other approved identification.

State Requests. Requests for criminal history record checks using the national indices made under an approved state statute must be submitted through the state's repository. A state repository must process an interstate request for noncriminal justice purposes through the national indices only if the request is transmitted through another state's repository or the FBI.

Federal Requests. Federal requests for criminal history record checks using the national indices must be submitted to the FBI or, if the state repository consents to process fingerprint submissions, through the repository in the state where the request originated. Direct access to the National Identification Index by entities other than the FBI and state repositories is not allowed for noncriminal justice purposes.

Fees. State repositories and the FBI may charge fees, in accordance with applicable laws, for handling requests for processing fingerprints for noncriminal justice purposes. They may not charge for electronic requests for criminal history records that do not involve fingerprint processing.

Additional Searches

If a state repository cannot positively identify the subject of a record request made for noncriminal justice purposes, it must forward the request and fingerprints or other approved identifying information to the FBI for a national search. If the FBI positively identifies the subject as having a III System-indexed record or records, it must advise the state repository, which is entitled to obtain the additional record from the FBI or other state criminal history repositories.

Compact Council

Membership. The act establishes a compact council, consisting of 15 members appointed by the U.S. attorney general, to promulgate rules and procedures for using the III System for noncriminal justice purposes that do not conflict with the FBI's administration of the III System for criminal justice purposes. The council is administratively located in the FBI and remains in effect for the life of the compact.

Nine council members are selected from, and based on recommendations of, the states' compact officers. If the requisite numbers of compact officers are unavailable, chief administrators of criminal history record repositories of nonparty states can serve on an interim basis. Each of these members must serve two years.

The FBI director nominates three members: an FBI employee and two at-large members, one from federal criminal justice agencies (excluding the FBI), the other from federal noncriminal justice agencies. The council chairman nominates two at-large members, one from a state or local criminal justice agency and one from a state or local noncriminal justice agency. The FBI Policy Advisory Board on criminal justice information services nominates one of its members, who must serve simultaneously on the council. All these members serve three-year terms.

The council must elect a chairman and vice chairman from its members who are compact officers. But if none wants to serve, an at-large member may serve as chairman. The vice chairman serves in the chairman's absence. Both serve for two years and may be reelected to one additional term.

Rules, Standards, and Procedures. The council must make available its rules, standards, and procedures for public inspection and copying at its office and must publish them in the Federal Register. The chairman may establish necessary committees to carry out its duties and may prescribe their membership, responsibilities, and duration.

Meetings. The council must meet at least annually at the chairman's call. Its meetings are open to the public, and the council must provide prior public notice of them and agendas in the Federal Register. The council must have a quorum (a majority of the council or committee it establishes) to conduct any business requiring a vote. A smaller number may meet to hold hearings, take testimony, or conduct business not requiring a vote.

The council may request from the FBI reports, studies, statistics, or other necessary information or material to perform its duties. The FBI, to the extent authorized by law, may grant the requests.

Miscellaneous

The compact cannot be administered in any way that interferes with the FBI director's control and management of the FBI collection and dissemination of criminal history records and the FBI Advisory Policy Board's function. The compact must not diminish or lessen the obligations, responsibilities, and authority of any state or specified departments' repositories regarding the use and dissemination of criminal history records and information. And nothing in the compact must require the FBI to spend

more money than is appropriated to it.

Adjudication of Disputes

The council has initial authority to decide disputes about the interpretation of the compact, any council rule or standard, and any dispute or controversy between compact parties. It must hold hearings on such disputes at regularly scheduled meetings and render decisions based upon majority votes. It must publish decisions.

The FBI must exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and prevent abuses, until the council holds a hearing on such matters.

The FBI or a party state may appeal council decisions to the attorney general and thereafter may file suit in U.S. District Court. This court has jurisdiction of all cases or controversies arising under the compact. Suits arising under the compact and initiated in state court must be removed to the appropriate U.S. District Court in the manner the law provides.

Severability

The compact's provisions are severable; that is, if any is found unconstitutional or invalid, the rest remain in effect. Similarly, if found unconstitutional in one state, the compact remains in effect in the others.

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

The act also enacts the Interstate Compact for Adult Offender Supervision. It recognizes that the U.S. Congress authorized and encouraged compacts for cooperative efforts and mutual assistance in preventing crime. It also recognizes that each state is responsible for supervising those adult offenders in the community who are authorized by the compact's bylaws and rules to travel between compact states in order to track their location, transfer supervisory authority in an orderly and efficient manner, and return offenders to their original jurisdiction when necessary.

The acts stated purposes are to:

1. promote public safety and protect victims' rights by controlling and regulating interstate movement of offenders in the community;
2. provide effective tracking, supervision, and rehabilitation of offenders;
3. equitably distribute the costs, benefits, and obligations of the compact among the compact states;
4. create an interstate commission that will establish uniform procedures to manage the movement of adult offenders who are in the community under the jurisdiction of courts, parole authorities, corrections, and other criminal justice agencies;
5. ensure an opportunity for input and timely notice to victims and jurisdictions where offenders are authorized to travel or relocate;
6. establish a uniform system of data collection and access to information on active cases by authorized criminal justice officials;
7. require regular reporting on compact activities to heads of state councils; state executive, judicial, and legislative branches; and criminal justice administrators;
8. monitor compliance with rules on interstate movement of offenders and intervene to correct noncompliance; and
9. coordinate training and education for regulating the interstate movement of offenders.

The act also states that the compact recognizes that an offender does not have a right to live in another state and state officers can enter another compact state to retake an offender, subject to the compact's provisions, rules, and bylaws.

Eliminating Specific Provisions in Prior Law

The act eliminates the governor's authority to enter into a compact with other states to allow states that release people on probation or parole (sending states) to permit them to live in and be supervised by other states (receiving states). It eliminates the right of an out-of-state parolee or probationer to reside in the state only if he is (1) a resident of, or has family and can get a job in, the state or (2) not a resident and has no family in the receiving state but has the state's permission. It also eliminates the authority of the receiving state to investigate the home and prospective employment of the person desiring to move before granting permission.

The act also eliminates provisions in prior law relating to:

1. retaking offenders,
2. directing incarceration in a receiving state,
3. treatment of offenders and guarantee of rights,
4. reimbursement of costs,
5. allowing the state to make rules and regulations,
6. allowing officers designated by the

governors of compact states to adopt rules and regulations to carry out the compact,
7. issuing warrants to detain a person, and
8. criminal penalties for a parolee residing in the state without permission when the law requires it.

The act also eliminates the state's duty to comply with the compact until it is renounced, but its duties and obligations toward parolees and probationers from other states continue until the sending state retakes them. In addition, it eliminates the state's duty to give six months written notice of its intention to withdraw.

Definitions

The act applies to "offenders" who are (1) adults under or subject to supervision because they committed a crime and (2) released to the community under jurisdiction of the courts, parole authorities, corrections, or other criminal justice agencies. An "adult" is someone legally classified as an adult or a juvenile treated as an adult by court order, statute, or law.

The act allows any state to join the compact. A "state" is any U.S. state, the District of Columbia, and any U.S. territorial possession. Prior law applied to states, Puerto Rico, the Virgin Islands, and the District of Columbia.

State Council

The act creates a State Council for Interstate Adult Offender Supervision in each compact state. It allows each state to determine the members of the council but requires at least one representative from the legislative, judicial, and executive branches; victims groups; and compact administrators. The council oversees and advocates its participation in Interstate Commission activities and duties, as well as other duties as the state determines, including development of policy on compact operations and procedures in the state.

Compact Administrator

Under the act, the compact administrator is the person in each compact state responsible for administering and managing the state's supervision and transfer of offenders under the compact, commission rules, and policies adopted by the state council. Each state can determine the qualifications of the compact administrator, who is appointed by the council or the governor in consultation with the legislature and judiciary. The council must appoint the compact administrator as its commissioner to serve on the Interstate Commission.

Interstate Commission for Adult Offender Supervision

Organization. The act creates the Interstate Commission for Adult Offender Supervision as a corporate body and joint agency of the compact states. The commission consists of commissioners selected by the state council in each state and members of interested organizations, which must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. The commissioner is the voting representative of each compact state. Each state has one vote. Other members do not vote. The commission can add other members through its bylaws. Governors of nonmember states or their designees will be invited to participate in commission activities (but cannot vote) prior to adoption of the compact by all states and U.S. territories.

A majority of the commission members must elect a chairman and vice-chairman from its members. Bylaws specify the authority and duties of each. The chairman presides at all meetings, but the vice chairman presides if the chairman is absent or disabled. These officers receive no compensation from the commission but are reimbursed for necessary costs and expenses in the performance of their duties and responsibilities, subject to available funds.

The act requires the commission to meet at least once every calendar year. The chairman can call additional meetings and must do so if at least 27 states or a majority of the members request one.

Executive Committee. The act requires the commission to establish an executive committee to act on its behalf when it is not in session. The executive committee oversees daily activities, ensures compliance with the compact and bylaws, and performs other duties as directed by the commission or the bylaws. But the executive committee cannot amend the compact or make rules. The committee consists of officers, members, and others as specified by the bylaws. The executive director and commission staff manage the committee.

Executive Director. The act requires the committee to appoint or retain an executive director. The commission determines his period of service, employment terms, and compensation. He serves as secretary for the commission and hires and supervises staff authorized by the commission. He is not a member of the commission.

Commission Powers. The act grants the commission the power to:

1. oversee, supervise, and coordinate the interstate movement of offenders who are subject to the compact, rules, and bylaws;
2. enforce compliance with the compact, rules, and bylaws using all necessary and proper means, including judicial process;
3. adopt rules with the effect of statutory law that bind the compact states;
4. adopt bylaws for managing and operating the commission;
5. do what is necessary or appropriate to achieve the compact's purposes;
6. provide for dispute resolution among compact states;
7. establish uniform standards for reporting, collecting, and exchanging data;
8. establish a budget, make expenditures, and levy dues;
9. report annually to legislatures, governors, judiciary, and state councils in the compact states on the commission's activities during the preceding year (including any recommendations adopted by the commission);
10. coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in these activities;
11. establish and appoint committees and hire necessary staff to carry out its functions including an executive committee;
12. elect or appoint officers, attorneys, employees, agents, or consultants and fix their compensation, duties, and qualifications;
13. establish personnel policies and programs, on topics including conflicts of interest, rates of compensation, and qualifications;
14. borrow, accept, or contract for personnel service including members and their staff;
15. establish and maintain offices;
16. sue and be sued;
17. purchase and maintain insurance and bonds;
18. accept donations and grants of money, equipment, supplies, material, and services and receive, use, and dispose of them;
19. lease, purchase, and accept donations of property and own, improve, mortgage, or otherwise dispose of property; and
20. adopt a seal.

The act allows the legislatures of the compact states to grant the commission additional powers. It also requires the commission to monitor activities in non-compact states that could significantly affect compact states.

Commission Actions. The act requires a majority of the compact states to be present for the commission to conduct business. But the bylaws can require more. The commission must meet and take actions consistent with the compact. The act requires the commission's actions to be taken at a meeting and receive the vote of a majority of the members present, unless the bylaws require a greater percentage. Each member participates in the business of the commission and casts his state's vote. A member must vote in person and cannot delegate a vote to another member state. The state council must appoint an authorized representative to vote for the state at a specified meeting if the state's commissioner is absent. Bylaws can allow participation in meetings by telephone or other telecommunication or electronic communication. Any voting done in this manner still requires a majority of the compact states to conduct business.

The act requires the commission to collect standardized data on the interstate movement of offenders. The commission's bylaws and rules must specify the data to be collected, means of collection and data exchange, and reporting requirements.

Rulemaking

The act defines "rules" as commission acts substantially affecting interested parties in addition to the commission that have the force and effect of law in the compact states. All rules and amendments are binding on the date they specify. A rule has no force in any compact state if a majority of the legislatures in the compact states reject it by statute or resolution in the same manner used to adopt the compact.

Required Rules. The act repeals the prior compact's rules 12 months after the commission's first meeting. Within 12 months of the first meeting, the act requires the commission to address the following topics:

1. notice to victims and the opportunity to be heard;
2. offender registration and compliance;
3. violations and returns;
4. transfer procedures and forms;
5. eligibility for transfer;
6. collection of restitution and fees from offenders;
7. data collection and reporting;
8. levels of supervision receiving states must provide;
9. transition rules for operating the compact and the commission for all or part of the time between the compact's effective date and the date when the last eligible state adopts the compact; and

10. mediation, arbitration, and dispute resolution.

Adopting Rules. Under the act, the commission must adopt rules to achieve the compact's purposes effectively and efficiently. Rulemaking must follow the compact provisions, bylaws, and rules and must substantially conform to the principles of the federal Administrative Procedure Act (APA) and the federal Advisory Committee Act.

To adopt a rule, the act requires the commission to (1) publish the proposed rule, its text, and the reason for the rule; (2) allow submission of written data, facts, opinions, and arguments (this information must be publicly available); (3) provide opportunity for an informal hearing; and (4) adopt a final rule that includes an effective date based on the rulemaking record.

The act allows any interested person to file for judicial review of a rule within 60 days in the U.S. District Court for the District of Columbia or the federal district court where the commission's principal office is located. The court must find the rule unlawful if the commission's action is not supported by substantial evidence in the rulemaking record, as defined in the APA.

If the commission determines an emergency exists, it can pass an emergency rule, effective on adoption. But the usual rulemaking procedures must be applied retroactively to the rule as soon as reasonably possible and no later than 90 days after the rule's effective date.

Bylaws

The act defines "bylaws" as those bylaws that establish the commission's governance or direct or control its actions or conduct. It requires the commission, by a majority of its members, to adopt bylaws to govern its conduct as necessary and appropriate to carry out the compact's purposes within 12 months of its first meeting. The act does not limit the subjects of these bylaws but requires them to establish:

1. the commission's fiscal year,
2. an executive committee and other necessary committees,
3. reasonable standards and procedures for establishing committees and governing delegations of the commission's authority or functions,
4. reasonable procedures for calling and conducting meetings and ensuring reasonable notice of meetings,
5. titles and responsibilities of commission officers,
6. reasonable standards and procedures for establishing the commission's personnel policies and programs (these bylaws govern notwithstanding any civil service or similar laws in the compact state),
7. a mechanism for winding up the commission's operations if the compact terminates and the equitable return of surplus funds after paying or reserving debts and obligations,
8. transition rules for start-up administration of the compact, and
9. standards and procedures for compliance and technical assistance in carrying out the compact.

The act requires the commission to keep its corporate books and records according to the bylaws.

Meetings

The act requires all commission meetings to be open to the public unless the rules or the compact provide otherwise. The commission must give public notice of a meeting and must adopt rules consistent with the principles of the federal Government in Sunshine Act.

The act allows the commission or a committee to close a meeting to the public when, by a two-thirds vote, it determines that the meeting is likely to:

1. relate solely to the commission's internal personnel practices and procedures;
2. disclose matters specifically exempt from disclosure by statute;
3. disclose trade secrets or privileged or confidential commercial or financial information;
4. involve accusing a person of a crime or formally censuring a person;
5. disclose personal information that would be a clearly unwarranted invasion of personal privacy;
6. disclose investigatory records compiled for law enforcement purposes;
7. disclose information in or related to examination, operating, or condition reports prepared for the commission for purposes of regulating or supervising an entity;
8. prematurely disclose information that would significantly endanger the life of a person or the stability of a regulated entity; or
9. specifically relate to the commission's issuance of a subpoena or participation in a civil action or proceeding.

The act requires the commission's chief legal officer to certify publicly that it is his opinion that a meeting can be closed to the public. He must reference each relevant exemption.

