SUMMARY OF 2001 PUBLIC ACTS

Connecticut General Assembly

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NOTICE TO USERS

This publication summarizes all public acts passed by the 2001 regular session, and 2001 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. They are also available online from The Connecticut General Assembly's Website (http://www.cga.state.ct.us).

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 01-54, An Act Concerning Video Games; PA 01-107, An Act Concerning Clean Air Standards for Certain Power Plants; and PA 01-189, An Act Concerning Procedures for State Employee Collective Bargaining.

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 01-119—sHB 6909
Select Committee on Aging
Human Services Committee
Appropriations Committee
Government Administration and Elections Committee
Legislative Management Committee

AN ACT CONCERNING THE LONG-TERM CARE PLANNING COMMITTEE

SUMMARY: This act expands the Long-Term Care Planning Committee's scope to include establishing a long-term care plan for all people in need of long-term care instead of only the elderly. It adds to the committee's membership one representative of the Department of Children and Families (DCF) appointed by the DCF commissioner and the executive director of the Office of Protection and Advocacy for Persons with Disabilities, or his designee. It also requires the committee to evaluate long-term care issues in light of the U.S. Supreme Court decision in *Olmstead v. L.C.* That decision requires states to place people with disabilities in community settings rather than in institutions when (1) it is appropriate, (2) the individual does not oppose the transfer to a less restrictive setting, and (3) the community placement can be reasonably accommodated.

The act also:

1. changes the committee's legislative reporting deadline for its long-term care plan from every two years to every three years;
2. requires the plan to serve as a guide for state agencies' developing and modifying programs that serve people needing long-term care;
3. requires any state agency, when developing or modifying any program that, wholly or partially, assists or supports people with long-term care needs to include, to the extent feasible, provisions that (a) support care-giving by family members and other informal caregivers and (b) promote consumer-directed care.

EFFECTIVE DATE: July 1, 2001

BACKGROUND

Long-Term Care Planning Committee

The interagency Long-Term Care Planning Committee is composed of representatives from executive agencies and legislators.

The committee's charge is to exchange information on elderly long-term care issues, coordinate long-term care policy development, establish a statewide long-term care plan for the elderly, and study related issues. It is advised by a larger Long-Term Care Advisory Council, composed of legislators, providers of long-term care services, and consumers' advocates.

Related Court Case

On June 22, l999, the U.S. Supreme Court ruled that the unjustified isolation of mentally disabled patients in institutional settings constitutes discrimination based on disability (*Olmstead v. L. C.*, 119 S.Ct. 2176 (1999)). The majority decision affirmed the key holdings of an April l998 ruling of the U.S. Court of Appeals for the Eleventh Circuit. That court found that Georgia health officials violated the Americans with Disabilities Act (ADA) by segregating two mentally retarded women in a psychiatric hospital instead of providing them with appropriate community-based care.

PA 01-6—sSB 1066
Banks Committee

AN ACT CONCERNING DEPOSITS IN TRUST AT CREDIT UNIONS

SUMMARY: This act extends to all Connecticut and federal credit unions existing provisions for establishing trusts. Under prior law, these provisions applied only to banks. The act broadens the scope of trusts to allow a person to create a trust in a credit union ("share account") as well as a bank ("deposit account"). The provisions for trusts in credit unions mirror existing language for trusts in deposit accounts in banks.

By law, if the named beneficiary of a trust is alive when the depositor dies, the depositor's death terminates the trust, unless the document creating the trust says otherwise. Under the act, the beneficiary gets the title to the share account, unless he is ineligible to become a member of the credit union. A beneficiary who is not or cannot become a member of the credit union can take the money to a different financial institution.

The act applies the provisions relating to the establishment of a trust and accompanying writings to all share accounts established at Connecticut credit unions and federal credit unions (1) on or after October 1, 2001, and (2) before October 1, 2001 if the depositor at any time provides a writing specifying the terms of the trust.

The act requires a trustee establishing or maintaining a share account under a will or trust agreement, other written document, statute, or court order to give the bank or credit union a writing identifying the document, statute, or order. The depositor of a trust whose trustee is named by a will, trust agreement, or other written document must file a certified copy of the instrument if the credit union so requests. The credit union is protected in paying out money from the trust and has no duty to ask about the intended use of the funds. These provisions apply to all share accounts, regardless of when they were established.
EFFECTIVE DATE: October 1, 2001

PA 01-9—sSB 791
Banks Committee

AN ACT CONCERNING COMMUNITY REINVESTMENT BY COMMUNITY CREDIT UNIONS

SUMMARY: This act subjects community credit unions to community reinvestment requirements similar to those that currently apply to banks. It defines a "community credit union" as a Connecticut-chartered credit union with at least $10 million in assets and a membership limited to people in a well-defined community, neighborhood, or rural area. Smaller credit unions and those whose members work for the same employer or belong to the same association or other group not based on geography are exempt. By law, credit unions are owned by and can serve only their members.

The act requires community credit unions to undergo periodic assessments of their efforts to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods. It requires them to designate non-discriminatory "assessment areas" for the banking commissioner to evaluate and specifies the criteria and rating scale he must use.

The act requires the commissioner to provide the state treasurer, annually, with a list of community credit unions he has not given a satisfactory rating or better in meeting community credit needs. Listed credit unions cannot receive state, municipal, or trust fund deposits.

The act also permits the commissioner to consider a community credit union's community reinvestment performance in its requests to (1) open or relocate offices, (2) change its "field of membership" (people eligible to become members of the credit union), or (3) merge. He may withhold approval or make it conditional.

Finally, the act requires community credit unions to (1) permit the public to see and obtain copies of evaluations and (2) post public notices.
EFFECTIVE DATE: July 1, 2001

ASSESSMENT AREAS

The act requires each community credit union, by January 1, 2002, to specify at least one assessment area for the banking commissioner to use in evaluating how well it is reinvesting in its community. The act defines "assessment area" as one or more geographic areas chosen by a community credit union that (1) consist of one or more cities and their surrounding suburban areas ("metropolitan statistical areas") or one or more adjoining counties, cities, towns, or other political subdivisions; (2) include areas where the credit union has its principal office, subsidiary offices, and share-taking ATMs; and (3) include surrounding areas in which the credit union makes or buys a large percentage of its loans.

The act prohibits community credit unions from designing assessment areas that illegally discriminate or arbitrarily exclude low- or moderate-income neighborhoods. Assessment areas may not extend substantially beyond the borders of a state or urban area, unless they are located in a multistate metropolitan statistical area. A community credit union can adjust the boundaries of its assessment area to include only the portions of areas it can reasonably be expected to serve. But it must file any change with the commissioner immediately.

COMMISSIONER'S ASSESSMENT OF COMMUNITY CREDIT UNIONS

The act requires the commissioner to assess periodically a community credit union's community reinvestment performance consistent with the credit union's safe and sound operation. He must consider:

1. the credit union's record of making qualified investments to help meet the credit needs of its assessment area or a larger area that includes its assessment area;
2. the availability and effectiveness of its retail credit union services and the extent and originality of its community development services;
3. its loan-to-share ratio given its size and financial condition, the credit needs of its assessment area or areas, and other "lending-related activities" (such as loan origination for sale to secondary markets and community development loans), considering seasonal variations;
4. its percentage of the assessment area's total loans and lending-related activities;
5. its record of lending to borrowers of different income levels, and businesses and farms of different sizes;
6. the geographic distribution of its loans;
7. any action taken in response to written complaints about its community reinvestment performance; and
8. its efforts to resolve delinquent residential mortgage issues with unemployed or underemployed customers.

The commissioner must also consider any written comments he receives. The act requires him to make a written evaluation of the credit union's community reinvestment performance and give it to the credit union. The evaluation must include (1) the commissioner's assessment of the community reinvestment performance and the facts supporting his assessment and (2) his performance rating and an explanation. The act establishes four rating levels: outstanding, satisfactory, needs improvement, and substantial noncompliance in meeting community credit needs.

PUBLIC ACCESS TO COMMISSIONER'S ASSESSMENT

The act requires each community credit union to keep a copy of the commissioner's most recent assessment in a public file. It must place the assessment in the file within 30 days of its receipt, and may include its response. The public can look at the performance evaluation for free at the community credit union's principal office and at each of its subsidiary offices in Connecticut.

A credit union that receives a rating of "needs to improve" or "substantial noncompliance" must also include in the file a description of what it is doing to improve its performance and meet the community's credit needs. It must update the description quarterly until the commissioner gives it a satisfactory rating or better.

The act requires the credit unions to make copies of the commissioner's most recent assessment available to the public upon request. They may charge a fee, but not more than the cost of copying and mailing the assessment.

NOTICE TO PUBLIC

The act requires each community credit union to post a notice in the lobby of its principal office and each of its subsidiary offices in Connecticut telling the public that the commissioner evaluates its record of helping to meet the community's credit needs consistent with safe and sound operations. The notice must also inform the public that:

1. the commissioner may consider its record when deciding on certain applications it submits;
2. public involvement is encouraged;
3. the public may review its most recent community reinvestment performance evaluation;
4. the public may send written comments about its community reinvestment performance to the commissioner, which he will consider, along with any response by the credit union, in his next community reinvestment performance evaluation; and
5. the public may ask to look at any comments the commissioner receives.

The act contains a sample notice.

PA 01-10—sHB 6605
Banks Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO THE BANKING AND SECURITIES STATUTES

SUMMARY: This act makes technical revisions to certain banking and securities statutes.
EFFECTIVE DATE: October 1, 2001

PA 01-34—sHB 6131
Banks Committee
Judiciary Committee

AN ACT CONCERNING ABUSIVE HOME LOAN LENDING PRACTICES

SUMMARY: This act requires lenders to make certain disclosures to prospective borrowers seeking high-cost home loans, including the interest rate and the consequences of mortgaging a home. It prohibits lenders from including certain loan provisions or from taking certain actions with respect to such loans, like charging unwarranted or excessive fees or providing incomplete information. It also imposes conditions on a lender's ability to sell credit insurance to a borrower. The act creates new penalties for lenders who violate its provisions.

The act prohibits lenders from charging a fee for the first payoff statement requested each year except when it is delivered on an expedited basis pursuant to an agreement with the borrower. The act also makes minor technical changes.
EFFECTIVE DATE: October 1, 2001

DISCLOSURES IN HIGH-COST HOME LOANS

The act requires a lender to make certain disclosures to prospective borrowers seeking high-cost home loans. It defines a "lender" as a person who makes one or more high-cost home loans. A "high-cost home loan" is a mortgage (1) for a one-to-four family residence; (2) made to someone who lives or plans to live there; and (3) whose interest rate when it is made is more than 10% higher than the most recent rate for Treasury bills, notes, and bonds. High-cost home loans do not include reverse mortgages.

The lender must tell the buyer that he is not required to complete the loan agreement and the consequences of putting a mortgage on his home, including the possibility of losing the home. The act sets out the precise language the lender must use. The lender must also disclose the interest rate, the payments that will be due, and information about possible changes in interest rates and the amount of the single maximum monthly payment for variable-rate mortgages.

LIMITATIONS ON LOANS AND LENDERS

The act requires lenders to follow certain rules when making high-cost home loans. A lender or its assignee must refund or credit the borrower for any default charges, prepayment penalties, or prepaid finance charges collected in excess of the limits established under the act.

Prohibited Provisions in High-Cost Home Loans

The act prohibits the following terms in high-cost home loans:

1. a payment schedule that does not fully pay off the principal balance by the end of the term for a loan with a term of less than seven years;
2. a payment schedule that causes the principal balance to increase;
3. a payment schedule that consolidates more than two payments and pays them in advance from the proceeds;
4. an increase in the interest rate after default or default charges of more than 5% of the amount in default;
5. an interest refund calculated by a method less favorable than applying payments first to finance charges, with any remainder applied to the principal;
6. a charge for paying all or part of the principal before it is due ("prepayment penalty"), except in the first three years of the loan;
7. a mandatory arbitration clause or waiver of participation in a class action suit; and
8. a call provision allowing the lender, in its sole discretion, to accelerate the indebtedness. This prohibition does not apply when the loan is repaid on an accelerated basis because of actual default, under a due-on-sale clause provision, or another provision of the loan agreement unrelated to the payment schedule, such as bankruptcy or receivership.

The act allows a lender to assess a prepayment penalty during the first three years of the loan, with the

maximum permissible penalty being 3% in the first year, 2% in the second, and 1% in the third. But the lender can charge this penalty only if (1) the borrower's prepayment funds are not from a refinancing by the lender or its affiliate and (2) the borrower's total monthly debts at the start of the loan, including amounts owed for the high-cost home loan, are not more than 50% of his monthly gross income.

Prohibited Actions by Lenders Making High-Cost Home Loans

When making a high-cost home loan, a lender may not:

1. pay a contractor under a home improvement contract from the proceeds of the loan, except by an instrument payable to the borrower or jointly to the borrower and contractor or, if the borrower chooses, through a third-party escrow agent under the terms in the written agreement;
2. sell or otherwise assign the loan without giving prescribed notice to the purchaser or assignee that the loan is subject to the rules of the act and the purchaser or assignee could be liable for any claims the borrower has against the lender;
3. advertise that refinancing preexisting debt with a high-cost home loan will reduce a borrower's monthly debt payments without also disclosing that the loan may increase the borrower's total number of payments and the total amount the borrower will pay over the term of the loan;
4. recommend or encourage default on an existing loan or debt before closing on a refinancing high-cost home loan;
5. make a high-cost home loan that refinances an existing loan unless the new loan will truly benefit the borrower;
6. charge the borrower fees for services that are not legitimate, reasonable, or actually performed; or
7. require the borrower to pay charges, such as points, as a condition of the loan before closing ("prepaid finance charges") more than 5% of the principal amount of the loan or $2,000, whichever is greater. The same limits apply to prepaid finance charges on refinancing and earlier loans the lender made within two years before it or its affiliate makes a new refinancing loan to the borrower. A lender may, however, impose other prepaid finance charges up to 5% of any "additional proceeds" (the amount by which the new loan exceeds the current principal amount of a closed-end loan, or the amount that the line of credit on the new loan exceeds the maximum credit limit on an existing open-end loan) that the borrower receives.

A lender may not charge a borrower any fees to modify, renew, or extend a loan if the loan will continue to be a high-cost home loan, or, if no longer a high-cost home loan, the interest rate will not be reduced by at least 2%. A lender can charge prepaid finance charges of up to 5% of additional proceeds the borrower receives as a result of modifying, renewing, or extending the loan. These provisions do not apply if the loan is 60 or more days past due and is modified, renewed, or extended as part of a work-out process.

Finally, a lender may not (1) make a high-cost home loan with an unconscionable interest rate or (2) make the loan unless it reasonably believes that the borrower will be able to make the payments, based on the borrower's income, debts, employment status, and other financial factors. The interest rate must be based on appropriate factors, such as creditworthiness, other risk-related standards, and sound underwriting, or it may be considered unconscionable. The borrower is presumed to be able to make the payments if his monthly debts, including the mortgage, are not more than 50% of his gross monthly income.

REPORTING REQUIREMENT

Under the act, a lender making a high-cost home loan must annually report the borrower's payment history to a nationally recognized credit reporting agency while the lender holds or services the loan.

CREDIT INSURANCE OFFERS

As of January 1, 2002, a lender who offers a high-cost home loan borrower the option to buy individual or group credit life, accident, health, disability, or unemployment insurance on a prepaid single premium basis must also offer him the option to buy the insurance on a monthly premium basis. A borrower who buys the insurance may cancel it at any time and get a refund of any unearned premiums paid. The lender must notify the borrower of his right to cancel, by mail, between 10 and 30 days after making the loan. The notice must also state the type of insurance purchased, its cost, and cancellation procedures.

PENALTIES FOR VIOLATIONS

The act allows the banking commissioner to charge up to a $15,000 civil penalty per violation to any lender who (1) fails to make required disclosures to a

prospective borrower about a high-cost home loan or credit insurance, (2) includes prohibited terms in a high-cost home loan, (3) fails to report annually a borrower's payment history to a credit bureau, (4) assesses excessive charges or penalties, or (5) engages in other prohibited behavior in making a high-cost home loan.

The act allows the commissioner to assess up to a $15,000 civil penalty against any lender who receives notice from the commissioner of a violation of the act and does not request a hearing within the time specified or fails to appear at the hearing.

DISCLOSURE OF INFORMATION

The act gives the commissioner the option of exempting creditors who comply with the Connecticut Truth-in-Lending Act from inconsistent provisions of state banking law regarding disclosure of information. Under prior law, he had to exempt them by regulation. The act specifies that its provisions concerning abusive home loan lending practices may not be deemed inconsistent with the Truth-in-Lending Act and will control where applicable.

PROHIBITED ACTIONS BY LENDERS MAKING FIRST MORTGAGE LOANS

The act prohibits a lender making a first mortgage loan (whether or not it is a high-cost home loan) from requiring the borrower to pay prepaid finance charges totaling more than 5% of the principal amount of the loan or $2,000, whichever is greater. The same limits apply to prepaid finance charges on refinancing and earlier loans made by the lender within two years before a new refinancing loan it or its affiliate makes to the borrower. A lender may, however, impose other prepaid finance charges up to 5% of additional proceeds that the borrower receives for the refinancing.

EXCEPTION TO PROHIBITED ACTIONS BY LENDERS MAKING SECONDARY MORTGAGE LOANS

The act adds an exception to the law prohibiting a broker or lender in the secondary mortgage loan business from imposing loan fees, points, commissions, transaction fees, or similar prepaid finance charges in accordance with the Connecticut Truth-in-Lending Act which, when added to the broker's fee or commission, total more than 8% of the loan principal. It allows lenders and brokers to charge an additional fee for allowing a buyer to pay the purchase price in installments ("time-price differential") rather than in one lump sum. The total of the time-price differential and any broker's fee or commission can exceed the 8% limit. The act defines a "broker" as a person who is paid to negotiate, solicit, arrange, place, or find a home loan for a lender to make.

CHARGE FOR PAYOFF STATEMENT

The law requires a lender to give the borrower, his agent, or his attorney, upon request, a statement showing the loan account status, sums due, and daily interest rate ("payoff statement"). The act prohibits the lender from imposing any fee or charge for the first payment statement requested each year, unless the person making the request agrees to pay a fee for expedited delivery of the payoff statement and the lender delivers it on time.

PA 01-48—sHB 6130
Banks Committee
Judiciary Committee

AN ACT CONCERNING THE CONNECTICUT UNIFORM SECURITIES ACT AND NOTICES ISSUED BY THE DEPARTMENT OF BANKING

SUMMARY: This act applies the same provisions that govern withdrawal from registration as a broker-dealer, investment adviser, or agent to withdrawal of applications for registration. It also allows the banking commissioner to accelerate the effective date of the withdrawal unless a denial is pending when the application is filed. It amends the definitions of "broker-dealer" and "investment adviser" to conform to federal securities law.

The act allows the commissioner to accept a consent order from any person he notifies after finding that the person violated any provision of the Uniform Securities Act. It expands delivery options for notices and orders pursuant to the act to include any express delivery carrier that provides a dated delivery receipt. It also requires parties sending notices and orders by registered mail to request a return receipt.
EFFECTIVE DATE: October 1, 2001

WITHDRAWAL OF REGISTRATION APPLICATION

The act adds to the provisions governing withdrawal from registration the withdrawal of an application for registration as a broker-dealer, agent, investment adviser, or investment adviser agent. It also applies the effective date of the withdrawal of the registration application, currently 90 days after receipt

of an application to withdraw, to receipt of a notice of intent to withdraw an application for registration.

The act allows the commissioner to accelerate this effective date unless a denial is pending when the application or notice is filed, or a proceeding to deny is instituted within 90 days after filing. Prior law allowed the commissioner to hasten the effective date unless a revocation or suspension proceeding was pending when the application was filed, or a proceeding to revoke, suspend, or impose conditions on the withdrawal was instituted within 90 days.

The act also allows the commissioner to start a denial proceeding within one year after withdrawal becomes effective, even if withdrawal had already become effective for lack of an earlier proceeding. The law already allowed the commissioner to begin a revocation or suspension proceeding within one year under these circumstances.

VIOLATIONS OF CONNECTICUT UNIFORM SECURITIES ACT

The act allows the commissioner to order any person who directly or indirectly controls someone who has violated a regulation, rule, or order adopted or issued under the Connecticut Uniform Securities Act to make restitution or repay any money obtained as a result of a dishonest or unethical practice or a violation of the act.

Under prior law, after the commissioner ordered a person to cease and desist violating the act or make restitution or repayment as a result of a violation, he could accept a respondent's agreement to enter into a written consent order instead of having a hearing. The commissioner had complete discretion over whether to accept the consent order. The act applies the provisions governing consent orders to the commissioner's option of sending notice to anyone he finds, after an investigation, has violated the act. This permits him to accept a consent order from anyone he finds violating the act.

DELIVERY SERVICES

The act allows the commissioner to send by any express delivery carrier that provides a dated delivery receipt: (1) notice to a person charged with violating the Uniform Securities Act or Business Opportunity Investment Act and (2) a copy of an order assessing a fine for violating either act or failing to appear at a related hearing. Prior law permitted him to send only by certified or registered mail, return receipt requested.

The act allows the commissioner to send notice by any express delivery carrier that provides a dated delivery receipt to (1) any person he finds, after an investigation, has violated banking law; (2) a licensee whose license he issued and intends to suspend, revoke, or refuse to renew; (3) any person he believes has violated, is violating, or is about to violate any provision of banking law; (4) any officer or director of any Connecticut bank or Connecticut credit union that he finds, after an investigation, has engaged in prohibited activities; and (5) a mortgagor, if he finds that a mortgage servicing company has violated banking law and owes restitution. Prior law allowed the commissioner to send these notices only by registered mail, return receipt requested.

The act allows plaintiffs to send notice that process was served at the commissioner's office and a copy of the process to the defendant or respondent by any express delivery carrier that provides a dated delivery receipt. It also requires the plaintiff, if he sends the notice and copy by registered mail, to request a return receipt. These provisions apply to actions arising from violations of the Uniform Securities and Business Opportunity Investment Acts.

The act also allows the commissioner to send notice by any express delivery carrier that provides a dated delivery receipt to the lessee of any safe, vault, or box at a Connecticut branch of a foreign bank that he is liquidating. Under prior law, he could send notice only by registered mail. The act requires him to request a return receipt if sending the notice by registered mail.

PA 01-56—sSB 793
Banks Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING MONEY TRANSMISSION

SUMMARY: This act expands licensing requirements for people and businesses wishing to engage in money transmission. It requires license applications to include information on additional shareholders and on the applicants' legal and criminal histories. It also specifies that bond and surety investment proceeds may still be considered held in trust even if commingled with other funds. It establishes new guidelines for the banking commissioner to use when examining licensees and their agents, as well as for approving, investigating, and revoking licenses.

The act changes the name of the act governing money transmission from "Money Order and Travelers Check Licensees Act" to "Money Transmission Act." It specifies banking entities that are exempt from its provisions. It also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2001

LICENSE APPLICATIONS

Identity of Applicants

Under prior law, a license application for a corporation had to include the name and address of any shareholder owning 20% or more of each class of securities. The act reduces that threshold to 10% or more. It also requires corporations and associations to include information about the applicant, partners, directors, trustees, principal officers, and shareholders owning at least 10% of each class of securities. Under the act, the information must be sufficient for the commissioner to make necessary findings concerning the applicants' financial condition and integrity before granting the license. Prior law already required submission of the applicants' names and addresses.

Material Litigation and Criminal Convictions

The act requires an application to include a history of any material litigation and criminal convictions for the five years before the application for (1) an individual applicant and (2) the partners, if the applicant is a partnership. Corporate and association applications must contain the history and sufficient information about the litigation and convictions for the directors, trustees, principal officeholders, and shareholders owning 10% or more of each class of securities. The act defines "material litigation" as any litigation that is significant to a person's financial health and would need to be reported in a financial statement or report to shareholders.

Statement of Activities

The act adds a requirement that an applicant for a new or renewed license state whether he will engage in the business of money transmission. Prior law required an applicant to state whether he would issue money orders, travelers checks, or electronic payment instruments. The act defines "money transmission" as engaging in the business of receiving money for transmission or transmitting money by payment instrument, wire, facsimile, electronic transfer, or other means.

Application Fees

The act explicitly removes the $500 investigation fee for a renewal license. This eliminates a conflict between two statutes, one imposing the $500 fee and the other exempting licensees from it.

Conditional License

The act adds to the findings the commissioner must make before conditionally approving any license application. He must find the applicant or applicants to be properly qualified and of good character. This provision applies to individuals; partners; and each association or corporation's president, executive committee chairman, senior officer responsible for the corporation's business, chief financial officer, and other people performing similar functions, as well as the directors, trustees, and shareholders owning 10% or more of each class of securities.

SURETY BONDS AND INVESTMENTS

Under the law, applicants for a new or renewed license have to file a corporate surety bond with the commissioner or invest a like amount instead. The amount of the bond varies depending on the volume of the applicant's business. Each licensee is also required to maintain investments worth at least the amount of its outstanding payment instruments.

The act specifies that bond and surety investment proceeds, even if commingled with other funds, will be considered held in trust for the benefit of anyone who brings a successful claim against the licensee. The funds can be used to pay the claimant the amount a bankrupt licensee owes for the receipt, handling, transmission, or payment of money for selling or issuing a payment instrument or money transmission. The bank's creditors or judgment holders cannot attach the proceeds.

EXAMINATION OF A LICENSEE

The act removes the commissioner's annual examination requirement, but it authorizes him to examine a licensee's agents and subagents. It allows him to accept any other state or federal supervisory agency's report, or that of an affiliated organization or independent accounting firm, instead of conducting his own examination, and to consider this as an official examination report. Prior law allowed him to accept only a report from an independent certified public accountant in place of the annual examination. The act allows the commissioner to enter into cooperative, coordinating, and information-sharing agreements with any of these groups regarding examinations, examination fees, or other supervision of people engaged in the business of money transmission.

LICENSEE'S LIABILITY

The act makes a licensee liable for any loss caused to a buyer or holder of the licensee's payment instruments because of an agent or subagent's failure to forward money received for transmission to the licensee. Under prior law, licensees were liable for their agents' failure to deliver money when they sold or delivered travelers' checks, money orders, and electronic payment instruments.

INVESTIGATION AND REVOCATION

Investigation of a Licensee

The act broadens the commissioner's ability to investigate licensees' conduct by allowing him to investigate and hold hearings to determine if someone is about to violate a provision regarding money transmission. The law continues to require the commissioner to investigate and conduct hearings to determine if a licensee or other person has violated a provision of banking law. And it allows him to ask for an injunction, restitution, or civil penalty when it appears someone is about to violate the law.

Revocation of a License

By removing the requirement that a violation of money transmission laws be willful before the commissioner may suspend or revoke a license, the act allows him to suspend or revoke a license for any violation of money transmission laws.

Termination of Agency Relationship

The act allows the commissioner to order a licensee to end its agency relationship with any agent or any subagent who refuses to allow an examination of its books and records regarding the licensee's business.

EXEMPTIONS

The act specifies the banking entities that are exempt from the provisions of the Money Transmission Act. Under prior law, only banks insured by the Federal Deposit Insurance Corporation were exempt. The act specifically exempts federally insured banks, out-of-state banks, and Connecticut, federal, and out-of-state credit unions, provided they do not issue or sell payment instruments or transmit money through agents or subagents that are not also exempt. These entities are subject to the act in their capacities as agents of the licensee. The act also exempts a person whose activity is limited to the electronic funds transfer of governmental benefits for a governmental, quasi-governmental, or government-sponsored entity. It removes an obsolete provision exempting telegraph and cable transmission companies.

PA 01-76—sHB 6132
Banks Committee
General Law Committee

AN ACT CONCERNING FINANCIAL PRIVACY

SUMMARY: This act brings state law governing privacy of financial records into compliance with the federal Gramm-Leach-Bliley Financial Modernization Act of 1999. It repeals obsolete provisions and makes consumer protection laws applicable to bank branches' disclosure of financial records.

The act also makes certain technical changes.

EFFECTIVE DATE: July 1, 2001

FINANCIAL PRIVACY

The act requires a bank, a Connecticut credit union, a federal credit union, an out-of-state bank that maintains a branch in Connecticut, an out-of-state trust company or credit union that maintains an office in Connecticut, a licensee under Connecticut banking law, or any person subject to the jurisdiction of the banking commissioner under Connecticut securities law to comply with the financial privacy provisions of the Gramm-Leach-Bliley Financial Modernization Act of 1999 and associated regulations. The act provides that to the extent that Gramm-Leach-Bliley conflicts with state law, the law that gives customers greater protection controls.

CONSUMER PROTECTION

The act applies state disclosure of financial records laws to Connecticut branches of out-of-state banks. It also applies existing consumer protection provisions to an out-of-state bank's merger with, or acquisition of, a branch of an out-of-state bank with a branch in Connecticut.

By law, consumer protection provisions applicable to Connecticut branches of out-of-state banks include those related to deposits, types of identification required to establish an account at a Connecticut bank or credit union, interest on savings deposit accounts, deposit account contracts, creditors' collection practices, interest and finance charge rebates, consumer credit reports, mortgages, retail installment sales financing,

and consumer collection agencies.

BACKGROUND

Gramm-Leach-Bliley Financial Modernization Act of 1999

Subtitle A of Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999 is entitled "Disclosure of Nonpublic Personal Information" (15 U.S.C. §6801, et seq.). It limits the circumstances under which a financial institution can disclose nonpublic personal information about a consumer to nonaffiliated third parties. It also requires financial institutions to disclose to their customers the institution's financial privacy policies and practices with respect to affiliated and nonaffiliated parties.

PA 01-175—sHB 5732
Banks Committee

AN ACT CONCERNING IDENTIFICATION REQUIRED FOR CHECK CASHING AND CONCERNING STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS

SUMMARY: This act (1) expands the circumstances under which people seeking certain state licenses or state contracts must undergo criminal records checks, (2) establishes a generic criminal records check procedure and mandates its use when any state statute requires such checks, and (3) requires banks to cash checks up to $500 if proper identification is presented and certain conditions are met.

It specifies that a criminal records check must be requested from the Department of Public Safety's (DPS) State Police Bureau of Identification and apply only to the individual identified in the request. It (1) specifies that the "requesting party" must arrange for fingerprinting or conducting other methods of positive identification that the bureau or Federal Bureau of Investigation (FBI) may require; (2) directs the state bureau to conduct the state criminal history records check; and (3) if a national criminal history records check is requested, directs the bureau to submit the fingerprints or other positive identifying information to the FBI, unless the FBI permits the requesting party to submit them directly. The act incorporates these procedures into existing statutes requiring criminal history records checks and some that require fingerprinting for unspecified purposes.

The act requires checks of applicants for nursing home operator licenses, Connecticut Lottery Corporation contractors, and some parole board jobs, but it eliminates checks previously required for people caring for children at retail "drop in" facilities.

The act also establishes a generic fee structure, which replaces the specific fees prescribed under some of the affected laws.

Some of these changes are required to conform state laws to a federal law limiting the FBI's authority to conduct national criminal history records checks.

EFFECTIVE DATE: July 1, 2001, except the check cashing and school job applicant criminal records check provisions take effect October 1, 2001.

CRIMINAL HISTORY RECORDS CHECKS

Changes to the Laws

The act's new procedures apply to, and replace existing requirements for, checks of:

1. public school job applicants;
2. prospective Division of Special Revenue (DSR) employees and racetrack, fronton, parimutuel, casino, and lottery corporation license applicants;
3. school bus driver endorsement applicants;
4. applicants for jobs in licensed child day care centers and homes;
5. unlicensed nonrelative caregivers applying for child care subsidies under the Department of Social Services' (DSS) child care program;
6. unlicensed relative caregivers whom DSS suspects of having been convicted of a crime that makes them ineligible for child care subsidy payments;
7. job applicants for Correction Department positions that involve direct contact with inmates;
8. pawnbroker and precious metals dealer license applicants (checks are at the discretion of local police chiefs or first selectmen);
9. Department of Environmental Protection permit, registration, certificate, or other license applicants and proposed transferees (checks are at the department's discretion);
10. hand gun permit and eligibility certificate applicants;
11. bail bondsman, surety bail bond agent, and bail enforcement agent license applicants;
12. private detective and investigator and watchman, guard, and patrol service license applicants; and
13. applicants for licenses to store, transport, or use explosives.

Prior Background Check Laws

These state and national criminal history records check requirements replace prior fingerprinting only requirements for DRS license and job applicants and applicants for licenses as bail bondsmen; private detectives or investigators; explosives handlers; and watchman, guard, or patrol service operators. They also require state and national checks of Lottery Corporation employees and contractors. Prior law authorized, but did not require, criminal records checks for lottery employees, and required state checks only for contractors.

The act also permits local officials to require pawnbrokers and jewelers to submit to both state and national checks, rather than national checks only, and makes the same requirement mandatory for pistol permit and bail enforcement agent license applicants. Finally, it requires state and national checks of DCF licensees, who under prior law were subject to undefined "criminal records checks." In most cases, these changes conform with current practices.

Nursing Home Owner and Operator License Applicants

Prior law required the State Police to assist the Public Health Department with criminal background investigations of people applying for licenses to establish, conduct, operate, or maintain a nursing home. Under the act, applicants must submit to state and national criminal history checks instead.

Lottery Corporation Prime Contractors

By law, the DSR director cannot award contracts for providing facilities, components, goods, or services to any person or corporation unless the bidder submits to a State Police background investigation or already has a special revenue vendor license. The act requires such bidders to submit also to state and national criminal history background checks. It specifies that the State Police background investigation must follow the statute governing the division's licensing of racetrack, jai alai, and off-track betting personnel and entities. The statute cited in the act does not address State Police investigations, but in practice, the State Police investigates the background of people seeking these licenses.

Parole Board Employees

The act requires the Parole Board chairman to require each applicant for a position involving direct contact with inmates or parolees or allowing access to criminal history information to (1) tell whether he has ever been convicted of a crime or has criminal charges pending and (2) submit to state and national criminal history records checks.

Fees

The act permits DPS to pass on to state agencies the FBI's fee when they request a national criminal history check. It specifies that agencies must reimburse DPS, and can pass this charge on to the individual identified in the request, unless the law requiring the particular check provides otherwise. By law or regulation, agencies already can pass on the FBI fee to school employee, bus driver, and some childcare personnel applicants.

When a person asks for the check, DPS can charge both the FBI fee and its own fee (if both national and state checks were requested).

IDENTIFICATION REQUIRED FOR CHECK CASHING

The act requires the main and branch offices of Connecticut and federal banks to cash checks for up to $500 that are payable at the bank or are drawn on an account held at the bank. The bank's duty is conditioned on: (1) the check being presented to the bank by the person listed as the payee on it, (2) the account containing enough money to pay the check, and (3) the person cashing the check providing sufficient identification and such other information as the bank requires for reporting and recordkeeping. The act prohibits a bank from requiring more than two forms of identification when the customer provides: (1) a U.S. passport, (2) a driver's license, or (3) a Department of Motor Vehicles identity card.

The act allows a bank to disregard these provisions and refuse to pay a check if it determines such action is necessary to protect its customer or itself against potential fraud or loss, or to otherwise comply with applicable law.

BACKGROUND

Federal Law

Under PL 92-544, the FBI can comply with states' requests for national criminal records checks only if the state law:

1. authorizes it,
2. requires fingerprinting of the applicant,
3. expressly or by implication authorizes use of FBI records for screening the applicant,

4. is not against public policy, and
5. specifically identifies the category of applicants or licensees for which FBI checks are authorized.

Related Acts

PA 01-30 modifies some of the criminal background check procedures for gun permit applicants.

PA 01-173 requires criminal records checks of public assistance recipients placed in schools through employment programs if their positions involve direct contact with students. It also shortens the time within which school employees must submit to these checks.

PA 01-183—SB 1064
Banks Committee

AN ACT CONCERNING BANK TRANSACTIONS

SUMMARY: This act changes and reorganizes bank transaction fees and amends the requirements for bank examination by accountants. It addresses establishing, converting, and closing Connecticut banks and branches, including conversion to an uninsured bank. It replaces an outdated provision for troubled banks with new powers for the banking commissioner when banks are in danger of insolvency.

The act also makes technical changes, including changing the word "expand" to "convert" when describing a community bank's change to another type of bank to more accurately reflect the conversion process.

EFFECTIVE DATE: Upon passage, except the section on transaction fees, which takes effect July 1, 2001.

FEES

The act reorganizes bank transaction fees based on the type of transaction involved and reduces, eliminates, and establishes certain application fees. The fee for selling a branch is still $2,000, except that there is no fee for selling a branch of a Connecticut bank to another Connecticut bank or a Connecticut credit union. Fee changes are as follows:

Transaction	***Prior Fee***	***New Fee***
Establishment of an out-of-state branch	None	Up to $2,000
Establishment of an out-of-state limited or mobile branch	None	Up to $1,500
Relocation of a branch or a limited branch	$1,500	$500
Conversion from a branch to a limited branch	Up to $2,000	$500
Conversion of a limited branch to a branch	Up to $2,000	$500
Conversion to an uninsured bank	None	$15,000
Expanding community and uninsured banks' powers	None	$2,500
Buying, altering, or improving real estate	None	$500
Application to sell a special need or mobile branch	Up to $1,500	None
Investigating and processing an acquisition statement	None	$2,500
Miscellaneous investigations	$150 per day	Actual cost of investigation

ORGANIZATION OF COMMUNITY BANK

The act eliminates the 9.9% cap on the amount of the bank's capital stock that any person organizing a capital stock community bank may acquire.

ANNUAL EXAMINATION BY ACCOUNTANTS

Connecticut Banks

The law requires each Connecticut bank's governing board to choose accountants to examine or audit the bank annually. The act requires the accountants to agree to provide related working papers, policies, and procedures to the banking commissioner upon request. They must also submit their signed report to the board within a reasonable period of time after the examination. Under prior law, the accountants had to submit the report within 90 days after the audit or examination began. The act requires the bank to keep the report on file and file a copy with the commissioner.

Bank Subsidiaries of Holding Companies

The act allows the governing board of a holding company's subsidiary bank to file a signed consolidated report of the audit or examination of the holding company, instead of that of the bank, so long as the bank's governing board agrees to accept the report as satisfactory before it hires an accountant, and the commissioner approves. The accountants must follow the same procedures as accountants examining a Connecticut bank. The bank must keep the report on file and file a copy with the commissioner.

CONVERTING, ESTABLISHING, AND CLOSING BANKS AND BRANCHES

Capital Stock Bank to National Bank

The act requires a capital stock Connecticut bank converting to a national bank to notify the banking commissioner of its intent to convert when it submits its application to the Office of the Comptroller of the Currency. It must also submit its charter to the commissioner when the conversion takes place.

Limited Branch to Branch

The act allows a limited branch to convert to a branch with the commissioner's approval, so long as he considers the same factors as he does when approving the establishment of a branch. These factors include whether (1) establishing the branch will result in too many banks or branches in the town or surrounding area, (2) establishing the branch is consistent with safe and sound banking practices in the town or surrounding area, (3) the Connecticut bank seeking approval plans to operate the branch on a long-term basis, and (4) the Connecticut bank will continue to maintain a reasonable ratio of loans made in the state to deposits received from state residents. The commissioner must also find that the bank has an excellent record of community reinvestment and can meet the banking needs of all community residents.

Fiduciary Bank to a Bank Accepting Deposits

The act permits a Connecticut bank organized to function solely in a fiduciary capacity to convert to a bank authorized to accept retail deposits. It requires a converting fiduciary bank to follow the same procedures as a converting uninsured bank, including filing a proposed plan of conversion and obtaining the commissioner's approval.

Establishing a Special Need Limited Branch

The act renames a limited branch that a Connecticut bank may establish to serve the special needs of the branch's neighborhood as a "special need limited branch."

Closing a Branch, Limited Branch, or Mobile Branch

The act requires a Connecticut bank that wants to close a mobile branch to notify the commissioner of the proposed closing at least 30 days before the closing date. The notice must include a detailed statement of the bank's reasons and statistical and other information to support the decision. A bank that proposes to close any predetermined location of a mobile branch must notify the commissioner before closing it.

The act authorizes the commissioner, upon receiving notice of a branch, limited branch, or mobile branch's intent to close, to require the bank to provide additional information.

COMMISSIONER'S POWERS REGARDING BANKS IN DANGER OF INSOLVENCY

The act repeals outdated provisions regarding troubled banks. It authorizes the commissioner to require certain Connecticut banks to pledge sufficient assets to meet the commissioner's costs and expenses if the bank is placed in receivership or conservatorship. He may do this for financially troubled uninsured banks and banks organized to function solely in a fiduciary capacity that may be unable to pay their obligations in the normal course of business or are likely to incur losses that could deplete all or almost all of their capital. He may also invoke this authority for uninsured banks that are unlikely to be able to meet their depositors' demands. The commissioner can choose the bank in which the assets will be deposited, the form in which the assets will be deposited, and the conditions to which they will be subject.

HOLDING COMPANY AND BANKING CORPORATION SUBSIDIARIES

The act eliminates the requirement that a holding company or a banking corporation's subsidiary first get the banking commissioner's approval and pay him a processing fee before establishing or maintaining an office in Connecticut to engage in banking activities other than deposit services.

CONVERSION FROM INSURED TO UNINSURED BANK

Requirements for Conversion

The act establishes a procedure for an insured Connecticut bank to convert to an uninsured bank. It must file a proposed plan of conversion and a copy of the proposed certificate of incorporation, along with a certificate from the converting bank's secretary that a majority of the governing board and at least two-thirds of the bank's stockholders or corporators approved them both. Any stockholder can file a written objection with the bank's secretary on or before the date of the shareholder vote on conversion and can make written demand within 10 days after the vote for payment of the fair value of his stock. He will have the same rights as a shareholder who dissents from the merger of two or more capital stock Connecticut banks.

Once the banking commissioner has approved the conversion, the converting bank must liquidate all of its retail deposits. It must file with the commissioner: (1) written notice of its intent to liquidate; (2) its liquidation plan; and (3) its proposed notice to depositors, approved and executed by a majority of the governing board. The commissioner may not approve a sale of the bank's retail deposits if it would result in the purchasing insured depository institution and its affiliates controlling 30% or more of the deposits in Connecticut-insured depository institutions, unless the commissioner allows a greater percentage. Both converting and purchasing banks must also file with the commissioner a written agreement approved and executed by a majority of each bank's governing boards and specifying the terms and conditions of the sale.

Commissioner's Approval

The act requires the commissioner to approve a conversion if he determines that the converting bank has: (1) complied with applicable laws; (2) equity capital of at least $5 million (unless the commissioner allows a lower level); (3) received satisfactory ratings on its most recent state or federal safety and soundness examination; and (4) liquidated all of its retail deposits and has no Federal Deposit Insurance Corporation-insured deposits. The commissioner must also determine that the proposed conversion is in the public's interest.

Authority of Resulting Bank

Once the commissioner approves a bank's conversion, the act requires the bank to file the approval and the bank's certificate of incorporation with the secretary of the state and with the clerk of the town where the bank has its principal office. Once it has filed, the bank becomes an uninsured bank and cannot accept retail deposits. It has all of the rights, privileges, and powers of an uninsured Connecticut bank and retains all of its assets and business. It is subject to all of the duties, relations, obligations, trusts, and liabilities of the predecessor Connecticut bank (which the act calls the "converting bank"), whether as a debtor, depository, registrar, transfer agent, executor, administrator, or otherwise, and is liable to the same extent and has the same duties as if it had acquired the obligations itself. The rights of the predecessor bank's creditors and lienholders survive the conversion, and the uninsured bank is entitled to receive, accept, collect, hold, and enjoy gifts, bequests, devises, conveyances, trusts, and appointments in the predecessor bank's favor or name, regardless of whether they were intended for the bank before or after conversion.

Unless a bank converted solely to operate in a fiduciary capacity, a converted bank cannot exercise any fiduciary powers. This does not apply if the commissioner gives the bank express authority or gave this authority to the predecessor bank.

Directors' Powers

Directors named in the original certificate of incorporation are directors of the converted bank until the first annual election of directors after conversion or until their terms expire. They have the power to adopt bylaws and do what is necessary to manage the converted bank.

Franchise Tax

The converted bank must pay the franchise tax on any increase of its capital stock. It may subtract from its obligation any franchise tax the predecessor bank paid.

PA 01-176—SB 546
Select Committee on Children
Education Committee
Human Services Committee

AN ACT CONCERNING CASE PLANNING INFORMATION

SUMMARY: This act requires the Department of Children and Families (DCF), the Judicial Department, entities with which these agencies contract, and boards of education to provide school superintendents with any educational records in their custody about a serious juvenile offender entering or returning to school from placement in a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement. They must do this before the child returns to or enters school. It specifies that receipt of these records cannot delay a child from enrolling in school. The act requires the school superintendent to provide the records to the principal of the school the child will attend. The principal, in turn, must disclose them to appropriate staff.

By law, DCF must notify a superintendent before a serious juvenile offender is returned to school from its custody if it believes the child may pose an imminent risk of physical harm to others. The superintendent must notify the school principal, who can disclose this information to selected professionals in order to assess the risk the child poses.
EFFECTIVE DATE: October 1, 2001

PA 01-181—sHB 6147
Select Committee on Children
Judiciary Committee
Appropriations Committee
Human Services Committee
Education Committee

AN ACT CONCERNING GENDER SPECIFIC SERVICES AND PROGRAMS FOR JUVENILE OFFENDERS

SUMMARY: This act makes assuring that programs for juvenile offenders are gender specific one of the goals of the state's juvenile justice system. It requires the Judicial Branch's Office of Alternative Sanctions to ensure that all of its crime prevention and reduction programs for juvenile offenders are gender specific, if necessary. And it requires the Department of Children and Families (DCF) commissioner to assure that the department's programs for juvenile offenders under its supervision are gender specific. Under the act, a program is gender specific if it comprehensively addresses the unique needs of a targeted gender.

Finally, the act specifies that mental health services are included in the community-based programs the DCF commissioner is responsible for promoting in order to prevent juvenile crime and minimize children's involvement with the juvenile justice system.
EFFECTIVE DATE: October 1, 2001

PA 01-190—HB 5933
Select Committee on Children
Human Services Committee
Judiciary Committee
Legislative Management Committee

AN ACT CONCERNING THE CARE OF HIGH-RISK NEWBORNS

SUMMARY: This act requires the Department of Children and Families (DCF) to adopt regulations by October 1, 2002, concerning procedures for the principal providers of daily direct care to "high-risk" newborns in hospitals (e.g., nurses and nursing assistants) to participate in ongoing DCF functions concerning the infant and in planning for the infant's discharge from the hospital. The act defines a high-risk newborn as one who meets DCF regulatory or policy criteria.

The act also requires all birthing hospitals to provide education and training for nurses and other staff who care for high-risk newborns on their responsibilities as mandated child abuse and neglect reporters. The law requires physicians and interns, registered and licensed practical nurses, physician's assistants, and any person paid to care for a child in any public or private facility, among others, to report to DCF within 24 hours of having reasonable cause to believe a child has been abused or neglected and to follow up with a written report within 48 hours.
EFFECTIVE DATE: October 1, 2001

PA 01-96—HB 6676
Commerce Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE COMMERCE STATUTES

SUMMARY: This act makes technical changes to the economic development statutes.
EFFECTIVE DATE: October 1, 2001

PA 01-153—sHB 6564
Commerce Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE DUTIES OF THE EXECUTIVE DIRECTOR OF CONNECTICUT INNOVATIONS, INCORPORATED

SUMMARY: This act eliminates the requirement that the executive director of Connecticut Innovations, Inc. (CII) serve as its chief administrative and operational officer, though he must still direct and supervise CII's administration and management. CII is a quasi-public agency that provides funds to individuals, companies, and universities researching and developing new products and technologies. It is governed by a 15-member board consisting of state officials and gubernatorial and legislative appointees.
EFFECTIVE DATE: October 1, 2001

PA 01-179—sSB 823
Commerce Committee
Finance, Revenue and Bonding Committee
Planning and Development Committee
Appropriations Committee

AN ACT CONCERNING ISSUANCE OF BONDS BY THE CONNECTICUT DEVELOPMENT AUTHORITY AND ITS SUBSIDIARIES ON BEHALF OF MUNICIPALITIES FOR INFORMATION TECHNOLOGY AND REMEDIATION PROJECTS

SUMMARY: This act allows the Connecticut Development Authority (CDA) or its subsidiaries to issue bonds on behalf of towns for information technology (IT) and brownfield remediation projects. CDA and its subsidiaries can approve projects for this type of financing until June 30, 2005. They or the towns are liable for the bonds, which can be repaid with the project's income and revenue, including incremental property tax revenue and payments in lieu of taxes. CDA must issue these bonds without a capital reserve fund. It may issue them without the treasurer's approval.

CDA can already issue bonds on behalf of towns to finance a wider range of projects that are part of a plan to redevelop a locally designated area. Towns are solely liable for these bonds. The act allows CDA's subsidiaries to issue bonds for these projects as well.

When issuing bonds for town-sponsored projects, the act allows CDA or its subsidiaries to require the developers to waive some or all of the state-reimbursed property tax exemptions available for projects in towns with enterprise zones.

The act allows CDA to buy back its debt. It also allows CDA to grant money to its subsidiaries and guarantee their debt. Under prior law, CDA could only lend money to the subsidiaries. The act also updates statutory references regarding CDA's powers.
EFFECTIVE DATE: October 1, 2001

INFORMATION TECHNOLOGY AND BROWNFIELD REMEDIATION PROJECTS

Local Legislative Body Authorization

The act allows CDA and its subsidiaries, without the state treasurer's approval, to issue bonds or other debt to finance IT and brownfield remediation projects towns sponsor. A town's legislative body must first adopt a resolution authorizing the debt, which can be in the form of bonds, refunding bonds, notes, temporary notes, interim certificates, and debentures or other obligations. CDA can use the bond proceeds to cover the expense of issuing the bonds and providing the funds, which it can grant, lend, or use to guarantee loans.

The law already allows CDA to issue bonds on behalf of towns to finance projects redeveloping designated areas under redevelopment, municipal development, and Manufacturing Assistance Act (MAA) statutes. Towns are liable for the bonds issued under these statutes, including those CDA issues on their behalf.

Eligible IT Projects

The act limits IT projects CDA and its subsidiaries can finance to those located in targeted investment communities (17 towns with enterprise zones), distressed municipalities (25 towns), or towns with over 100,000 people (currently 5 towns). The projects qualify if they make extensive use of information technologies,

create or retain jobs, boost exports, develop innovative products or services, or generally strengthen the state's economic base. By law, CDA can use its High Technology Infrastructure Fund to finance IT projects anywhere in the state if they meet the last criterion.

Eligible Remediation Projects

The act also allows CDA and its subsidiaries to finance remediation projects anywhere in the state. A project qualifies if it meets all of the following criteria:

1. Hazardous material was spilled, produced, or stored on the property or the Department of Environmental Protection or a licensed environmental professional approved a plan to clean up the property under a covenant not to sue.
2. CDA determines the property's remediation and redevelopment will generate significant new economic activity or jobs in the town where it is located or provide other economic benefits to the town or state.
3. The project needs CDA funding to attract private investment.

The law already allows CDA and its subsidiaries to use CDA's Environmental Assistance Revolving Fund to finance brownfield remediation projects, including those towns sponsor. It also allows CDA to create subsidiaries specifically for remediating and developing brownfields.

Bond Terms and Conditions

The act allows CDA to issue the bonds for IT and remediation projects without creating a state-backed special capital reserve fund, which it may do when it issues bonds for other purposes. But it still requires CDA to issue these bonds the same way it issues other bonds. The bonds must mature within 30 years.

Any pledges CDA, its subsidiaries, or the towns make to secure the bonds are valid and binding from the time they make the pledge. The act automatically puts a lien on the amounts they collect from the sources pledged to secure the bonds. It does not require the town to record the resolution pledging these amounts.

The act makes these liens valid and binding against all parties having claims of any kind in tort, contract, or otherwise against CDA, its subsidiaries, or the town, even if the parties did not know about the lien. In other words, the parties can claim these amounts even though the amounts were pledged to repay the bonds.

Securing the Bonds

CDA can secure the bonds with the project's property and all or some of the revenue it generates or receives. This revenue includes income, government funds, and new property tax payments attributed to the project or payments or grants in lieu of property taxes (PILOT). The act places a cap on the amount of bonds that can be backed with state grants in lieu of taxes based on the debt service or cost to repay the bonds. The total debt service cannot exceed $1 million.

Towns can assign to CDA the liens they normally place on properties to secure the tax payments, thus transferring to CDA their powers to enforce the liens.

The act allows towns to secure the bonds by dedicating the increase in real and personal property tax revenue the project generates or the increase in the amount of PILOTS they receive. Towns can calculate the incremental revenue by using the same method for calculating incremental revenue to repay bonds issued to finance redevelopment, municipal development, and MAA projects.

The method assumes that the assessed value of the real and personal property will increase and, consequently, tax revenue or PILOTS will also increase. If these values increase, towns must calculate the incremental amount and pay it to CDA. They calculate this first by determining the amount of revenue the unimproved property would have generated by applying the current mill rate or PILOT formula against the value of the unimproved property. They then subtract this amount from the amount the improved property generates based on those same rates.

The act does not allow CDA to issue bonds on behalf of several towns implementing a joint project. But in describing the method for calculating the incremental amount, it refers to PILOTs levied or collected by one or more towns, districts, or other public taxing agencies—language that also appears in those sections of the redevelopment, municipal development, and MAA statutes authorizing tax increment financing. These laws allow towns to implement joint projects.

Towns must begin paying CDA once the property's assessed value increases. CDA must deposit the payments in a special fund established to secure the bonds. It can use the fund only to repay the bonds, buy them back, or reimburse the parties holding other forms of debt, including letters of credit, bond insurance, debt service reserve funds, and other devices used to secure debt service on the bonds. Towns can stop the payments after CDA has paid off the debt.

Projects Excluded from Enterprise Zone Benefits

CDA can require a project's developer, as a condition of receiving bond financing, to waive some or all of the state-reimbursed property tax exemptions available to many types of projects in towns with enterprise zones. Normally, developers constructing, expanding, or rehabilitating facilities for manufacturing, information technology, specified services, and entertainment uses qualify for real and personal property tax exemptions. The amount and term depend on the facility's location. The act disqualifies projects remediating sites in enterprise zones for residential and commercial uses from the seven-year property tax phase-in, which is not reimbursed by the state.

Implementing Agencies

The act allows towns to implement CDA-financed IT or remediation projects through nonprofit development corporations, specified municipal development agencies, and other agencies approved by the economic and community development commissioner. These are the same types of agencies towns can use to implement projects under MAA.

LOCAL DEVELOPMENT PROJECTS

As noted above, the law allows CDA to issue bonds on behalf of towns for projects they sponsor under the redevelopment, municipal development, and MAA statutes. The act allows CDA's subsidiaries to issue the bonds for these projects as well.

Prior law required towns to repay the bonds solely with the revenue pledged when the bonds were issued. The act allows them to repay the bonds with all or some of the pledged revenue.

EXPANSION OF CDA POWERS

The act expands CDA's financial powers. The law already allows CDA to sell or lease all or part of a project; purchase mortgages banks hold on economic development projects; and sell, pledge, or assign these mortgages or CDA's other assets, including loans, notes, and revenue. The act also allows CDA to purchase or repurchase its own bonds and sell, pledge, or assign them. It also allows CDA to issue bonds generally without creating a special capital reserve fund to secure them.

The act expands the ways CDA can assist its subsidiaries financially. Prior law limited CDA to lending money to its subsidiaries under its standard lending criteria. The act allows CDA to grant them funds and guarantee their debt.

BACKGROUND

Towns Eligible for IT Bond Financing

The act limits bond financing for IT projects to targeted investment communities, distressed municipalities, and towns with more than 100,000 people. The economic and community development commissioner calculates a new distressed municipalities list every year, therefore the towns included may change. Table 1 lists the towns that meet these criteria.

Table 1: Towns Eligible for IT Bond Financing

Town	*Targeted Investment Community*	*2000 Distressed Municipality*	*Population over 100,000*
Ansonia		X	
Bridgeport	X	X	X
Bristol	X	X	
Derby		X	
East Hartford	X	X	
Enfield		X	
Griswold		X	
Groton	X	X	
Hartford	X	X	X
Hamden	X		
Killingly		X	
Meriden	X	X	
Middletown	X		
Naugatuck		X	
New Britain	X	X	
New Haven	X	X	X
New London	X	X	
Norwalk	X		
Norwich	X	X	
Plainfield		X	
Plainville		X	
Plymouth		X	
Putnam		X	
Southington	X		
Sprague		X	
Stamford	X		X
Torrington		X	
Waterbury	X	X	X
Winchester		X	
Windham	X	X	

PA 01-184—sSB 1020
Commerce Committee
Judiciary Committee

AN ACT CONCERNING THE PENALTY FOR FALSE STATEMENTS ON APPLICATIONS FOR FINANCIAL ASSISTANCE FROM QUASI-PUBLIC AGENCIES

SUMMARY: Under this act, quasi-public agencies must require anyone who requests financial assistance from them to sign, under the statutory penalty of false statement, the application or other document upon which the agencies base their decisions.

The penalty is imprisonment for up to one year, a maximum $2,000 fine, or both. A person is subject to the penalty if he:

1. intentionally makes a false statement under oath or on a form warning him that these statements are punishable,
2. intends the statement to mislead a public servant performing his duties, and
3. does not believe that the statement is true.

Quasi-public agencies can impose the requirement on people who complete any application, agreement, financial statement, certificate, or other document they send to agencies regarding loans, mortgages, guarantees, investments, grants, leases, tax relief, bond financing, or other types of credit or financial assistance they provide.

The act applies to the following agencies: Connecticut Development Authority, Connecticut Innovations, Inc., Connecticut Housing Authority, Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Resource Recovery Authority, Connecticut Hazardous Waste Management Service, Connecticut Coastline Port Authority, Capital City Economic Development Authority, and the Connecticut Lottery Corporation. The law already allows the Connecticut Housing Finance Authority to impose the requirement with respect to any program it administers.
EFFECTIVE DATE: October 1, 2001

PA 01-210—HB 6565
Commerce Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE TAX INCREMENTAL FINANCING PROGRAM ADMINISTERED BY THE CONNECTICUT DEVELOPMENT AUTHORITY

SUMMARY: This act extends the Connecticut Development Authority's (CDA) authorization to approve projects for funding under the Tax Increment Financing Program for four years, from July 1, 2001 to July 1, 2005. Under this program, CDA can issue bonds to finance a project if it can generate enough incremental sales, admission, and dues tax revenue to repay the debt service on the bonds.

The act also extends the time period during which CDA can issue bonds for the proposed Steel Point project in Bridgeport for two years, from January 1, 2003 to January 1, 2005. By law, these bonds cannot exceed $120 million or 20% of the projected costs. CDA issues the bonds under its own authority and backs them with specified state revenue generated in the designated project area.
EFFECTIVE DATE: July 1, 2001

PA 01-89—sHB 5254
Education Committee
Appropriations Committee

AN ACT CONCERNING THE CONNECTICUT INDEPENDENT COLLEGE STUDENT GRANT PROGRAM

SUMMARY: Starting with FY 2003-04, this act requires the Board of Governors of Higher Education to increase its annual appropriation request for the Connecticut Independent College Student (CICS) grant program from 17% to 25% of General Fund spending for each full-time-equivalent University of Connecticut (UConn) and Connecticut State University (CSU) undergraduate. CICS funds annual grants based on merit and financial need to Connecticut undergraduate students attending independent colleges in Connecticut. Students apply for grants at college financial aid offices.

By law, the CICS appropriation request is calculated by multiplying the specified percentage of General Fund spending for each full-time-equivalent UConn and CSU undergraduate in the fiscal year two years before the request by the number of full-time-equivalent undergraduates from Connecticut enrolled at independent colleges during the fall semester of the same year.

EFFECTIVE DATE: July 1, 2001

PA 01-102—sSB 1088
Education Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE CONNECTICUT STUDENT LOAN FOUNDATION

SUMMARY: This act requires the state to withhold the state income tax refund of anyone who has defaulted on a student loan made or guaranteed by the Connecticut Student Loan Foundation (CSLF). It extends the existing notice and appeal procedure that applies when a taxpayer's refund is withheld to satisfy a state debt or obligation to refunds withheld to pay student loan defaults. The tax refund must be applied to any debts the taxpayer owes to the state before being credited against the defaulted student loan.

The act also expands the loans CSLF may acquire, sell, and service to include all types of student loans for postsecondary education, not just federally subsidized and insured ones. CSLF is a nonprofit corporation that administers, guarantees, finances, and services student loans.

EFFECTIVE DATE: October 1, 2001 for the provisions dealing with state income tax refund withholding; upon passage for the expansion of CSLF's authority to service all types of student loans.

WITHHOLDING INCOME TAX REFUNDS

The act requires CSLF to notify the Department of Administrative Services (DAS) commissioner when someone entitled to a state income tax refund is in default of a CSLF-made or guaranteed student loan. It requires the Department of Revenue Services (DRS) commissioner to withhold the defaulter's state income tax refund up to the default amount when notified by the DAS commissioner. The DRS commissioner must notify the taxpayer that he has a right to a hearing before an officer designated by the DAS commissioner if he contests the validity or amount of the claim.

Unless the person asks for a hearing within 60 days after the DRS commissioner issues the withholding notice, the commissioner must send the withheld money to the DAS commissioner who, in turn, must send it to CSLF. If the defaulter requests a hearing, the DRS commissioner must remit the tax refund according to the hearing officer's decision or, if the decision is appealed to a court, according to the court decision.

The act requires the commissioners and the CSLF president to make an agreement to credit income tax refunds against a taxpayer's defaulted student loans. The agreement must include procedures for CSLF to (1) notify the DAS commissioner of defaults and the default amounts and (2) reimburse DRS and DAS for their administrative costs in carrying out the act.

PA 01-141—sHB 6630
Education Committee
Appropriations Committee
Finance, Revenue and Bonding Committee
Government Administration and Elections Committee

AN ACT CONCERNING VARIOUS HIGHER EDUCATION ISSUES

SUMMARY: This act:

1. authorizes the Board of Governors of Higher Education (BOG) to allow the Connecticut State University (CSU) to award education doctoral degrees for five years;
2. extends the state commitment to match contributions to the CSU, community-technical college (CTC), and Charter Oak State College endowment funds for an additional five, and to the University of Connecticut (UConn) endowment fund for an additional seven, years;

3. increases the total state matching grant commitment for UConn endowment fund contributions by $115 million and decreases that for Charter Oak College's endowment by $100,000;
4. increases some annual matching grant limits for CSU, CTC, and UConn endowment fund donations;
5. allows certain past alumni donations to the individual endowments of CSU universities to be eligible for state matching grants;
6. changes qualifications for future student members of the CSU and UConn boards of trustees;
7. eliminates a July 1, 2007 sunset date for the Board for State Academic Awards;
8. eliminates a $60 million annual limit on the CSU Board of Trustees' bonding requests to the General Assembly; and
9. makes a technical change concerning state agency foundations and the Freedom of Information Act (FOIA).

EFFECTIVE DATE: October 1, 2001 for the CSU alumni donation provision and the FOIA change; July 1, 2001 for the remaining provisions.

CSU AWARD OF DOCTORAL DEGREES

Under the act, the BOG can authorize CSU to award education doctoral degrees to students who enter the program between May 1, 2002 and January 30, 2007. The BOG must evaluate the program. Under prior law, UConn was the only public university authorized to grant doctoral degrees.

ENDOWMENT FUND MATCHING GRANTS

Extensions

The act allows eligible gifts to the CTC, CSU, and Charter Oak College endowment funds to qualify for 50% state matching grants for an additional five years, from FY 2008-09 through FY 2013-14. It allows donations to UConn's endowment fund to qualify for an additional seven years, from FY 2006-07 through FY 2013-14.

Overall Grant Limits

The act increases the state's overall matching grant commitment to UConn and reduces it to Charter Oak College but does not change the overall commitment to other constituent unit funds (see Table 1).

Table 1: Overall State Matching Grant Limits (in millions)

UConn		CSU		CTCs		Charter Oak	
Old	*New*	*Old*	*New*	*Old*	*New*	*Old*	*New*
$62.5	$177.5	$60	Same	$39.5	Same	$1	$0.9

Annual Grant Limits

The act also changes annual matching grant limits in some years for some constituent units and extends annual limits for all units as shown in Table 2.

Table 2: Annual State Matching Grant Limits (in millions)

Fiscal Year	UConn		CSU		CTCs		Charter Oak	
	Old	*New*	*Old*	*New*	*Old*	*New*	*Old*	*New*
01-02	$7.5	Same	$5	Same	$3	Same	$0.1	Same
02-03	$7.5	Same	$7.5	Same	$3.5	Same	$0.1	Same
03-04	$7.5	Same	$7.5	Same	$4	$5	$0.1	Same
04-05	$7.5	Same	$7.5	Same	$4.5	$5	$0.1	Same
05-06	$5	$10	$7.5	Same	$5	Same	$0.1	Same
06-07	$5	$10	$7.5	Same	$5	Same	$0.1	Same
07-08	No grant	$15	$5	$7.5	$5	Same	$0.1	Same
08-09	No grant	$15	$5	$7.5	$5	Same	$0.1	Same
09-14 (per year)	No grant	$15	No grant	$7.5	No grant	$5	No grant	$0.1

CSU Alumni Donations

The act makes alumni donations to the foundations of the individual CSU universities between July 1, 1997 and September 30, 2001 retroactively eligible for state matching grants, as long as they do not push total annual state grants above the limits set in the law and the act.

UCONN AND CSU STUDENT TRUSTEES

The act requires a student member of the CSU Board of Trustees elected on or after November 1, 2001 to leave the board if he ceases to be a matriculating, full-time undergraduate or full- or part-time graduate student in good standing at the state university from which he was elected.

It also requires one of the student members of the UConn Board of Trustees to be a full-time undergraduate, starting with the student elected to fill the term ending June 30, 2003, and one a full-time graduate student, starting with the student elected to fill the term ending June 30, 2004. It requires the undergraduate board member and his successors to be

elected by UConn undergraduates and the graduate member and his successors to be elected by UConn graduate, law, medical, social work, and dental students.

PA 01-166—sSB 1175
Education Committee
Appropriations Committee

AN ACT CONCERNING HIGH SCHOOL GRADUATION AND THE CONNECTICUT ACADEMIC PERFORMANCE TEST

SUMMARY: This act requires local and regional school boards, by September 1, 2002, to (1) specify the basic skills students in the Class 2006 and thereafter need to graduate from high school and (2) include a process for assessing students in those skills. Boards must use the 10th grade Connecticut Academic Performance Test (CAPT) as one, but not the exclusive, assessment. They must also identify courses for students who have not successfully completed the assessments to help them reach satisfactory levels before graduating.

Public school 10th graders take the CAPT every spring. It assesses students' knowledge and skill in mathematics, editing, literature, science, and interdisciplinary subjects.
EFFECTIVE DATE: October 1, 2001

PA 01-173—sSB 1122
Education Committee
Government Administration and Elections Committee
Appropriations Committee

AN ACT CONCERNING REVISIONS TO THE EDUCATION STATUTES

SUMMARY: This act makes many revisions to the education statutes. Among other things, it:

1. limits remedial education and summer school requirements for 4th graders in priority school districts to those who fail the reading portion of the mastery exam;
2. subjects high school teachers to the computer education professional development requirements already applicable to elementary and middle school teachers;
3. exempts from the computer education requirement those teachers with demonstrable skills in educational technology;
4. requires criminal history record checks for educators and requires the education commissioner to revoke or deny an educator's license for commission of certain acts; and
5. requires the State Department of Education (SDE) to study vocational-technical (V-T) school accountability.

The act also makes changes affecting youth service bureau grants, minority teacher incentive programs, and the special education advisory council.
EFFECTIVE DATE: July 1, 2001, except for the sections dealing with youth service bureau grants, minority teacher incentive programs, and the special education advisory council, which take effect upon passage.

REMEDIAL INSTRUCTION AND SUMMER SCHOOL REQUIREMENTS FOR 4TH GRADERS

The act limits priority school districts' duty to provide additional instruction to 4th graders to those who fail to meet the remedial standards on the reading component of the 4th grade mastery exam. Prior law required them to provide extra instruction to 4th graders who failed any part of the exam. The act also requires only the 4th graders who fail the reading component of the exam to attend summer school.

PROFESSIONAL DEVELOPMENT AND COMPUTER EDUCATION FOR TEACHERS

The act exempts teachers who can show they successfully completed a national board certification assessment in their subject area from the minimum 90 hours of continuing education they must take every five years to maintain state certification. It requires certified high school teachers to comply with the same 15-hour requirement of computer training already mandated every five years for certified elementary and middle school teachers. It exempts any teacher, regardless of grade level, who can demonstrate technology competency, in a manner his school board determines, based on statewide standards for teacher competency in the use of instructional technology.

REVOKING AN EDUCATOR'S LICENSE OR DENYING AN APPLICATION

Power to Revoke

The act extends the State Board of Education's (SBE) power to revoke any educator certificate to cover authorizations and permits, such as those held by athletic coaches, substitute teachers, and teachers teaching outside their endorsement area. The grounds for revocation are the same as for certificates, namely if the holder (1) obtained it through fraud or

misrepresentation of a material fact, (2) has persistently neglected to perform the duties for which the credential was granted, (3) is professionally unfit to perform the duties for which the credential was granted, (4) is convicted of a crime of moral turpitude or of such a nature that the board feels that allowing the holder to keep the credential would impair the credential's standing, or (5) for other due cause. The act also requires SBE to revoke an authorization or permit, as it already must a certificate, if the holder breaches the security of a statewide mastery examination.

Criminal Convictions as Basis for Revocation

The act extends SBE's authority to revoke a teaching certificate for specific criminal convictions to include authorizations and permits. It also expands grounds for revoking a certificate and extends this provision to all credentials. Under prior law, revocation was limited to conviction for second- or fourth-degree sexual assault and crimes involving child abuse. The act expands the grounds to include convictions for (1) a capital felony; (2) arson murder; (3) any class A felony; (4) a class B felony, except first-degree larceny, computer crime, or vendor fraud; (5) risk of injury to a minor; (6) deprivation of a person's civil rights by a person wearing a mask or hood; (7) second-degree assault of an elderly, blind, disabled, pregnant, or mentally retarded person; (8) third- or fourth-degree sexual assault; (9) third-degree promoting prostitution; (10) substitution of children; (11) third-degree burglary with a firearm; (12) crimes involving child neglect; (13) first-degree stalking; (14) incest; (15) obscenity as to minors; (16) importing child pornography; (17) criminal use of a firearm or electronic defense weapon; (18) possession of a weapon on school grounds; or (19) manufacture or sale of illegal drugs.

Denial of Certificate Applications

The act extends SBE's power to deny certificate applications to include applications for authorizations or permits (1) if the applicant is seeking the credential through fraud or misrepresentation of a material fact, (2) if the applicant has been convicted of a crime of moral turpitude or of such a nature that the board feels that granting the credential would impair its standing, or (3) for other due cause. Any applicant denied a credential must be notified in writing of the reasons and may request the board to review the denial.

GROUNDS FOR DENIAL OR REFUSAL TO REISSUE A CERTIFICATE

The act expands the convictions for which SBE may deny or refuse to reissue a certificate to include the applicant's conviction for (1) a crime involving an act of child abuse or neglect and (2) second-, third-, or fourth-degree sexual assault. It exempts first-degree vendor fraud from this provision.

CRIMINAL HISTORY RECORD CHECKS

The act reduces, from 90 to 30 days, the time public school employees have after they are hired to submit to state and national criminal history record checks. It also expands the types of people who must submit to the checks to include workers placed in a school under a public assistance employment program, if they will have direct contact with students. These employees also have 30 days to submit to criminal history record checks. The act exempts students employed by the school district where they attend school from the criminal history record checks.

The act requires a local or regional board of education that receives notice that a person holding a certificate, authorization, or permit issued by SBE has been convicted of a crime to send that notice to SBE.

The act requires SBE to submit periodically to the State Police Bureau of Investigation databases of (1) all applicants for an initial issuance of a certificate, authorization, or permit as a teacher, school business administrator, occupational instructor, or coach and (2) all certificate, authorization, or permit holders. The bureau must check the state criminal history records against the databases and notify SBE of any person with a criminal conviction. The act prohibits SBE from issuing a certificate, authorization, or permit until it receives and evaluates the results of the check, and it allows SBE to deny an application or revoke a credential if the person has been convicted of a crime of moral turpitude or another crime that would impair SBE's credentials.

REFERENCE CHECKS

The act requires a local or regional board of education to make a documented good faith effort to contact an applicant's former employers for recommendations and information about the person's fitness for employment before hiring the candidate.

VOCATIONAL-TECHNICAL (V-T) SCHOOLS

Expansion of Mortgage Assistance Program for Certified Teachers

The act allows certified teachers employed by regional V-T schools in priority or transitional school districts to qualify for the Connecticut Housing Finance Authority's mortgage assistance for teachers program. In order to be eligible for the mortgage assistance, the house the teacher wants to buy must be located in the district. The program already applies to teachers who (1) are employed by a priority school district, (2) are employed by a transitional school district, or (3) teach in a subject matter shortage area.

V-T School Admission Test Study

The act requires SDE to study the relationship between V-T students' admission scores and their subsequent performance in the V-T system. The study must be based on students in the classes of 2003, 2004, and 2005. SDE must report periodically to the Education Committee on the progress and results of the study.

The act establishes the following timetable for SDE to report on the progress of the admission score study:

Deadline	***Required Report Contents***
January 1, 2002	• Number and distribution of students in each V-T school, by class. • Format and contents of initial study database. • Measures to be used to assess whether parts of the admission score accurately predict success, which may include 10th grade mastery test scores, grade-point average, class rank, dropout rates, and trade-specific tests. • Other factors relevant to conducting or understanding the study.
January 1, 2003	• Preliminary results based on data analysis through the first quarter of the 2002-03 school year, including the relevance of individual admission score components to assessment measures. • Statistics on the number of students from each of the classes of 2003, 2004, and 2005 who have withdrawn from V-T schools.
January 1, 2004	• Final results for the class of 2003, including graduation rates and post-graduate survey results. • Using those results, a prediction of the probability of a V-T school student's success based on his admission score components. • An evaluation of the results and discussion of any changes needed in the V-T school admission process.
January 1, 2005	• Final results for the class of 2004. • An explanation of any differences from the class of 2003.
January 1, 2006	A final report including: • Final results for the class of 2005. • Using the results, a prediction of a V-T student's probability of success in the system based on components of his admission score. • A description of any changes SDE plans to make in V-T school admission policies.

V-T School Achievement Goals

The act requires SBE to establish achievement goals for V-T school students at each grade level. SBE must also measure the performance of each V-T school and identify quantifiable measures to be used, including performance on the 10th grade mastery and trade-related assessment tests, and dropout and graduation rates.

V-T School Business Outreach

The act requires each V-T school director to meet with business community members in his school's geographic area to develop a plan to assess workforce needs and modify the school's curriculum to address those needs.

YOUTH SERVICE BUREAU GRANTS

The act expands the youth service bureaus eligible for SDE grants to include bureaus that (1) are eligible in FY 2000-01, rather than only those that were eligible in FY 1999-00, or (2) applied by June 30, 2001, rather than only those that applied by May 15, 2000, after receiving approval for their town's matching contribution. The grants are $14,000 each, with any excess funds distributed among bureaus that received grants of more than $15,000 in FY 1994-95.

MINORITY TEACHER INCENTIVE PROGRAM

The act allows the Department of Higher Education to use up to 2% of the funds appropriated for the Minority Teacher Incentive Program for the fiscal years ending June 30, 2001 and June 30, 2002 to administer and promote the program and for recruitment and retention activities aimed at increasing the number of minority students pursuing teaching careers at Connecticut colleges and universities.

SPECIAL EDUCATION GRANT PAYMENTS

The act changes certain parts of the schedule for state grants to school districts for special education costs for children placed by state agencies or residing on state property and any special education costs that exceed five times a district's regular per-pupil expenditures. The law allows districts to submit claims for additional children not included in their initial December 1 filing with SDE. The act delays the filing deadline for these additional claims from February 1 to March 1.

The law requires the state to pay 75% of the costs in February. The act requires the state to pay the balance in May rather than April.

DISCLOSURES TO STATE AGENCY FOUNDATION DONORS

The act requires a person soliciting donations for a state agency foundation to disclose that the donation is to benefit the foundation either at the time of solicitation or in the donation receipt, instead of both.

DUTIES OF COMMISSION FOR EDUCATIONAL TECHNOLOGY

The act requires this commission to provide all public schools access to a core set of on-line full text resources. These provisions already apply to public libraries and libraries at institutions of higher education. The act also requires the commission to give public schools the ability to purchase other collections in collaboration with public libraries and libraries at institutions of higher education to maximize their buying power.

INTERNATIONAL EDUCATION PROGRAMS

The act establishes a state policy to encourage students, teachers, administrators, and educational policy makers to participate in international study, exchange programs, and other activities abroad. It requires the education commissioner to establish an international education advisory committee to explore, investigate, and compile information on international educational opportunities and related curriculum materials. The committee must also (1) recommend to the commissioner ways to expand international educational opportunities and (2) think of ways to encourage participation in them. It must advise SDE and the Education Committee about international program opportunities and the availability of federal and nonprofit agency funding. SDE must provide information about the opportunities to local and regional boards of education.

REGIONAL SCHOOL DISTRICT EXPENSES

The act specifies that the "net expenses" (estimated expenditures minus estimated receipts) each member of a regional school district must pay after the district's budget is approved include estimated capital expenditures. It also specifies that each town's share of the regional district's capital outlay includes costs for school building projects eligible for state school construction grants.

ELIGIBILITY FOR INTERDISTRICT COOPERATIVE GRANTS

The act makes nonsectarian nonprofit organizations approved by the education commissioner eligible for state grants for establishing and operating interdistrict cooperative programs. It also allows interdistrict magnet schools to receive such grants for programs only if they are (1) conducted at the magnet school and (2) primarily serve children not enrolled at the school.

V-T SYSTEM INDUSTRIAL ACCOUNT

The act increases from $350,000 to $500,000 the amount that can be left in SBE's industrial account within the Vocational Education Extension Fund before the excess reverts to the General Fund. The account covers expenses in connection with work projects the V-T schools perform as part of their educational programs.

SCHOOL CONSTRUCTION GRANTS

Education Commissioner's Authority

The act transfers, from SBE to the education commissioner, authority for approving the lease of improved buildings to school boards for 20 years or more.

Portable Classrooms

The act allows the commissioner to approve school construction grant applications for districts to buy and install portable classroom buildings without placing the projects on the annual priority list for General Assembly approval, as long as they do not create a new facility or modify an existing facility so that the portable buildings make up a substantial percentage of the facility's total area. The commissioner determines what qualifies as "a substantial percentage."

Exemption from Standard Space Limits

The act allows buildings built before July 1, 1951, rather than only those built before 1950, to qualify for a 25% increase in the maximum square-footage-per-pupil limit for computing school construction grants. To claim the increase, the local school board must apply to SDE by June 30, 2002.

Local Approval for Network Wiring Projects

The act allows a town or regional school district to submit final plans and specifications for network wiring projects costing less than $1 million to local officials, instead of SDE, for code-compliance review and written approval. Local officials already have the authority to review oil tank and roof replacement projects regardless of cost, and asbestos abatement, code violation, and energy conservation projects costing less than $1 million.

Central Kitchen Projects

The act allows a school district to receive a regular school construction reimbursement grant for designing and building a central kitchen to provide public school food service. The project may also include the cost of altering, expanding, or creating kitchens in individual schools to facilitate centralized food preparation. The act exempts these projects from standard space limits as long as the education commissioner finds the project's size and scope to be reasonable.

ILLNESS AND SCHOOL PERFORMANCE

The act requires the education and public health commissioners to convene a task force to study the relationship between illness and children's school performance. The task force must consider policies and programs that would help sick children improve their school performance. The commissioners must report to the Education and Public Health committees by February 1, 2002 on their recommendations for statutory changes to implement the policies and programs.

TUITION WAIVERS

The act gives the dependent children of a volunteer firefighter or supernumerary or auxiliary police officer killed in the line of duty free tuition at the community-technical colleges, Connecticut State University (CSU), and the University of Connecticut (UConn). By law, dependent children of volunteer and paid firefighters, municipal police officers, other municipal employees, and state employees killed in the line of duty are already eligible for free tuition.

UCONN CAPITAL PROJECTS

The act exempts all UConn capital projects from the jurisdiction of the Department of Public Works (DPW) and the regular requirements for state building projects from July 1, 2001 until June 30, 2007. It allows the university to plan, design, and construct any project on any of its campuses for the next six fiscal years in accordance with procedures that already apply to UConn 2000 capital improvements. The law typically requires any non-UConn 2000 project over $2 million to be supervised by DPW and meet various other procedural requirements.

BOARD OF DIRECTORS FOR UCONN HEALTH CENTER

The act allows the UConn board of trustees to create a board of directors to govern the UConn Health Center and delegate to it whatever duties and authority the trustees find necessary and appropriate. It allows the chairman of the board of trustees to designate trustees and others to serve on the board of directors.

CONNECTICUT LIBRARY NETWORK

The act removes the requirement that the State Library plan and develop the Connecticut Library Network.

STATE HISTORIAN

The act requires the state historian to (1) be a member of the Connecticut Historical Commission, (2) edit or supervise editing and publication of the state's public records, (3) inform and advise members of government at all levels, (4) help SBE promote the teaching of history in schools and teacher preparation programs, (5) respond to requests for advice from historical societies, (6) respond to requests for information on the state's history, (7) make public appearances and addresses on the state's history, (8) prepare bibliographies and other research aids about the state's history, and (9) create informative and educational programs to promote the celebration or commemoration of significant historical events.

Under the act, the state historian serves at the pleasure of the UConn board of trustees instead of the State Library Board.

AUTOMATIC SPRINKLER REQUIREMENT

The act requires all building projects eligible for school construction project grants and put out to bid on or after July 1, 2004 to include an automatic fire extinguishing system for each floor. The system must be approved by the state fire marshal.

STUDENTS IN INTERDISTRICT PRIVATE SCHOOL MAGNET SCHOOLS

The act allows private school students to enroll in public part-time interdistrict magnet school programs so long as they (1) make up no more than 5% of the magnet school's full-time-equivalent enrollment and (2) are not counted for purposes of the state magnet school transportation grant of $1,200 per student.

SPECIAL EDUCATION ADVISORY COUNCIL

The act requires the Special Education Advisory Council to perform any activity required by federal special education law and updates terminology and statutory references to conform to federal law.

SCHOOL CONSTRUCTION BONUS FOR REGIONAL SCHOOL DISTRICTS

The act removes an obsolete school construction bonus for secondary regional school districts under the school construction law. It also makes all regional school districts eligible for a 10% school construction bonus.

TECHNOLOGY COMMISSION'S EXECUTIVE DIRECTOR RETIREMENT OPTIONS

The act allows the executive director of the Commission for Educational Technology to choose whether to participate in the state employee, alternate, or teachers' retirement system. (The alternate retirement program is a special state retirement program for certain higher education employees.)

HIGHER EDUCATION ACCOUNTABILITY REPORTS

The act requires the constituent units of higher education to submit annual accountability reports to the commissioner of Higher Education by January 1. The commissioner must submit an annual consolidated accountability report for the state higher education system based on individual institution reports to the Education Committee by February 1. This report must include accountability measures for UConn, the CSU system and its individual institutions, the community-technical college system and its institutions, and the Board for State Academic Awards. The report must include, for the listed units, (1) accountability measures, (2) updated baseline and peer comparison data, (3) performance improvement targets for each measure, and (4) other information as the commissioner deems necessary. By law, constituent units must already use accountability measures developed by the Higher Education Coordinating Council to assess the units' progress toward meeting specified goals.

TROOPS TO TEACHERS

The act requires SDE to apply for funding and participation in the federal government's Troops to Teachers Program. It requires SDE, upon receiving funding, to establish a program in conformance with federal requirements and encourage participation in it.

ECS MINIMUM EXPENDITURE REQUIREMENT

The act extends the prior minimum expenditure requirement (MER) calculation for towns under the Education Cost Sharing (ECS) grant for the next two years. Under the act, the MER for FYs 2001-02 and 2002-03 is each town's MER for the preceding fiscal year, plus its ECS aid increase, minus any decrease in enrollment from 1999 to 2000 and 2000 to 2001, respectively, multiplied by one-half the ECS foundation amount ($5,891).

NATURAL LIGHT REQUIREMENTS

The act requires school superintendents applying for state grants for new school construction or renovations to affirm in their proposals that they considered how to maximize natural light.

BACKGROUND

Related Act

Public Act 01-175 establishes a generic criminal history record check procedure and mandates its use when any state statute requires such checks.

PA 01-205—sHB 6751
Education Committee
Appropriations Committee

AN ACT CONCERNING MASTERY TEST EXEMPTIONS

SUMMARY: This act alters state mastery test exemptions to comply with federal law. It requires a special education student's planning and placement team to determine whether an alternate assessment instead of the Connecticut Mastery Test (CMT) is appropriate for the student. The act requires the team to use an alternate assessment as specified by the State Board of Education. Under prior law, the team decided whether a student should take the CMT or be exempt from all testing.

The act reduces, from 30 to 10 months, the period during which bilingual and English-as-a-second-language students may be exempt from taking the CMT. It requires the State Department of Education to review the availability, utility, and cost of providing students in bilingual programs with subject matter tests in their native language. The education commissioner must report to the Education Committee on the feasibility review by December 31, 2001.
EFFECTIVE DATE: July 1, 2001

BACKGROUND

Assessment of Special Education Students Under Federal Law

Federal law requires states to file information with the U.S. secretary of education to show that (1) children with disabilities are included in general state and district-wide assessment programs, with appropriate accommodations and modifications in administration, if necessary, and (2) the state developed and began conducting alternate assessments for children with disabilities by July 1, 2000.

Assessment of Limited English Proficient Students Under Federal Law

The U.S. Department of Education sent a memorandum to chief state school officers on September 7, 2000 detailing the states' progress in demonstrating compliance with Title I of the Elementary and Secondary Education Act. The memo dealt with the states' assessment procedures and highlighted certain issues dealing with exemption policies. In addressing assessments of limited English proficient students, the department said that "[b]eyond allowing exemptions for students who have not been in a district for one academic year, state policies that require or permit the exemption of limited English proficient students on the basis of how long they have been in school are not acceptable under any circumstances."

PA 01-49—SB 1269
Energy and Technology Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO UTILITY LAWS

SUMMARY: This act makes technical changes in utility laws.
EFFECTIVE DATE: October 1, 2001

PA 01-112—sSB 1244
Energy and Technology Committee
Planning and Development Committee

AN ACT CONCERNING SERVICE AREAS OF CERTAIN MUNICIPAL UTILITIES

SUMMARY: This act allows any municipality that operates an electric or gas utility to establish a separate corporation solely to provide electric, gas, or water service in its service territory so long as this territory does not encroach on another gas or water utility's service area. The municipality can do so despite its charter, home rule ordinance, or any special act. The action requires approval of the municipality's chief elected official and adoption of an ordinance by two-thirds of its legislative body or city or town council or board of selectmen where the legislative body is a town meeting. The corporation is subject to all laws governing business corporations.
EFFECTIVE DATE: October 1, 2001

PA 01-144—sHB 6786
Energy and Technology Committee
Planning and Development Committee

AN ACT CONCERNING ELECTRIC FORECAST OF LOADS AND RESOURCES

SUMMARY: This act expands the types of entities that must provide forecasts to the Connecticut Siting Council regarding electric supply and demand, but it reduces the forecast period from 20 to 10 years. Under prior law, the reporting requirement applied to any entity that generates electric power in the state, other than certain nonutility generators. (By law, entities that buy power from the nonutility generators must provide information regarding them.)

The act requires the nonutility generators to report. But it limits the requirement to generators (utility and nonutility) with more than one megawatt of capacity. (Commercial power plants generally have a capacity of several hundred megawatts). The act extends the reporting requirement to any entity that transmits or distributes power, thereby requiring all municipal electric utilities, rather than just those that generate power, to report.

By law, the report must include information on various aspects of power generation, transmission, and distribution. The act allows the council to adopt regulations specifying filing requirements for generators, transmission entities and electric distribution companies. (The electric restructuring law separates generation from transmission and distribution, with different entities performing these functions.) It specifies reporting requirements for each of these types of entities until the regulations are adopted.

The act allows confidential, proprietary, and trade secret information provided to the council to be submitted under a protective order, and thus not subject to public disclosure. The council must review any information subject to such an order in executive session.

The act eliminates a requirement that the report describe the facilities that will be needed to supply system demands in the forecast period.
EFFECTIVE DATE: October 1, 2001

FILING REQUIREMENTS

By law, the report must include detailed information about electric generation, transmission, and distribution. Under the act, until the council adopts regulations, electric distribution companies must file:

1. peak load, resource, and margin estimates for each year covered in the forecast;
2. data on energy use and peak loads for the five preceding years;
3. a description of steps taken to improve existing facilities and eliminate overhead transmission and distribution lines; and
4. various information regarding the generating facilities of nonutility generators from whom the company bought power in the preceding year.

Generators that produce power from facilities that are one megawatt or larger must provide:

1. a list of generating facilities in service;
2. a list of scheduled generating facilities for which property has been purchased, for which council certificates have been issued, or for which applications for council certificates have been made (a council certificate is needed to build or modify most types of generating plants);

3. a list of planned generating units that will be needed to meet projected future demand and the location of such facilities; and
4. the information described above regarding generating facilities owned by nonutility generators.

Finally, entities that transmit power in the state must file:

1. a list of planned transmission lines for which route reviews have been undertaken or for which council certificate applications have been made, and
2. a description of steps taken to improve existing facilities and eliminate overhead transmission and distribution lines.

PA 01-177—sSB 1319
Energy and Technology Committee
Public Health Committee
Government Administration and Elections Committee
Planning and Development Committee
Legislative Management Committee

AN ACT ESTABLISHING A WATER PLANNING COUNCIL

SUMMARY: This act establishes a Water Planning Council to address issues involving water companies, water resources, and the future of the state's drinking water supply. The council consists of the chairperson of the Public Utility Control Authority (PUCA), the public health (DPH) and environmental protection (DEP) commissioners, and the secretary of the Office of Policy and Management, or their designees. The act requires the council to study specified issues in consultation with representatives of water companies, municipalities, environmental and agricultural groups, and other water users.

The PUCA's chairperson must convene the council's first meeting. The council must report its preliminary findings and proposed legislation by January 1, 2002 to the Public Health, Energy and Technology, and Environment committees. It must submit its final findings and legislative recommendations to these committees by January 1, 2003. The council terminates on that date or when it submits its report, whichever is first.
EFFECTIVE DATE: October 1, 2001

STUDY TOPICS

The study, which must be conducted on a regional and statewide level, must address:

1. the financial viability, market structure, reliability of customer service, and managerial competence of water companies;
2. fair and reasonable rates;
3. protection and appropriate allocation of water resources while providing public water supply needs;
4. the adequacy and quality of drinking water supplies to meet the state's current and future needs;
5. an inventory of water company land and land use;
6. the status of current and projected withdrawals, river flows, and the future needs of water users;
7. methods for measuring and estimating natural flows in Connecticut waterways to determine standards for stream flows that will protect their ecology;
8. the status of river flows and available data for measuring them;
9. the streamlining of the water diversion process;
10. coordination between the Department of Public Utility Control, DEP, and DPH in review of diversion permit applications; and
11. the procedure for coordinating the planning of public water supply systems under the statutes.

PA 01-185—sSB 1129
Energy and Technology Committee
Public Health Committee
Judiciary Committee

AN ACT CONCERNING RIGHTS OF WATER COMPANY CONSUMERS AND THE DISSOLUTION OF THE NEW HARTFORD WATER COMPANY

SUMMARY: This act requires the Department of Public Health (DPH) to notify local health directors when it seeks to impose civil penalties on water utilities for violating water quality laws and regulations. It requires the utility to notify the health director when it appeals a penalty. It entitles the directors to participate in administrative proceedings and judicial appeals regarding these violations. The local director, under the act, is the health director of a municipality in which a violation occurred or which uses the water that was the subject of the violation.

These provisions apply to any privately or publicly owned water utility that serves two or more consumers (premises) or 25 or more individuals on a regular basis.

The act requires DPH to develop, within available resources and in consultation with water suppliers,

educational material on the sources and health effects of lead and copper. The act requires any utility that serves 250 or more consumers or 1,000 or more individuals to provide its residential customers with this material annually, without charge, starting July 1, 2002.

The act requires DPH to (1) amend its current regulations to require a public education program for any system that violates DPH regulatory standards for the copper content of water and (2) develop regulations incorporating federal regulations regarding public notice of serious drinking water contamination problems. After the new regulations are adopted, the act requires the DPH commissioner to consider whether a utility has complied with its requirements in setting the civil penalty for violations of the law.

Finally, the act validates the town of New Hartford's 1976 acquisition of The New Hartford Water Company and dissolves the company.

EFFECTIVE DATE: October 1, 2001, except for the provisions on the DPH regulations and The New Hartford Water Company, which are effective upon passage.

ADMINISTRATIVE PROCEEDINGS

Notice of Violations

By law, DPH can impose civil penalties for violations of laws and regulations governing water utilities regarding water quality and supply, including related provisions of the Public Health Code. DPH must send a notice of the proposed penalty to the utility. Under the act, DPH must send a copy of the penalty notice to the local director of health in the affected municipality or municipalities.

Administrative Hearings

By law, the utility can contest the penalty by applying to the commissioner for a hearing, which is conducted by a person called the presiding officer. The act requires the utility to notify the local health director of the application for this administrative appeal.

Under the Uniform Administrative Procedure Act, the presiding officer can grant intervenor status to a person who petitions the department, thereby allowing the petitioner to participate in the proceeding. The petitioner must demonstrate that his participation is in the interests of justice and will not impair the orderly conduct of the proceeding. He also must provide written notice of the petition to the parties in the case at least five days before the hearing, although the presiding officer can waive this requirement for good cause.

However, in a proceeding regarding a proposed penalty for water quality and supply law violations, the act requires the presiding officer to grant the local health director the right to be heard.

Cease and Desist Order

By law, the commissioner can order a person to immediately discontinue an activity that he has found is causing a condition that violates DPH laws in a way that immediately threatens a water supply source. The commissioner can issue the order without holding a hearing first, but must hold one within 10 days of issuing the order. The act gives the local health directors of the municipalities that use the utility that is the subject of the order a right to be heard in this proceeding.

JUDICIAL APPEALS

By law, any person or corporation aggrieved by a DPH order under its water supply laws can appeal to the Superior Court. This provision covers appeals of DPH orders in several areas in addition to those discussed above. Under the act, if a water utility chooses to appeal an order, the utility must notify the local health director. The act gives the director a right to be heard in the court case.

PA 01-12—HB 6556
Environment Committee

AN ACT CONCERNING THE AUTHORITY OF THE STATE VETERINARIAN

SUMMARY: This act requires the state veterinarian to publish annually, and amend as he sees fit, a list of reportable bird and animal diseases and laboratory findings. He must distribute the list, together with any necessary reporting forms and instructions, to licensed veterinarians and diagnostic laboratories in the state that test birds and animals. Examples of reportable diseases are rabies, brucellosis, and foot-and-mouth disease.
EFFECTIVE DATE: October 1, 2001

PA 01-62—sSB 1013
Environment Committee
Government Administration and Elections Committee

AN ACT CONCERNING DOG FUND REIMBURSEMENTS TO TOWNS

SUMMARY: This act replaces the state treasurer with the agriculture commissioner as the administrator of the dog fund. It requires him to return to towns, on a pro rata basis, all the funds in the account when it exceeds $5,000, and to carry the balance into the next fiscal year when the account is $5,000 or less.

The act waives dog license fees for people who have guide dogs of any age placed temporarily with them by nonprofit organizations that train guide dogs. Under prior law the waiver applied only for dogs between six months and one year old. The act also extends the license fee waiver to people who have dogs placed with them for breeding purposes.

The act eliminates a requirement that the commissioner pay the treasurer money the commissioner collects from selling dog tags to municipalities, requires towns to send information about damage dogs do to domestic animals to the commissioner, rather than the treasurer, and requires the commissioner to ask the treasurer to reimburse the towns in certain such instances. It also changes the annual deadline for renewing dog grooming facility licenses from December 21 to December 31.
EFFECTIVE DATE: October 1, 2001

DOG FUND

Under prior law, municipalities each year paid the state treasurer 50% (or 40% if the town has surveyed unlicensed dogs) of the money they collected from dog and kennel licenses and replacement tags sold by July 1. The treasurer returned the balance remaining on August 1 to municipalities on a pro rata basis, after first deducting 10 cents per dog license to fund canine disease research at the University of Connecticut (UConn).

The act makes the commissioner the administrator of those funds, requiring municipalities to pay the money to him instead of the treasurer. The change also requires the commissioner to ask the treasurer to transfer the money to UConn, and to distribute to the towns on a pro rata basis all the money in the fund if the balance exceeds $5,000 on August 1. The commissioner must carry the balance into the next fiscal year when the account contains $5,000 or less.

DAMAGE DONE BY DOGS TO DOMESTIC ANIMALS

By law, the treasurer must reimburse towns that have paid more than $100 in damages to domestic animal owners whose animals were harmed by dogs. Such reimbursement is required when the town is unable to collect damages from the dog owner. The act requires towns to send information about such incidents to the commissioner, instead of the treasurer, and requires the commissioner to ask the treasurer to reimburse the towns.

PA 01-77—sHB 6554
Environment Committee
Judiciary Committee

AN ACT CONCERNING THE DRUG TESTING OF ANIMALS IN DRAWING CONTESTS

SUMMARY: This act authorizes the agriculture commissioner to disqualify animals drugged by their trainers from drawing contests and to bar the trainer from claiming prize money and entering the animal in future contests. Under prior law the commissioner could only penalize the animal's owner. The act adds to the actions for which owners, trainers, or both, may be temporarily barred from participating in drawing contests, and it subjects those who violate certain of its provisions to a fixed civil penalty of up to $2,500 per violation, plus $250 for each day the violation continues after the penalty is imposed.
EFFECTIVE DATE: July 1, 2001

DRUG TESTING IN DRAWING CONTESTS

By law, the agriculture commissioner must test animals taking part in drawing contests when the authority in charge of the contest asks him to do so, and he may charge the animal's owner for the costs of the test. The commissioner may also conduct such tests on his own initiative, if he does so within available appropriations. He may test the animal immediately before or after the contest.

VIOLATIONS AND PENALTIES

If the commissioner finds an animal has been drugged, he can bar its owner from entering any other animal in any drawing contest in the state for between one and two years for a first offense, and for between two and three years for a second offense. In addition, the owner cannot claim prize money from the contest, and the animal is disqualified from the contest and barred from taking part in any such contest for one year. The penalties begin from the time the commissioner receives the test results.

The act extends these prohibitions to animal trainers. A trainer is any person responsible for the care, training, custody, or performance of an animal, including a person who signs an entry form for participation in a drawing contest or who controls the animal during such a contest.

The act also applies the penalties to animal owners or trainers who:

1. fail to submit an animal for drug testing,
2. fail to assist in the drug testing,
3. fail to provide proper restraint to confine an animal for testing, or
4. interfere with the animal's restraint or drug test.

The only difference is when the period of prohibition begins. The penalties for these four violations begin on the contest date, rather than when the commissioner receives the test results.

The act also subjects any owner or trainer who violates any of the above provisions to a maximum, fixed civil penalty of $2,500 per violation, plus $250 for each day the violation continues after the penalty is imposed.

Lastly, the act bars any owner or trainer from entering any animal in a drawing contest in the state for between one and two years if the commissioner finds that the person owned or trained an animal that tested positive for drugs in another state.

PA 01-87—sSB 1011
Environment Committee
Appropriations Committee

AN ACT CONCERNING THE ANIMAL POPULATION CONTROL PROGRAM

SUMMARY: This act substitutes a voucher system for the system reimbursing veterinarians who sterilize and vaccinate impounded, quarantined, and stray dogs and cats. It requires the agriculture commissioner to certify veterinarians who can take part in the program and specifies the certification requirements. It extends the program's operation by reducing the minimum funding level that triggers its suspension from $400,000 to $300,000. It requires the commissioner to develop a standard dog license form for veterinarians to distribute to dog owners. It permits him to spend up to $40,000 a year to help charitable organizations sterilize and vaccinate feral cats.
EFFECTIVE DATE: October 1, 2001

VOUCHER SYSTEM

By law, people who adopt a dog or cat from a state or town pound, veterinary clinic, or commercial kennel must pay a $45 fee. Under prior law, $20 of the $45 was refundable. If the animal was taken to a participating veterinarian within 30 days, the program paid the veterinarian 80% of the sterilization cost, and refunded the $20. Prior law also reimbursed veterinarians $10 per vaccination procedure, with a $20 limit per animal. Under the act, when pet owners pay the fee they get a voucher, which they must sign.