It also requires the commission to keep minutes that (1) fully and clearly describe all matters discussed; (2) fully and accurately summarize all actions taken, the reason for them, a description of the views expressed on any item, and any roll call votes; and (3) identify all documents the commission considered regarding its actions.

Commission Records

The act requires the commission to establish conditions and procedures for making information and official records available to the public for inspection or copying. The commission can exempt information from disclosure to the extent it would adversely affect personal privacy rights or proprietary interests. But it can disclose this information to law enforcement agencies and make agreements with them subject to nondisclosure and confidentiality provisions.

Finance

The act requires the commission to pay, or provide for payment of, the reasonable expenses of its establishment, organization, and activities. It must collect annual assessments from compact states for the cost of its internal operations and activities and to cover its annual budget. A commission rule must establish the process for making aggregate annual assessments using a formula that considers the population and the volume of interstate movement of offenders in each compact state.

The act prohibits the commission from incurring obligations before it has adequate funds and from pledging credit to a compact state without that state's authority.

The act requires the commission to keep accurate accounts of all receipts and disbursements and subject then to audit and accounting procedures established by the bylaws. The records must be audited yearly by a certified or licensed public accountant and the audit report must be included in the commission's annual report.

Effective Date

The act makes the compact effective when at least 35 states enact it into law but no sooner than July 1, 2001. It is effective for a state later adopting the compact when that state enacts the compact.

Amendment

The act allows the commission to propose amendments for the compact states to enact. An amendment is effective and binding when it is enacted into law by unanimous consent of the compact states.

Enforcement and Default

The act requires the commission to enforce the compact by reasonably exercising its discretion. It allows the commission to impose the following penalties if the commission determines that a state defaulted in performance of its obligations or responsibilities: (1) reasonable fines, fees, and costs fixed by the commission; (2) remedial training and technical assistance directed by the commission; and (3) suspension and termination of compact membership.

Suspension and Termination

The act requires the commission to exhaust all other reasonable means of securing compliance under the bylaws and rules before suspending a state. The commission must immediately notify the governor, chief justice or chief judicial officer, majority and minority leaders of the legislature, and the state council. Grounds for default include failure to perform obligations and responsibilities imposed by the compact, bylaws, or rules. The commission must (1) provide written notice of a state's penalty pending a cure, (2) stipulate conditions, and (3) provide a period of time for the state to cure the default. If the default is not cured, a vote of a majority of the compact states can terminate the state from the compact in addition to the other penalties. In that case, all rights, privileges, and benefits of the compact are terminated on the effective date of suspension.

The act requires the commission to notify the governor, chief justice or chief judicial officers, majority and minority leaders of the legislature, and the state council within 60 days of the effective date of termination. A defaulting state is responsible for all assessments, obligations, and liabilities incurred before the effective date of termination, including any obligation that continues to be performed beyond the effective date. The commission does not bear any costs relating to the defaulting state unless they agree otherwise.

The act allows a state's reinstatement after termination if the state reenacts the compact and the commission, according to its rules, approves it.

Judicial Enforcement

The act allows the commission, by a majority vote, to initiate legal action against a compact state to

enforce compliance with the compact, rules, and bylaws in the U.S. District Court for the District of Columbia or the federal district where it has its offices. The prevailing party must be awarded all costs of litigation, including reasonable attorneys' fees.

The act requires courts and executive agencies in compact states to enforce the compact and take all necessary and appropriate actions to effectuate the compact's purpose and intent. The commission must be entitled to receive service of process and have standing to intervene for all purposes in any judicial or administrative proceeding pertaining to the subject matter of the compact that might affect the commission's powers, responsibilities, or actions.

Disputes

The act requires compact states to report to the commission on issues or activities that concern them and to cooperate and support the commission's duties and responsibilities. The commission must attempt to resolve any disputes subject to the compact that arise among compact and non-compact states. The commission must enact a bylaw or rule providing for mediation and binding dispute resolution of disputes among compact states.

Withdrawal

Under the act, the compact is binding on all compact states once it is effective. The act allows states to withdraw by enacting a statute specifically repealing the legislation that enacted the compact. Withdrawal is effective on the date of repeal. The withdrawing state must immediately notify the commission chairman in writing when legislation repealing the compact is introduced. The commission must then notify other compact states of the withdrawing state's intention to withdraw within 60 days. A withdrawing state is responsible for all assessments, obligations, and liabilities incurred before the effective date of withdrawal, including any obligation that continues to be performed beyond the effective date. A state is reinstated when it reenacts the compact or on a later date determined by the commission.

Dissolution of the Compact

Under the act, the compact is dissolved when, due to withdrawal or default, only one state remains a member of the compact. On dissolution, the compact has no further effect and the commission must wind up its business and distribute any surplus funds according to the bylaws.

Qualified Immunity, Defense, and Indemnification

The act protects commission members, officers, employees, and the executive director from suit and personal or official liability for acts or omissions within the scope of commission employment, duties, or responsibilities. This applies to claims of damage or loss of property, personal injury, or other civil liability. But it does not apply when the person's misconduct is intentional or willful and wanton.

The act also requires the commission to defend a compact state's commissioner, his representative or employees, and the commission's representatives or employees for acts or omissions that are, or that the defendant reasonably believed were, within the scope of commission employment, duty, or responsibility. This applies to any civil action for liability. But it does not apply to intentional wrongdoing.

The act also requires the commission to indemnify and hold harmless a compact state's commissioner, his appointed designee or employees, or commission representatives or employees for any settlement or judgment based on acts or omissions that are, or that the person reasonably believed were, within the scope of commission employment, duties, or responsibilities. But it does not apply to cases of gross negligence or intentional wrongdoing.

Binding Effect of Compact and Other Laws

The act supercedes state law to the extent it conflicts with the compact, but it does not prevent enforcement of other laws that are consistent with the compact.

The act makes all lawful actions of the commission binding on the compact states. This includes rules and bylaws. All agreements between the commission and compact states are binding.

Severability and Construction

Under the act, the compact's provisions are severable and if any provision is ruled unenforceable, the other provisions remain enforceable. The compact must be liberally construed to give effect to its purposes.

Conflicts

If there is a conflict over the meaning or interpretation of a commission action, the act allows a party to the conflict to request an advisory opinion. The commission can issue an advisory opinion on the vote of a majority of the compact states.

If any compact provision exceeds a legislature's constitutional limits, the act makes that provision's

obligations, duties, powers, or jurisdiction ineffective. The obligation, duty, power, or jurisdiction remains in the state and belongs to the agency to which it is legally delegated at the time the compact is effective.

BACKGROUND

Nonconviction Information

Nonconviction information refers to information pertaining to any case that is nolled or dismissed or in which the defendant was acquitted or pardoned.

Uniform Act for Out-of-State Parolee Supervision

The Uniform Act for Out-of-State Parolee Supervision, which this compact replaces, is in force in all 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.

PA 00-197—sSB 568
Public Safety Committee
Planning and Development Committee
Insurance and Real Estate Committee
Appropriations Committee

AN ACT CONCERNING BENEFITS FOR SURVIVORS OF MUNICIPAL EMPLOYEES

SUMMARY: This act requires the state comptroller to obtain a group hospitalization and medical and surgical insurance plan for surviving spouses and dependent children of municipal employees who die from a work-related injury after October 1, 2000 if they are not otherwise eligible for insurance.
EFFECTIVE DATE: October 1, 2000

PA 00-198—SB 557
Public Safety Committee
Judiciary Committee

AN ACT CONCERNING SPARKLERS

SUMMARY: The law, with one exception, bans the use, sale, or possession of fireworks with intent to sell at retail. It allows people to conduct supervised fireworks displays with permits and competency certificates, both issued by the state fire marshal. This act allows people age 16 or older to buy, use, possess, and sell nonexplosive and nonaerial sparklers with up to 100 grams of pyrotechnic mixture per item.
EFFECTIVE DATE: Upon passage

PA 00-224—HB 5188
Public Safety Committee
Appropriations Committee

AN ACT CONCERNING THE MONTHLY ALLOWANCE FOR THE SURVIVING SPOUSE OF A MEMBER OF THE DIVISION OF STATE POLICE

SUMMARY: This act establishes an annual cost-of-living allowance (COLA) for surviving dependents of certain state police officers. The COLA is payable every July 1, beginning in 2001. It must reflect the annual increase in the national Consumer Price Index for urban wage earners and clerical workers, but it cannot exceed 3%. It must be based on the combined survivors' allowance and any COLAs to which the person was entitled on the previous June 30.
EFFECTIVE DATE: October 1, 2000

ELIGIBLE SURVIVING DEPENDENTS

The law requires the State Employees Retirement System (SERS) to pay a monthly benefit to the surviving spouse and unmarried children under age 18 of state police officers who die before retiring and were (1) employed on June 21, 1961 and had elected survivors' benefits or (2) hired after that date and did not participate in Social Security (and whose dependents are therefore ineligible for Social Security survivors' benefits). The act establishes an annual COLA for these survivors.

BACKGROUND

State Employees Retirement System

SERS' monthly benefits consist of (1) $550 for the surviving spouse until death or remarriage and (2) $250 for each child if fewer than three children survive and if three or more survive, $575 divided equally among them. When a child reaches age 18, his share is divided among the others, and when only two eligible children remain, each receives $250. Benefits for surviving children end when they reach age 18 or marry.

PA 00-35—sSB 510
Transportation Committee

AN ACT CONCERNING THE RESPONSIBILITIES OF MOTOR VEHICLE WRECKER SERVICES AND TRANSPORTER REGISTRATIONS

SUMMARY: This act expands licensed motor vehicle dealers' and repairers' use of wreckers. It allows them to be used for purposes related to towing or transporting wrecked or disabled vehicles for compensation instead of exclusively to tow or transport such vehicles for compensation.

The act also makes two procedural changes when garage or storage facility owners prepare to sell at public auction unclaimed vehicles that they have towed and stored. It (1) eliminates a requirement for them to advertise the impending sale in the newspaper and (2) allows them to set a minimum qualifying bid for the vehicle at auction. If no such bid is made, the act allows them to sell or dispose of the vehicle.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Wrecker Definition

Several statutes (CGS §§14-66, -145, -150, -307) prescribe what wreckers may do, how they must be equipped, and how dealers and repairers with wreckers must operate. Specifically, these laws authorize wreckers to tow or transport vehicles that are: (1) disabled, inoperative, or wrecked or (2) being removed pursuant to laws authorizing removal of vehicles (a) left on private property without the owner's permission, (b) apparently abandoned or unregistered or a menace to traffic or public safety, or (c) violating parking regulations. These statutes provide a broader authority for wrecker use than the formal definition describes.

Auction Requirements

By law, a garage or storage facility owner can sell an unclaimed vehicle it towed under certain conditions. If the vehicle's estimated market value is more than $1,500, the facility owner must hold it for at least 45 days before selling it at auction. Vehicles valued at $1,500 or less must be held for at least 15 days before sale. The facility owner must make a diligent effort to locate the owner's last known address and send him a registered or certified letter at least five days before the sale.

PA 00-81—sSB 428 (VETOED)
Transportation Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE INSPECTION OF TAXICABS

SUMMARY: This act allows the state's emissions inspection contractor to perform the twice-yearly safety inspections required for taxicabs. Safety inspections performed at the contractor's facilities would be an alternative to having them done at either Department of Motor Vehicles (DMV) offices or by DMV-authorized licensed motor vehicle repairers. The act requires the motor vehicles commissioner to set a $20 fee for inspections at all three types of facilities. Prior law required him to set a fee but did not specify the amount.
EFFECTIVE DATE: October 1, 2000

PA 00-129—SB 427
Transportation Committee

AN ACT CONCERNING MASS TRANSPORTATION AND THE METRO NORTH RAIL OPERATING AGREEMENT

SUMMARY: Subject to available appropriations, this act requires the transportation commissioner to (1) expand mass transportation systems, such as bus and rail services, in places he finds appropriate and (2) conduct a comprehensive analysis of the Metro North Rail Operating Agreement and report his findings and recommendations to the Transportation Committee by February 1, 2001.

The analysis of the Metro North agreement must include an examination of ridership, costs, service, scheduling, marketing, capital investment, and other related issues. It must recommend how the state can better exercise its legal rights under the agreement to increase ridership and maintain fare affordability as part of a transportation strategy to reduce highway congestion in southwestern Connecticut.
EFFECTIVE DATE: October 1, 2000

BACKGROUND

Metro North Commuter Rail Service

The Metro North Commuter Rail Service operates under a joint agreement between the Department of Transportation and the Metropolitan Transportation Authority (MTA) in New York. The Metro North Railroad, an MTA subsidiary, is the contractual operator for the service. The service

operates between New Haven and Grand Central Terminal in New York City and has three Connecticut branch lines that extend to New Canaan, Danbury, and Waterbury.

PA 00-148—sHB 5204
Transportation Committee
Planning and Development Committee
Legislative Management Committee

AN ACT REVISING CERTAIN TRANSPORTATION LAWS

SUMMARY: This act:

1. allows any authority to operate a foreign trade zone created pursuant to federal law if a municipality authorizes it by ordinance, and makes specific changes to the statutory powers of port authorities to allow them to operate and maintain such a zone;
2. increases the civil penalty the transportation commissioner can impose on anyone who violates laws or regulations governing livery service operations from $100 per day per violation to $1,000 per day per violation, and makes several technical changes to the livery statutes;
3. applies, by reference, nationally recognized guidelines for minimum sight-line requirements at rail-highway grade crossings, eliminates consideration of structures as obstructions under the law, and makes property owners instead of railroads responsible for the costs of removing sight-line obstructions;
4. revises and extends statutory responsibility for placing, inspecting, and maintaining advance warning signs and markings for grade crossings, including codifying certain municipal responsibilities contained in Department of Transportation (DOT) agreements with towns in 1989 and making several related changes;
5. clarifies and limits an exemption from warning sign and related requirements at certain at-grade crossings for railroads operating low-speed trains;
6. allows the State Street railroad station pedestrian bridge over the New Haven Rail Line to be constructed at a minimum overhead clearance of 19 feet, 10 inches instead of the statutorily required minimum clearance of 22 feet, six inches for bridges over electrified rail lines, and restores a provision of the minimum clearance law whose inadvertent deletion in 1999 would have required all nonexempt bridges built before enactment of the minimum clearance requirements to be raised to meet the requirements;
7. authorizes East Lyme, Montville, Salem, and Waterford collectively to create a Route 11 Greenway Authority Commission by ordinance and specifies its membership, duties, powers, and related functions;
8. specifies procedures for municipalities to apply for state grants under the elderly transportation services grant program established by a 1999 law;
9. within available appropriations and in collaboration with certain other entities, requires DOT to study ways to increase waterborne transportation between ports along Long Island Sound and submit it to the Transportation Committee by March 15, 2001;
10. restores a prior statutory requirement allowing the Centralized Infractions Bureau to process fines for violations of statutes governing maximum vehicle length, width, and height limits, thus allowing, among other things, fines to be mailed and a court appearance avoided;
11. repeals obsolete statutory authority for railroad companies to acquire property for railroad purposes through a type of condemnation process;
12. designates commemorative and memorial names for 10 state highway bridges and five road segments;
13. updates numerous statutory references to the Intermodal Surface Transportation Efficiency Act of 1991, the former federal law that authorized federal transportation programs and funding, with the name of its successor, the Transportation Equity Act for the 21st Century; and
14. makes several technical changes.

EFFECTIVE DATE: October 1, 2000, except for the provisions relating to at-grade crossings (sight lines, advance warning signs, and low-speed railroad exemption), higher civil penalties for livery law violations, the Long Island Sound transportation study, road and bridge naming, and the Route 11 Greenway Authority Commission, which are effective upon passage.

PORT AUTHORITIES AND FOREIGN TRADE ZONES

The act allows a municipality, by ordinance, to permit an authority to apply for a grant of privilege to establish and operate a foreign trade zone as permitted under federal law. It also gives port authorities established pursuant to Connecticut law the specific power to make such an application and to operate and maintain the foreign trade zone. (Connecticut law authorizes two port authorities—the Bridgeport Port Authority and the New London Port Authority.)

MINIMUM SIGHT-LINE DISTANCES AT RAIL-HIGHWAY GRADE CROSSINGS

By law, there must be an unobstructed view at any rail-highway grade crossing for at least 150 feet in each direction. If the transportation commissioner finds that trees, shrubbery, earth embankments, or structures of any kind obstruct these sight lines he may, after reasonable notice to the railroad and municipality and a hearing, issue orders to remove the obstruction and restore the minimum sight lines. The act (1) eliminates structures from the types of obstructions that can lead to such orders, (2) requires the commissioner's obstruction removal orders to be in accord with current policies of the American Association of State Highway and Transportation Officials (AASHTO), and (3) makes the property owner on whose land the obstruction is located instead of the railroad company owning the track responsible for the removal costs.

The AASHTO sight-line guidelines use several variables to determine the minimum sight lines necessary at a grade crossing, including the number of tracks, the width and angle of the crossing, the maximum speed of trains using it, and whether trucks must use it.

GRADE CROSSING ADVANCE WARNING SIGNS AND MARKINGS

By law, a municipality must place and maintain warning signs on its roads approaching a grade crossing located in the town. The railroad company crossing the town highway must provide the signs. Under prior law, signs conforming to AASHTO standards had to be placed, when practical, between 300 and 500 feet from the nearest rail. Previously, the transportation commissioner could release the municipality from the obligation if it successfully petitioned that placement of the signs was impractical or unnecessary. The act eliminates the requirement for a town to petition for release from its obligation.

The act makes several modifications to these requirements based on DOT agreements with the municipalities in 1989 and changing federal requirements. It requires (1) placement and maintenance of pavement markings consisting of stop lines and advance warning markings in addition to the warning signs, (2) municipal inspection of the required warning signs and pavement markings, and (3) that the signs and markings conform to the requirements of the Federal Highway Administration's *Manual on Uniform Traffic Control Devices* (MUTCD) instead of AASHTO standards. The MUTCD establishes form, spacing, and other requirements applicable to highway signs and markings.

The 1989 agreements between DOT and those municipalities with rail-highway at-grade crossings make the municipalities responsible for furnishing and maintaining pavement markings as well as warning signs and require them to follow MUCTD requirements.

Annually, the act requires the railroad company or the private entity owning the rail right-of-way to inform in writing the town or, when appropriate, the transportation commissioner of the location of all railroad crossings within its boundaries or jurisdiction and the town's obligation under the law. It requires the commissioner annually to provide the railroad or right-of-way owner with a list of the towns requiring notification and the name and address of the appropriate local official to notify.

The act also requires police or fire personnel a town dispatches for traffic control or redirection as required by law when it receives a report of a malfunctioning grade crossing gate or signal to consult with the railroad company that owns the crossing beforehand.

LOW-SPEED RAILROAD EXEMPTION

By law, the transportation commissioner can require railroad companies to provide certain types of warning and control signs at their at-grade crossings when he believes the public's safety requires it. He must also require them to (1) provide signs at crossings with gates or signals informing the public to call 911 when gates or signals malfunction; (2) maintain logs of gate and signal malfunctions, subject to inspection; and (3) immediately investigate reports of malfunctioning gates and signals. Railroads operating trains that do not exceed 25 miles per hour are exempt from these requirements. The act limits this exemption only to the requirement to provide 911 emergency notification signs.

ROUTE 11 GREENWAY AUTHORITY COMMISSION

Creation and Membership

The act authorizes East Lyme, Montville, Salem, and Waterford to establish a Route 11 Greenway Authority Commission that would come into existence when the last of them has adopted an ordinance to create it. The implementing ordinances must specify the commission's membership as the environmental protection and transportation commissioners, or their designees; a member and alternate member from each of the four towns, appointed by their respective first selectmen; and a member and alternate from the Southeastern Connecticut Council of Governments, appointed by the agency. Each commission member and alternate must serve a two-year term and until a successor is appointed and has qualified. The act authorizes, but does not appear to require, appointments to be made at a meeting of the town's legislative body and initial appointments become effective when the last of the four towns adopts its creation ordinance. Vacancies must be filled "in the same manner as the original appointment" for the balance of the unexpired term. Commission members must serve without compensation.

Commission Organization and Initial Meeting Requirement

The four towns' ordinances must require the two commissioners (presumably the transportation and environmental protection commissioners) to call a meeting of the commission within 60 days of the act's provision becoming effective. It is unclear what authority these ordinances would have to make the commissioners comply. The meeting must occur within 90 days of the call.

The act makes the commission an autonomous body within the Department of Transportation "for administrative purposes only." It allows the commission to employ experts and other assistants it judges necessary and to accept funds from any source. Any funds appropriated to the commission or received from any other source must be held in its custody and spent for purposes the act designates.

The commission must elect a chairman from its members and such other officers as it deems necessary and must establish its own rules of procedure.

Powers and Duties

The commission must hold public hearings to develop standards for (1) defining the initial Route 11 Greenway boundaries; (2) planning the design, construction, maintenance, and management of the greenway's trail system and intermodal transportation access system; (3) identifying and prioritizing land to be added to the Route 11 Greenway; (4) recommending land use within the greenway; and (5) acquiring land and securing conservation easements for the greenway, but not to the exclusion of such land being acquired by a municipality.

The commission must also establish by-laws for (1) conducting its meetings, including a requirement that no actions are effective without the concurring votes of at least four members; (2) protecting and preserving the land in its custody; (3) supervising staff; (4) maintaining its records; and (5) reporting to the General Assembly.

The act authorizes the commission to acquire or convey by purchase, gift, lease, devise, exchange, or in any other way any land or interest in it, such as conservation easements, located entirely or partly in the conservation zone (undefined), provided an acquisition does not use funding furnished by the state. The act allows the commission to transfer land or interests to the state "with the approval of the commissioner," but it is unclear to which commissioner this refers. Such transfers can be made with or without consideration but any funds received as a result cannot be considered funds furnished by the state. The act also allows the commission to contribute or transfer funds to, and make agreements with, land trusts and other conservation organizations to carry out the act's purposes.

By February 15 annually, the commission must report to the General Assembly on its activities and finances in the preceding year. The commission must terminate when all of its member towns have withdrawn or it is abolished by the General Assembly.

ELDERLY TRANSPORTATION SERVICES GRANT PROGRAM

In 1999, the legislature created a DOT–administered grant program providing funds to municipalities that apply for financial assistance for transportation services for elderly and disabled people. The act requires municipalities to apply for the grants through the designated regional planning organizations or transit districts rather than directly to the DOT. It requires the regional planning organization or transit district and municipalities wanting to apply for funds allocated to municipalities

within the transportation service region to collaborate on service design to most effectively use funding in the applying municipality and region. The act gives the transportation commissioner authority to approve or disapprove the method for service delivery.

LONG ISLAND SOUND WATER TRANSPORTATION STUDY

DOT must conduct the study within available appropriations and in collaboration with the Connecticut Coastline Port Authority and current Long Island Sound ferry operators. The study must examine ways to increase waterborne transportation between Long Island Sound ports. It must cover, at least, establishing additional intrastate passenger ferry services, providing incentives for commercial highway carriers to use ferry services, and expanding barge transportation of commercial products.

DOT must evaluate the costs and benefits of creating these services and incentives and whether they are likely to reduce highway traffic. It must use the information, data, and resources developed by the U.S. Department of Transportation's ongoing waterborne transportation study to the greatest extent possible. It must submit its findings and recommendations to the Transportation Committee by March 15, 2001.

REPEAL OF LAWS AUTHORIZING PROPERTY ACQUISITION BY RAILROAD COMPANIES

Several statutes originally enacted when railroads were considered public service companies give them the right to acquire property for railroad purposes, if necessary, through a type of eminent domain condemnation process. The act eliminates the condemnation authority for acquiring property. But railroads may still acquire property with an owner's consent.

MEMORIAL AND COMMEMORATIVE NAMES FOR BRIDGES AND HIGHWAYS

The act directs the memorial or commemorative naming of the following 10 state highway bridges and five highway segments:

1. State Bridge #6222 on southbound Route 218 over I-91 in Windsor as the "Anthony J. Shelto Bridge";
2. State Bridge #1745 carrying I-84 westbound over Berkshire Road in West Hartford as the "William E. Lehmann Memorial Bridge";
3. State Bridge #2857 located on Route 32 in New London and running in a southerly direction over Williams Street #1 as the "Donna Millette-Fridge Memorial Bridge";
4. State Bridge #5864 running north on I-91 in Hartford and passing over Leibert Road as the "Paul Laffin Memorial Bridge";
5. State Bridge #6130A on I-95 in Waterford as the "African-American War Veterans Bridge";
6. State Bridge #0806 carrying Route 15 over Route 175 in Wethersfield as the "Fred H. Callahan, Jr. Memorial Bridge";
7. State Bridge #1453 on I-91 northbound over Middletown Avenue in Wethersfield as the "Neil Esposito Memorial Bridge";
8. State Bridge #0860 on Route 17 over the Main Street Extension in Middletown as the "Max Corvo Memorial Bridge";
9. State Bridge #3502 on Route 175 over SSR 405 in Newington as the "John F. Klett Memorial Bridge";
10. the bridge in Windham currently being constructed over State Project No. 163-164 as the "Thread City Crossing";
11. Route 167 in Avon running north from Harris Road to the Simsbury-Avon town line as the "First Company Governor's Horse Guards Memorial Highway";
12. Route 94 running east from Route 2 to the Glastonbury-Hebron town line as the "94th Infantry Division Memorial Highway";
13. I-91 running north from the New Haven-North Haven town line to the North Haven-Wallingford town line as the "Century Division Memorial Highway";
14. I-91 in Wallingford running north from the North Haven-Wallingford town line to the Wallingford-Meriden town line as the "All Airborne Memorial Highway"; and
15. Route 159 running north from the Hartford-Windsor town line to the Windsor-Windsor Locks town line as the "Kasmir Pulaski Memorial Highway."

BACKGROUND

Related Act

PA 00-184 names a portion of Route 17 in Middletown the "Catholic War Veterans Memorial Highway."

PA 00-149—sHB 5798
Transportation Committee
Judiciary Committee
Legislative Management Committee

AN ACT CONCERNING TRESPASS OR DAMAGE OF RAILROAD PROPERTY

SUMMARY: This act establishes specific classifications of offenses involving trespass upon, and damage to, railroad property. The basic elements of these offenses are generally equivalent to the existing penal code offenses of simple trespass and first-, second-, and third-degree criminal mischief and the penalties are the same.

The act defines simple trespass on railroad property as someone entering or remaining on property without lawful authority or the railroad carrier's consent, knowing that he is not licensed or privileged to do so. It makes this an infraction.

The act also establishes the crimes of damaging railroad property in the first, second, and third degrees. It makes first-degree damage to railroad property a Class D felony and makes someone guilty of committing it when he (1) with intent and having no reasonable ground to believe he has a right to, damages railroad property in an amount exceeding $1,500 or (2) with intent to interrupt or impair rail service to the public and having no reasonable right to do so, damages or tampers with the property, which causes a service interruption or impairment.

The act makes second-degree damage to railroad property a Class A misdemeanor. To be guilty of committing it, someone must: (1) with intent and without reasonable ground to believe he has a right to, damage property in an amount exceeding $250 or (2) with intent to interrupt or impair service and without reasonable ground to believe he has a right to, damage or tamper with railroad property causing a risk of service interruption or impairment.

The act makes third-degree damage to railroad property a Class B misdemeanor and makes someone guilty of committing it when, having no reasonable ground to believe he has a right to, he (1) intentionally or recklessly damages railroad property or tampers with it, thus placing it at risk of damage or (2) damages railroad property by negligence involving the use of any potentially harmful or destructive force or substance, including, but not limited to explosives, fire, flood, avalanche, building collapse, poison gas, or radioactive material.

Railroad property covered under these offenses is all tangible property a railroad carrier owns or leases, including a right-of-way; track; roadbed; bridge; yard; shop; station; tunnel; viaduct; trestle; depot; warehouse; terminal; or any other structure, appurtenance, or equipment the carrier owns, uses, or leases to operate. This includes trains, locomotives, engines, rail cars, signals and safety devices, and work equipment and rolling stock.
EFFECTIVE DATE: October 1, 2000

PA 00-169—sSB 98
Transportation Committee
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT REVISING CERTAIN MOTOR VEHICLE LAWS

SUMMARY: This act:

1. increases the period that registration credentials issued by qualified motor vehicle dealers remain valid, reduces the amount of time dealers have to submit required documents to the Department of Motor Vehicles (DMV) for processing, and allows dealers to issue new registrations for all of the same classes of vehicles for which they may already issue temporary registration transfers;
2. classifies vehicles driven by DMV inspectors answering emergency calls or pursuing motor vehicle law violators as emergency vehicles, thus affording them the same rights and protections from obstruction provided to police, fire, and emergency medical vehicles responding to calls;
3. makes several changes to the laws governing the motor vehicle emissions inspection program, including codifying the present inspection fees through the end of the current contract, removing a requirement that contracts for providing emissions inspections be for a minimum of five years, and making several technical and minor corrective changes;
4. brings laws governing disclosure of personal information from motor vehicle records into compliance with federal requirements by requiring the DMV commissioner to get express consent before disclosing such information to certain people, eliminates a prohibition, which otherwise ends June 30, 2000, against him selling or offering for sale drivers' license photographs or computerized images, and makes related changes;
5. expands the definition of a "person" as it is applied in the motor vehicle laws to include a business trust;

6. eliminates the $5 fee for handicapped parking permit placards issued to people with permanent qualifying disabilities and the five-year renewal requirement, thus making them permanent once issued;
7. requires handicapped parking spaces designated after September 30, 1979 to be 15 rather than 16 feet wide and include three rather than seven feet of cross hatching (thus reinstating the requirements as they existed prior to 1999);
8. modifies several motor vehicle title procedure requirements, including allowing an applicant to submit a statement on a DMV form in lieu of the vehicle's last known title certificate attesting that the prior title is lost or destroyed or cannot be reasonably located or obtained from the person who last had it;
9. allows the commissioner to issue special plates that licensed auto recycling businesses may use on vehicles they may be towing in connection with their business and which have no other valid plates;
10. allows antique, rare, or special interest motor vehicles to legally display license plates originally issued in Connecticut in the year the vehicles were manufactured instead of the registration plates currently assigned to them;
11. makes several changes to school bus laws, including (a) eliminating the prohibition on the commissioner establishing and enforcing bus seating requirements based on a minimum seating width for each child, (b) establishing penalties for violating DMV regulations governing school buses and vehicles used to transport special education students and their drivers, (c) revising the uniform bus color standard to conform to the newer federally defined standard, and (d) establishing a two-year retention period for school bus maintenance records;
12. requires certain vehicles operating with farm registrations and license plates, and their drivers, to meet equipment and other safety requirements generally applicable to similar vehicles operating with commercial or other types of registrations;
13. exempts a vehicle formerly used as an ambulance and currently registered as an antique, rare, or special interest vehicle from the requirement that all exterior equipment, markings, and other indications of its former use as an ambulance be removed;
14. modifies the prohibition on television screens or similar displays in motor vehicles that are visible to the driver, except for those used for instrumentation purposes, to allow a closed circuit video monitor for backing as long as it is disabled whenever the vehicle's transmission is shifted out of reverse gear;
15. allows state and municipal police officers and DMV inspectors to conduct motor carrier safety ratings according to the procedures designated for carriers operating vehicles subject to federal motor carrier safety regulations;
16. makes it clear that the federal safety regulations that have been adopted by reference as state requirements apply both to vehicles and to the carriers who own them;
17. makes a copy or facsimile of a Department of Transportation oversize or overweight permit in the vehicle, in lieu of the actual permit, a valid demonstration of its authority to operate;
18. updates DMV's authority to regulate the installation, repair, servicing, and sale of used brake drums to include similar authority over brake discs (used in many new cars instead of brake drums), defines the term, and extends the commissioner's authority to brake equipment for commercial as well as passenger vehicles;
19. makes it clear that, beside vehicle owners, those who lease for more than 30 days diesel-powered commercial vehicles subject to Connecticut emissions inspection requirements are similarly responsible for compliance with the standards;
20. eliminates a state requirement regarding lighting on vehicle running boards, thus deferring to more recent federal standards; and
21. makes several technical and corrective changes to existing laws.