The act requires animal rescue organizations or their representatives to pay the $45 fee, instead of a nonrefundable $25 adoption fee which they paid under prior law.

Medically Fit Animals

The animal owner can use the voucher in the 60 days following the date of adoption to pay a veterinarian to sterilize and vaccinate an animal that is fit for surgery. When a veterinarian submits a voucher with his signature, the commissioner must pay him $120 to sterilize a female dog, $100 for a male dog, $70 for a female cat, and $50 for a male cat. Pet owners must pay any sterilization costs that exceed the voucher amount. The commissioner also must pay veterinarians $20 per voucher for vaccinations given at the time of sterilization.

Medically Unfit Animals

A dog or cat is considered medically unfit for surgery if (1) a veterinarian certifies that surgery within the 60-day period may place its life in danger or (2) it is under six months old. The veterinarian must specify when the animal may be ready for sterilization, and the voucher becomes void if surgery is not performed within 30 days of that date.

The pet owner may apply for a refund of his $45 fee if an adopted dog or cat was previously sterilized, or a veterinarian determines it is permanently unfit for the procedure.

VETERINARIAN CERTIFICATION

Any licensed veterinarian may apply for certification to participate in the program. To be certified, a veterinarian must:

1. perform all sterilization procedures either in a veterinary hospital facility or a properly-equipped mobile clinic that meets state standards;
2. make available to the commissioner all records relating to care provided, work done, and fees received; and
3. maintain records in accordance with state regulations.

The act eliminates a one-year limit on certification and requirements that the commissioner adopt regulations for approving participating veterinarians and that those veterinarians submit their sterilization fee schedule. Under the act, an unreasonable fee schedule is no longer grounds for disqualification from the program. Complaints about veterinarians' services provided under the program must be referred to the Department of Public Health's Board of Veterinary Medicine.

ANIMAL POPULATION CONTROL ACCOUNT

The act permits the commissioner to suspend the program when the amount of money in the account drops below $300,000. Previously, he could suspend the program when the account balance dropped below $400,000.

BACKGROUND

Animal Population Control Program

The commissioner suspended the reimbursement program on March 1, 2000 because of depleted funds after it had dispensed benefits to more than 20,000 cats and dogs in the previous two years.

PA 01-98—SB 92
Environment Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE PERMITTING OF POUND NETS

SUMMARY: This act requires additional procedural steps before the environmental protection commissioner can authorize the erection of a pound net, fish weir, or similar fishing structure that was not used before the act's passage. A pound net is a fish trap that uses a long net to direct fish through a check valve into an enclosure.

Under prior law, the commissioner could issue a certificate of permission for a wide range of activities in an expedited process. The act prohibits him from issuing certificates for the above fishing structures. Instead, under the act, he can issue a permit for such structures only under the law that governs the placement of structures in navigable, tidal, and coastal waters. Unlike the certificate of permission, this permit requires the applicant to publish a newspaper notice and notify various public officials and others. Under the act, if 25 or more people petition the commissioner for a hearing on the permit application during the comment period, he must hold one.

The act adds a freshwater fish producer appointed by the governor to the Connecticut Seafood Advisory Council, which promotes Connecticut seafood products and examines market opportunities. It allows the council to use state, federal, or other funds and to enter into contracts to carry out these purposes.

EFFECTIVE DATE: Upon passage

PA 01-107—sHB 6365 (VETOED)
Environment Committee
Planning and Development Committee
Energy and Technology Committee
Commerce Committee
Finance, Revenue and Bonding Committee
Legislative Management Committee
Appropriations Committee

AN ACT CONCERNING CLEAN AIR STANDARDS FOR CERTAIN POWER PLANTS

SUMMARY: Recently adopted Department of Environmental Protection (DEP) regulations impose tighter air emission standards on the state's older fossil

fuel power plants. This act eliminates emissions credit trading as a way for these plants to meet the regulation's stage two sulfur dioxide (SO_2) standards as of December 31, 2004, approximately two years after the standard goes into effect under the regulations. But it adds another option (a tonnage cap) as of this date. It requires plant owners to submit a plan to DEP by July 1, 2002 showing how they will comply with the standards and indicating if they will use the tonnage option.

The act allows, and in certain cases requires, DEP to suspend the stage two standards if there is a shortfall in electricity supply. The act appears to supersede a provision in the regulations that allows the DEP commissioner to waive the standards for a plant that normally meets them by burning low sulfur fuel if he finds that there is an emergency shortage in the supply of such fuel.

The act includes several provisions, including a gross receipts tax exemption on low sulfur oil and economic development incentives, to reduce the costs of complying with its requirements. It bars owners of units that have violated the SO_2 and nitrogen oxide standards in the regulations more than once from bidding for default electric service. By law, the electric utilities must bid out the supply of electricity for this service, which provides power after January 1, 2004 to people who do not choose a competitive supplier.

The act requires, rather than allows, Connecticut Innovations, Inc. (CII) to use the money in the Renewable Energy Investment Fund for expenditures that promote investment in renewable energy.

The act requires the Department of Public Utility Control (DPUC) to report to the legislature by January 1 annually on the status of electric power supply, demand, and reserves. The report must include projections of these variables for the next five years. It also must analyze how the act's changes affect the provision of electricity to customers who do not choose a competitive supplier.

EFFECTIVE DATE: Upon passage

REGULATORY EMISSION STANDARDS

The act eliminates emissions credit trading as away power plants can meet certain regulatory emission standards.

The regulations limit SO_2 and nitrogen oxide emissions from pollution sources built before 1977. The SO_2 standards apply only to power plants, most of which consist of several units.

Starting January 1, 2002, the regulations' stage one standards require unit owners to (1) burn fuel with an average sulfur content of no more than 0.5%, (2) meet an emissions rate of not more than 0.55 pounds of sulfur per million British Thermal Units (BTUs) of fuel burned at the plant, or (3) meet an emissions rate of not more than 0.5 pounds of sulfur per million BTUs for all units on the premises. The owner must meet the standard using on-site measures. These are the installation of pollution control equipment or fuel or operational changes that lower emissions at the facility. The act does not affect these requirements.

The act codifies the regulations' stage two standards starting December 31, 2004. (Under the regulations, the stage two standards go into effect on January 1, 2003.) Under the regulations and the act, plant owners must (1) burn fuel with an average sulfur content of no more than 0.3%, (2) meet a maximum emissions level of 0.33 pounds per million BTUs of fuel burned at the plant, or (3) meet a maximum emissions level of 0.3 pounds per million BTU for all of the units on the premises.

COMPLIANCE OPTIONS

Under the regulations, the owner can use the on-site measures described above or emissions credit trading to reduce emissions from the stage one standard to the stage two standard. It must continue to meet the stage one standard by on-site measures.

The act eliminates credit trading as a compliance option as of December 31, 2004. It implicitly allows trading as a compliance option from January 1, 2003 until that date.

Under the act, but not the regulations, the plant also can meet the stage two tonnage cap described below.

COMPLIANCE PLAN

The plant owner must submit a compliance plan to DEP by July 1, 2002. The plan must describe the measures the owner will take to comply with the stage two standards, and include an implementation schedule and a notice as to whether the owner will use the tonnage cap option.

Upon receiving the notice, DEP must calculate a quarterly tonnage cap for the plant. The tonnage cap equals the plant's representative heat rate multiplied by 0.3 pounds per million BTUs of fuel burned. The representative heat rate is a measure of the unit's efficiency during the period January 1, 1998 to December 31, 2000, or the three years for which the most recent data is available when DEP calculates the cap. If the heat rate for a given month during the period differs by more than 15% from the preceding or subsequent quarter, that month must be dropped from the calculation.

The cap is calculated in tons of emissions per calendar quarter. DEP must recalculate the cap annually, notifying the owner at least 60 days before it goes into effect. Any owner that uses this option must continue to meet the stage one SO_2 standards contained in the regulations. These provisions do not prevent the operation of a "peaker", i.e., a plant that normally operates during the hours of highest daily, weekly, or seasonal load.

SUSPENSION OF STANDARDS

The act allows under certain circumstances and requires under others the DEP commissioner to suspend the stage two SO_2 standard. Under the act, if the Independent System Operator (ISO—the entity that runs the regional power grid) begins to take steps to respond to a potential or actual electricity shortage, the DPUC chairperson must notify the DEP commissioner. Specifically, this provision applies if ISO reaches stage three of its Operating Procedure 4, when it begins to curtail power to customers on interruptible contracts. Upon receiving the notification, the DEP commissioner can suspend the stage two standard for up to 30 days.

But if this stage of Operating Procedure 4 was invoked because of a shortage of energy supply to Connecticut, the commissioner must suspend the standard for up to 30 days. If ISO continues to implement Operating Procedure 4 after the 30-day period, the commissioner can suspend the standard for consecutive periods of up to 30 days as advised by the DPUC chairperson. The commissioner must notify the operator of the unit affected by the suspension.

The commissioner cannot penalize a plant owner for violating the standard while a suspension is in effect. The commissioner and chairperson must immediately notify the chairs and ranking members of the Energy and Technology and Environment committees of a suspension. The agency heads also must report to the committees on the circumstances and duration of such suspensions.

The act appears to supersede provisions in the regulations that allow the DEP commissioner to suspend the stage two standards for any unit that normally meets the standards by burning low sulfur fuel if he finds that (1) the supply of the fuel is inadequate to meet the needs of the state's consumers and (2) this shortage constitutes an emergency. Under the regulations, the owner of the affected units must report the emissions attributable to the suspension. If the excess emissions exceed 50 tons, the commissioner can require the owner to offset them through credit trading.

INCENTIVES

The act provides several mechanisms to reduce a plant owner's cost of complying with its requirements. Starting October 1, 2001, it exempts, from the petroleum products gross receipts tax fuel with sulfur content at or below 0.3% sold for use in the plants affected by the act.

The act allows the Department of Economic and Community Development and the Connecticut Development Authority to provide (1) loans under the Manufacturing Assistance Act for installing pollution control equipment or rebuilding plants and (2) loans and grants to an electric utility to install transmission lines to comply with the act.

DEP must approve a timeline for expediting permits needed for pollution control equipment or rebuilding a plant when an owner indicates that it will pursue these options to meet the stage two limits. The timeline cannot override current requirements for public participation in the permitting process. The act exempts the installation of pollution control equipment from local zoning and planning regulation.

DPUC REPORT

The act requires DPUC to annually conduct an investigation on electric supply demand and related issues and report its findings to the General Assembly by January 1. The investigation must be conducted as a contested case, i.e., as a quasi-judicial proceeding in which the Office of Consumer Counsel is entitled to participate as a party. The investigation and report must cover: (1) the status of electric demand, supply, and reserves available to the state; (2) projections for these variables for the next five years; and (3) the necessary transmission and distribution system, including repairs and enhancements and their costs.

By law, the distribution companies (electric utilities) must provide fixed-rate, standard offer service to customers who do not choose a competitive supplier. This requirement runs until January 1, 2004, unless the legislature extends it. Thereafter, the companies must provide default service at market rates to these customers. The act requires that, until the end of standard offer, the investigation and report analyze the act's effects on the companies' ability to provide standard offer power at the rate set by statute. Thereafter, the investigation and report must analyze the act's effect on the ability of the companies to procure power for default service.

PA 01-115—SB 735
Environment Committee
Judiciary Committee
Legislative Management Committee

AN ACT CONCERNING RECREATIONAL FISHING IN CONNECTICUT

SUMMARY: This act doubles the fines for violating various sport and commercial fishing laws and regulations. It also requires the Environmental Protection and Agriculture departments to report their findings and recommendations to the Environment Committee by January 1, 2002 on the effect of commercial and recreational fishing on the state's glass eel beds.
EFFECTIVE DATE: July 1, 2001

SPORT FISHING

The act increases, from $77 to $154, the fine for violating specified fishing laws and laws for which there are no specific penalties. The former include taking fish out of season, taking more than the daily or seasonal limit of fish, and taking fish of less than legal length. Laws that impose no specific penalties include obstructing streams for the purpose of taking fish and prohibiting ice-fishing in certain lakes. Certain other sport fishing violations entail specific penalties that the act does not change, such as using explosives to catch fish or selling carp or goldfish as bait fish.

COMMERCIAL FISHING

The act increases, from $50 to $100, the maximum fine for violating commercial fishing laws for which no other penalty is provided, such as using nets, trawls, or seines in areas where their use is prohibited. Certain other commercial fishing violations have specific penalties that the act does not change, such as stealing fish or lobsters from traps or pots.

PA 01-118—sHB 6690
Environment Committee
Judiciary Committee
Planning and Development Committee

AN ACT CONCERNING RECORDING FINAL ORDERS ON LAND RECORDS AND CONSERVATION EASEMENTS

SUMMARY: This act (1) requires certain Department of Environmental Protection (DEP) orders, certificates, and permits to be filed on the land records and (2) exempts conservation easements held by a land trust or nonprofit organization from certain provisions of the Marketable Title Act.

Under prior law, DEP had to file orders to correct water pollution on the land record. The act limits this requirement to final orders.
EFFECTIVE DATE: October 1, 2001

FILING DEP ORDERS ON LAND RECORDS

Under the act, DEP must file orders or certified copies or notice of them on the land record of the town where the affected property is located. The requirement applies to DEP's (1) final orders to correct, abate, or penalize any violation of the laws dealing with wetlands, dredging, and structures in navigable waters, and areas near the coast that are subject to development restrictions and (2) certificates or permits issued under these laws or the commissioner's general powers to enforce environmental laws. The notice or copy serves as notice to the owner's heirs, assignees, and successors.

Under the act, when a final order is complied with or revoked, DEP must issue a certificate to this effect. The certificate must be filed on the land record and a certified copy sent to the owner's last known post office address.

CONSERVATION EASEMENTS

The Marketable Title Act requires that a property owner be able to document an unbroken chain of title to the land in order for the title to be marketable. Generally, easements on the land become invalid after 40 years if their holder does not re-record them on the land record. The law exempts easements for utility facilities from these provisions. The act extends this exemption for easements, in the form of conservation restrictions, held by a land trust or nonprofit organization.

PA 01-120—sHB 6954
Environment Committee
Energy and Technology Committee

AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S AQUACULTURE INDUSTRY

SUMMARY: In this act, the legislature finds that the state's aquaculture is an integral part of its environmental resources and provides an irreplaceable economic and recreational asset to its citizens. The act declares that it is state policy to protect the state's

aquaculture resources to the maximum reasonable extent. It requires the Connecticut Siting Council, when considering the environmental impact of building or modifying energy and telecommunications facilities in its jurisdiction, to determine whether they conflict with state policies regarding aquaculture.

The act requires the terms of any agreement between the person applying for a council certificate and any other party with regard to a facility's construction or operation to be part of the proceedings on the application and available for public inspection. If any money or other consideration was paid under the agreement and the payment was not contained in the agreement, this information and the full text of the agreement must be filed with the council before it makes its decision. However, the act does not require the public disclosure of proprietary information or trade secrets.

EFFECTIVE DATE: July 1, 2001

PA 01-126—SB 1014
Environment Committee
Appropriations Committee
Finance, Revenue and Bonding Committee
Legislative Management Committee

AN ACT CONCERNING POWERS OF THE COMMISSIONER OF AGRICULTURE REGARDING ESTABLISHMENT OF A MAINTENANCE, REPAIR AND IMPROVEMENT ACCOUNT

SUMMARY: This act creates a separate, nonlapsing General Fund account to maintain, improve, build on, or repair property, including houses and other buildings, owned by the Department of Agriculture. People occupying or using department property must pay rent into this "maintenance, repair and improvement account," unless the commissioner specifically signs a written agreement, issues a license, or signs an instrument stating otherwise. The act authorizes the commissioner to deposit money into the account from other private or public sources, including the federal and municipal governments, and use other funding sources to pay to maintain, repair, or build on department property. The commissioner must report annually to the Appropriations Committee on account activities and status.

EFFECTIVE DATE: July 1, 2001

PA 01-138—sHB 6553
Environment Committee

AN ACT CONCERNING THE TRANSPORTATION OF MILK AND A PILOT PROGRAM ALLOWING CERTAIN PREFABRICATED COMMERCIAL UNITS TO BE OPERATED UPON ANY HIGHWAY OR BRIDGE

SUMMARY: This act requires owners of milk tanker trucks to obtain a permit for each tanker transporting milk or milk products to or from farms, milk plants, or receiving or transfer stations. The permit may either be from the agriculture commissioner or another state whose permit and safety requirements for bulk milk pickup, in the commissioner's opinion, comply with federal guidelines. Each tanker must carry the permit and a current safety and sanitation inspection report.

The act authorizes the commissioner to stop and check tanker trucks for the documents or to see whether the trucks are safe and sanitary. He may remove from service trucks that need repair or significant cleaning. He may issue a new inspection report based on the stop, and, if the truck has a permit from another state, send the report to the permitting state.

The act repeals a law requiring out-of-state businesses that handle cream intended for sale in Connecticut to obtain a cream source permit from the commissioner if they do not hold a Connecticut dairy plant or milk dealer permit. By doing so, it allows the commissioner to inspect any dairy farm, group of farms, receiving plant or station, not just those with cream source permits, if it discontinues milk shipments to Connecticut markets for 14 consecutive days in July and August or any 60 consecutive days.

The act also requires the transportation commissioner to permit the transport of oversized manufactured modular classrooms or other prefabricated commercial units on highways and bridges in a one-year pilot program beginning July 1, 2001.

EFFECTIVE DATE: July 1, 2001

TANKER TRUCK PERMITS

Anyone seeking a permit must apply to the agriculture commissioner on forms he prescribes. He must issue a one-year, renewable permit if he finds the tanker complies with milk handling requirements. He may adopt implementing regulations.

PILOT PROGRAM FOR TRANSPORT OF OVERSIZE MODULAR UNITS

The transportation commissioner must issue permits allowing the transport of units between 13 feet and 14 feet 6 inches high. The commissioner must specify in each permit the time period during which the unit must be transported and the conditions under which it may be transported. He must state his reason for denying any permit and include the statement with the denial. He must submit his findings and recommendations on the program's operation to the Transportation Committee by January 1, 2003.

Modular or Prefabricated Commercial Unit

A modular or prefabricated commercial unit is a completely assembled and erected building or structure including the service equipment designed for educational or commercial use.

BACKGROUND

Related Federal Law

Recent changes to the U.S. Food and Drug Administration's Pasteurized Milk Ordinance and related documents initiated at the 1999 National Conference on Interstate Milk Shipments require states to adopt procedures to inspect and permit all bulk milk tanker trucks on an annual basis. Previously, the ordinance required states to inspect only 10% of bulk milk tanker trucks each year and did not require states to issue permits.

PA 01-150—sHB 6754
Environment Committee
Planning and Development Committee
Public Safety Committee
Finance, Revenue and Bonding Committee
Appropriations Committee

AN ACT CONCERNING NATURAL RESOURCES PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SUMMARY: This act extends the moratorium on the issuance of new commercial fishing licenses for two years, until December 31, 2003. It extends by one year, until October 1, 2003, the period in which a person can transfer his commercial lobstering license, increases fees for nonresident commercial fishing licenses, expands reporting requirements with regard to commercial fishing, and makes several related changes.

The act regulates fishing in conjunction with environmental tourism.

The act specifically allows the Department of Environmental Protection (DEP) commissioner to ban the possession or drinking of alcoholic beverages in lands under his control. But in the case of areas where possession or drinking was not prohibited as of October 1, 1999, he must adopt regulations to prohibit such activity. The commissioner had banned such activity in several DEP-controlled areas before October 1, 1999, and subsequently banned it in all DEP-controlled areas.

The act authorizes the DEP to provide, for a fee, outdoor recreation-related services at state parks and forests. The services may include bicycle, boat, cabin, and tent rentals; firewood sales; and camp stores. Revenue from such services must be deposited in and credited to a new account in the Conservation Fund to be used in state park and forest facilities generally. The services offered must not compete with a concessionaire under DEP contract to provide the same service.

The act requires the DEP commissioner to designate trails in state parks or forests for horseback riding.

The act makes the commissioner, rather than the state forester, the state forest fire warden. It allows the state warden to pay fire companies rather than fire fighters individually for helping to fight forest fires and authorizes him to establish rates for such services and equipment and supplies used. It changes the powers of state forest fire personnel and makes several minor and corresponding changes.

The act requires the commissioner to make recommendations and take appropriate actions to control non-native invasive plant species, prepare informational material and conduct educational activities regarding these species, and maintain a list of them for annual distribution.

The act subjects a person who kindles a fire in the open without authorization from state or local officials that does not cause injury or property damage to a fine of up to $200, imprisonment for up to six months, or both. This penalty already applies to someone who kindles a fire that causes injury or property damage. The act also imposes this penalty on anyone who burns materials that state or local laws prohibit burning.
EFFECTIVE DATE: October 1, 2001

COMMERCIAL FISHERMEN AND SEAFOOD DEALERS

Moratorium on New Licenses

The act extends, from December 31, 2001 to

December 31, 2003, the moratorium on the issuance of new commercial finfish and fishing licenses. By law, the commissioner can issue such licenses only to people who held a license or registration between January 1, 1980 and January 1, 1995. The act retains the December 31, 2001 deadline for the commissioner to issue a new license to a family member of a licensee who dies or relinquishes his license.

On the other hand, the act allows DEP to issue new commercial licenses, restricted to taking horseshoe crabs as bait, to a person who held a Department of Agriculture conch license between January 1, 1995 and July 1, 2000.

The act extends, from October 1, 2002 to October 1, 2003, the latest date by which a person who holds a commercial lobstering license can transfer it without payment. Under current law, the licensee must have been licensed and landed lobsters in at least three calendar years between 1995 and 1998. The act extends the latter date to October 1, 2003. By law, the transferee may not have had a commercial fishing license, registration, or permit suspended or revoked in the 12 months preceding the transfer. Other restrictions apply to the transferee.

In addition, the act allows the transfer of an active lobstering license if the transferor:

1. does not meet the above eligibility requirements because of his medical circumstances, which must be verified and substantiated and
2. held the license, landed lobsters, and reported his catch to DEP during at least one year in the 1995 to 1998 period.

The transferee is limited to the number of pots actively fished and reported by the transferor during this period.

Fees

The act increases, from $100 to $200, the fee for a nonresident commercial fishing license. It increases, from $200 to $500, the fee for a nonresident license to take, by hook and lines, a species above its legally specified creel limit. (Prior law applied the fee to any species subject to a creel limit.)

The act creates a new license category to take lobsters or crabs (other than blue crabs) for personal use or for sale by use of 10 or more lobster pots or similar devices. The fee for this license is $150 for residents and $225 for nonresidents. If the nonresident's home state does not extend reciprocity to Connecticut residents for commercial lobstering licenses, the nonresident's license is only valid for crabs, other than blue crabs. DEP may not issue a nonresident this license if his home state's laws on the taking of lobster are less restrictive than Connecticut's regulations. The law already provides a similar license, with the same fees, for the taking of lobsters, crabs, and other species using a broader range of devices.

Reporting Requirements

The act requires individuals who engage in unlicensed commercial fishing activities to report information about their activities to the commissioner as he requests. (This requirement already applies to license holders.) The act specifically applies to a person who (1) engages in commercial fishing in the state's waters; (2) lands lobsters, sea scallops, finfish, crabs, or squid in this state, regardless of where they were taken; or (3) purchases any of these species from a commercial fisherman for resale. The act also extends the reporting requirement to anyone holding a license to take menhaden for personal use. By law, violation of the reporting requirements is an infraction but is not subject to DEP license suspension.

Environmental Tourism and Fishing

The law requires a DEP permit to use a vessel for commercial fishing. The act establishes a separate permit for environmental tourism cruise vessels. Under the act, such vessels are operated for a fee (1) to observe and retain marine and estuarine resources and (2) for educational purposes. No one can operate a vessel or use commercial fishing gear for these purposes unless DEP has granted the separate permit to the vessel's owner in lieu of the commercial fishing vessel permit. The environmental tourism cruise permit must establish the conditions for the use of the fishing gear. The permit fee is $50. The vessel cannot be used to land any species regulated by DEP. A separate permit is not required for someone who has a DEP permit to collect wildlife for educational and scientific purposes.

Other Fishing Provisions

The act also:

1. requires that seafood resale dealers be licensed only if they buy seafood landed in Connecticut, rather than seafood regardless of where it was landed;
2. exempts vessels used to assist commercial fishing vessels using pound nets from the commercial fishing vessel permit requirement; and
3. specifies that references to crabs in the fishing statutes include horseshoe crabs.

By law, no one can take lobsters for personal use by hand, skin diving, or scuba diving without a DEP license. The act extends this provision to horseshoe crabs.

STATE FOREST FIRE CONTROL AND PREVENTION

State Forest Fire Warden and Duties

The act makes the DEP commissioner, rather than the state forester, the state forest fire warden and makes corresponding changes to transfer the forester's authority to the commissioner. By law, the state warden coordinates the state's forest fire prevention and control efforts, and he is charged with equipping and maintaining forest fire fighting crews when forest fire risks are high.

The act authorizes the commissioner, as state warden, to take direct authority over forest fire efforts when the governor declares a forest fire emergency. The state warden may delegate this authority to other state forest fire control personnel. Otherwise, by law and practice, the local fire official is generally the officer-in-command.

The act narrows the warden's responsibilities by eliminating his responsibility to (1) cause forest fire violators to be prosecuted and (2) enforce all statutes regarding forest and timber land protection. It also eliminates his authority to act as an assistant state's attorney to prosecute alleged violations of the statutes regarding forest and timberland protection and to delegate such powers to two other people. It eliminates the responsibility of fire control personnel and district and deputy wardens to enforce laws regarding forest and timber land protection.

The act eliminates DEP's responsibility to replace equipment provided to and used by fire companies called upon to fight forest fires. By law, those companies are responsible for maintaining such equipment.

The act eliminates the state warden's ability to add a $10 administrative fee to forest fire bills and allows him to forgive bills that are less than the administrative costs.

State Forest Fire Personnel and Wardens' Powers

The act eliminates the arrest powers of state forest fire personnel and fire wardens for alleged forest fire violations. It also eliminates such powers of patrol personnel employed by the state warden to act as fire lookouts.

The act updates the provisions allowing state forest fire personnel to requisition property to help fight fires by replacing references to horse and wagons with equipment. It also increases, from $100 to $200, the fine for refusing or interfering with such efforts or refusing or neglecting to assist when summoned.

Payments to Volunteer Fire Companies and Other Compensation

The act allows the state warden to pay fire companies rather than fire fighters individually for assisting in fighting a forest fire and authorizes him to establish rates for such services, equipment, and supplies used.

By law, the state warden may call on fire companies to help state forest fire crews fight fires. The act eliminates the prohibition against paying the fire companies for the services of their fire fighters. Under prior law, the state paid the fire fighters individually. Under the act, the chief of a volunteer company may, in accordance with local ordinances, submit a bill for the personnel and equipment used. The bill must be on a form the state warden prescribes.

The act authorizes the state warden to establish compensation rates for (1) equipment use, (2) fire-fighting material and supplies, and (3) volunteer company fire fighter and laborer time. The rates may differentiate between various kinds of equipment, material, and supplies. The rates for fire fighters and laborers must be fixed on an hourly basis and be approved by the Department of Administrative Services. They do not apply to fire fighters who receive a regular salary for their services.

Abandoned Roads for Fire Prevention

The act eliminates the state warden's authority to maintain a closed or legally discontinued road it maintained for fire prevention purposes after petition of and agreement among 75% of abutting property owners.

PA 01-180—sSB 1012
Environment Committee
Government Administration and Elections Committee
Appropriations Committee
Legislative Management Committee

AN ACT CONCERNING NITROGEN REDUCTION IN LONG ISLAND SOUND

SUMMARY: This act requires the Department of Environmental Protection (DEP) to issue a general

permit limiting the total amount of nitrogen discharged into Long Island Sound by municipal sewage treatment plants. It also requires DEP to set individual discharge limits for each plant, based on the total maximum daily load (TMDL) and each plant's location. The TMDL, established by DEP and approved by the U.S. Environmental Protection Agency (EPA), is the maximum amount of nitrogen that can be discharged into the Sound without significantly impairing its water quality.

The act establishes a nitrogen credit exchange program. Nitrogen credits are created when a plant reduces its nitrogen discharges below the level the permit requires. DEP must adjust these credits to account for the relatively greater harm to Long Island Sound caused by nitrogen discharged from plants that are closer to the shoreline. The resulting credits are called equivalent nitrogen credits. Plants can meet their discharge limit by purchasing credits through DEP from plants that have reduced their discharges below their permit levels. In addition, the act creates state-owned credits.

The act authorizes DEP to (1) establish, oversee, and manage the credit exchange program, and (2) create a Nitrogen Credit Advisory Board. DEP must consult with the board about the program.

The board must annually propose to DEP the value of equivalent nitrogen credits using a formula established by the act. The act allows municipalities to challenge the value proposed by the board and creates an arbitration process to resolve challenges. DEP or the arbitration panel, as applicable, sets the value of the credits.

The act requires DEP, on an annual schedule, to purchase all available credits and to make them available to plants that would otherwise exceed their discharge levels. DEP may also sell the credits to other entities.

The act authorizes DEP to administer the program with money from the purchase and sale of credits. It may use money from the Clean Water Fund to operate the program if necessary.

EFFECTIVE DATE: July 1, 2001

GENERAL PERMIT BASED ON TOTAL MAXIMUM DAILY LOAD

The federal Clean Water Act requires states with water bodies that do not meet federal water quality standards to develop a plan to bring them into compliance with the standards. As part of the process, states must determine the TMDL so that the water body can meet the standards.

A federally required DEP analysis of water quality in the Sound calls for a significant reduction in nitrogen loads phased in over 15 years.

The act requires DEP to establish a general permit limiting effluent discharge levels. These levels supersede general and individual discharge limits under existing permits. The act also authorizes DEP to set compliance schedules in the general permit or existing individual discharge permits, based on the phased-in reductions.

The general permit limits must be based on the DEP analysis as approved by EPA. The general permit must establish an annual compliance schedule for each plant's nitrogen reduction. DEP may incorporate these schedules into existing permits. The department may require plants to (1) meet the effluent limit or other conditions, (2) comply with the permit's monitoring requirements, and (3) comply with any other DEP requirements necessary for the general permit. It may propose necessary modifications to the general permit.

Setting Plant Limits

The load limits assigned to each plant depend on its proximity to the Sound. The further west and closer to the shoreline a plant is, the greater the threat.

DEP must account for the different impact of the discharges by setting an "equivalency factor" for each plant. It may revise the equivalency factor at the commissioner's discretion. It must make these equivalency factors, and any revisions, available for public comment at least 30 days before they are implemented.

DEP must use the equivalency factors to apportion the overall statewide limit among plants, and it must establish their individual discharge limits. It must consider scheduled nitrogen removal construction projects when setting individual limits. Plants may meet the general permit's effluent limits by participating in the nitrogen credit exchange program.

A nitrogen credit is the difference between a plant's actual nitrogen discharge and the discharge required under the general permit, expressed in terms of pounds of nitrogen per day. Multiplying that nitrogen credit by the equivalency factor for that plant results in an equivalent nitrogen credit.

ESTABLISHING THE NITROGEN CREDIT EXCHANGE PROGRAM

The act authorizes DEP, in consultation with the advisory board, to oversee and execute the sale and purchase of all nitrogen credits. DEP must establish an account to handle the purchase and sale of credits. DEP

must use the account to administer the program and for nitrogen removal projects, habitat restoration projects, and research. It must establish a program to teach municipalities about the program and help them implement it. It may establish any other procedures necessary to carry out the program.

DEP must maintain a separate account of state-owned equivalent nitrogen credits. These represent the difference between the maximum allowable nitrogen discharge from all of the plants under the TMDL and their total actual discharge. DEP must purchase all equivalent nitrogen credits created by plants at the annual established value. It must sell available state-owned credits, including credits purchased from plants at the annually established value, so that plants can meet their specified nitrogen discharge limits. When practical, DEP must sell any remaining credits to other public or private entities.

The act allows funds from the water pollution control account of the Clean Water Fund to be used for the program when the program account is exhausted.

DEP must (1) establish a schedule for and monitor all nitrogen removal projects and (2) monitor the annual progress made in meeting the 15-year schedule for achieving the TMDL.

Annual Schedule

DEP must, by March 31 each year, audit the performance of all plants operating for the full previous calendar year.

By that date it must (1) determine the total number of equivalent nitrogen credits for sale and the number to be purchased; (2) publish the annual value of equivalent nitrogen credits, as determined by the board; and (3) notify each plant of its equivalent nitrogen credit balance.

Plants have until July 31 to purchase from DEP equivalent credits needed to meet their discharge limit. They must purchase the credits by sending a certified bank check or money order made payable to the Nitrogen Credit Exchange Program, stating on the check's face that it is for a "nitrogen credit purchase." DEP must sell the equivalent credits at the established value.

By August 14 annually, DEP must purchase all available credits. Apparently, DEP will "settle accounts" with buyers and sellers at this time and retain any remaining credits.

Valuing Nitrogen Credits

The advisory board must annually propose the value of equivalent nitrogen credits according to a formula that divides the total annual project cost by the amount of equivalent pounds of nitrogen reduced. The total annual project cost is the total annual capital cost of a plant's nitrogen reduction capacity, plus the total eligible annual cost of its operation and maintenance. It appears that the credit value is specific to each plant.

Total Annual Capital Costs. A plant's total eligible capital cost, as used in the valuation of the credits, is the total cost of financing nitrogen reduction through a combination 30% grant and 70% loan from the state. Under the act, the total annual capital cost is the total cost of the loan, divided by a 20-year repayment period. Capital costs eligible for the grant and loan are for the actual planning, design, and construction of a nitrogen removal facility and of the necessary land and equipment. They do not include costs associated with improvements for local water quality needs or for any modification for purposes other than nitrogen reduction. The commissioner, with the board's approval, may designate other eligible capital costs associated with the improvement of existing plants.

Eligible Operating and Maintenance Costs. The credit calculation for operating and maintenance costs reflects the incremental increase in the cost of labor, administration, electricity, and chemicals to remove nitrogen.

Resolving Valuation Challenges. The board must send written notice of the proposed value to each municipality with a municipal sewage treatment plant. The commissioner must issue a draft ruling on the proposed value, which becomes final if no municipality or group of municipalities petitions for its review within 15 business days.

The board has 10 business days from the submission of such a petition to appoint an arbitration panel consisting of: (1) a municipal official from a municipality expected to sell credits in the coming fiscal year, (2) a municipal official from a municipality expected to buy credits in the coming fiscal year, and (3) a third member agreed on by the two municipal members. The panel must meet with the commissioner and petitioners within 10 business days after its appointment and issue a final ruling on the annual value of the credits no later than 10 business days after convening.

Enforcement

The act authorizes DEP to conduct compliance audits of the annual operating data for plants participating in the program. Plants that fail to meet their individual waste load allocations are subject to the existing statutory water pollution control enforcement provisions.

DEP Policies, Procedures, and Regulations

The act authorizes the commissioner to establish other policies or procedures he deems necessary and to adopt regulations to carry out the program.

NITROGEN CREDIT ADVISORY BOARD

The act establishes a Nitrogen Credit Advisory Board to assist and advise DEP in administering the nitrogen credit exchange program. DEP must consult with the board, whose members must, as far as possible, represent a balance between buyers and sellers of credits, large and small municipalities, and different regions of the state.

Board Members

The board consists of nine public members, the DEP commissioner, the Office of Policy and Management secretary, and the state treasurer, or their designees. The commissioner or his designee will chair the board.

The nine public members must include (1) an official of a major plant, appointed by the House speaker; (2) a municipal public works official, appointed by the Senate president pro tempore; (3) a representative of a town with more than 20,000 people that buys credits, appointed by the House majority leader; (4) a representative of a town with fewer than 20,000 people that sells credits, appointed by the House majority leader; (5) a representative of a town with more than 20,000 people that sells credits, appointed by the Senate majority leader; (6) a representative from a town of fewer than 20,000 that buys credits appointed by the Senate majority leader; and (7) three people having experience in either wastewater treatment, environmental law, or finance, one each to be appointed by the governor and the House and Senate minority leaders.

All appointments must be made by August 1, 2001. The commissioner must schedule the board's first meeting by September 1, 2001. Members serve staggered three-year terms. At the first meeting members must draw lots to determine their initial terms of office. The initial terms may be for any combination of one, two, or three years provided no more than 50% of the members' terms expire in any one year. Subsequent terms are for three years. The board must elect a secretary. A majority of members must be present at a meeting to transact business.

Annual Report

The board must report annually to the Environment Committee by September 30. Its report must address:

1. the progress of the nitrogen credit exchange program;
2. the adequacy of the Clean Water Fund to support the program and the TMDL;
3. recommendations to change the program, including (a) allowing trades outside the state, (b) expanding the general permit and the program to include other point and nonpoint sources, and (c) allowing trades outside the program;
4. recommendations relating to the use of federal funds to help distressed municipalities in the planning, design, and construction of nitrogen removal facilities in implementing the act's provisions; and
5. identification of other issues that need to be resolved.

BACKGROUND

Nitrogen in Water-Bodies

Nitrogen is a naturally occurring nutrient in water bodies. It is also a pollutant. Its sources include human and animal waste, farming and lawn-care fertilizers, and combustion exhaust.

Nitrogen from human activities may reach a water body from (1) discharge from a facility (such as a sewage treatment plant), known as a point source; (2) runoff after rain or snowmelt, known as non-point source; and (3) conversion from nitrogen in the air, known as deposition.

Excessive nitrogen in the Sound is a primary cause of "hypoxia," a condition in which there is too little dissolved oxygen in the water to sustain aquatic life. Hypoxia, which occurs primarily in the western half of the Sound, reduces the habitat available to important fish and shellfish species that live in the bottom waters of the Sound. Excess nitrogen causes hypoxia by fueling the growth of one-celled plants called algae. As the algae die, they sink to the bottom of the Sound and decompose, consuming oxygen in the process. The more algae there are, the greater the depletion of oxygen.

PA 01-202—sHB 7000
Environment Committee
Planning and Development Committee

AN ACT CONCERNING WATER DIVERSIONS

SUMMARY: This act requires companies, municipalities, and other entities that withdraw substantial amounts of water from wells or surface waters to provide the Department of Environmental Protection (DEP) with information about their water diversions. It has different reporting requirements for entities that (1) registered their diversions with DEP before July 1, 1983 as required by law; (2) were eligible to register but did not do so; and (3) were not eligible to register and therefore were required to obtain a DEP permit for their diversions, but failed to do so. The reporting requirements for registrants do not apply to fossil fuel power plants that meet certain conditions.

DEP cannot use the data supplied under the latter two provisions to impose civil penalties under existing law if the entity applies for a permit by July 1, 2003. But it can impose civil penalties if it has independent information of the entity's violation of the law. An entity that fails to file the data required by the act may be subject to these civil penalties. Violation of the requirements of the water diversion laws carries a civil penalty of up to $1,000 per day.

The data must be reported by July 1, 2002, on a form developed by DEP in consultation with the departments of Agriculture, Public Health, and Public Utility Control.

EFFECTIVE DATE: Upon passage

REPORTING REQUIREMENTS

By law, a diversion is any activity that causes, allows, or results in the withdrawal from or alteration of the flow of water in the state (wells, reservoirs, watercourses, and other bodies of water). Entities that engaged in large scale diversions before July 1, 1982 had to register them with DEP by July 1, 1983 and include certain information about them. The law requires entities that began diversions after July 1, 1982 to obtain DEP permits if they withdraw more than 50,000 gallons in any 24-hour period or engaged in certain other diversions.

Registrants

The act requires registrants whose diversions continue as of July 1, 2001 to report their current operating data. The report must provide monthly data for 1997 through 2001 on (1) actual frequency and rate of withdrawals or discharges for diversions that are metered or (2) estimates of these data for unmetered diversions. An entity that maintains a diversion solely for agricultural uses can report estimated water use for the reporting period.

These requirements do not apply to the owner or operator of a fossil fuel power plant if (1) the diversion is used to meet state or federal environmental laws and (2) the owner or operator reports to DEP an estimate of the amount of water needed in the future to comply with these laws.

Entities that Didn't Register Eligible Diversions

An entity that was eligible but failed to register a diversion that continues to be in use as of July 1, 2001 must report the same information required of registrants. In addition, it must report the information it would have had to report had it registered. This is (1) the location, capacity, frequency, and rate of withdrawal or discharges of the diversion as of July 1, 1982 and (2) a description of the water use and water system on or before this date. Finally, such entities must provide evidence that the diversion was in operation at that time.

Entities that Didn't Obtain Permits

An entity that maintains a diversion as of July 1, 2001 that was not eligible to register and did not have a permit must (1) report when the diversion began, (2) describe the water use and water system, and (3) provide the information required of registrants.

PA 01-204—sHB 6997
Environment Committee
Energy and Technology Committee
Planning and Development Committee
Judiciary Committee
Appropriations Committee
Public Health Committee

AN ACT CONCERNING REVISIONS TO THE TRANSFER ACT AND OTHER VARIOUS ENVIRONMENTAL STATUTES

SUMMARY: This act makes many changes in environmental law. It extensively amends the Transfer Act, which regulates the sale or other transfer of (1) property where hazardous waste was generated or processed and (2) dry cleaners and certain other businesses.

It specifies that, starting July 1, 2002, federal regulations adopted as of January 1, 2001 implementing

the federal law governing hazardous substances replace the corresponding state regulations. The substitution does not happen if the Department of Environmental Protection (DEP) commissioner publishes notice of intent to adopt the federal regulations by January 1, 2002 and submits them to the secretary of the state by June 30, 2002. The effect of this provision is unclear.

The act exempts from statutory public notice requirements: (1) applications for certain minor modifications of DEP permits and (2) DEP's tentative determinations on these applications.

The act broadens the DEP commissioner's power to issue temporary authorizations for water diversions and other activities. It expands a provision under which municipalities must pay to the state part of the increased property tax derived from contaminated sites that have been cleaned up. The payments go into the Special Contaminated Property Remediation and Insurance Fund.

By law, electric suppliers must obtain part of their power from renewable resources. The act expands the eligible resources to include biomass gasification facilities that use such things as tree stumps or other biomass that regenerates. It exempts such facilities from the laws that restrict where wood burning facilities may be located and imposes other environmental restrictions.

The act allows the DEP commissioner to provide grants to nonprofit land conservation organizations to acquire open space land or enhance natural resources in distressed municipalities and municipalities with enterprise zones. The maximum grant is 65% of the acquisition cost or 50% of the enhancement cost. DEP can provide the grants to these organizations only with the approval of the municipality's chief elected official or legislative body.

The act extends, from July 1, 2001 to July 1, 2004, the moratorium on the commissioner granting permits for asphalt plants. But it allows him to issue permits that will improve the environmental performance of an existing plant. It also allows him to issue permits for replacement plants, so long as they improve environmental performance or air quality.

The act requires that operators of sewage sludge incineration plants test their air emissions for mercury, metals, and hydrocarbons by January 1 of each year. They must conduct the tests and review and report the results in accordance with DEP procedures. After reviewing the report, DEP can order additional testing or control measures if it determines them necessary and reasonable to protect human health or the environment.

By law, the sale or assignment of class I or II water company land (watershed land) requires a Department of Public Health (DPH) permit. Previously, DPH could grant a permit for the sale of such land only to a state agency, municipality, or another water company that met certain requirements. The act allows DPH to grant a permit for the sale of class II land (land that is not located near water supply) or the sale or assignment of a conservation restriction or public access easement on class I or II land to a private nonprofit land-holding organization. It requires that the purchasing entity or assignee meet the requirements that apply under existing law.

The act requires DEP to evaluate land owned by large private water companies to determine their resource value and desirability as open space. The companies and land conservation organizations must work with DEP to help it evaluate the properties. DEP must develop strategies for alternative ways of funding the preservation in perpetuity of these lands as open space.

Under prior law, littering was an infraction. The act instead subjects it to a fine of up to $199, with half going to the state and half to the enforcing municipality.

The act modifies the penalties for violating certain pesticide application and arboriculture (tree work) laws.

The act requires that certain municipal employees who control and handle animals obtain nuisance wildlife control licenses from DEP. It makes several other changes with regard to this license. It specifies that the employee's license is noncommercial, nontransferable, and conditional on municipal employment.

The act modifies three reporting requirements—two concerning the Special Contaminated Property Remediation and Insurance Fund and one concerning carbon dioxide emissions. It eliminates a requirement that DEP report on its enforcement activities to the Environment Committee by February 1 annually.

The act allows lake patrolmen to use batons, as well as firearms, upon completion of a basic police training program.

EFFECTIVE DATE: October 1, 2001 for the temporary authorization, Transfer Act, littering, and lake patrolman provisions; July 1, 2001 for the hazardous substances provisions; and upon passage for the remaining provision.

TRANSFER ACT AND RELATED PROVISIONS

Definitions

The Transfer Act applies to "establishments," i.e. property where a business generated more than 100 kilograms (220 pounds) of hazardous waste in any one month after November 18, 1980. The law exempts from this definition property where this amount of waste was generated by remediation of polluted soil. The act

expands this exception to include remediation of contaminated sediment or groundwater.

Establishments also include properties where hazardous waste generated offsite by another party is disposed of, recycled, reclaimed, reused, stored, handled, treated, or transported. The act extends this provision to cover properties where waste generated offsite by the property owner is so processed. By law, establishments also include property where dry cleaners, furniture strippers, and vehicle body repair shops were located on or after May 1, 1967. The act exempts from the definitions of establishments, and thus the Transfer Act, property where a vehicle painting shop was located on or after May 1, 1967.

As described below, the act expands the Transfer Act's provisions to cover releases of hazardous substances at establishments. These substances include a broad range of material regulated under federal and state law, including petroleum and its by-products. The act applies to substances that have remediation standards set by state law or a process for calculating the numeric criteria of such substance.

By law, the person who files a Form III or IV for a contaminated property is called the certifying party. This person must be associated with the transfer. The act expands this definition of parties associated with the transfer to include (1) the establishment's past owner, (2) its past or present operator (business operators are already included), and (3) the owner of the property on which the establishment is located. Under prior law, the certifying party had to agree to remediate the parcel. The act instead requires him to remediate pollution caused by any release at the establishment. This provision and others in the act appear to make the certifying party potentially responsible for remediating pollution that migrates offsite. The act also refers to the person signing a Form I or II but does not require him to remediate the parcel.

Exemptions from the Transfer Act

The act exempts from the Transfer Act:

1. the acquisition of an establishment by a government or quasi-government authority,
2. the conveyance of an interest in an establishment to a trustee of an inter vivos trust created by the transferor solely for the interest of the transferor's spouse or blood relative, and
3. the issuance of a subsequent series of securities of the entity that owns or operates the establishment. (The original issuance is already exempt.)

The law provides exemptions from the Transfer Act for property conveyances through foreclosure and conveyance of a security interest in the property. The act more narrowly defines the types of transactions that qualify for these exemptions.

The act modifies other exemptions. The law exempts any lease renewal, and the conveyance, assignment, or termination of a lease for less than 25 years. The act instead exempts such transactions in connection with leases of up to 99 years and adds executions of leases for up to this period to the exempt transactions.

The law exempts a corporate reorganization that does not substantially affect the establishment's ownership. Prior law gave as examples of such reorganizations dividend and stock distributions arising from a merger. The act instead specifies that such reorganizations, in order to be considered exempt, must restructure a corporation by merger, spin-off, or other means, in which the establishment's direct owner remains the same. Prior law exempted the transfer of stock or other ownership interests representing less than a majority of the voting power of the establishment's owner or operator. The act instead exempts transfers of less than 40% of the entity's ownership.

Forms I, II, III, and IV

By law, one of four forms must be filed with DEP before the transfer takes place. The type of form depends on whether there has been a hazardous waste spill on the property, and if so, whether it has been remediated.

Under prior law, a Form I stated, based on an investigation that complied with statutory requirements, that there has been no hazardous waste releases on the parcel. The act instead allows this form to be filed if there has been no spill, at the establishment, of hazardous waste or hazardous substances, as these terms are defined in the act. It also allows this form to be filed if (1) there has been no hazardous waste spill and (2) any spill of hazardous substances has been remediated in accordance with DEP standards.

By law, a Form II is filed if there has been a hazardous waste spill, but (1) it has been remediated or (2) DEP has determined that no remediation is needed to comply with its remediation standards. The act extends these provisions to include properties where there has been a spill of a hazardous substance that has been remediated or determined by DEP not to need remediation. The act also expands the circumstances in which this form is filed to include the transfers of property for which a Form IV (described below) has been filed with the commissioner and since the filing, based on an investigation of the parcel, there has been no spill of hazardous waste or hazardous substances.

The investigation must meet the same standards that apply to an investigation for a Form I filing.

By law, a Form III is filed when (1) a hazardous waste spill has occurred on the property or its environmental condition was unknown and (2) the person signing the form agrees to investigate the property and remediate it according to DEP's standards. The act expands the applicability of this form to include properties where there has been a hazardous substance spill. It expands the person's liability by requiring him to agree to remediate pollution caused by any release at the establishment, rather than just to remediate the parcel itself. It appears that this would require the person to agree to remediate offsite pollution caused by a spill on the site.

By law, a Form IV is filed when there has been a hazardous waste spill and all of the necessary remediation tasks have been completed, other than (1) postremediation monitoring, (2) monitoring how natural processes reduce the contamination, or (3) recording a deed that restricts the future use of the land based on the degree to which it has been remediated. Under prior law, the person signing a Form IV had to agree to (1) conduct the monitoring in accordance with DEP's remediation standards, (2) conduct further investigations, if the monitoring indicates a need to take further steps, and (3) remediate the property in accordance with DEP's standards. The act expands these provisions to apply to properties where there was a hazardous substances spill that was remediated. It also requires the person to agree to conduct further investigation when needed, even if this is not based on the required monitoring.

The act allows any certifying party who submitted a Form III or IV prior to its effective date to comply with the act rather than the requirements of prior law. The certifying party must provide notice to the transferor, transferee, and the parcel's owner (if a different person) in order to take advantage of this option.

Procedural Changes

The act makes many changes in the way the above forms are prepared and processed. By law, the transferor must (1) submit the form to the transferee before the transfer and (2) submit it to the commissioner no more than 10 days later. The act specifies that the form submitted to the transferee must be complete. It requires the commissioner to notify the transferor if he considers a Form I or II complete within 90 days of its submission to him.

By law, the person submitting a Form III or IV must (1) simultaneously submit an environmental assessment to DEP and (2) certify that the information on the form is correct. The act extends this requirement to the certifying party filing a Form I for an uncontaminated property. It requires the certifying party filing any of these forms to provide DEP, upon the commissioner's written request, with technical plans, reports, and supporting documents relating to the investigation of the parcel or the remediation of the establishment, as specified in the commissioner's request. The act requires that a licensed environmental professional supervise the preparation of the assessment. It also allows people who submitted a Form III to DEP before October 1, 1995, to file an assessment if they were barred from filing assessments because they were subject to enforcement actions.

Under prior law, if the property did not qualify for a Form I or II, the certifying party had to prepare and sign a Form III or IV and submit it to the transferee and the commissioner. The act instead allows any party to the transfer to prepare and sign the form. If no one else does this as a certifying party, the transferor must. The transferor also must submit the form to the transferee and DEP.

The act increases, from 15 to 30 days, the amount of time the commissioner has between the submission of a Form III or IV and when he must notify the certifying party whether it is complete.

By law, when a person files a Form III or IV, the commissioner must determine whether (1) DEP must approve the remediation or (2) a licensed environmental professional can verify that the investigation and remediation meet DEP standards. The act requires DEP, in making its determination, to consider the potential risk to human health and the environment posed by a release of hazardous substances, as well as hazardous waste.

The act allows the commissioner to order the transferor, transferee, or both to file a form if no else does or if the filed form is incomplete.

By law, if the commissioner notifies the certifying party that DEP approval is required, the party must (1) provide a schedule for submitting certain documents, (2) submit these documents on schedule, and (3) perform all the work identified in them. The act adds scopes of work (overviews of the project) to these documents.

The act requires that the investigations conducted in connection with the law be done in accordance with prevailing standards and guidelines. Prior law required them to be conducted in accordance with DEP regulations, once they are adopted or January 1, 2002, whichever is sooner.

The act requires the certifying party, rather than the transferee, to pay the fees required by law.

The act allows anyone who files a form to petition the commissioner to withdraw it. The person must make

every reasonable effort to locate the transferor, transferee, and certifying party and must notify them by certified mail. They have 30 days to object to the petition. The commissioner can approve the petition if he finds that the property or business was not an establishment or the transaction not a transfer when the form was submitted. If the commissioner approves the petition, the certifying party has no further obligations, but DEP keeps the form and fee.

Penalties

Under prior law, a person was subject to a fine of up to $100,000 for (1) knowingly giving any false information on a document or (2) failing to comply with the requirements of the Transfer Act. The act eliminates the penalty for these offenses in connection with the law that provides for voluntary remediation of sites in areas with poor water quality. It subjects these violations to DEP's general penalty provisions. Under these provisions, the penalty ranges from a fine of up to $25,000 for a simple violation to a fine of up to $50,000, imprisonment for up to three years, or both, for knowing violations.

NOTICE REQUIREMENTS

The act exempts certain permit applications and DEP's tentative determinations on them from statutory public notice requirements. The exemption applies to an application for a minor modification or revision of a wide range of DEP permits, if the commissioner has adopted regulations establishing criteria for what constitutes a minor modification or revision. These applications include permits issued under the following programs: air pollution, water pollution, solid waste, hazardous waste, wetlands, dams and other waterway structures, stream channel encroachment, the regulation of petroleum and other hazardous material, and the federal Water Pollution Control Act (section 401 permits).

The exemption also applies to (1) an application for a minor modification of a pollution source permitted under the Clean Air Act in accordance with federal regulations and (2) the commissioner's tentative determination on any of the above applications. The exemption supersedes other state environmental laws and regulations.

Under prior law, permit applicants had to publish a notice in a local newspaper, including detailed information about the application. Among other things, the notice had to (1) describe the activity for which the permit is being sought, its location, and any affected natural resources; (2) identify the type of permit being sought; and (3) describe how interested persons can get copies of the applications. The applicant had to include a certification with the application that he will publish the notice and send DEP a certified copy of it. The applicant also had to notify the chief elected official of the municipality where the regulated activity would take place. Under the act, these notice requirements, as they continue to apply to major modifications and other nonexempt applications, would no longer supersede requirements in other statutes or regulations.

Under prior law, the commissioner had to cause a similar notice to be published when he makes a tentative determination on a permit application. The applicant had to pay for this notice, which had to contain information similar to that required in the application notice. In addition, the notice had to include the tentative determination and describe how the public can participate in the case, including the amount of time they have to submit comments on the application. The commissioner had to notify the local chief elected official of the determination.

By law, the notice requirements do not apply to applications for a general permit, which are issued for minor activities that have minimal environmental effects. Nor do they apply to applications for water pollution discharges exempted by the commissioner, hazardous waste transporter permits, authorizations for solid waste facilities to handle special waste, or the commissioner's determinations on them.

TEMPORARY AUTHORIZATIONS

The act broadens the commissioner's power to issue temporary authorizations. It allows him to issue authorizations for a broader range of water resources and dam activities rather than just for diversions. By law, the commissioner can issue an authorization for activities for which he has authority to issue a general permit if (1) the activity will last for no more than 30 days and will not pose a significant threat to human health and the environment, and (2) the authorization is needed to protect the public interest and does not conflict with relevant federal law.

PROPERTY TAX ON REMEDIATED SITES

By law, municipalities must pay the state treasurer part of the increased property tax received from contaminated sites that have undergone remediation. They must pay 20% of the amount by which the tax generated after remediation exceeds the greatest amount of tax received on the parcel in any of the preceding three years. The provision applies to parcels on which property tax is assessed and collected between January

1, 1999 and December 31, 2005. The money is deposited in the Special Contaminated Property Remediation and Insurance Fund. The fund is used, among other things, for contaminated site assessments and investigations.

Under prior law, the requirement applied to the taxes on the parcel in the five assessment years after a licensed environmental professional files a final remedial action report or the commissioner approves a report, i.e., the parcel has been completely remediated. (By law, either DEP or the licensed environmental professional can conduct the remediation.) The act additionally triggers the requirement when a Form IV is filed under the Transfer Act.

Under prior law, the property tax provision did not apply to parcels cleaned up under the Urban Sites Remedial Action Program. Under the act, it appears that this exemption does not apply when a Form IV is filed.

ARBORICULTURE AND PESTICIDE APPLICATION PENALTIES

The act eliminates the civil penalty for people in the pesticide industry who engage in tree work without a DEP arboriculture license. Arboriculture involves various types of work, including protecting trees from insects or disease and curing them from these conditions by spraying. The people affected are commercial pesticide applicators, uncertified people who engage in commercial applications, pesticide distributors, and various people required to register their pesticides. Under prior law, the civil fine ranged from $1,000 to $2,000 for a first offense and up to $5,000 for a subsequent offense.

Under prior law, the fines also applied to anyone: (1) other than a commercial pesticide applicator who performed or sought to perform commercial pesticide application or (2) who had an operational certificate for commercial applications and performed or sought to perform work that required the higher supervisory certificate.

For this group, the act applies the $1,000 to $2,000 fine for an initial offense for each day the violation continues, rather than for the offense regardless of duration.

NUISANCE WILDLIFE CONTROL OFFICERS

The act requires municipal employees who control and handle animals, including animal control officers but excluding employees engaged in the emergency control of rabies, to obtain DEP nuisance wildlife control licenses. The DEP commissioner must provide the training these employees need for licensure without charge. The license is noncommercial, nontransferable, and conditional upon municipal employment. By law, the licensure requirement applies to people who engage in nuisance wildlife control as a business. The act makes an out-of-state resident ineligible for a license if his home state does not extend reciprocity to Connecticut residents.

The act also (1) extends the validity of the license from one to two years; (2) increases the fee from $50 to $100; (3) waives the fee for municipal employees; (4) allows the DEP commissioner to set the license renewal schedule, rather than requiring that all licenses expire on December 31; and (5) requires licensees to report to the commissioner by a date he specifies, rather than by February 1, annually, on the techniques they used to control animals.

REPORTING REQUIREMENTS

By law, the Department of Economic and Community Development (DECD) can use the Special Contaminated Property Remediation and Insurance Fund to provide loans for environmental assessments, investigations, and demolition costs. Under prior law, DECD and a board that advises it on loan applications had to report to the Environment Committee annually by February 1 on the loan program. The act allows them to skip the 2002 report.

By law, part of the incremental property taxes of a contaminated site that has been remediated goes into the fund. The act requires the board to report to the committee by February 1, 2003 on (1) whether the payments that flow into the fund are sufficient to keep it solvent and (2) whether they should continue.

Under prior law, the Office of Policy and Management had to submit a report to the legislature by May 1 annually on the net amount of carbon dioxide emitted in the state. The act drops the requirement for 2002 and requires that the report be submitted every three years, starting May 1, 2003.

PA 01-2—sSB 1221
Finance, Revenue and Bonding Committee

AN ACT CONCERNING CIGARETTE LICENSEES AND NONPARTICIPATING CIGARETTE MANUFACTURERS

SUMMARY: This act allows the revenue services commissioner to disclose each licensed cigarette dealer's name and where the dealer may sell cigarettes. Under prior law, the information was confidential. A "dealer" is a cigarette retailer with fewer than five retail outlets or 25 vending machines.

The act also makes it clear that cigarette manufacturers not participating in the tobacco master settlement agreement must make escrow fund payments for cigarettes sold in Connecticut by April 15 of the year following the sale year.

EFFECTIVE DATE: Upon passage

BACKGROUND

Cigarette Licenses

Anyone wishing to sell cigarettes in the state must have a license from the Department of Revenue Services. There are two kinds of licenses. Cigarette manufacturers, wholesalers, and large-scale cigarette retailers (those who operate five or more retail outlets or 25 or more cigarette vending machines) are licensed as "distributors." All other sellers are considered "dealers."

Nonparticipating Cigarette Manufacturers

Cigarette manufacturers that sell cigarettes in Connecticut must either (1) enter into, and perform financial obligations under, the master settlement agreement between Connecticut and four leading tobacco companies or (2) pay into a qualified escrow account a specified amount for each cigarette they sell in the state. Tobacco companies that choose the latter option are considered "nonparticipating manufacturers." These escrow requirements are part of the national tobacco settlement's "model statute," which the General Assembly passed in 2000. Passage of the model statute is a condition of the state receiving its full funding allotment under the settlement.

PA 01-187—sSB 1333
Finance, Revenue and Bonding Committee
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING WAIVERS OF DEADLINES FOR CERTAIN PROPERTY TAX EXEMPTION APPLICANTS, VALIDATION OF THE TOWN OF GREENWICH'S REVALUATION, VALIDATION OF A NEW MILFORD BOND AUTHORIZATION NOTICE, VALIDATION OF THE GRAND LIST ABSTRACT FOR THE CITY OF BRIDGEPORT, INTEREST ON DELINQUENT PROPERTY TAXES IN THE TOWN OF ENFIELD, MUNICIPAL OPTION PROPERTY TAX RELIEF FOR CIVIL PREPAREDNESS STAFF, VALIDATION OF CERTAIN TAX LIENS, AND STATE GRANTS-IN-AID FOR REVALUATION SYSTEMS

SUMMARY: This act allows a town legislative body to adopt an ordinance providing tax relief to its volunteer civil preparedness staff members. Towns may already provide relief to nonsalaried local civil preparedness directors and volunteer firefighters, emergency medical technicians, paramedics, and ambulance drivers. By law, the relief may take the form of (1) a tax abatement of up to $1,000 in property taxes due in any year or (2) a tax exemption of $1 million divided by the mill rate (expressed as a whole number per $1,000 of assessed value) at the time of assessment.

The act makes towns that conducted the quadrennial property revaluations required by law without any delays or extensions, but did not do so between January 1, 1987 and December 31, 1996, eligible for the Office of Policy and Management's (OPM) grant program for municipalities to develop or modify computer-assisted mass appraisal (CAMA) systems. Under prior law, only towns that conducted required revaluations between 1987 and 1996 were eligible. CAMA grants-in-aid range from $25,000 to $60,000, depending on population. Each eligible town may also receive an additional 10% grant for training and installing and modifying systems. The act limits towns to one CAMA grant-in-aid and one 10% grant.

The act also:

1. allows specific taxpayers to receive property tax exemptions in various towns for particular years despite having missed the application deadlines or understated the exemption's value for those years, if they applied to the local assessors for the exemptions by August 9, 2001 and pay a late fee;

2. requires the state to reimburse the towns for their resulting revenue losses;
3. validates a particular grand list for Greenwich and a grand list abstract for Bridgeport, provided they meet certain specified conditions;
4. validates actions taken at an October 11, 2000 New Milford special town meeting concerning appropriations and bond authorizations for downtown improvements;
5. requires Enfield to forego, and allows it to refund, interest on certain delinquent taxes, if the delinquency was caused by mail delivery problems in particular zip codes;
6. validates certain tax liens filed by Oxford; and
7. allows the East Haven Water Authority to continue certain liens if it files them with the town clerk by August 1, 2001 and the property subject to the liens has not changed hands.

EFFECTIVE DATE: Upon passage, except for the provision concerning tax relief for civil preparedness staff, which takes effect on October 1, 2001 and applies to tax years starting on or after that date.

BACKGROUND

Related Act

Section 20 of PA 01-7, June Special Session, contains the same CAMA grant provision as this act.

PA 01-14—sSB 1193
General Law Committee

AN ACT CONCERNING BEER PACKAGING

SUMMARY: This act requires grocery stores and package stores to sell bottles or cans of beer either (1) in the original packaging in which they were received, (2) as individual bottles or cans, or (3) repackaged in a way that does not mislead consumers or omit or obscure any labels required by statute or regulation.

The act stipulates that it does not prohibit the stores from seeking the replacement of beer delivered to them damaged.
EFFECTIVE DATE: October 1, 2001

PA 01-17—sHB 5374
General Law Committee

AN ACT CONCERNING BOWLING ESTABLISHMENT PERMITS FOR INTOXICATING LIQUORS

SUMMARY: This act eliminates the requirement that bowling alleys holding alcoholic liquor or beer permits serve liquor or beer in transparent or clear containers. It also allows bowling alleys to sell wine under a beer permit, which costs $350 a year. Under prior law, a bowling alley could sell wine only under an alcoholic liquor permit, which costs $2,000 a year.

Bowling alleys must have at least 10 lanes to obtain permits to sell alcoholic liquor or beer and wine.
EFFECTIVE DATE: October 1, 2001

PA 01-43—sHB 6925
General Law Committee

AN ACT CONCERNING ALTERNATIVE RETAIL PRICING SYSTEMS

SUMMARY: This act allows additional retailers to participate in the Department of Consumer Protection (DCP) pilot program that tests alternative electronic retail pricing systems. By law, retailers who want to participate must submit a written request to DCP and pay all costs associated with a test audit. Participating retailers are exempt from a law requiring them to mark each consumer item with its retail price.

The act extends the maximum length of test audits from six to 12 months. Previously, participating retailers had to be operating at least one store in Connecticut on October 1, 1998 and print shelf tags meeting item and unit pricing requirements in effect on that date. The act allows retailers with at least one Connecticut store on October 1, 2001 to participate and eliminates the requirement that they designate a single store for auditing.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Electronic Pricing System

An electronic pricing system uses the universal product coding (bar code) system, a scanner, and cash register to record and total a customer's purchases.

Test Audit

By law, stores participating in a test audit must implement a system that (1) keeps each product's current item and unit price in an electronic database, (2) prints shelf tags meeting applicable item and unit price requirements, and (3) operates in a way that transmits (a) price decreases immediately and directly to the point of sale and (b) price increases to the point of sale only after new shelf tags the system prints are posted and verified in the database.

The pilot program must operate within DCP's available appropriations. The commissioner may designate a private auditing organization to conduct the audit and charge participating retailers for it. He must report the results and any recommendations to the General Law Committee within three months after an audit is completed. His report must include a copy of the audit.

PA 01-46—sSB 1078
General Law Committee
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT PROTECTING PURCHASERS OF HOME HEATING OIL

SUMMARY: This act requires all retail home heating-oil dealers to:

1. register each year with the Department of Consumer Protection (DCP) starting October 1, 2001;
2. have at least $1 million of insurance coverage for potential environmental damage resulting from fuel oil spills they cause; and
3. put in writing any home heating-oil contracts that offer a guaranteed-price plan, and clearly

disclose their terms or conditions.

The act requires dealers offering plumbing and heating work to employ only DCP-licensed or -registered subcontractors to perform this work, and it requires the dealers to display those license numbers.

The act also (1) allows DCP to revoke or suspend the registration of retail home heating-oil dealers; (2) makes violating the act an unfair trade practice; and (3) authorizes the DCP commissioner to adopt implementing regulations, including regulations regarding license suspension or revocation administrative hearings.

EFFECTIVE DATE: July 1, 2001

ANNUAL REGISTRATION OF HOME HEATING-OIL DEALERS

Beginning October 1, 2001, each person, firm or corporation engaged in the retail sale of home heating oil must register annually with DCP on forms prescribed by the department. Applicants must pay a $100 registration fee and show they have general liability insurance and coverage of at least $1 million to pay for potential harm to the environment caused by fuel oil spills they cause. Each registered dealer must provide DCP with evidence of any change in, or renewal of, insurance coverage within five days of the change or renewal.

LICENSED OR REGISTERED EMPLOYEES

Retail home heating-oil dealers who offer plumbing or heating work must submit proof upon registration that they employ only DCP-licensed or -registered individuals to do this work. They must (1) attest when registering that all work will comply with state law; (2) display the state license number of the subcontractor or individual performing the work on all commercial vehicles used in their business; and (3) display the license number conspicuously on printed advertisements, bid proposals, contracts, invoices, and business stationery.

HOME HEATING-OIL CONTRACT REQUIREMENTS

All contracts for the retail sale of home heating oil that offer a guaranteed-price plan, including fixed-price or similar contracts, must be in writing. They must disclose their terms and conditions in plain language in at least 12-point, boldface type. These disclosures must be stated immediately after the price or service affected.

REGISTRATION SUSPENSION OR REVOCATION

The act allows DCP, after notice and an opportunity for a hearing, to revoke or suspend a dealer's registration for gross incompetence, malpractice, unethical conduct; knowingly making false, misleading, or deceptive representations about his work; or violating the regulations the commissioner adopts. It makes failure to (1) properly register, (2) prepare a proper contract, or (3) employ DCP-licensed or -registered workers an unfair trade practice under the Connecticut Unfair Trade Practices Act (CUTPA).

BACKGROUND

Licensed Workers

Plumbers and heating, piping, and cooling contractors and journeymen must be licensed by DCP to engage in their trades. Licensees must carry their licenses with them while on the job and show them to any properly interested person. Only the licensee may use the license, and contractors must display their license number on all commercial vehicles used in their business, as well as on printed advertisements, contracts, and business stationery.

The plumbing and piping and the heating, piping, cooling, and sheet metal work boards may suspend or revoke a license if the licensee is convicted of a felony; is grossly incompetent; engages in malpractice or unethical conduct; or knowingly makes false, misleading, or deceptive representations about his work.

Unfair Trade Practices

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than $5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to bring suit. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to $5,000 for willful violations and $25,000 for violation of a restraining order.

Related Law

PA 01-195 makes a technical change.

PA 01-60—SB 1194
General Law Committee

AN ACT CONCERNING OUT-OF-STATE SHIPPER'S PERMITS

SUMMARY: This act specifies that the permit premises of the holder of an out-of-state shipper's permit for beer or alcoholic liquor that is not a Connecticut wholesaler or manufacturer may be located in Connecticut or out-of-state.
EFFECTIVE DATE: October 1, 2001

PA 01-65—sHB 6763
General Law Committee
Public Health Committee

AN ACT AUTHORIZING RETIRED HOSPITAL EMPLOYEES TO OBTAIN DRUGS AT HOSPITALS

SUMMARY: This act permits hospitals to sell prescription drugs to their retired employees and their spouses if such sales are provided for in the employees' retirement or pension plans. By law, a hospital can sell prescription drugs to an employee if a doctor has prescribed the drug for the employee, his spouse, or dependent children.
EFFECTIVE DATE: Upon passage

PA 01-66—sSB 1081
General Law Committee

AN ACT CONCERNING LICENSURE OF SHEET METAL WORKERS, GLAZIERS, AND SWIMMING POOL MAINTENANCE AND REPAIR WORKERS

SUMMARY: This act postpones or extends various Department of Consumer Protection (DCP) deadlines for licensing certain sheet metal workers, automotive glass workers and flat glass workers (glaziers), and swimming pool maintenance and repair workers.
EFFECTIVE DATE: Upon passage

SHEET METAL WORKERS

Limited Contractor's Licenses

The act allows DCP to continue issuing limited contractor's licenses until January 1, 2002 to anyone who has worked for at least two years as a sheet metal contractor or journeyman. Under prior law, DCP could not issue such licenses after July 1, 2000.

Starting January 1, 2002, instead of July 1, 2000, all applicants for a license must have at least two years experience as a sheet metal journeyman. Anyone who did such work in another state must provide the Heating, Piping, Cooling and Sheet Metal Board with evidence that the work was comparable to similar service in Connecticut.

Limited Journeyman's License

The act allows DCP to continue issuing limited journeyman's licenses until January 1, 2002, instead of July 1, 2000, to anyone who (1) successfully completed a bona fide apprenticeship program, including at least four years of work in the trade, or (2) furnishes proof he has continuously worked at least 8,000 hours in the trade within the previous five years, subject to the board's approval.

Starting January 1, 2002, instead of July 1, 2000, applicants must pass a licensing exam in addition to successfully completing the four-year apprenticeship program.

AUTO AND FLAT GLASS WORKERS

The act postpones, until January 1, 2002, DCP's authority to issue various licenses on authorization of the Examining Board for Automotive Glass Work and Flat Glass Work.

Unlimited Contractor's License

The act postpones, from October 1, 2001 to January 1, 2002, the date on which DCP may begin issuing an unlimited contractor's license to anyone who (1) served as a journeyman in the trade for at least three years, (2) furnished the board with satisfactory evidence of education and experience, and (3) passed a competency examination. If the applicant has worked as a journeyman out of state, he must furnish evidence that his service was comparable to similar service here.

It also postpones the one-year period during which DCP may issue an unlimited contractor's license to anyone with at least three years experience in the trade as a journeyman. Under the act, the one-year period runs from January 1, 2002 to December 31, 2002, instead of from October 1, 2000 to September 30, 2001.

Unlimited Journeyman's License

The act postpones, from October 1, 2001 to January 1, 2002, the date on which DCP may begin issuing an

unlimited journeyman's license to anyone who completes a bona fide apprenticeship program as required by the board and passes a licensing exam.

It also postpones the one-year period during which DCP may issue an unlimited journeyman's license to anyone with at least two years experience in the trade as a journeyman. Under the act, the period runs from January 1, 2002 to December 31, 2002, instead of from October 1, 2000 to September 30, 2001.

SWIMMING POOL MAINTENANCE AND REPAIR WORKERS

The act allows swimming pool maintenance and repair workers engaged in such work before July 1, 1999 to obtain a limited contractor's or journeyman's license without an examination if they apply by January 1, 2002. There was no application deadline under prior law. By law, applicants for these licenses must demonstrate experience and training equivalent to that needed to qualify for the appropriate license.

PA 01-73—sHB 5193
General Law Committee
Judiciary Committee

AN ACT CONCERNING THE USE OF BAR CODE SCANNING MACHINES

SUMMARY: This act requires stores that (1) have a retail sales area of more than 10,000 square feet and (2) use an electronic pricing system to provide purchasers with plainly visible, item-by-item digital price readouts on each consumer commodity and carbonated soft drink container as it is scanned, and before accepting payment. An electronic pricing system uses the universal pricing code (bar code), a scanner, and a cash register to record and total a customer's purchases.

Under the act, a consumer commodity is any food, drug, cosmetic, or other product customarily sold at retail for individual consumption, personal care, or household use. Alcoholic liquor, prescription drugs, and carbonated soft drink containers are not consumer commodities. The act defines carbonated soft drink containers as individual, separate, glass or plastic bottles, jars, or cartons or metal cans containing a carbonated liquid soft drink sold separately or in packages of up to 24 individual containers.
EFFECTIVE DATE: October 1, 2002

PA 01-92—sHB 5585
General Law Committee
Transportation Committee
Judiciary Committee

AN ACT CONCERNING THE USE OF TRANSACTION SCAN DEVICES BY SELLERS OF ALCOHOLIC LIQUOR AND TOBACCO AND THE IMPORTATION OF ALCOHOLIC LIQUOR

SUMMARY: This act specifically permits alcohol and tobacco retailers to use a transaction scan device to verify the customer's age, and it provides them with an affirmative defense if they sell alcohol or tobacco in reliance on the scan's validity. It prohibits the sale of alcohol or tobacco if the information printed on the customer's driver's license or identity card is false or fraudulent or does not match the scan results.

The act does not preclude the retailer, as a condition of the sale, from scanning other documents that have a scannable magnetic strip or bar code. But scanning these documents does not constitute an affirmative defense. A violation of the liquor laws is punishable by up to a $1,000 fine, up to one year in prison, or both.

The act restricts how retailers can use the scan device, restricts the information they can record, and forbids selling or distributing information derived from the scan to third parties. Violators can be subject to a civil fine of up to $1,000. The act also specifies that merchants must still comply with other applicable state and federal alcohol and tobacco laws.

The act also permits individuals to import alcoholic beverages from outside Connecticut for their own consumption without having to be present at the point of purchase, and it specifies that they will not be subject to penalties that apply to people who dispose of liquor without a permit.
EFFECTIVE DATE: October 1, 2001

AFFIRMATIVE DEFENSE

The act allows alcoholic liquor permittees, tobacco sellers, and their agents or employees to use a scan device to read the magnetic strip or bar code on a driver's license or Department of Motor Vehicle (DMV)-issued identity card. They may not be found guilty of selling to a minor if they prove that (1) the cardholder presented a driver's license or DMV identity card in attempting to buy the liquor or tobacco, (2) their scan of the card indicated it was valid, and (3) the liquor or tobacco was sold in reasonable reliance on the identification and validity of the scan.

In determining whether a permittee, tobacco seller, or agent or employee has proven an affirmative defense, the court must consider that the use of a scan does not excuse a permittee or seller from exercising reasonable diligence to determine (1) if the customer is age 21 or older in the case of alcohol or age 18 or older in the case of tobacco and (2) whether the description and picture on the license or card are those of the cardholder.

PURPOSE FOR WHICH SCAN MAY BE USED

The act forbids permittees, tobacco sellers, and their agents or employees from using a transaction scan device for any purpose other than verifying a customer's age and identity. It prohibits them from recording any information from a driver's license or identity card other than (1) the name and date of birth of the person listed on the license or card and (2) the expiration date and identification number of the license or card. The act bars permittees, tobacco sellers, and their agents or employees from selling or distributing information derived from a transaction scan to any third party for such purposes as marketing, advertising, or promotion, but allows them to release it if ordered to by a court.

TRANSACTION SCAN DEVICE

Under the act, a transaction scan device is any commercial device or combination of devices used at a point of sale that can decipher in electronically readable format information encoded on the magnetic strip or bar code of a driver's license or identity card.

BACKGROUND

Sale to Minors

Individuals must be at least 21 years old to buy alcoholic liquor, beer, or wine. They may use a driver's license with a full-face photo for identification, and permittees may accept such a license as proof of age. People who misrepresent their age or offer someone else's driver's license as proof of age are subject to fines of between $200 and $500, 30 days in jail, or both.

Purchasers of tobacco products must be 18 years old. People who buy tobacco products or misrepresent their age to buy tobacco products are subject to a fine of up to $50 for a first offense and between $50 and $100 for each subsequent offense.

Permittees or their agents who sell alcohol to minors may be fined up to $1,000 or sentenced to one year in prison, or both, for each offense. Any person who sells tobacco to a minor may be fined up to $200 for the first offense, up to $350 for a second offense within an 18-month period, and up to $500 for each subsequent offense within 18 months.

Importation of Alcoholic Beverages

With certain exceptions, alcoholic beverages can be shipped or imported into Connecticut only to licensed distributors or certain federal authorities. The exceptions include individuals who, for their own consumption (1) import up to five gallons from within the territorial United States in any 60-day period or (2) import up to five gallons from outside the territorial United States in any 365-day period.

Individuals importing alcohol for their own consumption must pay all applicable taxes to the Department of Revenue Services.

PA 01-116—sSB 1075
General Law Committee

AN ACT CONCERNING THE LICENSING OF HOME INSPECTORS

SUMMARY: This act modifies home inspector licensing requirements for all applicants, including those who meet exemption criteria, and extends the exemption deadline until July 2, 2002. The act adds a requirement that all applicants pass a Department of Consumer Protection (DCP) competency exam to existing requirements that they complete high school or its equivalent and pay a $200 fee. In addition, there are specific application requirements for exempt and non-exempt applicants.
EFFECTIVE DATE: July 1, 2001

NON-EXEMPT APPLICANTS

Under prior law, applicants for licenses must either (1) have been engaged as a home inspector for at least one year and conducted at least 200 home inspections or (2) passed a training program approved by the Home Inspection Licensing Board, earned a home inspector intern permit, and conducted at least 100 inspections under the direct supervision and in the presence of a licensed home inspector. Under the act, non-exempt applicants do not need to pass the training program, but still must earn a home inspector intern permit and perform at least 100 supervised home inspections as required by law. By law, a licensed home inspector must directly supervise the first 10 such inspections, and indirectly supervise the remainder. Under PA 01-9, June Special Session, the applicants need conduct only 10 directly supervised inspections, with the remaining

90 indirectly supervised.

EXEMPT APPLICANTS

The act changes licensing requirements for exempt applicants by:

1. extending until July 2, 2002 the deadline for the board to issue licenses to people who have performed home inspections for pay since at least June 30, 2000;
2. reducing the number of paid home inspections such applicants must have conducted from 160 to 80 and requiring that the 80 inspections have been conducted before July 1, 2001; and
3. adding the requirement that the applicants pass the DCP competency test.

Under prior law, people applying under the exemption had to have been in business since at least June 30, 1998, performed 160 inspections, and applied for a license by July 1, 2001.

BACKGROUND

Home Inspector Licensing

Licensing of home inspectors began July 1, 2000. An unlicensed person who conducts a home inspection is subject to a $200 fine and a possible civil penalty of up to $5,000.

Home Inspector Intern Permit

To be eligible for a home inspector intern permit, an applicant must have (1) successfully completed high school or its equivalent, (2) completed a board approved training program, (3) an identified supervisor who is licensed and in good standing as a home inspector, and (4) paid a $100 fee.

Supervised Inspections

By law, home inspector interns can only inspect homes under a licensed home inspector's supervision. For at least the first 10 inspections of the training period, the licensed home inspector must be present on site with the intern, and must countersign all documents the intern prepares and completes.

PA 01-155—sHB 6615
General Law Committee
Judiciary Committee

AN ACT CONCERNING CONSUMER PROTECTIONS FOR HOME IMPROVEMENT CONTRACTOR FINANCED PROGRAMS, HOME INSPECTORS AND HOME IMPROVEMENT CONTRACTORS AND SALESPERSONS

SUMMARY: This act authorizes the consumer protection commissioner to refuse to issue or renew the home improvement contractor or salesman registration of anyone required to register as a sexual offender. Similarly, it authorizes the Home Inspection Licensing Board to refuse to issue or renew a home inspector license or a home inspector intern permit to anyone required to register as a sexual offender.

The act also requires home improvement contracts in which a contractor advances or loans money to a homeowner or which contain a finance charge, to (1) comply with the Truth-in-Lending Act, (2) allow the homeowner to pay off the full amount due in advance and obtain a partial refund of any unearned finance charge, and (3) set a maximum finance charge of 12% per year. It defines "finance charge" as the amount the homeowner pays for the ability to pay the contract price in installments, not including the cash price of the goods and services received.

The act also declares any agreement relating to a building construction or maintenance contract void and against public policy if it relieves a person of liability arising out of bodily injury or damage to property caused by, or resulting from, that person's negligence or that of his employees or agents. Under prior law, such agreements were void and against public policy only if the negligence of the person relieved of liability or his employees or agents was the sole cause of the injury or damage. Workers' compensation and other insurance contracts are exempt under the act, as under prior law.
EFFECTIVE DATE: October 1, 2001

DENIAL OF HOME IMPROVEMENT CONTRACTOR REGISTRATION

By law, an individual refused a certificate of registration is entitled to a hearing before the commissioner. Thus, it appears that a person refused a certificate because he must register as a sexual offender is also entitled to such a hearing. By law, the applicant must wait one year to reapply if the commissioner sustains his refusal after a hearing. The applicant may appeal an adverse decision to Superior Court.

DENIAL OF HOME INSPECTOR LICENSES AND HOME INSPECTOR INTERN PERMITS

Under the act, the Home Inspection Licensing Board, upon a finding that an applicant is subject to the sex offender registration requirements may, by a majority vote, refuse to issue or renew a home inspector license or home inspector intern permit. It also authorizes the board to discontinue, suspend, or rescind its action. By law, people aggrieved by the board's decisions may appeal to Superior Court. Thus, it appears that a person refused a home inspector license or home inspector intern permit would be able to appeal the decision to Superior Court.

BACKGROUND

Employment and Criminal Records-Related Law

By law, an individual cannot be disqualified from engaging in any occupation or trade requiring a license, permit, certificate, or registration solely because he was convicted of a crime. But the state may deny a license, permit, certificate, or registration in such a case if, after considering (1) the nature of the crime and its relationship to the job, (2) the degree of the applicant's rehabilitation, and (3) the time elapsed since conviction or release, it determines the applicant is not suitable for the specific occupation or trade. If the state rejects an applicant on the basis of a conviction, it must state the evidence presented and reasons for the rejection in writing, and send it to the applicant by registered mail.

Sex Offender Registration Law

People convicted or found not guilty by reason of mental disease or defect of specific sex-related criminal offenses or other crimes committed for sexual purposes must register when they are released from custody. The registration lasts for 10 years for some offenses and for life for others. The sex offender registry is maintained by the Department of Public Safety (DPS). Registrants must report changes of address to DPS.

Truth-in-Lending Act

The act promotes informed borrowing by requiring lenders to fully disclose the terms of credit being extended. Disclosure is meant to (1) protect consumers from becoming unknowingly obligated to pay hidden and unreasonable charges and (2) permit them to compare meaningfully terms of credit extended by different lenders.

Interest Rate Cap

Current law sets a maximum annual interest rate of 12% on most loans. The cap does not apply to certain loans, including mortgages of real property for more than $5,000.

Home Improvement Contracts

The law already requires that home improvement contracts (1) be in writing, (2) be signed by the owner and contractor, (3) contain the entire agreement, (4) include the date of the transaction, (5) contain the contractor's name and address, (6) contain a notice of the owner's cancellation rights, (7) include starting and completion dates, and (8) be entered into by a registered salesman or contractor.

Home improvement contracts are also subject to the Home Solicitation Sales Act, which gives buyers the right to cancel a contract within three days of signing it.

PA 01-164—sSB 1323
General Law Committee
Finance, Revenue and Bonding Committee
Energy and Technology Committee

AN ACT CONCERNING TELECOMMUNICATIONS INFRASTRUCTURE LAYOUT TECHNICIANS AND THE REGISTRATION OF EMPLOYEES OF TELECOMMUNICATIONS PROVIDERS

SUMMARY: This act prohibits people from using the title of "telecommunications infrastructure layout technician" without a Department of Consumer Protection (DCP) license. It sets application, license, and license renewal fees and provides for DCP sanctions, including fines, against layout technicians who are negligent, incompetent, or who mislead or defraud DCP or the public.

By law, DCP may certify employees of utility companies engaged in telecommunications electrical work as public service technicians, exempt from licensing requirements as limited electrical contactors. The act extends that certification and exemption to employees of certified telecommunications providers (long distance carriers) engaged in similar work.

Under the act, telecommunications infrastructure layout technicians need not sign any plans, designs, or drawings used by public service technicians in connection with telecommunications electrical work. The act also exempts licensed professional engineers from layout technical licensure.

Finally, the act authorizes the commissioner to adopt implementing regulations.
EFFECTIVE DATE: January 1, 2002

LICENSING REQUIREMENTS

To obtain a license, an individual must (1) have completed a college-level or other DCP-approved program that assures industry standards; (2) have submitted an application deemed acceptable by the commissioner and a non-refundable application fee of $75; and (3) at the time of application and for at least five years (a) have held a valid unlimited or limited electrical license from the Electrical Work Board, or a public service technician registration or (b) have equivalent experience and training required for a license, as determined by the commissioner. The telecommunications infrastructure layout technician license fee and the biennial renewal fee is $250. Licenses cannot be transferred.

"Telecommunications infrastructure" is structured cabling for voice and data telecommunications.

LICENSE HOLDERS' USE OF A SEAL

The license holder must affix a seal, obtained in a manner prescribed by DCP, on all documents required within the scope of his work. He may sign and apply the seal to just one page of multi-page documents that are bound together, but must apply the seal to, and sign every page of, filing plans for a building permit or related structure. The act prohibits license holders from signing or applying the seal to documents whose preparation they did not supervise.

NATIONAL STANDARDS

Under the act, DCP licenses telecommunications infrastructure layout technicians to produce telecommunications infrastructure designs that comply with specific industry standards, such as the National Electrical Code of the National Fire Protection Association, the relevant standards set by the American National Standards Institute, or equivalent standards as determined by the commissioner.

DCP RESPONSIBILITIES

The act permits DCP to order a license holder to cease performing negligent or incompetent work if it determines, after a hearing, that he is doing so. Similarly, DCP may, after a hearing, order a license holder to stop conduct that misleads or defrauds the department or the public. It may order restitution of up to $1,000, impose a civil penalty of up to $1,000, or both.

BACKGROUND

Public Service Technician

A public service technician is an employee of a utility company engaged in telecommunications electrical work who is not otherwise exempt from licensing requirements. Utility companies include electric, gas, telephone, water, and cable television companies.

Certified Telecommunications Provider

A certified telecommunications provider is a company certified by the Department of Public Utility Control to provide intrastate telecommunications services.

PA 01-200—sHB 6617
General Law Committee
Judiciary Committee

AN ACT CONCERNING RENTAL MOTOR VEHICLES AND LEASE RATES FOR MOTOR VEHICLES

SUMMARY: This act allows a rental company to recover a rental motor vehicle from a lessee if (1) at least 72 hours have elapsed since the vehicle was due to be returned to the rental company, (2) the vehicle was rented for 30 days or less, and (3) the rental company and lessee did not agree to extend the rental contract. The rental company can go to court to recover the vehicle or can seek to repossess it without legal action, if doing so will not cause a breach of the peace.

The act postpones, from July 1, 2001 to July 1, 2002, the implementation of laws that require motor vehicle rental companies to (1) calculate the lease rate using a specified formula and (2) disclose in the lease agreement the lease amount financed, finance charge, and rate.
EFFECTIVE DATE: July 1, 2001, except that the provisions concerning recovery of a rental motor vehicle take effect October 1, 2001.

PA 01-26—SB 1396
Government Administration and Elections Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO CERTAIN STATUTES RELATED TO GOVERNMENT ADMINISTRATION AND ELECTIONS

SUMMARY: This act makes technical, grammatical, and formatting changes to the laws related to (1) the Department of Administrative Services, (2) freedom of information, (3) public works, (4) collective bargaining, (5) voter registration, (6) justices of the peace, and (7) referenda.
EFFECTIVE DATE: October 1, 2001

PA 01-79—sHB 6624
Government Administration and Elections Committee
Planning and Development Committee
Judiciary Committee
Education Committee

AN ACT CONCERNING TOWN CLERK LIABILITY FOR CERTAIN LICENSE FORMS AND CHANGING THE OFFICIAL WHO RECEIVES CERTAIN FEES FOR THE HISTORIC DOCUMENTS PRESERVATION ACCOUNT

SUMMARY: This act requires town clerks to send the Department of Environmental Protection (DEP) commissioner an affidavit annually attesting to the accuracy of their annual report to him on fish and game licenses. This requirement replaces a prior law that made clerks responsible for the face value of all license forms the commissioner gave to them.

The act also requires town clerks to give the money they collect to preserve and manage state and local historic documents to the state librarian instead of the state treasurer. Under the act, the money must be deposited in one of the state treasurer's accounts and credited to the Historic Documents Preservation Account. Under prior law, it was deposited in the preservation account.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Fish and Game Licenses

Town clerks must keep a record of the fish and game licenses that they issue and annually report to the DEP commissioner an accounting of all:

1. the license forms the commissioner allotted them,
2. licenses they sold or voided, and
3. unused licenses.

Preservation of Historic Documents

By law, town clerks collect money to preserve and manage state and local historic documents by adding a $3 surcharge to the fee they charge everyone, except a state or town employee engaged in official duties, to record land documents. The clerks keep $1 and give $2 to the state treasurer for the Historic Documents Preservation Account.

PA 01-106—sHB 5923
Government Administration and Elections Committee
Planning and Development Committee
Education Committee
Legislative Management Committee
Judiciary Committee

AN ACT CONCERNING STATE PURCHASES OF GOODS AND SERVICES AND COOPERATIVE PURCHASING FOR NONPROFIT INDEPENDENT HIGHER EDUCATION INSTITUTIONS

SUMMARY: This act makes several changes in state purchasing laws. Specifically, it:

1. makes permanent the Department of Administrative Services (DAS) commissioner's and the Legislative Management Committee's authority to award state contracts to the highest scoring bidder in a multiple-criteria bid;
2. expands the comptroller's authority to approve state agencies' purchases of products and material produced by the Connecticut prison industries; and
3. allows independent colleges and universities to purchase supplies, material, equipment, and contractual services at the state's cost by contracting with DAS.

EFFECTIVE DATE: July 1, 2001

MULTIPLE-CRITERIA BIDS

The act makes permanent the two-year pilot programs that allowed DAS and the Legislative Management Committee to award state contracts to the highest-scoring bidder in a multiple-criteria bid rather

than to the lowest responsible qualified bidder. The multiple-criteria approach allows the commissioner and the committee to consider more than price, skill, ability, and integrity when awarding a contract. They may award a contract to the bidder whose bid receives the highest score for a combination of attributes, including such things as product quality and the objective criteria the contract establishes.

The act requires the commissioner to (1) adopt regulations by February 1, 2002 specifying the types of objective criteria she will use to determine the highest-scoring bidder in a multiple-criteria bid and (2) submit a status report on the regulations to the Government Administration and Elections Committee on February 1, 2002.

PURCHASES FROM THE PRISON INDUSTRIES

By law, the Department of Correction commissioner may create a catalog of products and services produced by the prison industries and circulate it to the DAS commissioner, comptroller, and municipalities. Each state agency must purchase necessary products and services from prison industries if they are offered (1) at comparable price and quality and (2) in sufficient quantity as may be available from private vendors to meet the agency's need.

Under prior law, the comptroller could approve purchases only of those goods and services included in the catalog. The act permits her to approve such purchases regardless of their inclusion in a catalog.

PA 01-160—sSB 730
Government Administration and Elections Committee
Legislative Management Committee

AN ACT CONCERNING THE SUNSET LAW

SUMMARY: This act delays for five years the termination of all agencies and programs subject to the sunset law. Under the sunset law, 87 licensing, regulatory, and other state agencies and programs terminate on set dates unless the General Assembly reestablishes them after the Legislative Program Review and Investigations Committee conducts a performance audit of each. The committee must review the public need for each entity according to established criteria and report to the legislature its recommendations for the entity's abolition, reestablishment, modification, or consolidation. The act delays the termination dates as follows:

Prior Termination Date	***New Termination Date***
July 1, 2003	July 1, 2008
July 1, 2004	July 1, 2009
July 1, 2005	July 1, 2010
July 1, 2006	July 1, 2011
July 1, 2007	July 1, 2012

EFFECTIVE DATE: October 1, 2001

PA 01-169—sHB 6636
Government Administration and Elections Committee

AN ACT CONCERNING PRIVATIZED PUBLIC RECORDS

SUMMARY: By adding to the definition of a public agency, this act extends the Freedom of Information Act's (FOIA) provisions to an individual, business, or organization's records and files that relate to the entity's performance of a governmental function. It defines "governmental function" as the administration or management of a public agency's program authorized by law to be performed by an entity (1) receiving public agency funding; (2) participating in policy formation and decisions connected to the program that binds the agency; and (3) where the public agency is significantly, but not necessarily directly or continuously, involved in or regulating the entity's administration or management.

The entity's performance must derive from a legally authorized contract of more than $2.5 million. The act excludes entities that merely provide goods and services to an agency and have no responsibility to administer or manage the agency's program. And, an agreement between a state agency and a foundation established to support it is not considered a contract for the act's purposes.

The contract must provide that the (1) agency is entitled to copies of the entity's covered records and files and (2) records are subject to FOIA and disclosable to the public. Anyone who wants to inspect or copy them must make his request to the agency. And, pursuant to FOIA, complaints must go to the Freedom of Information Commission.

The act expands the definition of a public record to include all records to which a public agency is entitled by law or contract. The FOIA makes public records available for inspection or copying and exempts records that an agency can keep confidential for a variety of specified reasons. It also requires public agencies to comply with open meeting requirements.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Court Decisions

In *Envirotest Systems Corporation v. Freedom of Information Commission* (59 Conn. App. 753 (2000)), the Appellate Court held that the plaintiff, Envirotest, is not the functional equivalent of a public agency even though it performs a governmental function (i.e., provides emissions inspections for the public). It found Envirotest operates under a contract with the state to provide emissions inspections, not because it is required to do so by law, and the Department of Motor Vehicles does not exert direct or continuous regulatory control over its business. The court concluded, therefore, that the company was not subject to the disclosure requirements of the FOIA when asked for certain material related to state vehicle inspection report forms.

In an earlier case, *Board of Trustees of Woodstock Academy et al. v. Freedom of Information Commission et al*. (181 Conn. 544 (1980)), the Connecticut Supreme Court established the criteria that have been used to determine the functional equivalence of a public agency for purposes of applying the FOIA. They are: (1) whether the entity performs a governmental function, (2) the level of government funding, (3) the extent of government involvement or regulation, and (4) whether the entity was created by the government.

PA 01-172—sSB 794
Government Administration and Elections Committee

AN ACT CONCERNING CONSULTANTS ON STATE PROJECTS, THE DEMOLITION OF STATE FACILITIES, THE CONNECTICUT CAPITOL CENTER COMMISSION AND THE CONNECTICUT CAPITOL CENTER MASTER PLAN

SUMMARY: This act expands the Department of Public Works (DPW) commissioner's authority to select project consultants without sending out a request for proposals or going through a formal selection process. It permits people to apply to the commissioner for inclusion on a consultants list and establishes an application process.

It also authorizes him to award demolition contracts to a single contractor most qualified to perform all phases of the project rather than to the lowest responsible qualified bidder for each project component. He may already award new construction contracts and contracts for installing mechanical or electrical equipment systems on this "total cost basis."

Like the other contracts awarded on a total cost basis, the (1) demolition contracts must be based on competitive proposals and pre-approved by the State Properties Review Board, (2) legislature must have authorized funds for the contract, and (3) commissioner is solely responsible for determining the contractor best qualified to do the work.

The act limits DPW's administration of most Judicial Department construction projects to those with consultant services costs over $50,000 and construction costs over $500,000 and higher education projects with over $300,000 for consultant costs and $500,000 for construction costs (over $2 million for UConn construction).

Lastly, the act establishes a 13-member commission to review and make recommendations regarding the master plan for developing the Capitol Center District in Hartford. It specifically includes residential buildings as one of the nongovernmental uses permissible in the district. Social, culture, and retail are the other uses specified in law.

EFFECTIVE DATE: October 1, 2001

CHOOSING CONSULTANTS

The act allows the commissioner to select project consultants from an informal list for higher education construction projects above $2 million and all other projects above $500,000 as long as actual consultant costs remain at $300,000 or less in higher education projects and $50,000 or less in all other projects. By law, "consultants" are registered or licensed architects, professional engineers, landscape architects, land surveyors, accountants, interior designers, environmental professionals, administrators, planners, construction managers, and financial specialists.

The act permits people who want to be considered for work as project consultants to apply to the commissioner, on a form he prescribes, for inclusion on the list. At least twice a year, the commissioner must advertise for consultants to be included on the list in at least one newspaper circulated in each county of the state and publications marketed to small businesses.

CAPITOL CENTER COMMISSION

The act establishes a 13-member Connecticut Capitol Center Commission to review the master plan for developing the Capitol Center District in Hartford and report its findings and any proposed changes to the plan to the governor and the Government Administration and Elections; Appropriations; and Finance, Revenue and Bonding committees. The commission must finish the review and submit the

report by January 1, 2003 and every five years thereafter. The Office of Policy and Management (OPM) secretary must serve as commission chairman and schedule the first meeting by December 1, 2001.

Commission members are:

1. the OPM secretary, DPW commissioner, Department of Economic and Community Development commissioner, and the arts commission's executive director or their designees;
2. one appointee by each of the six legislative leaders;
3. the chairman of the Hartford Commission on the City Plan;
4. a Hartford mayoral appointee; and
5. a representative from the South Downtown Neighborhood Revitalization Committee.

By law, the Capitol Center District generally consists of all land in Hartford bounded by Bushnell Park and Wells, Main, Buckingham, Wadsworth, and Cedar streets. Where feasible, central state government offices must be located within the district, except courthouses may be located outside the district.