EFFECTIVE DATE: October 1, 2000, except that the provisions regarding codification of current emissions inspection fees, DMV disclosure of personal information, and the width and marking of handicapped parking spaces are effective upon passage.

NEW REGISTRATIONS AND REGISTRATION TRANSFERS BY DEALERS

By law, the DMV commissioner may delegate the authority to issue new or transfer existing motor vehicle registrations to licensed motor vehicle dealers he deems qualified. The act increases the period

temporary registration transfers issued by dealers remain valid from 45 to 60 days. It also decreases, from seven to five days from issuance of the temporary registration, the time dealers have to submit registration transfer applications and supporting documents to the DMV for processing.

By law, the DMV can authorize dealers to issue new registrations for passenger motor vehicles and motorcycles and transfer registrations for passenger vehicles, motorcycles, campers, camp trailers, and trucks of up to 26,000 pounds gross weight. The act makes the two laws consistent by expanding the authorization for new registrations to include the same vehicle types as for registration transfers.

MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM

The act codifies the present inspection fees, $10 for older vehicles that require an annual inspection and $20 for vehicles requiring biennial inspections, through the life of the current inspection contract, which expires on June 30, 2002. The $10 fee terminates when the contract ends and, as under the prior law, the DMV commissioner must establish a temporary fee to remain in effect until the General Assembly establishes a new fee.

The act eliminates a requirement that one-half of the $20 late fee required from people who present their vehicles for inspection more than 30 days after their stickers have expired go into the Emissions Enterprise Fund. This conforms the emissions inspection law to another law that requires all the revenue from late fees be deposited in the Special Transportation Fund.

The act eliminates a requirement that any contracts the commissioner negotiates with one or more independent contractors for providing emissions inspections be for a minimum of five years. It also eliminates statutory references to the emissions test having to be a "transient" test. This is the term federal regulations use to describe a test procedure generally known as IM/240. This is the test that Connecticut initially was required to have as part of its enhanced emissions inspection program, but which is no longer required. Instead, Connecticut uses a test procedure known as ASM 25/25, referred to in federal regulations as a "steady state" test.

The act also allows the commissioner to deny initial issuance or renewal of a vehicle registration if it is not in compliance with emissions requirements. His previous authority included only the power to suspend a registration. The expanded authority makes the law consistent with federal regulations that require states to deny registration to vehicle owners who do not bring vehicles for testing.

The act makes a technical change regarding the commissioner's exemption from the laws governing purchases by state agencies when he negotiates an emissions inspection contract.

DMV DISCLOSURE OF PERSONAL INFORMATION

Requirement for Express Consent

The act requires the DMV commissioner to get the express consent of motor vehicle applicants, registrants, and license and learner's permit holders before disclosing personal information from their motor vehicle records to (1) businesses that want to check the accuracy of personal information they receive and (2) bulk distributors of surveys, solicitations, and marketing. It defines "express consent" as affirmative permission, in writing or some other form provided in regulations. DMV must adopt regulations that establish a procedure for a person to withdraw consent (See BACKGROUND).

The act eliminates a requirement for bulk distributors to have a volume-based contract with DMV and for DMV to have methods and procedures that ensure (1) subjects are given a clear and conspicuous opportunity to prohibit disclosure and (2) the information will be used only for purposes specified in the contract and the surveys, marketing, or solicitations will not be directed to anyone making a timely request not to receive them.

Express Authority To Disclose For Fraud Purposes

The act authorizes the commissioner to disclose personal information from a motor vehicle record, including a photograph or computerized image, to anyone seeking to prevent fraud by verifying the accuracy of the information a person gives to a legitimate business or one of its agents, contractors, or employees. The person submitting the information must have given his express consent according to the requirements of the law.

HANDICAPPED PARKING PERMIT PLACARDS

The act makes handicapped parking permits issued to people with permanent qualifying disabilities permanent credentials instead of requiring their renewal every five years. It eliminates the $5 fee DMV currently charges for both initial and renewed permits for people with permanent qualifying disabilities (see

BACKGROUND).

The act retains the $5 fee for the placards issued to people with temporary qualifying disabilities.

TITLE DOCUMENTS

Prior law required an applicant for a new certificate of title for a motor vehicle to submit the most recent Connecticut title certificate along with the application. The act allows someone applying for a title certificate for a vehicle for which the current title is not available to submit a statement on a DMV-prescribed affidavit form in lieu of the title certificate. The statement must say that the title is lost or destroyed or, despite reasonable efforts, cannot be located or obtained from the person or firm last known to have it.

The act makes the title statute reflect a 1998 change in the law allowing motor vehicle dealers qualified by the commissioner to inspect and verify vehicle identification numbers by affidavit. It allows dealer-verified identification numbers to be accepted in the titling process.

The act also eliminates the 10-day period during which a dealer buying a vehicle for resale must get the title certificate from a lienholder. It also allows a dealer to satisfy the law's requirements through the statement in lieu of the title certificate described above.

RECYCLER TOWING PLATES

The act allows DMV-licensed motor vehicle recycling businesses to apply for, and authorizes DMV to issue, special plates that may be displayed on a vehicle being towed in connection with the recycler's business when the vehicle has no other valid registration plate. The special vehicle-in-tow plate must carry the general distinguishing number and mark DMV assigns to the business. The commissioner must charge a fee to cover the costs of issuing and renewing the plates.

ANTIQUE PLATES

The act allows the commissioner to authorize the owner of an antique, rare, or special interest motor vehicle to display a Connecticut number plate originally issued in the year the vehicle was manufactured instead of plates normally required for the vehicle. The commissioner must issue a registration certificate for the special plate, which remains valid, subject to renewal, for as long as he permits. When the auxiliary year-of-manufacture plate is no longer valid, the registration number and plates originally assigned to the vehicle are in effect.

The special plate is subject to the same display and registration validation sticker requirements as normal license plates.

The commissioner must adopt implementing regulations. The law defines an antique, rare, or special interest vehicle as one that is 25 or more years old, is being preserved because of historic interest, and is not altered or modified from the original manufacturer's specifications. These vehicles may already get a special distinctively designed porcelain license plate instead of regular license plates.

PENALTIES FOR VIOLATING DMV SCHOOL BUS REGULATIONS

The law authorizes the commissioner to adopt regulations governing (1) the inspection, registration, operation, and maintenance of school buses and vehicles used to transport special education students and (2) the licensing of their drivers, but it specifies no penalties for violating the regulations. The act designates a first violation of any of these regulations as an infraction; any subsequent offense is punishable by a fine of $100 to $500.

CERTAIN VEHICLES OPERATING WITH FARM LICENSE PLATES

The act prohibits any vehicle operating with a farm registration and license plates from being used to transport 10 or more passengers unless it meets the equipment and mechanical condition requirements of the motor vehicle laws. If used to transport more than 15 passengers, including the driver, it must also meet all the applicable federal motor carrier safety requirements that have been adopted as state requirements. The driver of any such vehicle for 10 or more passengers must hold a public transportation permit or license endorsement as required by law for drivers of similar vehicles with other types of registrations.

BACKGROUND

Federal Transportation Funds and Information Disclosure

To be eligible for federal transportation funds, states must get express consent before disseminating from a motor vehicle record a person's photograph, Social Security number, or medical or disability information. The law exempts from this requirement information disclosed (1) to government agencies; (2) in civil, criminal, administrative, or arbitration proceedings; (3) for insurance purposes; or (4) to

verify information regarding commercial driver's license holders (P.L. 106-69, Sec. 350).

Federal Court Case on Fees for Handicapped Parking Permits

In *Duprey v. State of Connecticut, Department of Motor Vehicles* (28 Fed. Supp. 2nd, 702 (1998)), the federal district court found that the $5 fee charged to people with permanent qualifying disabilities for the parking permits constituted a discriminatory surcharge and thus was prohibited by federal regulations promulgated pursuant to the Americans with Disabilities Act (ADA).

DMV has interpreted the *Duprey* decision to apply only to the permanent permits it issues, concluding that the impairments for which it issues temporary permits do not constitute the types of disabilities covered by ADA.

Related Act

PA 00-180, among other things, requires DMV regulations to contain provisions by October 1, 2002 that exempt new vehicles from emissions inspection requirements for four model years.

PA 00-180—sSB 360
Transportation Committee
Environment Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE STATE'S MOTOR VEHICLES EMISSIONS INSPECTION CONTRACT

SUMMARY: This act requires the Department of Motor Vehicles (DMV) to:

1. change the scope and content of its regulations for implementing the statutory requirements for compliance with exhaust emissions standards by most gasoline-powered motor vehicles and requires the regulations, by October 1, 2002, to include an inspection exemption for vehicles four model years or less old, as long as this is not found to violate certain federal requirements, and
2. submit a report to the Transportation Committee, by January 31, 2001, on several aspects of its implementation of statutory requirements, including proposed changes to the standards, methods, and inspection system. The act prohibits DMV from amending the current contract or entering into a new contract unless it makes the report and either includes or responds to the committee's recommendations.

The act also specifically authorizes the commissioner to prescribe the method of paying the emissions inspection fee.

EFFECTIVE DATE: October 1, 2000

FURTHER EXPLANATION

DMV Program Implementation Regulations

Prior law required the DMV regulations for implementing statutory requirements for compliance with exhaust emissions standards to include provision for a periodic emissions inspection and compliance, or waiver from compliance, with exhaust emissions standards, air pollution control system integrity standards, and purge system standards defined by the environmental protection commissioner. This act requires the regulations to include (1) provision for periodic inspection of vehicle air pollution control equipment, instead of for periodic emissions inspection, and (2) as an alternative to compliance or waiver with exhaust emissions standards, compliance or waiver with on-board diagnostic standards or other standards the environmental protection commissioner defines and the federal Environmental Protection Agency (EPA) administrator approves.

Also, by October 1, 2002, the act requires the regulations to exempt from the periodic inspection requirement any vehicle manufactured four or less years ago. But it automatically terminates the exemption if the EPA administrator or U.S. Department of Transportation secretary finds that it causes the state to violate any applicable federal environmental or transportation planning requirements. The act allows the DMV commissioner to require an initial emissions inspection and evidence of compliance with standards, or a waiver from them, before registration of a new vehicle, and it allows him to adopt regulations requiring inspection of vehicles four or less model years old if the environmental protection commissioner finds it necessary. Under prior law, new vehicles were exempt, but DMV could require evidence of compliance or waiver for any vehicle over one year old.

DMV Report to the Transportation Committee on Future Contract or Contract Amendments

The act requires the motor vehicles commissioner to submit a report to the Transportation Committee by January 31, 2001 that addresses implementation of inspection requirements and other

aspects of the inspection and compliance program. The report must include all proposed changes to the standards and methods used to conduct emissions inspections, the number and location of inspection stations, and the amount and method of inspection fee collection. It also must advise the committee on the status of the state implementation plan and any revisions to it that have been made or are proposed.

Review of Future Contracts by the Transportation Committee

The act prohibits the motor vehicles commissioner from entering into or amending any inspection contract unless he first submits it to the Transportation Committee, provides a plain language summary of the changes, and an explanation of their fiscal impact. The Transportation Committee has 45 days to review the proposed contract or amendment and make recommendations concerning (1) efficiency and effectiveness of service delivery; (2) service economy; (3) environmental impact; and (4) contractor qualifications, including performance capacity and accountability.

The commissioner must modify the contract or amendment before it is executed to incorporate the committee's recommendations, unless he provides the committee with a written explanation of why the recommendations are not in the state's best interest and should not be adopted.

BACKGROUND

The Emissions Inspection Program

Under the current emissions inspection agreement, the contractor operates 25 inspection facilities throughout the state. The contract runs through June 30, 2002. Some inspection stations can also perform safety inspections.

With some exceptions, gasoline powered motor vehicles of up to 10,000 pounds gross weight must report for either annual or biennial inspections (depending on their model year) at an inspection facility. Some vehicle classes are exempt from inspection, including motorcycles and bicycles with helper motors and vehicles that (1) have farm registrations; (2) have temporary registrations; (3) are new vehicles being initially registered; (4) were manufactured at least 25 years ago; (5) are registered as antique, rare, or special interest vehicles; (6) are registered but not designed primarily for highway use; or (7) are operated by a licensed dealer or repairer to or from a purchase location for the purpose of getting an emissions or safety inspection.

On-Board Diagnostic Equipment

Motor vehicles manufactured since the mid-1990s have been equipped with on-board computer hardware and software that monitors the condition and performance of the vehicle's emissions control equipment and notifies the driver through dashboard instrumentation when the equipment may need servicing. Properly trained and equipped repair technicians can query the on-board diagnostic system to identify components in need of repair.

Related Act

PA 00-169 makes several changes to the laws governing the emissions inspection program, including codifying the present inspection fees through the end of the current contract, removing a requirement that future contracts for emission inspection services be for a minimum of five years, adding denial of initial issuance or renewal of a noncomplying vehicle's registration to the commissioner's current power to suspend such a registration, and making several technical and minor corrective changes.

PA 00-184—sHB 5734
Transportation Committee
Appropriations Committee
Legislative Management Committee

AN ACT CONCERNING PEDESTRIAN WALKWAYS ON BRIDGES AND THE NAMING OF ROUTE 17 IN MIDDLETOWN

SUMMARY: This act requires anyone responsible for maintaining a bridge over a highway that is part of the Interstate Highway System to install and maintain fencing along the bridge that prevents pedestrians from throwing objects onto the highway below. The requirement applies to any bridge that (1) is newly constructed or undergoes major reconstruction as determined by the transportation commissioner and (2) has a defined pedestrian walkway. It does not apply to the bridge between the Legislative Office Building and the State Capitol.

The highways on the Interstate Highway System to which these requirements apply are I-84, I-91, I-95, I-291, I-384, I-395, and I-691.

The act also designates the segment of Route 17 in Middletown running northerly from South Main Street to the Route 9 North junction as the "Catholic War Veterans Memorial Highway."

EFFECTIVE DATE: October 1, 2000

BACKGROUND

Related Act

PA 00-148, among other things, designates commemorative and memorial names for 10 state highway bridges and another five road segments.

PA 00-202—SB 543
Transportation Committee
Appropriations Committee

AN ACT CONCERNING SAFETY INSPECTIONS FOR FIRE DEPARTMENT APPARATUS

SUMMARY: This act requires the Department of Motor Vehicles to establish an annual safety inspection program for fire department apparatus within available appropriations, and adopt implementing regulations.
EFFECTIVE DATE: October 1, 2000

PA 00-1, JUNE SPECIAL SESSION—HB 6001
Emergency Certification

AN ACT IMPLEMENTING AND MAKING TECHNICAL REVISIONS TO THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2001

SUMMARY: This act makes a series of budget changes that affect appropriations in FY 1999-00 and FY 2000-01. Among its other provisions, it:

1. requires the (a) chief court administrator to develop an adult probation risk assessment system, (b) Department of Mental Health and Addiction Services (DMHAS) to clinically assess certain people before arraignment, and (c) Department of Correction (DOC) to contract for ombudsman services;
2. clarifies the applicability of the sales tax on sales of "canned" computer software and makes other changes to various taxes;
3. exempts certain Whiting Forensic Division records from disclosure under the Freedom of Information Act (FOIA);
4. permits liquor sales on the Sunday before Christmas and New Year's days in 2000;
5. allows the National Guard and organized militia to participate in federal asset forfeiture and military surplus programs;
6. increases compensation for the Workers' Compensation Commission chairman; and
7. extends for one year, until July 1, 2001, the moratorium on permits for an asphalt batch plant or continuous mix facility.

It makes numerous other minor and technical changes to statutes and 2000 public acts.

EFFECTIVE DATE: Upon passage, except provisions governing the probation and mental health assessments, DOC provider contracts and ombudsman, federal asset forfeiture and military surplus, DOC Overcrowding Contingency Account use, funds transfers to add probation workers, Workers' Compensation Commission chairman salary increase, prison name change, exemption from the $3 land records fee for state and local employees, the effective date of PA 00-178, and changes to the Multicultural Health Advisory Commission, State Department of Education (SDE) technology grant, and Department of Labor (DOL) use of surplus funds take effect on July 1, 2000. The PILOT payments to boroughs and property tax exemption for commercial fishing apparatus provisions are applicable to assessment years beginning October 2000. The provision on "canned" computer software applies to all open tax years.

FUNDS TRANSFERS, CARRYFORWARDS, AND OTHER BUDGET PROVISIONS (§§ 1-11, 13, 30)

The act transfers previously appropriated funds among and within departments and allows departments to carry some of these funds forward for use in FY 2000-01. Table 1 shows the amounts, the agencies involved, the purposes for which the transferred funds may be used, and whether they may be carried forward.

Table 1: Funds Transfers and Carryforwards

TRANSFERS				
Amount	*From (account)*	*To (account)*	*Purpose*	*Carry-forward to FY 2000-01*
$900,000	Office of Policy and Management (OPM) (other expenses (OE))	Public Safety (personal services (PS))	Newly authorized trooper training class	Yes
400,000	Dept. of Information Technology (DOIT) (Y2K conversion)	DOL	Title 1 of Workforce Investment Act	No
1,020,000	DOIT (Y2K conversion)	County sheriffs	27th payroll for special deputies	No
225,000	Dept. of Public Health (DPH) (OE)	SDE (early reading success)	Language arts program in Plainville	Yes
92,000 68,000 5,000	SDE (PS) Dept. of Social Services (DSS) (OE) Dept. of Environmental Protection (DEP) (OE)	OPM	Grants to Spanish American Merchants Assoc. and Southwestern Sickle Cell Assoc., Inc.	Yes
10,000	SDE (PS)	Agri-culture	CT Seafood Advisory Council	Yes
75,000	Dept. of Children & Families (PS)	DOC (OE)	Prison Mentor program	Yes

100,000	DSS (OE)	DEP	Gold Feder factory demolition and rehabilitation	Yes

CARRYFORWARDS		
Amount	***Agency***	***Purpose***
Unexpended funds transferred from DPH in FY 1999-00	DOL	Opportunities Industrial Centers
25,000	DSS (OE)	Connecticut Legal Immigrant & Refugee Coalition
1,921,661 (from Patriots Settlement, transferred in PA 00-192)	OPM	Other expenses

The act allows money appropriated to OPM in the current budget for litigation settlement costs to also be used for litigation costs.

It requires that $70,000 in DEP other expenses to be used for the following grants to towns: (1) $20,000 to Plainville High School for the Environmental Club, (2) $25,000 to Bristol Central High School for the Environmental Club, and (3) $25,000 to the town of Manchester for improvements to Northwest Park. It also carries these funds forward into FY 2000-01.

The act allows DOL to use $130,800 appropriated to it from the FY 1999-00 budget surplus for food stamp training expenses for any administrative purpose.

PRISON OVERCROWDING AND RELATED PROVISIONS

Probation Risk Assessment(§§ 33, 41)

The act requires the chief court administrator to develop a system to accurately assess the risk to the community of people under adult probation supervision. He must develop classification categories and standards for monitoring individuals based on the assessments. The system's purpose is to ensure close supervision and restriction, public safety, effective alternatives to incarceration, and maximum rehabilitation of people in the community under probation supervision.

The act transfers $275,000 from the Judicial Department for the Alternative Incarceration Program to Personal Services and $100,000 from the DOC Overcrowding Contingency Account to add probation officers.

Mental Health Assessment (§§ 34, 40)

The act requires DMHAS, to the maximum extent possible within available appropriations, to clinically assess certain people before they are arraigned. A person must (1) be charged only with a misdemeanor, (2) consent to the assessment, and (3) have previously received or would reasonably benefit from receiving DMHAS mental health services or substance abuse treatment. The assessment determines whether the person should be referred to community-based mental health services. If DMHAS determines that he needs services and he accepts them, DMHAS must inform the court of the assessment and recommended treatment plan for its consideration in disposing the case.

The act transfers from the DOC Overcrowding Contingency Account:

1. $1,570,240 to DMHAS for the Managed Service System to implement its provisions on mental health assessments, and
2. $1,000,000 to the Community Residential Services Account to expand current treatment programs.

SA 00-13 allocates $4,485,720 to the Overcrowding Contingency Account. The act allows the DOC commissioner, in his discretion, to use the remaining $1,815,480 to provide additional community service slots.

DOC Provider Contracts (§ 35)

The act requires contracts between the DOC commissioner and halfway houses, group homes, mental health facilities, and other community residences for inmates to specify which types of inmates, if any, the provider refuses to accept.

Medical Services (§ 42)

The act transfers $6 million from the DOC Personal Services Account to inmate medical services. It also transfers to DSS, for Medicaid, (1) $1.5 million from Unemployment Compensation, (2) $1.6 million from retired state employees health service, and (3) $900,000 from the DPH Personal Services Account.

DOC Ombudsman (§ 36)

The act requires DOC to contract for the continuation of independent ombudsman services during FY 2000-01.

Correction Facility Name Change (§ 39)

The act renames the Northeast Correctional Institution in Mansfield the Donald T. Bergin Correctional Institution.

TAX CHANGES

Sales Tax on Computer Software (§ 27)

PA 00-174 specifies that the sale, license, or release of "canned" computer software (programs that exist for general or repeated sale, license, or lease) is subject to the sales tax. This act specifies that canned or prewritten software first developed as custom software for in-house use is taxable only when sold, licensed, or leased to an unrelated third party. In addition, the act allows software that combines two or more prewritten programs or modifies a prewritten program to accommodate a customer's hardware requirements to be classified as "custom" software. Sales of custom software are not taxable under PA 00-174 though certain services rendered in connection with their creation, installation, and implementation are.

Property Tax Exemption for Commercial Fishing Apparatus (§ 26)

The act expands an existing property tax exemption for up to $500 worth of fishing apparatus used in a company's or person's main business to any apparatus a company or person buys to use in the business even if not actually used.

Pilot Grants For Boroughs (§ 12)

The act makes boroughs eligible for PILOTs for state-owned real property, Indian reservation land, and municipally owned airports located within their boundaries, starting with the October 1, 2000 assessment year. Boroughs are already eligible for PILOTs for property owned by hospitals and private colleges and universities.

It extends to boroughs the existing limits and requirements governing town PILOTs for these types of property. These include the caps on grants that apply through June 30, 2004, the requirement to report to the OPM secretary the assessed valuation of the state-owned land and buildings and municipally owned airport property as of the preceding October 1, and the right to appeal any revaluation the secretary makes when he believes the local valuation is inaccurate.

Despite making boroughs eligible for the additional PILOTs, the act does not specifically allow state officials to disburse the new PILOT money to boroughs. It does not change the current requirement that the state treasurer, on the secretary's certification and comptroller's order, pay PILOT grants only to towns.

Exemptions from $3 Land Records Recording Fee (§ 25)

The act exempts state, municipal, and taxing district employees from paying the additional $3 fee PA 00-146 imposes for recording documents in the land records. The exemption applies only when these employees are recording documents as part of their official duties. PA 00-146 requires town clerks to collect the additional fee, keep $1, and remit $2 to the state. Towns and the state must use the revenue the fee generates to preserve and manage historic documents.

Validating Decisions Of Stamford's Board Of Assessment Appeals (§ 15)

The act validates the decisions Stamford's Board of Assessment Appeals made with respect to the October 1, 1999 grand list and related abstracts if it finished its work by June 19, 2000. If the board met this deadline, the act ratifies the board's decisions regardless of whether the board met the statutory deadlines for hearing and deciding appeals. This makes the board's decisions binding and allows the city to collect the taxes imposed according to the lists and abstracts.

FOIA EXEMPTION FOR WHITING FORENSIC RECORDS (§ 20)

The act authorizes the DMHAS commissioner to withhold from disclosure under FOIA certain records pertaining to the Whiting Forensic Division facilities of the Connecticut Valley Hospital. He can do this if he has reasonable grounds to believe that they could pose a safety risk, including harm to anyone or the risk of an escape from, or disorder in, the Whiting facilities.

Under the act, exempt records for those facilities include:

1. engineering and architectural drawings;
2. security systems' operational specifications (except a general description and the cost and quality of such a system);
3. training manuals that describe security procedures, emergency plans, or security equipment;

4. internal security audits; and
5. staff meeting minutes or recordings, or any portions of them, that contain or reveal information relating to security or otherwise exempt records.

Whenever a person confined to a Whiting Forensic Division facility requests disclosure of any public record under the FOIA, the public agency holding it must first promptly notify the DHMAS commission, in the manner he prescribes. The commissioner has the discretion to deny delivery to the person if the record is exempt from disclosure.

SUNDAY LIQUOR SALES BEFORE HOLIDAYS (§ 19)

The act allows package stores, grocery stores, and drug stores with liquor permits to sell on Sunday, December 24, 2000 and Sunday, December 31, 2000.

WORKERS' COMPENSATION COMMISSION CHAIRMAN PAY (§ 38)

The act increases from $1,000 to $10,000 a year, the extra compensation the Workers' Compensation Commission chairman receives in addition to his annual salary.

NATIONAL GUARD PARTICIPATION IN FEDERAL PROGRAMS (§ 37)

The act makes the National Guard and the organized militia (governor's guards, the state guard, and other military forces the governor designates) law enforcement agencies for the sole purpose of participating in federal asset forfeiture or military surplus programs. Under federal law, the secretary of defense can sell surplus equipment to state and local law enforcement agencies.

EDUCATION AND ARTS GRANTS (§§ 18, 16)

The act reallocates extra educational technology grant funds from the state's 85 wealthiest to its 85 poorest school districts. PA 00-187 established a grant program to help school districts pay for wiring, computers, interactive software, and software filters. This act alters the grant distribution formula in one respect. After each school district receives a minimum $10,000 grant and after subtracting specified sums for particular purposes, the act requires the remaining money to be allocated to priority and transitional districts and districts in towns ranked from one to 85 when towns are ranked in ascending, rather than descending, order by wealth.

The act changes a recipient of one of the Arts Grants awarded in PA 00-192. The original distribution provided $95,000 to the Theater of Northeastern Connecticut; the act changes the recipient to the Putnam Board of Education. It also corrects the name of another recipient.

FARMLAND PRESERVATION (§§ 23, 24)

PA 00-203 requires the Agriculture Department to prepare and submit to the State Bond Commission, by April 1, 2001, a list of agricultural lands for which it has a written agreement regarding the purchase price of the lands' development rights pursuant to the state's agricultural lands preservation program. The act changes that date to October 1, 2000. It also requires the department to prepare a supplemental list by October 1, 2001. The original and supplemental lists must be submitted to and considered by the Bond Commission when authorizing bonds for that program.

The act eliminates language in PA 00-203 specifying that the department make its developmental right purchases from properties on the list and update the list every six months.

The act eliminates a requirement that the Bond Commission allocate for the farmland preservation program any balance of the General Assembly's $83.75 million farmland preservation bond authorization that remains unallocated as of July 1, 2000.

BOARDS AND COMMISSIONS *(§§ 14, 32)*

Advisory Commission on Multicultural Health

The act increases membership from 17 to 18 on the Advisory Commission on Multicultural Health (created by PA 00-216) by adding a member from an affiliate of the National Urban League, appointed by the Senate president pro tempore. Also, it requires (1) the House majority leader, instead of the Senate president pro tempore to appoint the member from the legislature's Black and Puerto Rican Caucus and (2) the Senate majority leader instead of the governor, to appoint the member representing the Hispanic advocacy group.

Head Start Advisory Committee

By law, the House speaker and Senate president pro tempore can each appoint a Head Start director from a community action agency to SDE's Head Start advisory committee. The act allows their

appointees to be a Head Start director who is a school readiness coordinator.

ADRIAEN'S LANDING (§ 22)

The law authorizes the OPM secretary to take land for the Adriaen's Landing site and for related infrastructure improvements. It establishes a procedure for the secretary to follow when taking land that includes assessing and paying damages to the property owners. The act allows the assessment, and any reassessment made by a trial referee, to consider evidence of environmental condition and required environmental remediation.

The act eliminates (1) the secretary's powers to purchase land related to the construction of the convention center, related parking facilities, on-site related private development, and related site preparation and infrastructure improvements and (2) the related requirement that any proposed price greater than $15,000 be approved by a trial referee. It eliminates the secretary's authority, with the attorney general's consent, to compromise and settle any claims by parties aggrieved by the construction of Adriaen's Landing or related payments or property transfers.

PROFESSIONAL COUNSELOR LICENSURE (§ 28)

The act amends language in PA 00-216 allowing an applicant for a license as a professional counselor to meet alternative licensure requirements. That act allows a person to apply if he (1) satisfied the graduate semester hour or degree requirements at an institution not regionally accredited and (2) had continuously worked as a supervisor of psychologists, social workers, counselors, or similar professionals for at least 15 years within a five-year period immediately before applying.

The act, instead, allows the person to apply for licensure if he (1) earned a master's degree in sociology before 1971, (2) passed the National Counselor Examination before July 1, l999, and (3) continuously worked as a supervisor of the practitioners listed above for a minimum 15 years immediately before applying.

WRITTEN REFERENDUM MATERIAL (§ 44)

The act makes a provision of PA 00-92 allowing a town to prepare and print additional material besides explanatory text, about local referendum proposals or questions as long as they do not advocate a position effective upon passage (May 26, 2000), instead of October 1, 2000.

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES CONTRACTS (§ 29)

The act authorizes the commission's executive director to enter into contractual agreements necessary to discharge her duties.

HIGH-TECHNOLOGY INFRASTRUCTURE FUND (§ 43)

The act changes the effective date of PA 00-178 from October 1, 2000 to July 1, 2000.