PA 01-44—HB 6628
Select Committee on Housing
Planning and Development Committee
Judiciary Committee

AN ACT REQUIRING LANDLORDS TO PROVIDE A RECEIPT FOR CASH PAYMENTS

SUMMARY: This act requires landlords to provide written receipts for cash rent payments. Prior law required such receipts only if requested. As under prior law, the receipt must show date, amount, and reason for payment.
EFFECTIVE DATE: October 1, 2001

PA 01-19—HB 6640
Human Services Committee
Government Administration and Elections Committee

AN ACT EXPANDING THE MEMBERSHIP OF THE CHILDREN'S BEHAVIORAL HEALTH ADVISORY COMMITTEE

SUMMARY: This act adds the executive director of the Office of Protection and Advocacy for Persons with Disabilities, or his designee, to the 31-member Children's Behavioral Health Advisory Committee. The committee was established by PA 00-188 to promote and enhance behavioral health service delivery for children. By law, it (1) must submit annual reports to the state Advisory Council on Children and Families on local systems of care and practice standards of state-funded behavioral health programs and (2) make recommendations every two years to the council about service delivery.
EFFECTIVE DATE: Upon passage

PA 01-39—sHB 6796
Human Services Committee
Insurance and Real Estate Committee
Legislative Management Committee

AN ACT CONCERNING THE CHOICES HEALTH INSURANCE ASSISTANCE PROGRAM

SUMMARY: This act consolidates the statutes governing the CHOICES health insurance assistance program and the Connecticut Medicare consumers guide and updates them to reflect current practice and the cooperative roles in the program of the Center for Medicare Advocacy and the area agencies on aging. The act (1) specifies that the program must be a comprehensive Medicare advocacy program that not only provides information and advice for Medicare beneficiaries, but also legal representation where appropriate in the appeals process; (2) allows non-attorneys to give advice on Medicare benefits and other health insurance matters on the program's toll-free phone number; (3) specifies that the program must include any functions the Department of Social Services (DSS) deems necessary to conform to federal grant requirements; (4) defines and codifies the CHOICES program, which includes the health insurance assistance program; and (5) makes several minor and technical changes.

By law, the insurance commissioner, who cooperates in collecting data for the Connecticut Medicare consumers guide, must give the governor and three specified legislative committees an annual list of Medicare organizations that have not filed timely data with him. The act (1) replaces the Public Health Committee with the Human Services Committee and (2) requires the commissioner to submit the list, by June 1, 2001, in conjunction with the managed care ombudsman.
EFFECTIVE DATE: Upon passage

BACKGROUND

CHOICES

The "CHOICES health insurance assistance program" is a federally recognized and mainly federally funded program run by DSS in cooperation with the area agencies on aging and the nonprofit Center for Medicare Advocacy. The program offers senior citizens health insurance information and counseling, as well as information on Medicare plans, including managed care plans. It is part of a collection of senior programs run by CHOICES, which is located within DSS' Division of Elderly Services. (CHOICES stands for Connecticut's programs for Health insurance assistance, Outreach, Information and referral, Counseling, and Eligibility Screening.)

Area Agencies on Aging

The five area agencies on aging in Connecticut are local, private nonprofit organizations that serve the elderly. They provide planning and financial support to other agencies serving the elderly. They help administer certain federal and state senior programs and provide other information and referral services.

Center for Medicare Advocacy

The Center for Medicare Advocacy is a nonprofit organization that offers Medicare-related legal advice, material, and representation to seniors and people with disabilities. It already cooperates with CHOICES and provides legal representation in Medicare appeals, where appropriate.

Medicare Consumers Guide

The CHOICES program has issued a comparison of Medicare HMOs for several years. In 1999, legislation required the program, in cooperation with the insurance commissioner, to create a Medicare consumers guide with additional information so Medicare beneficiaries can compare different Medicare plans and supplemental policies and learn about Medicare appeals procedures.

That law allows the insurance commissioner, in cooperation with or on behalf of the social services commissioner, to require each Medicare organization to submit certain information to him to be included in the guide. It also imposes penalties on those that do not file the required information.

Under the law, a Medicare organization is any corporate entity, other organization, or group that contracts with the federal Health Care Financing Administration to provide health care services to Medicare beneficiaries in this state as an alternative to the traditional Medicare fee-for-service plan.

PA 01-61—sSB 1224
Human Services Committee
Appropriations Committee

AN ACT ESTABLISHING THE EMPLOYMENT OPPORTUNITIES PROGRAM FOR UNDERSERVED INDIVIDUALS WITH DISABILITIES

SUMMARY: This act authorizes the Department of Social Services' (DSS) Bureau of Rehabilitation Services (BRS) to receive state and federal funds to run, within available appropriations, an employment opportunities program for severely disabled people who do not qualify for the departments of Mental Health and Addiction Services (DMHAS) or Mental Retardation (DMR) supported employment programs (e.g., people with traumatic brain injury or severe learning disabilities). The program must include support services that help individuals to keep working. (In practice, BRS has run this program for several years.) DSS must adopt implementing regulations.
EFFECTIVE DATE: July 1, 2001

EMPLOYMENT OPPORTUNITIES PROGRAM

Eligibility Criteria

The program must serve people with the most significant disabilities. Only those who (1) have serious employment limitations in three or more functional areas, such as mobility, communication, self-care, interpersonal skills, work tolerance, or work skills or (2) will need significant ongoing on-the-job disability-related services to keep their jobs can qualify.

"Extended" Services

The program must provide "extended" services needed to help the clients maintain supported employment, as defined in federal regulations. The regulations define these as ongoing support services and other appropriate services (1) needed to support and maintain an individual with a most severe disability in supported employment and (2) provided by a state agency, private nonprofit entity, employer, or any other appropriate resource once the individual has made the transition from the vocational rehabilitation support that the state rehabilitation services agency provides.

The act requires these services to include coaching and other related services that allow participants to find and keep jobs and maximize economic self-sufficiency.

BACKGROUND

BRS Vocational Rehabilitation Services and Supported Employment

BRS currently provides vocational rehabilitative services to people with disabilities to enable them to enter the workforce. State law defines these services as any goods or services needed to render a disabled person employable. The services include assessments for determining eligibility and vocational rehabilitation needs; rehabilitation technology; job development, placement, and retention services; extended employment; and language therapy. These services are provided for a limited time.

BRS also provides ongoing support services for people who have significant disabilities, but who do not qualify for DMR or DMHAS supported employment services, to maintain employment in the community, workshops, or other congregate settings. While some of these people may have more than one disability, their primary diagnosis is not mental retardation or mental illness.

PA 01-70—sSB 1094
Human Services Committee

AN ACT CONCERNING LICENSING REQUIREMENTS FOR CERTAIN RELATIVE CAREGIVERS

SUMMARY: Starting July 1, 2001, this act requires relatives accepting placement for more than 90 days of a child in the custody of the Department of Children and Families (DCF) to be licensed as foster parents, unless DCF has certified them previously as relative caregivers. If they were certified previously, the act allows them to maintain this certification as long as the child remains with them and they continue to meet

regulatory requirements. The act also (1) allows the commissioner, on a case-by-case basis for a child placed with a relative, to waive any required foster-care licensing procedure or standard, other than a safety standard, based on the relative's home and the child's needs and best interests and (2) requires documentation of the reason for a waiver.

Prior law allowed the commissioner to place a child with a relative who is not licensed or certified for up to 45 days, as long as (1) DCF staff visit the home and complete a basic assessment of the family and (2) the relative attests that neither he nor any adult in the household has been arrested or convicted of specified crimes. The act increases the maximum length of such a placement to 90 days, but allows the placement only when it is in the child's best interests.

EFFECTIVE DATE: July 1, 2001

BACKGROUND

Foster Care Licensing of Relative Caregivers

Previously, DCF could place children with relative caregivers under more relaxed rules than those required for non-relative foster parents.

Federal law requires a single standard of licensure for foster parents and relative caregivers for the state to qualify for federal funding (42 U.S.C. § 671(a)(10)).

Related Acts

PA 01-159 deletes the statutory provision that this act amends, as of October 1, 2001.

PA 01-142 replaces the deleted statutory provision with the same changes as this act (PA 01-70), effective October 1, 2001.

PA 01-137—sHB 6430
Human Services Committee
Education Committee
Appropriations Committee

AN ACT CONCERNING BENEFITS AND ELIGIBILITY UNDER THE HUSKY PLAN

SUMMARY: This act:

1. eliminates the HUSKY B program's six-month residency requirement for certain children adopted from other countries;
2. reduces, from six to two months, the time that a child must have been without employer-sponsored health coverage to qualify for HUSKY B;
3. allows more entities, consistent with federal law, to grant children provisional or "presumptive eligibility" for HUSKY Part A (i.e., Medicaid for children) benefits;
4. makes it easier for families to renew their HUSKY enrollment by requiring the Department of Social Services (DSS) to rely on certain available information;
5. allows the DSS commissioner to seek a federal waiver so the state can use its State Children's Health Insurance Program (SCHIP) funds to promote HUSKY enrollment for children eligible for other income-based assistance programs, such as free or reduced price school lunches;
6. requires the DSS and education commissioners to share information from National School Lunch Program applications to determine participants' HUSKY eligibility and makes related changes to ensure more coordination; and
7. provides for electronic transmission of HUSKY B enrollment and disenrollment data.

EFFECTIVE DATE: July 1, 2001, except for the foreign adoption provision, which is effective upon passage.

FOREIGN ADOPTIONS AND HUSKY B ELIGIBILITY

The act requires HUSKY B regulations to permit a child who is adopted from another country by someone who is both a U.S. citizen and a state resident to be eligible for HUSKY B benefits as soon as the child arrives in Connecticut. Under prior law, new residents who were not citizens could receive only state-funded HUSKY B benefits, and these were not available until the child had lived in the state for at least six months. It appears that if the adopted child is a citizen, he would be eligible for federally funded benefits immediately. If his citizenship is pending while the provisions of the federal Child Citizenship Act are being met, his benefits would be paid under the act with state funds. There is no durational residency requirement for U.S. citizens applying for HUSKY B.

"CROWD OUT"

The act reduces, from six to two months, the time that a child must have been without employer-sponsored health coverage to qualify for HUSKY B. Under the act, the commissioner can extend this period for up to two more months, instead of six, if she determines that two months is not enough to deter applicants or

employers from discontinuing employer-sponsored dependent coverage in order to switch to HUSKY B. (The law's exemptions from this "crowd out" provision are unchanged.)

PRESUMPTIVE ELIGIBILITY – QUALIFIED ENTITIES

The act broadens and updates the state statute concerning who can be a qualified entity for purposes of determining "presumptive eligibility" to provisionally enroll children in HUSKY A, by referring to federal law instead of listing the specific types of entities.

Prior law defined a "qualified entity" as one (1) that provided medical services to HUSKY A recipients and was eligible for payments under the state Medicaid plan or (2) authorized to determine children's eligibility for the Head Start, Child Care Assistance, or Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) programs.

The federal definition covers these same entities. But it also includes (1) those allowed to determine State Children's Health Insurance Program (SCHIP) eligibility; (2) elementary or secondary schools; (3) state or tribal child support enforcement agencies; (4) federally funded organizations providing emergency assistance to homeless people; (5) state or tribal offices administering state welfare reform programs funded by a federal Temporary Assistance for Needy Families block grant or that determine eligibility for federally funded public or assisted housing (including Native American housing programs); or (6) any other entity the state considers qualified, with the secretary of Health and Human Services' approval.

Under the act the DSS commissioner is still responsible for deciding whether these entities are capable of determining eligibility.

ELIGIBILITY REDETERMINATION

The act allows the DSS commissioner, as well as the single point of entry "servicer" with whom DSS contracts (currently Benova, Inc.), as the case may be, to redetermine annually a child's continued eligibility for HUSKY A and B and to mail applications to program participants for this purpose.

When conducting such redeterminations, the act requires either entity, to the extent permitted by federal law, to rely on the family income information provided on the application, unless they have reason to believe the information is inaccurate or incomplete. In determining continued eligibility for HUSKY, the act also requires the commissioner to determine whether the individual receives a child care subsidy, food stamps, or benefits under any other DSS-administered program to ascertain whether DSS has information needed for the redetermination. If the information is available, the act requires the commissioner to use it for the redetermination.

Both the Medicaid and SCHIP laws require states to redetermine eligibility at least once a year.

FEDERAL APPROVAL TO PROMOTE ENROLLMENT AND OUTREACH

The act allows the DSS commissioner to seek a federal SCHIP waiver, if required, to authorize using funds the state receives under the program to promote HUSKY enrollment for children eligible for other income-based assistance programs, such as free or reduced price school lunches. To the extent federal law permits, the act also requires the DSS and education commissioners jointly to establish procedures for sharing information from applications for free and reduced price lunches under the National School Lunch Program (NSLP) to determine program participants' HUSKY eligibility. The DSS commissioner must take all actions needed to ensure that children identified as eligible enroll in HUSKY.

The act also requires the education commissioner to establish procedures for children to apply for HUSKY when they apply for the NSLP.

HUSKY B ELECTRONIC DATA TRANSMITTAL

The act requires the servicer to transmit electronically HUSKY B enrollment and disenrollment data to the DSS commissioner and allows her to send it to the Children's Health Council.

BACKGROUND

HUSKY Plan, Crowd Out, and Exceptions

The HUSKY Plan provides subsidized health insurance coverage to children up to age 19 living in families with incomes up to (1) 185% of the federal poverty level (FPL) under Part A and (2) 300% of the FPL under Part B. Families with higher incomes can also participate, but the benefits are unsubsidized. Families in Part A have no co-insurance requirements; those in Part B pay premiums and co-payments.

The state tries to deter applicants from dropping employer-sponsored coverage in order to qualify by allowing the DSS commissioner to reject applications when families drop the coverage within a certain amount of time before applying (crowd out). But DSS must grant eligibility if coverage ends within the crowd-

out period due to a number of factors, such as (1) loss of employment due to factors other than quitting, (2) a parent's death, (3) a new job that does not offer dependent coverage, or (4) self-employment.

Citizenship for Adopted Children

Effective February 27, 2001, the federal Child Citizenship Act (PL 106-395) automatically makes adopted children born in another country U.S. citizens, if at least one adoptive parent is a U.S. citizen and the child (1) is under age 18, (2) has been fully and finally adopted, and (3) is residing in the U.S. under a lawful admission for permanent residence.

Federal Welfare Reform, Legal Immigrants, and HUSKY B

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193) placed numerous restrictions on legal and illegal immigrants' eligibility for public assistance. It generally bars immigrants who entered the U.S. after August 22, 1996 from receiving federal entitlements for five years. The SCHIP law was passed after the 1996 legislation, and makes no provision for assistance to legal immigrants.

PA 97-2, June 18 Special Session makes certain resident immigrants eligible for state-funded assistance, including medical assistance. The legislation that created HUSKY B (PA 97-1, October 29 Special Session) extended these state-funded benefits to children who were otherwise eligible for HUSKY B but imposed a six-month waiting period for anyone determined eligible after July 1, 1997.

Presumptive Eligibility

Federal law allows states to make children under age 19 eligible for Medicaid during a "presumptive eligibility period," which begins when an entity, such as a hospital, determines, based on preliminary information, that the child's family income is within the program's limits. The period ends when a final eligibility decision is made or, if a child's application has not been filed, on the last day of the month following the month when the initial presumption of eligibility was made, whichever is earlier (42 U.S.C. § 1396r-1a, as amended by PL 106-554). The child's medical care is covered during this period. State law requires the DSS commissioner to implement presumptive eligibility for children applying for Medicaid, in accordance with the federal law, and to establish standards and procedures for designating organizations as qualified entities. DSS is in the process of authorizing a number of entities to make these presumptive eligibility determinations.

Related Act

PA 01-2, June Special Session (JSS), amended by PA 01-9, JSS, changes the rules for legal immigrants' eligibility for state-funded public assistance, including Medicaid and HUSKY B. It continues this assistance indefinitely for people currently enrolled, and generally permits DSS to accept new applications only until June 30, 2002.

PA 01-207—sHB 6701
Human Services Committee
Judiciary Committee
Banks Committee
Public Safety Committee
Appropriations Committee

AN ACT CONCERNING ENHANCEMENTS TO THE CHILD SUPPORT ENFORCEMENT SYSTEM

SUMMARY: This act requires private child support collection agencies to be licensed by the state Banking Department as consumer collection agencies, gives the banking commissioner regulatory authority over them, and limits the fees they can charge clients to 25% of the overdue child support collected. It also requires them to enter into a written agreement with each client and make certain disclosures in the agreement.

The act changes the name of the Superior Court's Support Enforcement Division to Support Enforcement Services in certain statutes to reflect the name change already made by the Judicial Branch (PA 01-91 makes the same change in other parts of the statute). This entity provides investigative, administrative, clerical, and other support to the court's Family Support Magistrate Division, which establishes and enforces child and spousal support in "IV-D" and interstate cases. (IV-D cases are those where the family has received public assistance or asked the state for help in enforcing the support order.) The unit's child support enforcement officers are authorized by law to supervise the payment of family support magistrate support orders.

The act also requires the social services commissioner to establish an arrearage adjustment program in which past due support owed to the state can be adjusted. It specifies factors the commissioner must consider in making the adjustment decision. It further requires her to adopt regulations establishing adjustment

criteria and procedures for the state's claims for reimbursement for the cash and medical assistance it has provided. The purpose of these adjustments must be to encourage noncustodial parents to become positively involved in their children's lives and to begin making regular child support payments.

Finally, the act gives all child support owed to families priority over past-due support owed to the state and makes other minor, conforming, and technical changes.

EFFECTIVE DATE: July 1, 2001

PRIVATE CHILD SUPPORT COLLECTION AGENCIES

Licensing of Private Agencies

The act includes private child support collection agencies in the state's existing Fair Debt Collection Act, allowing the Banking Department to license and regulate them. By making someone who owes current or past-due child support a "consumer debtor" under the act, the act affords them the same protection that other debtors have under the law against being called at unreasonable hours and other harassing activities.

The law requires anyone acting as a consumer collection agency in Connecticut to first obtain a license from the banking commissioner. It considers an entity to be acting in the state if it has a business place (1) here or (2) outside the state and collects from in-state consumer debtors for in- or out-of-state creditors. The act additionally considers a collection agency to be acting in this state if it has an out-of-state business place and collects child support for in-state creditors from out-of-state debtors.

Child Support Collection Fee Limits

The act limits what consumer collection agencies can charge for collecting overdue child support to no more than 25% of the overdue support actually collected.

The act also prohibits any consumer collection agency from imposing a charge or fee for any child support payments collected through a government agency's efforts.

In order to charge any fees for collecting child support under the act, the collection agency must enter into a written agreement with the creditor owed the support. The agreement must specify the charge for collecting the support and state, in bold type, that child support collection services are offered by the state of Connecticut or any other state for a nominal fee (in Connecticut this fee is $25).

SUPPORT ENFORCEMENT SERVICES POWERS

The act allows Judicial branch support enforcement officers to request and receive information from all state agencies, including law enforcement agencies, about the identity and whereabouts of parents who owe child support. It allows the officers to make this information available only to federal agencies and public officials and agencies of Connecticut, other states, or their political subdivisions seeking to locate parents who have deserted their children or owe child support. This is the same authority that the administrative services, public safety, and social services commissioners already have.

CHILD SUPPORT ARREARAGE ADJUSTMENTS

The act requires the social services commissioner to establish an arrearage adjustment program in which past due child support that has been assigned and is owed to the state can be adjusted. The commissioner, in deciding whether to make an adjustment, must consider, among other factors, the likelihood that the noncustodial parent will comply with the support obligations if an adjustment is made, the extent of his involvement in the child's life, and any other contributions to the child's emotional well-being.

STATE REIMBURSEMENT CLAIM ADJUSTMENTS

The act requires the commissioner to adopt regulations establishing criteria and procedures for adjusting the state's claim for reimbursement of welfare cash and medical assistance. It states that the purpose of any such adjustment must be to encourage noncustodial parents to become positively involved in their children's lives and begin making regular child support payments. By law, when families receive state welfare cash assistance, the state acquires a right to claim reimbursement from them and other legally liable relatives (such as noncustodial parents). Welfare recipients must also assign to the state any rights they have to unpaid child support.

DSS SELF-SUPPORT RESERVE NOTICE

The act changes the required contents of a standard notice and claim form that the Department of Social Services (DSS) must distribute to employers in the state for them to give to employees whose wages are subject to child support withholding orders. It specifies that the notice, among its other provisions, must disclose the amount of disposable earnings that are exempt from

income withholding (the "self-support reserve"). Under prior law, the notice specified that $145 was exempt. But PA 99-193 reduced the exempt amount to $123.25.

APPLICATION OF LIEN PROCEEDS

The law gives the state a lien on the real and personal property of anyone who owes the state $500 or more of past-due child support in a IV-D case. The state can foreclose on the lien. When the person owes past-due support to both a family and the state, the act requires the lien's proceeds to be applied first to the family's current and past-due support, then the state's past-due support. The law already requires the money to go first to the family's past-due support and then to what the state is owed.

The act updates the statute by requiring the Connecticut Lottery Corporation, instead of the state comptroller, to withhold unpaid child support from lottery winnings. This makes the statute consistent with other existing law and practice.

BACKGROUND

Child Support Collectors

State agencies are the primary collectors of court-ordered child support. In Connecticut, these are DSS' Bureau of Child Support Enforcement (BCSE), the Judicial Department's Support Enforcement Services Unit, and the Office of the Attorney General. Private attorneys who represent the person owed the child support may also collect it.

A person owed child support can also contract with a private child support collection agency to collect money from someone who has violated a court order by not paying the required support. These private agencies were not previously licensed or regulated by any state agency and their charges were also not limited.

IV-D Child Support Enforcement Program

The IV-D program is the technical name for the government-administered child support enforcement program, named after Title IV-D of the federal Social Security Act, which is the program's federal enabling statute. In Connecticut, a case is considered IV-D if (1) the family has received welfare benefits or (2) the custodial parent has filed an application for services with either the BCSE or the Support Enforcement Services unit. The IV-D program must provide services to anyone who requests them. DSS' BCSE administers the program in cooperation with the Office of the Attorney General and the Judicial Branch's Support Enforcement Services unit. The Judicial Branch enforces the child support orders and reviews and modifies them. The attorney general provides legal representation for the program in court.

Family Support Magistrate Division

By law, the Superior Court's Family Support Magistrate Division has jurisdiction over child support cases in which (1) the child is receiving, or has received, welfare cash or foster care assistance or (2) where a child's parent or guardian has paid a fee and asked BCSE for help to collect support. It is also the tribunal designated by state law to handle interstate family support and paternity issues.

Related Acts

PA 01-91 changes the name of the Support Enforcement Services Division to Support Enforcement Services, (2) allows support enforcement officers to serve income withholding orders on employers by first class mail, (3) allows support enforcement officers to (a) issue the summons for people to attend support modification hearings and (b) distribute money from a child support escrow account, and (4) allows a child's custodian to ask for review and modification of a support order in a non-welfare case.

PA 01-2, June Special Session, authorizes service of child support income withholding orders by first class mail if made by support enforcement service officers or BCSE investigators. But it specifies that employers who fail to honor such orders cannot be held in contempt of court unless the order is served personally or by certified mail.

PA 01-209—sHB 6939
Human Services Committee
Appropriations Committee

AN ACT CONCERNING PROTECTIVE SERVICES FOR ELDERLY PERSONS

SUMMARY: This act requires the Department of Social Services (DSS) commissioner to investigate, rather than evaluate, allegations of elder abuse, neglect, exploitation, and abandonment and makes conforming technical changes.

It authorizes the commissioner to:

1. interview the potential elderly victim alone, unless he refuses consent or the commissioner decides that an interview is not in his best interest (these interviews are conducted by

DSS' Elderly Protective Services Division staff);
2. seek a court order to stop a caretaker from interfering with the division staff's ability to interview the elderly individual alone;
3. subpoena witnesses, take testimony under oath, and compel the production of documents necessary and relevant to the investigation;
4. ask the attorney general to seek a court order as appropriate to enforce the investigation provisions; and
5. subpoena confidential records needed for an investigation if she has reasonable cause to believe the elderly person is not capable of giving consent or if the person's caretaker has refused consent and the commissioner has reason to believe the caretaker has abused, neglected, exploited, or abandoned the person and ask the attorney general to seek a court order to enforce this provision.

The act allows financial institutions to disclose otherwise confidential financial information in response to the consent of an elderly person or his representative. It specifies that the financial institution has no obligation to determine the person's capacity to consent.

The act also requires the probate court, when the commissioner is seeking conservatorship in an elder abuse case, to approve her request for an examination by an independent physician, psychologist, or psychiatrist if the examination is

1. needed to determine whether the person is capable of managing his affairs, and
2. in the person's best interests.

Under the act, the court must order the examination regardless of whether the elderly person or his caretaker has already submitted a medical report.

The act also allows people who have reasonable cause to suspect such abuse to report it to the commissioner. They can already do so if they have reasonable cause to believe the abuse is happening.

EFFECTIVE DATE: July 1, 2001

PA 01-5—SB 1061
Insurance and Real Estate Committee

AN ACT CONCERNING INSURANCE FRAUD REPORTS

SUMMARY: This act changes, from July 31 to March 31, the date by which insurance companies must file with the insurance commissioner an annual report detailing information they have received and investigations they have conducted on motor vehicle insurance fraud claims.
EFFECTIVE DATE: October 1, 2001

PA 01-21—SB 192
Insurance and Real Estate Committee

AN ACT CONCERNING SURETY REQUIREMENTS FOR CERTAIN GOVERNMENT PROJECTS

SUMMARY: By law, any state or municipal construction contract worth over $50,000 must require the contractor to furnish a bond to guarantee payment to subcontractors providing labor or material. The requirement applies to contracts for constructing, altering, or repairing state or municipal buildings or public work projects.

This act prohibits contracts for constructing, altering or repairing state or municipal buildings or public work projects that require the purchase of a bond from a specific surety, agent, broker, or producer. It also prohibits contracting officers from requiring a bond from a specific surety, agent, broker, or producer. By law, the surety must be satisfactory to the officer awarding the contract.
EFFECTIVE DATE: October 1, 2001

PA 01-30—sHB 6712
Insurance and Real Estate Committee
Labor and Public Employees Committee

AN ACT CONCERNING COVERAGE FOR NONPROFIT PROVIDERS AND MUNICIPAL EMPLOYEES UNDER THE STATE EMPLOYEE HEALTH PLAN

SUMMARY: This act adds employees of certain nonprofit organizations to the list of employees for whom the comptroller, with the Office of Policy and Management (OPM) secretary's approval, is authorized to arrange and procure a group hospital, medical, and surgical health insurance plan. It also authorizes the comptroller, with the OPM secretary's approval, to arrange and procure an alternative health benefit plan for municipal and nonprofit organization employees. By law, the comptroller procures health benefit plans for state employees, legislators, participants in alternative retirement plans, and probate court judges and employees, among others.

The act excludes (1) nonprofit organizations that obtain coverage through the comptroller from the definition of small employer under the statutory Blue Ribbon Health Care Plan, unless the comptroller and OPM secretary make a written request to the insurance commissioner to deem the organization a small employer, and (2) new or renewal contracts or policies covering the employees of nonprofit organizations and municipalities from the premium tax imposed on HMOs beginning July 1, 2001.
EFFECTIVE DATE: July 1, 2001

STATE HEALTH INSURANCE PLAN

Participation Requirements

The act defines a nonprofit corporation as a 501(c)(3) corporation under contract with the state and specifies that it must comply with the following conditions to participate in the state health plan:

1. Participation must be voluntary.
2. If an employee organization represents employees, both the employee organization and the nonprofit corporation must agree to participate in the plan and neither may submit the question of participating to binding arbitration without the other's consent.
3. No group of employees may be denied participation in the plan because of past or future health care costs or claims experience.
4. Rates paid by the state for its employees may not be adversely affected, and administrative costs of the plan must be paid by participating nonprofit corporations at no cost to the state.
5. Participation in the plan in an amount determined by the state must be for the plan duration or such other period as mutually agreed upon by the nonprofit corporation and the comptroller.

These participation requirements already apply to municipal employees.

ALTERNATIVE HEALTH PLAN

The act authorizes the comptroller to arrange and procure an alternative health benefit plan for employees

of nonprofit organizations and municipalities. The comptroller may offer the plan to municipal employees on a fully insured basis and to nonprofit organization employees on either a fully insured or risk-pooled basis.

PA 01-67—sSB 1247
Insurance and Real Estate Committee
Judiciary Committee

AN ACT CONCERNING THE CONNECTICUT LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT

SUMMARY: This act revises the laws governing the Connecticut Life and Health Insurance Guaranty Association (CLHIGA) to identify (1) who and what types of policies and contracts are covered and (2) the circumstances under which coverage is afforded insurers who become financially impaired or insolvent. It updates the statutes by (1) covering new life insurance products with investment features; (2) modifying coverage limitations, restrictions, and exclusions; (3) simplifying the provisions that trigger coverage; and (4) broadening the association's authority.

Specifically, the act:

1. changes the criteria that determine which owners, payees, beneficiaries, and assignees of unallocated and structured settlement annuities are covered and adds certain types of funding agreements and annuities to the list of covered products;
2. adds rules for determining people covered in different states to avoid duplicate coverage and which state's statute to use to determine the existence and limits of coverage;
3. sets limits on coverage of rate of return in life insurance products with equity-index features and excludes coverage for certain claims;
4. adds per life and aggregate monetary limits for certain annuity claimants, a per person aggregate limit for health insurance benefits, and certain maximum limits on CLHIGA's total financial obligation;
5. adds authority for CLHIGA to provide certain benefits and coverage when an insurer is impaired or insolvent and specifies related conditions and limitations;
6. revises CLHIGA's authority to impose policy liens, acquire subrogation and assignment rights, and intervene in court and agency proceedings;
7. authorizes CLHIGA to enter into certain reinsurance agreements in discharging its duties and gives its board of directors greater discretion in determining the means by which it provides benefits;
8. makes several changes in the process for determining association assessments and establishes a procedure for member insurers to protest an assessment; and
9. adds new definitions and revises others.

Finally, the act expands CLHIGA's coverage to include U.S. citizens residing in a foreign country or a U.S. possession, territory, or protectorate that does not have an association similar to CLHIGA. It requires that they be deemed residents of the state of domicile of the insurer that issued the policy or contract.

EFFECTIVE DATE: October 1, 2001

COVERAGE, LIMITATIONS, AND EXCLUSIONS

By law, CLHIGA covers the financial obligations of resident owners and certificate holders of individual life and health insurance policies or annuity contracts, and supplements to them; the beneficiaries, assignees, or payees of resident owners and certificate holders; and nonresidents if (1) the issuing insurer is domiciled in the state; (2) the person resides in a state with an association similar to CLHIGA; or (3) the person is not eligible for association coverage in any state because the issuing insurer was unlicensed at the time specified in the state's law. It also covers group certificates and annuity contracts issued by member insurers under life and health insurance policies and contracts.

Unallocated and Structured Settlement Annuities

The act changes the criteria for CLHIGA coverage of unallocated and structured settlement annuities. Under the act, CLHIGA covers the owner of an unallocated annuity contract, instead of the contract holder, if it is issued to, or in connection with, a benefit plan whose sponsor has his principal place of business in Connecticut, rather than the state where the contract holder is located. An unallocated annuity is an annuity that is not issued to and owned by an individual, except to the extent of benefits an insurer guarantees.

The act adds coverage for allocated funding agreements and unallocated annuities issued in connection with government lotteries, if the owner is a resident.

The act covers payees of structured settlement annuities and their beneficiaries, if the payee is deceased, and was (1) a resident; or (2) is not a resident but the (a) contract owner is a resident, the insurer that issued the contract is domiciled here and the contract owner's home state has an association similar to

CLHIGA; and (b) neither the payee, beneficiary, or owner is eligible for coverage from the association in the state where they live. Prior law required basing structured settlement coverage on where the nominal owner resided. A structured settlement annuity is an annuity purchased to fund periodic payments to a plaintiff or other claimant for personal injuries.

Coverage in Another State

The act prohibits CLHIGA coverage for either an unallocated or structured settlement annuity when the payee or beneficiary of a resident owner is afforded coverage from another state association.

If another state's association provides coverage, the act prohibits coverage to unallocated annuity owners when the benefit plan sponsor has his principal place of business here or when the annuity is issued to a resident owner in connection with a government lottery.

To avoid duplicate coverage, the act bars coverage to a person who would otherwise receive coverage, because he is covered under the laws of another state. In determining the application of this prohibition, the act specifies that if more than one state's association could cover someone as an owner, payee, beneficiary, or assignee, the act must be construed to result in coverage by only one association.

Life Insurance Limitation

The act excludes CLHIGA coverage for excess rate of return or interest determined by an index or other external reference in a life insurance policy. CLHIGA may not cover the rate or change in value that exceeds (1) the average return over the four-year period before the date of impairment or insolvency determined by subtracting two percentage points from Moody's Corporate Bond Yield Average for that period or a lesser period if the policy was issued less than four years before the impairment or insolvency, whichever is earlier or (2) on or after the date of impairment or insolvency, the rate of return determined by subtracting three percentage points from the most recent Moody's Corporate Bond Yield Average.

Exclusion of Certain Claims

The act excludes the following claims from CLHIGA coverage:

1. those not based on the written terms of the policy or contract or on marketing material, side letters, riders, or other documents that do not meet policy form filing or approval requirements; and
2. those based on misrepresentation of policy benefits, extra-contractual claims, and claims for penalties or consequential or incidental damages.

The act excludes coverage for contractual agreements (certain guaranteed investment contracts) that establish a member insurer's obligation to provide a book value accounting guaranty for defined contribution benefit plan participants. It does so by referencing a portfolio of assets owned by the benefit plan or its trustee, which is not affiliated with the insurer. It excludes interest or changes-in-value claims that are determined by an index or external reference and that have not been credited to the policy or have been forfeited on the date the insurer becomes impaired or insolvent, whichever is earlier. If interest or changes in value are credited less than annually, the values that are not forfeited must be set according to the policy and credited as of the date of impairment or insolvency, whichever is earlier. The act also excludes claims under unallocated annuity contracts protected by the federal Pension Benefit Guaranty Corporation whether or not the corporation is liable for payment.

Monetary Limitations

The act adds the following monetary limits on CLHIGA's obligations for annuities, health, and life insurance:

1. $100,000 in present value annuity benefits, including net cash surrender and withdrawal values for each payee or his or her beneficiary of a structured settlement annuity and up to $500,000 in the aggregate to any one individual;
2. $5 million for one owner of multiple individual life insurance policies, whether the owner is an individual, firm, corporation, or other person, and whether the people insured are officers, managers, employees or other persons; and
3. $5 million with respect to one owner under a government retirement plan or one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts, regardless of the number of contracts or plan sponsors. If CLHIGA covers one or more unallocated annuity contract that are owned by a trust or other entity for the benefit of two or more plan sponsors, then CLHIGA covers the largest interest in the trust or entity owning the contract up to $5 million if the plan sponsor has his principal place of business in the state.

The act specifies that CLHIGA's monetary obligations are subject to its subrogation (the right of an

insurer to recover from a third party the amount paid under a policy) and assignment (the transfer of the legal right or interest in a policy to another party) rights or its ability to pay for benefits out of the impaired or insolvent insurer's assets attributable to the covered policies. The act also specifies that CLHIGA's costs may be met through the use of assets attributable to covered policies or reimbursed through subrogation or assignment rights.

Finally, the act specifies that CLHIGA's obligation to provide coverage does not require it to directly or indirectly guarantee, assume, reinsure, or perform the contractual obligations of the impaired or insolvent insurer under policies or contracts that do not materially affect their economic value or benefit.

PROVIDING BENEFITS AND COVERAGE

If CLHIGA does not guarantee, assume, or reinsure the policies or contracts of an insolvent insurer, the act requires it to provide benefits and coverage as follows:

1. excluding conversion and renewal terms, for group life and health insurance policies and annuity contracts, assure benefit payments for premiums identical to those that would have been paid under the insolvent insurer's policies and contracts for incurred claims by the earlier of the policy or contract's next renewal date or 45 days, but in no event less than 30 days after it becomes obligated;
2. in the case of individual life and health insurance policies and annuity contracts, assure benefit payments for premiums identical to those that would have been paid under the insolvent insurer's policies and contracts for claims incurred by the earlier of the policy or contract's next renewal date or one year, but in no event less than 30 days after it becomes obligated;
3. make diligent efforts to provide 30-day benefit termination notices to all known individual and group policies or contracts owners, insureds, or annuitants;
4. make available substitute coverage on an individual basis to annuitants, insureds, or owners of covered individual life and health insurance policies or annuity contracts and former insureds or annuitants under group policies who are not eligible for replacement coverage, if they had a right under law, terminated policy, or contract to (a) convert to individual coverage, (b) continue an individual policy or contract until a specified age or time during which the insurer could make class premium changes or none at all; and
5. provide substitute coverage by offering either to reissue the coverage or issue an alternative policy without requiring evidence of insurability, a waiting period, or exclusions that would not have applied under the terminated policy. (CLHIGA may reinsure any alternative or reissued policy.)

Alternative Policies

CLHIGA may adopt various types of alternative policies for use in the future without regard to any particular impairment or insolvency but must get the appropriate insurance commissioner and receivership court's approval for policies adopted for a specific impairment or insolvency. Alternative policies must contain the minimum statutory provisions required in Connecticut and provide reasonable benefits in relation to premiums charged. CLHIGA must set premiums in accordance with a table it adopts, and premiums must reflect the amount of insurance provided and the age and risk class of each insured, but not changes in the insured's health after the original policy was last underwritten. Alternative policies must provide coverage similar to that provided by the impaired or insolvent insurer.

Reissued Coverage

If CLHIGA elects to reissue coverage at a premium rate different from that charged under the terminated policy, it must base the premium on the amount of insurance provided and the insured's age and risk class and subject to the domiciliary insurance commissioner and the receivership court's approval.

CLHIGA's coverage obligation under any impaired or insolvent insurer's policy or contract or any reissued or alternative policy or contract ceases on the date the owner, insured, or CLHIGA replaces it with another policy or contract.

For policies or contracts with guaranteed minimum interest rates, CLHIGA must assure the payment or crediting of interest consistent with the limitation on interest rate payments.

The act specifies that CLHIGA's obligation under any guaranteed, assumed, alternative, or reissued policy or contract terminates if premiums are not paid by the 31st day after the date required under the policy or contract, except for claims already incurred or net surrender values that may be due. Premiums for coverage due after an order of insolvency is entered belong and must be paid to CLHIGA, which is liable for any unearned premiums due the policy or contract

owner.

The act authorizes CLHIGA, subject to the receivership court's approval, to issue substitute coverage under an alternative policy or contract for one that provides an interest rate or crediting rate determined by the use of an index or other external reference to calculate returns or changes in value. The alternative policy must provide (1) a fixed interest rate, in lieu of the index or external reference under the original policy, (2) payment of dividends with minimum guarantees, or (3) a different method for calculating interest or changes in value. No evidence of insurability, waiting period, or other exclusion that would not apply to the replaced policy can apply to the alternative policy, and it must be substantially similar to the replaced policy in all other material terms.

Finally, the act specifies that its protections do not apply when the laws of the impaired or insolvent insurer's domiciliary state or jurisdiction provide guaranty protection to any Connecticut resident. It also specifies that where CLHIGA arranges or provides benefits to a covered person under a plan or arrangement that fulfills it's obligation, the person is not entitled to benefits from another association in addition to or other than those provided under the plan or arrangement.

LIENS, MORATORIUMS, INTERVENTION, ASSIGNMENT OF RIGHTS, AND SUBROGATION

Liens and Moratoriums

The act requires a Connecticut court's approval, rather than the insurance commissioner's, for CLHIGA to impose permanent and temporary policy or contract liens or moratoriums on the payment of cash values or policy loans in connection with a guarantee, assumption, or reinsurance agreement.

The act extends this authority to any other right to withdraw policy or contract funds and specifies that the authority is in addition to any contractual provisions for the deferral of cash or policy loan values. It authorizes CLHIGA to defer paying cash values, policy loans, or other withdrawal rights out of the impaired or insolvent insurer's assets when the receivership court imposes a temporary moratorium or moratorium charge on such values, loans, or rights. The deferment is for the period of the moratorium or moratorium charge imposed by the court. Claims paid by CLHIGA in accordance with the liquidator or rehabilitator's hardship procedure and approved by the receivership court are exempt.

In order to impose a permanent lien, CLHIGA must find that the (1) amount it assesses member insurers in connection with a guarantee, assumption, or reinsurance agreement is less than needed to discharge its obligations or (2) economic or financial conditions are sufficiently adverse to require the imposition of a permanent policy or contract lien in the public interest.

Intervention In Proceedings

The act extends CLHIGA's authority to intervene in state court proceedings to the proceedings of state agencies with jurisdiction over an impaired or insolvent insurer and people or property against which CLHIGA may have subrogation rights. By law, CLHIGA has standing in connection with state court insolvency proceedings. The act also extends CLHIGA's standing and intervention rights to court and agency proceedings in other states with jurisdiction over an impaired or insolvent insurer and people or property against which CLHIGA may have rights or for which CLHIGA is or may become obligated.

Assignment of Rights

The act broadens CLHIGA's authority to require people receiving benefits from substitute or alternative coverage to assign their rights to CLHIGA, to the extent of such benefits. By law, CLHIGA can require assignment for payment of contractual obligations or the continuation of coverage. The act extends the right of assignment to causes of action against people for losses arising under, resulting from, or relating to covered policies or contracts. Payees, policy or contract owners, beneficiaries, insureds, or annuitants can also be required to assign their rights or causes of action as a precondition to receiving benefits.

Subrogation

The act broadens CLHIGA's right of subrogation to include those rights acquired by succession and under common law. It also authorizes CLHIGA to pursue other equitable or legal rights that would have been available to the impaired or insolvent insurer or any owner, beneficiary, or payee of a policy or contract against a person responsible for losses for personal injury. The right of subrogation includes the pursuit of any owner, beneficiary or payee's right under a structured settlement annuity. It exempts people responsible for injury while serving as an assignee under a qualified Internal Revenue Service assignment. By law, CLHIGA's right of subrogation against the assets of an impaired insurer applies to any person receiving benefits from CLHIGA.

The act specifies that if CLHIGA's rights of assignment, including causes of action or subrogation,

are held invalid or ineffective against any person or claim, CLHIGA is entitled to reduce the amount it pays (set off) by the amount realized by such person with respect to any covered person or claim. It also specifies that CLHIGA is entitled to reimbursement of a portion of any recovery attributable to covered policies if it provided benefits to cover an obligation and a person recovers amounts to which CLHIGA has rights.

REINSURANCE ARRANGEMENT

The act allows CLHIGA to succeed to the rights of an impaired or insolvent insurer under any indemnity reinsurance agreement it entered into as a ceding insurer if it elects to do so within one year after the date it becomes obligated to cover the impaired or insolvent insurer's policies or contracts (known as the coverage date). The act prohibits CLHIGA from exercising its election option if the impaired or insolvent insurer's receiver, rehabilitator, or liquidator does not affirm the reinsurance agreement. It can only exercise the option after giving the receiver, rehabilitator, liquidator, or reinsurer notice. If CLHIGA succeeds to such rights and obligations it:

1. is responsible for all unpaid premiums due under the reinsurance agreement for the periods before and after the coverage date and perform all other obligations related to any covered contract after that date, including charging each contract or policy the costs of reinsurance exceeding CLHIGA's obligation;
2. is entitled to amounts the reinsurer pays under the agreement for losses or events that happened after the coverage date and must pay any beneficiary of a policy or contract in which CLHIGA only paid a portion of the amount due (a) the amount it received that exceeds the benefits paid the beneficiary under the policy or contract less (b) any loss-related amount retained by the impaired or insolvent insurer; and
3. must calculate, within 30 days after its election, along with each indemnity reinsurer, the net balance due to or from CLHIGA under each agreement as of the date of its election, giving full credit to the amounts paid by the insurer or its receiver, rehabilitator or liquidator, or reinsurer during the period between the coverage date and the date of CLHIGA's election. CLHIGA or the indemnity reinsurer must pay the net balance within five days after completing the calculation. If the receiver, rehabilitator, or liquidator received any amounts due CLHIGA, they must promptly remit this to CLHIGA.

The act specifies that if CLHIGA pays premium within 60 days after its election for the periods before and after the coverage date, the reinsurer is not entitled to terminate the reinsurance agreement or any set off against amounts due CLHIGA for any unpaid premium due for the periods before the coverage date.

The act permits CLHIGA to transfer its obligations to another insurer, and if the parties agree, the other insurer succeeds to CLHIGA's rights and obligations under the reinsurance agreement. If this occurs, (1) the indemnity reinsurance agreement is automatically terminated unless otherwise agreed to between the indemnity reinsurer and the other insurer and (2) CLHIGA's obligation to pay the beneficiary no longer applies on or after the date the indemnity reinsurance agreement is transferred.

The act specifies that its reinsurance provisions supersede those of any Connecticut law or of any affected reinsurance agreement that provides for or requires any payment of reinsurance proceeds to the receiver, rehabilitator, or liquidator on account of losses or events that occur after the coverage date. The receiver, rehabilitator, or liquidator remain entitled to amounts paid by the reinsurer under the reinsurance agreement for losses or events that occur before the coverage date subject to any set off.

The act prohibits, unless it expressly allows, alteration or modification of the terms and conditions of the insolvent insurer's reinsurance agreement. It also prohibits abrogating or limiting the reinsurer's right to rescind the agreement and specifies that nothing in it gives a policy owner or beneficiary an independent cause of action against an indemnity reinsurer that is not otherwise stated in the agreement.

ADDITIONAL ASSOCIATION POWERS AND VENUE

The act authorizes CLHIGA to (1) request information from people seeking coverage from it in order to aid CLHIGA in determining its obligation and requires such people to comply promptly with such requests, (2) take necessary or proper action and exercise its powers to discharge its duties and obligations, and (3) join an organization of other state associations to further the purposes and administer its powers and duties.

Finally, the act specifies that lawsuits against CLHIGA must be brought in the Hartford Superior Court and that CLHIGA is not required to post an appeal bond in causes of action brought under the act.

ASSOCIATION ASSESSMENTS

CLHIGA imposes assessments on its member insurers to raise funds to fulfill its statutory obligations. The assessments are based on the amount of premiums members write in the state.

The act modifies CLHIGA's assessment accounts. It includes annuity contracts owned by government retirement plans in the annuity sub-account and eliminates it from the unallocated annuity sub-account.

The also act makes several assessment-related changes. It:

1. requires CLHIGA members to pay interest on late payment of assessments of 1% per month, or any part thereof, and calculate interest from the due date to the date of payment;
2. reduces the classes of assessments, from three to two, to reflect the elimination of the distinction between an impaired foreign or alien insurer and an impaired domestic insurer;
3. limits class "A" assessments (for administrative costs and general expenses) to $150 per member in any one calendar year when made on a non-pro-rata basis;
4. allocates class "B" assessments (used to fund CLHIGA's obligations under the Act) according to a formula based on the premiums or reserves of the impaired or insolvent insurer or on standards CLHIGA's board deems fair and reasonable;
5. changes the basis for class "B" assessments from the most recent calendar year of information preceding the year in which an insurer becomes insolvent or impaired to the most recent three years;
6. requires members to pay all deferred assessments under a repayment plan CLHIGA approves once the financial difficulty causing the deferral is rectified;
7. limits the total of all authorized assessments for each sub-account (life and annuity), and for the health insurance account to 2% of the insurer's average annual premium received in Connecticut on policies covered by the accounts during the three calendar years preceding the year in which the insurer becomes impaired or insolvent;
8. limits the aggregate assessment percentage to an amount equal and limited to the higher of the three-year average annual premium of the applicable sub-account or account when two or more assessments are authorized in one calendar year;
9. adds assets derived from assignment and subrogation in determining excess assets of any account for purposes of a refund;
10. requires CLHIGA to notify members within 180 days after it authorizes an assessment of its pro-rata share of an authorized assessment that has not yet been called; and
11. allows CLHIGA to make pro-rata assessments, instead of non-pro-rata assessments only.

The act specifies that when pro-rata assessments are made CLHIGA's board may credit them against future class "B" assessments and extends assessment requirements to insurer insolvencies.

The act defines an "authorized assessment" as one passed by resolution of CLHIGA's board to be immediately called or called in the future from member insurers for a specified account. A "called assessment" is one where CLHIGA has issued notice to member insurers requiring an authorized assessment to be paid within the time specified in the notice.

Assessment Protest

The act gives member insurers the right to protest an assessment, but requires them to pay it when due as set forth in the notice. The act specifies that payment must be available for CLHIGA to meet its obligations during the time a protest or any subsequent appeal is pending. Payment under protest requires a written statement that payment is made under protest, and the grounds for the protest must accompany the payment. Within 60 days following payment, CLHIGA must notify the member in writing of its decision about the protest. It also must notify the member if it needs additional time. CLHIGA must notify the protesting member about its final decision in writing within 30 days. Within 60 days after receiving this notice, the protesting member may appeal to the insurance commissioner. If the protest is based on a question about the assessment, CLHIGA may refer the protest to the commissioner with a recommendation, instead of rendering a final decision. If the commissioner upholds the appeal, CLHIGA must return the amount paid in error or the excess, in addition to interest to the insurer. Interest is paid at the rate it was actually earned.

The act specifies that CLHIGA may request information from member insurers to aid it in setting assessments and members must promptly comply with the request.

PA 01-88—sSB 1395
Insurance and Real Estate Committee
Judiciary Committee

AN ACT CONCERNING COMMERCIAL REAL ESTATE BROKERAGE

SUMMARY: This act permits a real estate broker who enters into a commission agreement with a landlord or tenant in a commercial lease transaction to enforce the agreement against the landlord or tenant or any of their grantees, successors, and assignees after the property's sale, transfer, assignment, or other disposition.

The act requires the broker to provide "notice of commission rights" in a certain form, recorded on the land records within a specified time period, and signed by the broker or his authorized agent. It also requires that certain conditions be satisfied before a notice of commission rights is binding on any landlord, tenant or their grantees, successors, or assignees after disposition of the property.

Finally, the act specifies that the notice of commission rights may not be construed as a lien on the property.

EFFECTIVE DATE: October 1, 2001

COMMISSION AGREEMENT

The act specifies that a commission agreement, under which a landlord or tenant agrees or promises to pay the broker for services rendered in connection with a written commercial lease, is a binding contractual obligation on the landlord or tenant and their grantees, successors, and assignees if (1) the broker satisfies the requirements for recording a notice of commission rights; (2) upon the sale, transfer, or other disposition of the property, the succeeding party assumes the benefits of the tenancy; and (3) the broker does not waive the commission agreement in writing. It specifies that the contractual obligation under the commission agreement applies to the succeeding party after a sale; transfer; assignment; or enforcement of a mortgage, lien, or deed to secure a debt or other security instrument of a landlord's interest in the property or the sale, transfer, assignment, or other disposition of a tenant's leasehold interest.

The act specifies that the commission agreement constitutes a binding contractual obligation that supersedes any provision of law that would otherwise consider the agreement the personal obligation of the original landlord or tenant named in the lease.

NOTICE OF COMMISSION RIGHTS

The act requires the broker to record the notice of commission rights on the land records in the town clerk's office where the property or leasehold is located within 30 days after the lease is signed or the tenant takes occupancy, whichever is later.

To terminate commission rights, the act requires the broker to provide the owner, tenant, or mortgagee with a statement suitable for recording on the land records. He must do this within 30 days after receiving final commission payment under the agreement.

Commission Rights Form

The act requires the notice of commission rights form to (1) be filed before the property is conveyed; (2) be signed by the broker or his authorized representative; (3) contain the owner, landlord, or tenant's name; the date and lease term; the project or building name; and the broker's name, address, and telephone and license number; and (4) contain the following statement:

"The undersigned licensed Connecticut real estate broker does hereby publish this NOTICE OF COMMISSION RIGHTS to establish that the lease referenced below was procured by a real estate broker pursuant to a written brokerage commission agreement providing for the payment or promise of compensation for brokerage services."

PA 01-100—SB 1353
Insurance and Real Estate Committee
General Law Committee

AN ACT CONCERNING REAL ESTATE APPRAISERS AND NONRESIDENT APPLICANTS

SUMMARY: Current law recognizes four appraiser-licensing classifications: certified, limited, licensed, and provisional. Beginning September 30, 2003, this act eliminates the licensed appraiser classification and prohibits issuing or renewing this license beginning October 1, 2003.

The act specifies that a person licensed in another state as a real estate appraiser or real estate broker or salesperson may be licensed in Connecticut without examination on a reciprocal basis.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Licensing Reciprocity

For licensing on a reciprocal basis, the applicant's state of residence must (1) have licensing requirements substantially similar to or higher than Connecticut's, (2) establish competency by written examination, and (3) allow licenses to be issued to Connecticut residents without examination. Applicants cannot have any pending disciplinary proceedings or unresolved complaints against them.

PA 01-101—SB 524
Insurance and Real Estate Committee
Public Health Committee

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR MEDICALLY NECESSARY FORMULA FOR CHILDREN UP TO AGE THREE

SUMMARY: Beginning October 1, 2001, this act requires individual and group health insurance policies to cover medically necessary specialized nutritional formula administered under a doctor's direction and used to treat disease and other conditions in children up to age three. The act defines "specialized formula" as a nutritional formula for children up to age three that is (1) used solely under medical supervision in the dietary management of specific diseases and (2) exempt from the general nutritional labeling requirements under federal Food and Drug Administration's (FDA) statutory and regulatory guidelines.

The requirement applies to hospital and medical coverage offered by HMOs and accident-only policies, and to health insurance policies that pay for (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, and (4) hospital or medical services. The plan or policy must be delivered, issued for delivery, or renewed in the state on or after October 1, 2001.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

FDA Regulations

FDA regulations exempt infant formula from the general nutritional labeling requirements that apply, with exceptions, to products intended for human consumption (21 CFR § 101.9(a) and (j)(7)). Infant formula is regulated separately. The infant formula labeling regulations exempt certain types of formula that are represented and labeled for use by infants who have inborn metabolic disorders, low birth weights, or unusual medical or dietary problems. FDA distinguishes between two types of exempt formulas: those generally available at retail and those that are not. The former are typically labeled for use to provide dietary management for diseases or conditions that are not clinically serious or life-threatening, although they can also be labeled for use for serious or life-threatening conditions. The latter are typically prescribed by physicians and must be requested from a pharmacist. They are labeled for dietary management of specific diseases or conditions that are clinically serious or life-threatening, and are generally required for prolonged periods (21 CFR § 107.50).

PA 01-113—sSB 1096
Insurance and Real Estate Committee
Government Administration and Elections Committee
Judiciary Committee

AN ACT CONCERNING THE LICENSING OF INSURANCE PRODUCERS

SUMMARY: This act revises the licensing requirements for individuals and businesses seeking to sell insurance in Connecticut and satisfies federal Financial Modernization Act of 1999 requirements. It eliminates barriers to licensing nonresident insurance producers here by establishing reciprocity with other states and requiring the use of a uniform application form. It revises the requirements and qualifications to obtain a resident license, adds to the list of people exempt from licensing, and expands the grounds for disqualifying individuals from obtaining or maintaining a license.

The act also (1) revises the process of appointing producers that act on behalf of an insurer; (2) adds certain producer reporting requirements; (3) exempts bail bond and title insurance from its provisions; (4) adds educational requirements for excess-line producers; (5) modifies the requirements for temporary, renewal, and reinstated licenses; (6) broadens the insurance commissioner's authority to contract for certain services; and (7) authorizes the commissioner to adopt implementing regulations.

Finally, the act adds certain definitions to the insurance statutes, revises others, makes minor technical corrections, and repeals statutes that are inconsistent with the act.
EFFECTIVE DATE: September 1, 2002

RECIPROCITY AND UNIFORM APPLICATION FORM

Reciprocity

Prior law allowed residents, Connecticut businesses, unlicensed nonresidents, and out-of-state businesses to obtain a Connecticut resident license and licensed nonresidents to obtain a nonresident license if they submitted an appropriate application, paid a fee, furnished satisfactory evidence of good moral character and financial responsibility, and passed a written examination. Also, applicants had to either (1) satisfy pre-licensing educational requirements of at least 40 hours for each line of insurance they wanted authority to sell or (2) possess equivalent experience or training as determined by the commissioner.

The act establishes reciprocity with other states for nonresident insurance producers, including excess and limited-line producers if (1) they are currently licensed and in good standing in their home state, (2) they submit the same application they submitted in their home state or a completed uniform application to the commissioner, (3) they submit the proper request for a license and pay the appropriate fee, and (4) their home state awards nonresident licenses to Connecticut residents on the same basis.

The act exempts previously licensed nonresident producers who apply for a Connecticut license from pre-licensing educational requirements and the written examination if (1) their application is received within 90 days of the cancellation of their previous license and (2) the other state certifies or the National Association of Insurance Commissioner's (NAIC) producer database records indicate that they were in good standing at the time of the cancellation. It also exempts currently licensed nonresident producers (individuals and businesses) who move to Connecticut from these requirements if they file their application within 90 days of establishing legal residence or their principal place of business in the state. Producers moving to Connecticut are exempt from paying the licensing fee or submitting an application. The act authorizes the commissioner to adopt regulations that may require them to satisfy these requirements if she so determines.

The act requires the commissioner to waive any pre-licensing requirement for a nonresident license applicant if his home state awards nonresident licenses to residents of Connecticut on the same basis. The applicant must satisfy all other nonresident licensing requirements specified under the act. It also permits a nonresident producer who satisfies his home state's continuing education requirements to satisfy Connecticut's requirement if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements by Connecticut producers on the same basis.

The act authorizes the commissioner to verify the status of any licensee through the producer database maintained by the NAIC.

Uniform Application Form and Related Requirements

The act requires resident or nonresident individual applicants to use the uniform application authorized by the NAIC when applying for a license. Applicants must declare under penalty of license denial, suspension, or revocation that the statements made on the application are true, correct, and complete to the best of their knowledge and belief.

Under prior law, applicants who willfully misrepresent facts on the application were subject to a fine of up to $500, a term of imprisonment up to six months, or both.

The act authorizes the commissioner to require applicants to submit documents verifying information on the application and adds and revises penalties against applicants that provide incorrect, misleading, incomplete or materially untrue information in the application (see Disqualifying Conduct). The commissioner is authorized to deny, suspend, or revoke a license, place a licensee on probation, or levy a civil penalty against a licensee in such cases.

Excess and limited-line producers may use another application form acceptable to the commissioner.

The act modifies the commissioner's responsibilities in determining whether an applicant is suitable. It requires her to find that such applicant (1) is at least 18 years of age; (2) has not committed any act that is grounds for denial, suspension, or revocation; and (3) where required, has completed a pre-licensing course for the lines of authority applied for.

Prior law required the commissioner to satisfy herself that each applicant was properly qualified, trustworthy, and that granting a license was in the public interest.

Business Entities

The act requires businesses to file the Uniform Business Entity Application and designate a licensed producer to be responsible for the company's compliance with Connecticut insurance laws, rules, and regulations.

Prior law required a licensed officer of a corporation to sign the application or a licensed partner, if a partnership, or a licensed principal for other business organizations.

LICENSING EXEMPTIONS

The act prohibits any person from selling, soliciting, or negotiating insurance of any class unless licensed for that line of authority and specifies that insurance companies are exempt from the licensing requirement. It extends an exemption from the licensing requirement to the following people if they do not receive commissions or sell, solicit, or negotiate insurance policies, contracts or their terms and conditions: (1) directors of an insurer or insurance producer whose activities are executive, administrative, managerial, or clerical; (2) officers, directors, or employees of an insurer or insurance producer whose job is underwriting, loss control, inspecting, or processing, adjusting, investigating, or settling claims or acting as a special agent or agency supervisor providing technical advice and assistance to insurance producers; (3) people who provide information about, enroll people in, administer, or issue certificates relating to group life, property and casualty, annuities or accident and health insurance, and people who perform administrative services related to mass marketed property and casualty insurance; (4) employers or associations and their officers, directors, employees, or employee trust plan trustees engaged in the administration or operation of an employee benefit plan for the employer's or association's employees or the employees of its subsidiaries or affiliates; (5) insurance company employees or organizations employed by an insurer engaged in the inspection, rating, or classification of risks, or supervising the training of insurance producers; (6) people who advertise insurance products through print or electronic media whose distribution is not limited to state residents; (7) licensed nonresidents who sell property and casualty insurance covering multi-state exposures, including the state where their principal place of business is located; and (8) full-time salaried employees who advise their employer about its insurance needs.

Prior law exempted an insurer's salaried officers or employees engaged in executive, technical, administrative, or clerical duties and who were not involved in negotiating or soliciting insurance or effecting, changing, or modifying policy terms and conditions; salaried employees of an insurance producer or insurer engaged in clerical or administrative services who did not receive a commission or solicit, negotiate, or effect policies or contracts, or change or modify terms or conditions of contracts.

DISQUALIFYING CONDUCT

The act broadens the commissioner's authority to impose sanctions on licensees for engaging in certain conduct. It authorizes the commissioner to place a licensee on probation; suspend, revoke, deny, or refuse to renew his license; or levy a civil penalty against a licensee for the following reasons: (1) providing incorrect, misleading, incomplete, or materially untrue information on a application; (2) violating any insurance law, regulation, subpoena, or order issued by the commissioner of this or another state; (3) obtaining or attempting to obtain a license through misrepresentation or fraud; (4) improperly withholding, misappropriating, or converting money or property in the course of doing business; (5) intentionally misrepresenting the terms of an actual or proposed contract or insurance policy application; (6) conviction of a felony or admitting to or being found to have committed any insurance unfair trade practice or fraud; (7) using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business; (8) having an insurance producer's license, or its equivalent, denied, suspended, or revoked in any state, province, district, or territory; (9) forging another's name to an application for insurance or any document related to an insurance transaction; (10) improperly using notes or reference material to complete an insurance licensing exam; (11) knowingly accepting insurance business from an unlicensed person; (12) failing to comply with administrative or court orders for child support; or (13) failing to pay state income taxes or comply with administrative or court orders directing such payment.

The act adds authority for the commissioner to revoke or suspend a license for the failure of a licensee to inform her of any legal name or address change.

It extends a licensee's (individual and business) right to written notice and an opportunity for a hearing in cases where the commissioner refuses to renew his license. The act also gives this right to an applicant who has been denied a license. Prior law required notice and a hearing only when the commissioner suspended or revoked a license or imposed a fine of up to $1,000

The notice must specify the reasons for the denial or refusal to renew. The applicant or licensee may demand a hearing within 30 days after the notice and the hearing must be held within 20 days of the request.

Business License

The act modifies the criteria for suspending, revoking, or refusing to renew a business license.

Prior law authorized the commissioner to revoke a business license and that of its principal, officer, or director unless she determines that the principal, officer, or director was not personally at fault in the matter for which the business was held responsible.

The act broadens the commissioner's authority to sanction businesses. It allows her to suspend or refuse to renew a business license if she finds (1) that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers and (2) the violation was neither reported to her nor corrected. In addition to, or in lieu of, suspension or revocation, the commissioner may impose a fine of up to $1,000.

The act authorizes the commissioner to prosecute violations of its provisions even if a licensee has relinquished his license or allowed it to lapse.

APPOINTMENT OF AGENT

The act specifically prohibits a producer from acting as an insurer's agent unless the insurer appoints him, and revises the method by which producers are appointed.

To appoint a producer as its agent, the act requires the appointing insurer to file a notice of appointment within 15 days after the date an agency contract is executed or the first insurance application is submitted. Filing must be on a form approved by the commissioner. The commissioner must verify, within 30 days of receipt of the filing, that the producer is eligible for appointment. If the commissioner determines that the producer is ineligible, she must notify the insurer within five days of her determination.

Under prior law, a producer's authority to act as an agent was activated on the date the insurer's representative signed a written appointment form and within three business days sent it to the commissioner.

The act adds authority for an insurer to appoint a producer to all or some of its affiliated companies by filing a single appointment request and paying the appropriate fee, provided the commissioner has (1) implemented an electronic system capable of processing it and (2) previously notified insurers that such filings are acceptable.

REPORTING REQUIREMENTS

The act requires producers to report to the commissioner any governmental actions or criminal prosecutions initiated against them in this and any other jurisdiction. Criminal actions must be reported within 30 days after the initial pretrial hearing. The report must include a copy of any order, consent order, hearing complaint, or other legal decree or document.

Prior law required producers to notify the commissioner in writing of any bankruptcy, adverse administrative action in another state, or felony conviction within 30 days of its occurrence and include supporting documents.

EDUCATIONAL REQUIREMENTS AND TEMPORARY, RENEWAL, AND REINSTATED LICENSES

The act adds a requirement that insurers that offer limited-line credit insurance to offer their producers a program of instruction approved by the commissioner. Limited-line credit insurance includes credit life, disability, property, unemployment, mortgage, mortgage disability, guaranteed auto protection, and other forms of coverage offered in connection with an extension of credit.

Temporary License

The act revises the commissioner's authority to issue a temporary license for up to 180 days without an examination. Prior law permitted her to issue temporary licenses to executors or administrators of a deceased licensee's estate, his surviving next of kin, or the spouse, next of kin or conservator of an incapacitated licensee. The act broadens this authority by allowing the commissioner to issue a temporary license to the designee of a producer entering military service or in other extenuating circumstances she deems in the public interest.

It also adds authority for the commissioner to (1) require a temporary licensee to have a licensed producer or insurer as a sponsor to assume responsibility for the temporary licensee's acts or (2) impose other requirements to protect insureds and the public. The commissioner may revoke a temporary license if the interest of insureds or the public is endangered. Under the act, a temporary license expires when the owner sells his business.

Renewal License

If a producer is unable to renew his license because of military service, long-term disability, or other extenuating circumstances, the act permits him to request a waiver from the renewal process and any examination, fine, or sanction imposed for failure to comply with renewal procedures.

Reinstated License

The act reduces from 24 to 12 months after the due date of a renewal fee the time period during which a producer may reinstate a lapsed license without examination. It imposes a penalty of double the renewal fee ($80) to reinstate the license.

AUTHORITY TO CONTRACT FOR SERVICES

The act expands the commissioner's authority to contract for services. It permits the commissioner to contract with nongovernmental entities, including the NAIC to perform any ministerial function related to licensing she deems appropriate, including the collection of licensing fees. Prior law only allowed her to contract with an independent testing service to prepare and administer the licensing exam.

BACKGROUND

Federal Law

The Financial Modernization Act of 1999 gives states three years to establish uniform laws or a system of reciprocity to govern the licensing of insurance producers (individuals and entities authorized to sell, solicit, or negotiate insurance). If the states do not enact reciprocity by November 12, 2002, the act establishes the National Association of Registered Agents and Brokers (NARAB). The association would be a quasi-governmental entity that could preempt existing state laws governing producer licensing (15 USC § 6801 et. seq.).

PA 01-139—SB 1069
Insurance and Real Estate Committee

AN ACT CONCERNING MINOR CHANGES TO THE INSURANCE STATUTES

SUMMARY: This act makes several changes to the insurance statutes. It:

1. allows a foreign insurance company's designee to receive a copy of any legal process served on the insurance commissioner as agent for service of process instead of the insurer's corporate secretary;
2. requires insurers to file financial statements and related information with the National Association of Insurance Commissioners electronically rather than by mail;
3. permits the merger or consolidation of a Connecticut-domiciled insurer with a foreign insurer without requiring a license if the surviving insurer is a Connecticut corporation;
4. extends the insurance commissioner's authority to order automobile insurance companies to stop improper business activity, including the failure to adjust and pay losses when they become due to self-insurers of private passenger motor vehicle liability risks;
5. permits the liquidator of an insolvent insurance company to apply to the Superior Court for authority to (a) hold unclaimed funds for two years and then distribute them to claimants, if economically feasible or (b) allow the state treasurer to hold the funds in an account on behalf of the insurance commissioner and allow him to use them in his capacity as receiver to defray administrative costs and expenses of other insolvent insurers when assets are not sufficient to pay them;
6. corrects a reference to the insurance commissioner by replacing it with "commissioner" to refer to the economic and community development commissioner for purposes of tax credit administration under the Connecticut Insurance Reinvestment Fund; and
7. requires utilization review companies to separately report to the insurance commissioner utilization review decisions related to mental or nervous conditions.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Utilization Review

"Utilization review" is a process that evaluates the medical necessity, appropriateness, and efficiency of the use of medical services, procedures, and facilities. By law, utilization review companies must annually report to the insurance commissioner the number of decisions it makes denying certification for an admission, service, procedure, or hospital stay extension and the outcome of appeals.

PA 01-157—HB 6980
Insurance and Real Estate Committee
Judiciary Committee

AN ACT ADDING REAL ESTATE BROKERS TO THE LIST OF PROFESSIONAL SERVICE CORPORATIONS AND PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

SUMMARY: This act adds real estate brokers and insurance producers to the list of professions that may offer their services through a professional service corporation or limited liability company.

By law, people licensed to offer the same professional service to the public may form and become shareholders of a for-profit professional corporation or form a limited liability company to offer such services.
EFFECTIVE DATE: October 1, 2001

PA 01-174—SB 1060
Insurance and Real Estate Committee

AN ACT CONCERNING INSURANCE DATA REPORTING REQUIREMENTS, SMALL EMPLOYER HEALTH PLAN AVAILABILITY, AND LICENSING REQUIREMENTS FOR INDIVIDUALS WHO MAKE FINAL UTILIZATION REVIEW DETERMINATIONS

SUMMARY: This act requires insurers, including HMOs, to offer all small employers (including small employers consisting of one member) every group health insurance plan it offers to the small employer market unless it adversely affects the insurer's financial condition.

The act requires (1) final utilization review decisions not to certify an admission, service, procedure, or extension of a hospital stay and (2) any review that upholds such decisions to be made by medical professionals who act under the authority of licensees that hold a current Connecticut license. The requirement applies to all types of health claim-related utilization review decisions except workers' compensation claims.

The act revises some insurance company reporting requirements, eliminates several obsolete ones, and makes minor technical changes to the insurance statutes.
EFFECTIVE DATE: October 1, 2001

SMALL EMPLOYER HEALTH PLANS

The act requires insurers and HMOs to offer all small employers, including those consisting of one member, small employer health insurance plans, except association-type group plans, as a condition of transacting business in the state unless the insurance commissioner finds that compliance would impaired their financial condition.

LICENSING REQUIREMENT

The act imposes a requirement on doctors, nurses, and other licensed health care professionals who (1) make final utilization review decisions not to certify an admission, service, procedure, or extension of a stay or (2) review and uphold such decisions. It requires them to conduct such reviews under the authority of a doctor, nurse, or other licensed professional who possesses a current Connecticut license from the Department of Public Health.

INSURANCE COMPANY REPORTING REQUIREMENTS

The act reduces the contents of the insurance commissioner's annual rate review report to the Insurance and Real Estate Committee. The report indicates the number and type of rate reviews the Division of Rate Review conducted for the prior calendar year and the percentage change in rates for each line of coverage. The act eliminates the requirement to report the number of times the division suspected a filed rate violated statutory standards and the basis for this finding. The division resolves most rate-filing compliance issues without a formal hearing and finding.

The act authorizes the commissioner to require commercial insurers to provide underwriting and claims experience on any class of business she designates without first giving notice and an opportunity for a hearing. It eliminates the methodology that insurers must use to calculate and report loss and loss adjustment expenses, incurred expenses, and the entire reporting of (1) underwriting gains or losses, (2) investment and net income, and (3) federal taxes. It allows a licensed rating or advisory organization to submit the annual report on behalf of an insurer.

Finally, the act eliminates a commercial multi-peril, general liability, and auto insurer's filing for establishing a relationship between aggregate premiums charged to premiums produced from modified rates filed.

PA 01-3—HB 6537
Judiciary Committee

AN ACT CONFIRMING AND ADOPTING VOLUMES 1 TO 13, INCLUSIVE, OF THE GENERAL STATUTES, REVISED TO 2001

SUMMARY: This act formally adopts, ratifies, confirms, and enacts the General Statutes revised to January 1, 2001.
EFFECTIVE DATE: Upon passage

PA 01-4—sHB 6539
Judiciary Committee

AN ACT CONCERNING VALIDATION OF CERTAIN MARRIAGES

SUMMARY: This act validates all marriages performed between May 12, 1999 and April 27, 2001 that would have been valid except that they were (1) performed by justices of the peace who did not have valid certificates of qualification or (2) not performed in the towns that issued the marriage licenses.
EFFECTIVE DATE: Upon passage

PA 01-7—SB 997
Judiciary Committee

AN ACT CONCERNING THE ADMINISTRATION OF OATHS

SUMMARY: This act allows the commissioner of correction or his designee to administer oaths.
EFFECTIVE DATE: October 1, 2001

PA 01-8—SB 1000
Judiciary Committee

AN ACT CONCERNING DAMAGE TO ELECTRONIC MONITORING EQUIPMENT

SUMMARY: This act makes it a class D felony (see Table on Penalties) to intentionally damage electronic monitoring equipment owned or leased by the state or its agents and required as a condition of community release.

Under prior law, the penalty depended on the amount of damage as follows: more than $1,500, class D felony; more than $250 but less than $1,500, class A misdemeanor; and $250 or less, class B misdemeanor. The penalty applies if (1) the person has no reasonable basis to believe he has a right to cause the damage and (2) the damage interrupts the equipment's ability to function.

It is already a class D felony to intentionally damage electronic monitoring equipment owned or leased by the state or its agents and required as a condition of probation, conditional discharge, or pretrial release.

Community release is an option for inmates sentenced to a prison terms of two years or less. The correction commissioner may release them to approved community programs after they have served half their sentence, reduced by good time credits.
EFFECTIVE DATE: October 1, 2001

PA 01-11—sHB 5042
Judiciary Committee
Government Administration and Elections Committee

AN ACT RESTORING VOTING RIGHTS OF CONVICTED FELONS WHO ARE ON PROBATION

SUMMARY: With one exception, this act enables felons on probation to vote and run for public office. It does so by limiting a person's disenfranchisement to the period during which he is committed to (1) the Department of Correction (DOC) confinement in a correctional institution, facility, or community residence or placed on parole; (2) a federal prison; or (3) the custody of the chief correctional official of another state or county of another state. A person who is released from prison after serving time for an elections-related felony conviction cannot get his rights back until he is discharged from parole or probation.

The act requires the DOC commissioner, instead of the Judicial Department, to send the secretary of the state lists of felons whose voting rights should be forfeited and those eligible to have their rights restored. It establishes a new procedure for restoring the voting rights of felons who were confined to the commissioner's custody.

It requires the Office of Adult Probation to use available appropriations to inform people on probation on January 1, 2002 of their right to become voters and of the new restoration procedures.
EFFECTIVE DATE: January 1, 2002

FORFEITURE OF VOTING RIGHTS AND PRIVILEGES

Applicability

Under existing law, felons forfeit their electoral rights and privileges while serving their sentences, which may include parole and probation. The act limits the law's application to felons imprisoned in a federal prison, a state or out-of-state correctional institution or facility, or a community residence.

Procedure

The act requires the DOC commissioner, instead of the Judicial Department, to send the secretary of the state a list by the 15th of each month, of all convicted felons committed to his custody during the preceding calendar month.

As with the Judicial Department's list, the DOC commissioner's list must include each inmate's name, birth date, address, date of conviction, and crime. The secretary gives the list to the registrar of the towns where (1) each felon lived when he was convicted and (2) the secretary believes the felon was registered to vote. The registrars must compare the list with the voter registry list and, after written notice to the felon's last known address, erase his name from the voting list.

RESTORATION OF VOTING RIGHTS AND PRIVILEGES

Under the act, felons who have not been convicted of elections-related crimes may have their voting rights restored when they are released from the DOC commissioner's custody.

If, upon release, the person resides in the town where he was registered to vote, the town's registrar must restore his voting privilege upon satisfactory proof that he was released from prison and completed any parole. The DOC commissioner must give a release certificate to inmates who complete their term of incarceration and any parole.

If the person was not registered to vote when he was convicted or moves to a different town upon release, he must prove he (1) is qualified to vote, (2) was released from prison, and (3) has completed any parole.

Felons who are placed on probation after being confined in a federal or out-of-state correctional institution remain eligible to have their rights restored only after submitting proof that they paid all court-ordered fines related to the conviction and were discharged from confinement or parole, whichever applies.

LIST OF PEOPLE ELIGIBLE TO HAVE THEIR VOTING RIGHTS RESTORED

The act requires the DOC commissioner, on the 15th of each month, to send the secretary of the state a list of all felons released from his custody during the preceding calendar month. The list must include the same information as the list required upon conviction (i.e., each inmate's name, birth date, address, date of conviction, and crime). The secretary must send the list to the registrar of (1) each inmate's town of residence at conviction and (2) the town where she believes he was registered to vote.

By law, the commissioner must inform felons in his custody of their right to have, and the procedure for having, their voting privileges restored. The act eliminates a requirement that the parole board provide such information.

PA 01-13—SB 1383
Judiciary Committee

AN ACT CONCERNING A PLEA OF NOLO CONTENDERE CONDITIONAL ON THE RIGHT TO TAKE AN APPEAL

SUMMARY: This act broadens the circumstances under which a criminal defendant may enter a conditional "nolo contendere" (no contest) plea and immediately appeal a judge's adverse evidentiary ruling. But it also appears to restrict the circumstances under which judges can accept such pleas.

Under the act, before a trial starts, a defendant may enter a conditional plea and appeal immediately if the judge (1) denies a motion to suppress evidence or to dismiss and (2) determines that his ruling is dispositive (i.e., controls the outcome) of the case. Previously, defendants could take such actions only when the judge denied motions to (1) dismiss or (2) suppress evidence the defendant claimed was obtained as a result of an illegal search and seizure or involuntary confession.

The act permits immediate appeals when the court refuses to suppress evidence that the defendant claims should be excluded for other reasons, such as wiretap law violations or prosecutorial misconduct. But the effect of restricting this procedure to "dispositive" rulings is unclear, since an existing court rule permits judges to accept conditional pleas where their ruling has a "significant impact" on the case's outcome.

EFFECTIVE DATE: October 1, 2001

PA 01-15—HB 6538
Judiciary Committee

AN ACT CONCERNING THE ADMISSIBILITY OF RECORDS AND REPORTS OF CERTAIN EXPERT WITNESSES AS BUSINESS ENTRIES

SUMMARY: This act allows signed reports and bills of certain health care professionals to be introduced as business entry evidence without calling the professional to testify in all civil actions, rather than only personal injury, child support, and family relations matters. Such evidence is used to establish the type and cost of treatment a party received.

The act applies to cases pending on and after October 1, 2001 and covers the same health providers as existing law: treating physicians, dentists, physical therapists, podiatrists, psychologists, emergency medical technicians, and optometrists.
EFFECTIVE DATE: October 1, 2001

PA 01-16—sSB 1107
Judiciary Committee

AN ACT CONCERNING ACCELERATED REHABILITATION

SUMMARY: This act permits a court to grant accelerated rehabilitation to people accused of first-degree larceny as long as the crime did not involve the use or threat to use physical force against a person. This offense is a class B felony (see Table on Penalties). By law, people accused of other class B felonies are not eligible.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

First-Degree Larceny

A person commits this offense when he commits larceny and (1) the property or service is obtained by extortion, (2) the value of the property exceeds $10,000, (3) the property consists of a motor vehicle worth more than $10,000, or (4) the property is obtained by defrauding a government agency and is worth more than $2,000. A person commits larceny when, with intent to deprive another of property or to appropriate it to himself or a third person, he wrongfully takes, obtains, or withholds such property from an owner.

Accelerated Rehabilitation

Accelerated rehabilitation (AR) is a pretrial diversion program for people accused of offenses "not of a serious nature." People accused of class A and B felonies are not eligible. People accused of class C felonies are only eligible for "good cause."

People are also ineligible for the program if they (1) were previously convicted of a crime or certain motor vehicle violations, (2) are eligible for the pretrial drug education program or participated in it previously, or (3) are accused of a family violence offense and are eligible for the pretrial family violence education program or participated in it previously.

In addition to the above, the court must believe that the defendant will probably not offend again. The defendant must notify the crime victim that he is applying for AR, and the victim must have an opportunity to say whether the court should grant it. Otherwise, the court has complete discretion in deciding whether to place someone in the program.

AR participants waive their rights to a speedy trial. The court places them under the supervision of the Office of Adult Probation for up to two years. If a participant completes the program successfully, the court must dismiss the charges against him and erase his record. If the participant violates a program condition, he must be brought to trial on the original charge.

PA 01-20—HB 6834
Judiciary Committee

AN ACT CONCERNING THE COMPOSITION OF THE DEPARTMENT OF CORRECTION

SUMMARY: This act establishes a uniform definition for a "correctional institution," "state prison," "community correctional center," and "jail" thereby eliminating different categories of correctional facilities. The terms mean a correctional facility administered by the Department of Correction (DOC) commissioner.

The act updates the names in the statutory list of DOC facilities and makes technical changes, including moving the list from Title 1 (Provisions of General Application) to Title 18 (Correctional Institutions and Department of Correction).
EFFECTIVE DATE: October 1, 2001

UPDATED NAMES OF DOC FACILITIES

The act adds to the list of DOC facilities (1) the community enforcement offices in Bridgeport, Hartford, New Haven, Norwich, and Waterbury and (2) new

facilities, such as MacDougall and Walker in Suffield. It deletes closed DOC facilities, such as the Jennings Road, Morgan Street, and Union Avenue detention centers. It changes the statutory references to some facilities to reflect their new names. These include the Northeast Correctional Institution, renamed the Donald T. Bergin Correctional Institution; the Somers Correctional Institution, renamed the Osborn Correctional Institution; and the Niantic Women's Institution, renamed the York Correctional Institution.

PA 01-22—sSB 1112
Judiciary Committee

AN ACT CONCERNING THE WORKERS' COMPENSATION REVIEW BOARD

SUMMARY: This act increases, from 10 to 20 days, the time that a party has to appeal to the Workers' Compensation Review Board from a workers' compensation commissioner's:

1. award;
2. decision on a motion;
3. order requiring an employee's prior employer or its insurer who is found liable for part of the employee's compensation to reimburse an initially liable employer or insurer;
4. decision in an occupational lung disease claim;
5. decision on whether an employee's injury is a permanent vocational disability; and
6. decision imposing a penalty on an employer, insurer, or party for certain violations of the Workers' Compensation Act.

EFFECTIVE DATE: October 1, 2001

APPEALS FROM DECISIONS IMPOSING PENALTIES

The act increases the appeals period for decisions of workers' compensation commissioners imposing a penalty on:

1. an employer for failing to provide insurance coverage or welfare plan payments to employees eligible for or receiving workers' compensation benefits,
2. an employer or insurer for undue delay in adjusting or paying benefits due to fault or neglect,
3. a party who unreasonably and without good cause delays completing a hearing,
4. an employer who does not comply with certain insurance requirements, and
5. an employer failing to transfer an employee to suitable work during treatment or rehabilitation.

PA 01-25—sSB 1050
Judiciary Committee

AN ACT CONCERNING ASSAULT OF PROSECUTORS

SUMMARY: This act extends the enhanced penalty that exists for assaults on public safety and emergency medical personnel to assaults on prosecutors. It makes it a class C felony (see Table on Penalties) to assault a prosecutor, intending to intimidate, harass, or retaliate against him because of his performance of his official duties. Like the assault on public safety and emergency medical personnel, the assault on prosecutors must cause physical injury. Under prior law, this crime was a simple assault (class A misdemeanor).
EFFECTIVE DATE: October 1, 2001

PA 01-28—sSB 1053
Judiciary Committee
Labor and Public Employees Committee

AN ACT CONCERNING THE DEFINITION OF MENTAL DISABILITY AND THE CODE OF FAIR PRACTICES

SUMMARY: This act adds marital status, mental disability, and learning disability as prohibited bases for discrimination in those state employment, services, and program laws that did not already include them. It defines "mental disability" and applies it to those laws and to existing laws prohibiting such discrimination by private employers, labor unions, employment agencies, and public accommodations providers.

Finally, the act directs state agencies to comply with the federal Americans with Disabilities Act (ADA) in their provision of services, programs, and activities when the federal law affords people with disabilities greater rights and protections than state law does.
EFFECTIVE DATE: October 1, 2001

UNIFORMITY IN STATE LAW

The act makes marital status and mental disability prohibited reasons for discrimination in state (1) employment; (2) services; (3) recruitment and job referral programs; (4) licensing; (5) education, counseling, vocational guidance, job training, and

apprenticeship programs; and (6) assistance programs. It also prohibits state licensing agencies from discriminating against people with learning disabilities. These laws already prohibit discrimination based on race, color, religion, sex, age, national origin, ancestry, mental retardation, learning disability (in all but licensing), and physical disability.

MENTAL DISABILITY DEFINITION

Under the act, a person has a mental disability if he has a record of, or is regarded as having, one or more mental disorders as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders" (known as the "DSM-IV"). That manual lists approximately 400 disorders of varying degrees of severity. Prior law did not define mental disability.

PA 01-32—sSB 1357
Judiciary Committee

AN ACT CONCERNING WITNESS FEES

SUMMARY: This act expands the costs a prevailing party in a civil action can recover from the losing party. It allows the prevailing party to recover (1) reasonable fees for dentists; physicians; chiropractors; podiatrists; natureopaths; optometrists; registered, licensed practical, and advanced practice registered nurses; and real estate appraisers who provide expert testimony in a deposition and (2) the costs of recording, videotaping, transcribing, and presenting the deposition if it is used in lieu of live testimony. Under prior law, a prevailing party could recover a fee for these experts, except advance practice registered nurses, only if they testified in person.

The act permits prevailing parties to recover a fee for advance practice registered nurses who provide personal testimony as they may currently do for the other experts listed above.

The act requires the court to establish reasonable fees for the testimony provided in these depositions just as it currently does for experts who appear in person.
EFFECTIVE DATE: October 1, 2001

PA 01-35—sHB 6947
Judiciary Committee

AN ACT CONCERNING THE ADVISEMENT TO CRIME VICTIMS OF THEIR CONSTITUTIONAL RIGHTS

SUMMARY: This act requires Superior Court judges to advise crime victims with cases pending before the court of so-called "crime victims' constitutional rights" daily at the start of arraignment. These rights are enumerated in Article 29 of the state constitution.

The act specifies that the advisement is to ensure that victims coming before the court know their rights.
EFFECTIVE DATE: October 1, 2001

ADVISEMENT

The advisement must be in the following form:

"If you are a victim of a crime with a case pending before this court, you are advised that you have the right to:

1. be treated fairly and with respect throughout the criminal justice process;
2. timely disposition of the criminal case;
3. be protected from the accused;
4. be notified of and attend court proceedings;
5. speak with the prosecutor;
6. object or support any plea agreement;
7. make a statement to the court before the court accepts a plea agreement and at sentencing;
8. restitution; and
9. information about the arrest, conviction, sentence, imprisonment, and release of the accused."

PA 01-36—sHB 6660
Judiciary Committee

AN ACT CONCERNING AIR BAG FRAUD

SUMMARY: This act establishes a specific larceny category called "air bag fraud." People commit this offense when, with intent to defraud, they obtain money or other property from someone for knowingly installing or reinstalling any object instead of an airbag designed according to federal safety requirements, and proper for the make, model, and year of the vehicle, as part of the vehicle inflatable restraint system. The penalty for this offense varies from a class C misdemeanor to a class B felony, depending on the amount charged for the airbag. For example, if the amount charged was between $1,000 and $5,000, the penalty would be a class D felony punishable by a prison term of up to five years, a fine of up to $5,000, or both.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Airbag Standards

The Code of Federal Regulations specifies airbag and other performance standards to protect vehicle occupants in crashes (49 CFR 571.208).

Larceny Defined

Someone commits larceny when, with intent to deprive someone of his money or other property or to appropriate it to himself or a third person, he wrongfully takes, obtains, or withholds it from the owner.

Larceny Penalties

There are six different classifications of larceny based on the value of the property illegally obtained.

Degree of Larceny	*Amount of Property Involved*	*Classification*	*Prison*	*Fine*
First degree	Over $10,000	Class B felony	Up to 20 years	Up to $15,000
Second degree	Over $5,000	Class C felony	Up to 10 years	Up to $10,000
Third degree	Over $1,000	Class D felony	Up to 5 years	Up to $5,000
Fourth degree	Over $500	Class A misdemeanor	Up to 1 year	Up to $2,000
Fifth degree	Over $250	Class B misdemeanor	Up to 6 months	Up to $1,000
Sixth degree	$250 or less	Class C misdemeanor	Up to 3 months	Up to $500

In addition, certain other defined offenses, such as defrauding a public community and extortion, are classified in one of these degrees of larceny without regard to the value of the property obtained.

Related Larceny Crimes

A person commits the specific larceny crime of obtaining property by false pretense when, by any false token, pretense, or device, he obtains someone's property, with intent to defraud him or any other person.

A person commits the specific larceny crime of obtaining property by false promise, when, pursuant to a scheme to defraud, he obtains someone's property by means of a representation that he or a third person will engage in particular conduct, and when he does not intend to engage in such conduct or does not believe that the third person intends to engage in such conduct.

PA 01-38—HB 5307
Judiciary Committee

AN ACT AUTHORIZING THE REMOVAL OF SOCIAL SECURITY NUMBERS FROM DOCUMENTS TO BE RECORDED ON THE LAND RECORDS

SUMMARY: This act allows anyone whose Social Security number is on a document that is to be recorded on a municipality's land records to remove or obliterate it before the document is recorded.
EFFECTIVE DATE: October 1, 2001

PA 01-41—sHB 6535
Judiciary Committee

AN ACT CONCERNING INDEMNIFICATION OF COURT APPOINTED HEALTH CARE GUARDIANS

SUMMARY: This act requires the state to indemnify court-appointed health care guardians to the same extent and under the same conditions as state officers and employees. Health care guardians are licensed health care providers with specialized training in treating people with psychiatric disabilities. The court appoints them to represent the health care interests of criminal defendants when determining whether to order involuntary medication to make them competent to stand trial.

The attorney general (AG) must defend a guardian under the same conditions as he would defend state officers and employees. Specifically, the act requires him to defend the guardian in any civil action or proceeding, unless he decides, based on his investigation, that it would be inappropriate, and notifies the guardian in writing.

The act requires the state to pay a guardian's legal costs and fees under the same conditions that apply to state officers and employees.

Finally, it specifies that claims against these guardians do not have to be brought to the claims commissioner.
EFFECTIVE DATE: October 1, 2001

INDEMNIFICATION OF HEALTH CARE GUARDIANS

Under the act, the state must indemnify any court-appointed health care guardian from financial loss and expense arising out of any claim or suit alleging negligence or other act or omission resulting in damage or injury. The state's duty applies only if a guardian was acting in the discharge of his duties and his acts or omissions were not wanton, reckless, or malicious.

GUARDIAN'S LEGAL FEES AND COSTS

The state must pay a guardian's legal costs and fees only when (1) the AG states in writing that the state will not provide an attorney and (2) the guardian is then found to have acted in the discharge of his duties or in the scope of his employment, and not wantonly, recklessly, or maliciously.

The state may pay the guardian's legal fees and costs only after the final disposition of the lawsuit or claim and only in an amount the AG determines is reasonable.

PA 01-51—SB 998
Judiciary Committee

AN ACT CONCERNING THE STORAGE OF WEAPONS BY THE DEPARTMENT OF CORRECTION

SUMMARY: This act requires the Department of Correction (DOC) to store its firearms, ammunition, or deadly weapons in any secure location on DOC property, instead of in a secure location on the grounds of a correctional facility with a security rating of three or higher. In practice, DOC gives each of its correctional facilities a security rating from one to five, with five having the highest security.

The act requires the DOC commissioner to adopt implementing regulations, which must include a definition of "secure location."
EFFECTIVE DATE: October 1, 2001

PA 01-53—sSB 1049
Judiciary Committee
Government Administration and Elections Committee

AN ACT CONCERNING STATE AGENCY AFFIRMATIVE ACTION PLANS AND DIVERSITY TRAINING

SUMMARY: This act requires state agencies, boards, or commissions with 20 or fewer full-time employees to file their affirmative action plans every two years with the Commission on Human Rights and Opportunities (CHRO). Prior law required them to file semiannually unless CHRO permitted them to file annually. The act requires CHRO to adopt regulations to include a schedule for the biennial filings.

The act also (1) extends the deadline for state agencies to complete diversity training and education for all their employees from January 1, 2001, to July 1, 2002; (2) specifies that any employee who works more than 20 hours per week must be trained; and (3) requires that state agencies submit information in the affirmative action plans they submit to CHRO demonstrating that they complied with the diversity training requirement.
EFFECTIVE DATE: October 1, 2001

PA 01-54—sSB 119 (VETOED)
Judiciary Committee
General Law Committee

AN ACT CONCERNING VIDEO GAMES

SUMMARY: This act requires the consumer protection commissioner to fine business owners who allow minors to play video games with "violent point and shoot video simulators." These devices allow players to shoot simulated firearms at human targets depicted on video screens.

The act applies to owners of for-profit businesses providing these games for entertainment. Fines may be up to $1,000 for each violation, and the attorney general may file suit to collect them.
EFFECTIVE DATE: October 1, 2001

PA 01-59—SB 1187
Judiciary Committee
Transportation Committee

AN ACT CONCERNING EMERGENCY VEHICLES

SUMMARY: This act classifies Department of Correction (DOC) vehicles operated by DOC officers in the course of their employment and responding to emergency calls as emergency vehicles. By doing so, it allows them to:

1. park or let the vehicles stand in a manner that would normally violate the law,
2. go through red lights and past stop signs after slowing down,

3. exceed the speed limit as long as it does not endanger life or property, and
4. disregard laws on traffic direction and turning.

The operator must drive with due regard for the safety of people and property. The vehicle must use a siren or similar device and flashing or revolving lights that meet certain standards. A motor vehicle operator in the immediate area of an approaching emergency vehicle using a siren and flashing lights must pull over to the right-hand edge of the road until the emergency vehicle has passed.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Emergency Vehicles

By law, emergency vehicles are also:
1. ambulances or emergency medical service organization vehicles responding to emergency calls,
2. vehicles used by a fire department or its officers on the way to a fire or responding to emergency calls, and
3. police vehicles operated by police officers or Department of Motor Vehicles' inspectors answering emergency calls or pursuing fleeing law violators.

PA 01-63—sSB 999
Judiciary Committee
Transportation Committee

AN ACT CONCERNING THE USE OF A CERTIFICATE OF IDENTIFICATION FROM THE DEPARTMENT OF CORRECTION TO OBTAIN AN IDENTITY CARD

SUMMARY: This act limits the forms of identification the Department of Motor Vehicles (DMV) can accept from identity card applicants. Previously, it could accept either birth or Department of Correction (DOC) identification certificates. Under the act, it may not accept an identification certificate unless DOC has authorized its use for this purpose.

DMV issues identity cards to applicants who do not have valid driver's licenses. They bear the person's photograph, signature, height, sex, and eye color.
EFFECTIVE DATE: October 1, 2001

PA 01-68—sSB 1052
Judiciary Committee

AN ACT CONCERNING THE PRINCIPAL AND INCOME ACT

SUMMARY: This act makes certain changes relating to fiduciary decisions under the Connecticut Principal and Income Act (CPIA), which establishes rules for fiduciaries administering trusts. The rules relate to allocating property between principal and income and between income and remainder beneficiaries (income beneficiaries generally receive funds during the life of a trust and remainder beneficiaries receive the remainder of a trust's funds when it terminates). CPIA gives fiduciaries certain discretionary powers including the power to adjust between principal and income under certain circumstances.

The act prohibits a court from changing a fiduciary's decision to exercise a discretionary power under the CPIA unless the decision was an abuse of the fiduciary's discretion. It prohibits a court from finding an abuse of discretion merely because the court would have exercised the discretion in a different manner or not exercised the discretion.

The act applies to fiduciary decisions including:
1. whether and to what extent to transfer an amount between principal and income under the trustee's power to adjust and
2. determinations of which factors are relevant to the trust and its beneficiaries, the extent that the factors are relevant, and the weight (if any) given to them when deciding whether and to what extent to exercise the power to adjust.

The act provides rules for the court to remedy a fiduciary's abuse of discretion and a procedure for a fiduciary to petition the court for a determination of whether a proposed exercise or non-exercise of discretion would be an abuse of discretion.

Prior law prohibited a trustee from using his power to adjust if it would not significantly increase the funds actually available to the income beneficiary (accounting for funds available from sources other than the trust). The act limits this restriction to adjustments allocating principal to income.
EFFECTIVE DATE: October 1, 2001

REMEDIES

Under the act, if the court finds that a fiduciary abused his discretion, it can restore the income and remainder beneficiaries to the position they would have been in if not for the fiduciary's abuse of discretion.

The act provides the following rules.

1. If a beneficiary did not receive a distribution or received one that was too small, the court can require the fiduciary to distribute from the trust an amount that will restore the beneficiary in whole or part to his appropriate position.
2. If a beneficiary received a distribution that was too large, the court can require the fiduciary to withhold an amount from future distributions or require the beneficiary to return some or all of the distribution to the trust in order to restore beneficiaries, the trust, or both to their appropriate positions.
3. When the court cannot restore beneficiaries, the trust, or both to the position they would have been in if not for the fiduciary's abuse of discretion, the court can require the fiduciary to pay beneficiaries, the trust, or both from its own funds.

FIDUCIARY REQUESTS TO COURTS

The act allows a fiduciary to petition the court that has jurisdiction over a particular trust or estate for a determination of whether a proposed exercise or non-exercise of a discretionary power would be an abuse of discretion.

The act places the burden of showing that the fiduciary's proposal will be an abuse of discretion on a beneficiary who challenges it if the fiduciary's petition sufficiently informs the beneficiaries of (1) the reasons for the proposal, (2) the facts that the fiduciary relies on, and (3) how the income and remainder beneficiaries will be affected.

BACKGROUND

Fiduciaries and the Power to Adjust under the CPIA

Under the CPIA, a fiduciary exercising the power to adjust or a discretionary power must administer the trust or estate impartially, based on what is fair and reasonable to all beneficiaries. He must favor one or more beneficiaries if and to the extent the trust or will clearly shows that he can or must do so. The CPIA presumes that a determination in accordance with its provisions is fair and reasonable to all.

The CPIA allows a trustee to adjust the funds he receives between principal and income under certain circumstances. He must (1) manage the trust's assets as a prudent investor (investing for total return as provided in the Prudent Investor Act), (2) follow the trust's terms and the CPIA's allocation rules, and (3) believe he cannot produce a fair and reasonable result for all beneficiaries without making an adjustment. Trustees must consider certain factors and all factors relevant to the trust and its beneficiaries in deciding whether and to what extent to adjust between principal and income.

PA 01-69—sSB 1057
Judiciary Committee

AN ACT CONCERNING BENEFICIARY INTERESTS IN TRUST MATTERS

SUMMARY: By law, in proceedings involving trusts and trustees' fiscal affairs, courts appoint a guardian *ad litem* to represent the interests of unborn, minor, or incompetent people and bind them to the outcome of the proceedings. (A guardian *ad litem* is a person, often an attorney, the court appoints to represent someone's interest during a legal proceeding.)

This act authorizes people in the trust-related matters to represent the interests of and bind a minor, an incapacitated or unborn person, or someone whose identity or location is unknown and not reasonably ascertainable if (1) they have a substantially identical interest with respect to the particular question or dispute, (2) there is no conflict of interest between the representative and the person being represented, and (3) they are not otherwise represented.

The act specifies circumstances under which these people's interests can be represented by conservators, guardians, agents, trustees, executors, administrators, and parents.

Notice to a person authorized by the act to represent someone has the same effect as notice to the person being represented himself. The representative's consent is binding on the represented person unless the person objects before the consent would otherwise have become effective.

The act allows a court to appoint a guardian *ad litem* to represent a minor, incapacitated, or unborn person, someone whose identity or location is unknown, or others authorized to be represented by the act if it determines that his interest is not represented or that the representation may be inadequate. It allows a guardian *ad litem* to (1) act on behalf of the person represented concerning any trust-related matter the act covers, whether or not a judicial proceeding is pending, and (2) consider general benefits accruing to the living members of the represented individual's family when making decisions. The act continues to authorize the court to appoint a guardian *ad litem* to represent several people or interests.

The act specifies that it does not authorize someone who is not a licensed attorney to serve as legal counsel in a trust matter.

EFFECTIVE DATE: October 1, 2001

TRUST MATTERS

The act covers the following trust-related matters:

1. any property or property interest held in trust,
2. legal proceedings against or by a trust or the trustee,
3. proceedings to interpret any document creating a trust or other instrument under which a trustee holds property,
4. accountings of any trustee, and
5. any matters concerning the administration of a trust.

The act applies to all judicial proceedings and all nonjudicial settlements, agreements, or acts related to these trust matters.