REPEALED SECTIONS (§ 45)

The act repeals sections of:

1. SA 99-10 (§ 59) that required all Mashantucket Pequot and Mohegan Fund grant money over $85 million to be distributed in the same proportion as the first $85 million;
2. PA 99-2, June Special Session (§ 41) that transferred (a) $10,000 in both FY 1999-00 and 2000-01 from the DPH Community Health Service Account to the Veterans Affairs Department's Other Expenses Account, (b) $350,000 in both FY 1999-00 and 2000-01 between the DPH community health services and children's health initiatives accounts, and (c) $50,000 in FY 1999-00 from DMHAS' mental health services grants to its substance abuse services grants accounts; and
3. PA 00-188 (§ 3) requiring the DSS commissioner to (a) evaluate the process for determining HUSKY Plan eligibility and (b) develop a plan to improve the process for determining and redetermining eligibility and submit it to the governor and Human Services Committee.

PA 00-2, June Special Session—HB 6002
Emergency Certification

AN ACT CONCERNING PROGRAMS AND MODIFICATIONS NECESSARY TO IMPLEMENT THE BUDGET RELATIVE TO THE DEPARTMENT OF SOCIAL SERVICES

SUMMARY: This act:

1. (a) eliminates the gross income test in the Connecticut Home Care Program for Elders (CHCPE) by making frail seniors eligible if they would qualify for Medicaid in a nursing

home and (b) expands CHCPE services to include minor home modifications and assisted living services (§ 10);
2. allows state-funded elderly congregate housing facilities to provide on-site assisted living services through assisted living services agencies (ALSAs) and lets the Department of Public Health (DPH) waive some ALSA regulations for this purpose (§ 8);
3. requires the Department of Economic and Community Development (DECD) to establish assisted living demonstration programs in two federally assisted housing developments (§ 9);
4. extends the 10-person state-funded CHCPE pilot program for people with excess income until the state receives federal approval to eliminate the gross income cap (§§ 11 and 12);
5. requires the Department of Social Services (DSS) commissioner, within available appropriations, to operate a limited state-funded personal care assistant (PCA) program in the CHCPE program (§ 47);
6. requires DSS to establish a Connecticut Pharmaceutical Assistance Program for the Elderly and Disabled (ConnPACE) Part B for elderly and disabled people who do not qualify for regular ConnPACE and establishes a non-lapsing account (§ 29);
7. requires DSS to establish a prior authorization plan for some drugs prescribed to Medicaid, General Assistance (GA), State Administered General Assistance (SAGA) and ConnPACE participants, a plan to increase cost-effectiveness or access to particular drugs, and a schedule of maximum oral dosage amounts (§§ 36 and 40);
8. limits the use of name brand drugs in medical assistance programs when generic substitutes exist and creates administrative appeals processes for pharmacists and drug prescribers (§§ 38, 41, and 42);
9. requires DSS to pay the actual acquisition cost plus 8% for Factor VIII drugs (which treat Hemophilia A) and allows it to designate specific suppliers for the drugs (§ 35);
10. requires long-term care facilities to return certain unused prescription drugs to pharmacies and permits DSS to pay pharmacies re-stocking fees (§ 37);
11. permits drug wholesalers and manufacturers to sell directly to skilled nursing facilities that have on-site pharmacists (§14);
12. requires rebates for generic drugs in the GA and ConnPACE programs to be at least as high as, instead of the same as, Medicaid rebates (§§ 43 and 44);
13. adds two members to the DSS pharmacy review panel (§ 39);
14. requires DSS to study the feasibility of additional pharmacy efficiencies in the Medicaid, GA, SAGA, and ConnPACE programs (§ 45);
15. requires DSS to develop a plan for disbursing to pharmacists any "excess" savings resulting from pharmacy initiatives (§ 46);
16. requires the DSS and Department of Children and Families (DCF) commissioners to develop and jointly administer an integrated children's behavioral health service delivery system, and specifies additional DCF services for children and youths with serious emotional disturbances (SED) (§§ 3 to 7);
17. (a) delays, from July 1, 2000 to January 1, 2001, HUSKY coverage for adults and relative caregivers; (b) reduces the program's family income limits, from 185% to 150% of the federal poverty level, for adults and some children; (c) directs DSS to spend health maintenance organizations (HMO) fines and settlements on children's health programs and services; and (d) gives legislative committees 30, rather than 15, days to approve, modify, or deny DSS's proposed HUSKY plan amendments (§§ 18, 19, and 20);
18. increases, from 15 to 30 days, the time that the Human Services and Appropriations committees have to approve, deny, or modify DSS federal waiver requests (§ 13);
19. increases rates for freestanding chronic disease and freestanding psychiatric hospitals by 3%, some home health care fees by 2%, and adult day care fees by at least 5% (§§ 15, 16, and 17);
20. (a) requires non-administrative salaries for the related parties portion of residential care home (RCH) rate formula to be based on hourly rates and (b) increases from 40 to 48 the maximum number of hours such individuals can work (§ 21);
21. (a) in most cases, eliminates landlords' option of receiving security deposit payments from DSS and limits them to

accepting DSS's damage payment guarantees for cash assistance and emergency housing recipients, (b) repeals some existing repayment procedures, and (c) requires DSS to study the impact of the guarantee program on affordable housing availability (§§ 24 and 30);

22. requires DSS to establish a pilot program for State Supplement Program (SSP) recipients that pays them a higher benefit if they live with someone who helps them move ("transfer") to or from a bed, wheelchair, or other surfaces (§ 1);
23. establishes a 10-member council to look at dental access for Medicaid recipients and report to legislative committees (§ 32);
24. establishes a pilot children's dental health program in two regions (§ 2);
25. (a) subjects vendors in the child care subsidy program to vendor fraud penalties, (b) allows before- and after-school program grants to be used for "other operational costs," and (c) removes a never-utilized cap on before- and after-care child care provider fees (§§ 22, 23, and 25);
26. changes the Office of Health Care Access' (OHCA's) hospital loan program to a grant and technical assistance program, transfers it to the Office of Policy and Management (OPM), and makes technical changes to calculations for payments to hospitals for uncompensated care (§§ 26, 28, and 51);
27. requires the state Department of Labor (DOL) to use federal unemployment compensation (UC) money for UC administrative costs (§ 27);
28. requires DSS to study the feasibility of changing the way Medicaid is provided to the managed care population (§ 31);
29. requires DCF to report to the Human Services Committee on a methodology it will use in its agency budget submission to estimate expenditures for child protective services, juvenile justice, children's mental health and substance abuse services, and administration (§ 33);
30. requires (a) DSS to submit the Temporary Assistance for needy families (TANF) quarterly expenditure form it sends to the U.S. Department of Health and Human Services to the Human Services and Appropriations committees, (b) the last quarter report to include information on unliquidated obligations, and (c) the DSS commissioner to report to the committees her plans to liquidate these monies (§ 34);
31. prohibits the disclosure of certain municipal social service records (§ 48);
32. requires DSS to conduct a health care needs assessment of children and young adults with specific (but undefined) chronic medical conditions and submit a report to legislative committees (§ 49); and
33. permits the DSS commissioner to expand the "Katie Beckett" waiver by up to 75 slots (§ 50).

The act repeals a provision in PA 00-216 that permits the public health commissioner to authorize registered nurse's aides to administer medication in nursing homes. It also repeals a provision of PA 99-279 that authorized DSS to implement a pharmaceutical purchasing initiative by contracting with an established entity to buy maintenance drugs through the lowest pricing available for Medicaid recipients (§ 52).

EFFECTIVE DATE: July 1, 2000, except provisions concerning the home care pilot, HMO fines, and municipal records are effective upon passage, and the expansion of the CHCPE and assisted living programs are effective on October 1, 2000.

HOME CARE AND ASSISTED LIVING (§§ 8-10)

Elimination of Gross Income Limit

The CHCPE program provides home- and community-based services to help frail seniors avoid nursing home placements. Under prior law, participants in both the federal waiver and state-funded portions of the program could have gross incomes of no more than $1,536 per month (300% of the Social Security Income (SSI) benefit). The act eliminates the gross income limit. It permits frail elders who meet the program's functional eligibility standards to receive services in their homes and communities so long as their countable income is less than the average cost of nursing home care. Asset limits and rules requiring those participating in the waiver program to contribute most of their income over 200% of FPL (or $16,700) towards their care costs continue to apply. The act eliminates the sliding scale formula used in the state-funded portion and replaces it with the waiver program's contribution rules.

DSS must apply to the federal Health Care Financing Administration for a Medicaid plan waiver if necessary to cover this new eligibility group.

Additional Services

Under the act, the home care program will cover minor home modifications, "care management"

(which presumably has the same meaning as "case management" which the act eliminates), and assisted living services offered in (1) state-funded congregate housing and (2) other assisted living pilot or demonstration projects established under state law, presumably including the 300 unit affordable housing assisted living demonstration program established by PA 98-239 and the two federal housing demonstration projects that this act authorizes. Other services covered under CHCPE (occupational therapy, homemaker services, companion services, meals on wheels, adult day care, transportation, mental health counseling, and elderly foster care) continue to be available under the act.

ALSA Regulation Waivers

The act requires the DPH commissioner to allow state-funded congregate housing facilities to provide on-site assisted living services through ALSAs. It permits him to waive some ALSA regulations for agencies that provide services in these facilities. He cannot permit waivers that he determines would:

1. endanger the life, safety, or health of any resident receiving assisted living services;
2. affect the quality or provision of services to any resident; or
3. revise or eliminate requirements for an ALSA's quality assurance program, grievance and appeals process, or clients' bill of rights and responsibilities.

He may impose other conditions to protect residents when he waives a regulatory requirement. He may also revoke a waiver if he finds that (1) it jeopardizes their health, safety, or welfare or (2) the facility has failed to comply with conditions he imposed.

The act permits the commissioner to develop and implement interim waiver criteria while adopting regulations if he publishes a notice of intent to adopt regulations in the *Connecticut Law Journal* within 20 days after implementing interim criteria. Interim criteria can remain in effect until January 1, 2002.

Demonstration Programs In Federally Subsidized Housing

The act requires the DECD commissioner to establish an assisted living demonstration program in one elderly housing development administered under the U.S. Housing and Urban Development's Section 202 program, and one under its Section 236 program. (The Section 202 program provides federal loans for elderly and handicapped housing construction or rehabilitation. Section 236 provides rental and cooperative housing subsidies and mortgage insurance to reduce mortgage interest costs on rental units for lower income families.) The commissioner must establish selection criteria and may adopt implementing regulations. The criteria must include:

1. the housing development's size and location;
2. anticipated social and health value to its residents;
3. the potential community development benefit to the relevant municipality; and
4. the housing development's designation as a managed residential community (MRC). (With the exception of the congregate housing program described above and a program at St. Jude's Common in Norwich, only MRCs can offer on-site assisted living services.)

The criteria may also specify who can apply for program grants, how they can use the money, and eligible geographic locations.

Extension of Home Care Pilot (§§ 11 and 12)

The act extends the 10-person, state-funded pilot program for people who otherwise qualify for the Medicaid-funded portion of the CHCPE but for excess income (up to $100 over the program's income limit, which is currently $1,536 per month) from June 30, 2000 until the earlier of July 1, 2001 or the date that these services are actually covered by the Medicaid program (presumably when DSS receives federal approval to remove the income cap). It also extends the state-funded non-home care medical benefits that these individuals can receive during the same period.

Personal Care Assistance (PCA) for People Age 65 and Over (§ 47)

The act requires the DSS commissioner, within available appropriations, to establish and operate a state-funded pilot PCA program for up to 50 people who are age 65 and over in order for them to avoid institutionalization. To qualify, an individual must (1) have received Medicaid PCA waiver services during the 12-month period before he turned 65 or (2) be eligible for CHCPE services but unable to access them adequately. The state's Medicaid PCA waiver program is available only to people with disabilities who are between the ages of 18 and 64 and need help with at least two activities of daily living.

The act requires the DSS commissioner to evaluate the cost-effectiveness of providing these services and allows her, within available appropriations, to increase the number served to 100 if she can demonstrate such cost-effectiveness. She

must report on the pilot program to the Appropriations, Human Services, and Public Health committees by January 1, 2002.

PRESCRIPTION DRUGS

ConnPACE "Part B" (§ 29)

The act requires the DSS commissioner to develop a plan to add a ConnPACE Part B component as a supplement to the regular ConnPACE program. The component is to meet the needs of elderly and disabled people who do not qualify for regular ConnPACE because they have too much income but have no means to pay for all or part of their prescription drug costs.

The program plan may include at least the following:

1. a reasonable application fee;
2. a drug benefit allowing recipients to receive prescriptions at or below current Medicaid rates;
3. a manufacturer's rebate equaling the Medicaid rebate, including a provision that could require manufacturers to participate in Part B as a condition of participating in regular ConnPACE;
4. a dispensing fee and additional subsidies to be paid to participating pharmacists,
5. an income eligibility limit tied to the federal poverty level; and
6. an income eligibility exclusion for income spent on catastrophic drug costs.

The plan must include a fiscal impact analysis specifying the overall program and administrative costs, including cost projections associated with (1) any fees or subsidies provided to pharmacists, (2) eligibility determinations and claims processing requirements, and (3) start-up. The analysis must also project revenue, including anticipated manufacturer rebates and application fees. Program expenditures must not exceed anticipated revenue.

The commissioner must submit the plan to the Appropriations, Human Services, and Public Health committees by January 1, 2001. Within 30 days the committees must indicate to the House speaker, Senate president pro tempore, each chamber's majority and minority leaders, and the DSS commissioner whether the plan meets the cost neutrality requirement. If the committees find that cost neutrality has been met, the commissioner must implement the plan as soon as practicable, but no later than July 1, 2001.

The act establishes a separate, non-lapsing Part B account into which manufacturers' rebates and other revenue may be deposited and from which payments to participating pharmacists and for administrative costs can be made. It allows the commissioner to negotiate the contractual terms of participation by manufacturers, pharmacists, and application and claims processing agents.

Reimbursement Formula for Hemophilia Drugs (§ 35)

The act sets the maximum that the state will pay for Factor VIII pharmaceuticals (drugs used to treat Hemophilia A) in the Medicaid, GA, SAGA, and ConnPACE programs at the actual acquisition cost plus 8%. DSS currently pays pharmacies the estimated acquisition cost (EAC) for these drugs, which is the average wholesale price minus 12% plus a dispensing fee for each prescription. The act permits the DSS commissioner to designate specific suppliers from which pharmacists must order these drugs; the supplier bills DSS directly. If the commissioner designates such suppliers, she must pay the dispensing pharmacy a handling fee equal to 8% for each prescription.

Prior Authorization and Designated Supplier Plans and Maximum Dosage Schedules (§§ *36 and 40)*

The act permits DSS to establish a prior authorization plan for some prescription drugs covered under the Medicaid, GA, SAGA, and ConnPACE programs and eliminates the ConnPACE law that excludes prescription drugs from such procedures. It allows DSS to require prior authorization for (1) initial prescriptions for drugs costing $500 or more for a 30-day supply and (2) any early refill request. It requires DSS to develop a procedure by which prior authorizations are obtained from an independent pharmacy consultant acting on behalf of DSS under an "administrative services only" contract. It deems an authorization granted if a request is not denied within two hours after the DSS commissioner receives it.

DSS must also establish a plan to increase cost effectiveness or enhance access to a particular prescription drug. It may designate suppliers from which pharmacies must order certain drugs, and require these suppliers to deliver the drug to the pharmacy and submit their bills to DSS. DSS must pay a pharmacy a handling fee for each prescription filled. The fee cannot exceed 400% of the dispensing fee DSS pays pharmacists under the Medicaid program. (This fee is currently $4.10.) The act specifies that it should not be construed to permit DSS to purchase all prescription drugs for the Medicaid, SAGA, GA, and ConnPACE programs under a single contract.

The act also permits DSS to review utilization patterns and establish a schedule limiting the number of oral dosage units (medication taken by mouth) that can be dispensed at one time to Medicaid, SAGA, and GA program participants.

DSS must submit these plans and schedules, and any revisions to them, to the Appropriations, Human Services, and Public Health committees. The committees must advise DSS of their approval or denial within 60 days of receipt. Unless all three committees vote to reject a plan, schedule, or revision within that period, it is deemed approved.

Generic Substitutions (§§ 38, 41, and 42)

The act requires health care professionals prescribing brand name (i.e., non-generic) drugs for Medicaid, GA, SAGA, and ConnPACE recipients to specify to pharmacists why the brand name drug is medically necessary. The prescriber may do this in writing, by telephone, or electronically. By law, prescribers who do not want pharmacists to substitute chemically equivalent generics must hand-write on Medicaid recipients' prescriptions "Brand Medically Necessary." If they phone in the prescription, they must send the pharmacist a handwritten certification within 10 days. The act extends these requirements to prescriptions for SAGA, GA, and ConnPACE recipients.

The act makes a similar change to the law permitting pharmacists to dispense generic drugs. (DSS pays them 50 cents per prescription, in addition to any other dispensing fee, for substituting generic equivalents for brand name drugs.) By law, they must substitute generics for medical assistance participants unless the prescription contains the handwritten phrase "No Substitution" or for Medicaid recipients, "Brand Medically Necessary." (The same documentation rules for phone-in prescriptions described above apply to both phone-in and electronically transmitted prescriptions.)

The act also requires DSS to establish a procedure requiring pharmacists to get prior approval to initially dispense a brand name drug when there is a chemically equivalent generic substitute. It requires DSS to hire an independent pharmacy consultant under an "administrative services only" contract to act on its behalf to make approval decisions. It specifies that the prior approval procedure cannot be required for other than initial prescriptions, and it deems requests for approval granted if the consultant does not deny them within two hours after the DSS commissioner received it.

The act requires prescribers to DSS or its pharmacy consultant, on request, why a brand name drug product and dosage form is medically necessary compared to a chemically equivalent generic product. It requires DSS to establish a procedure for (1) practitioners to appeal the department's determination that generic substitution is required for a Medicaid, GA, SAGA, or ConnPACE prescription and (2) pharmacists to appeal reimbursement denials for failing to substitute generics.

Return of Prescriptions By Nursing Homes (§ 37)

The act requires long-term care facilities to return to the pharmacy, for repackaging and reimbursement by DSS, drugs that were dispensed to a patient but not used if they are:

1. prescription drugs but not controlled substances;
2. sealed in individually packaged units;
3. returned to the vendor pharmacy during the recommended shelf life of the product for redispensing, and determined to be of acceptable integrity by a licensed pharmacist;
4. in single-dose sealed containers approved by the federal Food and Drug Administration (FDA) if they are oral or parenteral products;
5. in units-of-use FDA-approved containers if they are topical or inhalant drug products; or
6. in multiple-dose sealed FDA-approved containers from which no doses have been withdrawn if parenteral medications.

The act prohibits returning drugs dispensed in a bulk dispensing container.

If the drugs are packaged in the manufacturer's unit-dose packages, they must be returned for redispensing and reimbursement by DSS if they can be redispensed for use before the expiration date, if any, stated on the package. If they are repackaged in the manufacturer's unit-dose or multiple-dose blister packs, they must be returned if (1) the package clearly indicates (a) the date of repackaging, (b) the drug's lot number, and (c) the product's expiration date; (2) 90 days or fewer have elapsed since the drug was repackaged; and (3) the pharmacy keeps a repackaging log in the case of drugs that are repackaged before needed.

The act requires long-term care facilities to establish procedures for returning drugs to the pharmacy from which they were purchased. It requires the Department of Consumer Protection commissioner, in consultation with DSS, to adopt implementing regulations concerned with the repackaging and labeling of returned drugs. It requires him to implement the program while in the process of adopting the regulations until January 1,

2002, provided he publishes notice in the *Connecticut Law Journal* within 20 days of implementation.

The act (1) requires DSS to reimburse the pharmacy for the reasonable cost of services incurred in operating such a program, as the DSS commissioner determines, and (2) allows it to establish procedures for reimbursing non-Medicaid payors for returned products, if feasible.

Sale of Drugs to Nursing Homes (§ 14)

The act permits drug manufacturers and wholesalers to sell drugs to skilled nursing facilities that have a pharmacist actively working in his profession (defined as six minutes per patient per week) at least 12 hours per week.

Pharmacy Review Panel (§ 39)

The act adds two representatives of pharmacies serving long-term care facilities to the DSS pharmacy review panel. This panel advises DSS in the operation of its pharmacy benefits programs.

Drug Rebates (§§ 43 and 44)

The act requires the DSS commissioner to set the GA (not including SAGA) and ConnPACE drug rebates for generic drugs at a level that is not lower than those in the Medicaid program. Prior law required the rebates for both generic and brand-name drugs in both of these programs to be the same as Medicaid rebates. (SAGA rebates are currently the same as Medicaid ones.)

Pharmacy Efficiencies Feasibility Study (§ 45)

The act requires DSS, in consultation with the pharmacy review panel, to study the feasibility of implementing additional pharmacy efficiencies in the Medicaid, ConnPACE, SAGA, and GA programs. These could at a minimum include (1) enhanced use of cognitive services by pharmacists in the use of medicines for chronic disease, (2) enhancement of services to address adverse drug reactions, and (3) pursuit of fraud or other misuse of prescribing authority by licensed medical practitioners. DSS must submit a report by May 1, 2001 to the Human Services, Public Health, and Appropriations committees.

Disbursement of Excess Savings (§ 46)

The act requires the DSS commissioner to develop a plan for disbursing to participating pharmacies any excess savings that accrue from implementing the act's various pharmacy measures. She must report on the plan and any savings to the Public Health, Human Services, and Appropriations committees by May 15, 2001.

CHILDREN'S BEHAVIORAL HEALTH *(§§ 3-7)*

The act requires DSS and DCF to cooperatively develop an integrated behavioral health service delivery system for children and youth with serious emotional disturbances (SED) who are eligible for HUSKY A or B, HUSKY Plus, or DCF's voluntary services program.

Duties of Commissioners

By October 1, 2000, DCF and DSS must:

1. submit a behavioral health program plan to the Appropriations, Human Services, and Public Health committees;
2. sign a memorandum of understanding that (a) establishes mechanisms to administer funding, set standards, and monitor implementation of the integrated delivery system and (b) specifies that DSS will manage Medicaid and HUSKY plan modifications, waiver amendments, federal reporting and claims processing, and provide financial management and DCF will define services and develop statewide training programs;
3. establish fiscal and program eligibility guidelines and outcome measures; and
4. develop a plan to evaluate service administration.

The DSS and DCF commissioners must consult with the mental health and addiction services and mental retardation commissioners while developing the service delivery system to ensure coordinated transitions among systems for children, youth, and adults. They must amend the state's foster care (IV-E), Medicaid (Title XIX), and HUSKY B (Title XXI) plans, if needed, to maximize eligibility for federal matching funds. They can also apply for federal waivers.

In FY 2000-01, they may implement a partial, time-limited project in areas with well-developed behavioral health services and provider cooperation.

DCF must also submit a report to the Human Services Committee by October 1, 2000 on the feasibility of establishing a Bureau of Behavioral Health within DCF.

Behavioral Health Plan Report

The behavioral health plan must specify:

1. clinical and functional eligibility criteria;
2. an estimate of state and federal funding for these behavioral health services in the HUSKY A and B and foster care plans;
3. how it will enhance local systems of care as the primary service providers;
4. how it will define and establish lead service agencies to coordinate the local systems of care;
5. contracting plans for an administrative services organization or other organizations to provide data and fiduciary management for the lead service agencies;
6. how it will deliver high quality care in the least restrictive environment;
7. whether it is feasible to create a hardship exemption to permit children who meet the HUSKY plan's financial, and the act's clinical and functional eligibility criteria to enroll immediately in HUSKY B;
8. whether it is feasible to allow uninsured children living in households with incomes over 300% of the federal poverty level (which is $42,450 for a three-person family) to buy into the HUSKY B program (which they may already do);
9. a strategy for enhancing home and community-based services to allow children and youth in out-of-home placements to return to their families and communities;
10. mechanisms for the continuous evaluation and quality improvement of the integrated service delivery system, including periodic evaluation of specific programs and services and research on child outcomes;
11. a training program for staff and providers on changes to the systems of care model, and all aspects of care delivery under the integrated system; and
12. procedures for compiling the data and conducting needs assessments to plan an integrated behavioral health service delivery system.

Local Systems of Care

The act also requires local systems of care (community-based teams of service providers) annually, beginning January 1, 2001, to:

1. complete local needs assessments, including objectives and outcome measures;
2. specify the number of children that need behavioral health services, how many are receiving community-based and residential services, and the type and frequency of such services;
3. complete self-evaluations; and
4. review discharge summaries.

They must conduct these assessments within available appropriations and submit copies to the DCF and DSS commissioners.

Defining SED

The act defines a child or youth as having SED if he has a range of diagnosable mental, behavioral, or emotional disorders of sufficient duration to meet diagnostic criteria specified in the most recent edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (currently DSM-IV). He must also exhibit behaviors that substantially interfere with or limit his ability to function in his family, school, or community. It excludes those who meet these criteria if their behaviors are a temporary response to a stressful situation.

Extending Services to Children with SED

Under the act, DCF must establish individual system of care plans for children with SED who are at risk of placement. Prior law limited this service to children at placement risk because of mental illness or emotional disturbances.

Expanding Parental Representation on Case Review and Coordinated Care Committees

The act also permits regional case review committees and the statewide coordinated care committee to include parents of children or adolescents with mental illness or emotional disturbance. Previously, only parents of children or adolescents with SED could serve. (Case review committees determine whether children or adolescents are at placement risk, help children or families form child specific teams, and develop or implement individual system of care plans if a child specific team does not do so. The coordinated care committee consults with the DCF commissioner to make findings and recommendations for programs for children or youth at placement risk.)

HUSKY—REDUCTION IN INCOME LIMITS FOR CARETAKER RELATIVES AND CERTAIN CHILDREN (§§18 and 20)

Under prior law, uninsured parents and relative caregivers of children enrolled in the Medicaid

portion of the state's children's health insurance program (HUSKY, Part A) were to become eligible for the program on July 1, 2000 if their family income was less than 185% of the federal poverty level (FPL). Under the act, only those with incomes below 150% of FPL will qualify, and they will not be able to enroll until January 1, 2001. (150% of FPL for a three-person family is $20,790; 185% for the same size family is $25,641.) The act specifies that adults may ask to be enrolled at any time or at their child's yearly eligibility re-determination.

The act also reduces by the same amount, on January 1, 2001, family income limits for some children who currently qualify for coverage under section 1931 of the Social Security Act. (This section, enacted as part of federal welfare reform, permits states to cover those who would have been Medicaid-eligible under the old Aid to Families with Dependent Children (AFDC) program and to devise less restrictive eligibility criteria, including family coverage.) In practice, most children with family incomes between 150% and 185% of FPL will continue to be eligible for HUSKY A under a different Medicaid coverage group.

Extended Legislative Approval Period

The act gives legislative committees 30, rather than 15, days, to approve, modify, or deny DSS's proposed HUSKY plan amendments.

HMO FINES (§ 19)

The act directs DSS to deposit fines and monetary settlements it collects on or after May 1, 2000 from HMOs with Medicaid or HUSKY program contracts into a special account, which it must spend on children's health programs and services. Contracts between DSS and HMOs can specify monetary sanctions for nonperformance, or fraud or breach of contract claims against HMOs can be resolved through litigation or negotiated monetary settlements.

CHILD CARE ASSISTANCE (§§ 22, 23, and 25)

The act subjects child care vendors serving families with DSS child care subsidies to the criminal penalties for vendor fraud. These individuals are already subject to the larceny penalties. It permanently terminates vendors who are convicted of crimes involving fraud in any state-funded child care program from participating in these programs. The law establishes mechanisms to ensure that DSS learns of these convictions and requires DSS to apply administrative remedies when it does, such as program terminations.

The act also expands how DSS grants for before- and after-school programs can be used to pay for "other operational costs" directly attributable to the child care program. Previously, funds could be used only for maintenance and utility, transportation, and liability insurance costs. The act also removes the statutory cap on the fees these providers may charge. DSS has never implemented the cap.

DSS HEALTH CARE RATES

Freestanding Chronic Disease And Psychiatric Hospital Rates (§ 15)

The act increases by 3% DSS's Medicaid reimbursement rate for freestanding chronic disease and freestanding psychiatric hospital services for the rate period beginning July 1, 2000. (Freestanding chronic disease hospitals are facilities such as the Masonic Home and Gaylord Hospital that care for people with chronic diseases.) DSS must adjust the rates for inflation each July 1, using the Medicare inflation rate published in the previous September's *Federal Register*. The act specifies that the wage portion of this published rate must be adjusted for the Hartford metropolitan statistical area.

Previously, chronic disease hospital rates were capped at the 1995 level. DSS adjusted them yearly for inflation at the same rate it applied to acute care hospitals. Chronic disease hospitals that provided more than half their inpatient services to Medicaid recipients could ask DSS to reimburse them using their actual 1995 charges. The act eliminates this option.

Home Health and Adult Day Care Rates (§§ 16 and 17)

The act increases by 2% the fee DSS pays home health care agencies and homemaker-home health aide agencies for home health services provided under the CHCPE, beginning July 1, 2000. Rates for those agencies not serving CHCPE clients remain the same.

The act also increases by at least 5% the fees that DSS pays for adult day care services, beginning July 1, 2000. The law, unchanged by the act, continues to allow DSS to annually increase these fees, which are set in a schedule, based on increases in service costs. The state's rate for these services cannot exceed that charged to the public.

The act also makes a technical change.

Residential Care Home Rates (RCH) (§ 21)

State law and regulations contain a State Supplement Program (SSP) rate-setting formula for RCHs that factors in such things as employee salaries and property costs. The homes submit cost reports and DSS sets a prospective daily rate based on their reported allowable costs. The rates are used to determine the amount of the SSP benefit, which also factors in a client's income and other needs.

The act requires DSS, beginning with FY 2000-01, when determining the daily rate, to compute the maximum allowable salary of a related party other than the proprietor on an hourly basis. Currently, the maximum for such parties is $29,298, which is adjusted for inflation each year.

DSS regulations provide that the salaries for non-administrative personnel who are proprietors or relatives may not exceed the allowable limits based on a 40-hour workweek. The act increases the maximum number of hours a related party other than the proprietor can work in a week from 40 to 48.

The regulations define a related party in this context as persons or organizations related through marriage, ability to control, ownership, family, or business association.

SECURITY DEPOSITS (§§ 24 and 30)

The act makes security deposit guarantees the only form of security deposit assistance for most financially needy and Temporary Family Assistance (TFA), State Supplement, SAGA, and GA cash recipients. These are people living in shelters or other emergency housing, at risk of losing permanent housing, or living in lead-contaminated housing who cannot afford a rental security deposit. Previously, landlords who rented to people living in shelters could choose between receiving payment from DSS or accepting DSS's guarantee to pay for damages, up to the amount that it would otherwise pay as a deposit (normally a month's rent, but up to two months in cases of financial need). And security deposit grants are a "special benefit" under the TFA, State Supplement, and general assistance programs.

The act prohibits DSS from paying security deposits from TFA, State Supplement, SAGA, and GA program funds. But it permits shelters that have contracts with DSS to continue to provide them to eligible residents until October 1, 2001.