CONSERVATORS, GUARDIANS, AGENTS, TRUSTEES, EXECUTORS, AND PARENTS

With respect to trust-related matters, the act authorizes:

1. a court-appointed conservator or guardian of the estate to represent and bind the estate he controls;
2. a court-appointed conservator or guardian of the person to represent and bind the ward if a conservator or guardian of the ward's estate has not been appointed;
3. an authorized agent to represent and bind the principal;
4. a trustee to represent and bind the trust's beneficiaries;
5. an executor or administrator of a decedent's estate to represent and bind people interested in the estate; and
6. a parent to represent and bind his minor or unborn child unless a guardian has been appointed for the child.

It appears that prior law already authorized these representations.

The act grants this authority only to the extent there is no conflict of interest either between the representative and the person represented or among those represented concerning a particular question or dispute.

POWER OF APPOINTMENT

With respect to trust matters, the act requires the sole holder or all co-holders of any power of appointment, whether or not they can currently exercise the power, to represent potential appointees. It also requires the sole holder or all co-holders of a power of revocation or a general power of appointment to represent those who obtain property when the holder does not exercise the power. These requirements only apply to the extent there is no conflict of interest between the holder of a power of appointment and the people represented with respect to the particular question or dispute.

BACKGROUND

Power of Appointment

A power of appointment is the authority a property owner (donor) gives to someone (donee) to designate or reappoint the person or people who are to receive the property upon the donor's or donee's death or at some other time.

Authority to Appoint Guardian Ad Litem

The law authorizes the Superior or Probate Court to appoint a guardian *ad litem* for any minor, incompetent, undetermined, or unborn person in any matter before it if it appears to the court that they have or may have an interest in the proceeding. The appointment is not mandatory but is within the court's sound discretion. The law allows the court to appoint one guardian for two or more people.

PA 01-71—sSB 1108
Judiciary Committee

AN ACT CONCERNING OFFERS OF JUDGMENT

SUMMARY: This act requires a plaintiff or defendant making an offer of judgment to do so at least 30 days before trial. In cases based on contract or seeking money damages, the plaintiff or defendant can make an offer of judgment, offering to settle the claim for a certain amount of money.

The act also increases, from 30 to 60 days, the time that a defendant has after being notified to accept a plaintiff's offer of judgment. But this conflicts with a court rule that requires a defendant to accept within 30 days. As under current law and court rule, the

acceptance must occur before a verdict. The act does not change the 10 days that a plaintiff has after notice to accept a defendant's offer.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Plaintiff's Offer of Judgment

If the defendant accepts a plaintiff's offer of judgment, the court clerk enters judgment on the stipulation. If he does not accept the offer and the plaintiff wins an equal or greater amount at trial, the court must add 12% annual interest to the amount. The court can also award reasonable attorney's fees up to $350.

Defendant's Offer of Judgment

If the plaintiff accepts a defendant's offer of judgment, the court clerk enters judgment against the defendant for the amount named in the offer and for costs accrued up to the time the defendant gave notice of the offer to the plaintiff. If the plaintiff does not accept the offer and he recovers less than the amount in the offer, he cannot recover costs accruing after receiving notice of the offer and he must pay the costs accrued by the defendant after notice (this can include reasonable attorney's fees up to $350).

PA 01-72—sSB 1418
Judiciary Committee

AN ACT AUTHORIZING JUDGE TRIAL REFEREES TO ISSUE WARRANTS AND OTHER CRIMINAL PROCESS

SUMMARY: This act gives judge trial referees the same authority as a Superior Court judge to issue search warrants. It also gives judge trial referees, if specifically designated by the chief justice for this purpose, the same authority as a Superior Court judge in criminal cases to administer justice and issue:

1. arrest warrants (and set conditions of release),
2. subpoenas for witnesses,
3. a capias (order to take someone into custody) for a witness or defendant who does not appear in court, and
4. all other criminal process.

Judges who retire at the mandatory retirement age of 70 can become state referees and may be specifically designated as judge trial referees by the chief justice. They can hear criminal and civil cases and juvenile matters on referral from the Superior Court.
EFFECTIVE DATE: October 1, 2001

PA 01-74—sHB 5399
Judiciary Committee
Planning and Development Committee

AN ACT CONCERNING RECORDING ASSIGNMENT OF MORTGAGE

SUMMARY: This act requires that whenever a mortgage assignment or other transfer of an interest in a mortgage is recorded on the land records, the town clerk must enter the property owner's name in the grantor index for the transaction.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Grantor/Grantee Index

Each town clerk keeps an index, in alphabetical order, to help people conducting a title search of a parcel of land. The index has two parts. One is the grantor index, which lists all transactions where someone (grantor) conveyed an interest in land. The other is the grantee index, which lists all transactions where someone acquired an interest in land.

When a landowner obtains a mortgage he is considered a grantor because he conveys his interest in his land to the lender as security for the loan, and his name is listed alphabetically in the grantor index. The lender is considered a grantee because it receives an interest in the land in exchange for the money it lends and its name is recorded alphabetically in the grantee section.

PA 01-78—sHB 6656
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING CREDIT FOR PRESENTENCE CONFINEMENT IN A POLICE OR COURTHOUSE LOCKUP

SUMMARY: This act gives a person sentenced for an offense on or after October 1, 2001 credit toward his prison sentence for time spent before sentencing confined in a police station or courthouse lockup because he could not obtain or was denied bail. The person must request the credit at sentencing, and the court, on request, must indicate on the mittimus (court

order to take a person into custody) the number of days a person spent in presentence confinement. A person receives one day of credit for each day of presentence confinement.

The act presumes that a person was confined in a police station or courthouse lockup because he could not obtain or was denied bail if he is confined in a correctional facility on October 1, 2001 for an offense for which he was sentenced before that date. The act gives him a one-day credit toward his sentence but allows the court to order otherwise.

If a person is sentenced to prison for a first conviction of driving under the influence of alcohol or drugs, the act cannot reduce his sentence below the mandatory minimum of 48 consecutive hours in prison.

By law, a person already receives credit towards his sentence and fine for time confined prior to sentencing in a community correctional center or correctional institution under a mittimus or because he could not obtain or was denied bail.

EFFECTIVE DATE: October 1, 2001

PA 01-81—HB 6898
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING AN AMNESTY PROGRAM FOR FOREIGN LIMITED LIABILITY COMPANIES AND FOREIGN CORPORATIONS

SUMMARY: This act allows out-of-state (1) limited liability companies (LLCs) doing business in Connecticut without a registration certificate to register without being subject to the monthly penalty for failing to do so and (2) corporations doing business in Connecticut without a certificate of authority to get a certificate without being subject to the monthly penalty for failing to do so. The penalty is $165 for each month or part of a month.

To qualify for the waiver, an LLC or corporation must come forward voluntarily between July 1, 2001 and July 1, 2002. By law, an LLC or corporation is exempt from the penalty if it registers with the secretary of the state within 90 days after it starts transacting business in the state.

The amnesty program does not affect liability for fees, taxes, and penalties and interest on them that the company or corporation owes for doing business in Connecticut.

EFFECTIVE DATE: July 1, 2001

PA 01-82—sHB 6983
Judiciary Committee

AN ACT CONCERNING THE LIABILITY OF LANDOWNERS WHO PERMIT THE HARVESTING OF FRUIT AND VEGETABLES

SUMMARY: This act gives a landowner immunity from civil liability for injuries sustained by people he invites or permits on his land, without charge, to harvest fruits or vegetables, when the injuries arise from their use of the land or harvesting. The immunity applies only if the people are harvesting on behalf of a nonprofit organization or corporation for its own use or for distribution to other nonprofit organizations or corporations. It does not apply to:

1. injuries caused by the owner's failure to warn of a dangerous hidden hazard he knows about,
2. an owner to whom the Department of Revenue Services has issued a farmer sales tax exemption permit for public harvesting of agricultural products, or
3. an owner who operates an agricultural operation to which the public is invited and charged for produce harvested and removed from the land.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Under common law (judge-made law), a landowner owes the following duties to people who come onto his land for the purpose for which it is held open to the public:

1. not to cause harm intentionally;
2. to inspect the premises for dangerous conditions;
3. to erect any safeguards necessary to render the premises reasonably safe;
4. either to warn people entering of any known dangerous non-apparent conditions or activities or make such conditions or activities reasonably safe; and
5. to watch out for people who come onto the land, if he is involved in a dangerous activity.

Under common law, landowners are liable for injuries caused by their breach of one or more of these duties.

PA 01-83—sHB 7012
Judiciary Committee

AN ACT CONCERNING DISORDERLY CONDUCT AND BURGLARY

SUMMARY: This act creates two new crimes, enhancing existing penalties for offenses committed against victims inside dwellings.

It extends the crime of second-degree burglary to people who unlawfully enter dwellings intending to commit a crime when someone (such as a resident) who is not participating in the crime is present. Prior law covered night-time entries only, but applied whether or not anyone was in the home. All day-time entries were third-degree offenses.

Second-degree burglary is a class C felony; third-degree burglary is a class D felony (see Table on Penalties).

The act also extends the crime of disorderly conduct to people who commit simple trespass (illegally come onto property, without intending to harm) and observe someone inside a dwelling. Previously, this was an infraction. The act gives "dwelling" the same meaning it has in the burglary statutes (i.e., a building usually occupied by a person lodging there at night). The observation must occur without the observed person's consent or knowledge (1) while he is not in plain view and (2) under circumstances where he has a reasonable expectation of privacy. The act exempts casual or cursory observations.

Disorderly conduct is a class C misdemeanor. The fine for simple trespass is $77.
EFFECTIVE DATE: October 1, 2001

PA 01-84—sHB 7028
Judiciary Committee

AN ACT MAKING TECHNICAL AND OTHER CHANGES TO CERTAIN JUDICIARY-RELATED STATUTES

SUMMARY: This act makes minor changes in the laws related to (1) the secretary of the state's service of process fees; (2) second-degree assault against elderly, blind, disabled, pregnant, or mentally retarded people; and (3) weapons possession at schools and school-sponsored activities.
EFFECTIVE DATE: July 1, 2001

SERVICE OF PROCESS FEES

The act specifies that plaintiffs must pay a $25 fee when they serve legal process on the secretary of the state as the designated agent of an out-of-state surviving or resulting trust or other business entity created by the merger or consolidation of a statutory trust. This is the same amount set under other statutes authorizing service on the secretary as an entity's designated agent. Prior law required the fee but did not specify an amount.

ASSAULT OF AN ELDERLY, BLIND, DISABLED, PREGNANT, OR MENTALLY RETARDED PERSON

The act establishes a mandatory minimum penalty when a non-retarded person commits second-degree larceny by taking money or property away from a person with retardation. Under prior law, this was a class C felony (see Table on Penalties). The act instead makes this offense a form of second-degree assault on an elderly, blind, disabled, pregnant, or mentally retarded person—a class D felony requiring a prison sentence of at least two years. However, by reducing the penalty from a class C to a class D felony, the act also reduces the maximum sentence from 10 to five years.

People convicted of this crime may be disqualified from driving school buses and working in positions that involve direct contact with vulnerable populations.

WEAPONS POSSESSION ON SCHOOL GROUNDS

The act exempts anyone who lawfully possesses a firearm for use in a school-sponsored activity from the crime of weapons possession on school grounds. By law, people commit this crime when they possess firearms or dangerous weapons on school property or at school-sponsored activities (those a board of education sponsors or authorizes, held on school property or elsewhere) knowing that they are not licensed or privileged to do so. But people who lawfully have guns on school property for use in a school-sponsored activity (such as a school's rifle club) are exempt. It was unclear under prior law whether such people were exempt when the activity was held off campus.

PA 01-91—sSB 1047
Judiciary Committee
Appropriations Committee
Human Services Committee

AN ACT CONCERNING CHILD SUPPORT ENFORCEMENT

SUMMARY: This act increases the powers of child support enforcement officers by allowing them to:

1. order people to attend the Superior Court's Family Support Magistrate Division (FSMD) child support modification hearings;
2. hold and distribute performance bonds (money a judge or family support magistrate orders people at risk of not complying with child support orders to pay into an escrow account) to a child's custodian when a liable person fails to pay child support; and
3. serve income-withholding orders upon employers by first-class mail, rather than by personal service or certified mail only.

Finally, the act changes the name of the Judicial Department's "Support Enforcement Division" to "Support Enforcement Services" and makes conforming changes to the child support statutes. This unit provides clerical, administrative, and other nonjudicial support to the FSMD.

EFFECTIVE DATE: October 1, 2001

EXPANDED POWERS OF SUPPORT ENFORCEMENT OFFICERS

Support enforcement officers are authorized by law to supervise the payment of family support magistrate child or spousal support orders. They can initiate child support modification hearings if, after reviewing a case, they find that a support order substantially deviates from the state's child support guidelines. The act allows them to review a non-welfare case when a child's custodian, not just the parents, makes a request. It also permits support officers to sign the order (called a summons) directing people to attend these hearings. Previously, they had to get an assistant court clerk's signature.

Finally, the act authorizes Support Enforcement Services to hold and distribute performance bonds. The Department of Social Services' Bureau of Child Support Enforcement (BCSE) was the only entity that could do this under prior law.

BACKGROUND

Family Support Magistrate Division

By law, the Superior Court's FSMD has jurisdiction over child support cases in which (1) the child is receiving, or has received, cash or foster care assistance or (2) where a child's parent or guardian has paid a fee and asked BCSE for help collecting support. It is also the tribunal designated by state law to handle interstate family support cases.

PA 01-95—sHB 6583
Judiciary Committee

AN ACT CONCERNING RECONSIDERATION REQUESTS AND THE REOPENING OF MATTERS BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

SUMMARY: This act authorizes the executive director of the Commission on Human Rights and Opportunities (CHRO) to permit people whose discrimination complaints have been dismissed without a full investigation, and who ask permission, to go directly to court, even if their request to CHRO to reconsider the dismissal has been granted or denied or is pending.

If CHRO grants or denies the reconsideration request, the act requires that the complainant ask for permission to go to court within 15 days after he receives the notice about his reconsideration request. The act requires that the complainant file the lawsuit within 90 days after he receives CHRO's permission to do so. Under prior law, CHRO could allow such people to go directly to court only if they had not asked for reconsideration of the dismissal. CHRO relinquishes its jurisdiction to do investigations once it gives the complainant permission to go to court.

The act also establishes standards for reopening a closed CHRO matter. These include: (1) discovery of a material mistake of fact or law; (2) the finding is arbitrary or capricious; (3) the finding is clearly erroneous in view of reliable, probative, and substantial evidence on the whole record; and (4) discovery of new evidence that materially affects the merits of the case and which, for good reasons, was not presented during the investigation.

The act requires that requests to CHRO to reopen a case be in writing. By law, CHRO may reopen a case when asked to do so by a complainant or respondent for good cause shown, in the interest of justice. CHRO may also reopen a case on its own initiative, whenever justice requires it.

EFFECTIVE DATE: July 1, 2001

BACKGROUND

Dismissal Without Full Investigation

By law, CHRO may dismiss a complaint without a full investigation if (1) the executive director or her designee determines the accused person is exempt from the anti-discrimination laws or (2) the case does not state a claim for relief, is frivolous on its face, or has no reasonable possibility that an investigation will result in a reasonable cause finding.

Reconsideration of Dismissals

A request for reconsideration must be made within 15 days from the date CHRO dismissed it. CHRO's executive director must reconsider or reject the request within 90 days from the date CHRO dismissed the complaint.

PA 01-99—sSB 1160
Judiciary Committee

AN ACT CONCERNING MANDATORY MINIMUM SENTENCES

SUMMARY: This act allows judges to impose less than the law's mandatory minimum sentence on some drug felons. They can do so when no one was hurt during the crime and the defendant (1) did not use or attempt or threaten to use physical force; (2) was unarmed; and (3) did not use, threaten to use, or suggest that he had a deadly weapon (such as a gun or knife) or other instrument that could cause death or serious injury.

Defendants must show good cause and can invoke the act's provisions only once. Judges must state at sentencing hearings their reasons for (1) imposing the sentence and (2) departing from the mandatory minimum.

The act covers:

1. manufacture or sale of drugs and related crimes by a person who is not drug-dependent;
2. manufacture or sale of drugs within 1,500 feet of elementary or high schools, public housing, or day care centers;
3. use, possession, or delivery of drug paraphernalia within 1,500 feet of a school by a non-student; and
4. drug possession within 1,500 feet of a school.

EFFECTIVE DATE: July 1, 2001

PA 01-114—sSB 419
Judiciary Committee
Banks Committee

AN ACT CONCERNING THE REMOVAL OF A FIDUCIARY

SUMMARY: This act allows the probate court to remove a fiduciary if:

1. lack of cooperation among cofiduciaries substantially impairs the administration of the estate;
2. the court determines that removal best serves the beneficiaries' interests because of the unfitness, unwillingness, or persistent failure of the fiduciary to administer the estate effectively;
3. there has been a substantial change of circumstances; or
4. all beneficiaries request removal and the court finds that (a) removal best serves the interests and is consistent with the material purposes of their governing instrument and (b) a suitable cofiduciary or successor fiduciary is available.

A probate court may already remove a fiduciary who becomes incapable of executing his trust, neglects to perform his duties, wastes the estate, or does not furnish any additional or substitute probate bond the court orders.

The act prohibits a probate court from removing (1) a successor corporate fiduciary in a way that discriminates against state banks or national banks or (2) a consolidated state bank, "national banking association," or any "receiving state bank or national banking association" solely because it is a successor fiduciary. (Apparently the term "national banking association" means a national bank regulated by the federal Office of the Comptroller of the Currency.) A "successor fiduciary" is a corporate fiduciary (often a bank) that is substituted for another corporate fiduciary because of the (1) merger or consolidation of corporate fiduciaries, (2) acquisition of the stock or assets of a corporate fiduciary, or (3) a corporate fiduciary's transfer of all or a part of its trust and fiduciary business to another corporate fiduciary. (The act does not define a "receiving state bank or national banking association," but apparently this is a bank that receives trust or fiduciary business from another corporate fiduciary.)

As under prior law, the act allows the court, after notice and a hearing, to remove a fiduciary on its own motion or on the application and complaint of either the surety on the fiduciary's probate bond or anyone interested in the estate.

EFFECTIVE DATE: October 1, 2001

PA 01-121—sHB 7013
Judiciary Committee
Appropriations Committee
Government Administration and Elections Committee
Legislative Management Committee

AN ACT CONCERNING CRIME PREVENTION AND A STATE PREVENTION COUNCIL

SUMMARY: This act creates a State Prevention Council to (1) create a prevention framework for the state, (2) recommend a comprehensive statewide prevention plan, (3) better coordinate existing and future state agency prevention expenditures, and (4) increase fiscal accountability. The council consists of eight agency heads or their designees and other agency representatives that the council decides to include.

The act defines "prevention" as policies and programs that (1) promote healthy, safe, and productive lives and (2) reduce the likelihood of crime, violence, substance abuse, illness, academic failure, and other socially destructive behaviors.

The act requires the council to:

1. submit a report to the Office of Policy and Management (OPM) secretary and the Appropriations Committee by July 1, 2002, identifying appropriations for prevention services in each involved agency's budget for the previous fiscal year;
2. recommend a comprehensive statewide prevention plan to the OPM secretary and the General Assembly by December 1, 2002; and
3. submit its recommendations on expanding the council (including the use of potential benchmarks) or terminating it to the OPM secretary and Appropriations Committee by July 1, 2004.

It also requires the governor to include a prevention report in his budget document for the biennial budget covering July 1, 2003 to June 30, 2005.
EFFECTIVE DATE: July 1, 2001

STATE PREVENTION COUNCIL

Members

The act makes the following people, or their designees, members of the council:

1. the OPM secretary (he or his designee serves as chairman);
2. the social services, children and families, public health, mental health and addiction services, education, and mental retardation commissioners; and
3. the chief court administrator.

The council can include other agency representatives that it deems appropriate.

Statewide Prevention Plan

The council must recommend a comprehensive statewide prevention plan to the OPM secretary and the General Assembly by December 1, 2002. The plan can include:

1. recommendations to develop and coordinate prevention services and training among agencies,
2. identification of the plan's prevention services that are research-based programs (programs rigorously evaluated that are effective or represent best practices), and
3. any findings on the effectiveness of prevention programs using outcome measures identified by the council.

GOVERNOR'S BUDGET

The act requires the governor to include a prevention report in his budget document for the FY 2003-05 biennial budget. The report must detail his recommendation for prevention services appropriations for each council agency for each fiscal year of the biennium. It must show for each agency or its subdivisions:

1. a list of programs providing prevention services,
2. actual prevention services expenditures by program for FY 2002-03,
3. estimated prevention services expenditures for FY 2003-04, and
4. identified research-based prevention services programs.

The governor's budget must also include a summary of prevention services by agency identifying the total expenditure for prevention services in the budget.

PA 01-127—sSB 1055
Judiciary Committee

AN ACT CONCERNING THE PROBATE STATUTES

SUMMARY: This act makes a number of unrelated changes in the probate statutes. Specifically, it:

1. eliminates the requirement that an executor or administrator file a "return of sale" with the

probate court after selling a decedent's property (a "return of sale" is a document showing that property was sold or mortgaged and the sales price or mortgage amount);
2. permits probate court to notify the Veterans Affairs' Department or the Veterans' Home and Hospital of conservator application hearings by regular, rather than certified, mail;
3. permits probate judges to waive bond requirements for fiduciaries handling small estates; and
4. changes the probate judge compensation formula, potentially increasing some judges' salaries.

EFFECTIVE DATE: October 1, 2001

WAIVER OF BOARD REQUIREMENTS

The act allows a probate court judge to waive the requirement that a fiduciary obtain a bond to secure the faithful performance of his duties if the estate assets are less than $20,000 or the value of the estate that the fiduciary has access to and authority over is less than $10,000. (Under existing probate court rules, in appropriate circumstances, the court can limit the fiduciary's access or authority over certain estate assets as an alternative to a bond.)

PROBATE JUDGES' COMPENSATION

Under prior law, a probate judge's annual salary could not exceed his average annual salary for the prior three years. The act allows the judge's salary to be higher by placing the limit at the greater of (1) the three-year average figure or (2) the amount that results from multiplying the court's annual weighted workload by $15. By law, a probate court judge's salary may not exceed 75% of the annual salary of a Superior Court judge. (A Superior Court judge currently earns $116,000.)

BACKGROUND

Executor and Administrator

An executor is the person designated in a will to administer the deceased person's estate in accordance with the will. An administrator is the person the probate court appoints to administer a decedent's estate when there is no will or the named executor is unwilling or unable to serve.

Annual Weighted Workload

The law requires the probate court administrator, by regulation, to assess a weight, from one to five, for each type of case the probate court handles, based on complexity. For example, under current regulations, a name change has a weight of one, and civil commitment of someone with mental illness or termination of parental rights each has a weight of five. A probate court's annual weighted workload is calculated by multiplying the number of cases a court handles in each category during a calendar year by their assessed weights.

PA 01-129—sSB 1048
Judiciary Committee
Government Administration and Elections Committee

AN ACT CONCERNING COSTS OF INCARCERATION

SUMMARY: This act allows the state to collect money inmates owe for the cost of their incarceration from their estates after their deaths or from money or property they obtain through lawsuits or inheritance. The act makes the state's claim a lien against lawsuit or inheritance proceeds and allows the state to collect up to the total cost of the incarceration or 50% of the property or money obtained, whichever is less. It gives the lien against lawsuit proceeds and the state's claim against a deceased person's estate priority over other claims with certain exceptions.

EFFECTIVE DATE: Upon passage

LAWSUIT PROCEEDS

Under the act, whenever a person who owes the state money for the cost of his incarceration wins a lawsuit judgment, the state's claim is a lien against the proceeds. The maximum amount of the claim is the full cost of the inmate's incarceration or 50% of the proceeds, minus certain expenses, whichever is less.

The incarceration lien has priority over all other claims, including any state lien for repayment of public assistance, except:

1. child support obligations the state can collect in public assistance repayments from a person's lawsuit proceeds (by law these funds must first reimburse Medicaid for coverage related to injuries that were the basis of the lawsuit);
2. expenses of the lawsuit, including attorney's fees;

3. hospitalization costs connected with the lawsuit not paid by insurance or other benefits;
4. physicians' fees associated with the hospitalization that the state has not paid for and that insurance or other benefits do not cover;
5. court-ordered restitution or compensation to a crime victim; and
6. payment of a civil judgment to a crime victim.

The act makes the proceeds assignable to the state. The lien requires the inmate's attorney to pay the Department of Correction (DOC) commissioner or his designee from the proceeds. But, if the attorney gives the commissioner or his designee written notice of a settlement or judgment that requests the lien amount and the commissioner or his designee does not provide it within 45 days, the attorney can distribute the proceeds to the inmate and is not liable to the state.

INHERITANCE

When a person who owes the state money for the cost of his incarceration inherits property or money, the state's claim is a lien against the inheritance for the total cost of his incarceration or 50% of the inheritance, whichever is less. There is no reduction in this amount. The act directs the probate court to accept any lien notice that the DOC commissioner or his designee files and, to the extent the estate has not already been paid out, order the estate distributed accordingly.

DEATH OF PERSON OWING COSTS OF INCARCERATION

Under the act, when someone who owes the state money for the cost of his incarceration dies, the state has a lien against his estate up to the total cost of his incarceration to the extent the estate is not needed to support his surviving spouse, parent, or dependent children. The act gives the lien priority over all other unsecured claims, including public assistance liens, except for (1) child support obligations the state can collect in public assistance repayments; (2) up to $375 for the expenses of his last sickness; (3) state payments of up to $1,200 for funeral and burial expenses to a person who received state supplement or temporary family assistance; (4) court-ordered restitution or compensation to a crime victim; (5) payment of a civil judgment to a crime victim; and (6) administrative expenses, including probate taxes and fees and fiduciary fees up to certain limits. If the estate has paid any amount exceeding these limits, the act requires the person who received it to repay the estate and allows the state to recover the amount, with interest at the legal rate (8%), by civil suit. If the deceased inmate has a prepaid funeral arrangement, the funeral and burial exception amount must be reduced by the amount of the arrangement.

The act allows priority for fiduciary fees, based on the value of the estate, only up to certain limits. It allows 5% for the first $2,000; 4% for the next $8,000; and 3% for the remainder. The act authorizes the probate court, after a hearing with a 10-day notice to the DOC commissioner, to authorize payment above these levels for extraordinary services.

BACKGROUND

Inmate Liability for Costs of Incarceration

By law, the DOC commissioner must adopt regulations to assess inmates for the costs of their incarceration. The regulations require the commissioner, as of October 1, 1997, to charge inmates for the costs of their use of various services and programs. An inmate is a person confined or formerly confined in a correctional facility under a sentence imposed by a Connecticut state court. The regulations define the per-inmate, per-day cost of incarceration at DOC facilities as the amount computed using the same accounting procedures the comptroller uses to calculate such costs for state humane institutions. The regulations also make inmates responsible for the costs of certain services and programs such as sick calls; dental procedures; eyeglasses; elective and vocational educational programs; extended family visits; and lab tests to detect illegal drugs, if the results are positive.

PA 01-131—sSB 1420
Judiciary Committee
Public Health Committee

AN ACT CONCERNING DISPOSITION OF REMAINS OF DECEASED PERSONS

SUMMARY: This act creates a procedure for adults to authorize cremation of their remains. The Public Health Department must authorize a form for this purpose, and funeral directors and others can reasonably rely on authorizations after making good faith efforts to notify interested parties.
EFFECTIVE DATE: October 1, 2001

REQUIRED INFORMATION

The person authorizing cremation (the maker) must sign and date the form, and two witnesses must attest in

writing that he was of sound mind when he signed it. The maker must also include the name, home address, and phone number of his spouse, or if there is none, his next of kin or other person he has designated to take custody of his remains. This person's status must be acknowledged in writing.

PROCEDURE AFTER DEATH

After the maker's death, the person he designated on the form must be notified, presumably by the funeral director, of the planned cremation during the legally required 48-hour waiting period. If this person is unavailable, the director must ask a probate court judge to give custody and control of the remains to some suitable person.

Under the act, a funeral director may obtain a cremation certificate and permit and cremate the body in good faith reliance on a cremation authorization if (1) a good faith effort has been made to notify the spouse, next of kin, or designated custodian or (2) a probate court has issued an order. His reasonable decisions and actions that are warranted under the circumstances cannot be challenged.

EXCLUDED INDIVIDUALS

The act excludes disposing of the bodies of executed criminals or people whose relatives or representatives do not claim them. And it specifies that it does not affect the powers and duties of the chief medical examiner to conduct autopsies, investigate and report the causes of death, and dispose of remains after his work is done.

BACKGROUND

Legal Custody Of Remains

By law, a dead person's body belongs to his surviving spouse or, if there is none, to his next of kin or some other custodian he has designated in writing. These people are not bound by instructions he may have left about how to dispose of his body. When a disagreement arises, relatives or designated custodians can ask probate court judges to decide who is best fit to make the decision.

PA 01-132—sSB 1226
Judiciary Committee
Government Administration and Elections Committee

AN ACT ADOPTING REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE CONCERNING SECURED TRANSACTIONS

SUMMARY: This act deals with security interests created by contracts in personal property or fixtures that secure payment or other performance that the debtor is obligated to make. Property subject to the security interest is collateral. An example is when someone buys furniture and the seller keeps an interest in the furniture as collateral until the buyer pays the entire purchase price.

The act retains the basic structure of prior law but expands its scope, adds certain types of personal property collateral, modifies some definitions, and adds new definitions.

As under prior law, the act sets out the requirements for a security interest to attach to the collateral (the moment when the security interest becomes enforceable). It also sets out the requirements for perfecting a security interest and priority among security interests when more than one party has an interest in a piece of collateral. Perfecting a security interest allows the secured party's interest to prevail over a creditor who gets a lien from a court. It also gives a secured party priority over another person who later takes a security interest in the collateral. Depending on the circumstances and the specific collateral, perfection occurs by possessing or controlling the collateral or filing a financing statement.

The act alters the location for filing some financing statements to perfect a security interest, adds other methods of perfection for certain types of collateral, and adds rules on priorities and enforcing security interests. It also includes transition rules that allow security interests to remain enforceable for one year after the act becomes effective (longer in certain circumstances) if they do not meet the act's requirements. Secured parties can act to continue the enforceability of these security interests.

The act also alters the definition of buyer in the ordinary course that applies generally throughout the commercial code unless another specific definition applies.

EFFECTIVE DATE: October 1, 2001

PARTIES

The act alters the definition of debtor. Under prior law, a debtor either owed payment or performance of the obligation secured by the collateral or he owned the collateral. Under the act, a debtor is a person with a property interest (but not a security interest or lien) in the collateral. As under prior law, the definition

includes a seller of accounts or chattel paper; and the act adds a seller of payment intangibles and promissory notes, a person with a property interest in collateral subject to an agricultural lien, and a consignee.

The act defines an "obligor" as the person who owes the secured obligation.

As under prior law, a secured party is a person in whose favor a security interest is granted. This includes a buyer of accounts or chattel paper; and the act adds a buyer of payment intangibles and promissory notes, a person holding an agricultural lien, and a consignor. The act specifies that when a secured party acts as a representative for holders of secured obligations, the representative may include any trustee, agent, or collateral agent rather than just trustees or others as under prior law.

TRANSACTIONS

As under prior law, the act applies to transactions creating security interests regardless of the form of the transaction. The act adds consignments to the list of transactions subject to the law, but not small or consumer consignments. The act expands the scope of prior law by adding the following types of personal property collateral:

1. agricultural liens (nonconsensual liens on farm products),
2. security interests granted by another state or foreign government if no state or foreign statute governs them,
3. sales of payment intangibles and promissory notes,
4. commercial tort claims (but the act retains the exclusion of noncommercial tort claims such as personal injury claims), and
5. assignments of rights under written and electronic letters of credit.

The act modifies the definition of certain types of personal property collateral. It generally excludes assignments of insurance claims as under prior law but includes assignments of insurance claims (as original collateral) related to health care goods and services provision. It retains the exclusion of assignments of deposit accounts in consumer transactions but includes assignments of commercial deposit accounts. It excludes from its coverage security interests in deposit accounts titled or clearly identified as payroll or trust accounts.

As under prior law, other federal, state, or common law can give a secured party a security interest in types of property excluded from the act's coverage.

TYPES OF COLLATERAL

The act generally retains the collateral classifications of prior law, but it modifies some and adds others.

Goods

As under prior law, goods are things that are movable, including fixtures (goods so related to real estate that an interest in them arises under real estate law) but not including money, documents, instruments, investment property, accounts, chattel paper and general intangibles, and minerals before extraction. The act also excludes deposit accounts and letter of credit rights. It includes software embedded in goods.

As under prior law, there are four subcategories of goods: consumer goods, inventory, farm products, and equipment. The act alters the definition of farm products by eliminating the requirement that the debtor be a farmer and possess the goods and instead requiring only that the products be farm products and the debtor engage in farming with respect to the goods. It also includes aquatic farming operations and aquatic goods within the definition. As under prior law, equipment is defined as goods that do not fit the other categories.

Other Semi-Intangibles

Semi-intangibles include instruments, documents like warehouse receipts, and investment property. An instrument is a negotiable instrument or a writing showing a right to payment of money that is transferred by delivery with necessary endorsements or assignments in the ordinary course of business (not including leases or investment property). The act specifies that this definition does not include a credit card slip. Under the act, a promissory note is an instrument defined as a promise to pay (but not instruments with an order to pay or acknowledgement of receipt of funds by a bank).

Chattel paper is a writing with a monetary obligation and security interest in specific goods or a lease of them (such as when a customer buys goods and signs a note that gives the dealer an interest in the goods securing payment of the purchase price). The act allows use of electronic records and divides the category of chattel paper into electronic chattel paper and tangible chattel paper.

The act removes the requirement that a letter of credit be written, thereby allowing electronic letters of credit.

Other Intangibles

Prior law provided that intangibles that are not investment property are categorized as accounts or general intangibles. The act adds categories for deposit accounts and commercial tort claims.

Accounts. The act broadens the definition of accounts to include certain rights to payment that prior law categorized as general intangibles. Under prior law, an account was any right to payment for goods sold or leased or services rendered that was not evidenced by an instrument or chattel paper (regardless of whether it was earned by performance). The act expands the definition to include a right to payment for real property sold, intellectual property licensed, a suretyship obligation, an insurance policy, and use of a credit card. It also adds health-care insurance receivables (an interest in or claim under an insurance policy that is a right to payment for health care goods or services provided).

Deposit Account. Under the act, a deposit account is a demand, time, savings, passbook, or similar bank account. It does not include investment property or an account evidenced by an instrument.

Commercial Tort Claim. The act adds commercial tort claims, defined as an organization's tort claim or an individual's tort claim arising from his business if it does not include damages for death or personal injury.

General Intangibles. As under prior law, general intangibles are any types of property not defined. Because the act adds new definitions of property, it limits the scope of this category. Under the act, it includes two subcategories.

1. A payment intangible is a general intangible where the obligor's principal obligation is to pay money.
2. Software is a computer program and related supporting information, but not software embedded in goods.

ATTACHMENT

A security interest becomes enforceable against the debtor when it attaches. A security interest attaches if (1) the secured party gives value; (2) the debtor has rights in the collateral; and (3) the secured party possesses the collateral, controls the collateral if it is investment property, or the debtor signs a security agreement with a description of the collateral. A debtor can only grant a security interest in collateral to the extent he has rights in it and a secured party cannot enjoy rights in collateral greater than those the debtor holds. The act adds that the power of the debtor to transfer the collateral is sufficient to satisfy this requirement.

The act modifies the requirements on possession and control of collateral and security agreements.

Possession

The act allows possession through a third party who possesses the collateral if the third party possesses it by agreement of the debtor and the third party acknowledges in a signed or authenticated writing or other record that he holds it for the secured party. But a certificated security (e.g., a stock certificate) in registered form must be delivered to the secured party.

Control

As under prior law, a secured party can perfect its security interest in investment property by control. The act expands use of this method to deposit accounts, electronic chattel paper, and letter of credit rights.

Security Agreement

A security agreement is an agreement granting a security interest. Under the act, the debtor must authenticate it. Authentication is signing, using a symbol, or using encryption or a similar process on a record when a person has the intent to identify himself and adopt or accept a record. As under prior law, the security agreement must reasonably identify the collateral. The act specifies that the agreement can identify collateral by specific listing, category, type, quantity, or formula. But stating "all the debtor's assets" is insufficient in a security agreement (although it is sufficient in a financing statement). A description by type alone is insufficient for commercial tort claims, security entitlements, securities accounts, commodity accounts, or consumer transactions. As under prior law, an agreement must include a description of the land if the collateral is timber to be cut.

A security agreement can contain a clause that it applies to property acquired after the agreement is effective. Under the act, a security interest in a commercial tort claim attaches only to a tort claim existing at the time the security agreement is signed or authenticated. The security interest will not attach to an after-acquired commercial tort claim.

PERFECTION

A perfected security interest is an attached security interest that will generally prevail over a creditor who is using the courts to obtain a lien on the collateral. Depending on the type of collateral, a security interest is perfected (1) when a secured party files a financing

statement in the appropriate office, (2) when a secured party takes possession or control of the collateral, or (3) automatically on attachment.

Perfection by Filing

The act allows a secured party to perfect its security interest in instruments by filing in addition to possession. It also requires filing rather than automatic perfection for a beneficiary's interest in a common law trust and it requires filing for investment property.

The act allows the filing of an initial financing statement or an amendment adding collateral or a debtor if the debtor authorizes it in an authenticated record. A security agreement provides authorization for filing an initial financing statement for the collateral it covers and proceeds from it. A person can also file a financing statement if he has an effective agricultural lien covering the collateral.

Under the act, to be effective, a financing statement must include the debtor's name, name of the secured party or its representative, and the collateral covered by the statement. The act eliminates the requirement that the debtor's address and the secured party's address be included. It also eliminates the ability of a security agreement copy to be a financing statement when it meets the other requirements. The act adds that, unlike in a security agreement, an "all assets" description of the collateral is sufficient in a financing statement. As under prior law, the act requires additional information, such as a description of the real estate involved, in the financing statement when the collateral is timber to be cut, as-extracted collateral, or fixtures. It no longer requires a description of the real estate for financing statements covering crops.

As under prior law, the statement can be effective if it contains minor errors, as long as they are not seriously misleading. The act provides that the debtor's name is essential but it is sufficient if the name would locate the financing statements using the filing offices' standard search.

As under prior law, the act requires filing in the secretary of the state's office. Filing in the local real estate recording office is also required for as-extracted collateral, timber to be cut, and fixtures.

The act allows filing by any means prescribed by regulation. Under the act, the office can refuse to accept a filing if (1) the means of communicating it are not authorized; (2) it does not include the entire filing fee; (3) it fails to include the debtor's address, whether the debtor is a person or an organization, or a debtor organization's type and jurisdiction; (4) the office is unable to index it for certain reasons; (5) there is no name or address when adding a secured party of record; (6) there is no name or address of an assignee when indicating an assignment; or (7) it is not filed in the appropriate time frame (for a continuation statement). If the office accepts the filing anyway, the statement is valid as long as it meets the minimum filing requirements. If the office rejects the filing, it must, as provided by regulation, tell the person the reason for it and the time it would have been filed. The secretary's office must notify him within five days. If the office rejects the filing for a reason other than the specified ones, the filing is effective except against someone who buys the collateral for value reasonably relying on the absence of a record in the files.

The act requires the office to place amendments, assignments, and continuation statements relating to an initial filing on the records in a way that links them to the initial filing. Misfiling a record does not alter its effectiveness.

Under the act, a debtor who believes a filing record concerning him is inaccurate or wrongfully filed can file a correction statement describing the disputed information. The statement must state the reasonable basis for his belief that the record is inaccurate or wrongfully filed and how to cure any inaccuracy. This statement becomes part of the filing record but not does impair the effectiveness of the initial financing statement or other filed record. The act allows other civil and criminal laws to address claims of misuse.

The act provides rules for filing and retrieving records at the secretary's office.

Expiration of Financing Statements. As under prior law, the validity of a filing generally ends after five years. The act gives an initial financing statement connected with a manufactured home transaction a 30-year duration. A secured party must file a continuation statement within six months prior to a statement expiring. As under prior law, a security interest becomes unperfected when a statement lapses and is deemed to have never been perfected against a purchaser or lien creditor before the lapse. Under the act, it is deemed to have never been perfected against a purchaser for value and the act eliminates the provision for lien creditors.

The act also prohibits the filing office from deleting its records on a filing statement until at least one year after the statement lapses.

Perfection by Possession

As under prior law, a secured party must perfect a security interest in money by possession. The act allows perfection of instruments by filing as well as possession.

Prior law required a secured party to perfect a security interest in rights to proceeds of a written letter of credit by possession of the letter of credit. Under the act, possession is no longer effective. A security interest in a letter of credit right that is a supporting obligation is automatically perfected if the security interest in the related collateral is perfected. Otherwise, the security interest must be perfected by control. A secured party has control by receiving an assignment if it has the issuer's or nominated person's consent.

As under prior law, a security interest in chattel paper can be perfected by filing or possession but the act limits the option of perfection by possession to tangible chattel paper. The act defines "electronic chattel paper" as chattel paper evidenced by a record of information stored in an electronic medium, and it allows perfection of a security interest in it by control as well as filing.

A secured party can perfect a security interest in collateral that is in the possession of a third party "bailee" by notice to the third party. The act requires a third party possessing collateral (other than goods covered by a document of title) to authenticate a record acknowledging that he holds the collateral for the secured party.

Perfection by Control

As under prior law, a secured party can perfect a security interest in investment property by control. The act also allows a secured party to perfect by control a security interest in deposit accounts, electronic chattel paper, and letter of credit rights.

Deposit Accounts. The act allows perfection of a security interest in deposit accounts only by control. A secured party has control if it is the depository bank, the deposit account is in its name, or the depository bank enters an agreement with the secured party to comply with the secured party's instructions about funds without further consent from the debtor. The depository bank is automatically in control of deposit accounts in the bank.

Electronic Chattel Paper. The act allows perfection of a security interest in electronic chattel paper by control or filing. A secured party has control if there is only one authoritative or identifiable copy of the electronic record of the chattel paper, the copy identifies the secured party and its interest, the copy is communicated to and maintained by the secured party or its custodian, the copy is readily identifiable as the authoritative copy, and there are controls in place for revising the copy.

Letter of Credit Rights. Under the act, a secured party must perfect a security interest in a letter of credit by control when the right is not a supporting obligation for other collateral in which the secured party has a perfected security interest. A secured party has control if the issuer or nominated person consents to assignment of proceeds of the letter of credit.

Automatic Perfection

For certain types of personal property, perfection occurs automatically when attachment occurs. As under prior law, automatic perfection occurs with:

1. purchase money security interests (PMSI) (see below) in consumer goods,
2. assignment of accounts that do not alone or in conjunction with other assignments to the same person transfer a significant part of the assignor's outstanding accounts,
3. certain security interests of collecting banks and certain security interests under the law on the sale of goods,
4. security interests in investment property created by a securities intermediary or commodity intermediary,
5. security interests in instruments,
6. certificated securities and negotiable documents (temporarily perfected), and
7. security interests in proceeds (temporarily perfected).

The act adds several other forms of property:

1. sales of payment intangibles and promissory notes,
2. a security assignment of payment intangibles that do not alone or in conjunction with other assignments to the same person transfer a significant portion of accounts or payment intangibles to the assignor,
3. assignment of health care insurance receivables to the health care provider, and
4. a security interest in documents presented under a letter of credit.

Temporary Automatic Perfection. Security interests in certificated securities, negotiable instruments, and proceeds enjoy automatic perfection only temporarily. The act reduces the temporary automatic perfection period for certificated securities and negotiable documents from 21 to 20 days and expands the period from 10 to 20 days for proceeds (if the security interest in the original collateral was perfected).

Supporting Obligations. A supporting obligation is a letter of credit right or secondary obligation (such as a guaranty) that supports the payment or performance of an account, chattel paper, document, general intangible, instrument, or investment property. The act allows

automatic attachment and perfection of a security interest in the supporting obligation when the security interest in the related collateral is perfected.

Other Means of Perfection

As under prior law, the act provides that other statutes, regulations, or treaties that provide means of perfection and compliance are the equivalent of perfection.

PRIORITY

Priority rules rank the interests of secured parties and other claimants in a particular piece of collateral. A lien creditor is a creditor with a lien on the debtor's property obtained by judicial process (including a bankruptcy trustee). A perfected secured party prevails over a lien creditor if the security interest was perfected at or before the time the lien arises. The act adds the requirement that the lien must arise before the secured party files a financing statement covering the collateral in order for the lien to prevail over an unperfected secured party.

As under prior law, the first secured party to file a financing statement or perfect its interest has priority (the "first-to-file-or-perfect" rule). If all of the security interests are unperfected, the first to attach has priority. The act specifies that a perfected security interest prevails over an unperfected security interest in the collateral.

Purchase Money Secured Interests (PMSI)

PMSI is a security interest in collateral that is either taken by the supplier of that collateral to finance the purchase price or is a security interest given to a third party lender in the collateral purchased with the lender's loan. As under prior law, a secured party can have PMSI in goods. The act also permits it in software that is sold or licensed with goods if it is principally for use with the goods. Holders of a perfected PMSI rank ahead of any security interest that would otherwise have priority under the first-to-file-or-perfect rule.

If the security interest involves inventory collateral, the act permits cross-collateralization of purchase-money inventory advances. This allows a supplier or lender who sends successive shipments of inventory collateral to a party to have a PMSI in all of the goods for their total cost.

The act provides rules for PMSI in farm products livestock like those for inventory but the PMSI has priority in all proceeds of the collateral and certain products of the collateral.

Under the act, if a supplier and lender are both secured parties claiming a PMSI in the same collateral, the supplier prevails. A PMSI in a commercial transaction does not lose its status because it secures non-PMSI obligations, is secured by non-purchase-money collateral, or is renewed or financed.

For transactions other than a consumer goods transaction in which payment is made to an obligation that is in part PMSI, the act applies the payment by any reasonable method agreed to by the parties. But if there is no agreement, the payment is applied as the obligor intended if he made his intention clear at or before making payment. If there is no agreement or clear intention of the obligor, then the payment is first applied to obligations that are not secured and then to the PMSI obligations in the order in which they were incurred.

In a consumer goods transaction, the payment is first applied to any PMSI in property. If there are multiple items purchased on different dates, the first item purchased is the first paid for and the lowest priced item purchased on a specific day is the first item paid for.

The act's rules on the status of PMSI and burdens of proof for non-consumer goods transactions do not apply to consumer goods transactions and the act prohibits a court from inferring any limitations on the proper rules for consumer goods transactions. It specifies that the courts can continue to apply established approaches and can apply the principles of law used for similar consumer transactions in similar goods, such as the retail installment sales financing laws.

Consignors

The act applies to all consignments except consumer and small value consignments. They are treated like PMSI and consignors must comply with those rules to obtain priority. The act allows other law to determine the rights of consignors against consignees and third parties.

Buyers

As under prior law, customers who buy a debtor's goods in the ordinary course of business are free of a security interest in them created by the seller even if they know of it. The act provides that a buyer of collateral from a secured party who possesses the collateral cannot take free of the secured party's interest as a buyer in the ordinary course. It also provides similar rules for lessees and nonexclusive licensees in the ordinary course.

Under the act, someone buying goods for consumer use can take them free of a security interest if the buyer:

1. buys from a seller who bought the goods for consumer use,
2. did not know of the security interest,
3. paid value for the goods, and
4. buys them before a financing statement covering the goods is filed (this requirement does not apply if the original purchase price was $3,500 or less).

A buyer in the ordinary course is someone who buys goods in good faith in the ordinary course from someone in the business of selling those goods and buys them without knowledge that the sale violates another person's rights in the goods. The act requires the sale to occur with the seller's usual or customary practices or those of the seller's kind of business. It also adds that only a buyer that takes or has the right to take possession can be a buyer in the ordinary course. This definition applies generally throughout the commercial code unless another specific definition applies.

As under prior law, when a debtor sells collateral out of the ordinary course of business and a secured party holding a perfected security interest does not authorize it, the security interest generally continues. If the security interest is unperfected and the buyer gives value without knowledge of the security interest, the buyer's interest generally prevails over the secured party's unperfected security interest. The act clarifies that the buyer is not subject to the secured party's security interest.

Instruments

As under prior law, the act allows a secured party to perfect a security interest in an instrument by filing as well as possession. Under the act, a security interest in an instrument perfected by filing is subordinate to the security interest of another secured party or purchaser who possesses the instrument for value, in good faith, and without knowledge that it violated the rights of the secured party by filing. As under prior law, a holder in due course of a negotiable instrument has priority over an earlier secured party to the extent provided by law.

Chattel Paper

As under prior law, an ordinary course purchaser for new value of chattel paper who takes possession (or control as allowed by the act for electronic chattel paper) has priority over a security interest perfected only by filing if he did not know it was subject to the secured party's security interest. The act adds that the purchaser must not know that the purchase violated the secured party's rights. Under the act, if the security interest is indicated on the chattel paper, the purchaser knows the purchase will violate the secured party's rights.

An ordinary course new value purchaser of chattel paper taking possession (or controlling electronic chattel paper) has priority over a security interest claimed "merely as proceeds" by an existing secured party even if the purchaser knew of it but did not know that the secured party's rights were being violated or, under the act, the interest was not indicated on the chattel paper.

The act defines "new value" as additional money or other specific consideration. But the holder of a PMSI in inventory is deemed to give new value for chattel paper constituting the new proceeds of the inventory.

Investment Property

As under prior law, a security interest in investment property perfected by control is superior to one perfected by filing even if filing occurred first. If competing interests are perfected by control, the act ranks them in priority of time rather than equally, as prior law did. As under prior law, a security interest perfected by control in favor of the debtor's securities intermediary has priority over a security interest perfected by filing or control. As under prior law, a secured party's possession under a security agreement of a registered security certificate without any necessary endorsements has a security interest superior to an interest of another perfected by filing.

Deposit Accounts

Unlike prior law, the act applies to commercial deposit accounts. Under the act, a security interest perfected by control is superior to one perfected by another method and if competing interests are perfected by control they rank in priority of time. A security interest perfected by control in favor of the debtor's depository bank and its right of recoupment or set-off is superior to a security interest of a competing secured party unless it is perfected by control or by becoming the depository bank's customer on the deposit account. A transferee of funds from a deposit account in which the secured party has a security interest takes free of that interest unless the transferee colludes with the debtor to violate the rights of the secured party.

Letter of Credit Rights

The act allows automatic perfection of a security interest in a letter of credit right that is a supporting obligation and permits perfection of a letter of credit

right by control. Under the act, a letter of credit right perfected by control is superior to a security interest perfected as a supporting obligation. Competing interests perfected by control are ranked in priority of time. A security interest in a letter of credit right is subordinate to the rights of a transferee beneficiary or nominated person under letter of credit law.

Proceeds

Proceeds are whatever is received on the sale, exchange, collection, or other disposition of collateral. The act expands the definition of proceeds to include rentals for the lease of goods and licensing royalties. It specifies that proceeds include whatever is distributed on account of collateral. It also provides that claims arising from loss, defect, nonconformity, or interference with the collateral and insurance proceeds resulting from the collateral are proceeds. As under prior law, on sale, exchange, or other disposition of collateral, a secured party's security interest continues in any identifiable proceeds. The act permits any method that the law permits to trace cash proceeds when they are commingled with other property.

Under prior law, the perfection of the security interest in proceeds continued for 10 days before the secured party might need to take additional steps to continue the perfection. The act expands this period to 20 days and the time limit does not apply to identifiable cash proceeds. As under prior law, a secured party's priority in proceeds generally relates back to the date of priority in its security interest in the original collateral.

A secured party with an inventory PMSI that has priority over an earlier filed secured party has priority in proceeds of the inventory in certain circumstances. As under prior law, the inventory PMSI has priority if the proceeds are identifiable cash proceeds received by the debtor on or before delivery of the inventory to the buyer. The act also gives priority to the secured party with PMSI if the proceeds are instruments, chattel paper, or proceeds of chattel paper that it possesses or otherwise perfects. A transferee of money takes free of the security interest unless the transferee colluded with the debtor to violate the secured party's rights.

Under the act, a perfected possessory or control security interest in a deposit account, investment property, letter of credit right, chattel paper, instrument, or negotiable document has priority over a security interest perfected by an earlier filing in certain circumstances. In these cases, the secured party also has priority in cash proceeds of the collateral or proceeds that are the same type as the original collateral or are an account relating to the collateral. The first-to-file-or-perfect priority rule applies to priority in proceeds but, under the act, first-to-file applies when (1) the secured party has a perfected security interest in a deposit account, investment property, letter of credit right, chattel paper, instrument, or negotiable document by a method other than filing; (2) that security interest has priority over a security interest in the same collateral perfected by filing; and (3) the proceeds are not cash proceeds or a deposit account, investment property, letter of credit right, chattel paper, instrument, or negotiable instrument.

The act eliminates special proceeds rules that applied when the debtor was insolvent. It also deletes special rules for returned or repossessed goods.

Sellers

An unpaid seller without a perfected PMSI in goods sold to a debtor usually does not prevail over a secured party of the debtor who holds a perfected security interest in the goods. But under the act, an unpaid seller with a possessory PMSI in the goods has priority over a secured party of the debtor who holds a perfected security interest in the goods.

Fixtures

The act applies the same general rules to fixtures as prior law. A PMSI in goods that become fixtures generally prevails over an existing interest of a competing real estate claimant if a fixture filing (filing in the local real estate recording office as well as the secretary's office) is made within a certain period after the goods become fixtures. The act extends the period to file from 10 to 20 days. The act also adds a rule giving a secured party with a security interest in a manufactured home priority over a competing real estate claimant if the security interest was perfected in a manufactured home transaction under the certificate of title statute.

Crops

Under the act, a perfected security interest in crops has priority over the interest of an owner or mortgagee of real estate if the debtor is the owner or is in possession of the real estate. The act eliminates the provision in prior law that a security interest has priority over an earlier perfected security interest to the extent it secures an obligation due more than six months before the crops become growing crops, even if it had knowledge of the earlier security interest if the secured party gave new value to enable the debtor to produce crops during the production season and it was given not more than three months before the crops become

growing crops.

Accessions

Accession occurs when goods physically unite with other goods but the identity of the original goods is not lost. The act deletes the priority rules for accessions in prior law. But it provides that the interest in the overall collateral perfected under a certificate of title statute has priority over a security interest in an accession. It also provides that a secured party who removes an accession from other goods must promptly pay the holder of a security interest or lien or owner of the goods to repair any physical injury to the goods. This does not include a decrease in value caused by removing the goods or having to replace them. A person (other than the debtor) can refuse to allow removal of the goods until given adequate assurances of reimbursement.

Commingled Goods

As under prior law, if two secured parties have perfected security interests in goods that are commingled with each other so that they can no longer be identified and neither has a prior security interest in the other's goods, then both have a security interest attached to the new product. Under the act, each party's security interest is equal to the proportion that the value of his collateral bore to the sum of the values of both parties' collateral when they were commingled.

Filing Problems

Unlike prior law, if the filing office improperly rejects a financing statement, the act makes the security interest subordinate to the interest of a subsequent purchaser who gives value in reliance on the filing office's clean record.

Under the act, if a secured party files a financing statement with incorrect information, the secured party's interest is subordinate to a later perfected secured party who gave value and relied on the incorrect information. A purchaser can also take the collateral free of the earlier interest if he gives value in reliance on the incorrect information.

THIRD PARTIES

Account Debtors

An account debtor is someone obligated on an account, chattel paper, or general intangible. The act provides that a person obligated to pay on a negotiable instrument is not an account debtor.

Claims And Set-Offs. Where there is a contract between the debtor and the account debtor creating the secured party's security interest in an account, chattel paper, or general intangible, the account debtor can assert a claim or defense against the secured party arising from the contract. The account debtor can also assert a claim or defense on any other obligation of the debtor to the account debtor except for those from other obligations after the account debtor is notified of the security interest. The act clarifies that in commercial transactions, claims or defenses of an account debtor can be asserted only to reduce the amount owed. The act's rules are subject to any consumer laws and it provides that a consumer account debtor has the benefit of certain notices required to be written on an account, general intangible, or chattel paper even if they are not stated. Under the act, obligations of insurers under health care insurance receivables are governed by other law.

Agreements Not To Assert Claims Or Defenses. The act allows all account debtors, rather than just consumer account debtors under prior law, who are buying or leasing goods, to agree generally not to assert personal claims or defenses against an assignee subject to any contrary consumer law.

Assignments. As under prior law, an account debtor must pay a person who is assigned (the assignee) an account, chattel paper, or general intangible on notification of the assignment and direction to pay the assignee. As under prior law, an account debtor can require reasonable evidence of the assignment. Under the act, an account debtor can elect not to pay an assignee if a payment intangible agreement restricts payments to third parties or if the account debtor would have to make multiple payments or pay multiple parties.

The act clarifies that the (1) account debtor cannot discharge his obligation by paying the assignor after receiving notice and (2) payment to the assignor before notification or to the assignee after notification discharges the obligation. It also requires an assignor who receives payment after notification to return the payment to the account debtor or send it to the assignee.

As under prior law, legal restrictions on assignments are generally prohibited. Clauses restricting the creation or enforcement of a security interest in an account or general intangible are ineffective. The act also applies this rule to payments under chattel paper and promissory notes. It also prohibits a restriction that prevents attachment, perfection, or enforcement of a security interest in accounts or chattel paper. And a clause or rule relating to any general intangible is ineffective if it prevents a security interest from attaching or becoming perfected, as long as the rights of the account debtor or other party

imposing the anti-assignment clause or rule are not disturbed. The security interest can attach and be perfected but the secured party cannot enforce it without the consent of the account debtor or other party.

The act's provisions on restricting assignments supersede other statutes unless a statute refers specifically to the sections of this act and states that it prevails.

The act excludes from its assignment provisions the following types of property: (1) health care insurance receivables, (2) lottery winnings, (3) structured settlements, (4) workers' compensation, and (5) certain federal provisions.

The act similarly prohibits clauses restricting assignments in lease agreements. But such a clause is effective to the extent there is a transfer of the right of possession or use of the goods or a delegation of a material performance of either party to the lease. A security interest in the lessor's interest is not a material impairment unless enforcement of the security interest results in delegating material performance of the lessor.

Depository Banks

Under the act, a depository bank has no obligation to deal with a secured party about a deposit account unless the secured party controls the deposit account. Also, the depository bank has no obligation to enter into a control agreement with the secured party relating to the deposit account even if the debtor customer requests it. But a secured party can get control by putting the account in its name.

Letter of Credit Issuers

Under the act, a clause in a letter of credit restricting its transfer does not prevent attachment or perfection of a security interest in it that is a supporting obligation, as long as the rights of the issuer or nominated person are not disturbed.

RIGHTS AND DUTIES

As under prior law, the parties can set standards for complying with a debtor's or obligor's rights and a secured party's duties if they are not manifestly unreasonable. But the act prohibits these standards from being unreasonable in a consumer transaction.

Reasonable Care

A secured party possessing collateral generally must use reasonable care to preserve it. As under prior law, a secured party can repledge collateral it possesses. Under prior law, the secured party could not do so if it impaired the debtor's right to redeem the collateral but the act eliminates this prohibition. The act also permits a repledge when the secured party controls the collateral. Under the act, a non-consumer debtor can agree to change these provisions. Also under the act, the secured party's duties do not apply when he is a buyer of accounts, chattel paper, payment intangibles, promissory notes, or is a consignor unless (in the case of the duty of reasonable care) the buyer or consignor has recourse against the debtor or secondary obligor based on a credit or other default of the account debtor or obligor on the collateral.

If the secured party possesses the collateral, the act places the risk of accidental loss or damage, to the extent there is no effective insurance coverage, on the secured party rather than the debtor.

Duty to Account

The act gives the debtor the right to request an accounting of the unpaid security obligations.

Duty to Terminate or Release

The law requires a secured party to file a termination statement when the secured obligation is paid and there is no further commitment to extend credit if the financing statement covers consumer goods. If it does not cover consumer goods, the debtor must request filing or a copy to file. The secured party is liable to the debtor for any loss due to its failure to respond. If the secured party does not file the termination statement, it can be filed with the debtor's authorization. The act provides similar provisions for release of control of collateral and releasing account debtors from obligations to make payments to the secured party.

Unknown Parties

Under the act, a secured party does not owe a duty to (1) an unknown debtor or obligor or (2) a secured party or lienholder who filed a financing statement against the debtor, if the secured party does not know the debtor. A secured party owes a duty to a debtor or obligor only if the secured party knows that a person is a debtor or obligor and knows how to communicate with him. The secured party's knowledge is determined based on his good faith obligations. The act also prevents liability to these unknown people.

Type of Transaction

Under the act, a secured party is not liable if he reasonably believes (based on reasonable reliance on a debtor's representations about the collateral's use or acquisition, or an obligor's representations about the purpose of the secured obligation) that a transaction is not a consumer or consumer goods transaction when in fact it is.

The act specifies that a secured party is only liable once for any one secured obligation under the special damages provision that applies to consumer goods transactions.

CHOICE OF LAW IN MULTIPLE STATE TRANSACTIONS

As under prior law, a provision of a security agreement choosing which law to apply is usually respected for issues of contractual rights and obligations of the debtor and secured party as long as the secured transaction bears a reasonable relation to the jurisdiction whose law is chosen. Under the act, the choice of a jurisdiction's law does not need a reasonable relation to the transaction when it involves a depository bank and a deposit account.

Parties cannot contractually vary the choice of law rules dealing with perfection and priority of the security interest.

Perfection

Under prior law, the determination of which jurisdiction's law applied to a security interest depended on the type of collateral involved. The act changes these rules and expands them to include rules for certain types of collateral.

The act eliminates the general rule that the governing law is the law of the jurisdiction where the collateral is located when the last event occurs on which the assertion of perfection or non-perfection is based. Under the act, the general rule is that the law of the jurisdiction where the debtor is located governs whether perfection takes place. It includes the following rules to determine where the debtor is located: (1) an individual debtor is located at his residence, (2) a debtor that is a registered organization is located in its state of organization, (3) an organization is located at its place of business or its chief executive office if it has more than one place of business, and (4) a foreign debtor is located in the District of Columbia if there is no public filing system that enables a secured party to prevail over a subsequent lien creditor.

The act establishes several specific rules.

1. For possessory security interests and security interests in fixtures and timber to be cut, the law of the jurisdiction where the collateral is located governs perfection.
2. When ownership of goods is shown by a certificate of title and the secured party's security interest must be noted on the certificate, the law of the issuing jurisdiction governs perfection. But if the titled goods are inventory, the law of the debtor's location applies.
3. For agricultural liens, the law of the jurisdiction where the farm products are located governs perfection.
4. For investment property, the law of the jurisdiction where the debtor is located governs whether a security interest is perfected by filing and certain types of automatic perfection. If perfection is not claimed by filing, whether perfection occurred is determined by the law (a) where the security certificate is located, (b) of the issuer's jurisdiction for an uncertificated security, (c) of the securities intermediary's jurisdiction for a security entitlement or securities account, and (d) of the commodity intermediary's jurisdiction for commodity contracts or accounts.
5. For deposit accounts, the law of the depository bank's jurisdiction governs whether perfection of a security interest in a deposit account takes place (unless an agreement provides otherwise or indicates the account is maintained at a particular office in a jurisdiction).
6. For letter of credit rights, the law of the jurisdiction of the issuer or nominated person generally applies. If the jurisdiction is not in the United States, then the law of the debtor's location governs.

The act deletes specific provisions for mobile goods and PMSI in goods that the parties understand will be kept in another jurisdiction.

Under the act, the effect of perfection, non-perfection, or priority is governed by the same law that determines whether perfection occurs for most types of collateral. But the act provides exceptions to the rule. The court must look to the jurisdiction:

1. where the collateral is located for negotiable documents, goods, instruments, money, or tangible chattel paper;
2. where the security certificate is located for certficated securities;
3. where the issuer is located for uncertificated securities; and

4. where the securities or commodity intermediary is located for security entitlements, commodity contracts, securities accounts, and commodities accounts.

POST-FILING CHANGES

A secured party must file a new financing statement within four months of a debtor changing his name if the change makes an existing financing statement seriously misleading. If the secured party does not file a new statement, its interest in assets acquired by the debtor after the four-month period is unperfected. The act allows the secured party to amend an existing financing statement rather than file a new one.

The act also eliminates the rule that a secured party must perfect its security interest by filing a new financing statement within four months of the collateral moving out-of-state.

Debtors Transferring Collateral

Under the act, if a secured party has a perfected security interest in collateral by filing in the debtor's jurisdiction and the collateral is transferred to a new debtor in another jurisdiction, the secured party has one year to file a financing statement in the new location to maintain the perfected security interest.

A debtor (transferor) can transfer collateral that is subject to a perfected security interest to another party (transferee) who creates a security interest in another secured party. Under the act, the transferor's security interest prevails regardless of time of filing or perfection.

Under the act, when a transferee becomes generally liable for debts of the transferor, the transferee is bound by the original security agreement for existing and after-acquired collateral. The security interest generally remains effective as to the collateral transferred to the transferee and after-acquired property. A filing that would have perfected the security interest with the transferor generally perfects that interest in goods held by a transferee. The secured party of the original debtor (the transferor) must perfect his security interest by filing in the jurisdiction of the new debtor (the transferee) within one year if it is a different jurisdiction.

If the change in debtors is seriously misleading, the financing statement remains perfected only for property acquired within four months and becomes ineffective unless an initial filing statement with the new debtor's name is filed.

Titled Goods

By law, a secured party can perfect a security interest in titled goods by noting the interest on the title certificate. Under prior law, a security interest continued for four months if a debtor in another jurisdiction obtained the title certificate without a notation of the security interest if the original certificate was not surrendered. But the security interest could be subordinated to the interest of an innocent buyer (who is not in the business of selling those type of goods).

Under the act, the security interest remains perfected as long as the security interest would have remained perfected if the goods had not been covered by the new title certificate. But the interest is unperfected against a purchaser of the goods for value unless the secured party repossesses the goods during the four-month period. An innocent buyer (other than a dealer) who buys the goods within the four-month period relying on the clean title certificate takes the goods without the security interest. An innocent secured party has priority over the earlier security interest if it extends credit relying on the clean title certificate, takes a security interest in the goods, and perfects its interest.

ENFORCEMENT

After a debtor defaults, a secured party has the right to repossess the collateral. The secured party can sell the collateral and apply the proceeds to satisfy the debt or retain it to satisfy the debt without going to court. The secured party can collect the collateral from account debtors and people obligated on the instruments. The secured party can also use court procedures to foreclose. If the secured party does not follow the laws on enforcement, it can be liable to the debtor and other interested parties for damages.

As under prior law, the secured party's remedies after default are cumulative. The act specifies that they can be exercised simultaneously but other law can prohibit this in a consumer transaction.

As under prior law, default is determined by the security agreement. But the act specifies that default under an agricultural lien occurs when the secured party has the right to enforce the lien.

Under the act, the enforcement provisions do not apply to consignors or buyers of accounts, chattel paper, payment intangibles, or promissory notes.

Collection

As under prior law, a secured party can collect payments directly from account debtors and people

obligated on instruments by notifying them to pay the secured party directly. Under the act, a secured party that is an assignee of an obligation secured by a real estate mortgage has the right to become the mortgagee of record on the debtor's default in order to foreclose nonjudicially on the mortgage (if nonjudicial foreclosure is allowed by the law). Under the act, a secured party with a security interest in a deposit account that it maintains can apply funds in the deposit account to the secured debt. If there is a control agreement, the secured party can instruct the depository bank to pay the balance to the secured party. It also allows a secured party to deduct its collection expenses from collections made in a commercially reasonable manner.

Repossession and Sale of the Collateral

A secured party can take possession or control of the collateral if it will not be a breach of the peace. A secured party can then sell or dispose of collateral by a public or private sale and apply the proceeds to satisfy the secured debt (the sale or disposal must be commercially reasonable and the debtor cannot waive this requirement). As under prior law, the secured party must send the debtor and certain other people reasonable notice of the time and place of sale unless the collateral is perishable, threatens to speedily decline in value, or is a type customarily sold on a recognized market (after default, the debtor may waive the right to notice). The act also requires the secured party, in commercial cases, to notify superior interests. The sale generally discharges all subordinate interests in the collateral.

Under the act, a secured party can dispose of collateral by license, can disclaim or modify disposition warranties, and must provide disposition notification (when required) to all lien holders of the collateral that are disclosed on searching the recording office within certain time limits. The act provides that 10 days' notice is considered reasonable in commercial transactions. The act specifies that a secured party automatically gives title warranties unless disclaimed.

Fixtures. As under prior law, a secured party who has priority over owners and others with interest in the real property can remove collateral that is a fixture. The secured party must reimburse an owner or other party for physical injury caused by removal. The act allows the debtor to seek reimbursement for repairs.

Electronic Self-Help. The act defines electronic self-help as using electronic means to exercise the secured party's rights after default under the security agreement to (1) take possession of the collateral and (2) without removing it, render equipment unusable and dispose of collateral on a debtor's premises as allowed by the act. This includes using electronic means to locate the collateral. "Electronic" includes electrical, digital, magnetic, or wireless optical electromagnetic properties or similar capabilities.

The act allows a secured party to use electronic self-help if the debtor agrees to a term authorizing it and requiring notice. The secured party must give notice (1) that it will use electronic self-help no sooner than 15 days later, (2) stating the nature of the claimed breach, and (3) stating the name, title, address, and phone number of the secured party's representative that the debtor can contact about the security interest.

The act allows a debtor to recover direct and incidental damages and consequential damages (even if prohibited by the security agreement) for a secured party's wrongful use of electronic self-help.

The act prohibits a secured party from using electronic self-help if he has reason to know that it will cause substantial injury or harm to public health or safety or grave harm to the public interest that substantially affects third parties not involved in the dispute.

Retention of the Collateral in Satisfaction of the Debt

A secured party that possesses the collateral can retain it to satisfy the debt if written notice is sent to the debtor and others who must receive notice and the secured party does not receive a written objection with 21 days. A secured party must dispose of the collateral if someone objects to retention and a secured party cannot retain certain consumer goods when a significant portion of the purchase price has already been paid unless the debtor renounces his rights in writing.

Under the act, a secured party in a commercial transaction can retain the collateral in satisfaction of the secured debt even if it does not possess it. Under the act, the notice of retention from the secured party must be authenticated rather than written and the period for objection is 20 instead of 21 days. But nothing prevents a consumer in a consumer goods transaction from proving by means other than an authenticated record that a secured party agreed to accept the collateral in full satisfaction. Under the act, the secured party can retain the collateral in partial satisfaction in a commercial transaction but not consumer transactions. Full or partial satisfaction requires the debtor's consent in an authenticated record after default. Under the act, the secured party is not deemed to have retained collateral in satisfaction unless it takes all the steps required by the act.

Application of Noncash Proceeds

Under the act, if a secured party receives non-cash proceeds by collection or disposing of the collateral, it may value them and apply them to the debt in a commercially reasonable manner. The secured party can collect or dispose of them until converted to cash to apply to the debt. The parties can provide the method of applying them if the method is not manifestly unreasonable.

Surplus or Deficiency

In consumer goods transactions where the debtor is entitled to a surplus or an obligor is liable for a deficiency, the act requires the secured party to send an explanation no later than the time it pays a surplus or first makes a written attempt to collect a deficiency. The explanation must include the amount of surplus or deficiency, the method of calculation, and certain details of the calculation. The secured party must send an explanation within 14 days of receiving an authenticated request for one after disposition. An explanation that substantially complies with the requirements is sufficient even if it includes minor errors that are not seriously misleading.

Sale of Accounts, Chattel Paper, Payment Ingangibles, or Promissory Notes. In certain cases, the secured party is not required to pay the debtor any surplus in the collection or disposition of collateral and the debtor is not liable for any deficiency. Under prior law, this applied to secured transactions involving a sale of accounts or chattel paper. The act expands this list to include a sale of payment intangibles or promissory notes. As under prior law, the parties can agree otherwise.

Non-Compliance

As under prior law, the secured party is generally liable to the debtor for any loss caused by the secured party's failure to comply with the enforcement provisions. Under the act, if a secured party forecloses improperly and brings a deficiency action against the debtor in a commercial transaction, the value of the collateral is presumed to be equal to the entire debt unless the secured party can show otherwise (as under caselaw). The act allows the courts to determine the proper rules to apply to consumer transactions and they may not infer anything from the act's rules and can continue to apply established approaches. The act specifies that the courts can apply principles of existing law including laws for determining a deficiency or surplus that apply in consumer transactions in similar goods such as under the retail installment sales financing laws. The determination of a deficiency or surplus in a consumer transaction is subject to the court's determination of the proper rule.

Disposition Notices

The law requires reasonable authenticated notice before disposing of collateral. The act specifies, except in consumer goods transactions, notification of disposition is sufficient if it (1) describes the debtor, secured party, and collateral; (2) states the method of disposition; (3) states that the debtor is entitled to an accounting of the unpaid debt and the charge (if any) for the accounting; and (4) the time and place of public disposition or the time after which any other disposition is to be made. No particular phrasing is required. It is a question of fact whether a notice lacking any of these items is sufficient. The notice is sufficient if it substantially includes the required information and it is sufficient even if it contains information not required and minor errors that are not seriously misleading.

Under the act, for consumer goods transactions, a notice of disposition must include (1) all the information required for non-consumer goods transactions, (2) a description of any liability for a deficiency, (3) a telephone number to find out what must be paid to the secured party to redeem the collateral, and (4) a telephone number or address for additional information about the disposition and secured obligation. No particular phrasing is required.

Under the act, disposition notices must be given to guarantors and other secondary obligors and they can only waive the right to notification after default. But a secured party is not liable for failing to provide notice to someone unknown to him.

Insider Dispositions for Low Value

Under the act, if a secured party, a person related to him, or a secondary obligor, acquires collateral at a foreclosure sale at a price significantly below the range of proceeds that would come from a disposition to an unrelated person, any deficiency is adjusted for the higher amount that an unrelated purchaser would have paid.

Consumer Provisions

Under the act, notice to a consumer debtor 10 days before disposing of the collateral is not by itself reasonable notice. The act also requires a secured party to explain to a consumer debtor the calculation of any deficiency claim before demanding payment. Under the

act, in consumer transactions, a secured party cannot retain collateral that the debtor does not possess and cannot retain collateral only in partial satisfaction of the secured debt. Also under the act, a consumer debtor cannot waive the right of redemption.

Damages

As under prior law, a person can seek damages caused by a secured party's noncompliance. The act expands this provision to cover noncompliance with any of the act's requirements (such as a secured party's duties when possessing the collateral).

In addition to damages, the act provides a $500 penalty when (1) a secured party fails to release control of certain collateral when required to do so, (2) a secured party who is an assignee fails to inform the account debtor that he is no longer obligated to pay the secured party, (3) a person files an initial financing statement or amendment adding collateral or a debtor when not authorized to do so, (4) a secured party does not follow the act's provisions on termination statements, and (5) a secured party fails to send an explanation to a debtor or consumer obligor in a consumer goods transaction after default about a surplus or deficiency.

As under prior law, the act sets minimum damages when a secured party violates the provisions on default in consumer transactions. The act exempts from these damage provisions the failure of a secured party to explain the calculation of the surplus or deficiency as required by the act.

Assignment of Mortgage Notes

If on default the secured party is allowed to nonjudicially foreclose on a mortgage note but cannot do so because the assignment of the mortgage to him is not recorded, the act allows the secured party to record the security agreement in the appropriate office with an affidavit certifying default. The act does not create a right to nonjudicial foreclosure if it does not otherwise exist.

Transfer Statements

Under the act, a transfer statement is a record authenticated by the secured party that (1) the debtor defaulted on an obligation secured by certain collateral, (2) the secured party exercised remedies against the collateral, and (3) a transferee has acquired the debtor's rights to the collateral. The statement must include the names and addresses of the secured party, debtor, and transferee.

The transfer statement allows a transferee to obtain record or legal title to the collateral. If presented with the filing fee to the official or office that maintains the system, the official or office must accept the transfer statement, amend its records, and if necessary issue a new certificate of title in the transferee's name.

The act specifies that this is not in itself a disposition of collateral and does not relieve the secured party of its duties.

GOOD FAITH

As under prior law, good faith is defined as honesty in fact. But the act expands the definition to include the observance of reasonable commercial standards of fair dealing.

TRANSITION RULES

The act becomes effective on October 1, 2001, and applies to all transactions, security interests, and other liens within its scope including those created before October 1, 2001. The act does not apply to litigation pending on October 1, 2001. The act includes transitional provisions to continue the validity of security interests even if they do not meet the act's requirements. Secured parties must meet certain deadlines to continue the validity of their interests.

The act establishes rules to determine the priority of conflicting claims to collateral but it preserves priorities established before October 1, 2001. If priority for a security interest is based on the filing of a financing statement before October 1, 2001 and the statement is effective under the act but not prior law, priority does not relate back to the filing date but is effective on October 1, 2001.

The act contains a number of transition rules.

1. Transactions and liens not within the scope of prior law that are validly created before October 1, 2001 remain valid and can be enforced after October 1, 2001 under prior law or under the act's provisions.
2. A security interest that is enforceable and perfected under prior law before October 1, 2001 continues without need for further action if it satisfies the act's requirements for attachment and perfection. If it does not meet the act's requirements, the security interest continues perfected for one year after October 1, 2001 and will only be enforceable and perfected after that date if it satisfies the act's requirements for attachment and perfection during that period. (See below for rules on filing financing statements.)

3. If a security interest created before October 1, 2001 is enforceable but unperfected under prior law, the security interest remains enforceable but unperfected for one year after October 1, 2001. The security interest remains effective if it satisfies the act's rules within the one-year period. The security interest is perfected when it meets the act's perfection requirements.
4. In some cases, if a secured party takes action (other then filing) to perfect a security interest that satisfies prior law before October 1, 2001, it can attach to collateral after October 1, 2001, but the security interest will not satisfy the act's requirements. In these cases, a security interest that attaches during the one-year period after October 1, 2001 is perfected but becomes unperfected as to the collateral and all after-acquired collateral at the end of that period unless the security interest meets the act's requirements for attachment and perfection.

Filing

The act includes several specific transition rules for filing financing statements.

1. A financing statement filed before October 1, 2001 that meets the act's requirements for perfection by filing perfects the security interest. Even if the filing is ineffective under prior law, it becomes effective under the act and perfection dates to October 1, 2001. But a continuation statement filed to continue the perfection of a security interest must meet the act's requirements for initial financing statements.
2. A financing statement filed before October 1, 2001 that complies with prior law but not the act's requirements is effective until June 30, 2006 or until it lapses (whichever is earlier).
3. After October 1, 2001, a secured party must file an initial financing statement rather than a continuation statement to continue the effectiveness of a financing statement filed before then unless the act (a) does not require a change in the applicable filing office, (b) the continuation statement meets the act's requirements for filing a continuation statement, and (c) the pre-October 1, 2001 financing statement and continuation statement taken together satisfy the act's requirements for an initial financing statement.
4. A financing statement filed in the proper jurisdiction under prior law but the wrong jurisdiction under the act is ineffective if it is filed after October 1, 2001. To continue the effectiveness of a financing statement filed before that date, the act requires the secured party to (a) file an initial financing statement in the jurisdiction required by the act; (b) comply with the act's requirements for financing statements; (c) specifically identify the pre-October 1, 2001 financing statement by indicating the prior filing office, the date and number of the financing statement, and most recent continuation statement filed on it; and (d) indicate that the previous financing statement remains effective. The new initial financing statement can be filed anytime.

Amendments

Under the act, new financing statements must include amendments to cover the act's changes in terminology and collateral categories. The amendments must satisfy the act's requirements for financing statements. The act no longer requires the debtor's signature but requires his authorization in an authenticated record or a security agreement.

Under the act, an amendment refers to a change in the financing statement that (1) adds or deletes collateral in it, (2) continues or terminates it, or (3) amends information in it. Under the act, amendments filed after October 1, 2001 to financing statements filed before that date are effective only if they follow the law of the jurisdiction governing perfection, except in certain circumstances for filing termination statements.

The act lists specific methods for amendments after October 1, 2001.

1. If the pre-October 1, 2001 financing statement is on file in the office required by the act's provisions, then the secured party files an amendment there.
2. If the pre-October 1, 2001 financing statement is on file in a location other than the office required by the act, the secured party (a) files an amendment to the new initial financing statement with or after filing it in the new location required by the act or (b) files an initial financing statement in the location required by the act with the amendment information.

The act allows a secured party to file an amendment to terminate the effectiveness of a pre-October 1, 2001 financing statement in the office where the financing statement is filed.

The act allows a secured party to file an initial financing statement or a continuation statement if the secured party of record authorizes it and it is required to

perfect or continue the perfection of a security interest or to continue the effectiveness of a pre-October 1, 2001 financing statement.

FILING OFFICE REQUIREMENTS

In making information on financing statements available, the act allows the filing office to use any medium, but it must issue a written certificate if requested. The secretary of the state's office must respond to requests for information and acknowledgment of filing as required by its regulations but no later than five business days from receiving the request. As under prior law, a person can request information on whether there are any financing statements filed on a debtor. The act allows a request for the information in each financing statement but the filing office is not required to transcribe information otherwise available about the collateral.

Under the act, the fees charged by the secretary's office remain the same but the act adds a $25 fee for responding to a request for information as well as issuing a certificate concerning whether a financing statement names a debtor or an assignment. The act requires a $20 fee for photographic or electronic copies of financing statements or amendments and an additional $5 for certification and an official seal. Under prior law, the fee was $5 plus $4 for every page after three pages.

The act excuses delay by the filing office beyond a time limit if the office exercises reasonable diligence under the circumstances or there is an interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond the office's control.

The act requires the secretary's office to offer to sell or license filing records to the public in bulk on a nonexclusive basis in every medium available to the filing office at least monthly.

OTHER CHANGES

Sale of Goods

The law allows buyers or sellers to assign their rights unless it materially changes the duty of the other party, materially increases the burden or risk imposed by the contract, or materially impairs the chance of obtaining return performance. The act specifies that creation of a security interest is not a material change unless enforcement of the security interest delegates material performance to the seller. In that case, the security interest remains effective but the seller is liable to the buyer for damages caused by delegation that the buyer could not reasonably prevent and a court can grant relief including canceling the contract or preventing enforcement of the security interest.

By law, a buyer who paid at least part of the price for identified goods can recover them when the seller becomes insolvent in certain circumstances. The act adds this right to recover goods for consumer goods when the seller repudiates the contract or fails to deliver the goods.

The law also gives a buyer a right to a legal action to recover identified goods when replacement goods are reasonably unavailable. The act specifies that the buyer's right for consumer goods vests when the goods are identified to the contract.

Letter of Credit Law

The act gives the issuer of a letter of credit or a nominated person an automatically perfected security interest in a document presented to him under the letter of credit to the extent he gave value for it. A security agreement is not required. The document can be presented in any medium. The security interest has priority over a conflicting security interest if the document is (1) in a written or tangible medium; (2) not a certificated security, chattel paper, document of title, instrument, or letter of credit; and (3) not in the debtor's possession.

Investment Securities Law

By law, a purchaser has control of a security entitlement if he is the entitlement holder or if the security intermediary agrees to act on the purchaser's entitlement orders. The act also gives a purchaser control if another person has control but acknowledges that it does so for the purchaser.

By law, one method of delivery of a certificated security to a purchaser is when a security intermediary, acting for the purchaser, acquires possession of a registered security certificate that is specially endorsed to the purchaser. The act adds that it cannot be endorsed to the securities intermediary or in blank. The act also adds that it can be delivered when the securities certificate is registered in the purchaser's name or payable to the purchaser.

The act no longer requires delivery in order for a purchaser of a certificated or uncertificated security to acquire all the rights in the security that the transferor had the power to transfer.

The act provides priority rules (similar to those in the act for priority in investment property) that apply to a security entitlement when multiple non-secured party purchasers have control but do not specify their rights

by agreement. If a securities intermediary is a purchaser, it has priority over the interest of another purchaser who has control. Under prior law, there was a pro-rata rule for these cases.

Other Statutes

By law, a judgment lien (other than a consumer judgment) can be placed on nonexempt personal property in which a security interest could be perfected by filing with the secretary's office. Exempt property includes necessary apparel, bedding, and foodstuffs; health and disability insurance payments; and court-approved payments for child support. The person creates the lien by filing a judgment lien certificate with the office. The act specifies that the person can file with the office as if the debtor were located in this state. But if the debtor is not located in this state, the judgment lien is effective only for the debtor's tangible personal property in this state.

For failure to pay certain taxes, the state can have a lien against goods owned by a person in the state. The lien is filed using the secured transactions' filing system. The act specifies that the lien is filed as if the debtor is located in this state. The act adds the same rule to the notice of lien under the municipal personal property tax lien statute and provisions relating to pledges to or by the Connecticut Development Authority to secure its bonds or notes by filing a financing statement with respect to the security interest created by the pledge.

The act also makes conforming changes.

PA 01-133—sHB 5400
Judiciary Committee

AN ACT CONCERNING DEATH OF A TENANT

SUMMARY: This act gives landlords an alternative to bringing an eviction action to regain possession of a dwelling unit after the only tenant living there dies. Landlords who follow the act's provisions are protected against an action for entering a dwelling unit without consent.

When the only tenant living in a dwelling unit dies, the act authorizes the landlord to notify the tenant's next of kin of (1) his death and (2) the landlord's intentions regarding the tenant's personal belongings if the next of kin fails to reclaim them within a specified period. The act requires all landlords who follow its provisions to file an affidavit in probate court regarding the deceased tenant and his personal belongings.

The act authorizes a landlord who follows its provisions to dispose of the tenant's property if (1) no relative appears to claim it or (2) no one asks the probate court to take any action on the deceased tenant's will within the time specified in the notice.

The act specifies that it does not relieve a landlord of the duty to comply with the landlord and tenant laws, other than the law regarding security deposits, when he knows or should reasonably know that the dwelling unit has not been abandoned. Under existing law, a security deposit, minus any deductions for damages, belongs to the tenant who paid it or, in the event of death, the tenant's estate.

EFFECTIVE DATE: October 1, 2001

NOTICE TO NEXT OF KIN

When a landlord has complied with a lease that includes the tenant's death as a ground for termination, the act permits him to send a notice to the last-known address of the next of kin upon the death of the sole tenant in a dwelling unit. He must send the notice by regular and certified mail, return receipt requested. The notice must be in clear and simple language and include the landlord's telephone number and address. It must state that the (1) tenant has died, (2) landlord intends to remove his belongings from the dwelling unit and re-rent the premises, and (3) next of kin has 60 days to reclaim the belongings or the landlord will dispose of them.

PROBATE COURT AFFIDAVIT

The act requires landlords to file an affidavit with the probate court when the sole tenant in a dwelling unit dies. The affidavit must include the deceased tenant's name and address, the date he died, the terms of his lease, and the names and addresses of any known next of kin.

If the court receives a request to determine the validity of a will or appoint an administrator of a decedent's estate within 55 days of the date the affidavit is filed, it must immediately notify the landlord. A landlord who receives this notice cannot dispose of the tenant's property or re-rent the dwelling unit as indicated above.

LANDLORD'S REMOVAL OF DECEASED TENANT'S PROPERTY

A landlord must inventory the belongings left in a dwelling unit by a deceased tenant no earlier than 30 days after the date he files the affidavit and file a copy of the inventory with the court. The landlord must leave

the tenant's belongings in place for at least 15 days after the date he takes the inventory. After 15 days, he can store the belongings, and after 30 days the state marshal can put them on the adjacent sidewalk, street, or highway.

PA 01-135—sHB 6126
Judiciary Committee

AN ACT CONCERNING MODIFICATION OF CERTAIN DIVORCE AGREEMENTS

SUMMARY: This act permits Superior Court judges to modify, rather than only enforce, divorcing parties' written agreements for the care, education, maintenance, or support of children over age 18. The support covered by these agreements is often referred to as "post-majority support."

It applies to agreements made on and after July 1, 2001, that have been incorporated in or made part of divorce decrees. The act specifies that existing criteria and procedures governing modifications apply, including the requirement that the party seeking the modification show a substantial change in circumstances.

The act also allows judges to order one party to a divorce to maintain life insurance for the other party or the couple's minor child unless their divorce decree precludes modification. Courts may already include in divorce decrees an order directing one party to designate the other as beneficiary of his life insurance policy as a means of securing alimony payment obligations. It is unclear under the act whether the person ordered to maintain life insurance in a modification proceeding must purchase a policy insuring his ex-spouse or child or designate them as beneficiaries of his own policy.

It is also unclear whether the substantial change in circumstances criteria governing other divorce decree modifications applies to modifications of orders to maintain life insurance.

EFFECTIVE DATE: July 1, 2001

PA 01-142—sHB 6652
Judiciary Committee
Human Services Committee
Education Committee

AN ACT CONCERNING REVISIONS TO THE CHILD PROTECTION LAWS

SUMMARY: This act makes many changes in the child protection laws, several of which are required to bring Connecticut into conformity with the federal funding requirements of the Adoption and Safe Families Act. It:

1. shortens "trigger" dates for court permanency plan review hearings and requires yearly hearings for non-delinquent children in the Department of Children and Families' (DCF's) custody;
2. establishes preferences among permanency options for these children;
3. eliminates the requirement that DCF obtain court orders to extend the commitment of an abused and neglected child beyond 12 months and instead requires the agency to prove at each yearly permanency hearing that a child should remain in its custody;
4. makes "clear and convincing evidence" the standard for terminating reunification efforts at permanency hearings and permits a judge to rely on previous rulings that such efforts are inappropriate;
5. requires the court to determine at each permanency hearing whether DCF has made reasonable efforts to achieve a permanent living arrangement for the child;
6. modifies the rights of foster parents to participate in permanency plan, placement, and commitment revocation proceedings;
7. requires a court to hold an evidentiary hearing when any party in an abuse or neglect proceeding requests a ruling on whether efforts to reunify parents and children should continue, adds additional misconduct by the parent as grounds for terminating such efforts, and raises the level of proof to clear and convincing evidence;
8. restores relative caregiver licensing requirements and exceptions mandated by PA 01-70 but repealed as of October 1, 2001 by PA 01-159 (thus negating the latter act's legal effect);
9. requires DCF, on request, to provide copies of otherwise confidential records regarding a child or his parent to any party in an abuse or neglect or termination of parental rights proceeding when the child's custody is at issue;
10. permits DCF to use its photo-listing service to recruit adoptive parents for children whose court-approved permanency plan specifies the goal of adoption, but eliminates its statutory authority to conduct an adoption assessment and child-specific recruitment for these children (PA 01-02, June Special Session restores this authority, in effect leaving prior

law unchanged);

11. requires the regulations implementing DCF's child abuse registry to include an appeals process for people challenging their inclusion in the registry;
12. requires DCF to notify, and provide its investigatory records to, state licensing or certification agencies whenever it determines that a licensed or certified school employee or staff member of a facility caring for children has abused a child; and
13. requires probate court applications to commit children with mental illness to include the name, address, and phone number of the child's attorney, if one has been appointed to represent him in an abuse or neglect proceeding.

EFFECTIVE DATE: October 1, 2001

SHORTENED "TRIGGER" DATES FOR PLACEMENT HEARINGS

Federal funding rules require state foster care agencies to get court review and approval of permanency plans within one year of a child's first entry into the foster care system, and at least yearly thereafter. Under the act, DCF must file motions for review of permanency plans within nine months of taking custody under a voluntary placement agreement, emergency removal from the home, or court order, whichever is earliest. The court must hold hearings within 90 days of the filing. DCF must file subsequent motions within nine months of the plan approval hearing, and the court must hear these motions within 90 days. The combined effect of these deadlines is to complete permanency plan reviews for all of these children at least every 12 months.

Under prior law, DCF made such filings only for abused and neglected children. It had to file the first motion by the earlier of 10 months after a court finding of abuse or neglect or 12 months after removing a child from his home on an emergency basis. Court hearings had to be held within 60 days. Subsequent yearly review hearings were triggered by DCF filing motions 10 months after every permanency hearing. But the law exempted from yearly review cases in which (1) the court had approved a permanency plan for placement in long-term foster care with an identified person or independent living program or (2) DCF had filed a petition to terminate parental rights or a probate court motion to transfer guardianship. The act shortens to nine months the trigger dates and eliminates the exceptions.

PERMANENCY PLAN PRIORITIES AND CONTESTED HEARINGS

Preferred Options

As required by federal funding rules, the act establishes a preference for one of the following permanency goals already in the law: (1) revocation of commitment and placement with a parent or guardian, with or without protective supervision; (2) transfer of guardianship; (3) adoption; or (4) long-term foster care with a licensed or certified relative caregiver.

By law, permanency goals can also include placing the child or youth in an independent living program and long-term foster care with an identified foster parent (not necessarily a relative). Under the act, the court cannot approve these or any other "planned permanent living arrangements" unless DCF establishes a compelling reason why one of the preferred placements is not in the child's best interest. This is consistent with federal guidelines.

The act makes the health and safety of an abused or neglected child the paramount concern in formulating a permanency plan, another federal requirement. As under existing law, courts must approve plans that are in the child's best interest and consider the child's need for permanency.

Participation of Children, Parents, and Foster Parents

The act requires any party opposing the commissioner's permanency plan or the maintenance or revocation of a DCF commitment to file a motion with the court within 30 days of DCF's filing its motion for a permanency plan review hearing. When the plan is contested, the court must allow parties to introduce evidence at the hearing. The act specifies that DCF has the burden of proving that the child's commitment should be maintained.

The act eliminates "standing" of a child's foster parents in matters concerning the child's placement or revocation of commitment, and instead gives them the right to be heard. It also eliminates the "standing" of recent foster parents to comment at abuse and neglect proceedings, including permanency hearings, on the best interests of a child who had been in their care for at least six months. Instead, they have the right to be heard and to comment on the child's best interests.

COURT REUNIFICATION HEARINGS

The act requires courts handling abuse and neglect cases to hold evidentiary hearings within 30 days of any party's request for a ruling on whether DCF must

continue its efforts to reunify a child in its custody with a parent.

The act also adds the following as parental actions ("aggravating factors") that may serve as the basis for a judge's decision that further reunification efforts are inappropriate:

1. deliberately killing, attempting to kill, or seriously injuring another one of their children (previously, only such actions against the child's siblings were covered) or
2. voluntarily surrendering to emergency room nurses, within 30 days of birth, the child who is the subject of the reunification efforts.

Other aggravating factors in existing law include parental abandonment, sexual molestation, or severe physical abuse of the child; involuntary termination of rights to another child; and some sexual assault convictions.

The act requires proof of all aggravating factors by clear and convincing evidence.

Under prior law, only DCF could initiate such proceedings. There was no evidentiary hearing requirement, heightened standard of proof, or time limit within which the court had to act.

PHOTO-LISTING

The act permits courts to order DCF to use its photo-listing service to recruit adoptive parents for children whose permanency plan includes the goal of adoption, even if they cannot yet be adopted. Previously, DCF had to wait until parental rights were terminated. Under the act, the listing cannot occur until 30 days after the court's approval of the plan. By law, the judge must determine that photo-listing is in the child's best interest, and children over age 12 must consent.

REGULATIONS

The act requires DCF to add to its child abuse registry implementing regulations a process for hearing challenges to the information it contains. The agency's regulations currently govern the use and operation of the registry but contain no procedure for handling claims that the agency incorrectly included a person in the registry. In practice, DCF holds administrative hearings to resolve these challenges.

By law, violators of DCF's abuse registry regulations must be fined up to $1,000 or imprisoned for up to one year.

BACKGROUND

Adoption and Safe Families Act (ASFA)

ASFA (PL 105-89) amended Title IV-E of the Social Security Act, the primary federal funding source for state foster care and adoption assistance programs. It sets eligibility requirements that states must meet to qualify for federal matching funds. It also mandates periodic federal review of each state's success in arranging permanent placements for children in foster care, including by reunification with their parents, legal guardianship, or adoption. Federal officials can assess penalties against or withhold funds from non-compliant states.

Related Acts

Beginning July 1, 2001, PA 01-70 (which PA 01-159 repeals on October 1, 2001) permits children to remain in the care of certified relatives. It also permits DCF to waive some foster-care licensing procedures or standards for other relatives on a case-by-case basis. PA 01-142, which also goes into effect on October 1, 2001, has the same requirements as the repealed portion of PA 01-70, thus making PA 01-70's provisions permanent.

PA 01-2 (June Special Session) requires permanency planning for delinquent children and youths and serious juvenile offenders in DCF custody. It also restores the agency's statutory authority to conduct adoption assessments and recruit adoptive parents for abused, neglected, and voluntarily placed children when adoption is the permanency plan goal, which this act had eliminated.

PA 01-147—sHB 6657
Judiciary Committee
Finance, Revenue and Bonding Committee
Labor and Public Employees Committee

AN ACT PROHIBITING EMPLOYMENT EXPLOITATION OF IMMIGRANT LABOR

SUMMARY: This act requires the labor commissioner to produce printed material on the rights of immigrant laborers or those who lack proficiency in English. The material must be in Spanish and French, and the commissioner can include other languages spoken by primary groups of immigrant laborers in the state. The material must address rights under state law on state contracts (such as hours and wages in public works contracts), wages, and unemployment compensation.

The commissioner must provide the information to anyone who applies for unemployment compensation benefits or wants to enforce compliance with the wage and state contract laws. He must make the information available to the public within available appropriations. He must prevent people from illegally taking advantage of immigrant and other laborers because of lack of information about their rights, their credulity, or their lack of proficiency in English.

The act allows the commissioner to appoint special agents to inform non-English speaking laborers, rather than just alien laborers, of their contract rights under state law and to prohibit someone from illegally taking advantage of them because of their lack of proficiency in English. The agents must be familiar with the language of these laborers. By law, the commissioner can appoint these special agents as needed; they receive the same pay as other department agents. The act eliminates the $300 total annual limit on expenses for these special agents.

The act makes anyone who violates any of the employment regulation laws on hours and employee protection liable to the Labor Department for a $300 civil penalty for each violation. By law, someone is liable for this penalty for violating the provisions on state contracts, wages, and certain types of fraud or deception of insurance companies under the Workers' Compensation Act. The amounts collected are credited to the department and can be used for enforcement. The act allows the department to use the funds to enforce the act's provisions on immigrant and non-English speaking laborers and the laws on hours and protection of employees.

By law, employers are prohibited from discharging, penalizing, or discriminating against an employee because of claims, proceedings, testimony, or rights he exercised on behalf of himself or others under the unemployment compensation system. An employee who is the target of this action can complain to the labor commissioner, who can, after a hearing, award appropriate relief, including an order for the employer to rehire or reinstate the employee and pay him back wages, benefits, and reasonable attorney's fees and costs. The act allows the commissioner to request the attorney general to bring an action in Superior Court for an injunction to require compliance with his award, decision, or judgment.

EFFECTIVE DATE: October 1, 2001

PA 01-148—sHB 6589
Judiciary Committee

AN ACT CONCERNING JUVENILE MATTERS

SUMMARY: This act:

1. requires Superior Court judges to appoint guardians *ad litem* (people who represent a child's best interests) in all abuse and neglect cases, rather than only those they deem appropriate;
2. eliminates a requirement that the child's attorney and guardian *ad litem* be different people, specifies criteria when separate representation is required, and directs courts to appoint as attorneys and guardians *ad litem* only people knowledgeable about abuse and neglect matters;
3. gives the Department of Children and Families and parties adversely affected by a Superior Court's final decision terminating parental rights, the right to an expedited Appellate Court hearing and directs that court to render a final decision as soon as practicable once it receives the certified trial record; and
4. eliminates a requirement that the juvenile court serve a summons and copy of an emancipation petition on the person who filed it.

EFFECTIVE DATE: October 1, 2001

ATTORNEYS AND GUARDIANS *AD LITEM*

The act requires the attorney appointed to represent a child in a neglect proceeding to also act as the child's guardian *ad litem*, in most cases. It specifies that his primary role must be to advocate for the child's position in accordance with the Rules of Professional Conduct. (Among other things, the rules direct attorneys to abide by a client's decisions concerning the objectives of representation.) The court must appoint a separate guardian *ad litem* when the child's wishes conflict with what his attorney believes is in his best interests. This person need not be a lawyer.

If the court appoints a separate guardian *ad litem*, the person previously serving in both capacities can continue to serve as attorney, unless the court for good cause appoints another person to do so. But he cannot serve solely as the guardian *ad litem.*

By law, the court must pay the attorney's and guardian's fees if the family cannot afford them.

EMANCIPATION PETITION SERVICE

Any 16- or 17-year-old living in Connecticut or his parent or guardian may petition either the juvenile or probate court for emancipation (i.e., an order giving the child the legal rights of an adult and relieving his parents or guardian of their obligations to support and supervise him). Under prior law, courts had to serve a copy of the petition and a summons or notice to appear on both the affected child and his parents or guardian. Under the act, the juvenile court need not serve the person who filed the court petition.

BACKGROUND

Adoption and Safe Families Act of 1997

Among other things, the federal Adoption and Safe Families Act requires states to appoint guardians *ad litem* to make court recommendations about a child's best interests in all abuse and neglect cases (42 USC § 5106a(b)(2)(A)(ix)). The federal Administration on Children and Families may reduce federal funding or take other measures against states that fail to do so.

PA 01-149—HB 5843
Judiciary Committee
Human Services Committee

AN ACT CONCERNING INTERVENTION BY SIBLINGS IN COURT AND HEARINGS

SUMMARY: This act requires juvenile court judges to hold hearings when brothers or sisters of an abused or neglected child in the Department of Children and Families' (DCF) custody ask (file a motion) to be heard concerning visitation with, or placement of, that child. It directs judges to consider the best interests of all siblings affected by the determination when awarding visitation or modifying DCF placements.

The act also requires DCF to grant a sibling's motion to be heard on visitation and placement issues at administrative treatment plan hearings. In practice, DCF makes most visitation and placement decisions at these hearings. Under prior law, hearing officers had discretion to grant or deny such requests.
EFFECTIVE DATE: October 1, 2001

PA 01-151—sSB 1161
Judiciary Committee

AN ACT CONCERNING THE DEATH PENALTY

SUMMARY: This act:

1. adds as an aggravating factor that the jury or judge considers when deciding whether to sentence a person to the death penalty or life imprisonment without release, that the defendant murdered a law enforcement officer or certain other people in certain circumstances;
2. prohibits imposing a death sentence on a defendant with mental retardation;
3. creates a Commission on the Death Penalty to study the imposition of the death penalty in Connecticut; and
4. changes the scope of the capital felony statute by (a) including murder of a conservation or special conservation officer appointed by the environmental protection commissioner who was acting within the scope of his duties and (b) eliminating the illegal sale of cocaine, heroin, or methadone for financial gain to a person who dies as a direct result of using the drug.

EFFECTIVE DATE: July 1, 2001

AGGRAVATING FACTORS

By law, after a person is convicted of a capital felony, the judge or jury considering whether the court should impose the death penalty must determine, and state in a special verdict, whether aggravating factors outweigh mitigating factors. If the mitigating factors outweigh the aggravating factors or are of equal weight, the court must sentence the defendant to life imprisonment without the possibility of release. If the aggravating factors outweigh mitigating factors, the sentence is death.

Under prior law, the only aggravating factors that the judge or jury could consider were that the defendant:

1. committed the offense while committing or attempting to commit a felony, or while fleeing from the actual or attempted commission of a felony, and had previously been convicted of the same felony;
2. had been convicted of at least two prior state or federal offenses committed on different occasions, each of which involved serious bodily injury and had a maximum penalty of at least one year imprisonment;
3. committed the offense knowingly creating a

grave risk of death to another person in addition to the victim;
4. committed the offense in an especially heinous, cruel, or depraved manner;
5. procured someone else to commit the offense by paying or promising to pay anything of monetary value;
6. committed the offense in return for payment or the expectation of payment; or
7. committed the offense with an assault weapon.

The act adds as an aggravating factor that the defendant murdered one of the following people while they were acting within the scope of their duties: a police officer, inspector of the Division of Criminal Justice, state marshal exercising his statutory authority, judicial marshal performing his duties, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the environmental protection commissioner, Department of Correction (DOC) employee or person providing services on behalf of DOC when acting within the scope of his employment in a correctional facility and when the perpetrator is confined to the facility, or firefighter. In addition, for it to be an aggravating factor to kill one of these people, the defendant must commit the murder to (1) avoid arrest for, or prevent detection of, a criminal act; (2) hamper or prevent the victim from carrying out an act within the scope of his official duties; or (3) retaliate against the victim for performing his official duties.

DEATH SENTENCE FOR A PERSON WITH MENTAL RETARDATION

The act prohibits imposing a death sentence on a defendant if the jury or court (if there is no jury) finds in a special verdict that the defendant was mentally retarded at the time of the offense. It defines "mental retardation" as a significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. "General intellectual functioning" means the results obtained by assessment with one or more of the standardized individually administered general intelligence tests developed for that purpose and administered by someone formally trained in test administration. "Significantly sub-average" is an intelligence quotient more than two standard deviations below the mean for the test. "Adaptive behavior" is the effectiveness or degree to which an individual meets the standards of personal independence and social responsibility expected for his age and cultural group. "Developmental period" is the time between birth and the 18th birthday.

COMMISSION ON THE DEATH PENALTY

Members

The act creates a nine-member Commission on the Death Penalty. It consists of two members appointed by the governor and one member each appointed by the:
1. chief justice,
2. Senate president pro tempore,
3. House speaker,
4. Senate and House majority leaders, and
5. Senate and House minority leaders.

Vacancies are filled by the person who made the original appointment. The governor appoints a chairman from the members.

Study

The act requires the commission to examine:
1. whether the administration of the death penalty in Connecticut meets constitutional principles and requirements of fairness, justice, equality, and due process;
2. the costs to the state of imposing a death sentence and life imprisonment without the possibility of release and a comparison of their costs;
3. whether there is a disparity in the decision to charge, prosecute, and sentence someone for a capital felony based on the (a) defendant's or victim's race, ethnicity, gender, religion, sexual orientation, age, or socioeconomic status or (b) judicial district where the offense occurred;
4. the training and experience of prosecutors and defense counsel in capital cases at trial, appellate, and post-conviction levels;
5. the process for appellate and post-conviction review of death sentences;
6. the delay in appellate and post-conviction review of death sentences, the delay between imposing and executing a death sentence, and the reasons for these delays;
7. procedures for granting a reprieve, stay of execution, or commutation of the death penalty;
8. the extent to which the governor is authorized to grant a reprieve or stay of execution of the death penalty and whether he should be given that power;
9. safeguards in place or that should be in place to ensure that innocent people are not executed;
10. the extent that victim impact statements (statements prepared by a victim advocate for the court files that can be read in court before

imposing a sentence) affect the sentence imposed on a defendant convicted of a capital felony;
11. any studies by other states and the federal government on administering the death penalty; and
12. emotional and financial effects that delay between imposing a death sentence and carrying out the execution have on the family of a murder victim.

The commission must also make recommendations on financial resources needed by the Judicial Branch, Division of Criminal Justice, Division of Public Defender Services, Department of Correction, and Board of Pardons to ensure that there are no unnecessary delays in prosecuting, defending, and appealing capital cases.

The commission must report its findings and recommendations, including any recommendations for legislation and appropriations, to the General Assembly by January 8, 2003.

CAPITAL FELONY

A person convicted of a capital felony can be sentenced to the death penalty or life imprisonment without the possibility of release. The act changes the scope of the capital felony statute by (1) including murder of a conservation or special conservation officer appointed by the environmental protection commissioner while the victim was acting within the scope of his duties and (2) eliminating the illegal sale of cocaine, heroin, or methadone for financial gain to a person who dies as a direct result of using the drug.

As under prior law, it is also a capital felony if a person:
1. murders, while the victim was acting within the scope of his duties, a police officer, inspector of the Division of Criminal Justice, state marshal exercising his statutory authority, judicial marshal performing his duties, constable performing law enforcement duties, special policeman, DOC employee or person providing services on behalf of DOC when acting within the scope of his employment in a correctional facility and when the perpetrator is confined to the facility, or firefighter;
2. murders for pay or hires someone to murder;
3. murders and was previously convicted of intentional murder or murder while a felony was committed;
4. murders while sentenced to life imprisonment;
5. murders a kidnapped person and is the kidnapper;
6. murders while committing first-degree sexual assault;
7. murders two or more people at the same time or in the course of a single transaction; or
8. murders a person under age 16.

BACKGROUND

Prohibitions on Imposing a Death Sentence

By law, a defendant cannot receive the death penalty if:
1. he was under age 18 at the time of the crime;
2. his mental capacity or ability to conform his conduct to the requirements of law was significantly impaired at the time of the crime (but not so impaired as to constitute a defense);
3. he was guilty of a capital felony only as an accessory and had relatively minor participation; or
4. he could not reasonably have foreseen that his conduct, in the course of committing the crime he was convicted of, would cause or create a grave risk of causing someone's death.

PA 01-152—HB 5850
Judiciary Committee

AN ACT CONCERNING PEREMPTORY CHALLENGES IN A CIVIL ACTION

SUMMARY: This act precludes judges presiding over civil jury selections from assigning one side more than twice the total number of peremptory challenges they give the other side. Parties use these challenges to excuse potential jurors without having to give a reason.

Previously, each party (not each side) could peremptorily challenge three potential jurors. When a trial was likely to last a long time, the court could direct that two or more alternate jurors be added to the jury. In such a case, each party could peremptorily challenge four potential jurors.

By law, when several plaintiffs or defendants have substantially similar interests, known as "unity of interest," the court may treat them as a single party and limit them to a total of three peremptory challenges, or four if alternates are also selected. The act directs judges to find that parties represented by the same attorney or law firm have a unity of interest. It also establishes a presumption that there is a unity of interest among parties who have not filed cross claims or reapportionment complaints (i.e., have not claimed that their potential liability should be reduced because of

other parties' legal responsibilities).

Judges assigned to unity of interest cases may permit additional peremptory challenges and specify whether they must be exercised individually or jointly. They retain this authority under the act, but must ensure that they assign neither side more than twice the number of challenges they assign the other.

EFFECTIVE DATE: October 1, 2001

NUMBER OF PEREMPTORY CHALLENGES

The act has no effect on the number of challenges in a case where no unity of interest exists among the parties and the number of defendants and plaintiffs is the same. But, for example, in a case with one plaintiff and five defendants, none of whom have a unity of interest, the act appears to require the court to assign the defendants no more than six peremptory challenges (twice the plaintiff's three challenges). Under prior law, each defendant would be entitled to three challenges, for a total of 15.

The reverse would be true in a case with five plaintiffs suing a single defendant.

PA 01-159—sHB 6967
Judiciary Committee
Human Services Committee
Public Safety Committee
Appropriations Committee

AN ACT CONCERNING ADOPTION OF CHILDREN IN STATE FOSTER CARE

SUMMARY: This act requires more frequent tracking of children who may be adopted. It requires those having custody of a child who is free for adoption (usually the Department of Children and Families (DCF)) to file court reports every three, rather than every six, months. The act permits courts to hold hearings whenever a report is filed. It also requires them to hold permanency plan hearings within one year of one another, rather than one year after parental rights have been terminated, if this results in an earlier hearing date.

The act directs DCF's photo-listing service to check every three months, rather than twice a year, on the progress toward adoption of photo-listed and registered children.

By law, DCF may place abused and neglected children in the homes of certified relative caregivers under some conditions, and may waive some foster care licensing standards and procedures under others. The act requires all relative caregivers to be licensed as foster parents. (But PA 01-142, which like this act goes into effect on October 1, 2001, repeals this.) It also specifies procedures for criminal background and child abuse registry checks for foster care license holders and applicants and post-adoption services that DCF may offer.

Finally, the act adds reducing the time between termination of parental rights and adoption as a reason for concurrent permanency planning. Concurrent planning requires DCF to develop permanent placement alternatives when it is still possible, but appears unlikely, that the child and parent will reunify.

EFFECTIVE DATE: October 1, 2001

CASE PLAN REPORTS AND COURT HEARINGS

By law, when a Superior Court terminates the parental rights of a child, DCF or the child's appointed guardian must report to the court within 30 days with a case plan setting measurable objectives and time schedules for finalizing adoption. The act imposes the same 30-day deadline on case plan filings in probate court. (The previous deadline was 90 days.) It reduces, from every six to every three months, the deadline for filing subsequent progress reports in both courts. It permits the juvenile or probate court that terminated parental rights to hold a hearing whenever a report is filed. It maintains the requirement that the Superior Court review plans yearly, but specifies that, if holding a hearing within one year of the most recent permanency plan hearing would result in an earlier hearing date, that event must trigger the annual review. The act extends the same rule to probate court reviews, which were on a 15-month initial review cycle.

It also requires the courts to determine at these hearings whether DCF has made reasonable efforts to achieve the child's permanency plan.

PHOTO-LISTING UPDATES

The act requires DCF's photo-listing service to check every three months, rather than twice yearly, the status and progress toward adoption of listed children about whom it has received inquiries from potential adoptive parents. It also requires it to check periodically on the progress of children registered as being free for adoption but not photo-listed because they had been placed in a pre-adoptive home at the time of registration. The service must already do this for children not photo-listed because of an adoptive placement.

ELIMINATING CERTIFICATION OF RELATIVE CAREGIVERS

The act eliminates DCF's authority to place abused and neglected children with unlicensed relatives, instead requiring them to have foster parent licenses. Licensing is required for the state to claim federal funding. Before July 1, 2001, DCF could place children with relatives for short periods, and had to certify them if they were to care for children for more than 45 days (PA 01-70 lengthens this period to 90 days). Among other things, certified relatives are not required to complete the training and evaluation program required of foster parent license applicants and their housing arrangements are not subject to all of the standards that are imposed on foster parents.

BACKGROUND CHECKS

By regulation, DCF will not place foster children with a person who has been convicted of, or lives in a household with, a person who has been convicted of (1) any felony against a person; (2) injury, risk of injury, or impairing the morals of a minor; or (3) possession, use, or sale of any controlled substance.

The act specifies that if DCF conducts a criminal history records check, it must arrange for fingerprinting or conduct any other type of positive identification required by the State Police Bureau of Identification or the Federal Bureau of Investigation (FBI).

The fingerprints and other positive identifying information must be forwarded to the State Police Bureau of Identification, which must conduct a state criminal history records check and submit the fingerprints or other identifying information to the FBI for a national criminal history records check. DCF must also determine whether the applicant or licensee's name appears on the state child abuse registry.

By law, foster parent license applicants must submit to criminal background checks. DCF also requires this of all adults (age 18 or older) living with them.

POST-ADOPTION SERVICES

The act specifies that post-adoption counseling and referral services for adoptees and adoptive families for whom DCF provided services before the adoption include (1) assigning a mentor to a family, (2) training after licensing, (3) support groups, (4) behavioral management counseling, (5) therapeutic respite care, (6) referrals to community providers, (7) a telephone help line, and (8) training for public and private mental health professionals in post-adoption issues.

BACKGROUND

Federal Laws

Adoption and Safe Families Act (ASFA). ASFA (PL 105-89) amended Title IV-E of the Social Security Act, the primary federal funding source for state foster care and adoption assistance programs. It sets eligibility requirements that states must meet to qualify for federal matching funds. It also mandates periodic federal review of each state's success in arranging permanent placements for children in foster care, including by reunification with their parents, legal guardianship, or adoption. Federal officials can assess penalties against ,or withhold funds from, non-compliant states.

PL 92-544. Under this law, the FBI can comply with a state's request for national criminal records checks only if the state law:

1. authorizes it,
2. requires fingerprinting of the applicant,
3. expressly or by implication authorizes use of FBI records for screening the applicant,
4. is not against public policy, and
5. specifically identifies the category of applicants or licensees for which FBI checks are authorized.

Related Acts

Beginning July 1, 2001, PA 01-70 (which this act repeals on October 1, 2001) permits children to remain in the care of certified relatives. It also permits DCF to waive some foster-care licensing procedures or standards for other relatives on a case-by-case basis.

PA 01-142 restores the repealed provisions of PA 01-70 effective October 1, 2001, in effect making PA 01-70's relative caregiver provisions permanent.

PA 01-175 creates a uniform criminal records check procedure and mandates its use when any state statute requires such checks.

PA 01-167—sHB 6895
Judiciary Committee
Legislative Management Committee
Appropriations Committee
Government Administration and Elections Committee

AN ACT CONCERNING DECISIONS OF THE CLAIMS COMMISSIONER

SUMMARY: This act requires the claims commissioner to report to the General Assembly within five days after it convenes the 2002 regular session, on

all claims he has not disposed of within three years after they were filed with him. The requirement does not apply to claims where the parties have agreed to an extension of time.

The act requires the commissioner to report to the General Assembly within five days after it convenes the 2003 regular session, and each regular session thereafter, on all claims that he has not disposed of within two years after they were filed with him. This requirement does not apply to claims where the parties have agreed to, or the General Assembly has granted, an extension. The commissioner must notify all people whose claims are included in these reports that the General Assembly will consider them at its next regular session.

The act authorizes the General Assembly to take the following actions regarding any claim included in a report: (1) grant the commissioner an extension of time, (2) grant or deny an award, or (3) permit the claimant to sue the state.

The act gives claims by (1) people over age 64 or who reach age 65 while their claim is pending, (2) executors and administrators of decedents' estates, and (3) terminally ill people priority for assignment for hearing before the commissioner. "Terminally ill" means the final stage of an incurable or irreversible medical condition which will result in death within a relatively short time, in the opinion of the attending physician.

The act requires the commissioner to notify a claimant that he is submitting his claim to the General Assembly and that the General Assembly will accept, alter, or reject the commissioner's recommendation.

The act makes evidence that the claims commissioner or General Assembly authorized the claimant to sue inadmissible in the lawsuit as evidence of the state's liability.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Claims Commission Law

The law requires those who seek permission to sue the state to go to the claims commissioner unless their case falls within the following exceptions: (1) claims for the periodic payment of disability, pensions, retirement, or other employment benefits; (2) claims that the law allows to go directly to court; (3) claims for which an administrative hearing procedure is established by law; (4) requests by political subdivisions for the payments of grants in lieu of taxes; and (5) claims for tax refunds.

The commissioner can approve the immediate payment of "just claims" up to $7,500. "Just claims" are those that in equity and justice the state should pay, as long as it caused the damage or injury or received a benefit. The commissioner must report to the General Assembly on all such claims.

Anyone who filed a claim for more than $7,500 but is awarded $7,500 or less and wishes to protest the award, can waive immediate payment and have his claim submitted directly to the General Assembly. He must file this waiver with the commissioner within 10 days after he receives a copy of the order approving immediate payment. These claims are then handled like claims over $7,500.

Claims in Excess of $7,500

If he recommends paying or rejecting claims over $7,500, the commissioner must submit the recommendation to the General Assembly within five days after it convenes or at such other times as the Senate president pro tempore and House speaker desire. He must include a copy of his findings and the hearing record of each claim he reports. The General Assembly may accept or alter the recommendation or reject it and grant or deny the claimant permission to sue the state.

Authorizations of Lawsuits Against the State

The General Assembly or the commissioner can authorize a claimant to sue the state when they deem it just and equitable and when the claim, in their opinion, presents an issue of law or fact under which the state, were it a private person, could be liable. In such situations, the state waives its immunity from liability and all defenses that might arise from the governmental nature of the activity complained of. The state's rights and liability in these lawsuits are the same as those of private persons in similar circumstances.

The lawsuit must be filed within one year after it was authorized. It must be tried to the court without a jury.

PA 01-186—sSB 1058
Judiciary Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING COURT OPERATIONS

SUMMARY: This act makes numerous changes to various laws dealing with Superior Court operations. Specifically, it:

1. authorizes the court, when deciding child custody or visitation issues, to order either or both parents and the child to participate in

counseling and drug or alcohol screening if it is in the child's best interest;

2. increases, from $15,000 to $100,000, the maximum amount the comptroller can pay without a referee's approval to a landowner whose property the transportation commissioner has taken by eminent domain for state highway purposes (PA 01-105 makes the same change);
3. gives Judicial Department contractors and authorized agents access to the department's records (employees already have this access), authorizes department employees, contractors, and agents to disclose information contained in these records to the extent necessary to perform their duties; and specifies that this access and authority include erased records;
4. establishes time frames for law enforcement authorities to comply with court orders to return seized property to owners or to otherwise dispose of it and gives them more time to file papers with the court indicating that they have complied;
5. requires that a bail bond be automatically terminated and released when (a) a criminal defendant is admitted to the pretrial school violence program or (b) the court suspends the prosecution of someone in any case involving handgun transfers to prohibited people or a violation of the transfer procedures, if it finds the violation is not serious, the accused will probably not offend again, and he has not previously violated the law;
6. gives an additional $1,000 a year to each Superior Court judge who is designated a chief administrative judge for administrative appeals, the judicial marshal service, or judge trial referees;
7. increases the mileage fees in criminal cases for material witnesses ordered by a court to attend and testify from 10 cents a mile to the amount established by the administrative services commissioner with the Office of Policy and Management secretary's approval (currently 34.5 cents per mile);
8. allows judge trial referees, instead of requiring trial referees, in an appeal by the owner to the Superior Court, to review the amount offered by a redevelopment agency or other agencies that want to obtain property by eminent domain and requires that the owner, instead of the court, notify the redevelopment agency of the appeal;
9. authorizes the judgment creditor in a small claims case, instead of the court clerk, to send interrogatories to the appropriate people or institutions (A judgment creditor is someone owed money under a judgment entered in his favor. Interrogatories are used to locate money or other assets to satisfy the judgment.);
10. allows, instead of requires, the court to appoint a judge trial referee to reassess damages or benefits when property owners go to court to challenge the Department of Transportation (DOT) commissioner's assessment of special damages or special benefits for taking property by eminent domain;
11. adds additional requirements concerning the disclosure of a child's address in proceedings under the Uniform Child Custody Jurisdiction Act;
12. prohibits a public agency from disclosing, under the Freedom of Information Act, the residential address of a Public Defender Services Division social worker or Judicial Branch employee;
13. applies the rules on forfeiting bail bonds with surety to bonds posted by someone other than a bail bondsman;
14. shortens the time period tenants have to deposit with the court clerk an amount equal to the last agreed upon rent in court proceedings alleging the landlord has not performed his statutory duties; and
15. specifies that in connection with prepared agreements from the resale of an nonprofit hospital to a for-profit entity, it is the Superior Court for the judicial district where the hospital is located that selects the parties who are to receive the fair market value of the hospitals assets.

Finally, the act makes technical changes.

EFFECTIVE DATE: October 1, 2001

COMPTROLLER PAYMENT

By law, a land owner may file with the court clerk a written acceptance of the assessment of damage and benefits established by the DOT when it takes his property by eminent domain. The clerk must then notify the comptroller and commissioner of the acceptance.

The act allows the comptroller, when the amount to be paid the landowner, minus any benefits to him, is less than $100,000 instead of less than $15,000, to pay the landowner without a referee's approval that the amount is reasonable.

RETURN OF SEIZED PROPERTY

The act gives law enforcement personnel and agencies 90 days to comply with a court order to return seized property to the owner or otherwise dispose of it before they are in criminal contempt of court. Prior law required courts to give them six months to return property but did not specify a time frame for complying with an order to otherwise dispose of it. By law, the penalty for a violation is a fine of up to $100. The act also gives them 72 hours from the time the property is returned or otherwise disposed of pursuant to a court order to file a "return of compliance" form with the court indicating the property was returned or disposed of. Prior law required that the form be filed when the official complied with the order.

DISCLOSURE OF CHILD'S ADDRESS

By law, if a party in a proceeding under the Uniform Child Custody Jurisdiction Act alleges that the health, safety, or liberty of a parent or child would be jeopardized by disclosing the child's address, the address must not be disclosed to the other party or the public unless the court determines that disclosure is in the interest of justice.

The act requires that the allegation be stated under oath. It also requires that the allegation (1) provide obvious notice to the court clerk that the allegation is being made; (2) not contain location information that poses the risk unless the court orders it; (3) identify in writing, documents previously filed with the court that contain location information that poses the risk; and (4) provide the clerk with a mailing address that may be disclosed to the public if the party making the allegation does not have a lawyer when the allegation is made. Except as otherwise provided by court rule, "obvious notice" means notice as provided on a form prescribed by the Office of the Chief Court Administrator or a notice to the court clerk that appears in the bottom margin of the filed document's first page.

FORFEITING BAIL BOND

The act applies the rules on forfeiting bail bonds with surety to bonds posted by someone other than a bail bondsman who (1) deposits money equal to the bond or (2) pledges real property with equity equal to the bond.

Under the act, when the court orders such bonds forfeited because an accused person failed to appear in court, the court must:

1. issue a rearrest warrant or capias (an order to take someone into custody) for the accused,
2. give written notice that the accused failed to appear to the person who gave cash bail or pledged real estate, and
3. stay forfeiture of the bond for six months.

Under the act, if the accused returns to custody within six months of the forfeiture order (1) the bond is automatically terminated, (2) the person who gave cash or pledged real estate is released from his obligation, and (3) the court can order new conditions of release for the accused as provided by law.

The act gives the court discretion to vacate the forfeiture of the bond if the accused voluntarily returns to court within five days of the court's forfeiture order and the court finds that the failure to appear was not willful. A stay of execution of forfeiture does not prevent issuing a rearrest warrant or capias.

TENANT DEPOSITS OF LAST AGREED UPON RENT

By law, any tenant who claims his landlord has not performed his statutory duties may file a complaint in Superior Court to seek relief. The act requires that the tenant deposit an amount equal to the last agreed-upon rent with the court clerk within nine instead of 10 days after the rent is due. In the case of a week-to-week tenancy, the act requires it to be deposited within four instead of 10 days after the rent is due.

RESALE OF NON-PROFIT HOSPITALS

By law, the attorney general can disapprove a proposed agreement for the resale of a nonprofit hospital to a for-profit entity as not in the public interest if he determines that one or more conditions exist. The act specifies that, in connection with one of those conditions, it is the Superior Court for the judicial district where the nonprofit hospital is located that selects the person or people to receive an amount equal to the fair market value of the hospital's assets.

BACKGROUND

Erased Records

Police, court, and prosecutorial records must be erased when (1) a criminal case is dismissed or nolled, (2) a defendant is acquitted or granted an absolute pardon, or (3) the crime for which he was convicted is decriminalized. Juvenile delinquency records and records of children who are members of families with service needs must be erased after (1) the child is discharged from Superior Court's supervision or the Department of Children and Families' custody; (2) two

to four years, depending on the seriousness of the case, have passed and no other juvenile proceedings have been instituted against the child; and (3) the child is at least 16 years old.

Erased records may not be disclosed, except under limited circumstances, but they are generally not physically destroyed unless the defendant requests it. Records erased due to decriminalization of a crime must be destroyed automatically.

The law allows erased records to be disclosed to crime victims or their representatives if they make a written request to the court indicating that they have filed or intend to file a lawsuit as a result of the crime. The court may only grant requests received within one year after the date of the disposition of the criminal case.

PA 01-188—sSB 1316
Judiciary Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE FILING OF DOCUMENTS BY LIMITED LIABILITY COMPANIES WITH THE SECRETARY OF THE STATE

SUMMARY: Under prior law, limited liability company (LLC) organizers had to file with the secretary of the state the original signed copy of any document, including their articles of organization, required by law to be filed with her. In lieu of the original, this act permits the secretary of the state to allow LLC organizers to (1) file and sign these documents electronically or (2) file copies of them. The secretary must be able to retain, retrieve, and reproduce any documents filed electronically. She must have good cause for allowing copies in lieu of original documents. Under the act, the copies have the same force and effect as the original documents.

The act also requires domestic and foreign LLC organizers to file the name and residential and business addresses of a company member or manager with the secretary of the state. Domestic LLCs must file the name and addresses at the time of formation and in each annual report. Foreign LLCs must file them when they register to transact business in the state.

The secretary may, for good cause, accept just a business address. Good cause includes a showing that public disclosure of the residential address could expose the manager or member to a significant personal security risk.
EFFECTIVE DATE: October 1, 2001

PA 01-195—sSB 1046
Judiciary Committee

AN ACT CONCERNING THE REVISOR'S CORRECTIONS TO THE GENERAL STATUTES AND CERTAIN PUBLIC ACTS

SUMMARY: This act makes various changes to conform to the constitutional amendment and conforming legislation eliminating sheriffs, deputy sheriffs, and special deputy sheriffs.

It makes municipal officers liable for the penalty for illegally discharging gasoline either willfully or with criminal negligence. The penalty is up to $50,000 per day for each violation, up to three years in prison, or both, and for subsequent convictions up to $100,000 per day for each violation, up to 10 years in prison, or both. The act eliminates liability for municipalities for this penalty. By law, municipalities are still liable for a civil penalty for violating the water pollution control laws. The penalty is up to $25,000 for each violation. These changes conform to changes made to similar penalties for violating water pollution laws and certain other environmental protection provisions in PA 00-19.

Under PA 01-46, home heating oil dealers offering plumbing and heating work must employ only individuals or subcontractors licensed by the Department of Consumer Protection to perform this work and must display license numbers on commercial vehicles, advertisements, and business documents. This act requires the license number of subcontractors and employees, rather than subcontractors and employers, to be consistent with the other provisions of PA 01-46.

PA 01-174 requires doctors, nurses, and other licensed health care professionals to have a current Connecticut license or act under the authority of a practitioner or doctor who does so in order to make certain final utilization review decisions or review those decisions and uphold them. This act excludes claims under the workers' compensation act from these provisions.

The act also makes technical changes to the statutes and three public acts (PA 01-43, PA 01-96, PA 01-87). It also repeals a few obsolete statutes.
EFFECTIVE DATE: Upon passage, except that technical changes to PA 01-87 are effective on October 1, 2001.

PA 01-196—sHB 6536
Judiciary Committee
Banks Committee

AN ACT CONCERNING EXECUTION UPON FUNDS IN BANK ACCOUNTS WHICH ARE EXEMPT FROM EXECUTION

SUMMARY: By law, a creditor may obtain a court-ordered judgment against someone who owes him money (debtor). The creditor may execute or serve an order on any banking institution (banks, savings and loans, and credit unions, hereafter "bank") where the debtor has an account. Unless the debtor claims that money in the account is exempt from execution, the bank must release funds, up to the amount of the judgment, to the creditor.

This act requires banks served with these orders to (1) leave $800 in the debtor's account (or the entire account balance if less than $800) if they recently received by electronic direct deposit "readily identifiable" exempt federal veterans' or Social Security benefits and (2) give the debtor access to the money. Banks can depart from this requirement if directed by any other law or court order, and creditors can obtain court hearings if they reasonably believe that nonexempt funds have been withheld.

The act specifies that the requirement that banks leave this minimum amount in these accounts does not alter (1) the exempt status of funds that federal or state laws exempt from execution, (2) the account holder's right to claim exemptions, or (3) the bank's other rights or obligations with respect to the funds in these accounts. It permits a bank to notify the creditor that funds remain in the debtor's account as a result of the act's requirements and makes this notice prima facie evidence at court hearings that the funds are exempt.
EFFECTIVE DATE: January 1, 2002

BANK LIABILITY TO CREDITORS AND ACCOUNT HOLDERS

When a creditor serves an order on the debtor's bank, the act requires the bank to ignore $800 in the debtor's account (or the entire account balance if less than $800) if a readily identifiable exempt federal benefit was directly deposited electronically within the past 30 days. It makes banks that exclude this money in good faith or do so by mistake, exempt from liability to creditors for doing so. Under prior law, banks that failed or refused to release nonexempt funds to creditors became liable to them for the full amount withheld.

The act requires a bank to refund or waive all of its charges or fees, including dishonored check fees, overdraft fees or minimum balance service charges, and legal process fees for account holders from whose accounts it improperly paid exempt money to a creditor. Prior law limited a bank's liability to account holders to the amount improperly paid out.

The act also appears to expand banks' immunity in execution matters by immunizing them from liability for bona fide errors that occur despite their having reasonable procedures to prevent them. Under prior law, only their good faith actions or omissions were immunized.

EX PARTE COURT PROCEDURES AND COURT HEARINGS

Under the act, creditors can ask courts, on an ex parte basis (without giving advance notice to the debtor or the bank) to schedule hearings when they reasonably believe that any of the funds a bank withheld pursuant to the act are not exempt. A creditor must present a sworn affidavit to a Superior Court judge specifically describing the factual basis for its belief. If the judge finds that the creditor's belief is reasonable, he must authorize the creditor to submit a written application for a hearing. The court clerk must schedule the hearing and give written notice to both the creditor and debtor. The creditor must also promptly send the debtor a copy of its application and supporting affidavit.

At the hearing, the creditor must prove the amount of funds in an account that are not exempt.

BACKGROUND

Bank and Creditor Obligations

By law, creditors cannot attach or seize exempt funds to satisfy a court judgment. But they may apply to a court clerk for an order directing a bank to pay over funds in a debtor's account.

Banks served with such orders must remove funds from the account up to the amount of the judgment and mail the account holder notice and a form he must return to the bank if he claims that any of the removed funds are exempt.

When the debtor claims an exemption, the bank must notify the Superior Court and continue to hold the funds for the earlier of 45 days or until a court issues a disposition order for the disputed funds. If the debtor does not return the claim form to the bank within 15 days of the date of mailing, the bank pays over the funds to the creditor on request.

PA 01-199—sHB 6890
Judiciary Committee

AN ACT CONCERNING BUSINESS CORPORATIONS AND NONSTOCK CORPORATIONS

SUMMARY: This act makes numerous changes to the laws governing stock and nonstock corporations. These changes affect:

1. electronic signatures;
2. corporation documents filed with the secretary of the state;
3. staggered terms for directors;
4. board of director actions taken without a meeting;
5. functions of board of director committees;
6. selection, duties, resignation, and removal of corporate officers;
7. indemnification of directors;
8. directors and shareholders rights to copy corporate records; and
9. notice to shareholders or members.

The act also eliminates the duty of stock corporations to notify missing shareholders of their actions and meetings under certain circumstances.

The law gives shareholders the right to dissent from certain corporate actions, including consolidations, mergers, reorganizations, or amendments to certificates of incorporation that affect their rights materially and adversely. It also gives them the right to obtain payment for the fair value of their shares following such actions. The act retains these rights but calls them appraisal rights instead of dissenter's rights. It narrows the situations where appraisal and payment of fair value are required by restricting prior categories and creating a new exception for stocks that have a ready and reliable market for sale (i.e., a market exception). It also establishes more detailed rules to govern these rights.

The act also allows a corporation's articles of incorporation to eliminate or limit appraisal rights for holders of one or more series or classes of preferred shares.

Finally, the act makes several technical changes.

EFFECTIVE DATE: October 1, 2001

ELECTRONIC SIGNATURES

The act explicitly allows electronic signatures to satisfy the requirement for a signature in the stock and nonstock corporation laws.

DOCUMENTS FILED WITH THE SECRETARY OF STATE

Filing Format

The act requires corporation documents transmitted electronically to the secretary of the state to be in a format that can be retrieved or reproduced in typewritten or printed form. If a document is filed in typewritten or printed form, the act authorizes the secretary of the state to require that one exact or conformed copy be delivered with it.

Correcting Filed Documents

The act allows corporations to correct documents filed with the secretary of the state if the electronic transmission was defective. Under prior law, a document was corrected by preparing and delivering to the secretary of state a certificate of correction that specified either the (1) incorrect statement and the reason it was incorrect or (2) way the execution was defective and corrects the statement or execution. The act instead requires that the certificate specify the inaccuracy or defect to be corrected and correct it.

STAGGERED TERMS FOR DIRECTORS

By law, corporations may stagger the terms of their directors by dividing the total number of directors into two to five groups. Each group must contain about the same percentage of the total, to the extent possible. The act allows corporations that permit cumulative voting to provide for staggered terms even if fewer than three directors are in each group.

BOARD ACTION WITHOUT MEETING

Under prior law, unless the certificate of corporation or bylaws provided otherwise, a board of directors could take action without a meeting if (1) the action was taken by all the members, (2) each director signed a written consent describing the action taken, and (3) the consent documents were included in the corporate minutes or records. The act eliminates the requirement that the consent documents be included in the corporate minutes or records. Instead, it requires delivery of the documents to the corporation. Also, the act makes the action effective on delivery to the corporation of all signed consent documents instead of when the last director signed the consent document. As under prior law, the consent documents may specify a different effective date.

The act allows a director to withdraw his consent by a signed revocation delivered to the corporation before consent documents signed by all the directors are delivered.

COMMITTEES

The act authorizes board of director committees consisting of one board member. It allows committees to authorize or approve distributions according to a formula or method or within limits the board of directors establishes.

By eliminating statutory prohibitions, the act allows committees to:

1. amend the corporation's certificate of incorporation under the same conditions as the board;
2. approve a merger plan not requiring shareholder approval;
3. authorize or approve the reacquisition of shares without a formula or method the board establishes; and
4. (a) authorize or approve the issuance of, sale of, or contract for the sale of shares or (b) determine the designation and relative rights, preferences, and limitations of a class or series of shares without the board's explicit authority.

The act authorizes the board to appoint directors as alternate members of any committee to replace absent or disqualified members. It authorizes committee members, by the unanimous vote of qualified members present at a meeting, to appoint another director to act for a disqualified or absent member. The committee can do so only if authorized by the certificate of incorporation, bylaws, or resolution that created it.

CORPORATE OFFICERS

Election of Officers

The act authorizes the board of directors of a stock corporation to elect people to fill corporate offices, and it requires the board of a nonstock corporation to elect them unless the bylaws provide otherwise.

It requires the bylaws or board to assign an officer to maintain records the law requires corporations to keep. These include minutes of shareholder and board meetings, actions taken by shareholders or the board without a meeting, and actions taken by board committees.

Resignation and Removal of Officers

By law, a corporate officer may resign by delivering a notice to the corporation. The act specifies that when a resignation notice specifies an effective time, the board or officer who appointed the resigning officer may fill the pending vacancy before the effective date. Prior law allowed only the board to do so. The act authorizes the removal of a corporate officer by (1) the officer who appointed him or by his successor unless the bylaws provide otherwise or (2) any other officer authorized to do so by the board or bylaws.

INDEMNIFICATION OF DIRECTORS

Determination and Authorization

By law, under certain circumstances, corporations may indemnify directors for losses and expenses they incur in any threatened, pending, or completed lawsuit or other proceeding against them in their capacity as directors, even if they were not completely successful on the merits. Under the act, when special legal counsel determines that indemnification is permissible because of the circumstances, the actual authorization to indemnify must be made by a majority vote of the entire board, including members who are not disinterested.

By law, a "disinterested" board member is one who is not a party to the lawsuit or other legal proceeding in question and does not have a financial, family, professional, or employment relationship with the director whose indemnification is the subject of the vote.

The act specifies that when a corporation obligates itself in advance to indemnify a director to the fullest extent the law permits, it does not have to subsequently approve indemnification for a particular legal proceeding, as long as it determines that indemnification is permissible. By law, a corporation may obligate itself to indemnify directors in its certificate of incorporation or bylaws, or by resolution the board or shareholders adopt.

Reports of Indemnification to Shareholders or Members

The act eliminates the duty of corporations to report the indemnification of and advances for expenses for directors to shareholders or members with or before notice of the next shareholders' or members' meeting. This duty applied in connection with lawsuits filed by shareholders or members in the name of the corporation (derivative lawsuits).

RIGHT TO COPY CORPORATE RECORDS

Shareholders or Members

The act specifies that (1) a shareholder's or member's right to copy corporate records includes the right to receive copies electronically if available and the shareholder or member asks to receive them this way and (2) if a corporation complies with a shareholder's or member's request to inspect the record of shareholders or members by providing him with a list compiled in response to the request, it must be at the corporation's expense.

Directors

The act gives corporate directors the right to inspect and copy corporation books, records, and documents at any reasonable time if inspecting and copying them relates reasonably to their duties as directors. It specifies that a director may not do such copying and inspecting for any other purpose or in a way that would violate a duty to the corporation. A director refused this right may apply to Superior Court.

The court may order inspection and copying at the corporation's expense unless the corporation establishes that the director is not entitled to do so. The Superior Court for the judicial district where the corporation's principal office is located has jurisdiction. If the corporation does not have a principal office in Connecticut, the Superior Court for the judicial district where its registered office is located has jurisdiction. The act requires the court to handle the matter on an expedited basis. The court may protect the corporation from undue burden or expense, and it may prohibit the director from using information in a way that would violate a duty to the corporation. It may also order the corporation to reimburse the director for his application costs, including reasonable counsel fees.

NOTICE TO SHAREHOLDERS

The act eliminates the statutory duty of corporations to give notice to shareholders if:

1. notice of two consecutive annual meetings and all notices of meetings during the period between these two annual meetings were sent to the shareholder at the address shown on the corporation's records and they were returned as undeliverable or
2. all (at least two) payments of dividends on securities during a 12-month period or two consecutive dividend payments during a period of more than 12 months were sent to the shareholder at the address shown on the corporation's records and were returned as undeliverable.

If the shareholder delivers to the corporation a written notice with his current address, the statutory requirements for notice again apply.

APPRAISAL RIGHTS

Market Exception to Appraisal Rights

The act makes appraisal rights unavailable for holders of shares that (1) are listed (a) on the New York Stock Exchange or the American Stock Exchange or designated as a National Market System security or (b) on an interdealer quotation system by the National Association of Securities Dealers, Inc. or (2) have at least 2,000 shareholders and the outstanding shares of each class or series have a market value of $20 million or more, not counting the value of shares held by the corporation's subsidiaries, senior executives, directors, and beneficial shareholders owning more than 10% of the shares.

Whether this exception applies is determined as of either (1) the date selected to determine the shareholders entitled to receive notice of, and to vote at, the shareholders meeting to decide upon the corporate action requiring appraisal rights or (2) the day before the effective date of the corporate action if there is no shareholder's meeting. But this exception does not apply and appraisal rights are available for any shareholder required by the corporate action to accept for their shares anything other than (1) cash or (2) shares of any corporation or any other ownership interest of any other entity that satisfies the market exception to appraisal under the act.

Market Exception-Conflict of Interest Transactions

The market exception to appraisal rights does not apply and appraisal rights are available for shareholders where the corporate action is by a person or his affiliate who:

1. directly or indirectly, has or had the power to cause the appointment or election of at least 25% of the corporation's board of directors at any time during the one-year period immediately before the board approved the corporate action requiring appraisal rights or
2. is or was the beneficial owner of at least 20% of the corporation's voting power at any time during the one-year period right before the board approved the corporate action requiring appraisal rights.

The 20% share cannot include any shares acquired (1) under an offer for all voting shares if the offer was made within that one-year period and (2) for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action creating the appraisal rights.

The act defines "beneficial owner" as anyone who, directly or indirectly, through any means other than a revocable proxy, has or shares the power to vote or to direct the voting of, shares. But the act specifies that a member of a National Securities Exchange is not a beneficial owner of securities he holds for someone else merely because the member is the record holder, if the exchange's rules prevent him from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted.

The act defines "affiliate" as a person who directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive of an affiliate. "Senior executives" include the chief executive officer, chief operating officer, chief financial officer, and anyone in charge of a principal business unit or function.

The market exception also does not apply and appraisal rights are available if any corporate shares or assets are being acquired or converted pursuant to a corporate action by a person or his affiliate who (1) is, or during the one-year period right before the board approved the corporate action requiring appraisal rights was, a senior executive or director of the corporation or a senior executive of the corporation's affiliate and (2) will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders.

A financial benefit does not count, and the market exception applies, when:

1. the benefits consist of employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action in question;
2. these benefits established in contemplation of, or as part of, the corporate action (a) are not more favorable than those existing before the corporate action or (b) if more favorable, have been approved on behalf of the corporation by directors meeting the standard of independence and in the same manner as is provided for conflicting interest transactions generally under the law; or
3. a corporate director becomes a director of another corporation or one of its affiliates as a result of the second entity's acquisition of the corporation and the acquiring entity gives him the same rights and benefits as its other directors have.

Elimination of Appraisal Rights for Preferred Shares

The act allows a corporation's certificate of incorporation as originally filed or amended to limit or eliminate appraisal rights for any class or series of preferred shares. But any such amendment does not apply to any corporate action that becomes effective within one year of the amendment's effective date, if the action would otherwise affect appraisal rights.

Elimination of Appraisal Rights in Mergers

The act eliminates appraisal rights in the case of a merger for shares of any class or series that remain outstanding after the merger. It also eliminates appraisal rights where a corporation's certificate of incorporation requires shareholder approval, but the law does not.

The act also eliminates appraisal rights for shareholders of corporations where shares will be acquired by another corporation under a share exchange for any shares of any class or series of shares that are not exchanged.

Sale or Exchange of All Corporate Property by Lease

The act includes appraisal rights where the disposition of all or most property is by lease other than in the usual and regular course of business. Prior law did not explicitly trigger this right where the disposition was by lease.

Appraisal Rights-Certificate of Incorporation

The act requires that for an amendment to a certificate of incorporation to trigger appraisal rights, it must be for a class or series of shares. It also eliminates appraisal rights for an amendment to a certificate of incorporation that affects the rights of a person's shares materially and adversely because it:

1. changes or abolishes a preferential right of the shares;
2. creates, changes, or abolishes a redemption right, including a right relating to a sinking fund to redeem or repurchase shares;
3. changes or abolishes a shareholder's preemptive right to acquire shares of other securities; or
4. excludes or limits the right of shareholders to vote on any matter or to cumulative voting, other than a limitation by dilution by issuing shares or other securities with similar voting

rights.

Under prior law, a shareholder had dissenter's rights if an amendment reduced his shares to a fraction of a share, if the fractional share was to be acquired for cash by the corporation. The act instead makes appraisal rights apply if an amendment reduces the number of shares of a class or series to a fraction of a share, if the corporation has the obligation or right to repurchase the fractional share.

Under prior law, dissenter's rights apply with respect to any other corporate action taken pursuant to a shareholder's vote to the extent the certificate of incorporation, bylaws, or board resolution provides that voting or nonvoting shareholders were entitled to dissent and obtain payment. The act instead limits appraisal rights to any other amendment to the certificate of incorporation, merger, share exchange, or disposition of assets to the extent provided by the certificate of incorporation, bylaws, or board resolution.

Record Shareholders

The act authorizes a record shareholder (a person in whose name shares are registered, such as a broker) to assert appraisal rights for fewer than all the shares registered in his name. He may do so only if he notifies the corporation in writing of the name and address of each beneficial shareholder on whose behalf he asserts appraisal rights.

Prior law allowed the record shareholder to assert disserters' rights for all the shares the beneficial shareholder owned or for which he had the power to direct the vote. The act instead allows him to do so for shares of any class or series held on behalf of a beneficial shareholder. Thus, he may do so for one class or series and not be forced to do so for shares held in a different class or series.

Beneficial Shareholders

The act allows beneficial shareholders to assert appraisal rights just as prior law allows them to assert dissenter's rights. But the act gives them more time to submit to the corporation the record shareholder's written consent. Under prior law, they had to submit the written consent by the date they asserted their dissenter's rights. The act instead allows them to submit it by the date the corporation sets for getting back from shareholders asserting appraisal rights the appraisal notice and form it sent to them.

Notice of Appraisal Rights

Under the act, if a proposed corporate action described by the act as creating appraisal rights will be submitted to a vote at a shareholder's meeting, the meeting notice must state that the shareholders are, are not, or may be entitled to assert appraisal rights. If the corporation concludes that appraisal rights are, or may be available, it must include with the notice to shareholders entitled to exercise them a copy of the law relating to appraisal rights. This is the same as prior law's requirements relating to dissenter's rights, but prior law did not require that the notice indicate the corporation's conclusion that the shareholders do not have these rights.

Under the act, a beneficial shareholder who informs the corporation in writing of his intention to demand payment for his shares may not cause or permit to be voted any shares of the class or series in question at the shareholder's meeting concerning the issue that required appraisal rights.

Notice To Those Demanding Appraisal Rights and Form to be Used

The act, as well as prior law, requires the corporation to provide shareholders with certain information and a form to exercise their right to demand payment. The act specifies that the corporation may not send the notice to those demanding appraisal rights before the corporate action in question becomes effective. It imposes additional requirements for the form the corporations must send to affected shareholders. Specifically, it must also:

1. require the shareholder to certify that he did not vote for the corporate transaction in question;
2. state the corporation's estimate of the value of the shares;
3. specify a date by which the corporation must receive the form, which may not be less than 40 nor more than 60 days after it sent the notice and form to the shareholders, and specify that shareholders waive their right to payment unless the corporation receives the form by this specified date;
4. state that if requested in writing, it will provide to the requester, within 10 days after the date it specifies to receive the form, the number of shareholders who returned the form on time and the total number of shares these shareholders own; and

5. specify the date by which a shareholder who wishes to withdraw his request for payment must do so, which must be within 20 days after the date the corporation sets for receiving notices from shareholders.

Duty to Demand Payments for Shares and Right to Withdraw

As under prior law, a shareholder who receives this notice from the corporation must certify certain information and return the form to the corporation by the required date in order to retain his right to demand payment from the corporation.

The act permits a shareholder who has complied to decline to exercise his rights and to withdraw from the appraisal process by notifying the corporation in writing by the date the corporation specified for withdrawal in the notice it sent to the shareholder. A shareholder who does not withdraw by this date may withdraw subsequently only with the corporation's written consent.

As under prior law, a shareholder who does not sign and return the form as required loses his right to force the corporation to pay him for his shares.

Payment. Prior law required a corporation to pay the amount it estimated as the fair market value of the shares as soon as it took the proposed corporate action or when it received a payment demand from the shareholder. The act instead requires it to pay this amount within 30 days after the return date indicated on the form it sent the shareholder. The act specifies payment in cash.

As under prior law, statements and information must accompany the payment. The act requires that this include a statement that if the shareholder does not demand further payments by a certain date, he is deemed to have accepted the payment as full satisfaction for his claim.

Shares Acquired After Public Announcement

Both prior law and the act allow a corporation to treat beneficial shareholders who acquired their shares after the public announcement of the corporate transaction was made differently from those who acquired them before. The act establishes a timeframe for corporate action and imposes a duty on the corporation to give these shareholders a notice containing certain information within 30 days after the date it set for receiving the form it sent all shareholders who might be entitled to appraisal rights.

The form must notify shareholders (1) of the corporation's estimate of the fair value of their shares (same as prior law), (2) that they may accept this amount plus interest in full satisfaction of their demands or demand an amount they believe constitutes fair value, (3) that those wishing to accept the offer must notify the corporation within 30 days after receiving the offer, and (4) that those shareholders who do not satisfy the act's requirements for demanding appraisal rights will be deemed to have accepted the corporation's offer.

The form must also be accompanied by financial statements of the corporation that issued the shares. These consist of the balance sheet as of the end of a fiscal year before the date of the proposed payments, an income statement for that year, a statement of changes in shareholders' equity for that year, and the latest available interim financial statements, if any. The act requires the corporation to pay in cash the amount it offered (1) within 10 days after the shareholder accepts the offer in full satisfaction of his demands and (2) within 40 days after sending this notice to those who did not satisfy the requirements for demanding appraisal rights.

Court Action

With minor changes, the act establishes essentially the same procedure for dissatisfied shareholders to go to court as contained in prior law. It eliminates the right to a jury trial. If the corporation is a foreign corporation (organized under another state's laws), the court case may be filed in the Superior Court for the judicial district where the principal office of the Connecticut corporation it merged with was located at the time of the transaction that created the appraisal rights. As under prior law, the case may also be filed where the Connecticut corporation's registered office is located. The act specifies that the location at the particular registered office is determined at the time of the transaction that created the appraisal rights.

Court Costs and Counsel Fees

The act authorizes shareholders to sue the corporation directly for an amount it failed to pay them as required by the act. It gives successful shareholders the right to recover all costs and expenses of such a lawsuit, including counsel fees, from the corporation.

PA 01-201—HB 6892
Judiciary Committee

AN ACT CONCERNING VICTIM IMPACT PANELS

SUMMARY: This act authorizes courts to order people convicted of driving under the influence of drugs or alcohol (DUI) to participate in a victim impact program as a condition of probation or participation in the pretrial alcohol education program. If ordered by the court, potential participants in the pretrial alcohol education program must agree to participate in at least one victim impact program.

The act requires the victim impact program to provide a nonconfrontational forum for offenders and victims of drug- and alcohol-related offenses to share the impact offenses have had on their lives. The program must be (1) approved by the Judicial Department's Court Support Services Division and (2) conducted by a nonprofit organization that advocates on behalf of DUI accident victims. The organization can charge a program fee of up to $25 for court-ordered participants.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Pretrial Alcohol Education Program

This program is available to people charged with DUI who have not been previously convicted of this or several related crimes. If the person successfully completes the program, the court can dismiss the charge but the driver's participation in the program remains a part of his driving record and in the record of the Bail Commission (which determines whether a driver is eligible for the program) for seven years.

PA 01-203—sHB 6586
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING JUDGE TRIAL REFEREES

SUMMARY: This act allows the Superior Court to refer cases resulting from a party's demand for a trial after an arbitrator's decision to designated judge trial referees for jury trials without the parties' consent. Under prior law, a judge trial referee could preside in a civil jury case only if both parties consented. These arbitration cases are civil actions referred by courts to arbitration where (1) a party requested a jury trial, (2) the pleadings are closed, and (3) the judgment is reasonably expected to be less than $50,000. The act specifies that the judge trial referee can issue a judgment that exceeds $50,000 in these cases.

The act requires the chief justice to designate judge trial referees who can hear the arbitration cases and publish a list of them by October 1 annually. The law authorizes judge trial referees to exercise the powers of the Superior Court for trial, judgment, and appeal when a case is referred to them.

The act also alters the date when the 20-day period to demand a trial after an arbitrator's decision begins. Under the act, the period starts the date the arbitrator's decision is postmarked by the U.S. mail rather than the day it is filed.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Judge Trial Referees

A judge or senior judge who reaches age 70 becomes a state referee for the remainder of his term and can be appointed as a state referee for subsequent terms. The chief justice can designate a state referee as a judge trial referee. A judge trial referee can hear criminal and civil cases and juvenile matters on referral from the Superior Court.

PA 01-211—sHB 7007
Judiciary Committee
Public Safety Committee

AN ACT CONCERNING CRIME VICTIMS

SUMMARY: This act gives crime victims greater access to the criminal justice system and makes other changes regarding criminal law. Specifically, it:

1. requires the Office of Victim Services (OVS) and the Department of Correction (DOC) to notify crime victims who ask (a) when a sexual offender asks to be exempt from sexual offender registration or to restrict public dissemination of his registration information and (b) when an inmate requests a sentence reduction or review or early release;
2. permits all victims, instead of just victims of class A, B, and C felonies and certain other specified crimes, to appear and make a statement before the court, Board of Pardons, or Board of Parole;

3. extends eligibility for youthful offender (YO) status to people charged with a sexual offense involving consensual sexual intercourse or contact between the youth and a person between ages 13 and 16;
4. upon the victim's request, requires courts to impose financial restitution as a part of the sentence of offenders convicted of a crime involving injury to another person or damage to or loss of property;
5. eliminates the juvenile court's authority to order partial restitution in cases involving personal injury or property damage, thus, allowing it to order only full or no restitution;
6. waives various filing fees for attorneys in the Office of the Victim Advocate;
7. authorizes the victim advocate to file a limited special appearance to advocate for all of the legal rights of crime victims, instead of just six of the 10 rights delineated in the state constitution's amendment on crime victims' rights;
8. allows a victim compensation commissioner to use a portion of any victim compensation he orders paid to a crime victim to make payments directly to health care providers who provide services to the victim;
9. prohibits courts from granting convicted murderers child visitation rights unless the child desires it;
10. authorizes the immediate families of dead people to complain about a prosecutor's decision not to prosecute;
11. stays, until after the criminal proceedings, certain civil action brought by a criminal defendant against a crime victim; and
12. expressly authorizes the court to order the Department of Public Safety (DPS) to restrict dissemination of sex offender registration information to law enforcement purposes only if it finds that broader dissemination is not required for public safety.

EFFECTIVE DATE: October 1, 2001

CRIME VICTIM NOTIFICATION

The act allows crime victims and inmates' immediate family members to file with OVS or DOC, instead of just OVS, a request for notification whenever an inmate applies for early release or sentence review or reduction. It also allows them to ask either agency to notify them when a sexual offender applies for exemption from the registration requirement or seeks to limit dissemination of such information. DOC, like OVS, must keep confidential notification requests filed by certain minor victims.

The act requires any sexual offender who applies for exemption from the registration requirement or petitions to limit dissemination of such information to notify OVS and DOC on a form prescribed by the chief court administrator.

It requires inmates who apply for a sentence reduction or review or early release other than a furlough to notify DOC of the request in the same way they currently notify OVS. The court cannot consider the requests if the offenders or inmates have not provided notice and included proof of it with the application or petition.

The act requires OVS, DOC, or both to notify by certified mail any crime victim who has requested it. The notice must contain the nature of request, the address and telephone number of the court that received the request, and the date and place of any hearing or session scheduled on the request. OVS and DOC must use a prescribed form to notify the board, agency, or court that received the request of its compliance with the notice requirement. The court must consider any information or statement the victim provides before granting or denying the exemption application or petition to limit dissemination.

The act authorizes the boards of pardon and parole, sentencing courts, and the sentencing review division to allow DOC, like OVS, direct access to their records.

Confinement or Discharge Hearings

The act extends to all crime victims, rather than just victims of class A, B, or C felonies, the right to notice of any hearing on whether a criminal defendant who was found not guilty by reason of mental defect or disease should be confined to or discharged from the Department of Mental Health and Addiction Services. As under existing law, the court (1) has to send a notice only if the victim has requested it and (2) must provide the victim the opportunity to make a statement. "Victim" includes the legal representative of a crime victim and a deceased victim's immediate family member.

Pardon and Parole Hearings

The act extends to all crime victims, rather than just a select few, the right to make a statement at a (1) Board of Pardons' hearing to release, pardon, or commute the sentence of a convicted offender or (2) parole eligibility hearing. Prior law applied only to victims of class A, B, and C felonies; second-degree assault with a firearm; second-degree assault with a firearm of an elderly,

blind, disabled, pregnant, or mentally retarded person; third-degree sexual assault with a firearm; third-degree burglary with a firearm; or criminal use of a firearm or electronic defense weapon.

By law, when the Board of Pardons is prepared to grant the request of an offender who used or attempted or threatened to use physical force against another while committing a crime, it must make reasonable efforts to notify the victim and allow him to appear and make a statement. The act also requires the board to notify victims of crimes that resulted in physical or serious physical injury to or the death of another person.

Sentencing Hearings

The act makes statutory law consistent with the state constitution by extending to all victims the right to make a statement to the court at sentencing and before a plea agreement is accepted. Under prior statutory law, only victims of A, B, and C felonies; third-degree sexual assault; or third-degree sexual assault with a firearm had this right.

RESTITUTION

The act requires the courts to order criminal defendants to make financial restitution to crime victims in those cases where the victim requests it and where the court, on its own, finds that a crime caused a victim personal injury or property damage or loss. Under prior law, the court could order restitution if the crime resulted in physical injury to another person or property damage or loss. The act requires the court to determine the terms of financial restitution by considering the factors it previously considered to determine if restitution was appropriate, plus the financial burden and impact on the victim. It requires the court to state on the record its findings on each of the factors.

The act requires the court order for restitution to specify the (1) amount of damages for injury or property loss, (2) actual expenses incurred to treat personal injuries, and (3) lost wages. The order must direct that a certified copy of it be delivered by certified mail to the victim and advise him that the order is enforceable as a civil judgment.

FEE EXEMPTION FOR THE VICTIM ADVOCATE

The act exempts the Office of the Victim Advocate from the duty to pay (1) jury fees; (2) court fees; (3) fees to open, set aside, modify, extend, or reargue a judgment; (4) an application fee to execute a judgment or garnish wages; or (5) fees associated with the appeal of a family support magistrate's decision. The Office of Consumer Counsel, Department of Revenue Services, Board of Labor Relations, and Office of Protection and Advocacy for Persons with Disabilities are currently exempt from these fees.

DUTIES OF THE VICTIM ADVOCATE

The act authorizes the victim advocate to file a limited special appearance to advocate for all of the legal rights of crime victims. Under prior law, he had this authority only with respect to victims' right to:

1. information about the arrest, conviction, sentence, imprisonment, and release of the accused;
2. attend all criminal proceedings, unless the court determines that their impending trial testimony would be materially affected if they heard other testimony;
3. object to or support any plea agreement entered into by the accused and the prosecution and make a statement to the court before any plea agreement is accepted;
4. make a statement to the court at sentencing;
5. restitution that is enforceable as any other cause of action or as provided by law; and
6. notice of court proceedings.

YOUTHFUL OFFENDER STATUS

The act allows a court to grant YO status to youths aged 16 through 17 who are charged with a sexual offense involving consensual sexual intercourse or contact between the youth and a person ages 13 to 16. YO status allows the court to erase the criminal records of first-time youthful offenders who successfully complete a court-imposed sentence, such as probation or community service. A youth is ineligible if he committed a class A felony or sexual assault crime, was previously granted YO or accelerated rehabilitation, or was previously convicted of a felony or adjudged a serious juvenile offender or serious juvenile repeat offender.

CONVICTED MURDERERS AND CHILD VISITATION

By law, courts cannot grant child visitation rights to a parent convicted of murdering the child's other parent, unless the child desires it. The act extends the prohibition to anyone convicted of murder.

COMPLAINTS ABOUT DECISIONS TO PROSECUTE

Whenever there is an investigation into the cause or circumstances of a death and a prosecutor decides not to prosecute anyone for it, the act permits the deceased person's immediate family to file a written complaint with the chief state's attorney or the Criminal Justice Commission. Within 30 days after receiving the complaint, the chief state's attorney or the commission chairperson must send a written response informing the family member of any action he has taken or intends to take regarding the matter.

ACTIONS AGAINST CRIME VICTIMS

The act requires courts to delay, until after criminal proceedings, actions by a criminal defendant against a crime victim based on the victim's exercise or intended exercise of his (1) constitutional rights to freedom or speech, religion, assembly, or press, or (2) crime victims state constitutional or statutory rights. The crime victim's must request the delay.

BACKGROUND

Applications for Exemption from Sexual Offender Registration

By law, a court may exempt the following offenders from sexual offender registration if it finds that registration is not required for public safety:

1. someone under age 19 who is convicted of second-degree sexual assault for having sexual intercourse with someone between age 13 and 16, and
2. someone convicted of fourth-degree sexual assault for having sexual contact with someone without her consent.

Petitions for Restrictions on Dissemination of Registration Information

With one exception, the offenders who may petition the court are those convicted between October 1, 1988 and June 30, 1999 of:

1. having sexual intercourse with a victim between age 13 and 16 when the offender is more than two years older than the victim and under age 19 (one type of second-degree sexual assault);
2. subjecting someone to sexual contact without his or her consent;
3. engaging in any of the offenses requiring registration with a victim under age 18 whom they cannot marry (incest); and
4. sexual assault in a spousal or cohabiting relationship.

Offenders may also petition if they were convicted between October 1, 1988 and September 30, 1998 of any offense requiring registration when the offender (a) served no jail or prison time, (b) has not been subsequently convicted of an offense requiring registration, and (c) has registered with DPS as required under the registration law.

PA 01-29—sSB 1392
Labor and Public Employees Committee
Government Administration and Elections Committee

AN ACT CONCERNING PRIVACY RIGHTS FOR STATE EMPLOYEES

SUMMARY: This act, with limited exceptions, prohibits an employee assistance program (EAP) from disclosing information or records about a state employee's voluntary participation in a program without his prior written consent. It also prohibits anyone from requiring state employees to release information concerning or confirming their voluntary participation in a state-sponsored or authorized EAP. A state employee is any full-time or part-time classified or unclassified employee in the executive, legislative, or judicial branch and any employee of a quasi-public agency.
EFFECTIVE DATE: October 1, 2001

EXCEPTIONS

EAPs may release information verifying a state employee's date of employment, position, and salary without his prior written consent. They may also disclose information without consent

1. to a third party that maintains or prepares employment-related services for the employer;
2. pursuant to lawfully issued administrative or judicial orders (including search warrants and subpoenas) or in response to a government audit or the investigation or defense of personnel-related complaints against the employer;
3. pursuant to a law enforcement agency's request for the employee's home address and dates of attendance at work;
4. in response to an apparent medical emergency or to the employee's physician about a medical condition of which the employee may not be aware;
5. to comply with federal, state, or local laws or regulations; or
6. pursuant to the terms of a collective bargaining agreement.

PA 01-31—SB 1116
Labor and Public Employees Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE ADVISORY BOARD OF THE SECOND INJURY FUND

SUMMARY: This act allows the Second Injury Fund's advisory board to approve an action by a majority of its members present and voting, as long as at least four members are present and voting. Prior law required an affirmative vote of six of the board's eight members or their designees. The board advises the state treasurer on the fund's operations and finances.
EFFECTIVE DATE: October 1, 2001

PA 01-33—sHB 5861
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE MILEAGE REIMBURSEMENT RATE FOR WORKERS' COMPENSATION CLAIMANTS

SUMMARY: This act increases, from 15 cents to the federal mileage reimbursement rate (currently 34.5 cents), the amount per mile employers must reimburse workers' compensation recipients when they use their own vehicles to go to and from medical appointments.
EFFECTIVE DATE: October 1, 2001

PA 01-37—HB 6775
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee

AN ACT CLARIFYING THE DEFINITION OF WILLFUL MISCONDUCT UNDER THE UNEMPLOYMENT COMPENSATION ACT

SUMMARY: By law, employees fired for willful misconduct are ineligible for unemployment compensation. Previously, a claimant fired for willful misconduct based on absence could be denied benefits if he was absent "without notice" on three separate instances within 18 months. This act requires instead that such absences either be without good cause or without notice to the employer that the employee could reasonably have provided under the circumstances.

It also makes a technical change.
EFFECTIVE DATE: October 1, 2001

PA 01-40—sHB 6860
Labor and Public Employees Committee
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT ESTABLISHING REMEDIES TO ADJUDICATE DISPUTED SECOND INJURY FUND ASSESSMENTS

SUMMARY: This act allows employers, or private insurance carriers or interlocal risk management agencies acting on behalf of employers, to appeal the state treasurer's decisions about Second Injury Fund assessments to Superior Court. It also allows the attorney general, at the treasurer's request, to get an injunction requiring these entities to comply with the fund's reporting requirements.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Interlocal Risk Management Agencies

State law authorizes interlocal risk management agencies and allows them, among other things, to administer plans to reduce public entities' risk of loss for workers' compensation liability.

Second Injury Fund

The Second Injury Fund is a state-run workers' compensation fund financed by state employers and operated by the state treasurer. Among other things, the fund pays or contributes to workers' compensation benefits for workers with preexisting disabilities who were reinjured before July 1, 1995, whose employers are uninsured, or who worked more than one job when they were injured.

Reporting Requirements

Employers and private insurance carriers and interlocal risk management agencies acting on behalf of employers must submit reports annually on April 1 to the treasurer about payments made in the preceding year. The insurance carriers and agencies must also submit reports each April 1 to the treasurer on the total standard earned premium collected in the preceding year and the projections for the current calendar year. Second Injury Fund assessments are based on paid losses and standard premiums.

PA 01-42—sHB 6557
Labor and Public Employees Committee

AN ACT MAKING TECHNICAL REVISIONS TO CERTAIN LABOR STATUTES

SUMMARY: This act eliminates the requirement that the Department of Labor (DOL) issue regulations freezing until January 1, 2003, the minimum hourly wage for tipped hotel and restaurant industry employees, other than bartenders, at $4.74 and for bartenders at $6.15. But it establishes a new tip credit amount that may be deducted from the minimum wage of bartenders who customarily and regularly receive tips and people employed in the hotel and restaurant industry. As a result, the minimum hourly wage employers must pay these employees is $6.15 and $4.74, respectively until January 1, 2003.

The act also sets a January 31 deadline for the Connecticut Employment and Training Commission to submit its annual report to the governor and the legislature concerning the state's progress in achieving the performance measures developed in response to the Workforce Investment Act of 1998.
EFFECTIVE DATE: Upon passage

TIP CREDIT

Connecticut law requires employers to pay a minimum hourly wage (currently, $6.40) to employees. However, under certain conditions, some employers may take a credit toward the minimum wage.

This act requires DOL to creates a tip credit for hotel and restaurant industry employees of 26% during 2001 and 29.3% during 2002, except for bartenders who customarily and regularly receive tips. For these bartenders, the credit is 3.9% during 2001 and 8.2% during 2002. As a result, restaurant and hotel industry employees (except bartenders who customarily and regularly receive tips) receive $4.74 per hour (plus any tips) in 2001 and 2002. Bartenders who customarily and regularly receive tips get $6.15 per hour (plus tips) in 2001 and 2002.

PA 01-55—SB 332
Labor and Public Employees Committee

AN ACT CONCERNING EMPLOYER RETENTION OF EMPLOYEE MEDICAL RECORDS

SUMMARY: This act extends the time an employer must keep a former employee's medical records from

one year to three years after the employee was terminated.
EFFECTIVE DATE: October 1, 2001

PA 01-80—sHB 6859
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee
Planning and Development Committee
Judiciary Committee

AN ACT ENHANCING BENEFITS IN THE POLICE OFFICER AND FIREFIGHTER'S SURVIVORS BENEFIT FUND AND THE MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

SUMMARY: This act makes several changes in the Municipal Employees' Retirement Fund B (MERF). Specifically, it:

1. reduces the vesting period from 10 to five continuous years;
2. increases the monthly MERF benefit beginning January 1, 2002, for employees eligible to receive Social Security;
3. allows employees who take voluntary retirement to begin receiving a cost of living adjustment (COLA) on the first July 1 after their retirement instead of after turning age 65;
4. changes the COLA percentage and formula for those retiring on or after January 1, 2002 and gives a temporary COLA to those who retire before that date and are not 65 years old;
5. allows municipalities to pay employee contributions on a pre-tax basis beginning January 1, 2002; and
6. eliminates obsolete language.

The act allows towns to participate, by contract, in the state's deferred compensation program under terms and conditions the comptroller sets.

It raises by 20% the monthly benefits from the Policemen and Firemen Survivors' Benefit Fund. The fund pays benefits to the surviving spouses and eligible dependents of municipal police officers and firefighters.

Finally, it allows judges who elect to withdraw from the State Employees Retirement Fund (SERS) to receive interest on their refunded SERS contributions beginning with refunds processed on and after January 1, 2001.
EFFECTIVE DATE: October 1, 2001

MERF

Vesting

The act reduces the vesting period from 10 to five years of continuous service. To correspond, it also excludes from membership those police officers and firefighters who would reach compulsory retirement age after fewer than five years rather than 10 years of continuous service.

Benefit Formula

The act changes the MERF benefit formula to increase benefits to employees eligible for Social Security. Previously, the benefit was 1 $^1/_6$% of final average pay (FAP) up to a Social Security earnings base (maximum of $80,400 for 2001) plus 2% of FAP over the Social Security earnings base multiplied by years of service. The new benefit is 1 $^1/_2$% of FAP up to a breakpoint ($32,400 for 2001) plus 2% of the member's FAP in excess of the breakpoint multiplied by years of service and fractions thereof.

For example, suppose an employee receiving Social Security retired with 30 years of service, a FAP of $40,000, a Social Security earnings base of $35,000, and no optional form of retirement income. Under the previous formula, his MERF benefit would be: [(1.167% x $35,000) + (2.0% x $5,000)] x 30 = $15,253.50. Under the new formula, his MERF benefit would be [(1.5% x $32,400) + (2.0% x $7,600)] x 30 = $19,140.

COLA

Under prior law, MERF members who took regular retirement received an annual 3% to 5% COLA based on an actuarial determination of the annual yield on the MERF in excess of 6%. The annual COLAs began on the first July 1 following the retiree's 65th birthday.

The act creates a new COLA formula for future retirees. Members taking regular retirement on or after January 1, 2002, begin receiving a COLA on the first July 1 following their retirement date, even if they are younger than age 65. The COLA ranges from 2.5% to 6% based on the following formula: 60% of any annual increase in the previous year's consumer price index (CPI) up to 6% plus 75% of any CPI increase over 6%.

Members who take regular retirement before January 1, 2002, and before they turn 65 receive a temporary COLA beginning July 1, 2002 until they reach age 65. For these retirees, the COLA is 2.5% annually until the first July 1 following their 65th birthday. On that July 1, the COLA reverts to the pre-

January 1, 2002 COLA (3% to 5% based on an annual actuarial determination).

The COLA changes do not affect disability retirees.

Pre-Tax Contributions

The act allows municipalities to "pick up" members' contributions for compensation earned on and after January 1, 2002. Those contributions are treated as employer contributions for tax purposes. The employer may pick up the contribution by reducing the member's pay, offsetting the contribution against a future salary increase, or a combination of the two methods. The state Retirement Commission must prescribe how municipalities can elect to treat employee contributions in this manner.

POLICEMEN AND FIREMEN SURVIVORS' BENEFIT FUND

Some towns participate by local ordinance in the Policemen and Firemen Survivors' Benefit Fund, which the State Retirement Commission administers. Participating officers contribute 1% of their pay to the fund. Benefits are payable when a participant dies.

The act increases the monthly benefit payable to the surviving spouses of fund members from 25% to 30% of the deceased member's compensation. It also increases the amount of additional benefits available to those surviving spouses with dependent children from 12.5% to 15% for one child and from 25% to 30% for two or more children.

If there is no surviving spouse or if the spouse remarries, benefits are payable to dependent children until they reach age 18. The act increases the amounts payable to such children from 25% to 30% for one child and from 37.5% to 45% for two or more children.

If no spouse or dependent child survives, benefits are payable to dependent parents. The act increases the amount payable to such parents from 25% to 30%.

PA 01-85—sSB 1008
Labor and Public Employees Committee
Insurance and Real Estate Committee
Public Health Committee

AN ACT REQUIRING DIRECT PAYMENT OF PRESCRIPTION MEDICATION FOR WORKERS' COMPENSATION CLAIMANTS

SUMMARY: This act requires employers, their workers' compensation insurers, or any other entity acting on behalf of the employer or insurer to pay pharmacists directly for prescriptions related to employees' work-related injuries.

It requires employers that provide workers' compensation medical benefits through a managed care plan to identify all participating pharmacies.

The act also specifically requires employers that become aware of an employee's work-related injury to provide whatever prescription drugs a physician or surgeon deems necessary. Employers are already required to provide whatever "medical and surgical aid or hospital and nursing service" a physician or surgeon deems necessary. That requirement has been interpreted to include prescription drugs.

EFFECTIVE DATE: January 1, 2002

PA 01-103—sSB 1034
Labor and Public Employees Committee
Judiciary Committee
Appropriations Committee

AN ACT ESTABLISHING COLLECTIVE BARGAINING RIGHTS FOR DEPARTMENT OF CORRECTION OFFICERS

SUMMARY: This act gives Department of Correction (DOC) employees at or above the level of lieutenant the right to organize and bargain collectively, unless they perform certain managerial functions or are confidential employees (employees that have access to confidential information used in collective bargaining). The act prohibits the State Board of Labor Relations from approving any bargaining unit that includes both DOC employees at or above the level of lieutenant and below this level. By law, the board determines the appropriateness of a state employee bargaining unit when the union seeking to represent the employee group petitions the board to certify it as the exclusive bargaining representative.

EFFECTIVE DATE: October 1, 2001

MANAGERIAL EMPLOYEES

By law, some state employees, including managerial and confidential employees, do not have the right to organize and bargain collectively. Most managerial employees are defined by the duties they perform. But, under prior law, DOC employees at or above the level of lieutenant were considered managerial employees regardless of their duties.

Under the act, DOC employees at or above the level of lieutenant qualify as managerial employees only if their principal functions include at least two of the following:

1. directing a facility or subunit of a major agency division or working as a member of an agency head's staff;
2. developing, implementing, and evaluating goals and objectives consistent with the agency's mission and policy;
3. participating in formulating agency policy; and
4. having a major role in administering collective bargaining agreements or major personnel decisions, including staffing, hiring, firing, evaluating, promoting, and training employees.

These are the same criteria currently used to determine whether state employees, other than those working in higher education, qualify as managers.

PA 01-162—sSB 1389
Labor and Public Employees Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING DEPENDENTS OF DECEASED WORKERS' COMPENSATION RECIPIENTS

SUMMARY: This act eliminates the "waiting period" for all dependents of deceased workers' compensation recipients. Previously, the waiting period was eliminated for most such dependents.

It requires that benefits due dependents because of the elimination of the "waiting period" be paid retroactively to the date of the worker's death. It also requires the Second Injury Fund to reimburse employers or insurers for these benefits.
EFFECTIVE DATE: Upon passage

WAITING PERIOD

Before October 1, 1978, if a workers' compensation recipient died more than two years after the date of his injury or the first manifestation of an occupational disease, his dependents had to wait a period equal to the time he received compensation before they could receive death benefits. For example, if a worker received total disability benefits for five years and then died, his dependents had to wait five years to receive death benefits.

The legislature repealed this "waiting period" on October 1, 1978. But, since a workers' compensation claimant's substantive rights to benefits are governed by the law as it existed on the date of his injury, the repeal affected only those injured on or after October 1, 1978. Subsequently, the waiting period was eliminated for dependents of workers injured (1) on or after January 1, 1974, and who died by November 1, 1991 and (2) before January 1, 1952, and who died after October 1, 1991.

The act eliminates the waiting period for dependents of deceased workers injured (1) before January 1, 1952, and who died on or before October 1, 1991; (2) between January 1, 1952 and December 31, 1973 (regardless of when they died); and (3) between January 1, 1974 and September 30, 1978, and who died after November 1, 1991.

PA 01-168—sSB 1068
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee
Appropriations Committee

AN ACT CONCERNING A POLICY FOR ENVIRONMENTALLY PREFERABLE PURCHASES BY STATE AGENCIES

SUMMARY: This act requires the Department of Administrative Services (DAS) to promote state agencies' use of recycled products and of products, services, or practices that are less harmful to human health and the environment than comparable products, services, or practices.

It requires DAS to compute the fuel efficiency of new state-owned cars and light trucks by averaging their highway mileage ratings, rather than requiring that each vehicle attain a certain rating, and it lowers the fuel efficiency required of state cars purchased after October 1, 2001. It also requires DAS to increase the number of state vehicles that run on alternative fuels and eliminates an obsolete requirement that at least 10% of the vehicles purchased in 1993 and 1994 for non-law enforcement purposes be powered by natural gas or electricity.

Finally, the act increases, from 10% to 30%, the percentage of fiber material in recycled white paper used in the manufacture of state lottery tickets and tax return forms that must come from post-consumer recovered paper.
EFFECTIVE DATE: October 1, 2001

ENVIRONMENTALLY PREFERABLE ACTIONS

The act requires DAS, within available appropriations, to:

1. designate environmentally preferable products (which include both recycled and recyclable products) and establish minimum standards and specifications for their procurement and

use;
2. include the use of environmentally preferable products and services as a criterion to be considered in multiple criteria bids or requests for proposals, where feasible; and
3. consider the use of environmentally preferable business practices when reviewing a bidder's performance or business operation.

The act defines "environmentally preferable" products, services, or practices as those that do less harm to human health and the environment than competing products, services, or practices that serve the same purpose.

In designating environmentally preferable products, DAS must consider the raw material acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal aspects of the product.

The act specifies that the above procedures are not regulations and are therefore not subject to the regulation-making process.

The act also requires DAS, within available appropriations, to:

1. develop and maintain information about environmentally preferable products and services and recycled products;
2. help state agencies implement procedures for procuring and using environmentally preferable products and services and provide them with information about their use; and
3. monitor the agencies' use of these products and services.

STATE CARS AND LIGHT DUTY TRUCKS

The act changes the way the state determines highway mileage for its motor vehicle fleet by requiring DAS to average the highway mileage rating of cars and trucks in the fleet. Prior law required each state car or truck to meet a specific mileage requirement.

The act requires that cars and light duty trucks purchased for the state's motor vehicle fleet beginning October 1, 2001 average 35 miles per gallon in highway driving. This increases to 40 miles per gallon for vehicles purchased on or after January 1, 2003. Prior law required every state car purchased after January 1, 2000 to have a mileage rating of 45 miles per gallon in highway driving, and every truck to have a rating of 35 miles per gallon. (The mileage exemption for certain vehicles, such as police cars, is unchanged.)

The act requires DAS to comply with federal requirements mandating that states increase the number of their motor vehicles that operate on alternative fuels. (For example, federal regulations require alternative fuel cars to comprise half the 2000 model-year light duty motor vehicles, and 75% of the 2001 model-year light duty motor vehicles, purchased for state fleets.)

The act specifies that these alternative fuel vehicles run on natural gas, electricity, or another system acceptable to the U.S. Department of Energy that operates on fuel available in Connecticut.

BACKGROUND

Post-consumer Material

Post-consumer material refers to material discarded after serving its intended use as a consumer item. It is part of the broader category of recovered material or waste material diverted from solid waste disposal.

Light Duty Motor Vehicles

Federal regulations define a light duty motor vehicle as a truck or vehicle with a gross weight of 8,500 pounds or less (10 C.F.R. 490.2).

PA 01-182—sHB 5656
Labor and Public Employees Committee

AN ACT CONCERNING BREASTFEEDING IN THE WORKPLACE

SUMMARY: This act allows employees to express breast milk or breastfeed at their workplace during their meal or break period. It requires employers to make reasonable efforts to provide a room or other location close to the work area (other than a toilet stall) for the employee to express her milk in private.

The act covers all employers, including the state and municipalities. "Reasonable efforts" are those that do not impose significant difficulty or expense, taking into account factors such as the business' size, financial resources, and operational nature and structure.

The act also prohibits employers from discriminating against employees who choose to express milk or breastfeed at work.

EFFECTIVE DATE: October 1, 2001

PA 01-189—sSB 1394 (VETOED)
Labor and Public Employees Committee
Appropriations Committee
Judiciary Committee

AN ACT CONCERNING PROCEDURES FOR STATE EMPLOYEE COLLECTIVE BARGAINING

SUMMARY: This act changes numerous state employee collective bargaining procedures. Specifically it:

1. increases the time during which parties may begin negotiating a new contract from 180 to 330 days before the existing contract expires (negotiations must still start at least 150 days before the existing contract expires),
2. allows parties to begin arbitration 60, rather than 90, days after negotiations begin,
3. eliminates an arbitrator's authority to waive deadlines imposed on him,
4. limits an arbitrator's authority to continue a hearing more than 30 days after it has begun to cases where good cause is shown,
5. allows motions to vacate or modify any issue in an arbitrator's award filed in Superior Court,
6. changes the reasons a judge may vacate or modify an award, and
7. allows arbitration on issues subject to collective bargaining even when the State Board of Labor Relations is deciding whether other issues are subject to collective bargaining.

EFFECTIVE DATE: October 1, 2001

MOTIONS TO VACATE OR MODIFY

Under the act, motions to vacate or modify an arbitrator's decision concerning any issue in an award may be filed in Superior Court. Such motions must identify the specific issue or issues in dispute. Any arbitrator decisions on issues not subject to the motion are final and binding upon the parties.

The court, after a hearing, may vacate or modify the arbitration award if:

1. the decision has been obtained by corruption, fraud, or undue means;
2. the arbitrator was partial or corrupt;
3. the arbitrator erroneously refused to postpone a hearing or hear pertinent and material evidence or prejudiced a party's rights; or
4. the arbitrator exceeded his power or improperly executed his power in such a way that a mutual, final, and definitive award was not made.

Under prior law, a judge could vacate or modify an arbitrator's award if a party's substantial rights were prejudiced because the award: (1) violated the constitution; (2) went beyond the arbitrator's authority; (3) was made by illegal procedures; (4) was affected by some other legal error; (5) was clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or (6) was arbitrary or capricious or characterized by abuse or clearly unwarranted exercise of discretion.

ARBITRATOR TIME LIMITS

Under prior law, all of the time frames in negotiation and impasse resolution procedures could be waived by agreement of the parties or by an arbitrator's request. The act permits the time requirements imposed on an arbitrator to be waived only by agreement of the parties; those imposed upon the parties can be waived only by agreement of the parties or an arbitrator ruling.

PROCEDURES WHEN THERE IS A DISPUTE ABOUT WHETHER AN ISSUE IS SUBJECT TO COLLECTIVE BARGAINING

Previously, when a dispute came before the State Board of Labor Relations about whether an issue was a mandatory or nonmandatory subject of collective bargaining, issues that were not involved in the dispute could not be submitted to arbitration until the board ruled on the dispute unless both parties agreed. The act eliminates that prohibition and allows issues that are not involved in the dispute to proceed to arbitration. If an arbitration award is rendered before the board's decision, and the board subsequently finds that one or more of the issues before it is subject to bargaining, the issues are treated in the same manner as supplemental understandings or awards.

PA 01-206—sHB 6931
Labor and Public Employees Committee
Human Services Committee
Appropriations Committee

AN ACT CONCERNING EDUCATION AND EQUITABLE WAGES FOR EARLY CHILDHOOD EDUCATION PROFESSIONALS

SUMMARY: This act requires the Department of Social Services (DSS) to develop, within available funds, initiatives to increase the amount of compensation paid to child day care providers to further their education. The initiatives must include (1) pay incentives for workers at centers receiving state or federal funds to further their education and (2) support for the labor commissioner's establishment and implementation of a child care worker apprenticeship program administered jointly by labor and management trustees. DSS must evaluate the effectiveness of any such initiatives in improving staff retention rates and the quality of education and care provided to children.
EFFECTIVE DATE: October 1, 2001

PA 01-208—sHB 6886
Labor and Public Employees Committee
Judiciary Committee
Public Safety Committee
Appropriations Committee

AN ACT CONCERNING ELIGIBILITY FOR HAZARDOUS DUTY DISABILITY COMPENSATION BENEFITS AND PORTAL-TO-PORTAL WORKERS' COMPENSATION BENEFITS

SUMMARY: This act allows certain state employees injured while responding to an emergency or code at a correctional institution to collect hazardous duty benefits if the injury is the direct result of the special hazards inherent in their duties. Under prior law, these employees could only collect the benefits when such injuries came directly from an assault in the line of duty or (1) while making an arrest; (2) actually performing police, guard, fire, inspection, prosecution, public defender, or courthouse duties; or (3) attending or restraining an inmate of a state institution.

It also requires the Department of Correction or its workers' compensation carrier to make retroactive death benefit payments to the dependents of any employee who was injured traveling from home to work or from work to home on or after July 1, 2000 and who died before July 16, 2000. The Second Injury Fund must reimburse the department or its carrier.
EFFECTIVE DATE: Upon passage for the death benefit and October 1, 2001 for the hazardous duty benefits.

BACKGROUND

Hazardous Duty Benefits

State employees in hazardous duty positions receive special benefits if they are totally disabled due to a job-related injury. The employees receive 100% of their base salary for up to five years, including normal salary increases. At the end of five years, if the employee is still totally disabled, the benefit drops to 50% of base pay, except for state police officers who can receive 65% if they agree in writing to forego other disability retirement and workers' compensation benefits.

Hazardous Duty Positions

State personnel considered to have hazardous duty positions include: (1) state police officers; (2) correctional institution employees; (3) employees of institutions that treat people with mental disorders; (4) full-time enforcement officers of the Board of Parole, Office of Adult Probation, the departments of environmental protection, motor vehicles, public works, and of the Department of Consumer Protection who carry out duties under the Liquor Control Act; (5) employees of the Division of Criminal Justice, Division of Public Defender Services, and Judicial Department; (6) juvenile probation officers and employees of juvenile detention homes; (7) members of the police or fire security force at the University of Connecticut or Bradley International Airport; (8) members of the State Capitol Police or special police officers appointed for the State Capitol, Legislative Office Building, and any other area under the control of the Joint Committee on Legislative Management; and (9) public defenders, state's attorneys, and inspectors.

PA 01-47—sSB 1037
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING MEDIATION OF APPEALS OF DECISIONS OF PLANNING AND ZONING COMMISSIONS

SUMMARY: This act allows parties to resolve disputes involving land use decisions or locally cited violations of state dumping laws through mediation instead of litigation. A party must first file an appeal to Superior Court before mediation can be tried. The parties must comply with the act's requirements for starting, conducting, and concluding a mediation, which must be conducted by an impartial third party using generally accepted mediation principles. All must agree to the mediation, but a party can withdraw from it at any time.

The mediator can ask anyone to participate in the process needed to resolve the dispute. The court cannot require the mediator to testify if the mediation fails and the appeal resumes. Nor can it admit the contents of the mediation sessions as evidence. The mediator must report the mediation's results to the court.
EFFECTIVE DATE: October 1, 2001

APPLICABILITY

The act allows the parties involved in two types of appeals to resolve the dispute through mediation instead of litigation. They can do this for appeals from decisions of zoning commissions, planning commissions, combined planning and zoning commissions, zoning boards of appeals, historic district commissions, and the Connecticut and Niantic rivers gateway commissions. They can also try mediation for appeals from local decisions enforcing stream and channel encroachment ordinances and state dumping laws.

The parties to the decision can try to resolve it through mediation if they all agree to do so; other parties must petition the court if they want to be included in the mediation. These include parties owning land within 100 feet of land involved in the decision and others who can prove to the court that they were aggrieved by the decision. All of the parties to the appeal must agree to the mediation before the process can begin. They must share its cost equally.

NOTICE REQUIREMENTS

The parties can agree to try mediation any time after the appeal is filed in Superior Court. They must notify the court about their intention and publish a newspaper notice to that effect within 15 days after notifying the court. Other aggrieved parties must obtain the court's permission in order to join the mediation. They must do so within seven days after the newspaper notice is published. The court has seven days to decide, and its decision cannot be appealed.

MEDIATION DEADLINE

The parties must begin mediating on the same day they notify the court that they intend to try this option. Their agreement stays the appeal once the mediation begins. The appeal resumes if they stop mediation. They must finish mediation within 180 days after they notified the court.

The parties can extend the deadline for another 180 days if they all agree to do so but must get the court's approval for a subsequent extension. Any party to the mediation can request the extension; any party can also ask the court not to grant it. The court can set any deadline for a subsequent extension after the first 180-day extension has elapsed. Any party can end the mediation by withdrawing from it.

MEDIATOR POWERS AND DUTIES

The mediator can ask anyone he believes is needed to resolve the issue to participate in the mediation. Potential participants include intervenors, people who own land abutting the land that is the subject of the appeal, representatives of government agencies not involved in the mediation, and other people significantly involved in the issue being mediated.

Within 15 days after the mediation ends, the mediator must report to the court about the process and its outcome. His report becomes part of the court's record if the mediation failed to resolve the issue.

PA 01-52—sHB 6609
Planning and Development Committee

AN ACT CONCERNING THE TIME FOR THE FILING OF SUBDIVISION PLANS

SUMMARY: This act imposes a deadline, instead of a 30-day waiting period, on planning commissions to deliver approved subdivision plans to applicants. The deadline is the later of 30 days after either (1) the deadline for appealing a commission decision or (2) the date that a survey map and plan modified under the commission's approval, and filed with the town clerk, are delivered to the commission. In the case of an appeal, the deadline is the later of 30 days after either (1) the conclusion of the appeal in the applicant's favor

or (2) the date that a modified survey map and plan are delivered to the commission.
EFFECTIVE DATE: October 1, 2001

PA 01-110—sHB 6604
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING THE TIME TO APPEAL NOTICES OF ZONING DECISIONS

SUMMARY: This act shortens, from two years to one, the time period to file certain land-use commission appeals on improper notification grounds. Appeals can address failure to comply with the notification requirements of any general statute, special act, ordinance, or regulation that governs the content, giving, mailing, publishing, filing, or recording of any notice about a hearing or a commission action. As under prior law, the time period for such appeals begins the day after the date of the decision or action, not after the date of the notification.
EFFECTIVE DATE: October 1, 2001

BOARDS, COMMISSIONS, AND OFFICERS AFFECTED

The notification appeal applies to the following municipal commissions or boards: (1) zoning, (2) planning, (3) combined planning and zoning, and (4) zoning board of appeals. It also applies to chief municipal elected officials, or their designees, when holding a hearing on illegal littering or dumping.

PA 01-117—SB 1040
Planning and Development Committee

AN ACT AUTHORIZING MUNICIPALITIES TO JOINTLY PERFORM MUNICIPAL FUNCTIONS

SUMMARY: This act gives two or more towns blanket authority to perform jointly any function any statute, special act, charter, or home-rule ordinance allows them to perform individually. It requires each participant to approve any joint agreement in the same manner it approves ordinances or, if the participant does not approve ordinances, in the manner it approves budgets. The terms of each agreement must include (1) a process for withdrawal and (2) a requirement that the approving body review the agreement at least once every five years to assess whether it improves the functions it addresses. The act applies to towns, cities, boroughs, consolidated towns and cities, consolidated towns and boroughs, and service districts (such as fire districts, sewer districts, beach associations, and improvement associations), but not school districts.

Existing law allows municipalities and service districts to perform specified functions jointly through interlocal agreements. The act does not supersede this law but creates another avenue for similar agreements. By law, municipalities can also make agreements to share real and personal property tax revenue.
EFFECTIVE DATE: July 1, 2001

BACKGROUND

Interlocal Agreements

The law provides a process for towns and other municipal bodies to enter into interlocal agreements with towns within or outside Connecticut. It restricts these agreements to a specific, but long, list of municipal functions and services. The proposed agreement must be submitted to the local legislative bodies, which must each hold at least one hearing on the proposal, consider changes, and approve or reject the final proposal. The law requires the agreements to address, among other issues: (1) maximum duration, (2) employee indemnification, and (3) dispute settlement.

Municipal Tax Revenue Sharing

By law, two or more chief elected municipal officials may initiate a process to agree to share real and personal property tax revenue. The agreement (1) must be negotiated, with an opportunity for public participation, and adopted by each participating municipality's legislative body; (2) must contain provisions for amending, terminating, and withdrawing from it; and (3) may include what tax revenue will be shared and how it will be collected and shared. Municipalities may enter into these agreements notwithstanding provisions of other state laws, charters, or home rule ordinances.

PA 01-125—HB 6255
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE THRESHOLD FOR INCENTIVES FOR IMPROVEMENTS TO REAL AND PERSONAL PROPERTY AND THE ASSESSMENT OF AN ELECTRIC GENERATION FACILITY

SUMMARY: This act standardizes the schedule under which towns may abate (decrease or eliminate) the property taxes for different types of real estate projects and personal property in a manufacturing facility. The schedule bases the abatement amount and time period on minimum threshold values a property must meet. Besides standardizing the schedule, the act reduces one of the threshold values and changes the abatement amount from a fixed rate to a ceiling.

The act accelerates the rate at which electric companies must compensate towns out of the systems benefit charge for property taxes they lose as a direct result of electric restructuring. It requires companies to pay this compensation and their regular tax assessment in two installments. The law specifies the process by which the towns must calculate the compensation amount and the Office of Policy and Management (OPM) secretary must review and certify that amount. The act also accelerates the schedule by which OPM must do this.

EFFECTIVE DATE: Upon passage, except the provisions regarding property tax abatements take effect October 1, 2001.

PROPERTY TAX ABATMENTS

Minimum Values for Real Estate Abatements

The law fixes the amount and period during which towns' legislative bodies may abate taxes for different types of real estate construction projects based on a project's value. Table 1 lists the minimum value of an improvement that qualified a project for an abatement under prior law, the maximum abatement period, and the maximum abatement amount.

Table 1: Minimum Value, Maximum Abatement Period, and Abated Amount for Real Estate Projects Under Prior Law

Minimum Value	*Abatement Period*	*Abatement Amount*
$3 million	7 years	100%
$500,000	2 years	100%
$100,000	3 years	50%
$100,000	3 years	20%
$500,000	3 years	30%
$3 million	5 years to 7 ears	20%
$5 million	7 years	30%

The act eliminates several thresholds, which has the twin effect of standardizing the abatement amount and time period for projects within certain thresholds while limiting the range of abatement options and time periods towns have with respect to these projects. By eliminating the:

1. 30%, seven-year abatement for projects over $5 million, the act leaves towns with the single option of granting them the seven-year, 100% abatement available for projects over $3 million;
2. 20%, five- to seven-year abatement for projects between $3 million and $5 million, the act leaves towns with the option of granting them the 100%, seven-year abatement for projects over $3 million; and
3. 30%, three-year abatement for projects between $500,000 and $3 million, the act leaves towns with the option of granting them the 100%, two-year abatement for projects over $500,000.

The act eliminates the 20%, three-year abatement for projects between $100,000 and $500,000. But these projects could qualify for larger abatement under another change the act makes, which is discussed below.

Lower Thresholds for Real Estate and Personal Property

The act makes two changes to one of the thresholds for real estate projects. Prior law allowed towns to provide a flat 50%, three-year abatement for projects between $100,000 to $500,000. The act allows towns to set the abatement for up to 50% of the project's value and lowers the minimum threshold from $100,000 to $25,000. This change, combined with the elimination of the 20%, three-year abatement for projects in the $100,000 to $500,000 range, gives towns the option of setting the abatement at any amount up to 50% of the project's value.

The act makes a similar change with respect to the abatement towns can grant to manufacturers on any personal property in a manufacturing facility that increases the assessed value for all of the personal property in the facility. As Table 2 shows, manufacturers qualified for a 50%, three-year abatement under prior law if the total assessed value increased by $100,000. The act allows towns to set the abatement for up to 50% and lowers the minimum threshold from $100,000 to $25,000.

Table 2: Minimum Value, Maximum Abatement Period, and Abated Amount for Personal Property in a Manufacturing Facility Under Prior Law

Minimum Value	*Abatement Period*	*Abatement Amount*
$3 million	7 years	100%
$500,000	2 years	100%
$100,000	3 years	50%

Under another law, manufacturers qualify for a 100% exemption for newly acquired manufacturing machinery and equipment. The exemption is good for five years, and the state fully reimburses towns for the revenue loss.

REIMBURSEMENTS RELATED TO ELECTRIC RESTRUCTURING

The act accelerates the rate at which electric companies must compensate towns for some property tax revenue they lose as a result of electric restructuring. The law requires the companies to reimburse towns from the system benefit charge, which consumers pay. It specifies how tax assessors must calculate the reimbursement amount and the rate at which towns must be paid. The act increases, from 90% to 100%, the amount by which the companies must compensate towns for revenues lost during the first year. The compensation rate for the subsequent years remains at 10% per year for 10 years.

The act pushes up the deadline by which OPM must review the assessors' calculations. The law requires tax assessors to calculate the amount for each assessment year, which runs from October 1 to September 30. They must certify the amount for a given assessment year by June 15. Prior law gave OPM until December 1 to notify towns if it changes the amount. The act requires OPM to do this sooner, by July 1. It also pushes up the deadline by which OPM must certify the amount to the DPUC from December 1 to July 15.

The act requires the companies to pay their regular assessment and the compensation in two installments, the last of which predates the December 31 deadline specified under prior law. Companies must pay this amount within five business days after they paid their property taxes, but not before July 15. They must pay the other half of the regular assessment and compensation amounts by January 31. The act also makes a conforming change.

BACKGROUND

Eligible Real Estate Projects

The following types of projects qualify for property tax abatements: office; retail; permanent residential; transient residential; manufacturing; warehouse, storage, or distribution; structured multilevel parking use connected to a mass transit system; information technology; and recreation and transportation facilities.

PA 01-128—SB 774
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING MUNICIPAL BLIGHT ORDINANCES AND THE POWER OF A MUNICIPALITY TO APPOINT A RECEIVER OF RENTS

SUMMARY: This act authorizes municipalities to make and enforce property maintenance regulations that must include standards to determine neglect. The law allows municipalities to make regulations preventing housing blight and to impose fines from $10 to $100 a day for each violation. The act authorizes the same level of daily fines for each violation of property maintenance regulations. By law, if a municipality chooses to impose fines, it must adopt a citation hearing procedure authorized by statute.

By law, municipal legislative bodies can appoint a person or committee (i.e., an authority) to act for the municipality in dealing with landlords whose property is declared a nuisance. The act allows, rather than requires, these authorities to seek rent receivership action against a property owner. It also gives municipalities discretion whether to pay for remedying or removing the nuisance causing the action.
EFFECTIVE DATE: October 1, 2001

RENT RECEIVERS

Whenever a municipally appointed authority found a landlord did not (1) keep his property habitable or comply with statutory duties imposed on landlords or (2) comply with a municipal order to remedy or remove a public nuisance or comply with health and safety standards, prior law required it to apply to Superior Court for an order requiring the property owner to prove why a rent receiver should not be appointed. The act gives the authority the option of seeking a court-appointed receiver in such cases. By law, when appointed by the court, a receiver can collect rents, take steps to resolve the nuisance, and evict tenants.

Under prior law, if the income from the property in receivership did not cover the cost of resolving the nuisance or hazard, the municipality had to advance the necessary funds to the receiver to cover such costs, and it had to place a lien on the property. Under the act, the municipality can provide funds to resolve the nuisance but is not required to do so.