It makes DSS's guarantee of damage payments after a tenant moves out a landlord's only option in most cases. But it allows the DSS commissioner to give security deposit grants on a case-by-case basis to people if she determines that emergency circumstances exist that threaten the health, safety, or welfare of a child living with them. She must pay these grants within appropriations, from funds appropriated to DSS's safety net account. Grants cannot exceed one month's rent, and people may not get more than one without the commissioner's permission.

DSS previously reduced future grants by the amount it paid landlords or security deposit funds that were not returned to it. Under the act, it will reduce future security deposit guarantees, but not grants, by this amount.

The act eliminates the requirement that grant recipients and landlords receiving DSS payments for security deposits through the shelter or emergency housing program sign agreements to return the deposits and accrued interest to DSS when the tenant moves out. It also eliminates procedures landlords must follow to withhold some or all of these deposits. By law, DSS must adopt regulations governing the security deposit program, but it may implement the deposit guarantee program until January 1, 2002 while in the process of doing so. It must publish notice of its intent in the *Connecticut Law Journal* within 20 days after implementation.

The act also requires DSS to study the impact of the security deposit guarantee program on security deposit guarantee recipients' access to affordable housing. The commissioner must report her findings and recommendations to the Appropriations and Human Services committees by February 1, 2001.

STATE SUPPLEMENT TRANSFER ASSISTANCE (§ 1)

The act requires the DSS commissioner, within available appropriations, to establish a pilot program that will provide additional financial assistance to people with severe physical disabilities who apply for or receive State Supplement Program (SSP) benefits and live with a non-relative who provides transfer assistance. This term is defined as help provided to the person by someone who (1) physically lifts him or (2) uses a hoyer lift, transfer board, or other device to move him between surfaces or to or from a bed, chair, or wheelchair within his residence. Only those individuals who cannot transfer independently in an emergency qualify. The assistance is the equivalent of the additional SSP payment the individual would receive if he were not living with the helper.

The commissioner must adopt regulations to administer the pilot program but can implement it until January 1, 2002, provided she publishes notice in the *Connecticut Law Journal* within 20 days of implementation.

DENTAL SERVICES

Dental Advisory Council (§ 32)

The act establishes a 10-member Dental Advisory Council to examine dental care access for Medicaid recipients. The council must:

1. review DSS Medicaid fees for dental services to determine their adequacy and recommend adjustments to them based on experience, access to dental services, and dental utilization as reflected in federal utilization reports;
2. monitor the effects of Medicaid dental fee increases on the number of people eligible for Medicaid who obtain these services and the number of participating providers;
3. recommend dental service capacity assessments;
4. identify private foundation support for public or nonprofit health care entities providing dental services;
5. evaluate dental care pilot programs;
6. enhance public and medical community awareness of dental access issues; and
7. recommend ways to expand access and increase utilization, including, at a minimum, state utilization goals.

The council is composed of the DSS and public health commissioners and the dean of the University of Connecticut (UConn) School of Dentistry, or their designees, and representatives from the following:

Member	***Appointing Authority***
Mobile dental clinic	Governor
Connecticut State Dental Association	House Speaker
MCO	Senate President Pro Tem
Connecticut Dental Hygiene Association	Senate majority leader
Children's Health Council	House minority leader
Community health center or school-based health center	House majority leader
Faculty member or administrator of a dental hygiene school located in Connecticut	Senate minority leader

The council must submit an interim report of its analysis and recommendations to the Public Health and Human Services committees by April 15, 2001 and a final report by January 1, 2002.

Pilot Children's Dental Program (§ 2)

The act requires the DPH and DSS commissioners and the chief executive officer of the UConn Health Center to establish a pilot program to deliver dental services to children in low-income families in two regions of the state. The program must provide for the design and implementation of a model integrated system of children's dental care, including disease prevention, service intervention, and measurable outcomes.

HOSPITAL LOAN PROGRAM (§§ 26, 28 and 51)

The act changes the OHCA hospital loan program to one that provides grants, technical assistance, or consultation services to the state's nongovernmental acute care general hospitals, except John Dempsey Hospital. The program is administered by OHCA in consultation with OPM. It assists acute care hospitals (1) develop and implement plans to achieve financial stability and (2) assure appropriate health care delivery in their service areas. The act makes OPM the new program administrator and allows it to help a hospital determe strategies, goals, and plans to ensure its financial viability or stability. The act specifies that the grants, technical assistance, or consultation must be consistent with applicable federal disproportionate share regulations.

A hospital seeking a grant, technical assistance, or consultation services must submit a plan to OPM and OHCA, instead of just OHCA. Under the act, the plan must include (1) the hospital's current projections of its finances for the current and next three fiscal years (instead of for the term of the loan); (2) the major financial issues affecting the hospital's financial stability; (3) proposed steps to study or improve the hospital's financial status and eliminate ongoing operating losses; (4) plans to study or change the hospital's service mix, including changing to an alternative licensure category; and (5) other related elements as determined by OPM. The plan must clearly identify the amount, value or type of grant, technical assistance, consultation services, or combination thereof requested.

OPM must determine that grants, technical assistance, or consultation services provided to the hospital do not jeopardize federal matching payments under the medical assistance and emergency assistance to families programs as determined by DSS or OHCA in consultation with OPM.

Prior law established a nonlapsing account from which the loans were made. Under the act, the account is for making the grants, purchasing services, or reimbursing state costs for services determined necessary by OPM to assist the hospitals.

The act authorizes OPM to award a grant or provide or contract with consultants for technical assistance or consultation services that it deems necessary or advisable after its review and approval of the probable significant benefit of the hospital's plan. Previously, OHCA could recommend loans to hospitals based on review and approval of the financial viability of the hospital's plan.

The act specifies that the unexpended balance of funds appropriated to OHCA for the hospital loan program must be transferred to the hospital grant and assistance program in OPM established by the act.

Finally, the act makes technical changes concerning calculations for payments to hospitals for uncompensated care.

UNEMPLOYMENT COMPENSATION FUND (§ 27)

The act requires the state DOL to use certain federal unemployment compensation money that is credited to the state's unemployment compensation fund for federal FYs 1999-01 exclusively to administer the unemployment compensation system.

Under federal law, when certain federal unemployment compensation funds, including the extended benefit account, the unemployment account, and the employment security administration account, exceed statutory limits, the U.S. labor secretary transfers the excess to states' unemployment compensation funds. Federal law places restrictions on how states may use this money.

STUDY OF MEDICAID MANAGED CARE MODELS (§ 31)

The act requires the DSS commissioner to study ways to operate the Medicaid managed care program, including primary care case management, fee for service, and the current system (i.e., HMOs). The study must compare probable costs and quality under each system, including provider and client participation; client access to care parameters; ease of access; preventive care; treatment referrals; outreach; disincentives to providing care; public ownership of program information and data; and the administrative burden on providers, clients, and the state. The commissioner must rely on the experiences of other states and input from current and potential providers and clients. She must report her findings and recommendations to the Appropriations, Human Services, and Public Health committees by March 1, 2001.

DCF EXPENDITURE REPORT TO HUMAN SERVICES COMMITTEE (§ 33)

The act requires DCF to submit a report to the Appropriations and Human Services committees by January 1, 2001 specifying the method that the agency will use when it submits its expenditure estimates to legislative committees as required by law. The report must show how it will estimate expenditures for (1) child protective services, (2) juvenile justice, (3) children's mental health and substance abuse services, (4) prevention, and (5) administration.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) REPORTING (§ 34)

The act requires DSS to submit a copy of the quarterly TANF expenditure report it files with the U.S. Department of Health and Human Services to the Appropriations and Human Services committees within 45 days of the filing. The report for the last quarter of the fiscal year must identify unliquidated obligations either (1) identified in previous quarterly reports for the same fiscal year and claimed before the prior quarterly report or (2) not yet claimed. If the report identifies any unliquidated obligations, the commissioner must notify the committees of her intent to dispose of them, which can include establishing or contributing to a reserve account to meet future needs in the TFA program (the state's cash welfare program for families.)

CONFIDENTIALITY OF MUNICIPAL SOCIAL SERVICES RECORDS (§ 48)

The act prohibits anyone from soliciting, disclosing, receiving or making use of, knowingly permitting, participating in, or acquiescing in the use of any list of names or any personally identifiable social, financial, employment, medical health, mental health, substance abuse treatment, or case history information pertaining to people receiving assistance from or participating in any program that a town social service department administers. It does not include information directly connected with administering these programs. This includes information that comes directly or indirectly from the department's records, papers, files, or communications, or acquired in the course of the performance of official duties.

NEEDS ASSESSMENT OF CHILDREN WITH CHRONIC MEDICAL CONDITIONS (§ 49)

The act requires DSS to conduct a comprehensive assessment of the continuum of care needs of children and young adults with specific chronic conditions. (It does not specify age limits or the chronic conditions.) She must submit a report of her findings and recommendations to the Appropriations, Human Services, Insurance, and Public Health committees by February 1, 2001.

KATIE BECKETT WAIVER EXPANSION (§ 50)

The act permits the DSS commissioner, within available appropriations, to amend the state's model 2176 ("Katie Beckett") waiver to increase the number of people eligible from 125 to 200. This waiver provides home- and community-based services to severely disabled children who would otherwise require institutionalization.

It also removes an obsolete reporting requirement.

BACKGROUND

Congregate Housing

The 24 state-funded congregate housing facilities serve people age 62 and over with incomes up to 80% of the area's median. The facilities are intended for those who have difficulties with one or more essential activities of daily living, such as eating, bathing, grooming, or dressing. Generally, residents live in an independent apartment with kitchen and bath, and receive at least one meal a day in a common dining room, some housekeeping assistance, and personal services.

Assisted Living

Assisted living is an emerging care model that provides health care and other assistance primarily to elderly people who may not need or want nursing home care, yet need some help with things like feeding, bathing, errands, and chores. Typically, assisted living services are provided in managed residential communities where the elderly person has his own apartment and shares some services with other tenants.

Affordable Housing Demonstration Project

PA 98-239, as amended by PA 99-279, requires DSS, along with DECD and the Connecticut Housing Finance Authority, to establish an assisted living demonstration project for people living in affordable housing. (By law, affordable housing is subsidized housing for people whose yearly income is at or below the median for the area where they live.) Eligible residents must be at least age 65, at risk for being unnecessarily placed in a nursing home, and meet the Connecticut home care program's income and asset tests. The project can include up to 300 living units. Five facilities have been selected for the project, which is expected to be implemented by the end of 2001.

State Supplement Program (SSP)

The SSP (also known as Aid to the Aged, Blind and Disabled) provides cash assistance to individuals age 65 or over, and those between the ages of 18 and 65 who are disabled or blind, who qualify for Supplemental Security Income (SSI); SSI eligibility is not a prerequisite. Gross monthly income is limited to $1,536 and assets can be no more than $1,600 for single applicants, and $2,400 for married couples.

SSP benefits are determined by looking at an applicant's countable income and comparing it to his "needs." For someone living in the community, need is calculated by taking the amount of the person's rent (which can be no more than $400 for someone living alone, or $200 for someone in shared housing) and adding a personal needs allowance of $164.10. The sum is compared to combined earned and unearned income, minus earned and unearned income "disregards" and impairment-related work expenses (countable income). If countable income is less than the need, the person qualifies and the difference is the benefit amount.

Vendor Fraud

State law punishes DSS vendors who defraud the state under either the vendor fraud statute or the larceny statute. (It is easier to convict under the latter as prosecutors do not have to show intent, as is required under the vendor fraud law.)

To be considered guilty of vendor fraud, someone must have intentionally provided goods or services to public assistance recipients with intent to defraud and acted on his or someone else's behalf in one of the following four ways:

1. presenting false claims for payment;
2. accepting payment for goods or services greater than the amount due or what the law allows;
3. soliciting to perform services for or sell goods to beneficiaries who do not need them, or which DSS has not authorized; or

4. accepting more than the law allows from anyone besides the state.

There are six degrees of vendor fraud, depending on the amount of money involved. First degree carries the severest penalties (a maximum 20 years imprisonment and up to $15,000 in fines).

Child Care Subsidy Program (CGS § 17b-749)

The child care subsidy program (also known as Child Care Assistance Program or CCAP) provides a subsidy to families who (1) currently receive TFA, (2) used to receive TFA but now earn too much, or (3) earn no more than 75% of the state median income. Children can receive care in centers, group day care homes, or family day care homes, or can be cared for by family members or in other types of situations. Priority for non-TFA subsidies is given to serving families with incomes below 25% of the state median income and those with children with special needs.

State-Funded Child Care Programs

In addition to the CCAP, the state provides direct funding to purchase slots in about 100 day care centers around the state (CGS § 8-210(b)). It provides grants to preschools and schools to provide day care services before and after their regular day (CGS § 17b-749a). It provides grants to service providers to help them become accredited, purchase equipment, train staff, and repair safety problems (CGS § 17b-749c). And it provides loans, loan guarantees, grants, and tax incentives that can be used to expand the availability of child care services (various cites).

Prescription Drug Return Demonstration Program

Prior law allowed the DSS commissioner to establish a two-year demonstration program to explore methods of returning and dispensing prescription drugs that have been dispensed to patients in long-term care facilities. It required the commissioner to report on the program to the Appropriations and Human Services committees by February 15, 2000. The department has not submitted the report yet.

Related Acts

PA 00-188 creates a Children's Behavioral Health Advisory Committee whose members include the DSS and DCF commissioners or their designees. Among other things, the committee must submit yearly status reports on local systems of care and practice standards for state-funded behavioral health programs to the State Advisory Council on Children and Families.

PA 00-216 allows the public health commissioner to authorize registered nurse's aides to administer medication in nursing homes. Section 52 of this act repeals that provision.

BOATS AND BOATING

BONDS

CIGARETTES
See Tobacco Products

CIVIL PROCEDURE

COLLECTIVE BARGAINING

CREDIT UNIONS

CRIME VICTIMS

CRIMES AND OFFENSES

See also Criminal Procedure

CRIMINAL PROCEDURE

CUTPA

See Connecticut Unfair Trade Practices Act

DAY CARE

DENTISTS AND DENTISTRY

DISABLED PERSONS

See also Protection and Advocacy for Persons With Disabilities Office

DISCRIMINATION

DRUGS AND MEDICINE

ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

ECONOMIC DEVELOPMENT

HIGHER EDUCATION

HIGHER EDUCATION DEPARTMENT

HIGHWAYS AND ROADS

HOLIDAYS

HOME HEALTH CARE

HOSPITALS

See also Health Care Facilities

MOTOR VEHICLES DEPARTMENT

MUNICIPAL OFFICIALS AND EMPLOYEES

MUNICIPALITIES
See also Municipal Officials and Employees; Planning and Zoning; Property Tax; Schools and School Districts

OFFICE OF POLICY AND MANAGEMENT
See Policy and Management, Office of

OIL AND GAS
See also Gasoline

PAROLE
See Criminal Procedure

PHARMACIES AND PHARMACISTS

PLANNING AND ZONING

POLICE
See Law Enforcement Officers

POLICY AND MANAGEMENT, OFFICE OF

POLLUTION
See Water Pollution

PRIORITY SCHOOLS
See Schools and School Districts

PRISONS AND PRISONERS

PRIVACY
See Confidentiality

PROBATE COURTS

PROBATION
See also Adult Probation Office

PROPERTY TAX

SALES AND USE TAXES

SCHOOLS AND SCHOOL DISTRICTS

SECRETARY OF THE STATE

SENTENCING

See Criminal Procedure

SHERIFFS

See also Law Enforcement Officers

SOCIAL SERVICES DEPARTMENT

SOLID WASTE MANAGEMENT

STATE BOARD OF EDUCATION

STATE BUDGET