PA 01-136—sHB 6271
Planning and Development Committee
Environment Committee

AN ACT CONCERNING NOISE REGULATION OF THE UCONN STADIUM AT RENTSCHLER FIELD IN EAST HARTFORD

SUMMARY: This act subjects the University of Connecticut (UConn) football stadium facility in East Hartford to local noise ordinances. It applies to the stadium, related parking facilities, project construction, and site preparation, but not to UConn sporting events. It requires noise enforcement to be based on scientific measurements. By law, before any noise ordinance can go into effect it must (1) be consistent with state standards for stationary noise sources and (2) be approved by the environmental protection commissioner.

The football stadium facility is still exempted from all other municipal laws, ordinances, and regulations.

The act also makes all activities at the stadium facility, including UConn sporting events, subject to state noise regulation by repealing a provision that made facility activities exempt from the noise pollution control statute.
EFFECTIVE DATE: October 1, 2001

PA 01-158—sHB 6994
Planning and Development Committee
Finance, Revenue and Bonding Committee
Transportation Committee
Joint Committee on Legislative Management

AN ACT CONCERNING MUNICIPAL FISCAL DISPARITIES

SUMMARY: This act establishes a process to identify and help municipalities with (1) high mill rates, (2) low per-capita grand lists, (3) low median household incomes, and (4) declining populations. Annually, beginning September 15, 2001, the Office of Policy and Management (OPM) secretary must prepare a list of towns that meet all four criteria.

Once a town is identified, the act delineates steps the state and other towns must take to address its fiscal capacity. Within 30 days, the governor must convene a meeting of the chief elected officials of all the towns in the region where the affected town is located. These officials must develop recommendations, including intertown collaboration and action, to address the town's fiscal problems. By December 31 of the year the town is identified, they must submit the recommendations to the governor and the Planning and Development Committee; by December 31 of the second year, OPM, in consultation with town officials, must prepare a specific implementation strategy that addresses the town's fiscal capacity. The strategy must be updated every year until the town no longer meets the act's criteria. The act requires OPM to provide the towns with the necessary staff and resources, within available funds, to (1) develop the initial recommendations, and (2) implement the strategy.
EFFECTIVE DATE: July 1, 2001

CRITERIA FOR INCLUSION

Under the act, the OPM secretary must prepare an annual list of towns that have:

1. an equalized mill rate 50% above the average of its region's towns,
2. an adjusted equalized net grand list per capita (AENGLC) that is 40% below the average of its region's towns,
3. a median household income that is 30% less than the average of its region's towns, and
4. a decrease in population in the year of the latest equalized mill rate compared with the average population of the previous five years.

Region means the planning region as defined by OPM, as authorized in statute. The state has 15 regional planning agencies. The population for each town means the most recent Department of Public Health estimate.

REGIONAL PLANNING MEETING

Municipal Chief Elected Officials

If a town does not have a chief elected official when a regional meeting is planned, its legislative body must choose one of its members by majority vote to represent the town at the meeting. The act deems this designee as the town's chief elected official for purposes of the meeting.

Meeting Notification

The governor must notify all necessary chief elected officials about meetings by certified mail, return receipt requested. Any chief elected official receiving notice must participate in the process.

PA 01-161—sSB 1216
Planning and Development Committee
Education Committee
Appropriations Committee
Human Services Committee

AN ACT CONCERNING ZONING REQUIREMENTS FOR RESIDENCES FOR CHILDREN WITH MENTAL OR PHYSICAL DISABILITIES

SUMMARY: This act requires local zoning regulations to treat as single-family homes Department of Children and Families (DCF)-licensed residences housing up to six mentally or physically disabled children (not defined) and necessary staff. The law already requires this treatment for Department of Mental Retardation (DMR)-licensed residences housing up to six mentally retarded people and necessary staff.

The act permits any resident of a town hosting a DCF-licensed residential facility to petition the DCF commissioner to revoke the facility's license for violations of applicable statutes or regulations. The resident must get the approval of the town's legislative body before filing the petition.

Under the act, DCF-licenses residential facilities cannot be located within 1,000 feet of each other or DMR-licensed residences, unless the local zoning commission approves. DMR-licensed residences are also subject to this restriction.

The act also specifies that it does not change the existing law relative to special education funding responsibilities for DCF- and DMR-placed children. Generally, the child's original school district must pay for special education and related services.
EFFECTIVE DATE: July 1, 2001

PA 01-178—sSB 302
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING PROPERTY TAX COLLECTION

SUMMARY: This act increases, from $5 to $25, the amount of property taxes that are due that towns' legislative bodies can waive. It specifies that they can waive the tax before its due date, which reflects current practice.
EFFECTIVE DATE: October 1, 2001 and applicable to assessment years beginning on or after that date.

PA 01-197—sHB 6716
Planning and Development Committee
Appropriations Committee
Commerce Committee
Transportation Committee
Environment Committee

AN ACT REVISING THE PROCESS FOR ADOPTION OF MUNICIPAL PLANS OF CONSERVATION AND DEVELOPMENT

SUMMARY: This act recodifies the statutes governing the form and content of local plans of conservation and development, making few substantive changes. It extends to all towns (1) the requirement that planning commissions consider cluster development and regional plans of development and (2) the authority to recommend ways to preserve and conserve traprock and other ridgelines. It also requires towns contiguous to Long Island Sound to make their plans consistent with the state's Coastal Management Program.

The act makes several changes in the process for adopting or amending a plan. The changes apply to plans adopted after July 1, 2001 and amendments to those plans. The act allows planning commissions to appoint special committees to develop recommendations and adds steps to the process, including a requirement to submit proposed plans and amendments to the town's legislative body for approval. Commissions can still adopt a plan the legislative body rejects, but must do so by a two-thirds vote.

The act requires commissions to prepare or amend their plans at least once every 10 years and hold public hearings on proposed plans or amendments. It also requires them to review and maintain the plans regularly; prior law required the reviews at least once every 10 years.

The act allows towns to use local capital improvement project grants to cover the cost of preparing or revising a plan if the legislative body endorsed it within 180 days after the commission adopted it. Towns can use the grants for this purpose only once during a 10-calendar year period.

The act adds the environmental protection commissioner to the list of state officials towns must notify when they go more than 10 years without reviewing their plans.

It explicitly allows commissions to prepare neighborhood and district plans at any time. The act also makes technical changes.
EFFECTIVE DATE: July 1, 2001 and applicable to plans and plan amendments adopted after this date.

PLAN'S PURPOSE AND CONTENT

The act makes substantive changes to the purpose and content of plans of conservation and development. It requires all commissions to consider using cluster development when preparing or amending plans. Under prior law, this requirement applied only to towns where over 20% of the land is identified as undeveloped in the State Plan of Conservation and Development. Cluster developments generally place buildings closer together than in conventional developments in order to leave more land as open space.

The act allows all commissions to recommend ways to conserve and preserve traprock and other ridgelines. Under prior law, only commissions in towns with identified traprock ridgelines could make these recommendations.

PLAN ADOPTION AND AMENDMENT PROCESS

Special Committees

The act allows commissions to appoint special committees to develop recommendations for the plan. The committees may include residents and members of zoning commissions, inland wetland agencies, recreation commissions, school boards, finance boards, and redevelopment commissions. They can also include members of boards dealing with public works or other municipal functions. The committees must consider the same factors the commission considers when it prepares the plan.

The committees may accept information from any source or request advice from any person or organization. They may hold informational meetings and inform residents about the planning process.

Review and Comments Prior to Public Hearing

The act requires a commission to submit proposed plans and amendments to the town's legislative body and the region's planning agency at least 65 days before the public hearing the commission must hold on adopting the proposed plan or amendments. The act allows the legislative body to hold its own hearings on the proposed plan or amendments and submit comments to the commission prior to their hearing. The legislative body tacitly approves the plan if it makes no comments.

The regional planning agency must report its comments at or before the hearing. Any comments it makes are advisory. The agency tacitly approves the plan if it makes no comments.

The act explicitly allows commissions to review and amend proposed plans and amendments before scheduling the hearing.

By law, commissions must publish notices about the hearing and file copies of proposed plans and amendments with town clerks and other specified municipal offices. They adopt them by a single resolution or successive resolutions. They must specify the effective dates of the plan or amendments and publish newspaper notices to that effect.

Plan Adoption

The act implies that the legislative body must act on the proposed plan and amendments after the commission's hearing. It requires the commission to approve them by a two-thirds vote of all members if the legislative body did not endorse the plan or amendments.

Legislative Body Endorsement

Legislative bodies may hold hearings on the plans after the planning commission adopts them. They may also adopt resolutions endorsing the adopted plan.

STATE NOTIFICATION

The act adds the environmental protection commissioner to the list of state officials towns must notify if they go more than 10 years without reviewing their plans. Chief elected officials already have to notify the Office of Policy and Management secretary and the transportation and economic and community development commissioners. Local agencies already have to notify these officials each time they apply to them for funds.

NEIGHBORHOOD AND DISTRICT PLANS

The act specifies that commissions can prepare these plans any time. The law allows them to prepare and adopt plans to redevelop and improve districts or neighborhoods facing special problems or declining property values. The act also allows commissions to prepare these plans when these areas face special opportunities.

PA 01-1—sSB 6574
Public Health Committee

AN ACT CONCERNING THE CERTIFICATION OF EMERGENCY MEDICAL SERVICE PERSONNEL

SUMMARY: This act gives emergency medical service (EMS) personnel whose certification expires after December 31, 2000 a 90-day grace period during which they can continue to perform their EMS duties while meeting Department of Public Health (DPH) recertification requirements. The certificate is void when the 90 days end.

The act establishes three different recertification requirements for EMS personnel whose certification has expired, depending on how long it has been since their certification lapsed. These apply to emergency medical technicians (EMT), EMT-intermediates, medical response technicians, and EMS instructors.

1. If a person's certification expired less than one year before he applies for reinstatement, he must meet the recertification training requirements specified in DPH regulations.
2. If a person's certification has lapsed for more than one but less than three years from the date he applies for reinstatement, he must complete the training requirements for recertification and pass the test required for initial certification.
3. If a person's certification has lapsed for three or more years from the date he applies for reinstatement, he must complete all the training and examination requirements for initial certification.

Current DPH regulations require personnel whose certificates have lapsed to meet initial certification requirements regardless of the time elapsed since their certificates expired.

Finally, the act requires DPH to adopt regulations governing issuing, renewing, reinstating, and recertifying EMS personnel licenses and certifications. DPH was previously authorized only to adopt regulations governing statewide certification standards for EMS personnel and for recertifying EMS personnel who have completed six years of continuous service.
EFFECTIVE DATE: Upon passage

BACKGROUND

DPH Recertification Requirements for EMS Personnel

DPH regulations governing recertification require (1) medical response technicians to complete at least 15 hours of refresher training, (2) EMTs to complete at least 25 hours of refresher training or pass the initial certification exam, (3) EMT-intermediates to complete at least 25 hours of refresher training and 23 hours of continuing education, and (4) EMS instructors to complete at least 50 contact hours of continuing education. The training includes both written and practical testing. These requirements must be completed every two years until an individual has been certified for seven years, after which they must be completed every three years (*Conn. Agency Regs.* 19a-179-16a, effective December 29, 2000).

PA 01-18—HB 6575
Public Health Committee

AN ACT CONCERNING RECEIVERSHIP OF RESIDENTIAL FACILITIES FOR MENTALLY RETARDED PERSONS

SUMMARY: This act specifies that, for purposes of receivership of a residential facility for mentally retarded persons, the facility includes staffing and other program resources associated with the facility.

By law, the commissioner of the Department of Mental Retardation (DMR) or the director of the Office of Protection and Advocacy for Persons with Disabilities can file an application in Superior Court for appointment of a receiver for a residential facility for mentally retarded persons. A resident of a facility or his legally liable relative, conservator, or guardian can file a written complaint with the DMR commissioner specifying conditions at the facility that warrant a receivership application. If DMR fails to resolve the complaint within 45 days of receiving it, or seven days in the case of a facility that intends to close, the person filing the complaint can apply to the court for a receiver to be appointed. The court must notify the attorney general of the application.
EFFECTIVE DATE: October 1, 2001

PA 01-23—sSB 122
Public Health Committee

AN ACT CONCERNING THE RETURN OF REGISTRATION OR DEPOSIT FEES BY DAY CARE CENTERS

SUMMARY: This act requires child day care centers (those caring for 13 or more children) that take a registration fee or deposit to put a child on a waiting list to return it in full if the child is not enrolled within six months. The parent or other person who made the

deposit must ask for the refund in writing.
EFFECTIVE DATE: October 1, 2001

PA 01-27—SB 1026
Public Health Committee

AN ACT CONCERNING THE USE OF DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES FACILITIES BY SELF HELP GROUPS

SUMMARY: This act authorizes the Department of Mental Health and Addiction Services (DMHAS) commissioner to allow self-help groups to use department facilities and services. Previously, only municipalities and nonprofit community organizations were afforded this opportunity. The act defines a "self-help group" as a group of volunteers, approved by the commissioner, offering peer support to each other in recovering from addiction. The self-help group, like municipalities and nonprofits, must provide DMHAS with proof of financial responsibility to satisfy any damage claims for physical injury or property damage while the group is using department facilities. DMHAS is not liable for any damage or injury incurred on department property while it is being used by self-help groups.
EFFECTIVE DATE: October 1, 2001

PA 01-50—sSB 1024
Public Health Committee
Appropriations Committee

AN ACT CONCERNING ACCREDITATION FOR MAGNETIC RESONANCE IMAGING EQUIPMENT, SERVICES AND PERSONNEL AND FOR OFFICES AND UNLICENSED FACILITIES WHERE CERTAIN LEVELS OF ANESTHESIA ARE ADMINISTERED

SUMMARY: This act establishes accreditation requirements for (1) health care practitioners and groups using or replacing magnetic resonance imaging equipment (MRI) or providing MRI services and (2) certain unlicensed health care facilities where various levels of anesthesia and sedation are administered.

First, the act requires a licensed practitioner or practitioner group to get MRI accreditation from the American College of Radiology for all equipment, services, and personnel involved with its MRI activities by January 1, 2002 or 18 months after the date when it first conducts MRI activities, whichever is later. After that time, no MRI activity can be performed without accreditation. The practitioner or group must keep evidence of the accreditation at the facility where the MRI equipment is used or service is provided. It must be available for inspection, upon request, by the Department of Public Health (DPH).

Second, the act establishes accreditation requirements for unlicensed health care facilities (e.g. physician's offices) where certain levels of anesthesia are administered. Health care practitioners or practitioner groups operating unlicensed facilities must meet at least one of four specified accreditation standards before using moderate or deep sedation/analgesia or general anesthesia. The standards are those established by (1) Medicare, (2) the Accreditation Association for Ambulatory Health Care, (3) the American Association for Accreditation of Ambulatory Surgery Facilities, or (4) the Joint Commission on the Accreditation of Healthcare Organizations. Dentists with DPH-issued permits to use general anesthesia or conscious sedation are exempt from these requirements. Accreditation is required by January 1, 2002, or 18 months after the date on which such anesthesia is first administered at the facility, whichever is later. After that time, such anesthesia cannot be used without accreditation. The practitioner or group must keep evidence of its accreditation at the office and make it available, upon request, to DPH.

The act specifies that it does not relieve licensed practitioners, practitioner groups, or health care facilities and institutions from applicable state licensure and certificate of need requirements.

It allows the Medical Examining Board to restrict, suspend, or revoke a physician's license or take other disciplinary action against a physician (1) engaging in activities requiring accreditation without having such accreditation or (2) failing to provide accreditation evidence to DPH upon request.
EFFECTIVE DATE: July 1, 2001

PA 01-57—SB 1031
Public Health Committee

AN ACT CONCERNING THE LICENSING OF MENTAL HEALTH FACILITIES

SUMMARY: This act requires the Department of Public Health to license mental health outpatient treatment facilities that treat persons age 16 and older who are receiving services from the Department of Mental Health and Addiction Services. The act also makes technical changes.
EFFECTIVE DATE: October 1, 2001

PA 01-64—SB 1028
Public Health Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE PROVISION OF HOUSING AND SUPPORT SERVICES BY THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

SUMMARY: This act allows the Department of Mental Health and Addiction Services to sign a lease or other rental agreement for private housing on behalf of one of its clients. The department must first determine that the client is unable to rent or lease the residence on his own. The rent or lease agreement cannot exceed the fair market price for the area in which the residence is located.
EFFECTIVE DATE: October 1, 2001

PA 01-86—SB 1119
Public Health Committee

AN ACT CONCERNING THE LICENSING OF PSYCHOLOGISTS

SUMMARY: This act allows the Department of Public Health (DPH) to issue a psychologist's license by endorsement to a person having a current certificate of professional qualification from the Association of State and Provincial Psychology Boards (ASPPB).

While the act does not define "licensure by endorsement," it generally means that the state can grant a practitioner licensed in another state a license to practice in this state if his professional credentials satisfy the state's licensing requirements. Existing law allows DPH to license as a psychologist an applicant who is a currently practicing and competent practitioner with a license from another state with standards substantially equivalent to Connecticut's. The act gives DPH the option of accepting the ASPPB certificate.

By law, DPH can require the applicant to provide satisfactory evidence that he understands Connecticut law on psychology practice.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

ASPPB

ASPPB is an alliance of state, territorial, and provincial boards responsible for the licensure and certification of psychologists throughout the United States and Canada. ASPPB maintains programs to assist state psychology boards in handling licensure applications from individuals already licensed to practice in another state or jurisdiction. One of these is the "certificate of professional qualification" (CPQ). ASPPB issues CPQs to psychologists licensed in the U.S. or Canada who meet standards of educational preparation, supervised experience, and examination performance and who have practiced for a minimum of five years and have no history of disciplinary action.

PA 01-90—sSB 1027
Public Health Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE SUBSTANCE ABUSE REVOLVING LOAN FUND AND A TRAUMATIC BRAIN INJURY REGISTRY

SUMMARY: This act requires the Department of Public Health (DPH) to establish a registry of traumatic brain injury (TBI) patients. It also eases some of the repayment requirements for Department of Mental Health and Addiction Services' (DMHAS) substance abuse revolving loans.

The act requires the DPH commissioner to define in regulations the type of data that hospitals must make available to the TBI registry. DPH and authorized researchers can use the registry data, but they cannot disclose any personally identifiable information about a TBI patient without the written consent of the patient or someone legally authorized to act for him. The act exempts registry data from Freedom of Information Act disclosures. DPH regulations must specify who may use the registry and how it can be used. The act allows the commissioner to contract with a nonprofit TBI association to implement and administer the registry.

The act allows, instead of requires, DMHAS to assess a delinquency penalty against nonprofit organizations that borrowed money from it to establish group homes. It allows DMHAS to assess less than the currently required 5% penalty. And it changes the base on which the penalty is assessed from any payment more than 15 days overdue to delinquencies of over six months. It requires DMHAS to apply loan repayments in the following order: to (1) the current installment due, (2) interest due, and (3) the oldest outstanding principal. Finally, it requires the statutory loan terms (up to $4,000 for up to two years), interest requirements (up to 6%), and penalties to be included in the loan agreement and in any contract for loan administration.
EFFECTIVE DATE: October 1, 2001

PA 01-93—sHB 5675
Public Health Committee
Education Committee

AN ACT CONCERNING MENINGITIS INFORMATION AND VACCINATIONS FOR COLLEGE STUDENTS

SUMMARY: Beginning with the 2002-03 academic year, this act requires all public and private colleges and universities in the state to require all students who live in on-campus housing to be vaccinated against meningitis, with two exceptions. These are if (1) a doctor certifies that a student's physical condition contraindicates vaccination or (2) a student presents a statement that vaccination is against his religious beliefs.

The act also requires each public and private college and university to (1) inform all prospective students before they matriculate about meningitis and the vaccine's availability and benefits and (2) develop procedures for receiving and keeping records of students' vaccination status.
EFFECTIVE DATE: October 1, 2001

PA 01-94—sHB 5882
Public Health Committee
Education Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE REGULATION OF YOUTH CAMPS

SUMMARY: This act:

1. exempts classroom-based summer instructional programs from having to be licensed as youth camps in certain circumstances,
2. exempts college facilities used by camps from annual safety inspection requirements in certain circumstances, and
3. allows required school physical examinations to satisfy camp physical exam requirements.

EFFECTIVE DATE: October 1, 2001

CLASSROOM-BASED PROGRAMS

The act exempts classroom-based summer instructional programs that are not operated by schools from licensing by the Department of Public Health (DPH) if they do not conduct any activities that could pose a health risk or hazard to the children enrolled in them. The law already exempts schools that operate summer education programs from licensing.

FACILITY SAFETY INSPECTION

The act exempts from DPH's annual camp facility safety inspection college dorms, classrooms, athletic facilities, and other buildings as long as the college has had them inspected within a time period that satisfies DPH.

PHYSICAL EXAMS

DPH regulations require camps to have on file a physical examination or health status certification for each camper dated within 36 months of the child's arrival at camp. The act requires those regulations to permit the use of required school physicals for this purpose, subject to conditions of timeliness the commissioner believes appropriate.

By law, schools must require children to have a health assessment before they enroll in school and in either sixth or seventh grade and in either 10^{th} or 11^{th} grade. The assessments must include a physical examination; immunization updates; and, depending on the child's age, vision, hearing, speech, dental, and posture screenings.

PA 01-108—sHB 6461
Public Health Committee
Government Administration and Elections Committee
Legislative Management Committee

AN ACT ESTABLISHING A CAMP HARKNESS ADVISORY COMMITTEE

SUMMARY: This act establishes an 11-member Camp Harkness Advisory Committee to advise the mental retardation commissioner on health and safety issues concerning camp users. The committee must promote communications about camp services and develop recommendations for the commissioner on the camp's use.

The committee must submit an annual report on the camp's status to the Public Health Committee, with the first report due October 1, 2002.
EFFECTIVE DATE: July 1, 2001

COMMITTEE MEMBERS

Committee members include:

1. the Camp Harkness director, who serves ex officio;
2. one member each representing the Southeastern Connecticut Association for the Retarded and Southbury Training School,

appointed by the governor;
3. one consumer representing residential campers and one member representing parents or guardians of camp users, appointed by the governor;
4. one member representing parents or guardians of camp users, appointed by the Senate president pro tempore;
5. one consumer from the Family Support Council, appointed by the House speaker;
6. one member representing the Waterford board of selectmen, appointed by the House majority leader;
7. one member representing the camp's booster club, appointed by the Senate majority leader;
8. one member representing the Connecticut Institute for the Blind and Oak Hill School, appointed by the House minority leader; and
9. one member representing the United Cerebral Palsy Association, appointed by the Senate minority leader.

BACKGROUND

Camp Harkness

Camp Harkness is a 102-acre parcel in Waterford originally part of the Harkness family estate. The property was willed to the state and donated for "public health." The Department of Mental Retardation has administrative responsibility for the camp.

Currently, the Association for Retarded Citizens of New London County, Southbury Training School, the Connecticut Institute for the Blind, and the United Cerebral Palsy Association run summer programs at the camp. The camp is open year-round to pass-holders (individuals and organizations serving people with disabilities) for day and overnight use.

PA 01-109—sSB 175
Public Health Committee

AN ACT CONCERNING ELECTROLOGISTS AND THE SPINAL CORD INJURY RESEARCH BOARD

SUMMARY: This act substitutes the terms "electrologists" and "electrology" for "hypertrichologists" and "hypertrichology" throughout the statutes licensing the practice of hypertrichology. Hypertrichology, called "electrology" under the act, is the permanent removal of superfluous hair by electrical or other methods approved by the Department of Public Health (DPH). The Board of Examiners of Hypertrichologists is renamed the Board of Examiners of Electrologists. The act makes no substantive changes regarding the practice of electrology or the licensure of electrologists by DPH.

The act also continues the Spinal Cord Injury Research Board, established by SA 99-13, which was scheduled to terminate on October 1, 2001.

EFFECTIVE DATE: October 1, 2001 for the electrology provisions; upon passage for the spinal cord injury board.

PA 01-111—SB 694
Public Health Committee
Insurance and Real Estate Committee

AN ACT DEFINING HEALTH CARE PROVIDER FOR PURPOSES OF PROMPT PAYMENT OF HEALTH INSURANCE CLAIMS

SUMMARY: By law, insurers must pay claims within 45 days of receiving a health care provider's request for payment filed according to the insurer's practices. If the information needed to process the claim is deficient, the insurer must (1) send written notice to the provider of all alleged deficient information needed to process the claim within 30 days after the insurer receives the claim and (2) pay within 30 days after receiving the requested information.

This act specifies that "health care provider," for purposes of prompt claims payment, includes physicians and surgeons, chiropractors, naturopaths, podiatrists, athletic trainers, physical therapists, occupational therapists, alcohol and drug counselors, radiographers and radiologic technicians, midwives, nurses, nurse's aides, dentists, dental hygienists, optometrists, opticians, respiratory care practitioners, pharmacists, psychologists, marital and family therapists, clinical social workers, massage therapists, dietician-nutritionists, acupuncturists, and professional counselors. The act also includes licensed health care institutions such as hospitals; residential care homes; health care facilities for the handicapped; nursing homes; rest homes; home health care agencies; homemaker-home health aide agencies; mental health facilities; substance abuse treatment facilities; student infirmaries; facilities providing services for the prevention, diagnosis, and treatment of human health conditions; and residential facilities for the mentally retarded and certified by Medicaid as intermediate care facilities for the mentally retarded.

By law, insurers failing to make payments within the required times must pay the claimant the claim

amount plus 15% annual interest. Failure to make these timely payments is also, under the law, an unfair method of competition or an unfair and deceptive act or practice in the insurance business and subjects the violator to penalties, including (1) a stop order, (2) monetary penalties, or (3) license surrender.
EFFECTIVE DATE: October 1, 2001

PA 01-122—sHB 5426
Public Health Committee
Public Safety Committee

AN ACT CONCERNING AUTOPSY ARRANGEMENTS AND STANDARDIZED INFORMED AUTOPSY CONSENT

SUMMARY: Unless the Chief Medical Examiner's Office performs it, the law prohibits a physician from performing an autopsy without the consent of the person who assumes custody of the body. Beginning January 1, 2002, this act requires that consent be documented and witnessed according to minimum requirements for an informed consent form the Department of Public Health (DPH) commissioner develops in consultation with the chief medical examiner.

DPH's minimum requirements must also provide for (1) giving the deceased's family, friend, or other person he designates in writing before a notary or court officer to assume custody of his body an opportunity to limit the autopsy or express concerns about it and (2) clearly naming the institution and department that will perform the autopsy. They must contain procedures for communicating this information orally. The act specifies that these minimum requirements are not state regulations.

Prior law allowed the consenting person to require a physician who is not affiliated with the institution where a person died to perform or attend the autopsy. The act, instead, allows that person to arrange for an autopsy to be performed in any institution that routinely performs autopsies and by any physician qualified to do so at that institution. It makes this person responsible for paying for the autopsy and associated services.

The act requires institutions that perform autopsies to include this information in their patient's bill of rights and all written descriptions of their autopsy policy. A copy of the patient's bill of rights must be given to the person assuming custody of the body before he signs an autopsy consent form. The information must be in a language that person understands. DPH's minimum requirements for an informed autopsy consent form must include procedures for the person receiving these documents to acknowledge receipt in writing or orally.

The act subjects anyone who fails to provide the proper information for consent and, potentially, anyone who fails to pay a nonaffiliated physician, to a fine of up to $500.

The act specifies that, after December 31, 2001, consent can be communicated in person; by mail, telephone, or courier; or electronically, as long as it is witnessed and documented. Previously, consent could be given in writing or by telegram or telephone, and it did not need to be witnessed. If it was given by telephone, the physician had to keep a record of it for at least three years. The act eliminates this requirement for telephone consents after December 31, 2001.

Finally, the act adds a person the deceased designated in writing before a court officer to the list of people who can consent to an autopsy.
EFFECTIVE DATE: October 1, 2001

PA 01-124—sHB 5701
Public Health Committee
Judiciary Committee
Human Services Committee
Education Committee

AN ACT CONCERNING RECOMMENDATIONS FOR AND REFUSALS OF THE USE OF PSYCHOTROPIC DRUGS BY CHILDREN AND UTILIZATION REVIEW DETERMINATIONS RELATED TO MENTAL AND NERVOUS CONDITIONS

SUMMARY: This act requires local and regional school boards to adopt and implement policies prohibiting school personnel from recommending that a child use psychotropic drugs. It specifies that it does not prohibit (1) school medical staff from recommending appropriate evaluation of a student by a medical practitioner and (2) school personnel from consulting with the medical practitioner with the consent of the child's parents or guardian.

The act also specifies that a parent's refusal to administer or consent to administration of psychotropic drugs to a child does not, by itself, constitute grounds for (1) the Department of Children and Families (DCF) to take the child into custody or (2) a court to order that the child be taken into DCF custody, unless that refusal results in the child's abuse or neglect.

Finally, the act requires utilization review companies, when making determinations related to mental or nervous conditions, to report them separately from all other reported determinations. By law, utilization review companies must annually file with the insurance commissioner the number of determinations

not to certify an admission, service, procedure, or stay extension and the outcome of appealed determinations. "Utilization review" is a process to evaluate the necessity, appropriateness, and efficiency of the use of medical services, procedures, and facilities.
EFFECTIVE DATE: October 1, 2001

PA 01-140—HB 6573
Public Health Committee
Judiciary Committee

AN ACT CONCERNING THE RIGHTS OF PERSONS UNDER SUPERVISION OF THE COMMISSIONER OF MENTAL RETARDATION AND GUARDIANSHIP OF PERSONS WITH MENTAL RETARDATION

SUMMARY: This act makes a number of changes affecting the services, treatments, program needs, placements, and transfers for persons with mental retardation and those who can make decisions for them.

The act specifies that a plenary or limited guardian of a mentally retarded person, and where appropriate, the person, is the primary decision maker concerning his well being.

It also allows the parent, guardian, conservator, or other legal representative of a mentally retarded person to object to determinations by the Department of Mental Retardation (DMR) concerning certain medications, procedures, and placements.

The act makes changes to the existing notice process for transferring a mentally retarded person from one facility to another. It also requires notice when DMR transfers a person between residential units within the training school or mental retardation region.

The act makes it clear that the director, who under existing law can consent to necessary emergency surgery, is the regional or training school director who has custody and control of a resident of a DMR facility. This applies when there is not enough time to obtain consent from the resident, his parent, or guardian. The act also makes technical changes.

Finally, the act requires the DMR commissioner to conduct a study of guardianship law concerning people with mental retardation.
EFFECTIVE DATE: October 1, 2001

PRIMARY DECISION MAKERS

The act specifies that a plenary or limited guardian of a mentally retarded person, and to the extent possible the person, is the primary decision maker concerning the person's program needs and other policies and practices affecting his well being, within the limits of the authority granted by the probate court. The limited guardian is the primary decision maker only for those duties assigned him by the court.

The act requires the plenary or limited guardian to consult with the person and appropriate family members, where possible, when making decisions. Such decisions cannot conflict with the legal rights of a mentally retarded person to humane and dignified care and treatment.

These decision-making provisions must be included in any court order appointing a plenary or limited guardian.

OBJECTIONS TO CERTAIN TREATMENT AND PLACEMENT

The act allows the parent, guardian, conservator, or other legal representative of a mentally retarded person or the person himself to object to (1) DMR's proposed approval of a program that includes behavior modifying medications or aversive procedures or (2) a proposed DMR determination that community placement is inappropriate.

DMR must give written notice of its proposed approval or determination to the parent, guardian, conservator, or other legal representative, or the person himself at least 10 days before making it. If there is an objection, DMR must hold a hearing. No hearing is required if DMR withdraws the proposed approval or determination.

TRANSFER OF INDIVIDUALS

The law allows DMR to transfer persons with mental retardation from one institution to another when necessary and desirable for the person's welfare. "Institution" includes both public and state-supported private institutions. The person and his parent, guardian, conservator, or other legal representative must get written notice of their right to request a hearing at least 10 days before the proposed transfer, except for emergency transfers. The act clarifies that the notice is of the person's right to object to the transfer. If an objection is made, DMR must hold a hearing. No hearing is required if DMR withdraws the proposed transfer.

In case of emergency transfer, the law requires that notice be given within 10 days after the transfer. The act clarifies that the notice must advise the recipient of his right to a hearing. The act also makes it clear that a person can ask for a transfer.

GUARDIANSHIP STUDY

The act requires the DMR commissioner to study the law on guardianship of persons with mental retardation. He must collaborate with (1) the probate court administrator and the director of the Office of Protection and Advocacy for Persons with Disabilities or their designees and (2) one representative each from the Association for Retarded Citizens of Connecticut and the Friends of Retarded Citizens of Connecticut. He must submit his findings and recommendations to the Public Health Committee by January 1, 2003.

PA 01-145—sHB 6941
Public Health Committee
Appropriations Committee

AN ACT CONCERNING PLANS FOR THE REMEDIATION OF MEDICAL AND SURGICAL ERRORS

SUMMARY: This act requires each licensed hospital to make available to the Department of Public Health, upon request, a copy of its medical and surgical error remediation plan required by the Joint Commission on the Accreditation of Healthcare Organizations. The commission is an independent, not-for-profit organization that evaluates and accredits health care organizations, including hospitals, in the United States.
EFFECTIVE DATE: October 1, 2001

PA 01-154—sHB 6610
Public Health Committee
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee

AN ACT IMPOSING A MORATORIUM CONCERNING CERTAIN STATE PROPERTY USED FOR RESIDENTIAL PURPOSES BY PERSONS WITH MENTAL RETARDATION OR PSYCHIATRIC DISABILITIES AND CONCERNING THE PLACEMENT OF CERTAIN CLIENTS OF THE DEPARTMENT OF MENTAL RETARDATION

SUMMARY: This act imposes a limited moratorium on the conveyance of state-owned property that is or has been used recently to house people with mental retardation or psychiatric disabilities. The moratorium lasts until July 6, 2004 or until the General Assembly approves department of Mental Retardation (DMR) and Mental Health and Addiction Services (DHMAS) plans to address waiting list and service needs issues, whichever is earlier. The act creates a separate, nonlapsing General Fund account to receive any proceeds from the sale, lease, or transfer of Fairfield Hills and Norwich hospitals and any regional centers. The fund can be used only for site acquisition, capital development, and infrastructure costs needed to provide services to people with mental retardation and psychiatric disabilities.

The act requires the DMR commissioner to adopt regulations to establish and implement policy for placing and caring for clients the department determines pose a serious threat to others. It also requires the commissioner, in consultation with the public works commissioner, to evaluate the feasibility and appropriateness of using state-owned property of 12 or more acres for a facility to place up to 15 clients DMR determines cannot appropriately be placed in the community. The commissioner must report his findings and recommendations, including the criteria and standards used to evaluate the properties, to the Public Health Committee by February 1, 2002.
EFFECTIVE DATE: Upon passage

MORATORIUM

The act prohibits the state from selling, leasing, or otherwise transferring (or having any of these transactions performed on its behalf) real property it owns and uses, or has used within the past 10 years, for housing people with mental retardation, psychiatric disabilities, or substance abuse. The prohibition lasts until July 6, 2004 or until the General Assembly approves both a DMR plan to eliminate all emergency and priority one waiting list categories and a DMHAS plan to meet needs identified in the July 2000 report of the Governor's Blue Ribbon Commission on Mental Health, whichever occurs first. (A person with a DMR emergency category designation needs residential supports immediately. A person with a priority one status needs residential service within one year.)

The moratorium applies only to state-operated, community-based residential facilities, boarding homes, group homes, or halfway houses, occupied by people with mental retardation, psychiatric disabilities, or alcohol or drug dependency. But the act allows the state to lease these properties during the moratorium if their use remains the same.

SEPARATE GENERAL FUND ACCOUNT

The act creates a nonlapsing General Fund account to hold (1) the proceeds from the sale, lease, or transfer after January 1, 2001 of all or any part of the Fairfield

Hills and Norwich hospitals and any regional center and (2) any other money the law requires deposited for the act's purposes. The fund can be used only for site acquisition, capital development, and infrastructure costs needed to provide services to people with mental retardation and psychiatric disabilities and only after the General Assembly appropriates money from the fund. Investment earnings on the fund's balance must be credited to the fund.

DMR FORENSIC CLIENTS

The regulations the DMR commissioner must adopt concerning the placement and care of clients that pose a threat must include criteria and factors to be considered in:

1. evaluating and placing these clients;
2. siting residential facilities for them;
3. giving notice, if any, to the community in which they will be placed;
4. determining appropriate levels of security and supervision; and
5. providing appropriate programs and quality of life within the least restrictive environment.

The regulations cannot permit siting more than one facility in a single town.

PA 01-163—sHB 6569
Public Health Committee
Planning and Development Committee
Judiciary Committee
General Law Committee

AN ACT CONCERNING VITAL RECORDS

SUMMARY: This act makes a number of substantive and technical changes in the statutes on vital records, affecting both the Department of Public Health (DPH) and local registrars of vital statistics. It: (1) specifies that vital records include fetal death certificates in addition to birth, marriage, and death certificates and makes the necessary conforming changes; (2) allows DPH and local registrars to transmit and register vital records electronically and defines terms to address vital records in both electronic and paper format; (3) makes a number of changes concerning birth certificates addressing access, confidentiality, data usage, copies, paternity acknowledgments, name changes, and adoption; (4) allows certain people to access Social Security numbers on marriage licenses and death certificates; (5) allows funeral directors and embalmers licensed in states with reciprocal agreements with Connecticut to undertake a number of activities here; (6) requires DPH to develop uniform procedures concerning vital records and modifies its regulatory authority; (7) clarifies how DPH must administer the state system of registration of births, marriages, deaths, and fetal deaths; (8) standardizes the fees for vital records, including setting the same $2 fee for recording fetal deaths as for other vital records; and (9) eliminates outdated or contradictory provisions.
EFFECTIVE DATE: October 1, 2001

DUTIES OF REGISTRARS OF VITAL STATISTICS

Record Keeping

Prior law included a number of procedures that registrars must follow in recording, filing, indexing, and binding in book form the vital statistics accumulated. This act eliminates these particular procedures and instead directs each registrar to keep records according to regulations the DPH commissioner adopts. Any certified copy of a vital record must include all information DPH requires.

The act requires each registrar to keep records on fetal deaths in addition to marriages, births, and deaths and eliminates a requirement to keep such records in "books." Under prior law a registrar had to amend or correct certificates when he discovered errors on their face. The act requires him to correct birth, marriage, death, and fetal death certificates whenever he finds transcribing, typographical, or clerical errors.

Under the act, when the registrar corrects a certificate, he must forward an authenticated copy of the corrected certificate, within 10 days, to DPH and any other registrar having a copy of the certificate. The registrar must keep sufficient documentation, as prescribed by DPH, to support the correction and must ensure its confidentiality. The date of correction and a summary of the evidence supporting it must be part of the record. The certificate cannot be marked "amended" unless an amendment is made as provided by law. "Amendment," under the act, means to (1) change or enter new information on a birth, marriage, death, or fetal death certificate more than one year after the date of the vital event recorded in it, in order to accurately reflect the facts existing at the time the event was recorded; (2) create a replacement certificate of birth for matters relating to parentage or gender change; or (3) change a certificate to reflect changed facts since the time it was prepared, including a legal name change or modification in cause of death.

The act changes from the seventh to the 15th day of each month the date the registrar must send DPH an authenticated copy of each certificate of birth, marriage, and death he receives for the preceding month and

extends this requirement to fetal deaths.

Official Seal

By law, the registrar of vital statistics in each town uses an official seal to authenticate certificates and copies of records. The act specifies that only the registrar or his authorized agent can possess the official seal or any facsimile.

Filling Out and Signing Certificates

The act subjects fetal death certificates to the current requirements for filling out and signing birth, marriage, and death certificates. It provides that if a certificate is in electronic format, it must be authenticated by DPH's electronic vital records system (EVRS).

Indexes

The law requires registrars to keep alphabetically arranged indexes of the name of each person whose birth, marriage, or death they record. The act applies this to fetal deaths and requires that the registrar keep separate indexes for each type of vital event.

Transmitting Records

The act requires the registrar to record on each certificate the date it was received, by writing on the certificate or through electronic means. It allows the registrar from the town where a child was born to access electronically birth data for a child to make corrections and amendments as requested by the parents, the reporting hospital, or DPH, excluding amendments concerning parentage and gender change (only DPH can change these). Amendments to vital records made by the registrar in the town of occurrence must be made according to law (see below).

Prior law required the registrar to send DPH, by the seventh day of the month, an attested copy of each death certificate he received for the preceding calendar month or a notification that he received none. By the 15th of the month, he had to do the same for birth and marriage certificates. The act instead requires him to send an "authenticated" copy of each birth, marriage, death, or fetal death certificate to DPH by the 15th day of the month or a notification that none was received. "Authenticated," under the act, means to affirm a record's integrity by affixing the official seal to a paper record or, in the case of an electronic format, the user identification, password, or other means of electronically identifying the record's creator, as approved by DPH.

The act requires that copies of certificates sent to DPH be complete, in addition to the current requirements that they be plain and legible. DPH must request a complete or legible copy from the registrar.

COPIES OF CERTIFICATES FILED IN ANOTHER TOWN

The law requires the registrar in a town where a birth, marriage, or death certificate is filed to make a certified copy of it and send it to the registrar of another town when it appears that the child's mother, either party to the marriage, or the deceased resided in that town. The act adds a fetal death certificate to this list and requires that the transmitted copy of any certificate be authenticated and include all information on the certificate.

The act specifies that a registrar with access to an EVRS can use it to meet the certificate filing requirements. But if the town of residence does not have access to an EVRS, the registrar of the town where the vital event occurred must manually transmit the authenticated copy to the other town.

Under the act, a registrar with authorized access to DPH's EVRS can use it to view, print, and issue certificates to authorized individuals. But only the registrar of the town where the vital event occurred or DPH can correct or amend the certificates.

FILING REQUIREMENTS FOR BIRTH CERTIFICATES

The act allows a registrar to file a birth certificate by manual or electronic means. It eliminates a requirement that, after three years, DPH destroy the confidential medical and statistical data on birth certificates. The act allows local health directors access to medical and confidential birth data recorded in the town and records related to mothers who were residents of the town at the time of birth. It also allows hospitals to use birth certificate and confidential data they generate internally for statistical, health, and quality-assurance purposes.

By law, when a birth occurs in an institution or en route to it, the person in charge of the institution must complete the certificate, get the required signatures, and file it with the registrar of the town where the birth occurred. (An institution is a public or private facility providing inpatient medical, surgical, or diagnostic care or nursing, custodial, or domiciliary care.) This must be done within 10 days of the birth. The act instead requires the institution head to (1) obtain all available data required by the certificate; (2) prepare it; and (3)

certify either by signature or electronic process approved by DPH that the child was born alive at the place, time, and date stated. It requires, in addition to the physician in attendance at the birth, that the physician, institution, or other person providing prenatal care provide the medical information required by the certificate.

RESTRICTIONS ON BIRTH CERTIFICATE CONTENT

The law allows recording information on whether a child was born in or out of wedlock and the mother's marital status on a confidential portion of the birth certificate. Under prior law, the name of the father was entered on the birth certificate when a voluntary acknowledgment or adjudication of paternity was filed in DPH's paternity registry. The act instead allows such an entry on the birth certificate after an acknowledgment of paternity is completed at a hospital, or at a town in the case of a home birth, and transmitted to DPH.

The act requires that, as of January 1, 2002, each birth certificate contain the name of the birth mother, except if a court orders otherwise.

The act requires DPH to file in its paternity registry all post-birth acknowledgments or adjudications of paternity it receives. DPH must enter the father's name on the birth record or certificate, if no paternity is already recorded on it. If another father's information is already recorded on the certificate, it cannot be removed unless DPH receives a court order finding that (1) the person recorded on the birth certificate is not the child's father or (2) a person other than the one recorded is the child's father.

RESTRICTIONS ON EXAMINING BIRTH CERTIFICATES AND RECORDS

Existing law allows access to an original or copy of any birth certificate or birth record by: (1) the person, if over 18, whose birth is recorded; (2) his parent, guardian, or grandparent, if a minor; (3) his children or spouse; (4) the chief executive officer of the municipality or his authorized agent; (5) the local health director or his agent; (6) lawyers; (7) title examiners; and (8) genealogical associations.

The act requires DPH and registrars to restrict access of birth and fetal death records and certificates less than 100 years old to those listed above. It also adds to those with access: (1) the grandchildren of the individual, (2) agents of a state or federal agency as approved by DPH, and (3) researchers approved by DPH. The act prohibits release of confidential files on paternity, adoption, gender change, or gestational agreements, or information in those files, to any party, including those listed above, without a court order except to the Bureau of Child Support Enforcement. It does not condition parental, grandparent, or guardian access on the person being a minor. The act also specifies that, for genealogical associations to have access, they must be incorporated or authorized by the secretary of the state. Attorneys and title examiners can obtain the certificate only if they represent the individual or his child, parent, spouse, or guardian. For a local health director to have access, he must be from the town where the birth or fetal death occurred or where the mother resided at the time of the event.

The act prohibits anyone, except those listed above, from examining or receiving a copy of any birth or fetal death certificate, record, or information, or disclosing anything found in one, except with a court order. The act prohibits disclosing information in the "information for medical and health use only" or the "information for statistical purposes only" section of a certificate, other than Social Security numbers and parental race and ethnicity information recorded in the "administrative purposes" section of a birth or fetal death certificate, unless specifically authorized by DPH for statistical or research purposes. The confidential information, other than the excluded information noted above, is not subject to subpoena or court order and is not admissible in court or any other tribunal under the act.

The act allows the registrar of the town where the birth or fetal death occurred or where the mother resided at the time of the event, or DPH, to issue a certified copy of a birth or fetal death certificate which is in paper form in the custody of the registrar. A registrar with authorized access to DPH's EVRS can issue a certified copy of the electronically filed certificate. The paper or electronic certificate must be issued upon written request of an eligible party (see above). DPH and registrars may only issue certified copies of birth or fetal death certificates for events occurring less than 100 years before the request.

OBTAINING COPIES OF VITAL RECORDS

Purchases of Records

Prior law allowed anyone age 18 or older to purchase certified copies of marriage and death records and copies of birth records that are at least 100 years old that are in the custody of any registrar. This act also allows purchase of uncertified marriage and death records and copies of fetal death records, all subject to the 100 year rule. The act specifically excludes genealogical society members from access to

confidential files on gender change, gestational agreements, and paternity. The act also allows DPH to issue uncertified copies of (1) death certificates for deaths occurring less than 100 years ago and (2) birth, marriage, death, and fetal death certificates occurring at least 100 years ago to researchers and state and federal agencies approved by DPH.

Marriage Licenses

The act requires that the Social Security numbers of the bride and groom be recorded in the "administrative purposes" section of all marriage licenses and applications for them. All parties specified on a license (bride, groom, officiator of the marriage, town clerk, registrar, and others authorized by DPH) have access to the Social Security numbers. Any other person, researcher, or state or federal agency requesting a certified or uncertified copy of a marriage license must be given a copy with the Social Security numbers removed or redacted or with the administrative purposes section omitted.

The act eliminates a provision law allowing for public examination of a marriage license application until the license is issued and it eliminates "occupation" from the license application.

Deaths

The act requires recording in the "administrative purposes" section of a death certificate the Social Security number, occupation, business, race, Hispanic origin if applicable, and educational level of the deceased (if known) for deaths occurring after December 31, 2001. All parties listed on the certificate have access to the Social Security numbers on both the original and certified copy of the death certificate. (These include the informant, licensed funeral director, embalmer, conservator, spouse, physician, town clerk, and others authorized by DPH.) Others requesting a certified or uncertified copy for a death occurring after July 1, 1997 must be given it with the Social Security numbers removed or redacted, or with the administrative purposes section omitted.

CERTIFICATION OF BIRTH REGISTRATION

The act adds the grandparent, guardian, and the adult child of the birth subject to those who can obtain a certification of birth registration ("wallet size" birth certificates). It allows DPH to prescribe additional identifying information for inclusion on the registration.

The registrar of any town with access to a DPH-authorized EVRS can use that system to issue a certification of birth registration.

BIRTH CERTIFICATES OF ADOPTED PERSONS

The law requires DPH to prepare a new birth certificate after someone is adopted. The act prohibits issuing a new certificate if the court decreeing the adoption; the adoptive parents; or the adopted person, if over 14, so requests. Anyone seeking to examine or get a copy of the original birth record or certificate must first get a written order from the probate court judge from the district in which the adopted person was adopted or born. After receiving the court order, the registrar of the town in which the birth was recorded or DPH may (1) issue a certified copy of the original certificate with a notation that the original birth certificate has been superseded by a replacement certificate on file or (2) permit the examination of the record.

CERTIFICATION OF BIRTH REGISTRATION OF PEOPLE ADOPTED FROM ANOTHER STATE OR NATION

The act lowers from 18 to 16 the age at which a person born outside of the state or country and adopted by state residents can obtain a certification of birth registration.

BELATED BIRTH REGISTRATIONS

The act requires a registrar to provide DPH with a copy of a certificate for a belated registration of birth.

ILLEGAL ISSUANCE OF CERTIFICATES

The law prohibits anyone other than a registrar or DPH from issuing an original or certified copy of a birth, death, fetal death, or marriage certificate. This act extends this prohibition to uncertified copies of such certificates.

OUT-OF-STATE FUNERAL DIRECTORS AND EMBALMERS

The act allows licensed funeral directors or embalmers from another state who comply with DPH reciprocal agreements to complete a death certificate when they are in charge of the burial.

The law allows licensed embalmers and funeral directors to remove a dead person's body from one town to another or to another state. The act also allows

licensed embalmers and funeral directors from another state who comply with a reciprocal agreement with DPH to remove bodies from one town to another or to another state. It allows these out-of-state embalmers and directors to sign a Connecticut death certificate.

The act allows embalmers and funeral directors licensed in states with reciprocal agreements with DPH to temporarily remove a body for preparation for burial or cremation. The act eliminates a requirement that the body must be returned within 24 hours to the Connecticut town where the death occurred unless a permit for permanent removal is obtained.

DPH AUTHORITY AND RESPONSIBILITIES

By law, DPH must adopt regulations on methods of recording, preserving, indexing, and amending vital records. The act specifies that the regulations must also address reporting, issuing, maintaining, and correcting the records. It also directs the department to develop uniform procedures concerning vital records.

Amendments to Certificates

The act specifies that only the DPH commissioner can amend birth certificates to reflect changes concerning parentage or gender change. Amendments related to such changes must result in a replacement certificate that supersedes the original and must not reveal the original language changed by the amendment. Under the act, any amendment made by a local registrar must follow DPH regulations and uniform procedures.

DPH and registrars must maintain sufficient documentation, as determined by DPH, to support amendments and ensure the confidentiality of the documentation. The amendment date and a summary of the evidence submitted supporting the amendment must be endorsed on, or made part of, the record, and the original certificate must be marked "Amended," except for amendments due to parentage or gender change.

A registrar amending a certificate must forward the amended certificate within 10 days to DPH and to any registrar having a copy of the certificate. DPH must forward any certificate it amends, including changes due to parentage or gender, to the registrars affected, who in turn must amend their records.

An amended certificate supersedes the original and must be marked "Amended," except for changes due to parentage and gender. The original certificate, in the case of parentage or gender change, must be physically or electronically sealed and kept in a confidential file by DPH and the registrar affected. It can be unsealed for viewing or issuance only by court order. The amended certificate becomes the public record.

Amendments –Paternity

By law, DPH must include on, or amend, a birth certificate to reflect an acknowledgment of paternity in a case of a child born out of wedlock. The act specifies that if another father is listed on the birth certificate, DPH cannot remove or replace that name unless it is given a court order meeting the requirements specified above. As under existing law, these amended birth certificates must not be marked "Amended."

Name Change

The act gives DPH the authority to change the child's name, if requested, when paternity is rescinded. Only the father's name could be removed from the birth certificate when paternity was rescinded under prior law.

Under the act, when a parent requests amendment of the child's birth certificate to reflect a new mother's name because the name on the original is fictitious, the parent must get a court order declaring the putative mother to be the child's mother. DPH must amend the birth certificate after receiving the court order.

The act also permits the local registrar in the town of occurrence to amend the birth certificate to reflect a person's court-ordered name change and requires him to follow DPH methods.

PA 01-171—sSB 325
Public Health Committee
Insurance and Real Estate Committee

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR CANCER CLINICAL TRIALS, HEARING AIDS FOR CHILDREN AGE TWELVE AND YOUNGER, PAP SMEAR TESTS, COLORECTAL CANCER SCREENING AND MAMMOGRAMS, PSYCHOTROPIC DRUG AVAILABILITY AND MEDICAID COVERAGE FOR MAMMOGRAMS

SUMMARY: This act:

1. requires certain group and individual health insurance policies to cover routine patient care costs associated with cancer clinical trials for treatment or palliation and Phase III trials for prevention that involve therapeutic intervention;
2. prohibits the use of drug formularies, lists of covered drugs, or other restrictions on obtaining prescription drugs for mental health treatment;

3. expands coverage of mammograms by certain individual and group health insurers by requiring coverage of an annual mammogram beginning at age 40 instead of 50;
4. requires health insurers to cover pap smear tests conducted as part of primary and preventive services that participating in-network obstetrician-gynecologists must by law provide female enrollees who choose to have direct access to such providers;
5. requires certain individual and group health insurance policies to cover colorectal cancer screening, including (a) an annual fecal occult blood test and (b) a colonoscopy, flexible sigmoidoscopy, or radiologic imaging; and
6. requires certain group and individual health insurance policies to provide limited coverage for hearing aids for children.

The cancer clinical trial, hearing aid, and colerectal screening coverage requirements apply to hospital and medical coverage offered by HMOs and policies that pay for (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, and (4) hospital or medical services. Mammogram coverage requirements for individual policies also apply to accident only and limited benefit health coverage. Coverage applies to policies delivered, issued for delivery, renewed, amended, or continued in the state on or after October 1, 2001, except for cancer clinical trial coverage, which applies to such policies beginning January 1, 2002.

EFFECTIVE DATE: October 1, 2001, except the cancer clinical trials provisions take effect January 1, 2002.

CLINICAL TRIALS

Trial Eligibility

The act applies to trials conducted under an independent, peer-review protocol approved by (1) one of the National Institutes of Health, (2) a National Cancer Institute-affiliated cooperative group, (3) the Food and Drug Administration (FDA) as part of an investigational new drug or device exemption, or (4) the U.S. Defense or Veterans' Affairs departments. It does not require coverage for a trial a single institution conducts solely under the approval of an institutional review board or for any trial that is no longer approved by one of the entities listed above. A cancer prevention trial must be a Phase III trial, involve therapeutic intervention, and be conducted at several institutions.

Patient Eligibility

To determine a person's eligibility for coverage, the act allows the insurer, HMO, or third party plan administrator to ask the person or the entity seeking coverage for:

1. satisfactory evidence that the person meets all patient selection criteria for the trial;
2. clinical or pre-clinical data that show credibly that the person's likely benefit from the trial corresponds to the risks of participating;
3. evidence that the person has given appropriate informed consent;
4. copies of medical records, test results, protocols, or other clinical information the doctor or institution seeking to enroll the person used;
5. a summary of anticipated routine patient care costs above the costs of standard treatment;
6. information from the doctor or institution concerning items, including routine patient care costs, that could be reimbursed by someone else, including the entity sponsoring the trial; and
7. any other information they may reasonably require to review the request for coverage.

The HMO or insurer must ask for this additional information within five business days of receiving a request for coverage from a person or doctor seeking to enroll the person.

The act specifies that it does not require an insurer or HMO to cover routine costs that can be reimbursed by a party other than the insurer (but not other than the HMO), including the trial's sponsor.

Applying for Coverage

The act requires the Insurance Department to develop a standardized form that all providers, hospitals, and institutions must submit to an insurer or HMO when they want to enroll a person in a cancer clinical trial. The department must cooperate with the Connecticut Oncology Association, the American Cancer Society, the Connecticut Association of Health Plans, and Anthem Blue Cross of Connecticut, Inc. in developing the form.

An insurer or HMO cannot use any other form unless the insurance commissioner finds its policies provide coverage substantially equivalent to the act's requirements.

The act gives an insurer or HMO five business days to approve or deny coverage from the time it receives the department-developed form and supporting eligibility information it asks for. If it uses independent

experts to review requests for clinical trial cost coverage, it has 10 business days. Requests for coverage for Phase III prevention trials must be decided within 14 business days.

The insured, or a provider with the insured's written consent, can appeal to the insurance commissioner using the existing statutory mechanism when an insurer or HMO denies coverage on grounds of medical necessity. This mechanism requires the commissioner to assign the appeal to an independent entity. The act requires her to ensure this entity does not have a conflict of interest regarding the clinical trial.

The act requires the commissioner to adopt regulations implementing its requirements for forms, timelines for reviewing applications, and appeals of coverage denials.

Covered Costs

The act defines "routine patient care costs" as coverage (1) for medically necessary services resulting from the treatment provided in the trial that would be covered even if they were not provided in a trial and (2) as "routine patient care costs" incurred in providing FDA-approved "off-label use" drugs and devices. Medically necessary services include physicians' services, diagnostic and lab tests, hospitalization, or other services provided during the trials for a condition or a complication related to the condition, that are consistent with the usual and customary standard of care and would be covered if the person were not in the trial. An "off-label use" drug is one the FDA has approved to treat a cancer other than the type for which it is being prescribed. It must be recognized by one of several national groups for treatment of the specific cancer for which it is being prescribed.

The act specifically excludes the following from routine care costs:

1. investigational drugs and devices the FDA has not approved for any use;
2. non-healthcare services a participant may need because of the trial;
3. facility, ancillary, and professional services and drugs for which the clinical trial receives funding;
4. services that are inconsistent with widely accepted and established national or regional standards of care for a particular diagnosis or that are performed specifically to meet the trial's requirements;
5. costs that would not be covered by the trial participant's insurance policy for noninvestigational treatment, including items excluded under the policy; and
6. transportation, lodging, food, and other expenses connected with the participant or the participant's family traveling to and from a trial facility.

The act subjects eligible routine care costs to the terms, conditions, restrictions, exclusions, and limitations (including limitations on out-of network care) of the insured's health care contract. It permits the insurer or HMO to require that network providers and institutions perform routine tests or services conducted under the trial protocol.

Provider Billing And Payment

Under the act, providers, hospitals, and institutions that provide services as part of a clinical trial approved for coverage may not bill the insurer, HMO, or patient for any facility, ancillary, or professional services or costs that are not routine patient care costs or for any other service or product paid for by the trial sponsor. They cannot bill the insured person for any routine patient care service whether or not they are part of the insurer's or HMO's network. But they may charge a deductible or copayment if that is part of the insured's policy.

The act requires an insurer or HMO that covers out-of-network care to pay these providers, hospitals, and institutions the lesser of (1) the lowest contracted daily, fee schedule, or case rate it pays its Connecticut network providers for similar services or (2) the billed charges. These providers cannot collect more than the total paid by these payers and the insured through his deductible and copayment. They must deem this amount to be payment in full.

Providers, hospitals, and institutions can appeal a health plan's denial of payment for services only to the extent permitted by the insurer's or HMO's contract with them. (The meaning of "health plan" in this context is unclear.)

Exemption For Coverage Equivalency

An insurer or HMO that covers care in cancer clinical trials must submit its policies to the Insurance Department. It is exempt from the act's requirements if the department certifies that its routine patient care cost coverage is substantially equivalent to those requirements. If it is exempted, it must submit annual written reports to the department that it has not changed a certified policy. If it changes a policy, it must resubmit it for recertification.

If the department finds a policy not to be substantially equivalent, the insurer or HMO must follow the act's requirements until the department

certifies the policy.

PROHIBITION ON DRUG FORMULARIES

The act prohibits the use of drug formularies, lists of covered drugs, or other restrictions on obtaining prescription drugs for mental health treatment. This prohibition applies to mental health benefits provided under state law, with state funds, or to state employees. Under the act, the mental health benefit cannot (1) limit the availability of prescription drugs that are the most therapeutically indicated pharmaceutical treatment with the least probability of adverse side effects or (2) require using prescription drugs that are not the most effective therapeutically indicated pharmaceutical treatment with the least probability of side effects.

The act specifies physicians still have the authority to prescribe a drug that is not the most recent pharmaceutical treatment. It also specifies that it should not be construed to prohibit (1) different copays among pharmaceutical treatments or (2) utilization review.

MAMMOGRAM COVERAGE

The act expands coverage of mammograms by certain individual and group health insurers by requiring coverage of an annual mammogram beginning at age 40 instead of 50. Prior law required a mammogram every two years for women age 40 to 49, or more frequently if recommended by a physician, and an annual mammogram for women age 50 and older.

The act directs the Department of Social Services commissioner to amend the state Medicaid plan, to the extent allowed by federal law, to provide mammogram coverage to Medicaid-eligible women equivalent to that outlined above.

PAP SMEAR COVERAGE

The act requires health insurers to cover pap smear tests conducted as part of primary and preventive obstetric and gynecologic services that participating in-network obstetrician-gynecologists must by law provide female enrollees who choose to have direct-access to such providers. Beginning October 1, 2001, the test must be covered in individual and group accident only, limited benefit, health care center, and hospital or medical service plans, and in health insurance policies covering (1) basic hospital expenses, (2) basic medical-surgical expenses, and (3) major medical expenses.

COLORECTAL SCREENING COVERAGE

The act requires individual and group health insurance policies to cover colorectal cancer screening, including (1) an annual fecal occult blood test and (2) a colonoscopy, flexible sigmoidoscopy, or radiologic imaging. Coverage is subject to the same terms and conditions that apply to other policy benefits.

The act requires administration of a colonoscopy, flexible sigmoidoscopy, or radiologic imaging in accordance with the American College of Gastroenterology's recommendations after consultation with the American Cancer Society with respect to age, family history, and test frequency.

HEARING AID COVERAGE

Beginning October 1, 2001, this act requires individual and group health insurance policies to cover hearing aids for children under age 13 as durable medical equipment. It allows the policies to limit coverage to $1,000 in a two-year period.

BACKGROUND

Clinical Trials

The National Cancer Institute identifies four types of clinical trials and three phases. Treatment trials test new drugs, approaches to surgery, methods (like gene therapy), and combinations of these. Prevention trials test new approaches to prevent cancer in the first place or its reoccurrence. Quality of life or supportive care trials (probably what the act refers to as palliation trials) explore ways to improve comfort and quality of life for cancer patients. Screening trials test ways to find cancer, especially in its early stages.

Phase I trials are small and evaluate how a new drug should be given (e.g., orally or by injection). Phase II trials test a new drug's safety and begin to evaluate how well it works. Phase III trials compare a new drug or surgical procedure to the current standard of treatment. They usually enroll large numbers of people who are assigned randomly to treatment and control groups.

PA 01-194—sHB 6070
Public Health Committee
Planning and Development Committee
Environment Committee

AN ACT CONCERNING CERTAIN STATE REAL PROPERTY TRANSACTIONS

SUMMARY: This act:

1. requires the Department of Environmental Protection (DEP) to convey property to East Windsor for open space and recreation;
2. allows the public works commissioner to grant a sewer easement in Cheshire;
3. exempts the Bridgeport Housing Authority (BHA) from a restriction on the disposition of the Pequonock Gardens housing project;
4. expands the allowable use of property the Department of Transportation (DOT) conveyed to Trumbull to permit the construction of a telecommunications facility, despite a 1989 quit claim deed restricting the land's use to a park;
5. amends three sections of SA 01-6, *An Act Concerning the Conveyance of Certain Parcels of State Land*, related to a name change and conveyances; and
6. makes a technical change.

EFFECTIVE DATE: Upon passage

NEW CONVEYANCE

The act requires DEP to convey to the town of East Windsor 18 acres that must be used for open space and recreational purposes. The conveyance 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. The property reverts to the state if the town fails to use it for the stated purpose or leases or sells it.

EASEMENT

The act authorizes the public works commissioner to grant an easement for a sanitary sewer connection with access and right-of-way to the town of Cheshire on land used by the Department of Mental Retardation (DMR). SPRB and DMR must approve and Cheshire must pay the administrative cost of granting the easement.

PEQUONOCK GARDENS

The act exempts BHA from having to obtain the economic and community development commissioner's approval to sell, lease, transfer, or demolish the Pequonock Gardens project for purposes other than providing low- and moderate-income housing. The law already exempted BHA from this requirement with respect to phase I of the Father Panik project and the New Haven Housing Authority with respect to the Elm Haven project.

SA 01-6 CHANGES

The act corrects a misspelling of the renamed Naromiyocknowhusunkatankshunk Brook in Sherman. It removes a requirement for SPRB approval for the sale of land in Norfolk to private individuals, and it permits the state to repurchase the property at the sale price if the state needs it for expanding Route 44. Finally, the act allows Danbury and the Board of Trustees for the Connecticut State University System (CSU) to correct property descriptions for the parcels exchanged through the legislation already passed.

BACKGROUND

Related Act

SA 01-6 authorizes a number of new conveyances, revises provisions and conditions on existing property conveyances, renames the Morrissey Brook in Sherman, and establishes the property exchange between CSU and Danbury.

PA 01-45—sHB 6642
Public Safety Committee
Judiciary Committee

AN ACT CONCERNING TRAINING OF CASINO PERSONNEL FOR EMPLOYMENT

SUMMARY: This act allows the Mohegans, like the Mashantucket Pequots, to train people on gambling devices off the reservation for employment at the casino. It specifically allows the tribe or its agent to have and use the devices to conduct training off the reservation so long as (1) the federal Indian Gaming Regulatory Act (IGRA) permits their use on the reservation and (2) no money is paid to anyone "as a result of the operation" of the device during training. The act also allows people in training to use the devices during training.

The act allows the tribes to test gambling devices off the reservations under the same restrictions that apply to training. It requires them to notify the Division of Special Revenue when they intend to have and use the devices for off-reservation testing.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Gambling Devices on Reservations

By law it is a misdemeanor to engage in gambling, or to knowingly own, possess, buy, rent, store, repair, or transport gambling devices. But under IGRA, Connecticut must permit gambling on Indian reservations provided certain federal statutory requirements are met. Because federal law supercedes conflicting state law, the state's prohibitions on gambling and gambling devices do not apply to a casino school on a reservation.

PA 01-58—SB 1097
Public Safety Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE MEETING SCHEDULE OF THE BOARD OF TRUSTEES FOR THE DEPARTMENT OF VETERANS' AFFAIRS

SUMMARY: This act requires the veterans' affairs board of trustees to meet, at a minimum, quarterly, instead of monthly, thus potentially reducing the frequency of its meetings.

EFFECTIVE DATE: October 1, 2001

PA 01-104—sSB 1403
Public Safety Committee
Judiciary Committee
Banks Committee
Appropriations Committee

AN ACT CONCERNING ADMISSIBILITY OF EVIDENCE OF STOLEN VEHICLES AND SEIZED CURRENCY

SUMMARY: This act eliminates law enforcement agencies' authority to deposit seized cash in a safe deposit box in a state bank. Instead, it requires them to keep or return seized, stolen cash, following existing procedures governing seized property; and it creates a procedure for keeping, banking, or returning seized cash that was not stolen. (The act does not include any provision for banking seized, stolen cash.)

The act applies the same trial rules to the cash that currently apply to seized, stolen property returned to its owner. Under these rules, (1) courts must admit the identity, description, or value of the cash as secondary evidence (i.e., in lieu of the actual cash) in criminal trials and (2) defendants may attack the weight of the evidence, but not its admissibility, by showing that it is secondary.

The act requires courts to admit a picture of a recovered stolen motor vehicle and a sworn affidavit attesting to its identification number as sufficient evidence of its identity.
EFFECTIVE DATE: October 1, 2001

DISPOSITION OF SEIZED CURRENCY

By law, law enforcement agencies may seize property, including cash, in connection with a criminal arrest or pursuant to a search warrant without an arrest. The act eliminates their authority to deposit seized cash in a safe deposit box in a state bank. It requires agencies to return or hold seized, stolen cash following the existing procedures governing seized, stolen property; and it creates a separate procedure for returning and holding seized cash that was not stolen.

Stolen Cash

The act requires any law enforcement agency that seizes stolen cash to notify the owner on a form prescribed by the Office of the Chief Court Administrator of the whereabouts of the cash and his right to claim it. The agency must do this within 10

days of the seizure or 10 days of learning the owner's identity. The notice must include a form for the owner to use to file a claim for the cash. The agency must forward the owner's claim to the clerk of the court for the geographical area where the crime allegedly took place. The clerk must notify the defendant of the claim.

The court must order the cash returned within 30 days of the filing; except that for good cause, it may order the cash held for a time it sets.

Seized Cash That Was Not Stolen

Under the act, when law enforcement agencies seize cash that is not stolen, they have 10 days to notify the defendant (if the seizure was connected to a criminal arrest) or anyone with an interest in the premises where the currency was seized (if seizure was pursuant to a warrant without an arrest) of his right to a Superior Court disposition hearing on the cash. The party has 30 days to request the hearing.

After the hearing, the court may order that the law enforcement agency put the cash in a bank account in the state after taking reasonable measures to preserve it as evidence. If no hearing is requested, the law enforcement agency may deposit the cash in the account after taking measures to preserve it as evidence. The bank account must be in the agency's name and hold evidentiary funds.

For good cause, the court may order seized cash retained for a period it sets.

Special Bank Account For Seized Cash That Was Not Stolen

Under the act, an account must be established in the agency's name specifically for holding seized cash that was not stolen. Money can be removed from this account only by a court order directed to the bank. Withdrawal must be in the form of a check to the law enforcement agency or to a payee named in the court order.

Banks do not have to separate cash deposited in the account. The act specifies that it does not prohibit them from charging a fee for maintaining and administering the account and reviewing court orders.

PA 01-123—SB 1254
Public Safety Committee

AN ACT CONCERNING REVISIONS TO STATUTES GOVERNING THE MILITARY DEPARTMENT

SUMMARY: This act raises the Connecticut National Guard adjutant general's rank from major general to lieutenant general. (The former wears two stars; the latter, three.) It conforms the law to practice by giving the adjutant general the duty to (1) conduct internal audits and investigations, (2) organize and coordinate the organized militia's participation in military and civic ceremonies, and (3) organize and coordinate inaugural activities. The organized militia consists of the governor's guards, state guard, and other military forces the governor, as commander-in-chief, designates.

The act changes the name of the uniformed firing squad that performs at veterans' funerals to "honor guard detail." It also makes technical changes.
EFFECTIVE DATE: October 1, 2001

PA 01-130—SB 1402
Public Safety Committee
Planning and Development Committee
Finance, Revenue and Bonding Committee
Judiciary Committee

AN ACT CONCERNING ASSAULT WEAPONS, A SINGLE STATE HANDGUN PERMIT, A FIREARMS EVIDENCE DATABANK AND RESTRAINING AND PROTECTIVE ORDERS IN FIREARMS CASES

SUMMARY: This act expands the definition of assault weapons to include semiautomatic firearms with certain characteristics, banning any made after September 12, 1994 with those characteristics. With exceptions, it also bans .50-caliber armor-piercing and incendiary bullets.

The act also (1) requires the Department of Public Safety (DPS) to establish a firearms evidence databank to store ballistic data (discharged ammunition and the unique markings or impressions each gun leaves on bullets and bullet casings) that can be used to search for matching gun fingerprints, (2) creates a single gun permit system by abolishing the local permit to carry handguns and makes other changes to the gun laws, (3) tightens the controls over people possessing guns in family violence situations, and (4) makes technical and conforming changes.
EFFECTIVE DATE: October 1, 2001

ASSAULT WEAPONS

Prior law designated as assault weapons and, with some exceptions, made it illegal to sell, transport, or possess, any:

1. on a specific list of semiautomatic firearms;
2. selective-fire firearm capable of fully automatic, semi-automatic, or burst fire at the user's option; and
3. part or combination of parts in one person's possession either designed or intended to convert a firearm into an assault weapon or from which one may be assembled rapidly.

People who owned any of the above-designated weapons before October 1, 1993 can keep them under certain circumstances. They can sell, transfer, or relinquish them only under specified, limited circumstances.

The act adds the following to weapons designated as assault weapons—allowing the transfer and (implicitly) the possession of those manufactured before September 13, 1994:

1. semiautomatic rifles that can accept a detachable magazine if they have any two of the following features: (a) a folding or telescoping stock, (b) a pistol grip that protrudes conspicuously beneath the action of the weapon, (c) a bayonet mount, (d) a flash suppressor or threaded barrel designed to accommodate a flash suppressor, or (e) a grenade launcher;
2. semiautomatic pistols that can accept a detachable magazine if they have any two of the following features: (a) an ammunition magazine that attaches to the pistol outside of the pistol grip; (b) a threaded barrel that can accept a barrel extender, flash suppressor, forward handgrip, or silencer; (c) a shroud attached to, or partially or completely encircling, the barrel that permits the shooter to hold the firearm with the nontrigger hand without being burned; (d) a manufactured weight of 50 ounces or more when unloaded; and (e) a semiautomatic version of an automatic firearm;
3. semiautomatic shotguns with any two of the following features: (a) a folding or telescoping stock, (b) a pistol grip protruding conspicuously beneath the action of the weapon, (c) a fixed magazine capacity over five rounds, and (d) the ability to accept a detachable magazine; and
4. part or parts in one person's possession either designed or intended to convert any firearm into one of the newly covered assault weapons or from which one may be assembled rapidly.

The act bans any of the newly designated assault weapons manufactured after September 12, 1994. It allows the transfer and possession of those legally manufactured before September 13, 1994 by stipulating that it must not be construed to limit their transfer or require their registration. Existing law has a certificate of possession requirement (discussed below) but not a registration requirement for assault weapons. It is unclear whether "registration" refers to the certificate of possession requirement. (On September 13, 1994, Congress enacted the Violent Crime Control and Law Enforcement Act, making it unlawful, with exceptions, to make, transfer, or possess any of these newly designated semiautomatic assault weapons. This federal law, which does not apply to weapons lawfully possessed on or before its enactment, is repealed, effective September 13, 2004.)

ARMOR-PIERCING BULLETS

The act makes it a crime knowingly to distribute or give away; bring into the state; or keep, offer, or expose for sale .50-caliber armor-piercing or incendiary bullets. A first violation is a class A misdemeanor; any subsequent violation is a class D felony (see Table on Penalties).

The act defines "armor-piercing .50-caliber bullet" as any .50-caliber bullet designed for, held out by the manufacturer or distributor as, or generally recognized to be capable of penetrating armor or bulletproof glass. They include such bullets commonly designated as "M2 Armor-Piercing" or "AP," "M8 Armor-Piercing Incendiary" or "API," "M20 Armor-Piercing Incendiary Tracer" or "APIT," "M903 Caliber .50 Saboted Light Armor Penetrator" or "SLAP," or "M962 Saboted Light Armor Penetrator Tracer" or "SLAPT."

The act defines "incendiary .50-caliber bullet" as any .50-caliber bullet designed for, held out by the manufacturer or distributor as, or generally recognized as having the specialized capability to ignite upon impact. They include bullets commonly designated as "M1 Incendiary," "M23 Incendiary," "M8 Armor-Piercing Incendiary" or "API," or "M20 Armor-Piercing Tracer" or "APIT."

The act exempts:

1. ammunition sales to DPS, police departments, the Department of Correction (DOC), or the Connecticut or U.S. military or navy for their official duties;
2. disposition of ammunition by estate executors or administrators as authorized by probate court; and
3. ammunition transfers by bequest or intestate succession.

Suspension of Prosecution for Minor Violations

The act allows the court to suspend prosecution for minor violations of the incendiary and armor-piercing bullet provisions if it finds that the violator (1) will probably not offend again and (2) has never been convicted or had a prosecution suspended before for violating these provisions. For suspension to occur, the violator must state that he understands the consequences, agree to the temporary suspension (tolling) of any statute of limitations, and waive his right to a speedy trial.

By law, when a court suspends prosecution, it must put the violator on probation for up to two years and may impose other conditions. It must terminate the suspension if the accused violates the conditions. It must dismiss the charges if it finds that the accused completes probation successfully and requests dismissal and may dismiss the charges without such a request after it receives a report from the Office of Adult Probation. A dismissal requires erasure of the charges. A court's decision to deny a motion to dismiss or terminate a suspension is final for appeal purposes.

FIREARMS EVIDENCE DATABANK

Databank's Purpose

The act requires the DPS Division of Scientific Services to establish a firearms evidence databank to store data collected from test firing handguns. It defines "test fire" as a discharged cartridge case or bullet, or fragment of either, collected after a handgun is fired and containing sufficient microscopic characteristics to compare to other discharged ammunition or to determine the handgun from which it was fired. It defines "handgun" as any gun capable of firing rim-fire or center-fire ammunition and designed or built to be fired with one hand.

The databank is a computer-based system that scans and stores images of handgun test fires so they can be retrieved and compared to other test fire images and other evidence in a case. DPS forensic science laboratory personnel must enter in the databank, according to procedures in regulations the act requires the commissioner to adopt, test fire evidence submitted to them or that they collect from handguns submitted to them. DPS may (1) use the database to search for matching gun fingerprints, (2) share databank information with in-state and out-of-state law enforcement agencies, and (3) participate in a national firearms evidence databank program. If DPS conducts any search at a police department's request as part of the investigation of a criminal case, it must report the results. It must store for future searches any test fire image not matched by a databank search.

Local Police Role

With exceptions, the act requires police departments to give the laboratory all handguns that come into their custody as found property, for destruction, or as the result of a criminal investigation before they return or destroy them. The laboratory must test fire and collect ballistic data from a gun within 60 days of getting it. It must label the data with the gun manufacturer's name; gun type and serial number; date of the test; and the name of the person who collected the discharged cartridge case, bullet, or fragment.

DPS may allow a police department firearms section that complies with the commissioner's guidelines and regulations for operating a databank to (1) collect ballistic data from handguns that come into its custody and set up a remote terminal to enter test fire images directly into the DPS databank and (2) search the databank.

Starting October 1, 2001, police departments must collect test fire data from handguns before they issue them to employees, and by April 1, 2002 they must collect data from those they have already issued. They may ask the State Police to help them conduct the tests. They must (1) submit to the DPS laboratory the ballistic data from each test in a sealed tamper-evident package along with two intact cartridges of the same type of ammunition used in the test and (2) except for the date of the test fire, label the package with the same information that the laboratory must include.

CREATION OF SINGLE GUN PERMIT SYSTEM

Under prior law, anyone wanting to carry a handgun had to get a local (town) permit. The local permit allowed him to carry the gun in that town. A separate DPS (state) permit was required to carry the gun statewide. Both permits were valid for five years, but as long as the state permit remained valid, the local permit did not have to be renewed.

The act establishes a two-step, one-permit system by (1) eliminating the local permit—terminating renewals on October 1, 2001—and (2) requiring anyone wanting to carry a handgun to get the DPS state permit. It uses the same officials and maintains many of the elements of the prior system. Under the act, the local official issues a nonrenewable, 60-day temporary state permit, which is a prerequisite for the five-year state permit that DPS issues. The temporary state permit, unlike the prior local permit, is valid statewide.

Permit Application, Issuance, and Revocation

Temporary State Permit. The act requires Connecticut residents to apply for gun permits to the local official who previously issued local permits (the police chief, or if there is none, the borough warden or first selectman). This official may issue a temporary state permit after following basically the same process that he used for issuing local permits.

As with prior permit applicants, the temporary state permit applicant must complete an application, providing information on himself and his criminal record, and submit to fingerprinting, unless the official is satisfied it was done already. The official must determine that the applicant wants to use guns for lawful purposes and investigate his suitability to carry them.

The act conforms the law to past local permit-issuing practice by requiring the official, within five business days of taking the fingerprints, to send them to DPS for forwarding to the FBI with a request for a national criminal history records check. Prior law required the official to send the fingerprints directly to the FBI. DPS must send the local official a copy of the FBI response.

In a process paralleling the one that existed for local permits, the act (1) gives the official eight weeks to approve or deny the application and, if he does not get the FBI response in eight weeks, he must inform the applicant of the delay in writing; (2) requires him to issue or deny the application within one week after he gets the FBI response; and (3) allows him to issue the permit before getting the response. When he issues the permit, he must send the original application to the DPS commissioner. He must also send him (at some unspecified time) a copy showing whether he denied or approved the permit request.

Permit-Issuing Criteria. As in the case of state and local permits, the local official cannot issue a temporary state permit to anyone who fails to meet the criteria in law. He can issue a permit before he receives the FBI background check, but not to anyone whom he believes is a convicted felon or is otherwise barred from getting a permit to possess handguns under state or federal law. Prior law applied the prohibition only to people believed to be convicted felons.

Five-Year State Permit. The act allows the commissioner to issue the state permit to a person holding a temporary state permit. Within 60 days after getting the temporary permit, the applicant must go to a location the commissioner designates. The commissioner has eight weeks from the time he gets a temporary permit application to inform the applicant in writing that he has (1) denied or not approved his five-year permit application or (2) not received the FBI response.

The act eliminates the commissioner's discretion to issue the five-year state permit before getting the FBI response, and it bars him from issuing the permit to an applicant denied a temporary permit. When he issues the permit, he must send a record (instead of a copy of the permit) to the local official who issued the temporary permit and keep records of all applications.

The act allows, rather than requires, the commissioner to investigate first-time permit applicants, and it conforms the law to practice by requiring him also to investigate people renewing permits. It eliminates the description of the nature of this investigation.

Permit-Revocation Criteria. The act allows the commissioner to revoke the temporary state permit for cause, upon conviction for a felony or specified misdemeanors, or when any event occurs that would have disqualified the applicant from getting the permit under state law. These are the same grounds on which he can revoke the five-year permit. If grounds for denial become known after an applicant gets a permit, the commissioner must revoke it immediately, following the act's procedures. He can base the revocation on his own investigation or on any law enforcement agency's request.

Upon revocation, the permittee must surrender his permit to the commissioner within five days of notification in writing. By law, failure to surrender a permit is a class C misdemeanor (see Table on Penalties).

Applications From Out-Of-State Residents

Out-of-state residents licensed or permitted to carry guns in another state must apply directly to the commissioner for permits and are subject to the provisions governing resident applicants. The commissioner acts as the local official with regard to these applicants; in this case, it appears that he must conduct the investigations and issue temporary permits.

Gun Permit Fees

Under prior law, the fee for the local and state gun permit was $35 each. The act eliminates the local fee and increases the state fee to $70. It gives $35 of the fee to DPS and $35 to the local official issuing the temporary state permit, the same amount they received under prior law. In the case of nonresidents who must apply directly to DPS, it appears the entire $70 goes to DPS. The act requires applicants to pay an additional amount for the required FBI criminal background check

(currently $24). Under prior practice, the permit-issuing authority paid for this investigation.

The local authority must send the fingerprints and money for the background check to the commissioner within five business days of getting an application. He must send $35 to DPS when he approves the application.

The act makes any portion of the fee used for the national background check nonrefundable. Under prior law, the entire fee was refundable if the permit was not issued or renewed.

The act retains the $35 fee for permit renewals.

Notification Requirements for Expired Permits

The act eliminates a requirement for the local official to notify anyone with a local permit at least 90 days before the permit expires. It eliminates the additional 90-day grace period for such permits.

MISCELLANEOUS CHANGES TO GUN LAWS

The act conforms the law to practice by explicitly requiring people to be at least age 21 to get a gun permit (the same age for getting an eligibility certificate to obtain handguns); (2) requires law enforcement authorities to confiscate illegal gun permits and send them immediately to the DPS commissioner, who may revoke them on his own investigation or at the authorities' request; and (3) makes it clear that when a handgun is being carried in a vehicle that does not have a compartment separate from the passenger compartment, the gun must be kept in a locked container other than the glove compartment or console.

CRIMINAL POSSESSION OF A FIREARM OR ELECTRONIC DEFENSE WEAPON

By law, a family violence offender cannot possess handguns if he knows he is subject to (1) a firearms seizure order issued by the court after notice and the opportunity for a hearing or (2) a restraining or protective order, issued after notice and an opportunity to be heard, for using, attempting to use, or threatening to use physical force against someone. If he was issued a permit to carry guns or an eligibility certificate to acquire them, the issuing authority must revoke it. Failure to surrender a permit or eligibility certificate within five days of notification is a class C misdemeanor. He must also transfer any handgun he possesses to the DPS commissioner within two business days of becoming subject to the order. If he fails to do so, he is guilty of criminal possession of a handgun—a class D felony.

The act creates a parallel provision for other guns such as long guns. Specifically, it makes it criminal possession of a firearm or electronic defense weapon (a class D felony) for the family violence offender to possess any of these weapons knowing that he is subject to any of the above-mentioned orders.

The act requires restraining order applications to have a space for applicants to indicate, at their discretion, whether the person subject to the order has a gun permit or any guns.

The act requires local family violence intervention units' family relations officers (courts refer family violence offenders to them for counseling and other services) to tell the court and prosecutors if a family violence victim has indicated that an offender has a gun permit or any guns. The requirement creates an exception to existing law, which generally requires family relations officers to keep information they receive from victims confidential.

The act requires the DPS commissioner, chief state's attorney, and Connecticut Police Chiefs Association to work together to update the protocol they developed to ensure that people who become ineligible to possess handguns either transfer them to someone eligible or surrender them to the commissioner.

Law Enforcement Officers Who Must Receive Orders

Under prior law, the court had to send a certified copy of any restraining or protective order to "the appropriate" law enforcement agency. The act requires it to send (1) copies of the restraining orders to the law enforcement agency in the town where the (a) restraining order applicant lives and, if requested, works and (b) family violence offender lives, if different from the applicant and (2) copies of the protective orders to the law enforcement agency in the town where the (a) domestic violence lives and, if requested, works and (b) offender lives if this is different from the victim's town. The court must send the orders within 48 hours after they are issued.

BACKGROUND

Assault Weapons Ban

With some exceptions, it is a class C felony, with a mandatory, minimum two-year sentence to distribute, transport, or bring into the state, keep for sale, offer or expose for sale, or give an assault weapon. An additional mandatory, minimum six-year sentence applies for anyone convicted of selling, transferring, or giving the weapon to a minor under age 18.

With some exceptions, it is a class D felony with a mandatory, minimum one-year sentence to possess an assault weapon without a certificate of possession. It is a class A misdemeanor if the violator can prove he possessed the weapon legally before October 1, 1993 and has otherwise complied with the conditions for legal possession.

Exemptions from Ban on Transferring Assault Weapons. The law exempts from the ban on sale or transfer of assault weapons:

1. sales to police departments, the DOC and DPS, and the Connecticut and U.S. military and navy for official use;
2. transfer by bequest or intestate succession of any assault weapon for which a certificate of possession was issued;
3. disposition by probate court, provided the law otherwise permits it; and
4. temporary transfer of any assault weapon for which a certificate was issued for purposes of transporting it to an approved out-of-state shooting competition or exhibition, display, or educational project about guns.

Exemptions from Ban on Possession of Assault Weapons. The law exempts from the ban on possession of assault weapons:

1. anyone who lawfully possessed a weapon before October 1, 1993 and applied by October 1, 1994 for a certificate of possession;
2. employees or members of police departments, the DOC and DPS, and the Connecticut and U.S. military and navy for use in official duties, and sworn members of these agencies who possess and use these weapons when on duty and in the scope of their duties;
3. an estate executor or administrator under certain circumstances; and
4. anyone who arranges in advance to relinquish a weapon to DPS.

Conditions Under Which Gun Dealers May Transfer Assault Weapons. Licensed gun dealers may (1) transport assault weapons between dealers or out of state, display them at gun shows licensed by state or local government entities, or sell them to out-of-state residents; (2) accept them for servicing or repair from anyone with a certificate for them; and (3) transfer them for servicing to a federally licensed gunsmith employed by, or under contract to, them for gunsmithing services.

Certificate of Possession for Assault Weapons. The original 1993 assault weapons act allowed people who possessed assault weapons before October 1, 1993 to keep them if they applied for DPS certificates of possession for them before July 1, 1994. A 1994 act extended the application deadline to October 1, 1994. The certificate allows the owner of the weapon to possess it:

1. at his residence, business, on his property, or on someone else's property with permission;
2. at a target range to practice target shooting or licensed shooting club;
3. while attending a sanctioned exhibition, display, or educational project about guns; or
4. while transporting it between any of the places mentioned or to a licensed dealer for servicing or repair.

The owner cannot sell the weapon in-state except to a licensed gun dealer or otherwise transfer it except by bequest or intestate succession or to DPS or a police department.

Anyone who inherits an assault weapon for which a certificate was issued has 90 days to apply for a new certificate, sell the gun to a licensed gun dealer, make it permanently inoperable, or take it out of state. Anyone, other than a member of the military or navy, who moves into Connecticut in lawful possession of an assault weapon has 90 days to render it permanently inoperable, sell it to a licensed gun dealer, or remove it from the state. A member of the military or navy transferred to Connecticut after October 1, 1994 in lawful possession of an assault weapon has 90 days to apply for a certificate of possession.

Certificate of Transfer for Assault Weapons. When an owner sells or transfers an assault weapon to a gun dealer, the dealer must complete a certificate of transfer with specified information on the gun and seller or transferor and send it to DPS, which must keep all the certificates in a file.

Assault Weapons Crimes and Penalties. The law requires a mandatory, minimum eight-year sentence for anyone who uses, threatens to use, displays, or purports to have an assault weapon while committing a class A, B, or C felony. This is in addition and consecutive to any imprisonment for the felony.

The use of an assault weapon in a crime punishable by death is an aggravating circumstance justifying the death penalty.

It is illegal for anyone to (1) carry a concealed, loaded assault weapon or (2) knowingly have in a vehicle he operates, owns, or occupies (a) a loaded assault weapon or (b) an unloaded assault weapon that is not in the trunk or in a case or container inaccessible to the vehicle's occupants. A violation carries a $500 fine, imprisonment for up to three years, or both.

Theft of Assault Weapon Must be Reported. The law requires an assault weapon's lawful owner to report its theft to a law enforcement agency within 72 hours after he discovers or should have discovered the theft.

Manufacture of Assault Weapons Allowed. The law stipulates that its provisions should not be construed to prohibit manufacturers of assault weapons in Connecticut from manufacturing or transporting them for out-of-state sale or sales to agencies such as DOC, which are not prohibited from buying them.

People Who Cannot Get a Gun Permit Under State Law

Under state law, a person cannot get a permit to carry handguns if he:

1. has failed to complete successfully a DPS-approved handgun safety and use course;
2. was convicted of a serious juvenile offense;
3. was discharged from custody within the last 20 years after having been found not guilty of a crime by reason of mental disease or defect;
4. was committed involuntarily to a psychiatric hospital in the last 12 months;
5. is subject to a restraining or protective court order in a case involving the use, attempted use, or threatened use of physical force against someone else;
6. is subject to a gun seizure order issued after notice and hearing;
7. is an illegal alien; or
8. was convicted of a felony or other specified, mostly violent misdemeanors.

People Who Cannot Possess Guns Under Federal Law

Federal law prohibits people from possessing guns on some of the same grounds that state law prohibits them from getting gun permits. The following are additional to those covered in state law:

1. fugitives from justice,
2. anyone who uses illegally or is addicted to any controlled substance,
3. anyone dishonorably discharged from the armed forces,
4. anyone who has renounced his U.S. citizenship, or
5. anyone ever convicted of a misdemeanor crime of domestic violence.

FBI Fee for Background Checks

When the FBI instituted its $24 charge for criminal record checks, some towns required applicants to pay this fee. The Superior Court ruled that this exceeded their authority. It said legislative action—not unilateral action by a town or city—was necessary to change the gun permit fee structure and application process (*Town of Farmington, et al. vs. Board of Firearms Permit Examiners*, CV 95-0550258S, Judicial District of Hartford—New Britain, Feb. 13, 1996).

Related Act

PA 01-175 slightly modifies the criminal record check procedure and mandates its use when any state statute requires such checks.

PA 01-192—sHB 6285
Public Safety Committee
Transportation Committee
Public Health Committee

AN ACT CONCERNING THE USE OF FLASHING WHITE HEAD LAMPS, FAILURE TO YIELD TO EMERGENCY VEHICLES, AND DUTY TO STOP FOR STOPPED SCHOOL BUSSES

SUMMARY: This act allows any vehicle operated by a volunteer emergency medical technician or member of a volunteer fire department or company to use flashing white headlamps on the way to a medical emergency or fire scene. The vehicle operator must get written authorization from the town's chief law enforcement officer and may use the headlamps only in the town or "from a personal residence or place of employment" if located in an adjoining town. The authorization may be revoked for violation.

The act increases, from $50 to $200, the maximum fine for willfully or negligently obstructing or impeding an emergency vehicle responding to an emergency. (The possible prison term, which the act does not change, is a maximum of seven days.) The act allows a police officer to issue a written warning or summons to a vehicle owner when he gets a signed affidavit about a violation from an emergency vehicle operator. The affidavit must state the (1) vehicle's license plate number, color, and type and (2) date, approximate time, and place where the violation occurred. The provision applies to ambulance or emergency medical service organization vehicles responding to emergency calls or taking a patient to a hospital, fire department vehicles responding to a fire or emergency, and police vehicles responding to an emergency or pursuing fleeing suspects.

The act also expressly requires emergency vehicles to stop at least 10 feet from a school bus displaying flashing red signal lights and to remain there until the lights are turned off. The provision applies to fire department and police vehicles, public service company or municipal department ambulances, or emergency vehicles designated or authorized by the motor vehicles

commissioner. The act also makes technical changes.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Use of Flashing Head Lamps

By law, the following may use flashing white headlamps on their way to an emergency: (1) local fire marshals and local emergency management directors and (2) ambulances and vehicles being operated by the chief executive officer of an emergency medical service organization. Every January, the chief executive of these organizations must provide the Department of Motor Vehicles (DMV) commissioner with his name and address and the registration number plates of vehicles that will use flashing white headlamps.

Flashing Lights

Another law, which this act does not change, generally prohibits flashing lights on vehicles other than school buses, except to indicate a turn and, in certain designated colors, on:

1. vehicles used by volunteer or civil preparedness fire companies,
2. certain emergency and maintenance vehicles (with a DMV permit),
3. overweight or oversize vehicles with Department of Transportation permits or their escort vehicles,
4. vehicles used by rural mail carriers,
5. vehicles for 15 or fewer handicapped students when the vehicles stop to pick up or let off students,
6. stationary vehicles at a fire scene,
7. rescue vehicles,
8. ambulances,
9. vehicles used by local fire marshals or directors of emergency management,
10. vehicles used by chief executive officers of emergency medical service organizations, and
11. vehicles used by members of volunteer ambulance associations or companies.

The law also allows motorists to use flashing lights in certain contexts where they are traveling slowly or disabled and stopped in areas that can create a hazard.

PA 01-24—sSB 289
Transportation Committee

AN ACT CONCERNING REFLECTORIZED SAFETY NUMBER PLATES ON MOTOR VEHICLES AND SAFETY INSPECTIONS CONDUCTED ON CERTAIN MOTOR VEHICLES

SUMMARY: This act gives the motor vehicle commissioner the discretion to require the safety inspections previously required for 10-year or older vehicles before registration or title transfer. It requires him to conduct a study on the feasibility of performing these inspections in conjunction with vehicle exhaust emissions inspections required by law. He must report his findings and recommendations to the Transportation Committee by February 15, 2002.

The act also explicitly requires someone who owns or leases a motor vehicle for which the Department of Motor Vehicles (DMV) has issued a new set of fully reflectorized license plates to display them according to the requirements of the law for vehicles with two license plates. This means they must be displayed in a conspicuous place on the front and the rear of the vehicle and the registration validation sticker must be on the rear plate, or wherever else the commissioner may designate for its display. The act makes violations of the display requirements for fully reflectorized plates an infraction.

A 1999 law required DMV to issue fully reflectorized plates for all new and renewal registrations it issues on and after January 1, 2000. DMV began issuing the replacement plates for renewals in September 2000, but the law did not explicitly require recipients to use them to replace the partially reflectorized "white-on-blue" plates.

EFFECTIVE DATE: Upon passage, except the provision on display of the new reflectorized license plates is effective October 1, 2001.

SAFETY INSPECTIONS

Previously, a safety inspection was required for any vehicle that is 10 or more years old and changing ownership (whether brought in from another state or already registered in Connecticut). The commissioner could not register these vehicles until they had undergone the required safety inspection.

The act allows the commissioner to register these vehicles without an inspection should he so choose. It also allows him to (1) approve any licensed dealer or repairer meeting his requirements to perform safety inspections on 10-year-old or older vehicles that are not antique, rare, or special interest or modified antique vehicles and (2) authorize the dealer or repairer to charge up to $15 for each inspection.

The act allows any dealer or repairer authorized to conduct safety inspections to provide written certification, in a prescribed form and manner, that any vehicle "in its inventory" complies with safety and equipment standards, and it allows the commissioner to accept this as evidence of compliance with statutory requirements.

Mandatory inspections are still required for (1) vehicles that have been totaled and subsequently rebuilt for sale or use; (2) antique, rare, or special interest vehicles (25 years old or older, preserved for its historic interest, and not altered from original manufacturer specifications) or "modified" antique vehicles (25 years old or more and modified for safe road use); and (3) "composite" vehicles (assembled from parts of other vehicles). These vehicles may only be inspected at DMV offices or any official emissions inspection station the commissioner authorizes to conduct safety inspections.

PA 01-75—sHB 5916
Transportation Committee
Judiciary Committee

AN ACT CONCERNING CONSIDERATION OF ENVIRONMENTAL REMEDIATION COSTS

SUMMARY: This act requires consideration of environment remediation costs in assessing fair-market value in all Department of Transportation (DOT) condemnation proceedings.

The act also requires a state trial referee making a final assessment of damages pursuant to a property owner's appeal of a DOT damages award for property it acquired through condemnation to consider any required environmental remediation by the DOT along with other relevant evidence of the property's fair-market value. It requires the referee to make a separate finding for remediation costs and entitles the property owner to a set-off of these costs in any pending or subsequent legal action against him to recover environmental remediation costs.

EFFECTIVE DATE: Upon passage

BACKGROUND

DOT Property Acquisition Through Condemnation

DOT has a separate statutory authority to acquire property through eminent domain. If it requires someone's property for transportation purposes and

cannot reach a voluntary purchase agreement with the owner, it can take the property through this special condemnation process. DOT must file a certificate of taking with the court that identifies the property and assesses the damages due the property owner as a result. Once the certificate is filed, title to the property passes to the state. The former property owner cannot challenge the taking; but, if aggrieved by the damages assessed, he has six months to appeal to the Superior Court for a reassessment. Once an appeal is properly filed, the court must appoint a trial referee to perform the reassessment.

PA 01-105—sHB 5914
Transportation Committee
Public Safety Committee
Judiciary Committee

AN ACT REVISING CERTAIN TRANSPORTATION LAWS

SUMMARY: This act:

1. establishes the Airport Rescue and Fire Fighting Unit at Bradley International Airport as the fire department with jurisdiction within the airport for aircraft and structural fire protection and emergency medical services, and specifically excludes it from the jurisdiction of any town;
2. authorizes the Bradley fire chief or Bradley fire officer in charge to control and direct emergency activities at a fire or emergency at the airport;
3. allows the Department of Transportation (DOT) commissioner to designate the Hartford-New Britain Busway project as a total cost basis or "design-build" project;
4. allows DOT to replace the Hales Road highway bridge (#03852) over the railroad tracks in Westport with a new bridge at a minimum clearance over the tracks of 18 feet, five inches, instead of the statutorily required minimum clearance for bridges over electrified railroad tracks of 22 feet, six inches;
5. requires, within 30 calendar days, DOT to issue someone who for at least one year holds a DOT permit for intrastate operation of motor vehicles in livery service and applies, up to two additional vehicle permits each year without a hearing or written notice to other affected parties about the application that the law requires, provided all the applicant's existing permits are registered and in use and there are no outstanding violations or matters pending adjudication against him;
6. conforms two laws to changes previously made by the legislature in related laws;
7. names the building designated as the new terminal at Bradley International Airport the "Robert F. Juliano Terminal Building";
8. designates memorial or commemorative names for 13 state highway segments and seven state bridges;
9. requires signs to be placed on I-84 (presumably by the DOT commissioner since by law no one else can legally place signs on a state highway right-of-way) eastbound before exit 39 and westbound before exit 40 designating the location of the "Holy Family Passionist Retreat Center";
10. requires any printed advertisement concerning a household goods carrier to conspicuously show its state DOT certificate number and federal DOT permit or registration number; and
11. makes various technical changes.

EFFECTIVE DATE: October 1, 2001, except for the bridge clearance waiver, household goods carrier advertisement, I-84 retreat center sign, and the naming provisions, which are effective upon passage.

FIRE JURISDICTION AT BRADLEY INTERNATIONAL AIRPORT

The act gives the fire chief of the airport fire department or any member of the department serving as officer-in-charge when the company is responding to or operating at a fire, service call, or other emergency at the airport the power to (1) control and direct emergency activities at the scene; (2) order someone to leave a building, aircraft, or place in the vicinity of the fire in order to protect him from injury; and (3) do all other things the law allows a municipal fire chief or officer-in-charge to do at a fire scene.

In establishing jurisdiction for the Bradley Fire and Rescue Unit and giving it these powers, the act gives it, rather than the first municipal fire department responding to a fire on airport property, jurisdiction over how the fire or emergency scene must be managed.

HARTFORD-NEW BRITAIN BUSWAY PROJECT

The act authorizes the commissioner to designate the proposed Hartford-New Britain Busway project as a total-cost-basis project. This is also commonly referred to as a "design-build" project. If it is so designated, the

commissioner may enter into a single contract with a private developer that includes project elements such as engineering, design, and construction. Under normal competitive bidding requirements, these project elements are usually bid separately.

Any such total-cost contract must be based on competitive proposals. The commissioner must give notice of the project and project specifications at least once through advertising in a newspaper with substantial circulation in the Hartford-New Britain area. The contract award must be based on the developers' qualifications, the technical merits of their proposals, and cost.

The commissioner must determine the criteria, requirements, and conditions for the proposals and award, and he has sole responsibility for all other contract aspects. If applicable, the contract must clearly state the developer's responsibilities to deliver a completed and acceptable project on a date certain and the maximum project cost.

CONFORMING CHANGES

In prior years, the legislature changed two laws, one raising the threshold for DOT property purchases that require approval of a state referee from $15,000 to $100,000 and the other changing minimum sightline requirements at rail-highway grade crossings. The act conforms the related statute governing payment of the damages for property acquired through condemnation to the higher threshold for state referee approval previously applied to purchase acquisitions. (PA 01-186 makes the same change.) With respect to grade crossing sight lines, it changes several other statutes to make them consistent with one another.

ROAD AND BRIDGE NAMINGS

The act names 13 state highway segments and seven state highway bridges as follows:

1. State Road 543 in Wethersfield running north from Route 314 to the Hartford town line as the "Vartan Mamigonian Memorial Highway";
2. Route 20 in East Granby running east from the Granby town line to the junction of SSR 401 as the "Connecticut Air National Guard Memorial Highway";
3. Route 10 in Simsbury running north from the intersection of Route 167 to the Granby town line as the "Simsbury Veterans Memorial Highway";
4. I-91 running north from the Meriden-Middletown town line to the Cromwell-Middletown town line as the "Sergeant George Ross Dingwall Memorial Highway";
5. Route 5 in Wallingford as the "American Legion Shaw-Sinon Post 73 Memorial Highway";
6. Route 176 in Newington running north from the intersection of Routes 5 and 15 to Route 175 as the "Patricia M. Genova Memorial Highway";
7. Route 71 in Meriden running north from the I-691 overpass to the Meriden town line as the "State Trooper Joseph M. Stoba Memorial Highway";
8. Route 207 in Franklin running east as the "Paul Henry Bienvenue Memorial Highway";
9. Route 1 in Branford as the "Branford Fire Department Memorial Highway";
10. Route 146 in Branford as the "Edward Ramos Memorial Highway";
11. Route 624 in Waterford and New London running east from I-95 eastbound to Route 1 eastbound as the "American Ex-Prisoners of War Memorial Highway";
12. Route 302 in Newtown running east from the Danbury town line to Route 25 as the "Second Company Governor's Horse Guard Memorial Highway";
13. I-91 running north from the intersection with I-95 to the North Haven-New Haven town line as the "Second Company Governor's Foot Guard Memorial Highway";
14. Bridge No. 1460 on I-91 running north in Wethersfield over Wethersfield Cove as the "Veterans of the Battle of the Bulge Memorial Highway";
15. Bridge No. 5337 on Route 175 in Newington running east over Mill Brook as the "Andrew J. McCusker Memorial Bridge";
16. Bridge No. 1628 on Prospect Avenue in Hartford passing over SR 598 as the "Major John Caldwell Memorial Bridge";
17. Bridge No. 1629 on Columbus Boulevard in Hartford passing over SR 598 as the "Major Thomas Y. Seymour Memorial Bridge";
18. Bridge No. 4236 on Route 175 in Newington over the Amtrak railroad tracks as the "Lieutenant James T. Hall Memorial Bridge";
19. Bridge No. 3162 on West Street in Rocky Hill running east and passing over I-91 as the "John L. Levitow Memorial Bridge"; and
20. Bridge No. 6277 on I-291 in Manchester running east and passing over the Tolland Turnpike as the "Jules M. Hollander Memorial Bridge."

PA 01-134—sHB 5449
Transportation Committee
Planning and Development Committee
Energy and Technology Committee

AN ACT REQUIRING ENERGY EFFICIENT ROADWAY LIGHTS

SUMMARY: By law, road lighting bought with state funds must be designed to maximize energy conservation, minimize light pollution, and meet other criteria. The transportation commissioner may waive these requirements under certain circumstances. This act extends nearly identical requirements to (1) lighting bought with municipal funds and (2) lighting installed by a utility company when municipal funds pay its operating costs. It allows municipal chief elected officials to waive the requirements. Municipal funds include bond revenue and any money a municipality appropriates or allocates.
EFFECTIVE DATE: October 1, 2001

OUTDOOR LIGHTING

The act requires municipalities to comply with the requirements for lighting state roads whenever they use municipal funds to install or replace permanent lighting on municipal roads. Public utilities must meet these requirements when they install or replace such lighting if municipal funds pay their operating costs. The requirements are that the (1) lighting be designed to maximize energy conservation and minimize light pollution, glare, and light trespass (light shining onto other people's property) and (2) lighting level must be the minimum needed for the intended purpose.

By law, state-funded lights on all state primary highways must have a full-cutoff luminaire if the light's output exceeds 1,800 lumens. (A full-cutoff luminaire prevents light from shining above the lamp.) Such lighting on secondary and special service highways must be equipped with this device under most circumstances. The act requires this device on all municipally funded lighting with this output on all municipal roads.

The law allows the commissioner or his designee to waive this requirement if he determines that a waiver is necessary and requires that he consider design safety, costs, and other factors in making his decision. The act allows chief elected officials or their designees to waive the requirement with respect to municipal roads under the same procedure with regard to municipally installed lighting. The chief elected official or his designee can waive the requirement for utility-installed lighting, if the company applies for a waiver 30 days before the installation and the official determines the waiver is necessary.

By law, permanent lighting cannot be installed or replaced on state highways unless the commissioner or his designee determines that alternative methods, such as installing reflective road markings or reducing the speed limit on the road, cannot accomplish the same ends as the lighting. The act extends this limitation to municipally funded lighting installed by the municipality, making the chief elected official or his designee responsible for determining if alternative methods cannot achieve the same ends as the lighting.

The act also allows the Office of Policy and Management secretary to exempt municipal lighting from all of the above requirements under the same conditions as he already can for state lighting.

PA 01-143—HB 6778
Transportation Committee
Planning and Development Committee
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE CONNECTICUT COASTLINE PORT AUTHORITY

SUMMARY: This act (1) expands the responsibility of the Connecticut Coastline Port Authority to perform its statutorily defined activities to promote the economic development of all ports, harbors, and navigable tidal rivers in the state's municipalities instead of only the three deepwater ports in Bridgeport, New Haven, and New London and (2) renames it the Connecticut Port Authority.

The act also expands the definition of port facilities that the Bridgeport and New London port authorities may operate and maintain to include facilities outside the districts' geographic boundaries that benefit the district. Previously, port facilities had to be physically located within district boundaries.

Finally, the act requires the authority's executive director to notify the appropriate appointing authority in writing that a vacancy has occurred on the board of directors. The authority's board consists of the transportation and economic development commissioners; six members appointed by the governor; six members appointed, one each, by the House speaker, Senate president pro tempore, and House and Senate majority and minority leaders; and one nonvoting representative from each of the three deepwater ports appointed by designated local officials.
EFFECTIVE DATE: Upon passage

PA 01-191—HB 6297
Transportation Committee
Appropriations Committee

AN ACT CONCERNING REGISTRATION STICKERS ON MOTOR VEHICLES AND CONCERNING SPECIAL NUMBER PLATES AND IDENTIFICATION CARDS FOR DISABLED VETERANS WHO HAVE TRAUMATIC BRAIN INJURY

SUMMARY: This act allows registration validation stickers to contain in addition to the registration expiration date the law already requires, the letters and numbers corresponding to the ones on the license plate. By law, registration validation stickers must be displayed on the vehicle's license plate or plates, or can be placed elsewhere on the vehicle if the commissioner directs it.

The act also extends special parking privileges to disabled veterans who served in time of war, as defined by law, and sustained service-connected traumatic brain injury certified by the Veteran's Administration (VA). Previously these privileges were available only if a veteran was blind, paraplegic, hemiplegic, or had lost the use of, or had amputated all or part of one or both arms or legs as a result of his war service as certified by the VA. This special privilege allows such disabled veterans to park without penalty for overtime parking as long as they do not leave their vehicle at any one location for more than 24 hours. An eligible veteran receives special license plates and an identification card that a surviving spouse may keep until death or remarriage.
EFFECTIVE DATE: October 1, 2001

PA 01-198—sHB 6522
Transportation Committee
Public Safety Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING A SPECIAL LICENSE PLATE HONORING STATE TROOPERS, MUNICIPAL POLICE OFFICERS AND OTHER STATE AND MUNICIPAL EMPLOYEES KILLED IN THE LINE OF DUTY

SUMMARY: This act requires the motor vehicle commissioner to issue a special registration and license plate set memorializing police officers and other state and municipal employees killed in the line of duty. They must be issued for any vehicle the requestor owns or leases for at least one year. The commissioner must charge a fee for the plates, in addition to the normal registration fee, that covers the cost to produce them. The registration and plates are subject to normal expiration and renewal requirements.

The commissioner must create a committee to approve the plate design. The committee must include a representative of Concerns of Police Survivors, Inc., the Connecticut State Police Union, the Connecticut Council of Police, and the Connecticut Conference of Municipalities.

The first 1,000 such plates must be reserved for the spouses, parents, or children of state troopers killed in the line of duty or for municipal police officers.
EFFECTIVE DATE: October 1, 2001

PA 01-97—sHB 6864
Select Committee on Workforce Development
Labor and Public Employees Committee
Government Administration and Elections Committee

AN ACT REQUIRING REGIONAL WORKFORCE DEVELOPMENT BOARDS TO SUBMIT ANNUAL PERFORMANCE MEASURES TO THE OFFICE OF WORKFORCE COMPETITIVENESS

SUMMARY: Beginning October 1, 2002, this act requires regional workforce development boards to submit annual reports to the Office of Workforce Competitiveness detailing how workforce development programs and activities funded by money distributed by the boards are performing. The reports must include (1) the identity of providers and their performance; (2) program costs and activities; (3) the number, gender, and race of program participants; (4) occupational skill types; (5) the number, gender, and race of people who complete the programs and activities and enter unsubsidized employment after doing so; and (6) the number and earnings of those who remain in such employment six months later.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

Regional Workforce Development Boards

The federal Workforce Investment Act of 1998 (WIA) requires states to establish local workforce development boards. Connecticut's boards are called regional workforce development boards. They are responsible for workforce development activities in their geographic area, including developing workforce plans, selecting program providers, overseeing programs, negotiating performance measures, establishing worker training education committees, and promoting private sector involvement.

PA 01-146—sHB 6867
Select Committee on Workforce Development
Human Services Committee
Appropriations Committee
Labor and Public Employees Committee
Planning and Development Committee

AN ACT CONCERNING ONE-STOP CENTERS

SUMMARY: This act requires each one-stop job center to include a local community action agency and an opportunities industrialization center (OIC) as one-stop partners, subject to the approval of the regional workforce development board (RWDB) and the chief elected officials of the local workforce investment areas designated under the federal Workforce Investment Act of 1998 (WIA). The act requires the one-stop center to give eligible people using it access to these entities' programs and activities. These new partners are in addition to the current federally required partners.

The act also requires at least one Department of Social Services (DSS) representative to be onsite at each one-stop center to give people using the center assistance or information about the department's services and programs.
EFFECTIVE DATE: October 1, 2001

BACKGROUND

One-Stop Centers

Connecticut's statewide system of one-stop job centers (called "Connecticut Works Centers") offers workers, students, and employers comprehensive workforce development assistance. The centers offer job seekers (including people moving from welfare to work under the state's Jobs First program) counseling, skills training, and job search assistance. They also provide businesses with recruiting services, employee job training, and related support.

WIA (PL 105-220, 29 U.S.C. § 2801 *et seq.*) requires each local workforce investment area, as designated by the governor, to have a one-stop center, which can be supplemented by a network of affiliated sites. RWDBs select one-stop operators through a competitive process or designate a consortium to administer them.

Federal law requires certain federally funded programs to participate as partners in the one-stop centers and allows states to add others. The required partners include such entities as WIA-authorized job training services, vocational rehabilitation programs, adult education and literacy programs, welfare-to-work programs, senior community service employment programs, vocational education programs, and state unemployment compensation programs (29 U.S.C. § 2841 (b) and 20 C.F.R. § 662.200).

Opportunities Industrialization Centers (OICs)

OICs are private, nonprofit entities that provide job training and related services or job opportunity programs for economically disadvantaged, unemployed, and underemployed people. (Section 29 of PA 01-2, JSS transfers the administration of grants for OICs from DSS to the Department of Labor.)

PA 01-156—HB 6868
Select Committee on Workforce Development
Labor and Public Employees Committee

AN ACT CONCERNING STANDARDIZATION OF REGIONAL WORKFORCE DEVELOPMENT BOARD CONTRACTS

SUMMARY: This act requires the labor commissioner to adopt regulations establishing standard provisions that must be included in contracts entered into by regional workforce development boards (RWDBs) for education, employment, or job training activities funded by state or federal monies. The commissioner must consult with the Connecticut Employment and Training Commission and the RWDBs in adopting the regulations.
EFFECTIVE DATE: Upon passage

BACKGROUND

Regional Workforce Development Boards

The federal Workforce Investment Act of 1998 (WIA) requires states to establish local workforce development boards. Connecticut's local workforce development boards are called RWDBs. RWDBs are responsible for workforce development activities in their geographic areas, including developing workforce plans, selecting program providers, overseeing programs, negotiating performance measures, establishing worker training education committees, and promoting private-sector involvement.

PA 01-165—sSB 1366
Select Committee on Workforce Development
Education Committee
Appropriations Committee

AN ACT CONCERNING AN ARTICULATION AGREEMENT BETWEEN THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION

SUMMARY: This act requires the Advisory Council on Student Transfer and Articulation (ACSTA) to develop a plan for coordinating the creation of articulation agreements in specific areas among public institutions of secondary and higher education, and report its progress to the General Assembly. Articulation agreements are written arrangements among educational institutions to ensure students a successful transition between them. The ACSTA must develop the plan by July 1, 2002 and implement it by July 1, 2004.

The act also requires the boards of trustees of the public and private colleges and universities to plan and implement articulation agreements for students pursuing degrees in nursing. The boards must develop a plan by July 1, 2002 and implement it by July 1, 2004.
EFFECTIVE DATE: Upon passage

ACSTA'S PUBLIC SECONDARY AND HIGHER EDUCATION PLAN

The act requires ACSTA to develop a plan to ensure that:

1. there are articulation agreements in the areas of business, nursing, allied health, and such other professional and preprofessional programs as ACSTA selects between all the vocational-technical (V-T) schools, the community-technical colleges (CTCs), and high school programs in the regions of the state where these institutions are located;
2. there are system-to-system articulation agreements in the areas of business, nursing, allied health, and other professional and preprofessional programs between the CTCs, Connecticut State University (CSU), and the University of Connecticut (UConn); and
3. the articulation agreements include academic programs at the public colleges and universities that the labor commissioner and the Office of Workforce Competitiveness have identified as addressing a workforce shortage area.

The act requires ACSTA, in consultation with the state departments of education and higher education and the boards of trustees of the public colleges and universities, to report to the Education and Workforce Development committees, by July 1, 2002 and annually thereafter, on all articulation agreements involving institutions of higher education and any progress made toward establishing new agreements.

BOARD OF TRUSTEES' NURSING PLAN

The act requires the boards of trustees for the CTCs, CSU, UConn, Charter Oak State College, the Bridgeport Hospital School of Nursing, and the state's independent colleges to develop a plan to ensure that there are articulation agreements between the nursing programs to assist nurses in advancing their education and nursing credentials.

BACKGROUND

Advisory Council on Student Transfer and Articulation

The statutes require the higher education commissioner, in consultation with the Higher Education Coordinating Council, to establish an ACSTA. ACSTA is made up of the chief academic officers of each constituent unit, teaching faculty, institutional transfer coordinators, and students of the public colleges and universities, as well as two representatives of independent colleges and universities who serve as nonvoting ex-officio members. The commissioner convenes and chairs the council. ACSTA considers various issues and procedures associated with student transfer and articulation agreements. ACSTA must annually report on its activities to the Governor and the Education Committee.

PA 01-170—sSB 1370
Select Committee on Workforce Development
Labor and Public Employees Committee
Education Committee
Appropriations Committee
Legislative Management Committee

AN ACT ESTABLISHING CAREER LADDER PROGRAMS FOR CRITICAL EMPLOYMENT AREAS AND REQUIRING A REVIEW OF APPRENTICESHIP HIRING RATIOS

SUMMARY: This act requires the Office of Workforce Competitiveness (OWC), with the Department of Labor's (DOL) assistance, to submit an annual report to the governor and the Labor, Education, Commerce, and Workforce Development committees. The report must include DOL's forecast of state occupational workforce shortages for the next two- and five-year periods. It must also recommend (1) ways to generate enough workers to meet the workforce needs DOL identifies, including scholarship, school-to-career, and internship programs and (2) methods secondary and higher education systems and private industry can use to address these needs. The first report is due by October 1, 2002.

The act requires the education and higher education commissioners, in consultation with OWC and the constituent units of public higher education, to establish, by September 1, 2003, career ladder programs for high school students who want to pursue careers in occupations that OWC's first annual report projects will have workforce shortages in the next five years.

The act requires DOL to report to the Workforce Development Committee by January 1, 2002 on its efforts to (1) simplify the process for requesting an exemption from apprenticeship hiring ratios, (2) create an application form that can be revised and used for future requests, (3) reduce the time it takes to review and approve or disapprove such requests, and (4) establish a system to track apprentices in registered apprentice programs.

The act requires the State Apprenticeship Council to review existing apprenticeship hiring ratios and report any proposed changes to the Workforce Development Committee by January 1, 2002.

Finally, the act replaces the deputy labor commissioner on the State Apprenticeship Council with the labor commissioner and eliminates a requirement that the council submit an annual report to the commissioner. The council must instead prepare a report for the commissioner to include in his report to the governor.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Office of Workforce Competitiveness

OWC is the governor's principal workforce development policy advisor, and it acts as a liaison between the governor and other government entities for workforce development matters. OWC coordinates the state's implementation of the federal Workforce Investment Act of 1998 and establishes related methods and procedures. It also coordinates state agencies' workforce development activities. OWC is within the Office of Policy and Management for administrative purposes.

Connecticut State Apprenticeship Council

The State Apprenticeship Council's duties include adopting standards for apprenticeship programs, formulating policies regarding programs, and advising the labor commissioner on work training standards for apprentices.

PA 01-193—sSB 1375
Select Committee on Workforce Development
Education Committee
Appropriations Committee
Commerce Committee
Labor and Public Employees Committee
Legislative Management Committee

AN ACT IMPLEMENTING THE CONNECTICUT EMPLOYMENT AND TRAINING COMMISSION'S RECOMMENDATIONS CONCERNING CONNECTICUT'S INFORMATION AND TECHNOLOGY WORKFORCE DEVELOPMENT NEEDS

SUMMARY: This act creates programs and strategies to address Connecticut's information technology and workforce needs. It requires the Connecticut Employment and Training Commission (CETC) to suggest to the Workforce Development Committee ways to (1) form a digital compact to identify areas of information technology skills development, (2) fund and operate a Digital Strategic Fund (DSF), and (3) use DSF money to address the digital divide. It also (1) requires the Department of Economic and Community Development (DECD) to create a campaign to make electronic and information technology businesses more visible, (2) requires the State Department of Education (SDE) to establish an information technology pilot program, and (3) directs SDE to encourage the establishment of a new interdistrict magnet school with a curriculum emphasizing information technology.

The act requires the Office of Workforce Competitiveness (OWC), the Department of Higher Education (DHE), and the public colleges and universities to create information technology proficiency and credential pilot programs. It also requires them to create an information technology internship and work-study pilot program. Finally, OWC, certain agency commissioners and education leaders, the secretary of the Office of Policy and Management (OPM), and members of the economic clusters must evaluate programs at the community-technical colleges (CTCs) and the vocational-technical (V-T) schools and recommend ways to improve them to meet the needs of business and industry.
EFFECTIVE DATE: July 1, 2001

DIGITAL AND INFORMATION TECHNOLOGY STRATEGIES

CETC must submit a report to the Workforce Development Committee by January 1, 2002, that makes specific recommendations for:

1. forming a statewide digital compact for industry, education, labor, and government to integrate into the educational and workforce systems areas of information technology skills development that industry identifies;
2. funding and operating a DSF to give discretionary funding to improve connections between industries and specific educational and training institutions; and
3. addressing the "digital divide" (the disparity between those with access to technology and those without) by directing part of the DSF's money to specific groups and communities that are traditionally underrepresented in the field of information technology.

ELECTRONIC BUSINESS AND INFORMATION TECHNOLOGY CAMPAIGN

The act requires DECD, in consultation with OWC, to coordinate a statewide campaign to increase the visibility of Connecticut's leading business strengths and new or emerging information technology businesses by January 1, 2002. It must do so within available appropriations.

INFORMATION TECHNOLOGY CAREER PILOT PROGRAM

The act requires SDE to establish, within available appropriations for FYs 2001-02 through 2003-04 and in cooperation with OWC, a pilot program that encourages K-12 students to pursue careers in information technology. By September 28, 2001, the education commissioner, in cooperation with OWC, must establish written participation guidelines and submit them to CETC. He must also submit a status report on the program to CETC and the Education, Appropriations, and Workforce Development committees by January 1, 2002.

INFORMATION TECHNOLOGY PROFICIENCY PILOT PROGRAM

The act requires OWC, in consultation with DHE, to establish, within available appropriations for FYs 2001-02 and 2002-03, a two-year pilot program to encourage public and private colleges and universities to provide enrolled students the opportunity to show prospective employers their technology and problem-solving skills by allowing students to prepare for and take assessment exams, such as the Tek.Xam, at the institutions. By September 28, 2001, OWC must establish, in consultation with DHE's commissioner,

UConn's board of trustees, the CTCs, the Connecticut State University (CSU) system, and at least three private colleges or universities, written participation guidelines for the program. OWC must also submit a status report on the program to the Education, Appropriations, and Workforce Development committees by January 1, 2002.

INFORMATION TECHNOLOGY CREDENTIAL PILOT PROGRAM

The act requires OWC to establish, within available appropriations for FY 2001-02 and in consultation with DHE, UConn's board of trustees, the CTCs, and CSU, a pilot program to help non-information technology workers who show ability in information technology to earn an information technology credential or degree at one of Connecticut's public colleges or universities. By September 28, 2001, OWC must establish, in consultation with the same entities, written participation guidelines for the program. OWC must also submit a status report on the program to the Education, Appropriations, and Workforce Development committees and the CETC by January 1, 2002.

VOCATIONAL-TECHNICAL SCHOOL AND COMMUNITY COLLEGE PROGRAMS

The act requires OWC; the commissioners of Labor, Economic and Community Development, Education, and Social Services; the secretary of OPM; and the CTCs' chancellor, in consultation with the superintendent of the V-T schools and one member of industry from each "economic cluster" (group of industries the DECD links together because of customer, supplier, or other relationships) to:

1. review, evaluate, and recommend improvements for certificate and degree programs at the V-T schools and CTCs to make sure they meet business and industry's employment needs and
2. develop ways to strengthen ties between skill standards for education and training and business and industry's employment needs.

The act requires the education commissioner to report annually, beginning January 1, 2002, to the Education, Commerce, Labor, and Workforce Development committees on (1) the CTCs and V-T schools' implementation of any recommended programs or strategies to strengthen the linkage between their certificate and degree programs and business and industry's employment needs and (2) any V-T school or CTC certificate or degree program that does not meet current industry standards.

INFORMATION TECHNOLOGY INTERNSHIP AND WORK-STUDY PILOT PROGRAM

The act requires OWC to establish, within available appropriations and in cooperation with DHE, UConn's board of trustees, the CTCs, and CSU, a pilot program to provide information technology internships and cooperative work-study programs at the public colleges and universities. By September 28, 2001, OWC must establish, in consultation with the same entities, written participation guidelines for the program. OWC must also submit a status report on the program to the CETC and the Education, Appropriations, and Workforce Development committees by January 1, 2002.

BACKGROUND

Office of Workforce Competitiveness

OWC is the governor's principal workforce development policy advisor, and it acts as a liaison between the governor and other government entities for workforce development matters. It coordinates the state's implementation of the federal Workforce Investment Act of 1998 and establishes related methods and procedures. It also coordinates state agencies' workforce development activities. OWC is within the Office of Policy and Management for administrative purposes.

PA 01-1, June Special Session—HB 7502
Emergency Certification

AN ACT CONCERNING EXPENDITURES FOR THE PROGRAMS AND SERVICES OF THE DEPARTMENT OF EDUCATION

SUMMARY: This act makes many changes in state education grant programs and funding. It:

1. establishes a formula for distributing $75 million over the 2001-03 biennium to towns affected by the Education Cost Sharing (ECS) cap, establishes minimum ECS grants for all towns for FYs 2001-02 and 2002-03, extends the existing ECS foundation for two years, and exempts Waterbury from the ECS minimum expenditure requirement under certain conditions;
2. increases the state's share of the funding for high-cost special education students starting in FY 2002-03;
3. makes several changes in the state's public school choice program to limit mandatory participation to four regions and restricts enrollment to ensure diversity;
4. expands the alternate route to teacher certification program and establishes other alternative certification programs to address teacher shortages;
5. revises the minority teacher incentive program to allow eligible students to receive grants for graduate study;
6. makes various changes in the school readiness program, including establishing minimum grants and expanding permitted uses for quality enhancement grants, program goals and standards, and staff professional development requirements;
7. requires teacher training and professional development in reading and the content of early and remedial reading programs funded by the early reading success grant to be aligned with the state Early Reading Success Panel's recommendations;
8. establishes a facility renovation grant for eligible charter schools and allows the education commissioner to reallocate unused charter school per-student grant appropriations to other interdistrict programs;
9. establishes a distribution formula for supplemental funding for interdistrict magnet schools operated by regional education service centers (RESCs);
10. establishes a competitive safe-learning grant to help districts address students' aggressive behavior and bullying;
11. exempts grants to priority districts for school readiness, early reading success, summer school, and extended school hours, as well as priority school district grants, from the state spending cap and specifies funding levels for each grant for FYs 2001-02 and 2002-03;
12. establishes minimum grants for certain transitional school districts for FYs 2001-02 and 2002-03, eliminates the flat $250,000-per-district grant to such districts, and requires grants to be distributed within available appropriations;
13. makes permanent accountability grants to schools needing improvement designated by the commissioner and requires the commissioner to designate the schools every three, rather than every two, years;
14. increases minimum education technology grants to all towns and establishes a new competitive basic technology grant program;
15. doubles the bonus to priority districts for constructing facilities for all-day kindergarten programs or to reduce class sizes in early grades and exempts a Plainfield project from a school construction grant refund requirement if it meets certain conditions;
16. temporarily freezes a criterion used to determine minimum reimbursements to certain school districts for the cost of providing health services to private school students;
17. expands the types of companies and jobs that are eligible for information technology workers in the student loan reimbursement program
18. allocates money for training Hartford residents in the duties of board of education members;
19. requires unaccredited YMCA day care programs to develop plans to become accredited if they receive state grants for capital projects to expand their facilities;
20. allows a Waterbury program to use money from adult education grants for technical training through the end of FY 2002-03;
21. establishes a deadline for the Teachers' Retirement Board actuary to complete his biennial cost estimates for the Teachers' Retirement System; and
22. makes other minor changes in education funding and grant programs.

EFFECTIVE DATE: July 1, 2001

ECS GRANTS (*§§* 1-4)

Grants to Capped Towns

The act gives each town affected by the ECS formula cap a proportional share of $25 million for FY 2001-02 and of $50 million in FY 2002-03. Each town's share is based on the difference between its capped grant and its "target aid" (what its grant, excluding any density supplements, would be without the cap). Until FY 2003-04, the ECS cap limits a town's annual ECS grant increase to a maximum of 6% based on wealth.

Minimum Grant Increase for All Towns

For FY 2001-02, the act gives every town, whether or not it is capped, a grant equal to at least its FY 2000-01 grant (excluding any density supplement) plus 1.68%. For FY 2002-03, every town must receive at least its FY 2000-01 grant (excluding density supplements) plus 1.2%.

Foundation Level

The act extends the existing ECS foundation of $5,891 per "need student" (enrollment weighted for poverty and educational need) through FY 2002-03.

Minimum Expenditure Requirement for Waterbury (§ 50)

The act exempts half of any savings from Waterbury's teacher contract negotiations from the ECS minimum expenditure requirement for FYs 2001-02 and 2002-03. It allows the city to use half the savings for noneducational purposes if (1) overall education spending increases from the prior fiscal year and (2) the board of education keeps the other half to pay for classroom supplies and other nonpersonnel education costs.

SPECIAL EDUCATION FUNDING (*§* 5)

Starting July 1, 2002, the act reduces a local school district's maximum share of the funding for high-cost special education placements from five to four-and-a-half times its average per-pupil expenditure for the preceding fiscal year. The state is responsible for all costs exceeding that amount.

OPEN CHOICE PROGRAM (*§§* 29 & 30)

Participation

The act makes several changes in the public school interdistrict Open Choice Program. Starting in the 2001-02 school year, it limits mandatory participation to the Bridgeport, Hartford, New Haven, and New London regions instead of requiring all 14 priority district regions to participate. It makes participation voluntary for the 10 remaining priority districts (Bristol, Danbury, East Hartford, Meriden, New Britain, Norwalk, Putnam, Stamford, Waterbury, and Windham) and delays the start of the voluntary program in those districts until September 2003. Under prior law, the program was to start in New Britain, New London, Waterbury, and Windham in September 2000 and in the remaining priority districts in September 2001.

Enrollment Restrictions

Under the act, the percentage of white students from Bridgeport, Hartford, New Haven, and New London who leave to attend school in other districts as part of the program cannot be greater than the percentage of white students enrolled in public schools in those districts in the preceding school year. The RESCs operating the program for the four regions must comply with these enrollment restrictions when making program participation decisions and in administering any lottery for available program spaces.

For priority districts participating voluntarily, the act allows transfers "in" only; that is, the act allows students from outside a participating priority district to transfer to schools in that district but not students from the district to transfer out. Students transferring in may do so only if they bring racial, ethnic, and economic diversity to the districts.

The act requires the program admission policies to comply with both these racial and ethnic enrollment restrictions and a state law that prohibits discrimination in public school programs and activities on the basis of race, color, sex, religion, national origin, or sexual orientation.

New London Program

The act gives students from New London who participated in the program in the 2000-01 school year the right to continue in their new districts until they graduate from high school. It requires the funding for the maximum $2,000 per-student state grant to the receiving districts and the maximum $1,200 per-student transportation grant for these students to be paid from

the interdistrict cooperative grant program rather than the Open Choice Program. The interdistrict cooperative grants for these students are to be paid to the RESC operating the New London program.

RESC Funding

The act allows the State Department of Education (SDE) to provide planning grants in FY 2002-03 to help RESCs in the areas around the districts that choose to participate in the voluntary program plan to operate it. It requires SDE to provide an annual grant in an unspecified amount instead of $175,000 to RESCs in areas where the program is operating.

TEACHER SHORTAGE

Expanded Alternate Route To Certification Program (§§ 6 & 49)

The act requires the Department of Higher Education (DHE), within available appropriations and with the education commissioner's approval, to expand its summer and weekend and evening alternate route to certification (ARC) programs. DHE must use the additional weekend and evening program spaces for participants seeking certification in subject shortage areas identified by the education commissioner.

The act allocates $200,000 of DHE's budget appropriation for higher education and health initiatives for a grant to expand the summer ARC program. (PA 01-9, June Special Session, amends this act to allow DHE to use the money to expand any of its ARC programs, not just the summer one.)

The act also requires DHE to collaborate with SDE to develop (1) regional ARC programs targeted to subject shortage areas and (2) an ARC program for former teachers whose certificates have expired but who wish to return to teaching.

Cross-Endorsement Program (§ 7)

The act requires SDE, in cooperation with DHE, to establish, within available appropriations, (1) an accelerated cross-endorsement program in subject shortage areas identified by the education commissioner to allow certified teachers to add new endorsements to their certificates and (2) a program for formerly certified teachers to regain their certification.

MINORITY TEACHERS

Minority Teacher Incentive Program (§ 8)

The act expands the Minority Teacher Incentive Program to allow a student who enters a teacher preparation program in his senior year of college to receive grants for both that year and his first year of graduate school. Under prior law, a student who entered in his senior year could receive a grant only for one year, while students who entered as juniors could receive grants for two years.

The act continues to limit grants to two years and allows a student to receive a grant for graduate school only if he received a grant for one year as an undergraduate. The maximum grant is still $5,000 per year.

RESC Diversity Activities (§ 31)

The act requires RESCs to support (1) regional efforts to recruit and retain minority educators and (2) data collection on school district efforts to reduce racial, ethnic, and economic isolation.

SCHOOL READINESS PROGRAM

Program Grants (§ §12 & 13)

The act establishes a minimum grant of $150,000 for priority and former priority districts while maintaining the requirement that no such district receive a grant that is lower than its previous year's grant. It increases, from 10% to 50%, the percentage of a priority school district's grant SDE can reallocate to other priority districts if the district fails to submit a plan to spend its entire grant by January 1.

The act sets a $25,000 minimum on the amount of its state school readiness grant a town that does not contribute local funds to the program may use for early childhood education coordination, administration, and program evaluation. Under prior law, these towns could use up to 5% but no more than $50,000 of their grant for such purposes. The act allows them to use up to 5% or $25,000, whichever is greater. It retains the $50,000 maximum.

It allows towns, for the first three years in which they receive a school readiness grant, to use it, with the commissioner's approval, to prepare a facility or staff to operate a program. It also requires the commissioner to reduce grants for the first three years accordingly if he approves a program that operates for less than 180 days or 450 hours per year. Under prior law, authorization for these two provisions expired on June 30, 2001.

Quality Enhancement Grants (§ 16)

The act expands the ways school readiness and day care providers may spend supplemental quality enhancement grants available from the Department of Social Services (DSS) to include:

1. helping program directors and administrators get training,
2. providing health consultants and information on needed access to speech and language therapists,
3. training in how to prevent injury and illness, and
4. complying with national safety standards.

Program Goals and Standards (§§ 10 & 11)

The act expands the goals of the school readiness program to include improving coordination between school readiness programs and child-care services. It also allows the SDE to include pre-literacy development as part of its curriculum standards for school readiness programs.

Staff Professional Development (§ 14)

The act requires school readiness programs to have plans for incorporating appropriate pre-literacy practices and for teacher training in those practices. It also requires each program's plans for staff professional development to include training (1) in developing children's pre-literacy skills and (2) designed to assure respect for racial and ethnic diversity.

Regional School Readiness Councils (§§11 & 15)

The act allows a town that is a priority or former priority school district applying for a state school readiness grant to either convene a local school readiness council or establish a regional one, rather than only the former, and it requires the superintendent of schools and the town chief executive officer to consult with either a regional or local school readiness council, as appropriate, rather than only with a local council, in developing the grant spending plan.

EARLY READING SUCCESS PROGRAM

Priority District Professional Development in Reading (§ 18)

The act expands professional development requirements for elementary school personnel in priority districts.

Under prior law, by July 1, 2001, priority school districts had to develop and implement three-year plans to train school librarians, elementary school principals, and at least 70% of their K-3 teachers in reading instruction. By October 1, 2001, the act requires the districts to revise their plans to provide for school-based, in-service training in reading instruction over five years for all of the following elementary school personnel: librarians, principals, reading specialists, special education teachers, speech and language specialists, and K-3 classroom teachers. The plan must (1) use, rather than simply be consistent with, the school-based training model the state Early Reading Success Panel developed and (2) require the district to designate a new or existing employee as a school-based content specialist coordinator.

Early Reading Success Institute (§§ 17, 19 & 20)

The act requires the SDE's Early Reading Success Institute teacher training curriculum to incorporate the reading panel's findings on comprehensive reading instruction. The institute's curriculum must include:

1. instructional strategies adaptable to student needs;
2. early screening and ongoing assessments to determine which students need more help;
3. teaching oral language competencies, including awareness of sounds in spoken words (phonological awareness), vocabulary, listening comprehension, and grammar;
4. systematic teaching of how to identify written words, including instruction that emphasizes the correspondence between letters and spelling and word sounds (phonics) and the ability to break words down into individual sounds and blend sounds into a spoken word (phonemic awareness); and
5. teaching reading comprehension, including using context to determine meaning.

It requires SDE to:

1. oversee curriculum development for the Early Reading Success Institute,
2. establish qualifications for teacher training providers,
3. recommend how to align the State Board of Education's (SBE) reading competency standards for grades 1 through 3 with the reading panel's research,
4. specify the knowledge and skills a person needs to be certified as an elementary teacher or a reading specialist, and

5. examine curriculum module designs and teacher training implementation based on the reading panel's report.

The commissioner must report on these actions to the Education Committee by February 1, 2002.

The commissioner must also, within available appropriations, hire a contractor to independently evaluate teacher training in early reading success and the curriculum modules formulated by the reading panel and used in the institute.

Full-Day Kindergarten and Intensive Early Reading Programs In Priority Districts (§ 21)

The act requires priority districts seeking funding for full-day kindergarten programs under the early reading success grant program to include in their plans information on how the kindergarten and school readiness programs will be coordinated to provide information on a child's transition from preschool to kindergarten, including information on preschool records. Plans must already include information on coordinating before- and after-school care for children in the kindergarten programs.

It also requires the kindergarten programs to refer eligible children without health insurance to the state's HUSKY Program, which subsidizes health coverage for low-income children.

Finally, it requires priority district proposals for intensive early reading programs to incorporate the following findings of the reading panel:

1. skills required for early reading success,
2. critical indicators for teacher intervention, and
3. the components of a high-quality early reading curriculum.

District proposals must align performance indicators and teacher training with the reading panel's findings.

Remedial Reading Programs (§ 22)

The act requires each school in a priority district to provide a reading program for any 1st, 2nd, or 3rd graders whose reading is found to be substantially deficient and requires the program to incorporate the reading panel's findings. Under prior law, schools only had to notify the student's parents of the deficiency and establish a personal reading plan for him. The act requires the personal reading plans maintained for 3rd graders promoted to the 4th grade despite being substantially deficient in reading to incorporate the panel's findings.

Longitudinal Study of Early Reading Success Programs (§ 23)

The act delays by one year, from January 1, 2001 to January 1, 2002, the deadline for the commissioner's report to the Education Committee on a longitudinal study of children's educational progress during and after their participation in early reading programs funded by early reading success grants.

Teacher Education Program Study (§§ 6 & 25)

The act requires the education and higher education commissioners to provide, within available appropriations, for a study of colleges' and universities' teacher education programs on reading instruction. The commissioners must evaluate the programs and how they are implementing the reading panel's findings and report the results of the study and any recommended revisions in teacher preparation programs to the Education Committee by January 1, 2002. It eliminates a requirement that the Board of Governors of Higher Education continue a 1965 study and evaluation of teacher training programs.

CHARTER SCHOOLS

Renovation Grants (§ 28)

For FYs 2001-02 and 2002-03, the act requires the education commissioner to establish, within available appropriations and bond authorizations, grants to help state charter schools whose charters were renewed in the preceding fiscal year, to finance:

1. facility renovation, construction, purchase, extension, replacement, or major alteration;
2. (a) replacing windows, doors, boilers, and other heating and ventilation system components, internal communication systems, lockers, and ceilings, (b) upgrading restrooms, (c) replacing and upgrading lighting, and (d) installing security equipment; and
3. repaying debt from prior school building projects.

The maximum grant is $500,000 per school and schools may receive no more than one grant. A charter school governing authority must apply for grants when and how the education commissioner prescribes.

Per-Student Grant Reallocation (§ 27)

The state gives state charter schools an annual grant of $7,000 per student. In FYs 2001-02 and 2002-03, the act requires the education commissioner to determine,

by October 15, whether the number of students enrolled in state charter schools is fewer than the number for whom funds were appropriated. If so, instead of lapsing any excess funds, the act requires the commissioner to use the money for (1) interdistrict cooperative grants, (2) the Open Choice Program, or (3) interdistrict magnet school operating grants.

INTERDISTRICT MAGNET SCHOOL SUPPLEMENTAL GRANTS (§§ 48 & 53)

The act revises the allocation of the state supplemental grants for RESC-operated interdistrict magnet schools in the 2001-03 budget (SA 01-1, June Special Session (JSS)). It allocates (1) at least $600,000 for each magnet school opening in FY 2001-02 and initially enrolling more than 100 full-time-equivalent students, (2) at least $250,000 for each school that operated under a RESC's jurisdiction for the first time or expanded to a new location in FY 2000-01, and (3) an amount the education commissioner determines for the remaining schools operating in FY 2001-02.

SAFE LEARNING GRANT (§ 32)

The act requires the SDE to establish a competitive grant program, within available appropriations, to help school districts in:

1. developing safe school environments where children can learn without fear of physical or verbal harm or intimidation;
2. developing activities encouraging respect for each student;
3. reducing early youth aggression;
4. establishing student conflict and intervention policies and strategies;
5. eliminating student bullying;
6. extending safe environments to extra-curricular activities;
7. providing after-school programs that include (a) criteria for student participation, (b) leisure activities that help social and cognitive development, (c) safe environments, (d) staff trained and skilled in child development, (e) specific strategies and interventions for children with academic weaknesses to improve academic performance and reduce social promotion, (f) family involvement and assessment of transportation needs for families that use the programs, and (g) program evaluation; and
8. developing crisis and violence prevention polices and strategies to make schools safe.

Local school boards may apply for grants when and how the education commissioner prescribes.

The act allows SDE to accept private donations for the program's purposes as long as they do not limit the scope of the grants. Finally, it allows SDE to carry over unspent appropriations for the program to use in the next fiscal year for similar purposes.

PRIORITY SCHOOL DISTRICT GRANTS

Spending Cap Exemption (§ 33)

The act incorporates the priority school district parts of the school readiness, early reading success, summer school, and extended school hours grants into the priority district grant program, thus excluding those portions of the appropriations for these grants from the state spending cap. By law, current or increased expenditures for grants to distressed municipalities are exempt from the spending cap, provided the grants were in effect as of July 1, 1991. The priority school district grant program was first established as a pilot in 1984 and made permanent in 1987.

Grant Allocation (§ 46)

The act retains the existing grant distribution formulas for the individual grants and requires SDE to use the following amounts from its priority school district appropriation for the following:

Grant Program	***FY 2001-02***	***FY 2002-03***
School Readiness	$37,419,838	$37,426,317
Early Reading Success	18,319,897	18,328,147
Extended School Day	3,108,991	3,110,294
Priority District Summer School	2,700,000	2,700,000
Priority School District	20,725,625	20,057,500

Grant Phase-Out and Phase-In (§ 42)

By law, starting in FY 2001-02, when a district no longer qualifies as a priority school district, its priority district grant is phased out over three years at the rate of 25%, 50%, and 75%, respectively, of the difference between its final priority district grant and the transitional district grant. The act requires districts to receive a grant of at least $250,000 in each year of the phase-out.

It also delays by two years, from FY 2001-02 to FY 2003-04, the implementation of a required two-year phase-in of priority district grants for districts that qualify for them for the first time.

2001-03 Budget Changes (§ 45)

The act reduces the amount for priority school district grants appropriated in the 2001-03 budget (SA 01-1, JSS) by $1.62 million in each fiscal year. It increases the appropriation for early childhood programs by $10,500 and the appropriation for early reading success programs by $1.53 million in each year. It appropriates an additional $79,718 for FY 2001-02 and $79,751 for FY 2002-03 to SDE for the extended school hours and support programs.

TRANSITIONAL SCHOOL DISTRICT GRANTS (*§§* 43 & 47)

For FYs 2001-02 and 2002-03, the budget act (SA 01-1, JSS) requires the transitional school district grant appropriation to be divided equally among transitional school districts that receive less than $250,000 in additional ECS aid because of the ECS cap phase-out. This act expands the allocation to include former transitional districts receiving transitional district phase-out grants, if they also receive less than $250,000 in additional ECS aid because of the ECS cap phase-out.

The act also requires the SBE to distribute transitional school district grants within available appropriations, instead of requiring each eligible school district to always receive a flat $250,000 per year.

SCHOOL ACCOUNTABILITY

Grants for Schools in Need of Improvement (§ 37)

The act makes permanent the grants to local and regional boards of education with one or more schools on the most recent list of schools in need of improvement. It adds a requirement that plans for spending grant funds include actions that are necessary for the school to be accredited.

Lists of Schools and Improvement Plans (§ 36)

The act delays, from October 1, 2001 to February 1, 2003, the date by which the education commissioner must issue a new list of elementary and middle schools in need of improvement and requires the commissioner to issue subsequent lists every three, rather than every two, years thereafter. It also delays the date when superintendents of districts with schools on the new list must begin meeting with the education commissioner to discuss how to improve school performance from January 1, 2002 to April 1, 2003, and requires the meetings to be held every three, instead of every two, years thereafter.

The act requires schools to submit their improvement plans to the SDE as well as to the local or regional board of education. It requires the plans to include criteria for measuring progress and the SDE to provide comments to the local board on the plan before the board approves it.

EDUCATION TECHNOLOGY GRANTS (*§* 44)

The act increases minimum education technology grants for the 113 poorest towns from $10,000 to $30,000 each and for the 56 wealthiest towns from $10,000 to $15,000 each. As under prior law, vocational-technical schools receive $100,000, charter schools receive $50,000, and the SDE retains up to 1% to administer the program. Any remaining funds must be distributed based on enrollment among priority and transitional school districts and districts in the 85 poorest towns.

BASIC TECHNOLOGY GRANTS (*§* 52)

The act transfers $200,000 of the Department of Information Technology's budget appropriation for CT Technology Initiatives to SDE. SDE must use the money to establish a competitive grant program for local school boards in FY 2001-02 for basic technology programs to improve communications.

SCHOOL CONSTRUCTION

Kindergarten and Class Size Reduction Bonus (§ 24)

The act doubles the school construction reimbursement bonus, from an additional 5% to an additional 10%, for any part of an elementary school building project in a priority school or priority district to be used primarily for a full-day kindergarten program or to reduce K-3 class sizes to no more than 18 students. By law, to be eligible for the higher reimbursement, a school board must (1) include the project in its early reading success grant plan, (2) use the money for a particular full-day kindergarten or smaller class funded by the grant, and (3) show SDE that the building project is cost-efficient and the best choice for meeting the need for more space. The project must also meet all the regular school construction project requirements.

Grant Refund Exemption for Plainfield (§ 38)

By law, the state amortizes school construction grants for projects costing less than $2 million over 10 years and those for larger projects over 20 years. If, during the amortization period, a school district abandons or otherwise redirects the school project to a non-public-school use, it must refund the unamortized grant balance to the state. This act exempts Plainfield from the refund requirement even if it does not use Plainfield High School as a public school for at least 10 years after completing a code violation and heating, ventilation, and air conditioning (HVAC) project, as long as it uses the building for some other public use.

GRANT FOR HEALTH SERVICES TO PRIVATE SCHOOL CHILDREN (*§* 9)

By law, school districts must provide the same health services to students who attend private nonprofit schools in their towns as they do to public school students, if a majority of the students at the private school are Connecticut residents. The state reimburses towns for between 10% and 90% of the cost of these services, depending on wealth. Districts where children on welfare are more than 1% of total population get a minimum 80% reimbursement. For FYs 2001-02 and 2002-03, for purposes of determining eligibility for the 80% reimbursement, this act freezes the count of children on welfare at the number on Temporary Family Assistance for FY 1996-97.

INFORMATION TECHNOLOGY LOAN REIMBURSEMENT PROGRAM (*§* 40)

The act restricts the state's pilot High Technology Student Loan Reimbursement Program to those who meet eligibility requirements for the pilot Information Technology Scholarship Program; that is, those who enrolled in an information technology-related degree or certificate program at a Connecticut public or private higher education institution during FY 2000-01. It also allows the DHE to establish additional eligibility requirements.

It allows students to receive student loan reimbursements if they are employed (1) by any state company, not just an electronic commerce or information-technology-intensive company registered or otherwise qualified by the Department of Economic and Community Development (DECD) and (2) in any information-technology-related job, not just an information-technology-intensive occupation as verified by the DECD commissioner and identified in the Connecticut Employment and Training Commission's strategic plan. Under the act, students must be so employed only at the time they apply for reimbursements, not when they made the loan payments for which they are requesting reimbursement. The act also allows reimbursements for any qualifying student loan, not just those made in the previous tax year.

The act requires that a person receiving the reimbursement have majored and received a degree or terminal certificate in an information-technology-related field from any college or university in this state instead of anywhere. It retains the requirement that the person also be newly employed in the state on or after January 1, 2001.

HARTFORD BOARD OF EDUCATION TRAINING (*§* 34)

The act requires all money the 2001-03 budget act (SA 01-1, June Special Session) appropriates for Supplemental Education Aid for Hartford and Waterbury, as well as all ECS grant increases towns receive for FYs 2001-02 and 2002-03, to be used for education. But Hartford must use up to $100,000 of the amount it receives to contract for training in the duties of board of education members. Half of the $100,000 must be carried over and spent in FY 2002-03. (PA 01-9 JSS eliminates the provision concerning use of ECS grant increases, which is already existing law.)

YMCA DAY CARE PROGRAMS (*§* 35)

The act requires unaccredited YMCA day care programs that receive DSS facility expansion grants for FY 2001-02 to develop plans to become accredited. Programs with a preschool component must plan to be accredited by the National Association for the Education of Young Children; programs with no preschool component must plan to be accredited by an organization the DSS commissioner approves. Programs must report their accreditation status to DSS by June 30, 2002.

FUNDING FOR WATERBURY TECHNICAL TRAINING PROGRAM (*§* 51)

For FYs 2001-02 and 2002-03, the act exempts WACE Technical Training Center in Waterbury from adult education grant requirements and allows it to spend up to $300,000 of the money it receives from the grant for technical training.

TEACHERS' RETIREMENT SYSTEM COST ESTIMATE (§ 41)

Starting in 2002, the act establishes December 1 as the deadline for the Teachers' Retirement Board's actuary to complete his biennial determination of the retirement system's current service and unfunded accrued liability.

YOUTH SERVICE BUREAU FUNDING TRANSFER (§ 53)

The act repeals a provision of the 1999 budget act that transferred $30,000 from SDE's appropriation for adult education and $50,000 from its appropriation for family resource centers to its youth service bureau appropriation.

SPECAL EDUCATION GRANT PAYMENT SCHEDULE (§ 39)

The act changes the schedule for state grants to school districts for special education costs for children placed by state agencies or residing on state property and any special education costs that exceed a district's maximum contribution. It delays the filing deadline for districts to submit claims for additional children not included in their initial December 1 filing with SDE from February 1 to March 1. It also requires the state to pay the final 25% of the costs in May rather than April. These changes conform to changes enacted in PA 01-173.

PA 01-2, June Special Session—HB 7503
Emergency Certification

AN ACT CONCERNING THE EXPENDITURES OF THE DEPARTMENT OF SOCIAL SERVICES

SUMMARY: This act implements the Department of Social Services (DSS) budget for the biennium beginning July 1, 2001 and ending June 30, 2003.

The act:

1. increases the Connecticut Pharmaceutical Contract to the Elderly and Disabled (ConnPACE) program's income limits;
2. revises the state's system of care for providing behavioral health services to children, renames it Connecticut Community KidCare, and makes related changes;
3. (a) limits to three the number of six-month extensions most Temporary Family Assistance (TFA) families can have; (b) caps benefits for all time-limited families at 60 months, with one exception; (c) increases penalties for noncompliance with the program's work requirements; (d) creates a transportation program to take recipients to jobs in eastern Connecticut; and (e) makes other related changes;
4. prohibits legal immigrants from applying for certain cash assistance benefits as of July 2, 2001 and for the state-funded food stamp program after June 30, 2002 (but PA 01-9, June Special Session delays the July 2 cut-off date for cash assistance and keeps these and other programs for immigrants open for new applicants through June 30, 2002);
5. continues to freeze benefit levels in the TFA, Aid to Families with Dependent Children (AFDC) (small control group), State-Administered General Assistance (SAGA), general assistance (GA), and State Supplement programs from July 1, 2001 through June 30, 2003; and
6. tightens asset transfer rules for Medicaid eligibility for long-term care and limits the probate courts' authority to make exceptions to these rules.

The act also provides Medicaid coverage for women diagnosed with breast or cervical cancer under an existing national screening program. It requires several state agencies to collaborate in preparing a plan for the state to purchase employer-sponsored health insurance for lower-income adults and children. But it eliminates coverage for nonemergency medical transportation under the SAGA and GA programs.

The act makes a number of changes concerning nursing homes, such as (1) increasing rates, (2) giving the DSS commissioner an option to provide future rate relief to enhance staffing, and (3) extending the moratorium on new nursing home beds to 2007. It also expands assisted living demonstration programs in federally funded senior housing and extends a Connecticut Home Care Program for Elders (CHCPE) pilot.

The act adjusts Medicaid rates for a number of other health care institutions, such as chronic disease hospitals and residential care homes. It allows DSS to use a primary care case management model for delivering medical benefits and subjects managed care organizations participating in the state's Medicaid managed care program to new accountability measures. It allows Medicaid to pay for used durable medical equipment and expands locations where a dental hygienist can work without a dentist's supervision.

The act transfers administration of opportunities industrialization center (OIC) grants and individual performance contracts from DSS to the Department of Labor (DOL), and makes changes in the Security Deposit Guarantee Program.

The act makes a number of changes concerning permanency planning and residential facility placements for children in Department of Children and Families (DCF) custody, background checks for certain child care facilities, and child support enforcement orders. It also creates a parent trust fund to benefit children by encouraging their parents' community involvement.

Finally, the act makes a number of minor and technical changes concerning various health and welfare programs.

EFFECTIVE DATE: Upon passage, except (1) the provisions concerning ConnPACE expansion, KidCare revisions and changes related to advisory committees, Medicaid long-term care eligibility and limitations on probate court powers, nursing home rate increases and other changes affecting nursing homes, rates for chronic disease hospitals with a high proportion of long-term ventilator patients, residential care home rates, the rate increase for group homes, TFA work requirements for minor parents, primary care case management, dental hygienists, exit interviews for people leaving TFA, TFA treatment of income rules, child placements in residential facilities, child support enforcement orders, the transfer of OIC grants and individual performance contracts from DSS to DOL, town GA program audits, the CHCPE pilot, assisted living, cost-of-living freezes in public assistance programs, SAGA and GA nonemergency medical transportation coverage, and interpreters for the deaf are effective July 1, 2001 and (2) provisions concerning the 60-month TFA benefit limit and extension limits, penalties for noncompliance with TFA work requirements, TFA child support disregards and diversion assistance, nursing home staffing level enhancements, Medicaid managed care dental and behavioral health subcontractors, the Security Deposit Guarantee Program, DCF background checks, the Parent Trust Fund, and DCF permanency planning are effective October 1, 2001. (A few of these were later changed by PA 01-9, June Special Session.)

health care

ConnPACE Expansion (§ 22, effective July 1, 2001)

The act increases the income limits in the ConnPACE program from the current $15,100 and $18,100 for single and married applicants, respectively, to $20,000 and $27,100, beginning April 1, 2002. But if DSS receives a federal waiver for federal financial participation, the act requires these limits to rise to $25,800 and $34,800, respectively, effective July 1, 2002. It permits the DSS commissioner to accept applications from people who will qualify under the April 1 limits beginning January 1, 2002. The law, which the act does not change, requires the DSS commissioner to adjust the income limits each year by inflationary increases in the Social Security program.

Medicaid Long-Term Care Eligibility

PROBATE COURT POWER REGARDING MEDICAID ELIGIBILITY (§§ 5-6, EFFECTIVE JULY 1, 2001). THE ACT MAKES DSS THE SOLE AGENCY TO DETERMINE ELIGIBILITY FOR ASSISTANCE AND SERVICES UNDER ANY DSS-ADMINISTERED PROGRAMS AND LIMITS THE PROBATE COURT'S POWERS IN SEVERAL WAYS.

It requires (1) anyone filing a probate court application for spousal support in a conservatorship proceeding to certify to the court that he has sent the DSS commissioner a copy of the application and accompanying attachments by regular mail and (2) the court to notify the commissioner at least 15 business days before the hearing. The act gives the commissioner or her designee the right to appear and to present the commissioner's position in person or in writing. The court's final order must be sent to the commissioner within seven business days.

The act further prohibits any probate court from approving a spousal support order for a community spouse unless (1) it provides notice as required above and (2) the order is consistent with state and federal law. The "community spouse" is the one who remains at home when the other spouse enters a nursing home (CHCPE) and applies for Medicaid.

Prior law gave probate judges limited authority to approve a conservator's application to award community spouses income or property exceeding the value that DSS had determined was allowable under Medicaid program rules. They could do this when the spouse needed more income or property to (1) avoid significant financial duress or (2) generate income.

The act eliminates the court's authority to award more property than DSS allows. It also makes avoiding financial duress the only circumstance under which a support order can exceed DSS' allowable income limit.

Medicaid available assets (§ 3, effective July 1, 2001). The act specifies that, for purposes of determining Medicaid eligibility (as, for example, when someone applies for Medicaid coverage of nursing home, home care, or other long-term care services), an "available asset" is one that (1) is actually available to

the applicant or (2) the applicant has the legal right, authority, or power to obtain or to have applied for his general or medical support. Under the act, if a trust's terms provide for an applicant's support, a trustee's refusal to distribute trust funds does not make the trust's assets unavailable. But if the applicant or his spouse wholly or partially funds the trust or similar instrument, the act requires the funds' availability to be determined according to federal law (42 U.S.C. § 1396p). The act exempts special needs trusts that parents set up for mentally retarded or disabled children from these provisions.

The act also limits allowable asset transfers in exchange for other valuable consideration to those where the consideration received is at least as valuable as the transferred asset. (DSS regulations do not assign a value to "other valuable consideration.")

Under federal and state Medicaid law, there is already a three-year "look back" period for most kinds of asset transfers, and five years for trust transfers. When a nursing home resident applies for Medicaid, DSS looks back from the application date and, if the person has transferred assets for less than their fair market value, delays coverage using a formula that takes into account the asset's uncompensated value and the average cost of nursing home care. The laws allow some transfers within the look back period, such as those for other valuable consideration.

Penalties for illegal transfers of assets (§ 4, effective July 1, 2001). The act requires the DSS commissioner to seek a waiver of federal Medicaid law, in accordance with the state law governing legislative oversight of such waivers. The waiver must require the penalty period for illegal asset transfers to start when a nursing home resident is otherwise approved for Medicaid rather than when she makes the transfer. By law, DSS must submit a copy of any waiver request to the Appropriations and Human Services committees before submitting it to the federal government.

Under the existing rule, some nursing home residents can avoid the transfer penalty by delaying their Medicaid applications until the penalty period has expired. The change applies only to transfers made after the waiver becomes effective.

Breast and Cervical Cancer Treatment Program (§ 7, effective upon passage)

The act requires the DSS commissioner to provide Medicaid coverage to certain women diagnosed with breast or cervical cancer and to seek a waiver to get federal money. To be eligible, the women must have been screened under the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program and need treatment, including treatment for related precancerous conditions (see BACKGROUND). Prior law allowed, but did not require, the commissioner to seek a federal waiver or amend the state Medicaid plan to gain federal reimbursement for treating these women.

To qualify for Medicaid under this special program, a woman (1) must be under age 65, a Connecticut resident, and a U.S. citizen or qualified alien and (2) cannot have other insurance that covers the treatment or be eligible under any mandatory Medicaid eligibility group. The act requires Medicaid coverage for this specific group of women regardless of their available income and assets. (Other Medicaid applicants must meet various income and asset limits.)

The act requires the DSS commissioner to grant eligible women assistance for up to three months before the month in which they applied if they were otherwise eligible during that time. They remain eligible until treatment is finished or they no longer meet the eligibility criteria specified above. The act also requires the commissioner to establish procedures for granting presumptive eligibility to ensure applicants' prompt access to services.

The act requires the commissioner to implement policies and procedures needed to carry out its provisions while she is still in the process of adopting them as regulations. She must publish a notice of intent to adopt the regulations in the *Connecticut Law Journal* within 20 days of implementing the policies and procedures. By law, she must also publish a notice of the proposed regulations at least 30 days before adopting them. The act makes the provisional policies and procedures valid until the final regulations take effect.

Employer-Sponsored Health Insurance (§ 26, effective upon passage)

The act requires DSS, in collaboration with the offices of Health Care Access and Policy and Management (OPM), to prepare a plan for purchasing employer-sponsored health insurance for adults or children. The plan must be submitted to the Human Services, Public Health, Insurance, and Appropriations committees by March 1, 2002.

The plan may include recommending such things as (1) a sliding scale of co-premium subsidies for employees, their spouses, or children with family incomes up to 300% of the federal poverty level; (2) minimum benefit standards for participating employer-sponsored health plans; (3) the fiscal impact on state spending, including anticipated reductions in other health-related expenditures; (4) maximizing federal

State Children's Health Insurance Program allocations and Medicaid reimbursement; (5) a review of the potential for appropriate co-premium subsidies during unemployment periods; (6) strategies to address the service "wraparound" for eligible recipients (this presumably means how the state would fill in coverage gaps); (7) infrastructure and resource requirements for implementing the program; (8) assessing the impact of applying the co-premium subsidy plan to HUSKY enrollees; and (9) a timeline to ensure the program starts by January 1, 2003.

Nursing Homes

Staffing Levels (§§ 1-2, effective October 1, 2001). For FYs 2002-03 and 2003-04, the act allows the DSS commissioner, within available appropriations, to provide rate relief to enhance staffing in nursing homes. The act requires that priority for such available funding be given to those facilities whose staffing ratios fall below the following levels:

1. for the first year, two daily hours of care per patient from nurse's aides, ¾ hour from registered and licensed nurses, and 2 ¾ hours total care and
2. for the second year, two daily hours of care per patient from nurse's aides, one hour from registered and licensed nurses, and three hours total care.

These are, respectively, the minimum and preferred staffing levels suggested by phase 1 of a study sponsored by the U.S. Department of Health and Human Services.

The act covers both chronic and convalescent nursing homes (CCNHs), which provide skilled nursing care, and rest homes with nursing supervision (RHNSs), which provide intermediate care. By law, CCNH and RHNS minimum staffing requirements are set by state regulation. The number of nurse and nurse's aide staff required under the regulations depends on whether the nursing home is a CCNH or an RHNS. Most of the nursing home beds in the state are in CCNHs. The regulations permit RHNSs to provide fewer nurse-to-resident hours than CCNHs (see BACKGROUND).

Rates (§ 52, effective upon passage). The act changes for the next two years the way Medicaid rates for nursing homes are adjusted for inflation, and eliminates the adjustment thereafter. It increases the rates by 2.5% in FY 2001-02, and by 2% in FY 2002-03. Under prior law, the rates for FY 2001-02 and every succeeding year were to be inflated by as much as the Consumer Price Index increase.

The act requires DSS to add fair rent increases to any other increases that she establishes for nursing homes that have undergone a material change in circumstances related to fair rent. Under prior law, the commissioner could exclude fair rent from a home's overall rate increase maximum.

The daily Medicaid rate DSS pays nursing homes factors in a number of cost components. One such component is the fair rent allowance, which is really the home's costs associated with renting or owning the property, except the land costs. DSS calculates this allowance to yield a constant amount each year in lieu of interest and depreciation on the property. It does this by amortizing the base value of the property over its remaining useful life and applying a rate of return (ROR) on the base value. State law limits the ROR to 11%. Nonprofit homes receive the lower of the fair rent allowance or actual interest and depreciation.

Certificates of Need (CONs)—Moratorium (§ 53, effective July 1, 2001). The act extends the CON moratorium on new nursing home beds from June 30, 2002 to June 30, 2007. By law, there are certain exceptions to the moratorium, including one that allows DSS to grant CONs when beds are being relocated from one facility to another and certain other conditions are met, such as ensuring that there will be no adverse effect on the availability of beds in an area of need.

CONs—Bed Conversions—RHNS to CCNH (§ 54, effective July 1, 2001). For the period between July 1, 2001 and June 30, 2007, the act permits RHNS nursing home beds that are under common ownership with CCNH (higher level of care) beds in the same or immediately adjacent buildings to be converted to CCNH beds, in accordance with the CON requirements. The conversions cannot cost the state more than 12% of the amount it previously paid to the home for both care levels. Conversions of RHNS beds in freestanding facilities and beds that are transferred to another licensed and certified nursing home are allowed during this period subject to the CON law's limitations, and are not subject to this limit; nor are conversions for which homes have applied for CONs on or before May 1, 2001.

The act requires the DSS commissioner to adopt regulations by December 31, 2001 to implement these provisions.

CONs—Determining Need (§ 63, effective July 1, 2001). By law, nursing home beds associated with continuing care retirement communities (CCRCs) are not subject to the moratorium. The DSS commissioner must determine, among other things, whether there is a clear public need for the new beds. The act requires the commissioner, in making determinations of public need, to consider only the need for beds for current and prospective residents of the CCRC.

Under prior law, the commissioner could not grant requests for additional nursing home beds unless there was a demonstrated need in the towns within 20 miles of the town where the beds were to be located. Under the act, the DSS commissioner, when considering whether there is a clear public need to relocate these beds, must consider whether there is a need within a 15-mile radius of the town where the beds will be located. The act makes no provision for the commissioner to look at bed need in the area when the beds are new.

Under prior law, bed need had to be projected no more than five years into the future at 97.5% occupancy using the latest official population projections by town and age, as published by OPM and the latest available Department of Public Health (DPH) nursing home utilization statistics by age cohort. The act requires bed need to be based on the recent occupancy percentage of area nursing facilities as well as projected bed need, as described above. It requires that the utilization rate statistics be statewide. And it allows the DSS commissioner to also consider area-specific utilization and reductions in utilization rates to account for the increased use of less-institutional alternatives (e.g., home care).

Nursing Home Bed Holds (§§ 64-65, effective July 1, 2001). The act modifies the circumstances under which a nursing home must hold the bed of a Medicaid resident who goes to the hospital or on home leave.

Prior law required a nursing home to hold a Medicaid resident's bed for at least 15 days if the resident was hospitalized, unless the home documented that it had objective information from the hospital that the resident would not return to the home at the same level of care within that 15 days. Under prior law, Medicaid paid for the bed for up to seven days if the home documented that it (1) had no more than three vacant beds or 3% of its beds vacant, whichever was greater, at the resident's level of care and (2) contacted the hospital and had no information that the person would not return to the same care level within 15 days. If these same conditions existed on the seventh day, Medicaid paid for another eight days. In addition, Medicaid paid for up to 21 home leave days if the home had a vacancy rate of not more than four beds or 4% at the resident's level.

The act removes the requirements that (1) the resident must be expected to return to the same level of care in order for the home to be required to hold the bed and (2) vacancy rates must be calculated based on beds available at the same level of care that the resident was at when he left. It also makes a number of conforming changes.

Other Rate Increases

Freestanding Chronic Disease and Psychiatric Hospital Rates (§ 11, effective upon passage). The act changes for the next two years how the Medicaid rate paid to such hospitals is adjusted for inflation and eliminates this increase in subsequent years. For the rate year beginning July 1, 2001, the act increases by 2.5% the Medicaid rate for freestanding chronic disease and psychiatric hospitals. For the following rate year, the increase is 2%. For the rate year 2000-01, rates increased by 3%.

The act removes a provision that requires rates to be increased each year, beginning with rate year 2001-02, based on the Medicare market basket of goods, with the wage portion adjusted for the Hartford area. By law, DSS sets these rates, which generally must be based on the lower of the facility's reasonable costs or the lowest charge to the general public for semi-private services, unless the commissioner determines a greater amount is required because a facility treats a disproportionately high number of indigent patients.

Rates for Chronic Disease Hospitals Caring for Ventilator-Dependent Patients (§ 66, effective July 1, 2001). Regardless of the act's provisions related to Medicaid rates for chronic disease hospitals, the act increases the Medicaid reimbursement for chronic disease hospitals that serve a high proportion of long-term ventilator patients. It requires DSS to pay these hospitals the rate it pays the highest paid hospital, rather than the rate it would normally pay (cost-based). This provision applies to all chronic disease hospitals that had more than an average of 15% of their FY 2000-01 inpatient days paid by DSS. The act defines a long-term ventilator patient as any patient at one of these hospitals on a ventilator for at least 60 days in any consecutive 12-month period. (But PA 01-9, June Special Session instead allows DSS to pay these hospitals up to an additional $300,000 per year on top of their daily rate.)

Residential Care Home (RCH) Rate Relief (§ 38, effective July 1, 2001). The act increases state financial support to RCHs through adjustments in their State Supplement Program (SSP) rates. For the rate year beginning on July 1, 2001, it increases the allowable base salary for administrators in homes with 60 or fewer beds from $30,000 to $37,000. By law, these base salaries are adjusted each year for inflation. It requires DSS to base rates on this higher salary, even if the RCH did not spend this money in the 2000 cost report period, upon which the 2001-02 rate is based.

It also increases the inflation adjustment by 1% for the RCH's dietary, laundry, housekeeping, and related wage costs, beginning with the rate year 2001-02 (see BACKGROUND).

Rates for Intermediate Care Facilities for People with Mental Retardation (ICF-MR) (§ 62, effective July 1, 2001). For FY 2001-02, the act requires DSS to increase the inflation adjustment for ICF-MR (private group homes) rates to update allowable FY 2000-01 costs to include a 3.5% inflation factor. In the following year, the inflation factor is 1.5%.

Managed Care

Primary Care Case Management (PCCM) (§ 20, effective July 1, 2001). The act authorizes the DSS commissioner to implement a mandatory program of PCCM to provide medical assistance to State Administered General Assistance and General Assistance (Norwich only) recipients. It permits the commissioner to enter into contracts for medical services and program management to implement the program. PCCM is generally recognized as a system of health care in which an assigned primary care provider coordinates the health care services for beneficiaries and is paid an additional fee for providing this service.

Medicaid Managed Care—Dental and Behavioral Health Subcontractors' Accountability (§ 23, effective October 1, 2001). The act assigns managed care organizations (MCOs) that enter into Medicaid managed care contracts on or after October 1, 2001 to serve children in the HUSKY program (either Part A or B) primary responsibility for ensuring that their behavioral health and dental subcontractors adhere to the contract between DSS and the MCO, including providing timely payments to providers and interest payments. It requires each MCO to submit to DSS a claims aging inventory report that includes data on all services paid by the subcontractors, in accordance with the terms of the MCO's contract with DSS.

The act requires DSS, either at the initial contract or during a renewal, to require that the MCO "impose" a performance bond, letter of credit, statement of financial reserves, or payment withhold requirements for these subcontractors. The amount of any such guarantee that DSS requires under a contract with the MCO must be sufficient to assure the settlement of provider claims in the event the contract between the MCO and the subcontractor is terminated.

The act also requires the MCO, at these junctures, to negotiate and enter into a contract termination agreement with these subcontractors. The agreement must include, at a minimum, provisions concerning financial responsibility for the final settlement of provider claims and data reporting to DSS. The MCO must submit reports to DSS, at times DSS determines, concerning payments made from performance bonds or payment withholds, the timeliness of claim payments to providers, and the payment of interest to them.

The act requires MCOs to submit a plan for resolving any outstanding claims submitted by providers to a previous behavioral health or dental subcontractor before DSS will approve a contract between the MCO and a subcontractor. The plan must comply with the terms of the contract between DSS and the MCO and must include a claims aging inventory report.

SAGA and GA Nonemergency Medical Transportation (§§ 59–60, effective July 1, 2001, changed to August 1, 2001 by PA 01-9, June Special Session)

The act ends coverage for nonemergency medical transportation under the State-Administered General Assistance (SAGA) and town general assistance (GA) medical programs. Norwich is the only town that still administers its own town general assistance program. It also ends GA coverage for eyeglasses (but PA 01-9, June Special Session restores it).

Assisted Living (§§ 36-37, effective July 1, 2001)

The act doubles, from two to four, the number of federally funded elderly housing developments where the economic and community development commissioner can establish assisted living demonstration programs. For the program, it allows multiple properties with overlapping board membership or ownership to be considered as a single applicant.

Under prior law, the commissioner had to establish such programs in two federally funded elderly housing developments, one in Section 202 housing and the other in Section 236 housing. The act instead allows the commissioner to establish the programs in up to four such developments and leaves to his discretion the number that must be Section 202 or 236. (The Section 202 program provides low-interest federal loans for elderly and handicapped elderly housing construction. Section 236 provides rental and cooperative housing subsidies and mortgage insurance on rental units for lower-income families.)

The act also removes a deadline that previously allowed the assisted living demonstration project in state-funded affordable housing to accept applications from developers only until June 8, 2001. (The program allows up to 300 subsidized dwelling units in five locations in the state. Originally, five developers were approved, but one has since withdrawn. The Department of Economic and Community Development will issue a new request for proposals.) (See BACKGROUND.)

Connecticut Home Care Program for Elders (CHCPE)—Pilot for People with Excess Income (§ 31, effective July 1, 2001)

Previously, the CHCPE pilot had to sunset by the earlier of the start of Medicaid coverage for these individuals or July 1, 2001. The act eliminates any reference to a date, thus continuing the pilot until Medicaid coverage is available. (This program is for up to 10 people whose monthly income exceeds the home care program limits by up to $100.)

USED DURABLE MEDICAL EQUIPMENT (§ 8, EFFECTIVE UPON PASSAGE)

The act requires the DSS commissioner to seek a federal waiver to cover used, instead of only new, durable medical equipment under the Medicaid program. This equipment includes items such as wheelchairs, hospital beds, walkers, crutches, or canes.

Dental Hygienists (§ 21, effective July 1, 2001)

The law allows a dental hygienist with at least two years' experience to work without a dentist's supervision in public health facilities. The act expands the definition of "public health facilities" to include a preschool operated by a local board of education or a Head Start program, in addition to community health centers, group homes, and schools, which were already covered.

Medicare Part B Premium Payments (§ 9, effective upon passage)

The act requires DSS, for FY 2001-02, to pay the Medicare Part B premiums for people eligible for both Medicaid and Medicare from funds deposited in a nonlapsing account created for this purpose. The account will contain revenue received from the U.S. Department of Health and Human Services for the portion designated for such premiums. It further requires DSS to continue such payments until it contracts with the federal government to administer the Medicare Part B Buy-in Program. (PA 01-9, June Special Session modified these provisions to include any applicable buy-in cost instead of only Medicare Part B premiums.)

Repeals Concerning Hospital Disproportionate Share Payments (§ 67, effective upon passage)

The act repeals a section of statute dealing with children's general hospitals and disproportionate share settlements and adjustments and a section detailing how the DSS commissioner must apply hospitals' tax liability to calculate hospital disproportionate share payments. (But PA 01-9, June Special Session (§ 130) reinstates these provisions.)

KidCare (§§ 42-51, effective July 1, 2001)

Connecticut Community KidCare Principles

The act requires KidCare to provide a comprehensive benefit package of behavioral health specialty services. It must do this within available funds. KidCare services must be integrated with the primary behavioral health services the HUSKY Plan must continue to provide. The act permits HUSKY to provide additional behavioral health services at DSS' discretion.

The act requires KidCare to include:

1. a comprehensive program with a flexible package of benefits that includes clinically necessary and appropriate home- and community-based treatment and comprehensive support services in the least restrictive setting;
2. integrated agency funding to support the benefit package;
3. a system of care model that (a) bases service planning on the needs of the client and his family and (b) emphasizes early identification, prevention, and treatment;
4. community-based planning and service delivery;
5. services and supports that link children from birth through early childhood to the "early childhood community" and that promote emotional wellness;
6. a focus on the legal rights of clients and their families and provision of training, support, and family advocacy services;
7. assurances that no child or youth (16-, 17-, and 18-year olds) will be disenrolled or inappropriately discharged due to his or her behavioral health care needs;
8. identification of seriously emotionally disturbed youths who need education, employment, housing, and community living services to transition into adulthood;
9. comprehensive training in children and youth behavioral health for agency and system staff and interested parents and guardians;
10. an efficient balance of local participation and statewide administration;

11. accountability for quality, access, and cost and a system to measure performance on quality and access issues;
12. assurances of timely claims payment; and
13. elimination of the major gaps in services and the barriers to accessing services.

Eligibility for KidCare Services

The act modifies the behavioral health criteria that a child or youth must meet to be eligible for KidCare services, potentially enlarging the pool of participants. Under prior law, a child or youth had to (1) be "seriously emotionally disturbed," (2) meet clinical and functional criteria the DCF and DSS commissioners set; and (3) be eligible to receive HUSKY A, B, or Plus behavioral health services or DCF voluntary services. A child is seriously emotionally disturbed if he (1) has a diagnosable mental, behavioral, or emotional disorder according to a standard psychiatric manual (called the DSM) and (2) exhibits behaviors that are not a temporary response to stress and that substantially interfere with his ability to function in the home, school, or community.

The act expands eligibility to children in DCF custody but limits it for HUSKY B-eligible children to those whose families have incomes at or below 300% of the federal poverty level (the federally subsidized portion of HUSKY B). The act opens participation to children with "behavioral health needs," not just those with serious emotional disturbance. These are children with a mental disorder that is defined in the DSM, but who are not necessarily functionally impaired. Services provided through community collaboratives (see below) are limited to children with "complex behavioral service needs," that is, those who need specialized, coordinated services.

It also extends eligibility by redefining the term "youth" to include 18-year-olds. This conforms to HUSKY age eligibility. This change also applies to DCF's voluntary services program, its child guidance clinic and extended day treatment grant programs, the rights of youths placed or treated under DCF direction, the development and review of treatment plans for youths under DCF supervision and their right to appeal those plans, and to the jurisdiction of DCF's Unified School District #2.

State Administration

As with the current system, DCF and DSS jointly administer KidCare. Prior law required the commissioners, by October 1, 2000, to develop a memorandum of understanding (MOU) covering system administration, fiscal and program guidelines, and outcome measures and evaluation. It allowed them to begin a pilot project in July 2000 to implement the effort.

The act requires the commissioners, within available appropriations, either to provide or arrange for the administrative services necessary to operate the KidCare system. It eliminates the requirement that the MOU include combined agency funding, and it specifies that DSS is responsible for administering the HUSKY B portion of the program. It adds a requirement for these agencies to assure that care and funding is coordinated among all responsible state agencies and that federal reimbursement and revenue is maximized. It adds the education and public health commissioners to those with whom DSS and DCF must consult to accomplish these ends. The Mental Health and Addiction Services (DMHAS) and Mental Retardation departments are already included.

The act permits the DSS commissioner to amend the state Medicaid plan to make it easier to claim reimbursement for services rendered at "private nonmedical institutions." These are places like residential treatment facilities for children that, while not HMOs or health care centers, provide medical care through contracts with providers and receive capitation payments for their Medicaid-eligible residents. The act allows the commissioner to implement policies and procedures to provide reimbursement for these facilities' services while she adopts implementing regulations. She must publish notice of her intent to adopt the regulations within 20 days of implementing the policies and procedures, which remain valid until the regulations are adopted.

It also allows the DSS and DCF commissioners to apply for amendments to federal waivers in addition to the waivers themselves, for which they can already apply.

Local and Regional Administration

Under prior law, a family with a child whose mental illness or serious emotional disturbance required treatment in a placement outside his home or put him at risk of such a placement could convene a "child-specific" team of family, friends, professionals, and others to implement a system of care plan for the child. The team designated a coordinator to make decisions to implement this plan. Services were provided through community-based "local systems of care." Regional case review committees determined the children at placement risk, helped families form teams, and developed individual plans if the team could not. A state-level coordinated care committee consulted with

the DCF commissioner to make findings and recommendations for programs for at-risk children.

The act retains child-specific teams, but revises their nature, replaces local systems of care with "community collaboratives," creates regional "lead service agencies" to manage care, and eliminates the case review and coordinated care committees.

Child-Specific Teams. The act broadens the type of children and youth for whom teams can be developed to those with complex behavioral health service needs. These are individuals who need specialized, coordinated behavioral health services, but who are not necessarily placed or at risk of being placed out of their homes. The act specifies that it should not be construed as an entitlement to particular services for anyone with a diagnosable mental disorder who is not otherwise eligible to receive services from the state or under any other law. This proscription currently applies to those at placement risk.

Under the act, the community collaborative (see below) forms the team with the family's consent. It does this as part of its service coordination function.

The team apparently develops an individual service plan for the child or youth. Under prior law, the DCF commissioner was responsible for this. The act lists the following elements that a plan can include:

1. an individual needs assessment,
2. identification of services currently being provided and those needed,
3. identification of opportunities for parents and emancipated minors to participate,
4. a reintegration plan when out-of-home placement is made or recommended;
5. criteria for evaluating the plan's effectiveness and appropriateness, and
6. ways to coordinate this plan with any educational services the child or youth receives.

The parents, guardian, youth, or emancipated minor must approve the plan in writing. The act requires the plan to be reviewed (1) at least every six months or (2) when the parent makes a reasonable request for a review due to changed circumstances.

Family Involvement. The act specifies that the teams must provide the family with a chance to participate in all aspects of assessment, planning, and implementation of services. It requires the team coordinator (if the parent or guardian, the youth, or the child, if he is emancipated, agree) to (1) compile all assessments and evaluations completed before the service plan is prepared that identify the child's or youth's service needs and (2) make referrals to community agencies and resources according to the plan. These parties must also consent to the care coordinator's plan implementation decisions. Under prior law, the entire team had to consent.

The law allows the DCF commissioner to adopt regulations to implement these provisions. The act requires her to consult with the DSS commissioner in doing so.

Community Collaboratives. The act replaces the existing local systems of care with community collaboratives, sets membership requirements for them, and establishes a process for their formation. The collaboratives continue to perform the same functions as the local systems of care. They (1) assess local service needs, (2) establish performance measures, (3) specify the number of people requiring services, (4) identify the number of people who are receiving community-based and residential services by type and frequency, (5) review discharge summaries, and (6) evaluate themselves annually.

In addition to these functions, the act requires each collaborative to (1) participate in DCF regional advisory councils, (2) provide outreach to community resources and public education and support, (3) coordinate behavioral health services by forming child-specific teams, (4) conduct community assessments to identify service gaps and barriers, and (5) identify priority areas for state and lead service agency (see below) investments.

The act requires each collaborative to contain, at a minimum, representatives from school boards, special education programs, town governments, youth service bureaus, local social services and health departments, private child-serving organizations, and a substantial number of parents of children and youth with behavioral health needs. Within these requirements, each collaborative can determine the number and type of representatives to ensure that its membership is appropriately balanced. The chief elected official of each town the collaborative serves can designate a member to represent the town. The collaboratives establish their own governance structures. They must also identify or establish a fiscal agent.

Lead Service Agencies. The act requires DCF's regional offices, within available appropriations, to contract with lead service agencies to coordinate care for all KidCare enrollees in their catchment areas, including those with complex service needs. The lead agencies must hire or subcontract for care coordinators to help families establish and implement the individual service plans for their children and to improve clinical outcomes and cost effectiveness. They must offer parents a choice of providers to perform authorized services.

Family Support and Advocacy Groups. The act permits the DCF commissioner, within available

appropriations, to provide funds to help establish an organization to (1) provide family-to-family support and advocates, (2) help families who ask in developing service plans for their children, and (3) encourage families to participate actively in treatment and KidCare planning. The organization must have chapters in each DCF region. It must assure that families help develop and implement their children's service plans, whether or not these plans are part of a child-specific team process. It must also assure that families have input into developing and implementing policy and planning for KidCare and its implementation and evaluation.

KidCare Evaluation

The act requires the DCF and DSS commissioners to establish KidCare performance measures in the following areas: finance, administration, use, client satisfaction, quality, and access. Within available funding, they must design and conduct a five-year evaluation using an independent evaluator. The evaluation must assess (1) outcomes for individual participants and their families; (2) the overall effectiveness of the program's early phases (as a guide to future expansion); and (3) the benefits, costs, and avoided costs it achieved. The evaluation can, at a minimum, look at (1) use of out-of-home placements; (2) the extent to which system-of-care principles were followed; (3) school attendance and delinquency recidivism rates; (4) client satisfaction; (5) KidCare's coordination with juvenile justice, child protection, education, and adult behavioral health systems; and (6) the quality of transition services to adult systems.

Prior law required the memorandum of understanding the commissioners were required to draft to develop fiscal and programmatic outcome measures and an evaluation plan.

The act also requires the DCF commissioner, within available appropriations, to offer training to anyone involved with KidCare, including child care, school, and appropriate Judicial Department employees. The training must be based on culturally appropriate, competency-based curricula DCF develops that include best practices for the care of children and youth with behavioral health needs or at risk of having them.

Reports

The act requires the commissioners to make several reports to legislative committees on KidCare's implementation status.

System Recommendation Report. The first report is due March 1, 2002. It must report on KidCare's implementation and:

1. recommend the appropriate number of lead service agencies;
2. describe procedures for access to and protection of confidential medical records;
3. evaluate a hold harmless provision for funding child guidance clinics;
4. establish ways to continuously evaluate and improve the service delivery system, including evaluation of individual programs and service and research on outcomes;
5. specify finance, administration, clinical process, and clinical outcome performance measures;
6. report on the implementation of staff and provider training;
7. recommend, in consultation with DMHAS, appropriate transition services and the mechanisms needed to achieve transition;
8. establish (a) procedures to compile baseline data and conduct needs assessments and (b) the design and cost of a longitudinal study;
9. determine the nature of support for developing and financing an independent family support organization;
10. list the resources the Education, Public Health, and Judicial departments identify that could be committed to integrated KidCare funding;
11. outline an integrated grievance process for all children enrolled in KidCare regardless of whether they were originally enrolled in HUSKY or DCF's voluntary services program;
12. recommend a conflict resolution mechanism the various responsible agencies can use; and
13. recommend a process for adopting a five-year plan that includes public input and a timeline for fully implementing KidCare by July 1, 2003.

This report goes to the Appropriations, Public Health, Education, and Human Services committees.

Quarterly Status Reports. The act also requires the commissioners to report quarterly on KidCare's implementation to the Human Services, Education, and Public Health committees. The first report is due October 1, 2002.

Annual Measurement Reports. The act requires the commissioners to report annually on various performance measures. The first report is due by January 1, 2004. It goes to the Human Services, Education, and Public Health committees. It must contain:

1. the number, ages, gender, and race of children and youth in in- and out-of-state residential facilities and in nonresidential treatment;

2. total annual public spending on in- and out-of-state placements, its sources, and the average cost per client for these placements;
3. total annual public spending on nonresidential treatment by type, its sources, and the average cost per client;
4. average length of stay in in- and out-of-state residential placements;
5. the ratio of children and youth in out-of-home placements to the total number in each region; and
6. spending in each reporting period.

DCF Advisory Committees

The act alters the membership on two existing DCF advisory committees, the State Advisory Council on Children and Families and the Children's Behavioral Health Advisory Committee, which advises the council.

State Advisory Council on Children and Families. The act adds two members to this 15-member committee and requires at least nine members to be parents or family members of children who have received or are receiving behavioral health, child welfare, or juvenile services. The act also specifies that no more than half of the members may be in private practice or paid by a public or private agency that provides mental health, substance abuse, child abuse prevention and treatment, child welfare, or juvenile services. By law, the committee must contain at least five child care professionals, a child psychiatrist, and an attorney; the balance must be drawn from young people, parents, and others interested in services to children and youth.

The act sets committee members' terms at two years. The law limits members to two terms.

Children's Behavioral Health Advisory Committee. The act increases, from 16 to 17, the number of members of this 32-member committee who must be (a) parents or relatives of a child who has or had serious emotional disturbance or (b) people who were seriously emotionally disturbed as children. It limits to no more than 50% the number who can receive income from a private practice in behavioral health or from a public or private agency that delivers such services. It bars these public members from serving more than two consecutive two-year terms and allows them to be paid for their expenses.

It also specifies that the eight agency heads on the committee are ex-officio members and the appointed representatives are public members. (PA 01-19 and PA 01-9, June Special Session add the executive director of the Office of Protection and Advocacy for Persons with Disabilities or his designee to the committee.)

WELFARE

Temporary Family Assistance (TFA)

60-Month Benefit Limit and Extension Limits (§ 12, effective October 1, 2001). State law generally limits TFA benefits to most families with children (non-exempt families) to 21 months. But under prior law, DSS had to extend indefinitely benefits for people who made a good faith effort to comply with the program's requirements, but could not earn enough or were prevented from working.

The act limits to three the number of six-month extensions that families subject to the 21-month time limit may have. But the DSS commissioner may grant additional extensions in any of the following circumstances:

1. the adults in the family cannot work because of domestic violence or another reason beyond their control;
2. the adults have two or more substantiated barriers to employment, such as the lack of available child care; substance abuse, addiction, or severe mental or physical health problems; one or more severe learning disabilities; domestic violence; or a child with a serious physical or behavioral health problem;
3. the adults are working at least 35 hours per week, are earning at least the minimum wage, but continue to earn less than the family's TFA benefit; or
4. the adults are working less than 35 hours either because they have a documented medical problem or they must care for a disabled member of the household, but in either case work as much as their condition or care-giving responsibilities allow.

The above provisions notwithstanding, the act prohibits the DSS commissioner from providing any further TFA benefits to families that are subject to the 21-month time limit and have received more than 60 months of benefits since October 1, 1996. But families that experience domestic violence that precludes the adults from earning income that is at least equal to the family TFA benefit are not subject to this limit.

The act counts as a month towards the 60-month limit (1) any assistance received during a month, even if only a day, and (2) a month during which the family received TFA from another state, in accordance with federal law. (But PA 01-9, June Special Session also counts benefits received from another territory, instead of only a state.)

The federal Temporary Assistance to Needy Families (TANF) law generally limits the use of block grants for payment of cash benefits to 60 months, but allows up to 20% of the caseload to be exempt from these time limits. State law exempts from the 21-month limit a number of families, including those where the caretaker relative is elderly or incapacitated.

Exit Interviews for People Leaving TFA (§ 61, effective July 1, 2001). The act requires the DSS commissioner to give exit interviews to families leaving the TFA rolls because they have reached the 60-month limit. By law, she must give these interviews to families subject to the 21-month limit. The interview informs families of services for which they may continue to qualify, including food stamps and Medicaid.

TFA Treatment of Income Rules for Families Living in Subsidized Housing (§ 58, effective July 1, 2001). The act eliminates a reference to "fill-the-gap" budgeting, a system of paying a higher benefit level to welfare recipients who work, in the law that requires DSS to count as income 8% of the TFA standard (need or payment) for families living in subsidized housing. Previously, DSS applied this methodology when calculating cash benefits for a small number of families in the waiver control group and those families not subject to the time limits. With the change, all families living in subsidized housing will have 8% of their TFA benefit counted as income when the benefit amount is determined. (DSS is apparently eliminating fill-the-gap budgeting altogether via regulations.)

Penalties for Noncompliance with Work Requirements (§ 14, effective October 1, 2001). The act increases the penalty that applies when a member of a family receiving TFA fails, without good cause, to comply with the work, education, or training requirements of the program. Previously, DSS reduced the benefits by 20% for three months for an initial violation. The act increases this to 25%. The federal law that provides much of the funding for the TFA programs requires states to impose, at a minimum, a pro rata sanction on a family that fails to comply with the work requirements. (DSS has interpreted this to mean a benefit reduction equaling the non-compliant adult's share of the family's TFA benefit.) A 25% reduction would presumably be more reflective of a pro rata share. The act does not affect the penalties for subsequent violations (a 35% reduction for the second, and elimination of benefits for third and subsequent non-compliance incidents).

If only one member of the family is eligible for TFA (e.g., a pregnant woman or parent of a child receiving Supplemental Security Income), the act requires a full sanction (non-payment of benefits) for three consecutive months for each non-compliance.

The act also requires DSS to terminate the benefits for non-exempt families if a family member fails, without good cause, to attend any scheduled assessment appointment or interview related to establishing an employment services plan. DSS must reinstate these benefits if the individual attends a later-scheduled appointment or interview within 30 days from the time DSS notifies the family of the benefit termination. The act allows someone whose family's benefits are terminated for this reason to reapply to DSS at any time. DSS must also terminate benefits for mandatory Employment Services participants who, without good cause, fail to comply with the Employment Services requirements during a six-month benefit extension.

Exceptions to Work Requirements for Minor Parents with Young Infants (§ 13, effective July 1, 2001 changed to October 1, 2001 by PA 01-9, June Special Session). The act prohibits an unmarried minor parent who does not have a high school diploma and who has a child who is at least 12 weeks old in her care, from receiving TFA benefits unless she is participating in educational activities directed toward attaining a high school diploma or its equivalent. Under current state regulations, these women are exempt from the state's Employment Services requirements if they are attending school. If they are not in school, they are subject to the Employment Services requirements. Non-compliance with those requirements can result in a reduction in the TFA benefit (see above). (PA 01-9, June Special Session makes it clear that minor parents who have the equivalent of a high school diploma do not have to participate in education activities.)

Child Support Disregard (§ 15, effective October 1, 2001). The act requires the DSS commissioner to disregard the first $50, instead of $100, per month of income attributable to child support that the family receives when determining both TFA eligibility and benefit levels. But she must count this money when determining eligibility for a six-month extension. Federal TANF law does not require states to have child support disregards, but requires states that have them to reimburse the federal government 50% of the amount that is disregarded.

Diversion Assistance (§ 16, effective October 1, 2001). By law, DSS must offer immediate assistance to divert certain families who are applying for monthly TFA benefits from the program. These families must be TFA-eligible, demonstrate a short-term need that cannot be met with current or anticipated family resources, and not need monthly benefits if provided a service or short-term benefit. The amount of diversion assistance cannot be more than the cash assistance equivalent of three months of TFA benefits and DSS counts it the same as three months of cash assistance when calculating a

family's 21-month TFA limit. The act limits this diversion assistance to families determined eligible for TFA at their initial assessment, rather than at some later date.

By law, the DSS commissioner must establish a simplified eligibility determination process for diversion. The act requires her to also establish an expedited procedure to deliver diversion benefits. By law, DSS must provide these benefits within 15 calendar days after receiving a signed application.

Eastern Connecticut Transportation Access Project (§ 41, effective upon passage). The act establishes an Eastern Connecticut Transportation Access Project, within available appropriations, to provide transportation to jobs in eastern Connecticut for people living in the Greater Hartford, Greater New Haven, and Eastern Connecticut regional service areas.

The act requires that funding for the project must be spent through the Transportation Employment Independence Program and its collaborative planning and oversight process. The funding is contingent on receiving matching funds or in-kind services from private employers. A portion of the funds (40% to 50%) must go to the Greater Hartford area, and the Greater New Haven and the Eastern areas must get 20% to 30% each. The three areas' facilitators must jointly prioritize funding levels between minimum and maximum levels.

Five such regional service areas, designated by OPM, provide interagency planning and coordination of services related to health and human services programs.

Immigrants (§§ 17-19, effective upon passage)

The act prohibits the DSS commissioner from accepting new applications from legal immigrants who are barred from federally funded programs for:

1. solely state-funded cash assistance under TFA and SAGA as of July 2, 2001 (but PA 01-9, June Special Session prohibits new applications only after June 30, 2002) and
2. the state-funded food stamp program after June 30, 2002.

The act applies to those "qualified aliens'' whom federal law makes ineligible for federally funded public assistance programs, other aliens legally residing in the United States, and those whom the Immigration and Naturalization Service (INS) had classified as "permanently residing under color of law" (PRUCOL) (see BACKGROUND).

Prior law would have ended eligibility on July 1, 2001 for TFA and SAGA cash assistance for those who entered the United States on or after August 22, 1996, and were ineligible for federally funded programs. The act removes this sunset provision, but limits participation to those enrolled before July 2, 2001. (However, PA 01-9, June Special Session subsequently continued these and a number of other immigrant public assistance programs, but cut off new applications for all of them after June 30, 2002, with certain exceptions.) The act removes a reference in the statute to assistance under the federal waiver for the demonstration program entitled "Reach for Jobs First," which expires September 30, 2001.

Security Deposit Guarantee and Grant Program (§ 32, effective October 1, 2001)

By law, DSS, within available appropriations, must provide security deposit guarantees, and can also offer a limited number of security deposit grants, to people residing in emergency shelters or other emergency housing, as well as to people who cannot remain in permanent housing due to a number of circumstances beyond their control. The act adds situations in which the person has been served a notice to quit in an eviction action. Under prior law, guarantees were available only after a court-entered eviction judgment.

The act permits the guarantee amount to be the equivalent of up to two months' rent in all instances. Under prior law, the guarantee could not exceed the equivalent of one month's rent, except in cases where there was a documented showing of financial need.

The act allows people to receive subsequent guarantees without the DSS commissioner's approval, if they are requested or provided at least 18 months after the first guarantee. If someone makes a second request within 18 months of the first, the commissioner's approval must be obtained first. Under prior law, the commissioner had to give her express approval for all subsequent guarantees.

By law, when someone receives a subsequent guarantee, the guarantee amount must be reduced by either the amount (1) DSS had to pay (for guarantees) or (2) a landlord kept (for security deposit grant) due to damages caused by the tenant. The act requires reductions only when DSS grants the subsequent guarantee within 18 months after paying a claim on a prior guarantee. For guarantees granted later, no reductions are taken. The act also requires DSS to give the person an opportunity for a fair hearing to contest whether such a reduction should occur. Previously, there was no right to hearing.

Security deposit grants can be provided on a case-by-case basis and only after the DSS commissioner has determined that emergency circumstances exist that threaten the health, safety, or welfare of a child who is living with the person. The grants cannot exceed the

equivalent of one month's rent. Under the act, any DSS account, rather than just its Safety Net account, may be the funding source.

The act also allows DSS to provide a one-month security deposit grant in combination with a one-month security deposit guarantee. (The state security deposit law limits what landlords can demand in security deposits to two months' rent.)

Finally, the act permits the commissioner to contract with one or more emergency shelters to issue the guarantees. Until October 1, 2000, the law permitted DSS to contract with DSS-funded shelters to issue security deposit grants, but it was silent on whether DSS could contract for the guarantees.

Transfers of Functions from DSS to DOL (§§ 29, 57, and 68, effective July 1, 2001)

The act transfers administration of grants for opportunities industrialization centers (OICs) from DSS to the Department of Labor (DOL). But the OIC programs must involve the DSS commissioner in their planning. Under prior law, DSS administered the grant program and DOL had to be involved in the planning.

OICs are private, nonprofit entities that provide job training and related services or job opportunity programs for economically disadvantaged, unemployed, and underemployed people.

The act transfers administration of the Safety Net program's individual performance contracts for families at risk of losing their TFA benefits from DSS to DOL.

AFDC Recoveries (§ 10, effective upon passage)

Starting in FY 2001-02, the act allows DSS, with OPM's approval, to credit the federal share of recoveries or overpayments under the AFDC program to a nonlapsing account in the General Fund and to pay the federal share out of that nonlapsing account. (By law, DSS must make reasonable efforts to recoup funds it has paid out under AFDC and return to the federal government its proportional share.) (PA 01-9, June Special Session allows DSS to follow the same procedure for federal TANF recoveries and overpayments.)

Audit of Town GA Programs (§ 30, effective July 1, 2001)

The act gives the DSS commissioner discretion to audit town GA programs rather than requiring it.

child welfare and support

DCF Permanency Planning (§§ 33-34, effective October 1, 2001)

The act restores DCF's discretion to conduct a thorough adoption assessment and child- specific recruitment when adoption is a goal in a foster child's court-approved permanency plan. (PA 01-142 removed DCF's statutory authority to do this.)

The act requires DCF to develop permanency plans and juvenile courts to hold hearings to review them yearly while a child is in DCF custody as a result of a delinquency adjudication. It specifies that courts must (1) approve permanency plans that are in the child's best interest and consider his need for permanency and (2) determine at each hearing whether DCF has made reasonable efforts to achieve the permanency plan.

It also reduces, from 18 to 12 months, the length of time between court reviews of the need to continue or extend a serious juvenile offender's commitment. (By law, these offenders may be committed to DCF for up to four years, and their commitments can be extended if doing so is in the best interest of the child or community.) Commitment reviews for children adjudicated for less serious crimes remain on an 18-month cycle.

Under the act, DCF must file its plan in court at least 60 days before each hearing. By law, the child and his parents or guardians must get at least 14 days' advance notice of the hearing date. Prior law did not require the agency to develop permanency plans for these children, although it had to do so for abuse and neglect commitments and, beginning October 1, 2001, for children voluntarily committed to the agency.

The act establishes a preference for one of the following permanency plan goals: (1) revocation of commitment and placement with a parent or guardian, (2) transfer of guardianship, (3) permanent placement with a relative, or (4) adoption. If DCF can show a compelling reason why one of these goals would not be in a child's best interest, the court may approve another type of "planned permanent living arrangement." This can include placing the child in an independent living program (typically, programs for older youth transitioning out of the foster care system). These are the same permanency goals as the law requires for abused or neglected and voluntarily committed children.

Placements of Children in Residential Facilities (§ 25, effective July 1, 2001, but changed to October 1, 2001 by PA 01-9, June Special Session)

The act requires any state agency that places children up to age 18 (up to 21 for full-time students) in a residential facility to enter into a written agreement

with the facility when the child is placed. The agreement must establish clear standards for the child's care and treatment, which, at a minimum, must include monthly written reports concerning the care and treatment, addressed to the case worker overseeing the child's placement. These reports must also lay out goals and expectations for the specific child's treatment and progress. The agreement must require the facility to report promptly to the agency allegations of abuse or neglect against the child or any other child in the facility. The placing agency must ensure that the facility initiates a discharge plan within two weeks of a child's placement therein.

Parent Trust Fund (§§ 39-40, effective October 1, 2001)

The act creates a "Parent Trust Fund" to pay for programs aimed at improving children's health, safety, and education through parents' community involvement. The programs must (1) train parents in civic leadership skills and (2) support increased, sustained parental engagement in community affairs. The DCF commissioner can receive federal or private money for the fund from grants, bequests, and gifts. The fund can also receive money directed to it through the existing Children's Trust Fund. The act requires the Children's Trust Fund Council to include information on the Parent Trust Fund in its annual report to specified legislative committees.

DCF Background Checks (§ 35, effective October 1, 2001)

The act applies state and national criminal history record check procedures established in PA 01-175 (which DCF requires for licensing as a child care facility, such as a foster care home or residential treatment facility) to any person identified on the license application in addition to the applicant. Generally, only licensed people or entities can care for or board a child in DCF's custody.

Child Support Enforcement Orders (§§ 27-28, effective July 1, 2001)

The act specifies that Superior Court judges and family support magistrates cannot hold an employer in contempt for failing to honor a wage withholding order unless it was served personally or by certified mail.

The act also authorizes Superior Court support enforcement officers and DSS Bureau of Child Support Enforcement investigators and officers to serve income withholding orders by first class mail instead of only in person or by certified mail. (PA 01-91 (superseded by this act) allows such first class service only by support enforcement officers.) But employers who fail to honor such first class mail withholding orders cannot be held in contempt of court.

MISCELLANEOUS

Interpreters for the Deaf (§ 24, effective July 1, 2001)

The act loosens the requirements for interpreters for the deaf providing services in medical settings by allowing them to provide services if they hold a "Level IV" instead of "Level V" certification from the National Association for the Deaf. (Alternative credentials remain unchanged under the act.) (A 1998 state law required the certification to rise from Level IV to Level V, effective July 1, 2001.) By law, medical settings include medical-related situations, including mental health treatment, psychology evaluations, and appointments for treatments requiring the presence of a doctor or nurse, among other things.

The act also exempts interpreters who provide interpreting services in educational settings from new credentialing requirements until July 1, 2003. By law, anyone providing interpreter services, regardless of the setting, must register with the Commission on the Deaf and Hearing Impaired. But beginning July 1, 2001, they must also meet certain credentialing requirements, such as passing the National Registry of Interpreters for the Deaf written generalist test and hold a Level III certification provided by the National Association for the Deaf, among other things. The act defines an educational setting as a school or other educational institution, including elementary, high school, and post-graduation schools where interpretive services are provided to students.

BACKGROUND

Related Federal Law—CDC National Breast and Cervical Cancer Early Detection Program

Federal law established the screening program in 1996. It is administered at the federal level by CDC and in Connecticut by the Department of Public Health. Under the program, low-income women without health insurance are eligible for free mammograms, Pap tests, and other diagnostic procedures for detecting breast or cervical cancer. The screening program serves women whose incomes are at or below 200% of the federal poverty level if they have no health insurance or their insurance excludes routine Pap tests and mammograms.

In October 2000, Congress passed the Breast and Cervical Cancer Prevention and Treatment Act (PL 106-

354), which gives states the option of providing Medicaid coverage to women who went through the screening program and were diagnosed as having breast or cervical cancer. The new law also allows states to implement presumptive Medicaid eligibility for these women. "Presumptive eligibility" means the state enrolls certain people provisionally in Medicaid for a limited time until full Medicaid applications are filed and processed, based on a Medicaid provider's determination that the person is likely to qualify for Medicaid.

Connecticut Minimum Nurse Staffing Standards for Nursing Homes

Direct Care Personnel	***CCNH***		***RHNS***	
	7 a.m to 9 p.m.	***9 p.m. to 7 a.m.***	***7 a.m. to 9 p.m.***	***9 p.m. to 7 a.m.***
Licensed Nursing Personnel	.47 hpp* (28 min.)	.17 hpp (10 min.)	.23 hpp (14 min.)	.08 hpp (5 min.)
Total Nurses and Nurse Aide Personnel	1.40 hpp (1 hr. 24 min.)	.50 hpp (30 min.)	.70 hpp (42 min.)	.17 hpp (10 min.)
*hpp: hours per patient *Source: CT Regulations Section* 19-13D8t.				

DSS Managed Care

DSS currently serves HUSKY and certain Medicaid recipients using a managed care system. DSS has contracts with managed care plans, which are responsible for ensuring that the recipients receive all of the services the rules of each program require. The plans use subcontractors to provide behavioral health and dental services.

The plans choose the providers they wish to use, and a beneficiary may not use a provider who is not on a plan's provider list. Most plans require prior approval before a beneficiary can see a specialist, and they can limit the frequency and scope of the services. DSS pays the plans a monthly capitated rate, which must cover all of the medical services required during that month.

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 dressing, walking, eating, bathing, errands, and chores. Typically, privately-funded assisted living services are provided in managed residential communities where the elderly person has his own apartment, receives three meals a day in a common dining room, and shares some services with other tenants.

Related Assisted Living Law

Legislation in 1998 and 1999 required DSS, in cooperation with the Department of Economic and Community Development and the Connecticut Housing Finance Authority, to establish an assisted living demonstration project for moderate- and lower-income people living in state-subsidized affordable housing. Eligible residents must be at least age 65, at risk for being unnecessarily placed in a nursing home, and be eligible for the Connecticut Home Care Program for Elders. The project can include up to 300 units. Facilities have already been selected for this project, some of which are expected to be in operation in the second half of 2002. Legislation in 2000 allowed state-funded elderly congregate housing facilities to offer assisted living services and allowed the Connecticut Home Care Program to pay for these services for eligible individuals in these congregate facilities, the five assisted living demonstration facilities, and other such projects established under state law.

Federal Welfare Reform Law's Effects on Legal Immigrants

The 1996 federal welfare reform law (PL 104-193, 8 U.S.C. §§ 1601, *et seq.*) barred aliens who are not "qualified aliens" as defined in federal law (8 U.S.C. § 1641) from most federally funded public assistance programs. Even qualified aliens who enter the U.S. legally as permanent residents after the law's effective date, August 22, 1996, cannot receive federally funded public assistance for their first five years here (8 U.S.C. § 1613(a)). But the federal law makes some exceptions. It allows qualified aliens who are refugees or have been granted asylum and certain other disadvantaged groups to qualify for assistance immediately for up to either five or seven years, depending on the program. Also, permanent resident aliens who have worked here for 10 years and those who are veterans of, or on active duty with, the U.S. armed forces and their spouses and children have no time restrictions on their eligibility. All qualified aliens admitted into this country before August 22, 1996 remain eligible for federally funded assistance programs.

Federal law permits states to enact laws setting up separate state-funded programs for legal immigrants. In 1997, Connecticut established two-year, state-funded cash, medical assistance, and home care programs for qualified aliens and other lawfully residing immigrant aliens. In 1999, the legislature extended these programs until July 1, 2001. In 2000, it also made people who

formerly held "permanently residing under color of law" (PRUCOL) immigration status eligible for these state-funded programs. Prior to federal immigration reform, the Immigration and Naturalization Service 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 were ineligible for state assistance before the 2000 change.

In 1998, Connecticut established a permanent state-funded food stamp program for legal immigrants barred from the federal program.

PA 01-3, June Special Session—HB 7504
Emergency Certification

AN ACT CONCERNING HOSPITAL RATES AND DISPROPORTIONATE SHARE PAYMENTS

SUMMARY: This act increases Medicaid rates paid to hospitals and restructures the state hospital disproportionate share (DSH) program, which provides extra Medicaid payments to hospitals with a large number of indigent and low-income patients for whose care they are not fully compensated. It also creates a new DSH program aimed at helping hospitals in distressed municipalities with populations over 70,000. The act allows the state to adjust DSH payments to Yale-New Haven Hospital for claims arising out of certain incorrect payments for prior years. It also makes several minor, conforming, and technical changes.
EFFECTIVE DATE: July 1, 2001

HOSPITAL OUTPATIENT RATES

The act requires the Department of Social Services' (DSS) Medicaid fee schedule for outpatient hospital services to increase by 10.5% for the rate period beginning July 1, 2001. (But PA 01-9, June Special Session, *§* 119 applies the rate increase to the rate period beginning July 1, 2000, effective June 1, 2001.) The law, unaffected by the act except for the specified rate period, otherwise requires the DSS commissioner to adjust this fee schedule annually to reflect necessary cost increases.

The act removes requirements that (1) the established Medicaid rate for a hospital outpatient clinic visit not exceed 116% of the combined average Medicaid fee for general practitioner and specialist office visits and (2) these rates increase annually by no more than the change in the consumer price index for medical care. And it removes the commissioner's authority, under certain circumstances, to pay such outpatient clinics up to 175% of the combined average fee.

HOSPITAL INPATIENT RATES

The act increases Medicaid hospital inpatient rates by changing the way DSS calculates them. Previously, state regulations required the rate to be calculated using the same formula that Medicare used to calculate allowable costs per discharge in a base year (1982), updated annually by a Medicare adjustment factor. The result became the "target rate," also known as the "target amount," which could be further adjusted by a federally required adjustment (up to 10% more). The hospitals calculated their actual allowable costs for the year and if those were more than the adjusted target amount, Medicaid paid them only the adjusted target amount.

The act requires the commissioner, effective July 1, 2001, to establish inpatient rates generally in accordance with these same regulations as they would have applied to the rate period beginning October 1, 2000. But she must update the target amount per discharge to 62.5% of the actual allowable cost per discharge based on the 1999 cost report filing, if that is higher than the target amount for the October 1, 2000 rate period plus the extra federal adjustment. If a hospital's rate increases as a result of this new calculation, it cannot receive the federal adjustment. And for the rate periods starting October 1, 2001 and 2002, the act prohibits DSS from applying an annual adjustment factor to the target amount. (PA 01-9, June Special Session, *§* 120 makes this provision effective June 1, 2001.)

DISPROPORTIONATE SHARE PAYMENTS

DSS makes "disproportionate share" (DSH) Medicaid payments to hospitals with high volumes of indigent and uninsured patients. Such hospitals generally lose money because of low Medicaid reimbursement rates and their inability to collect from indigent and uninsured patients. (These charity, under-reimbursed, or uncollectible costs are known as "uncompensated care" costs.)

Previously, private hospitals paid a 5.75% hospital sales tax on patient care services to fund the DSH program (PA 01-6, June Special Session, suspends this tax for two years from July 1, 2001 to June 30, 2003). DSS made DSH payments to the hospitals based on its estimate of total statewide uncompensated care for that year and a prediction of what each participating hospital's proportionate share would be. After the end of the hospital fiscal year, which runs from October 1 to September 30, DSS made adjustments known as final

settlements based on actual uncompensated care. PA 99-279 eliminated these year-end final settlements for hospital fiscal years after 1999 and based the DSH payments on actual audited data from the fiscal year two years before the current one.

The act prohibits negative adjustments for the quarter ending September 30, 2001 to any DSH payments for purposes of implementing the last quarter of the DSH final settlement for hospital fiscal year 1999. But hospitals with positive adjustments for that quarter must receive their payments from state appropriations.

The act makes it clear that DSH payments are made only to short-term, nongovernmental, acute care general hospitals (chronic disease hospitals, stand-alone children's hospitals, government acute care hospitals, and hospitals other than short-term acute care hospitals do not receive DSH payments). The act also removes a reference to the now-suspended 5.75% hospital tax.

SHORT-TERM HOSPITALS IN DISTRESSED MUNICIPALITIES

For FYs 2001-02 and 2002–03, the act allows DSS, within available funds, to make DSH payments to short-term hospitals in distressed municipalities with more than 70,000 people. The DSS commissioner must determine this payment for each hospital based on the ratio of its Medicaid fee-for-service inpatient discharges to the total of such discharges for all hospitals in the program for the most recently filed cost report period. The act specifies that no such payments can be made to a chidren's hospital.

SPECIFIC FUNDING FOR THREE HOSPITALS

The act also requires DSS to pay specific amounts from funds appropriated for hospital finance restructuring for FYs 2001-02 and 2002-03 as follows:

Hartford Hospital	$3,412,244
Saint Francis Hospital	$2,709,583
Stamford Hospital	$2,485,860

YALE-NEW HAVEN HOSPITAL CORRECTIONS

The act allows DSS, within available appropriations and with approval from the Office of Health Care Access (OHCA) and the Office of Policy and Management (OPM), to pay final settlement amounts for claims arising out of incorrect payments to Yale-New Haven Hospital for the fiscal quarter ending September 30, 1998, the 1999 hospital fiscal year, or both. If an over- or underpayment resulted from the hospital's reporting incorrect information and statistics to OHCA, the act requires OHCA to recompute the payments for those time periods and offset any underpayments by overpayments. The act requires Yale-New Haven to submit all information and documentation that OHCA determines is needed to finally determine the amounts due. Before any funds can be released, the hospital must submit a written release in a form satisfactory to the OPM secretary. The release must provide for settlement of any and all claims that have or could have been brought challenging payment amounts for those periods. The act specifies that this provision does not relieve the hospital from settlements or adjustments for any other time periods.

BACKGROUND

Related Acts

PA 01-6, June Special Session, suspends the 5.75% sales and use tax on hospital patient care services for two years from July 1, 2001 to June 30, 2003.

SA 01-1, June Special Session, includes $10 million to fund the rate increases for FY 2001-02 and another $10 million for FY 2002-03.

PA 01-9, June Special Session, § 32 requires crediting to the Hospital Assistance Program account any federal financial participation funds the state receives for DSH payments to hospitals for the final quarter's DSH settlement for hospital fiscal year 1999 under PA 01-3, June Special Session. Federal funds deposited in that account during FY 2001-02 will continue to be available to be spent in FY 2002-03. It further requires DSS to distribute whatever remains in the account to Yale-New Haven Hospital during FY 2002-03. Sections 119 and 120, respectively, apply the outpatient hospital Medicaid rate increase to the rate period beginning July 1, 2000, effective June 1, 2001 and make the inpatient increase effective June 1, 2001 instead of July 1, 2001. Section 130 reinstates two statutes repealed in PA 01-2, June Special Session. One deals with children's general hospitals and prior DSH settlements and adjustments, and the other details how the DSS commissioner must apply hospitals' tax liability to calculate DSH payments to hospitals.

PA 01-4, June Special Session—HB 7505
Emergency Certification

AN ACT CONCERNING THE IMPLEMENTATION OF EXPENDITURES FOR VARIOUS STATE HEALTH PROGRAMS AND SERVICES AND MAKING TECHNICAL AND

OTHER CHANGES TO CERTAIN PUBLIC HEALTH AND RELATED STATUTES

SUMMARY: This act requires the Department of Public Health (DPH) to establish a comprehensive statewide asthma plan and asthma monitoring system. It also requires all children, beginning with the 2003-04 school year, to have a chronic disease assessment that includes asthma before they enroll in public school and at certain other grade levels. The act requires that preferred provider network (PPN) filings be made with the Department of Insurance instead of the Office of Health Care Access (OHCA). The act requires all entities responsible for payment under an insurance policy, not just insurers, to make timely payments to health care providers.

The act allows parents to administer medications to their children on school grounds. It also requires DPH to adopt regulations by October 1, 2002, requiring child day care centers to have employees trained in cardiopulmonary resuscitation (CPR).

The act eliminates DPH's nail technicians licensure program, which was never implemented.

The act also addresses (1) use of automatic external defibrillators by certain persons; (2) emergency medical service rates; (3) gynecologic cancer informational materials; (4) chlamydia education and testing; (5) liability for HIV testing; (6) hospitals' uncompensated care and disproportionate share payments, as well as hospitals' debt collection standards; (7) safe needles; (8) the Department of Mental Retardation (DMR) and Department of Mental Health and Addiction Services (DMHAS) property transfer moratorium; (9) historic structures and the Connecticut Environmental Policy Act; (10) youth camp licensure; (11) use of certain lands for golf courses; (12) a Connecticut River interceptor sewer project; (13) marriage validation; (14) operation of certain crematories; (15) community health center grants; (16) the Tobacco and Health Trust Fund Board; (17) salon inspections; (18) residential treatment facility discharge plans; (19) the state loan repayment program for primary care clinicians; (20) Developmental Disabilities Advisory Commission membership; (21) promotion of public health; (22) alternative licensure routes for a variety of health professions; (23) continuing education for professional counselors; and (24) occupational therapy services in nursing homes.

The act clarifies that "hearing aid dealers" are now known as "hearing instrument specialists." Finally, the act makes a number of technical changes.

EFFECTIVE DATE: The act takes effect July 1, 2001, except that the following provisions take effect October 1, 2001: (1) youth camp original license denials, (2) professional counselor continuing education, (3) PPN transfer from OHCA to the Insurance Department, (4) defibrillators, (5) DPH's responsibilities concerning an asthma monitoring system, (6) timely payments, (7) salon inspections, (8) residential treatment facility discharge plan, (9) loan repayment program, (10) Developmental Disability Advisory Commission membership, and (11) CPR in day care centers. The child asthma assessment requirement takes effect July 1, 2002.

Two sections concerning nail technicians and technical changes to DPH's responsibilities for various health professions take effect the later of July 1, 2001 or when DPH publishes notice that it is implementing physical therapist assistant and athletic trainers licensure.

ASTHMA ASSESSMENTS

Beginning with the 2003-04 school year, the act requires all children to have a chronic disease assessment, which includes asthma, before they enroll in public school, in 6th or 7th, and in 10th or 11th grades as part of the health assessments already required at those times. The assessment must include public health-related screening questions for parents to answer and other screening questions for providers. The act adds licensed naturopaths and chiropractors to the practitioners who can perform all required school health assessments. (PA 01-9, June Special Session eliminates this provision).

Beginning in February 2004, this act requires each school board to report annually to DPH and the local health director the asthma data obtained through these assessments, including pupil demographics, for the district and each of its schools. It requires DPH to report to the Public Health and Education committees every three years, beginning October 1, 2004, on the distributions and trends the data show.

The act also requires the DPH commissioner to establish, by January 2003, an asthma monitoring system and use it to estimate annually the incidence and distribution of asthma in the state, breaking it down by demographic characteristics. The system must include annual school surveys and reports made to health care providers. It may include prescription data. He must report this information annually to the Public Health Committee beginning October 1, 2003. Under the act, DPH in conjunction with local health directors, must establish a comprehensive statewide asthma plan. By October 1, 2002, the department must develop a "model case definition" of asthma.

For FYs 2001-02 and 2002-03, PA 01-9, June Special Session transfers $300,00 from the Tobacco and Health Trust Fund to DPH to implement the asthma

monitoring system and comprehensive statewide asthma plan that this act directs the department to establish.

PREFERRED PROVIDER NETWORKS

By law, a preferred provider network (PPN) operating or seeking to operate in the state must meet annual filing and notice requirements that address the PPN's business standing, responsible officers and owners, service areas, affiliated hospitals, and participating providers. The act requires a PPN to file with the Department of Insurance (DOI) instead of the Office of Health Care Access (OHCA). All filing and notice requirements remain the same (see BACKGROUND).

The act retains the current definition of PPN, as an arrangement in which health care providers make agreements with a person who establishes, operates, or underwrites the arrangement and payments for services rendered. It includes a provider-sponsored network or independent practice association offering network services. It does not include a workers' compensation preferred provider organization established pursuant to state regulation. It also does not include an arrangement relating only to health care services offered to people covered by self-insured plans established pursuant to ERISA (the federal Employee Retirement Income Security Act of 1974).

TIMELY PAYMENTS

The act requires all entities responsible for payment under an insurance policy, not just insurers, to make timely payments to health care providers.

By law, insurers must pay claims within 45 days of receiving the claimant's proof of loss form or the health provider's request for payment filed according to the insurer's practices. If the information needed to process the claim is deficient, the insurer must (1) within 30 days after it receives the claim for payment, notify the claimant or provider in writing of all alleged deficient information needed to process the claim and (2) pay within 30 days after receiving the requested information. Insurers failing to make payment within the specified time period must pay the claimant or provider the claim amount plus 15% annual interest.

Failure to make these timely payments is also an unfair method of competition or an unfair and deceptive act or practice in the insurance business and subjects the violator to penalties. Such penalties include (1) ordering the party to stop, (2) paying monetary penalties, or (3) surrendering a license.

The act subjects any entity responsible for payment to a provider to these prompt payment processes, deadlines, and penalties. (PA 01-111 specifies those health care providers to which this timely payment requirement applies.)

AUTOMATIC EXTERNAL DEFIBRILLATORS

Under existing law, anyone operating a cardiopulmonary resuscitator or any one trained in CPR or in the use of an automatic external defibrillator (AED) in accordance with American Red Cross or American Heart Association standards who renders emergency assistance is not liable for injuries resulting from negligent acts or omissions if he acted (1) voluntarily, (2) gratuitously, and (3) not in the ordinary course of his employment or practice.

The act specifies that paid or volunteer fire fighters or police officers, ski patrol members, lifeguards, conservation officers, patrol and special police officers of the Department of Environmental Protection (DEP), or emergency medical service (EMS) personnel who have been trained to use an AED in accordance with American Red Cross or American Heart Association standards are not subject to additional requirements except recertification in order to use such a defibrillator.

EMS RATES

Prior law required the DPH commissioner, through the Office of Emergency Medical Services, to set maximum allowable rates for all levels of emergency medical services. The act deems approved by the commissioner rate increases not exceeding the National Health Care Inflation Rate Index, as published by the federal Department of Labor for the prior year, if they are properly filed with DPH. DPH regulations must require those seeking a rate increase in excess of the inflation index to provide DPH with detailed financial information.

GYNECOLOGIC CANCERS

The act transfers $25,000 of the amount appropriated in the budget act to DPH for breast and cervical cancer detection for FY 2001-02 to produce educational materials on gynecologic cancer.

The act directs DPH to develop an informational pamphlet on gynecologic cancers such as cervical, ovarian, and uterine cancer. It must contain standardized information in plain language on the cancers including (1) signs and symptoms, (2) risk factors, (3) benefits of early detection through diagnostic testing, (4) treatment options, and (5) other information DPH finds necessary. DPH must prepare multilingual versions of the pamphlet and make the

pamphlets available to hospitals, physicians, and other health care providers for patients' use.

CHLAMYDIA

The act transfer $219,000 appropriated in the budget act to DPH for breast and cervical cancer detection and treatment for FY 2001-02 for chlamydia education and testing in school-based health centers, community health centers, and community health vans.

HIV TESTING LIABILITY

The act prohibits any cause of action for civil assault, civil battery, invasion of privacy, or failure to get informed consent against an acute care general hospital or any other provider responsible for administering an HIV test on a newborn infant or pregnant woman based on the claim that the test was done without consent. But it does not relieve a person from liability for negligence (1) in administering the test, (2) in reporting or distributing test results, (3) related to counseling about treatment, or (4) in the treatment of the patient. The act specifies that it does not eliminate or limit any defense to a cause of action alleged against a hospital or provider.

UNCOMPENSATED CARE AND DISPROPORTIONATE SHARE PAYMENTS

The act specifies that uncompensated care or disproportionate share payments may not be made to any hospital unless the Office of Policy and Management (OPM) certifies that the hospital has made reasonable efforts to provide uncompensated care.

HOSPITAL DEBT COLLECTION

The act directs OHCA to adopt regulations establishing uniform debt collection standards for hospitals.

NEEDLESTICKS

The act exempts the UConn School of Dental Medicine and its dental clinic from the law requiring health care facilities or institutions with public employees to use only safe needle devices until manufacturers design and make needles with self-contained secondary precautionary-type sheathing devices for dental medicine.

MORATORIUM ON TRANSFER OF DMR AND DMHAS PROPERTY

The act amends PA 01-154 to permit the transfer to DMR or DMHAS of properties covered under the act's three-year moratorium if they continue to be used to house people with mental illness, mental retardation, or alcohol or drug dependency.

HISTORIC STRUCTURES

The act specifies that the Connecticut Environmental Policy Act's provisions concerning historic structures and landmarks do not apply to any property or structure first listed in the state register of historic places during March 2001 if the owner (1) gives the director of the Connecticut Historical Commission and the state historic preservation officer a written, notarized objection to listing the property on the register that certifies the person's ownership of it and (2) does not make a notarized withdrawal of the objection.

YOUTH CAMPS

The act specifies that an applicant for an original youth camp license may not appeal a decision by DPH denying the license.

MUNICIPAL GOLF COURSE

The act allows any municipality owning land purchased in January 1999 (1) previously used for agricultural purposes and (2) that is watershed land or located next to watershed land to use it for a golf course under certain conditions. The golf course must (1) be municipally-owned and (2) be designed, constructed, and operated using best management practices as recommended by the DEP, including integrated pest management and above-ground storage of chemicals and fuels. The golf course manager must file an annual report with (1) any water company owned by the municipality, (2) any water company drawing water from the watershed, (3) the DEP, and (4) the municipality. The report must describe the best management practices used in the golf course operation including a description of the type and amounts of pesticides and herbicides used and other information DEP or the water company requests. The report must be available to the public.

SEWER PROJECT

The act specifies that a state environmental impact evaluation is not required for the Connecticut River

interceptor sewer project.

MARRIAGE

The act allows federal judges and judges from other states authorized to marry people in their jurisdictions to perform marriages in Connecticut.

CREMATORY

By law, any crematory not operating on October 1, 1998 cannot be located within 500 feet of any residence or land used for residential purposes that is not owned by the crematory owner. The act exempts from this prohibition any state resident or corporation issued an air quality permit before October 1, 1998.

COMMUNITY HEALTH CENTER GRANTS

The act specifies that for FYs 2001-02 and 2002-03, grants to community health centers to support health center infrastructure services to uninsured people or expansion projects must be in the same proportion to the grants made for FYs 2000-01 and 2001-02, respectively. If any portion of the grant is not needed by a center, the differential must be distributed among all the other community health centers based on their share of total funding.

TOBACCO AND HEALTH TRUST FUND BOARD

The act requires the board of trustees of the Tobacco and Health Trust Fund to meet at least bimonthly. By January 1 annually, it must report on the board's activities to the Public Health and Appropriations committees. Each trustee must approve the report.

SALONS

The act requires local directors of health to inspect all barber, hairdressing, and nail salons annually concerning their sanitary conditions. The local health director is authorized to collect a fee up to $100 per salon, which must be used to cover the cost of the inspection.

RESIDENTIAL TREATMENT FACILITY DISCHARGE PLANS

The act requires any state-funded, licensed treatment facility providing adult mental health or substance abuse treatment services to prepare discharge plans for its clients before their release. The discharge plan must include housing referrals. DMHAS can adopt regulations to implement this requirement.

STATE LOAN REPAYMENT PROGRAM

The act adds dental hygienists and registered nurses to those eligible for the state loan repayment program for primary care clinicians. It also substitutes advance practice registered nurses for nurse practitioners as program-eligible clinicians.

ADVISORY COMMISSION ON DEVELOPMENTAL DISABILITIES

The act revises the membership of the Advisory Commission on Services and Supports for Persons with Developmental Disabilities. It increases membership from 27 to 30 by adding the directors or their designees of (1) the Office of Protection and Advocacy for Person swith Disabilities, (2) the Council on Developmental Disabilities, and (3) the Bureau of Rehabilitation Services of the Department of Social Services.

PROMOTION OF PUBLIC HEALTH STUDY

The act requires DPH, in consultation with each municipal and district health director, to report by February 1, 2002, to the Public Health and Appropriations committees on their activities promoting public health. The report must include plans by DPH or local health directors to adopt national standards, including those of the National Centers for Disease Control.

PROFESSIONAL COUNSELORS

Professional Counselor in a Hospital – No License Required

The act specifies that a professional counselor license is not required for a person with a master's degree in a health or human services-related field performing counseling services in a hospital under the supervision of a physician, psychologist, advanced practice registered nurse, mental and family therapist, clinical social worker, or professional counselor.

Continuing Education

When applying for license renewal, the act requires licensed counselors to provide satisfactory evidence to the DPH commissioner of participation in continuing education programs. DPH must adopt regulations that (1) define basic continuing education program

requirements, (2) delineate qualifying programs, (3) establish a control and reporting system, and (4) allow continuing education waivers for good cause.

Alternative Licensure

The act provides an alternative route to licensure for certain professional counselors. Before December 30, 2001, DPH can license an applicant who: (1) has at least a 30-hour master's degree, sixth-year degree, or doctoral degree from a regionally accredited higher education institution with a social work, marriage and family therapy, counseling, psychology, or forensic psychology major; (2) practiced professional counseling for at least two years of the five years immediately before license application; and (3) passed a DPH-prescribed examination.

The act also authorizes DPH to license as a professional counselor, by July 30, 2001, a person who has (1) earned a master's degree in counselor education before 1980, (2) practiced professional counseling for at least 10 years immediately before applying for licensure, (3) current certification by the American Nurses Association as a psychiatric nurse, and (4) passed the national clinical mental health counseling exam.

It also allows DPH to license as a professional counselor by the same deadline a person who has (1) a master's degree in school psychology from a regionally accredited institution, (2) worked as a professional counselor for at least 10 years immediately before applying, and (3) passed a DPH-prescribed exam.

ALTERNATIVE LICENSURE FOR CERTAIN HEALTH PROFESSIONS

Acupuncture

The act authorizes DPH to license as an acupuncturist, by July 30, 2001, a person who has (1) passed the National Commission for the Certification of Acupuncturists written examination by test or credentials review, (2) successfully completed the practical examination of point location skills offered by the national commission, and (3) successfully completed the clean needle technique course offered by the Council of Colleges of Acupuncture and Oriental Medicine.

Chiropractor

The act authorizes DPH to license as a chiropractor, by July 30, 2001, a person who has (1) graduated from an accredited chiropractic school approved by the state chiropractic board with the consent of DPH; (2) successfully completed parts 1, 2, and 3 and the physiotherapy portion of the National Board of Chiropractic Examiners exam; (3) current licensure in another state and no disciplinary history; and (4) practiced for at least 20 years, at least one of which was within the previous two. Anyone licensed in this manner must successfully complete the practical examination requirement before his license expires. If not, the individual cannot renew his license.

Marital and Family Therapist

The act authorizes DPH to license, as a marital and family therapist, by July 30, 2001, a person who has (1) earned a master's degree in counseling and guidance before 1980, (2) passed the licensing exam for marital and family therapy before 2000, (3) current licensure in another state, (4) current clinical membership in the American Association of Marriage and Family Therapy, and (5) no disciplinary history.

Massage Therapist

The act establishes an additional alternative licensure route for certain out-of-state massage therapist license applicants. These applicants must have graduated from a massage therapy school with at least a 500 classroom-hour program with the instructor present. When they graduated, the school must have been accredited by either (1) an agency recognized by the U.S. Department of Education or by a state board of postsecondary technical trade and business schools or (2) the Commission on Massage Therapy Accreditation. The applicant must also successfully complete the National Certification Examination for Therapeutic Massage and Bodywork.

OCCUPATIONAL THERAPY

The act requires the Department of Social Services commissioner, in consultation with DPH, to study the cost and savings related to requiring occupational therapy services in nursing facilities. The commissioner must submit the report to the Human Services, Public Health, Insurance and Real Estate, and Appropriations committees by February 1, 2002.

RN REPEAL

The act repeals a provision of law requiring DPH to reinstate, without conditions, a registered nurse whose license is void for failure to pay the annual license fee in 1998 or 1999 upon application and payment of fees.

BACKGROUND

PPNs

Filing Requirements. Under the act, networks must file with the insurance commissioner, instead of OHCA, before enrolling any members. All networks must annually update their filings by July 1.

Each filing must include the identity of any company controlling the operation of the network, a description of the company's participation and, where applicable, (1) a certificate from the secretary of the state on the company's sound business standing; (2) a copy of the company's balance sheet for the most recently concluded fiscal year, including the name and address of any accountant that helped prepare it; (3) a list of the names, official positions, and occupations of the company's board of directors and the officers responsible for the company's activities related to the network; (4) a list of the company's principal owners; (5) if it is an out-of-state company, a certificate of good standing from that state; (6) the identity, address, and current relationship of any related or predecessor company; and (7) a report on any suspension, sanction, or other disciplinary action against the company, either in Connecticut or out-of-state.

The filing must also provide a general description of the network, including its geographical service area; the hospitals in the network; primary care and specialty physicians, other contracting providers and the percentage of each group's capacity to accept new patients; and the person to whom applications to participate can be made.

Notice. Any person developing a PPN or expanding one into a new county must put a notice of intent in at least one newspaper in the service area where it operates or will operate. The notice must include the medical specialties included in the network, the name and address of the person to whom applications can be made for participation in the networks, and a time frame for application. PPNs must acknowledge applications in writing and consider them in a timely manner.

Provider Selection and Termination Criteria. The act requires PPNs to file with the insurance commissioner, instead of OHCA, their general criteria for selection or termination of providers. This information must be available to providers upon request. Disclosure of the criteria is not required if the network deems it to be of a proprietary or competitive nature, with disclosure harming its business standing. Under the law, the network may not reject or terminate a provider based on quality and cost-effectiveness factors if the network uses criteria not properly filed, until the provider has been informed of the criteria his practice fails to meet. The act requires limited network preferred providers to inform applicants for enrolment if they do not reimburse for services obtained outside the network. The insurance commissioner must adopt regulations.

PA 01-5, June Special Session—HB 7506
Emergency Certification

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TRANSPORTATION STRATEGY BOARD

SUMMARY: This act establishes a 15-member Connecticut Transportation Strategy Board (CTSB) composed of five state commissioners and appointees of the governor and legislative leaders. The commission's purpose is to propose a transportation strategy to the legislature for its approval. In developing its strategy, the board must take into account several specific factors and considerations. The transportation strategy must be designed to stimulate sustainable economic growth and enhance the quality of life of state residents; improve the mobility of people and goods; enhance connectivity to the regional, national, and global economies; and enhance the safety and security of the transportation network. The board must submit its initial strategy to the legislature by January 15, 2002 and update or revise it on December 15, 2002 and at least every two years, as necessary.

The act organizes the state into five "transportation investment areas" (TIAs), each of which has a representative on the board. Each TIA must prepare an initial TIA corridor plan and submit it to the CTSB by November 15, 2001, to be followed by a full corridor plan on November 15, 2002, and every two years thereafter. The CTSB must review each TIA corridor plan and may incorporate all or part of the plans into the statewide strategy it develops.

The CTSB must (1) monitor implementation of the strategy by prioritizing transportation projects and their implementation processes, and (2) make recommendations to the transportation commissioner, governor, and General Assembly. The CTSB must also annually review the Department of Transportation's (DOT) proposed operating and capital budgets as they relate to implementation of the strategy and make recommendations.

The economic and community development commissioner, and certain others, must use impact statements to indicate for the CTSB whether new state projects that seek funds or involve new construction conform to the transportation strategy. The economic development commissioner must collaborate with

municipalities to promote and market areas of retail sales and services around transportation terminals.

The act designates the $50 million appropriated to the DOT for FY 2000-01 in the budget act for specific projects, programs, studies, and initiatives. Project work must commence on or after July 1, 2001. The CTSB may use up to $500,000 of this appropriation annually in FY 2001-02 and FY 2002-03 for administrative and consulting services.

The act creates a seven-member board of directors for Bradley International Airport that must include a member of the CTSB. It abolishes the Bradley International Airport Advisory Commission and replaces it with the Bradley International Community Advisory Board. A member of the community advisory board must sit on the Bradley Board of Directors. Among other things, the Bradley Board of Directors must advocate for the airport's interests, ensure that its potential as a state and regional economic development resource is fully realized, and assure that the airport has an appropriate mission statement and strategic goals that are regularly assessed.

The act makes several changes in laws governing the issuance, repayment, and use of bonds issued for Bradley projects.

The act designates both the CTSB and the Bradley Board of Directors as public agencies for purposes of compliance with the Freedom of Information Act and as quasi-public agencies for purposes of compliance with the code of ethics for public officials.

EFFECTIVE DATE: Upon passage, except the provision establishing the Bradley Board of Directors (but not those delineating its responsibilities or related provisions) is effective July 1, 2001

TRANSPORTATION INVESTMENT AREAS

The act organizes the state into five TIAs and designates the towns to be included in each TIA, along with the highways, bridges, waterways, ports, and airports in these towns. Many towns are included in more than one TIA. TIAs are organized roughly along geographic boundaries of combinations of regional planning areas, but there are exceptions.

Coastal Corridor TIA

The Coastal Corridor TIA includes:

Ansonia	Easton	New Milford	Stamford
Beacon Falls	Fairfield	Newtown	Stratford
Bethany	Greenwich	North Branford	Thomaston
Bethel	Guilford	North Haven	Trumbull
Bethlehem	Hamden	Norwalk	Wallingford
Branford	Madison	Orange	Waterbury
Bridgeport	Meriden	Oxford	Watertown
Bridgewater	Middlebury	Prospect	West Haven
Brookfield	Milford	Redding	Weston
Cheshire	Monroe	Ridgefield	Westport
Danbury	Naugatuck	Seymour	Wilton
Darien	New Canaan	Shelton	Wolcott
Derby	New Fairfield	Sherman	Woodbridge
East Haven	New Haven	Southbury	Woodbury

I-84 Corridor TIA

The I-84 Corridor TIA includes:

Andover	Ansonia	Avon	Barkhamsted
Beacon Falls	Berlin	Bethel	Bethlehem
Bloomfield	Bolton	Bridgewater	Bristol
Brookfield	Burlington	Canaan	Canton
Cheshire	Colebrook	Cornwall	Danbury
Derby	East Granby	East Hartford	East Windsor
Ellington	Enfield	Farmington	Glastonbury
Goshen	Granby	Hartford	Hartland
Harwinton	Hebron	Kent	Litchfield
Manchester	Marlborough	Middlebury	Morris
Naugatuck	New Britain	New Fairfield	New Hartford
New Milford	Newington	Newtown	Norfolk
North Canaan	Oxford	Plainville	Plymouth
Prospect	Redding	Ridgefield	Rocky Hill
Roxbury	Salisbury	Seymour	Sharon
Shelton	Sherman	Simsbury	Somers
South Windsor	Southbury	Southington	Stafford
Suffield	Thomaston	Tolland	Torrington
Union	Vernon	Warren	Washington
Waterbury	Watertown	West Hartford	Wethersfield
Winchester	Windsor	Windsor Locks	Wolcott
Woodbury			

I-91 Corridor TIA

The I-91 Corridor TIA includes:

Andover	Avon	Berlin	Bethany
Bloomfield	Bolton	Branford	Bristol
Burlington	Canton	Chester	Clinton
Cromwell	Deep River	Durham	East Granby
East Haddam	East Hampton	East Hartford	East Haven
East Windsor	Ellington	Enfield	Essex
Farmington	Glastonbury	Granby	Guilford
Haddam	Hamden	Hartford	Hebron
Killingworth	Lyme	Madison	Manchester
Marlborough	Meriden	Middlefield	Middletown
Milford	New Britain	New Haven	Newington
North Branford	North Haven	Old Lyme	Old Saybrook
Orange	Plainville	Plymouth	Portland
Rocky Hill	Simsbury	Somers	South Windsor
Southington	Suffield	Tolland	Vernon
Wallingford	West Hartford	West Haven	Westbrook
Wethersfield	Windsor	Windsor Locks	Woodbridge

I-395 Corridor TIA

The I-395 Corridor TIA includes:

Ashford	Franklin	New London	Stafford
Bozrah	Griswold	North Stonington	Sterling
Brooklyn	Groton	Norwich	Stonington
Canterbury	Hampton	Plainfield	Thompson
Chaplin	Killingly	Pomfret	Union
Colchester	Lebanon	Preston	Voluntown
Columbia	Ledyard	Putnam	Waterford
Coventry	Lisbon	Salem	Willington
East Lyme	Mansfield	Scotland	Windham
Eastford	Montville	Sprague	Woodstock

Southeast Corridor TIA

The Southeast Corridor TIA includes:

Bozrah	Franklin	Montville	Salem
Chester	Griswold	New London	Sprague
Clinton	Groton	North Stonington	Stonington
Colchester	Killingworth	Norwich	Voluntown
Deep River	Ledyard	Old Lyme	Waterford
East Lyme	Lisbon	Old Saybrook	Westbrook
Essex	Lyme	Preston	

TIA Functions and Responsibilities

The local regional planning agencies in each TIA must select those who will participate in the TIA processes and activities. Participants must come from, but are not limited to, businesses, labor unions, trade associations, environmental interest groups, and other interest groups the planning agency believes would be valuable in developing the TIA transportation plan. The local planning agencies must determine the processes the TIA will use in carrying out its responsibilities. For these purposes, each TIA must report to the local planning agencies' chief executive officers. The CTSB must assist agencies that request it.

By August 1, 2001, the planning agency chief executives must issue notice of a TIA organizational meeting to begin the process of creating the TIA's transportation plan and to make recommendations for nominating a TIA representative to the CTSB. Each TIA must submit an initial TIA corridor plan to the CTSB by November 15, 2001. It must provide a full TIA corridor plan to the CTSB by November 15, 2002 and every two years thereafter. The absence of a TIA corridor plan as required by the bill does not preclude the CTSB from proposing its transportation strategy.

TRANSPORTATION STRATEGY BOARD

Membership and Appointment

The CTSB consists of 15 members: (1) the commissioners of transportation, environmental protection, public safety, and economic and community development; (2) the secretary of the Office of Policy and Management (OPM); (3) one representative from each of the five TIAs; and (4) five appointees from the private sector that have expertise in transportation, business, finance, or law.

The five private-sector and five TIA members are appointed as follows and will serve initial terms expiring on the dates indicated below:

Member	***Appointing Authority***	***Initial Term Expiration***
Private Sector Member	Governor	6/30/2005
Private Sector Member	Senate president	6/30/2004
Private Sector Member	House speaker	6/30/2003
Private Sector Member	Senate minority leader	6/30/2003
Private Sector Member	House minority leader	6/30/2002
I-91 Corridor TIA	Senate president	6/30/2003
Coastal Corridor TIA	House speaker	6/30/2004
I-395 Coastal Corridor TIA	Senate majority leader	6/30/2005
I-84 Corridor TIA	House majority leader	6/30/2005
Southeast Corridor TIA	Transportation Comm. Co-chairpersons	6/30/2002

The governor's private-sector appointee must serve as the CTSB chairperson. Each TIA must submit a list of three nominees for consideration by the appropriate appointing authority of people who (1) live within the TIA; (2) are selected by the regional planning agency board chairpersons in consultation with TIA participants; and (3) have significant experience in, and knowledge of, state, regional, and local governmental processes. Each nomination list must include at least one chief elected official of a town in the TIA.

Once appointees' initial terms expire, all subsequent appointees serve four-year terms. No member may serve more than two consecutive terms. A vacancy for an appointed member must be filled by the appointing authority for the remainder of the term.

The CTSB may create subcommittees and appoint its members to them as it deems appropriate. Ten members must be present to constitute a quorum. Members may not be compensated for their service.

The board may issue guidelines for coordinating and organizating of the TIAs. The guidelines do not constitute agency regulations under state law.

DOT, OPM, and Department of Economic and Community Development (DECD) staff must provide staff assistance to the CTSB. With the OPM secretary's approval, the CTSB may hire consultants within

available appropriations to help carry out its functions. The consultants must be procured through the DOT.

The CTSB terminates as of July 1, 2006 unless the General Assembly reestablishes it.

Developing the State Transportation Strategy

In developing and revising its transportation strategy, the CTSB must take into account:

1. strategic concerns of moving people and goods;
2. technical and modal options for addressing these concerns, including rail, road, air, and water;
3. the relationship of these concerns and options to sustainable economic growth, environmental quality, urban development, open space and its preservation, employment access, and public safety;
4. transportation's role as a cornerstone of the state's economic development and quality of life and thus its link to other state policies, including land use planning, environmental quality, urban vitality, and access to jobs and services;
5. state connections to regional, national, and international economies and the critical role of mobility in sustaining economic growth;
6. the benefits of leveraging current transportation assets and infrastructure, especially in urban centers, and reducing automobile-oriented demands;
7. integrating brownfield remediation, affordable housing, and employment access as a result of a transportation strategy;
8. the need to engage (a) local planning agencies and other relevant constituencies in developing the strategy and (b) representatives of the state's major transportation assets and the transportation industry to help ensure the strategy is integrated and multi-modal;
9. technology available to expand capacity, enhance safety, provide information, and access funding alternatives;
10. the need to fully explore sources and methods for funding infrastructure investments and annual operating and maintenance costs, and the regulations that apply to spending state and federal funds;
11. the development of measures, methods, and standards essential to determining customer needs and to evaluating the return on transportation investments and project priorities;
12. the importance of the state being a leader in the northeast in developing and advocating a regional transportation strategy;
13. the need for expeditious analysis and decision-making within the existing statutory and regulatory framework and for identifying necessary changes to this framework;
14. the development, renovation, and expansion of Bradley International Airport;
15. the State Plan of Conservation and Development; and
16. the need to (a) clearly define the role of private companies, public agencies, and institutions, including the role of financial incentives; (b) encourage and support employees to use public transportation and provide them with appropriate alternatives to their work times and places such as telecommuting and flexible work hours; (c) develop effective delivery of goods in and through the state, and (d) encourage different sectors to participate in state initiatives.

Transportation Strategy Objectives

The transportation strategy the CTSB designs must:

1. stimulate sustainable economic growth and enhanced quality of life and develop and continuously upgrade analytical tools to show the link between transportation and public benefits;
2. make it easy for people and goods to move in the state and TIAs by reducing traffic congestion, enabling inter-corridor movement, and providing access to employment and essential services;
3. connect the regional, national, and global economies through (a) improved access to the surrounding states and economies and (b) expanded modal choices for passengers and freight by developing an airport system that stimulates growth, linking state and international rail grids, developing water-borne alternatives, and assuring workable freight access to New York and New Jersey ports and the North American Free Trade Agreement (NAFTA) trade corridor; and
4. adequately maintain infrastructure and equipment and enforce safe operations and system use by customers and operators.

Evaluation Criteria and Other Considerations

The CTSB must evaluate specific tactics and approaches in the strategy to determine if they:

1. focus on the people using transportation systems by involving them in planning and market research, creating effective interfaces with other systems, and developing "intelligent" transportation systems;
2. respond to general business and industry cluster needs and support state urban development strategies;
3. improve air quality, minimize impacts on wetlands and open space by directing development to areas of the state with the infrastructure to support it, and reduce energy consumption;
4. encourage intermodal links and usage wherever possible and transportation systems management from a multi-modal perspective; and
5. build upon natural economic and service areas, enhancing connectivity of population centers and implementing strategic priorities through the TIAs.

The CTSB must include in the strategy the criteria by which it and the DOT will evaluate and prioritize current and proposed transportation projects. It also must identify in the strategy the tools and measures it intends to use to assess transportation system performance and analyze the value of projects proposed to implement the strategy, including their overall value to the state as a public investment.

The strategy must include a projection of the required investments in capital and operating costs over the succeeding 10 years and the recommended sources of these funds. It must also distinguish between operations and maintenance and investment costs based on the strategy and evaluated against its goals, provision of additional benefits that are both tangible and attainable, inclusion of a range of transportation modes to gain public support, maximum outreach to the community in each TIA, and response to widely perceived needs.

Review of TIA Corridor Plans for Inclusion in the Strategy

The CTSB must review each TIA corridor plan and may incorporate all or part of the plans in its strategy. In developing and revising the strategy, the CTSB may (1) hold public hearings; (2) consult and cooperate with government, corporate, and organization officials; (3) request and receive assistance from other governmental entities; and (4) to the extent it deems appropriate, use and incorporate in the strategy any existing long-range plan, report, or survey developed by a public or private entity.

DOT must keep the strategy and its revisions on file as a public record.

Submission of the Transportation Strategy

The CTSB must submit an initial strategy and preliminary cost projections to implement it over the first 10 years to the governor and legislature by January 15, 2002. The strategy is subject to the General Assembly's approval. The CTSB must submit a status report on strategy implementation, including any revisions it may need, to the Transportation Committee on June 30, 2002 and on every December 31st and June 30th thereafter. The status report must also include the quarterly reports it receives from the DECD commissioner with respect to DECD's project activities and their relationship to the transportation strategy. The CTSB must update or revise the strategy on December 15, 2002 and every two years thereafter, if necessary, and submit an implementation report to the governor and legislature. Strategy updates and revisions are also subject to legislative approval.

The CTSB must monitor strategy implementation by prioritizing transportation projects and processes necessary to implement them for the purposes of proposed legislative approval. It also must review annual DOT capital and operating budgets as they relate to implementing the strategy and make recommendations to the governor, commissioner, and legislature.

The CTSB must consult with members and appropriate staff of the Connecticut congressional delegation and with U.S. Department of Transportation staff concerning federal transportation funding and initiatives.

Economic Development Initiatives

The DECD commissioner and the executive directors of the Connecticut Development Authority (CDA) and Connecticut Innovations, Inc. (CII) must submit to the CTSB an impact statement for each project that is new to the state or involves new construction and seeks funding from them. The statement must summarize whether or not the project conforms to the strategy the CTSB submits to the legislature.

By July 1, 2002, and quarterly thereafter, the DECD commissioner must update the board on all project activities that occurred in the quarter.

The act requires the DECD commissioner, in consultation with the DOT commissioner, to collaborate with cities and towns to promote and market areas of retail sales and services around rail, bus, airport, and port terminals. The commissioner may use the services of the Connecticut Economic Resource Center and any other entity he finds necessary.

TRANSPORTATION PROJECT APPROPRIATIONS

The act designates the $50 million appropriated to the DOT from the General Fund for FY 2000-01 in the budget act (SA 01-1, June Special Session) for expenditure on the following projects, programs, studies, and initiatives, and for administrative and consulting services:

1. the Jobs Access program for later evening bus service, route extensions, and customized paratransit services for residents of Bridgeport, Hartford, New Haven, and Waterbury;
2. expanding commuter parking lot capacity;
3. marketing the employer-sponsored pretax commuter benefit program known as "Deduct-A-Ride;"
4. a design study of an Orange/West Haven rail station with parking for 1,000 commuters;
5. a site selection study for expanding capacity of New Haven rail line maintenance facilities and purchasing land for a new rail service maintenance facility;
6. expanding bus services connecting with rail services in the Coastal Corridor TIA;
7. improving and enhancing the state's Accident Clearance Policy to minimize accidents on I-95 and the Merritt Parkway and enhancing truck inspection station operating hours;
8. analyzing and recommending the appropriateness of peak-hour on-ramp closures on I-95 in the Coastal Corridor TIA, including how they would alleviate traffic congestion;
9. partnering with Amtrak, Metro-North, and rail labor unions to allow Shoreline East commuter trains to run through New Haven to Bridgeport, Stamford, and Greenwich for a two-year trial period;
10. partnering with Amtrak to provide additional peak-period train service for a two-year trial period for the purpose of promoting monthly tickets and service from Connecticut to Penn Station in New York City;
11. expanding Fairfield County inter-regional service through the purchase of 10 new buses and additional local bus service;
12. additional operating funds to expand bus service for western Connecticut commuters to utilize Metro-North's Upper Harlem Line to commute to White Plains and New York City;
13. developing (a) operational and fiscal plans for expanding local and regional bus services in coordination with rail and ferry schedules to serve area attractions and (b) a single ticket fare structure for such services in the Southeast Corridor TIA;
14. a study to refine the traffic and transportation needs and modal options of the Southeast Corridor TIA;
15. expanding express commuter bus service in the Hartford area;
16. continuing the efforts of the Capitol Region Council of Governments to support the Hartford-New Britain Busway Project;
17. studying the infrastructure costs and operating characteristics of rail commuter services from New Haven to Springfield, Massachusetts, including Bradley International Airport;
18. safety and operational improvements to I-84 interchanges from Danbury to Newtown;
19. a safety and capacity study of Route 8 from Seymour to Waterbury;
20. funding a high-speed ferry from Bridgeport to Stamford and New York;
21. implementing a demonstration project for a feeder freight barge service in Long Island Sound between the port facilities of New York and New Jersey and Bridgeport and New Haven harbors; and
22. other specific strategic transportation improvements.

Project work must commence on or after July 1, 2001. The appropriation is available for expenditure through June 30, 2003.

The CTSB may use up to $500,000 of this appropriation in each of the next two fiscal years (FYs 2001-02 and 2002-03) for administrative and consulting services.

BRADLEY INTERNATIONAL AIRPORT BOARD OF DIRECTORS

Board of Directors

The act creates a seven-member board of directors for Bradley International Airport consisting of the transportation commissioner, the DECD commissioner, a CTSB representative appointed by the House speaker, a Bradley International Community Advisory Board representative (which the act also creates) appointed by

the House minority leader, and three private-sector members. The governor must appoint one of the private-sector members, who serves as the board chairman with an initial term through June 30, 2005. The Senate president and Senate minority leader each must appoint one of the other two members who also serve initially until June 30, 2005. Subsequent terms for all appointed members must be for four years.

The board's appointed members must be senior business leaders or executives who have corporate or institutional management experience. They must also have expertise and experience in one or more of the following disciplines: financial planning, budgeting and assessment, marketing, master planning, strategic planning, or transportation management. Board members, who serve without compensation, must be sworn to the constitutional oath of office.

Any member who misses three consecutive board meetings must be considered to have resigned. The board must elect a vice-chairperson from among the appointed members. Five members constitute a quorum and board actions may be taken by a majority vote of its members present.

Bradley Board of Directors' Responsibilities

The act requires the Bradley Board of Directors to: (1) develop an organizational and management structure, in consultation with the transportation commissioner, that will best accomplish the goals of Bradley International Airport; (2) approve the airport's annual capital and operating budget; (3) cooperate with the CTSB; (4) advocate for the airport's interests and ensure its potential as an economic development resource for the state and region; (5) assure that an appropriate mission statement and set of strategic goals are established for the airport and that progress is regularly assessed; (6) approve the Bradley International Airport master plan; (7) establish and review policies and plans for marketing the airport and determining the best use of airport property; (8) make sure appropriate independent expertise is available for advising it, particularly on strategy and marketing, and select consultants as necessary for purposes related to strategy and marketing, pursuant to procedures it establishes; (9) ensure customer service standards, performance targets, and performance assessment systems are established for the airport enterprise; (10) approve community relations policies and ensure that the Bradley International Community Advisory Board operates effectively so that community comment and information is regularly and fully considered in airport-related decisions; (11) create a code of conduct for its members consistent with the State Code of Ethics for Public Officials; (12) report annually to the governor and legislature; (13) establish procedures to review significant contracts relating to airport operation, other than collective bargaining agreements, prior to their approval, such procedures to require completion of the board's review not more than 10 business days after their receipt; and (14) adopt rules to conduct its business. The rules cannot be considered state agency regulations.

The Bradley board is located for administrative purposes within the DOT, which must conduct its administrative functions. Administrative costs and costs for any consultants the board recommends to advise it and that DOT retains may be reimbursed from the Bradley Airport Enterprise Fund. Consultants recommended by the board and retained by the DOT for this purpose must report to the board rather than the DOT. The act exempts the selection and engagement process for these consultants from the statutes governing selection of DOT consultants and state agency personal service agreements.

Bradley International Community Advisory Board

The act creates a Bradley International Community Advisory Board and abolishes the Bradley International Airport Commission. The community advisory board consists of the chief elected officials of East Granby, Suffield, Windsor, and Windsor Locks. The advisory board must work with the airport administration and issue semi-annual reports to the Bradley board of directors. It must also use the board of directors as a resource to support its development initiatives.

The community advisory board must (1) provide a regular vehicle for communications between airport administrators and nearby towns on issues of concern to residents, such as noise and traffic, and (2) advise the board of directors on land use, transportation, planning, zoning, and economic development issues on land surrounding or close to the airport. In carrying out the latter function, the community board must appoint a subcommittee made up of each town's manager or planner and representatives from regional organizations including the Capital Region Council of Governments, Greater Hartford Growth Council, Springfield Regional Planning Agency, and DECD. The subcommittee must work to develop new business around the airport and report regularly to the community advisory board on its activities.

Members of both the community advisory board and its development subcommittee must comply with the Code of Ethics for Public Officials.

Bonding for Bradley International Airport Projects

The act removes the aggregate bonding cap of $294 million for airport-related projects. It also specifies that some or all of the revenue the airport generates can be used to repay the bonds. It requires revenue generated from passenger facility charges (PFCs) to be used to repay bonds, to the extent federal law allows. PFCs are federally authorized levies airport operators can impose on passengers to raise additional revenue for specific, federally approved, projects and time periods.

The act authorizes the Bradley Board of Directors to appoint a finance or other committee consisting of one or more of its officers or employees to serve as its authorized delegate in connection with bond issuance.

The act specifically authorizes the state treasurer to enter into standby bond purchase and other additional kinds of agreements related to obtaining any credit or liquidity facilities as well as covenants to better secure the bonds or maintain tax exemptions on bond interest. The treasurer is also authorized to enter into a trust of indenture with a lender. She may also designate whether or not bonds or notes issued for Bradley projects are federal income tax-exempt. The act specifies that the interest on bonds or notes must be included in computations of any excise or franchise tax. The act also makes several procedural changes in the process for issuing the bonds for Bradley projects.

Finally, the act officially designates the Bradley Enterprise Fund as a separate nonlapsing enterprise fund.

PA 01-6, June Special Session—SB 2001
Emergency Certification

AN ACT CONCERNING VARIOUS TAXES AND OTHER PROVISIONS RELATED TO REVENUES OF THE STATE

SUMMARY: This act makes many changes in various tax laws as well as several statutory changes to implement the FY 2001-03 state budget. Among other things, it:

1. exempts hospital patient care services from the sales and use tax until July 1, 2003;
2. increases a tax credit for HMOs that provide health coverage under the HUSKY A, HUSKY B, or HUSKY Plus programs for low-income children and their parents;
3. reduces the state's reimbursement to municipalities for lost revenue from property tax exemptions for new machinery and equipment and trucks;
4. extends various tax exemptions for fuel cell manufacturing material and equipment and alternative fuel vehicles;
5. changes the basis for taxing cell phone service to comply with federal law, starting August 2, 2002;
6. caps funding for tourism districts for two years and diverts hotel tax revenue to fund specified tourist attractions;
7. allows municipalities to double the property tax exemption for farm machinery;
8. imposes a civil fine on cigarette dealers and distributors who sell loose cigarettes; and
9. makes drivers' licenses valid for six, rather than four, years (a provision later modified in PA 01-9, June Special Session).

EFFECTIVE DATE: July 1, 2001 unless noted below.

SALES AND USE TAX

Exemptions

Patient Care Services (§§ 1-3). The act suspends the 5.75% sales and use tax on hospital patient care services for two years, from July 1, 2001 through June 30, 2003.

Parking Facilities (§ 1). The act expands a sales and use tax exemption for parking in municipally operated railroad parking facilities located in areas designated under the federal Clean Air Act as having the worst ozone air pollution (primarily fairfield county) to include those that are state-owned or operated on and after April 1, 2000.

Fuel Cell Manufacturing Materials (§ 18). The act eliminates the sales and use tax on material, tools, fuel, machinery, and equipment bought for use, consumption, or storage by fuel cell manufacturing facilities. Under the act, (1) a "fuel cell" is a device that produces electricity directly or indirectly from hydrogen or hydrocarbon fuel through an electro-chemical process, rather than by burning; (2) a "fuel cell manufacturing facility" is a factory where fuel cell parts or components are manufactured, overhauled, or rebuilt; and (3) "machinery and equipment" is tangible personal property installed in a fuel-cell manufacturer's facility and used largely to produce fuel cells.

Alternative Fuel Vehicles (§ 22). The act extends for six months, from January 1, 2002 to June 30, 2002, the expiration dates of sales and use tax exemptions for:

1. new vehicles that run exclusively on natural gas or electricity;
2. new vehicles that run exclusively on propane, if they meet federal or state emission standards under the Clean Air Act;

3. equipment used to convert vehicles to run exclusively on natural gas, electricity, or propane, or to run on one of those fuels and any other fuel; and
4. equipment used in, or as part of, a compressed natural gas filling or electric recharging station for alternative-fuel vehicles.

Caskets for Cremation (§ 61). The act expands the existing sales tax exemption for burial caskets to cover caskets used for cremation, regardless of who sells them and how much they cost. Property that funeral homes use in preparing for and conducting burials and cremations was already exempt, up to a maximum of $2,500 per funeral.

Indian Tribes and Affiliated Businesses (§ 30). The act extends a sales tax exemption that already applied to certain services rendered between affiliated businesses to the same services rendered between federally recognized Indian tribes and their affiliated businesses. The exemption covers transactions between a tribe and a business it controls and between two or more businesses the tribe controls. The exemption applies to such taxable services as computer and data processing, management consulting, business analysis, and telecommunications and cable television services.

This provision takes effect October 1, 2001 and applies to sales made on and after that date.

Internet Access Service (§ 65). The act eliminates the use tax on Internet access service as of July 1, 2001. The law already eliminated the sales tax on Internet access service as of the same date.

Cell Phone Service (§ 71)

Basis for Applying Tax. The act changes the criteria for determining when the Connecticut sales tax applies to cellular mobile phone and related services, starting with service rendered after August 1, 2002. On or before that date, under existing law, a completed cell phone call is taxable by Connecticut if the first cell site used to transmit it is in this state. After that date, under the act, all charges for cell phone service billed by or for a customer's home service provider are taxable if the street address where the customer's cell phone usage primarily occurs ("place of primary use") is in Connecticut. The home service provider is the company that contracts with the customer to provide the cell phone service.

The change conforms state law to the federal Mobile Telecommunications Sourcing Act, which as of August 1, 2002, bars a state or local government from taxing cell phone service if the customer's place of primary use is not within its taxing jurisdiction (PL 106-274, 4 U.S.C. §§ 116-126).

The act maintains the existing taxing basis for all service rendered before August 2, 2002. It also states that, if a court's final judgment on the merits of the federal law substantially limits or invalidates its essential elements and the judgment cannot be appealed, its taxing scheme is invalid as of the date of the final judgment. In such a situation, the basis for the tax reverts to the existing law.

Home Service Provider and Place of Primary Use. Under federal law and the act, the home service provider is responsible for obtaining and maintaining a record of each customer's place of primary use. The provider may rely in good faith on the address the customer gives it and may continue to use any address it has for the customer in any service contract in effect on July 28, 2002, unless the Department of Revenue Services (DRS) commissioner notifies it of a different address. Before notifying the provider, DRS must give the customer a chance to prove the address he gave the provider is his place of primary use.

Electronic Database. Federal law and this act allow DRS to give service providers an electronic database that meets certain technological standards and shows the street addresses within the state so the providers may determine the correct taxing jurisdictions for their customers. If DRS does not provide a database, the home service provider is not responsible for tax mistakes as long as it uses nine-digit zip codes to assign addresses to taxing jurisdictions and tries diligently to assign addresses to the correct jurisdictions.

Customer Appeals. A customer who believes his tax rate or his assigned tax jurisdiction is wrong must notify his provider in writing. He must include his correct primary use address, the name and account number for which he is requesting the correction, and any other information the provider reasonably requires. The provider must review its records within 60 days. If it finds a mistake, it must correct it and refund any tax overpayment. If it finds no mistake, it must give the customer a written explanation.

The provider's liability for erroneous tax payment refunds applies for two years from the date of the customer's written notice of overpayment. A customer who is not satisfied and who exhausts the provider's appeal procedures may file for a refund with DRS within three years of the last overpayment.

Taxable and Nontaxable Services. The act allows nontaxable service to be taxed unless the provider can reasonably separate the nontaxable service using its regular books and records. A customer cannot rely on service not being taxed unless (1) the charges for nontaxable service are stated separately or (2) the

provider decides, after receiving a written request from a customer in whatever form it requires, to provide verifiable data from its regular records that identifies nontaxable charges.

These changes apply to customer bills issued after August 1, 2002, which is the first day of the month beginning more than two years after the enactment of PL 106-252.

Security Requirements for Out-Of-State Contractors (§ 45)

The act gives a person who hires an out-of-state contractor more time to post security with DRS to guarantee payment of sales tax on property to be used in fulfilling the contract. By law, the person hiring the contractor must post the security if the contractor does not. For contracts lasting longer than 90 days, the act extends the deadline from 30 to 90 days after the contract starts. For shorter contracts, the act extends the deadline from 30 to 45 days after the contract starts.

BUSINESS TAX CREDITS

HMO HUSKY Tax Credit (§ 4)

The act increases the tax credit for HMOs providing health coverage under the HUSKY A, HUSKY B, or HUSKY Plus programs from $55 to $73.50 per patient per month. The credit counts against the HMOs' net direct subscriber tax and applies to income years starting on and after January 1, 2001. As under prior law, the credit is multiplied by the number of patients the HMO covers on the first of each month and divided by 12.

Computer Equipment Provided to Higher Education Institutions (§ 19)

Beginning July 1, 2003, the act doubles, from $2 million to $4 million, the aggregate credit a qualifying company may take against sales and use taxes owed for certain computer equipment. The credit equals the resources the company provides to a Connecticut college or university for buildings and classrooms, computer equipment, or computer programs used for business instruction related to workforce development or electronic commerce.

By law, to qualify for a credit, a company must (1) be selected by the commissioner of higher education and (2) have a permit to pay sales tax directly to the DRS commissioner rather than through a vendor. The computer equipment against which the credit applies must be bought on or after July 1, 2000 for use in electronic commerce in the state.

Insurance Reinvestment Fund Tax Credits

Expiration Date (§ 39). The act eliminates premium, corporation, and personal income tax credits for investments in Connecticut-based insurance companies made after December 31, 2015 through state-registered investment funds. As under prior law, investments must be made through funds formed on or before July 1, 2000.

Eligibility Criteria (§ 72). By law, for an investor to be eligible for tax credits, the insurance company invested in must employ at least 25% of its total workforce in new jobs in Connecticut. If the business fails to maintain the 25% level at any time during a year for which the investor claims a credit, the credit is disallowed. This act allows an investor to retain the credit if the insurance company fails to meet the employment threshold because it is liquidated or reorganized in a bankruptcy proceeding or in a proceeding instituted to liquidate, rehabilitate, conserve, or reorganize it under state insurance laws. Prior law only allowed an investor to keep the credit if the company did not meet the threshold because it was dissolved in such proceedings.

Repayment Exemption (§§ 80 & 81). By law, an investor must repay any tax credits he receives for any year in which the company fails to employ at least 25% of its total workforce in new jobs in Connecticut. The act allows investors to continue receiving credits and exempts them from repayment requirements even if the share of the insurer's Connecticut workforce employed in new jobs falls below 25% of its total workforce, as long as it maintains the same regular, permanent, full-time employment levels in Connecticut while the credit applies. This exemption applies to any investment fund, regardless of when it was formed.

HOTEL TAX REVENUE OFFSETS (*§§* 5 & 6)

Cap on Allocations to Tourism Districts

By law, the DRS commissioner must (1) segregate a percentage of the 12% tax on gross revenue from room rentals in hotels and lodging houses and (2) distribute the segregated revenue to the state's 11 tourism districts according to a statutory formula. (Part of the amounts distributed to the Hartford, New Haven, Stamford, Norwalk, and Bridgeport districts are allocated to specific entities.) For FYs 2001-02 and 2002-03, the act caps the total amount allocated to tourism districts at FY 2000-01 levels.

Exclusions from Cap

The act exempts the specified percentages of hotel tax revenue raised in certain towns that the law requires to be devoted to certain entities (see Table 1) from the cap on allocations to tourism districts.

Table 1: Statutory Allocations Exempted from Cap

City	*To*	*Allocation*
Hartford	Capital City Economic Development Authority	90%
	Greater Hartford Arts Council	10%
New Haven	New Haven Coliseum Authority	75%
Stamford	Stamford Center for the Arts	75%
Norwalk	Maritime Center	75%
Bridgeport	Greater Fairfield Tourism District (to market Bridgeport attractions)	75%

Annual Revenue Diversions

Starting in FY 2001-02, the act requires the commissioner to divert enough hotel tax revenues annually to fund the following:

Table 2: Annual Revenue Diversions

To	*FYs*	*Purpose*	*Annual amt.*
Historical Commission	2001-02 and after	Freedom Trail - plaques and other site markings for underground railroad and related sites.	$40,000
		Historical Resource Inventory	$30,000
Department of Economic and Community Development	2001-02 and after	Publicize the Freedom Trail	$50,000
Arts Commission	2001-02 and after	Promote and publicize the Impressionists Arts Trail	$50,000
Central Tourism Account	2001-02 and after	Regular operations	$500,000
Film, Video and Media Office	2001-02	Regular operations	$400,000
	2002-03 and after	Regular operations	$412,000
Department of Transportation	2001-02	Rocky Hill and Chester and Hadlyme ferries	$658,898
	2002-03 and after		$688,202

Balance to General Fund

For the FYs 2001-02 and 2002-03, the act requires any hotel tax revenue over and above the amounts it allocates to go to the General Fund.

Miscellaneous Changes

The act eliminates a requirement that hotel tax revenue from rooms added to existing hotels in Hartford on or after May 2, 2000 be shared by the Greater Hartford Arts Council and the Capital City Economic Development Authority. The council and the authority continue to share revenue from any new hotels established in Hartford on or after that date. It also makes technical changes and deletes obsolete language.

OTHER REVENUE OFFSET AND NET FUNDING PROVISIONS

Refunds of State Payments (§§ 7-10)

The act requires refunds of state payments other than taxes to be paid out of the fund to which the payment was originally credited instead of out of an appropriation to the comptroller. It also requires the revenue estimates included in the biennial budget act to be reduced by estimated refunds of such overpayments, as they already must be by estimated tax refunds.

R&D Tax Credit Refunds (§ 11)

The act gives companies credit refunds instead of cash payments for unused corporation tax credits for research and development (R&D) expenses. A qualifying company that cannot take advantage of R&D tax credits in any year because it has no tax liability can either carry the credit forward or, under prior law, could exchange it for a cash payment of 65% of the amount of the credit. The act changes the cash payment into a credit refund in the same amount.

Businesses must apply to the revenue services commissioner for the credit refunds as they formerly did for cash payments. Under the act, late R&D credit refund payments are not subject to the monthly 0.66% interest payable on late tax refunds.

Riverview Hospital Payments (§ 12)

Starting with FY 2001-02, the act requires revenue the Department of Administrative Services receives from Medicaid managed care plans for services performed at Riverview Hospital to be deposited in the General Fund and credited to a nonlapsing account in the Department of Social Services (DSS), to be used to pay Medicaid claims. Riverview Hospital is a children's mental health facility run by the Department of Children and Families.

Medicaid Payments for Special Education-Related Services in Schools (§ 13)

Starting with FY 2001-02, the act requires all federal matching funds that DSS receives for special education-related services rendered in schools to be deposited in the General Fund and credited to a nonlapsing account in DSS, 60% of which is to be used to pay towns where the schools are located and the rest to pay Medicaid claims.

DSS formerly paid for these services out of a grant established in DSS, with an annual appropriation of 60% of federal reimbursements. In turn, the total revenue the state received for these claims was deposited in the General Fund.

Indirect Indian Tribe Regulatory Costs (§ 15)

By law, state agencies must turn over to the treasurer for deposit in the General Fund any indirect costs they recover that were originally paid by the General Fund. The act exempts state agency overhead charges for state regulatory and law enforcement costs attributable to the activities of the Mashantucket Pequot and Mohegan tribes and recovered through assessments on the tribes.

PROPERTY TAX

State Reimbursement for Property Tax Exemptions for Machinery and Equipment and Trucks (§ 57)

The act reduces, from 100% to 80%, the state reimbursement to municipalities for revenue they lose as a result of mandatory five-year property tax exemptions for:

1. new or newly acquired machinery and equipment;
2. new commercial trucks and vehicles used in combination with them that weigh more than 26,000 pounds and are used exclusively for carrying freight in inter- or intrastate commerce; and
3. all new commercial trucks and vehicles used in combination with them that weigh more than 55,000 pounds.

The reduction in the reimbursement rate applies to machinery, equipment, and trucks first approved for exemptions on or after October 1, 2000.

Exemptions

Extension for Certain Manufacturers (§ 17). The act gives companies manufacturing pharmaceutical, medicinal chemical, and botanical products an extra five years to continue receiving an 80% property tax exemption on machinery and equipment installed in a manufacturing facility. These companies qualify for the extension if (1) they employ at least 1,000 new people and (2) the Department of Economic and Community Development (DECD) commissioner approves a five-year extension for the facility's real property.

By law, most manufacturers and specified service firms qualify for a five-year, 80% abatement on facilities they develop or acquire in an enterprise zone or other designated area and the machinery and equipment installed in these facilities. The state reimburses towns for some of the revenue loss.

Manufacturing Machinery and Equipment Exemption—"Related Business" (§ 83). By law, property is not eligible for the tax exemption for new and newly acquired manufacturing machinery and equipment that is merely transferred from one business to its affiliate or a related business. This act defines a "related business" for purposes of the exclusion as (1) a corporation, limited liability company, partnership, association, or trust the taxpayer controls; (2) such an entity, or an individual, that controls the taxpayer; (3) an entity controlled by an individual or entity the taxpayer controls; or (4) a member of the same controlled group as the taxpayer.

Under the act, "control" means directly or indirectly owning at least 50% of the combined voting power of all classes of a corporation's voting stock or at least 50% of the beneficial interest in the principal or income of a trust. The act applies certain federal criteria to determine who is the constructive owner of corporate stock, interests in a partnership or association, and beneficial interest in trust principal or income. Those criteria require (1) stock owned directly or indirectly by or for a corporation, partnership, estate, or trust to be considered as owned proportionately by or for its shareholders, partners, or beneficiaries and (2) stock owned directly or indirectly by or for an individual's family (whole or half-siblings, spouse, ancestors, and lineal descendants) to be considered as owned by the individual (26 U.S.C. § 267(c)).

Farm Machinery (§ 82). By law, towns must exempt farm machinery worth $100,000 or less, other than motor vehicles, from property taxes. The act gives town legislative bodies the option to exempt farm machinery worth up to an additional $100,000. Farmers must qualify and apply for the optional exemption in the same way they do for the mandatory exemption. This provision applies to assessment years beginning October 1, 2001.

Credit, Exemption, and Rental Rebate Administrative Review Process (§§ 46-55)

Covered Programs. The act creates a uniform procedure for people and businesses (i.e., claimants) to appeal decisions by the Office of Policy and Management (OPM) secretary affecting their eligibility for benefits under several state-reimbursed property tax exemption and relief programs. It applies to tax exemptions granted to commercial vehicles and manufacturing facilities, machinery, and equipment and to programs extending tax credits and rebates to veterans, people with disabilities, and elderly and disabled homeowners and renters.

The new procedure replaces prior processes for appealing OPM decisions regarding these benefits but incorporates many elements of the old procedure for appealing decisions regarding exemptions for commercial vehicles and manufacturing machinery and equipment.

OPM Secretary's Authority. The act explicitly allows the secretary to take certain actions that could trigger an appeal. He can review applications for benefits and deny reimbursement to towns if the property or the claimant is ineligible. He can modify the amount of the benefit approved by the tax assessor or other municipal official if it is mathematically incorrect, unsupported by the application, or fails to conform to the law or if he needs more information to justify approval.

Preliminary Decision and Notice. The secretary must notify the person or the business claiming a benefit when he modifies the benefit amount or makes a preliminary decision that they do not qualify. He must send the notice by first class mail to the address on the application unless the claimant notified him in writing to send correspondence about the benefit to another name or address. The notice date is the date the claimant receives it.

The secretary must send a copy of the preliminary notice to the assessor or the municipal official who approved the claimant's application. The notice must plainly explain the reasons for the secretary's actions, give the name and telephone number of the person in OPM who can answer questions about the notice, specify any additional information the secretary needs to approve the benefit, and specify the process for asking the secretary to reconsider his decision.

Reconsideration. The claimant has 30 business days from when he receives the notice to ask the secretary to reconsider his decision for any factual reason. He must explain in writing why he wants the secretary to reconsider and provide any additional information or documentation the secretary requested in the notice. The secretary can extend the 30-day deadline if the claimant proves he requested the additional information and documentation from another government agency or for other good cause. Within 30 business days after receiving the claimant's request and the information, the secretary must reconsider his decision and notify the claimant in writing about the results.

Hearing. The claimant can request a hearing if he is still aggrieved after the secretary reconsiders his decision. He must request the hearing in writing within 30 business days after the secretary's notice, stating why the secretary should not deny or modify the benefit.

The secretary has 30 business days from when he receives the request to decide whether to hold the hearing and notify the claimant in writing about his decision. If he denies the request, he must state his reasons. If he approves, he must notify the claimant in writing and schedule a hearing within 30 business days. The notice must also indicate the hearing date, time, and place. The secretary may hold the hearing in the judicial district where the claimant lives or his property is located.

The secretary has up to 30 business days after the hearing to decide the issue and notify the claimant and the assessor or municipal official who approved the benefit. He must notify the claimant and appropriate local officials about his final decision before the statutory deadline for certifying the benefit amount to the comptroller.

Appeal to Superior Court. The claimant can appeal to Superior Court if the secretary rejects his request for a hearing or if the secretary's final decision after the hearing aggrieves him. In either case, he must do so within 30 business days of the decision. He can appeal to the court in the judicial district where he lives or his property is located. The claimant must include with the appeal a citation to the secretary to appear in court and serve the citation on the secretary like a summons in a civil action. The appeal does not stop the town from collecting taxes on the claimant's property.

The claimant must provide a bond or other surety to the state to insure that he will go through with the appeal and comply with the court's orders and decrees. The court must treat the appeal as a preferred case and grant equitable relief. It can impose court costs on the claimant if it denies the appeal, and double or triple costs on the claimant if the appeal is without probable cause. It cannot impose costs on the state.

Changing the Grand List. Assessors must decide if they need to increase the taxable grand list after the secretary first notifies them that he denied or modified a benefit. The act gives them up to 90 days after the preliminary notice to do this and notify the tax collector about it. The tax collector must send a new bill within 30 days. The claimant has up to 30 days after receiving

this bill to pay the tax. Otherwise he must pay the statutory interest penalty.

An assessor must hold off taking these actions if the secretary notifies him that he has agreed to a hearing on the claimant's application. In this case, he must wait until the secretary sends him the notice of final determination.

Additional Veterans' Exemption Program (§ 47). The act requires the secretary to review each application for benefits under this program and allows claimants to appeal directly to him when he makes decisions affecting their exemptions. Under prior law, they could appeal to the secretary an assessor's decision affecting their applications but not a decision the secretary made after auditing the town's claim for reimbursement.

Claimants can still appeal the assessor's decision to the town's board of assessment appeals. Prior law gave them the option of appealing the assessor's decision after he completed the grand list or appealing to the board in February. Under the act, claimants can appeal to the secretary after he acts on a town's claim for reimbursement in July.

Totally Disabled Person's Property Tax Exemption (§ 48). The act eliminates the towns' right to appeal the secretary's decisions on their claims for state reimbursement for these exemptions and allows individuals and businesses to appeal a decision the secretary makes regarding their exemption. Prior law provided no procedure for claimants' appeals.

Machinery and Equipment and Commercial Vehicles Tax Exemptions (§ 49). The act changes the hearing requirements for these exemptions. It requires claimants to ask the secretary to reconsider a decision before they can request a hearing instead of when the secretary first notifies them about changes affecting their benefits.

The act gives a claimant up to 30 business days, instead of a month, to request the hearing and requires the secretary to reconsider a decision before the claimant can request a hearing. It imposes deadlines by which the secretary must decide whether to hold the hearing and, if he chooses to, when to hold it. The act reduces the time he has to make a decision from 60 days to 30 business days after the hearing.

Elderly Tax Freeze Program (§§ 50 & 51). The act eliminates the one-year prison term for making a false statement or failing to disclose information under the tax freeze program, but retains the fine, which can be up to $500. The law also requires people to refund tax freeze benefits if they fail to disclose all matters relating to the benefit or make false statements with the intent to defraud. (PA 01-9, June Special Session, requires the refund to be made to the town or the state, as appropriate.)

The act eliminates a claimant's right to appeal to the secretary an assessor's decision affecting his benefit and a town's right to appeal decisions the secretary makes after reviewing their reimbursement claims. (PA 01-9, June Special Session, restores claimants' appeal rights.)

It gives the claimant up to 30 business days instead of 30 days to request the hearing and allows the secretary to decide whether to hold a hearing rather than requiring him to hold it. It imposes deadlines by which the secretary must decide whether to hold the hearing and, if he chooses to, when to hold it. It requires the secretary to decide the matter within 30 business days, instead of 60 days, of the hearing and specifies how the claimant may appeal the decision to Superior Court.

The act gives assessors 10 days to review, approve, and submit to the secretary applications for elderly tax freeze benefits submitted by people to whom he granted an extension. By law, eligible homeowners must apply for the benefits between February 1 and May 15 each year and those needing an extension must ask the secretary by August 15.

Elderly and Disabled Circuit Breaker and Rental Rebate Programs (§§ 52 & 53). The act sets uniform conditions under which the secretary can extend the deadline for submitting applications under the circuit breaker and rental rebate programs for elderly and totally disabled homeowners and renters. It allows the secretary to extend the deadline for submitting rental rebate applications for people who a doctor certifies as having been ill or incapacitated because of extenuating circumstances. The secretary could already extend the deadline for good cause.

It also allows him to extend the deadline for submitting applications under the homeowner program for good cause instead of only for applicants certified by a doctor as having been ill or incapacitated because of extenuating circumstances.

It drops the 60-day deadline by which the secretary must review certificates for rental rebates and notify assessors and claimants about errors; gives a claimant 30 business days, instead of 30 days, to ask the secretary to reconsider his decision; and shortens from 60 days to 30 business days the secretary's deadline for acting on the claimant's request.

If the claimant requests a hearing, the act requires him to state why the secretary should not deny him the rebate. It allows, rather than requires, the secretary to hold a hearing on the request. If he agrees to the hearing, he must schedule it within 30 business days after notifying the claimant. And he must render a decision within 30 days after the hearing. Prior law only required the secretary to notify the claimant at least 15 days before the hearing. The act does not explicitly

allow the secretary to subpoena witnesses and administer oaths at the hearing.

The act specifies how a claimant may appeal the secretary's decision to Superior Court and eliminates a claimant's right to appeal assessors' decisions to the OPM secretary. (PA 01-9, June Special Session, reinstates this right.)

It eliminates a one-year prison term for making false statements to obtain a rebate but retains the fine of up to $500. It also drops the one-year deadline by which the secretary must review certificates for circuit breaker tax credits and notify assessors and claimants about any errors he finds and makes the same changes as it makes to the rental rebate program.

Exemptions for Manufacturing Facilities and Machinery and Equipment (§ 55). The act allows businesses receiving these exemptions to appeal the secretary's decisions that could affect them. It eliminates a town's right to appeal the secretary's decision denying reimbursement of the tax exemptions granted under this program.

Payment in Lieu of Taxes (PILOT) Program

Program Notices (§ 58). The act specifies the means by which the OPM secretary must notify municipalities regarding PILOT property reevaluations and reduces the time within which municipalities must appeal reevaluation decisions to Superior Court. It also requires towns to provide the secretary with an assessed valuation for Indian reservation land and makes it clear that PILOT grants apply only to the real property of municipally owned airports.

By law, the secretary must notify a municipality (1) when he intends to reevaluate its valuation of state-owned property, Indian reservation land, or municipally owned airports eligible for PILOT grants and (2) of his decision on its appeal of such a reevaluation. The act requires the secretary to send these notices by registered or certified mail. It requires a municipality to appeal the secretary's decision on a reevaluation to Superior Court within 10 days, rather than two weeks, of receiving the notice. It also makes technical changes.

Payment Adjustment Cutoff (§ 59). The act moves the cutoff date for including adjustments based on reevaluations in PILOT payments. Under prior law, adjustments based on reevaluations made before September 1 had to be included in the September 30 grant payment. The act moves the cutoff date back one month and requires the September 30 payment to reflect only adjustments made up to August 1. Subsequent adjustments must be held over until the next payment.

Payments for Private Higher Education Institutions (§ 60). The act eliminates the January 1 deadline for the OPM secretary to determine each municipality's PILOT grant for tax-exempt property owned by private colleges, general and chronic disease hospitals, and certain urgent care facilities. It also spells out the types of private college property eligible for PILOT grants.

It requires eligible property to not only be owned by, but also be used as, a private nonprofit institution of higher learning. It also specifies that an educational institution offer, or accept transfer of, college-level credit and be either licensed or accredited by the Board of Governors of Higher Education to offer degrees, or meet the following conditions:

1. be established in Connecticut,
2. have degree-granting authority and its home campus here,
3. not be part of the state public higher education system, and
4. not have the primary function of preparing students for a religious vocation.

(All these changes relating to deadlines and higher education and hospital property were eliminated in PA 01-9, June Special Session.)

PETROLEUM PRODUCTS TAX

Exemption for Propane Gas Used in Motor Vehicles (§ 20)

The act temporarily reinstates an exemption from the petroleum products gross earnings tax for earnings from the sale of propane for use in gas-powered vehicles. The new exemption applies to petroleum products refiners' and distributors' first sales in the state during FY 2001-02. The previous exemption expired on December 31, 1999.

Tax Threshold for Non-Refiners and Non-Distributors (§ 31)

The act reduces the quarterly import threshold for a company that is not a petroleum refiner or distributor to pay the petroleum products tax. Under the act, such a company must pay if it imports more than $3,000, rather than $100,000, worth of petroleum products per quarter into the state. By law, the tax is payable on the consideration the company gives for the petroleum products it imports that exceed the threshold. The new threshold applies to quarterly periods beginning October 1, 2001.

Fisheries Account Allocation (§ 16)

For FY 2002-03, the act requires the DRS commissioner to deposit $1 million in petroleum

products gross earnings tax revenues directly in the Conservation Fund for allocation to the fisheries account for recreational fishing purposes. Under prior law, all of the revenue went to the Special Transportation Fund. The $1 million allocation is in addition to the $2.05 million allocated to the fisheries account annually from revenue generated by sale of motor fuel by distributors to boat yards, marinas, and similar facilities.

CIGARETTES AND TOBACCO PRODUCTS

Penalty For Selling Loose Cigarettes (§ 44)

The act allows the DRS commissioner, after a hearing, to impose a civil penalty on cigarette dealers and distributors who sell cigarettes in any form other than in sealed packages of 20 or more. The penalty is $50 for a first offense, $250 for a second, and $500 for a third or subsequent offense. The fine is in addition to existing penalties, including suspension or revocation of the dealer's or distributor's license to sell cigarettes.

A dealer or distributor may appeal the commissioner's decision to impose the fine to Superior Court according to the same procedures for appealing other cigarette licensing and tax decisions.

Tax Stamps (§ 27)

The act updates language concerning the types of stamps DRS can sell to cigarette dealers and distributors to put on cigarette packages to show they have paid the cigarette tax. It eliminates references to impressions by metering machines and substitutes heat-applied decals. DRS has been allowed to use decals since 1993. The changes take effect January 1, 2002.

"Roll Your Own" Tobacco (§§ 27 & 28)

Effective January 1, 2002, the act applies the cigarette tax, instead of the tobacco products tax, to "roll your own" tobacco, with each .09 ounces of such tobacco counting as one cigarette. The cigarette tax is 25 mills per cigarette ($.50 for each pack of 20). The tobacco products tax is 20% of the wholesale price. Under the act, "roll your own" tobacco is tobacco that, by its appearance, type, label, or package, is suitable and likely to be bought and sold for making cigarettes.

Snuff Tobacco (§§ 28 & 29)

By law, snuff tobacco is taxed by weight rather than wholesale price. Effective January 1, 2002, the act requires covered snuff tobacco to have the words "snuff" or "snuff flour," the federal tax designation "Tax Class M," or both, printed on the package.

PERSONAL INCOME TAX

Lottery Winnings (§ 37)

The act imposes the Connecticut income tax on a nonresident's winnings of more than $5,000 in a lottery run by the Connecticut Lottery Corporation. By making this change, the act has the simultaneous effect of giving a Connecticut resident who wins more than $5,000 in another state's lottery a credit against his Connecticut income tax for any income taxes he must pay in the other state on his winnings. The change applies to taxable years beginning January 1, 2001.

Definition of Adjusted Gross Income (§§ 35 & 36)

The act specifies that the starting point for determining a taxpayer's Connecticut adjusted gross income for state income tax purposes is the federal adjusted gross income he reported on his federal return. The Connecticut Supreme Court held, under prior law, that a taxpayer could adjust his adjusted gross income to account for federal deductions in a prior year that produced no corresponding Connecticut tax benefit to him in that year (*Berkley v. Galvin*, 253 Conn. 761 (2000)). This act makes it clear that the only permissible adjustments to Connecticut adjusted gross income are those specified in state law. The provision applies to all open tax periods.

Trusts and Estates (§ 68)

The act makes Connecticut income tax credits that apply to residents and part-year residents for income tax payments to other states also apply to resident trusts and estates and part-year resident trusts, respectively.

MOTOR VEHICLE FEES

Six-Year Drivers' Licenses (§§ 74-78)

The act (1) makes motorcycle and motor vehicle operators licenses valid for six rather than four years, but maintains the option for people age 65 or older to request a two-year license; (2) increases license fees by amounts proportionate with the longer license periods; (3) makes associated changes; and (4) removes obsolete language. (PA 01-9, June Special Session, modifies these provisions to require licenses to be renewed every four or six years according to a schedule set by the

motor vehicle commissioner and makes associated changes.)

Clean Air Registration Assessment (§ 79)

The act (1) increases the clean air assessment fee on motor vehicle registration renewals; (2) applies the increased fee to new as well as renewal registrations; and (3) splits the fee revenue between the Special Transportation Fund (57.5%) and the Clean Air Act account (42.5%), instead of allocating it all to the latter. The act increases the fee from $4 to $10 for vehicles with two-year registration periods and to $5 for vehicles with one-year registrations, including those for anyone age 65 or more who elects to register his vehicle for one year instead of two.

The Clean Air Act account is a special nonlapsing General Fund account used to pay state agency costs for implementing requirements of the federal Clean Air Act that are not otherwise covered by fees the environmental protection commissioner collects from owners or operators of air pollution sources.

EMERGENCY SPILL RESPONSE ACCOUNT TRANSFER (§ 14)

The act transfers the Emergency Spill Response account from the General Fund to the Environmental Quality Fund as of July 1, 2001 and allows the transferred money to be used starting on that date. (The account funds various activities in connection with petroleum and hazardous waste spills.) It repeals a provision that allowed up to $1 million of the amount appropriated to the General Fund account to be carried over from year-to-year.

The act requires the environmental protection commissioner to submit an annual operating budget for the account to the OPM secretary. The budget must cover funded programs and include an estimate of the revenue from all sources to pay its estimated expenditure for the fiscal year. The secretary must approve the budget, including any changes he and the commissioner agree to, by June 1 annually.

UTILITY TAX EXEMPTION FOR PROPANE GAS USED IN MOTOR VEHICLES (§ 21)

The act extends for six months, from January 1, 2002 to June 30, 2002, the expiration of an exemption from the utility gross earnings tax for income private and municipal gas companies earn from selling propane for gas-powered vehicles. The act exempts such income earned in any taxable quarter prior to June 30, 2002.

CORPORATION TAX

Apportionment Petitions (§ 24)

The law requires multi-state financial services companies to use receipts as the single factor in apportioning their net income for the state corporation tax. The act imposes a deadline by which a company may submit a written petition to the DRS commissioner proving that the requirement does not apply to it. The petition deadline is 60 days before the due date, including extensions, of the return to which the petition applies. The commissioner must grant or deny the petition before the due date. The change applies to income years beginning January 1, 2001 with respect to petitions filed beginning October 1, 2001.

Filing and Payment Deadlines (§ 25)

The act changes the due date for corporation tax returns from the first day of the fourth month after the end of the company's income year to the first day of the month after the due date of its federal return for the same year, excluding extensions. For companies that do not have to file a federal return, the act establishes the first day of the month after the end of its income year as the filing deadline.

By law, when the DRS commissioner grants an extension for filing a final corporation tax return, the company must pay the tax shown on its tentative return. If the difference between that amount and the amount shown on its final return is 10% or less and the company pays the final amount when it files its final return, there is no penalty. This act specifies that, in order to avoid a penalty, a taxpayer must submit its final return and payment by the extended due date.

The act also removes obsolete references to corporation tax filing deadlines for S corporations, which are no longer subject to the corporation tax. These provisions apply to income years beginning January 1, 2001.

Returns for Affiliated Companies (§ 26)

The act requires the deadline for affiliated companies to petition DRS to use an alternate method of determining their combined tax to be counted back from any extension of the due date for their combined return. As under prior law, the deadline is 60 days prior to the return's due date. This provision applies to income years beginning January 1, 2001 with respect to petitions filed beginning October 1, 2001.

DRS PROCEDURES

Taxpayer Names and Addresses (§ 23)

The act allows the DRS commissioner to publish taxpayers' names and towns or postal districts in order to notify them that they are entitled to refunds, if he has not been able to locate them after a reasonable time and effort. Such taxpayer information was formerly confidential.

Notice and Consent for Certain Property Transfers (§ 84)

The act eliminates both remaining requirements that the DRS commissioner receive notice of, and consent to, transfers of a decedent's property and the penalty for failure to comply. Under prior law, the requirements applied to certain transfers of a decedent's property subject to the succession tax. Failure to comply resulted in a penalty of triple the tax due. Transfers of money in a joint account to the surviving account holder or in a trust account to the account beneficiary; payments under a retirement or pension plan, trust, or contract receivable after death to the beneficiary; and property transfers to a surviving spouse were already exempt. (PA 01-9, June Special Session, also eliminates these requirements.)

Neighborhood Assistance Act Program Lists (§ 32)

The act gives a municipality an extra 15 days, from July 1 to July 16, to submit to the DRS commissioner its annual list of programs to which businesses may make donations eligible for business tax credits under the Neighborhood Assistance Act. If the municipality submits its list after July 1, it must (1) explain why it failed to send the list in by July 1 and (2) prove that it held the required public hearing on the list and that its local legislative body approved it by July 1.

Electronic Tax Payments and Document Filing (§§ 33 & 34)

Under the act, a tax payment made voluntarily by electronic funds transfer is considered timely if the transfer is initiated on or before the due date, even if the funds are not credited to the DRS-designated bank account until later. This change applies to payments required to be made beginning July 1, 2001.

The act also authorizes the DRS commissioner to allow a person to file optional documents with DRS by computer or by any new technology that may be developed as long as the person and the DRS commissioner agree that DRS may send documents and notices to the person by the same means.

HAZARDOUS WASTE GENERATOR ASSESSMENTS (*§§* 38 & 69)

The act transfers responsibility for apportioning and assessing hazardous waste generators for the Connecticut Siting Council's annual expenses from the DRS commissioner to the council. It requires the council rather than the commissioner to deposit the payments with the state treasurer. The act also eliminates the requirement that the expenses be apportioned according to each generator's share of total hazardous waste generated and that generators submit quarterly returns. Instead, it leaves the apportionment method and the payment schedule to the council's discretion.

Finally, the act expressly limits the assessment exemption for state agency and political subdivisions to Connecticut state agencies and political subdivisions.

PREMIUM TAX CREDITS FOR INSURANCE GUARANTY FUND ASSESSMENTS

Assessment Refunds (§§ 40 & 42)

By law, insurance companies may take credits against their premium tax liability for assessments paid to the Connecticut Insurance Guaranty Association (CIGA) and the Connecticut Life and Health Insurance Guaranty Association (CLHIGA). They must take the credits over five years at 20% of the assessment per year and repay credits if either guaranty association refunds the assessment.

Under the act, instead of having to repay the state 100% of any credits when it receives a refund, the insurer must repay only the credits it has already taken. It prohibits an insurer from taking a credit for any part of an assessment that has already been refunded. And it applies the 1% per month interest penalty if insurers fail to repay credits after a CLHIGA refund within 45, rather than 30, days after the association mails the refund.

The act requires CIGA to notify the DRS commissioner not just that it has made a refund, but also of the names and addresses of the insurers that received them, the refund amounts, and the date they were made. It subjects insurers who fail to repay credits within 45 days after a CIGA refund is mailed to the 1% per month interest penalty. These enhanced notice requirements and interest penalties match those the law already applies to CLHIGA refunds.

Credit Transfers (§§ 41 & 43)

By law, insurers may transfer guaranty association credits to affiliates. The act states that such a transfer does not affect the insurer's obligation to repay credits when it receives a refund. It also specifies that a transferee can use the transferred credits only to offset its own premium tax liability.

Finally, the act prohibits transferees from taking advantage of the credits unless the insurer, the affiliate, and any subsequent transferors and transferees file information concerning the transfer with DRS by the due date of the premium tax return on which the transferor would have taken the credit. It requires DRS to provide forms for the filings.

These transfer changes apply to calendar years beginning January 1, 2001.

INDUSTRIAL CLASSIFICATION SYSTEM (*§§* 62 & 63)

The act makes uniform the criteria under which businesses in specific classes of two different national classification systems qualify for enterprise zone benefits. Under prior law, businesses in specified Standard Industrial Classification (SIC) groups had to demonstrate a strong performance in exporting goods or services in order to qualify for benefits, while businesses in specified North American Industrial Classification System (NAICS) groups did not. The act extends the export performance requirement to businesses in the specified NAICS groups. (The NAICS is a new classification system that is replacing the SIC.)

The act also gives the DECD commissioner discretion to award enterprise zone benefit eligibility certificates to manufacturers based on whether they meet all the eligibility criteria instead of directing him to award them to companies in specified classifications regardless of whether they show strong export performance.

BONDS SECURED BY GRANTS IN LIEU OF TAXES (*§* 73)

The act expands the capacity of the Connecticut Development Authority or its subsidiaries to issue bonds on behalf of towns under PA 01-179. That act allows them to finance information technology and brownfield remediation projects by issuing bonds secured by incremental property tax revenues or state grants in lieu of property taxes. But it limits the total amount of bonds secured by the latter to an amount that does not generate more than $1 million in debt service. This act specifies that the debt service limit is $1 million per state fiscal year.

PA 01-7, June Special Session—SB 2002
Emergency Certification

AN ACT INCREASING CERTAIN BOND AUTHORIZATIONS FOR CAPITAL IMPROVEMENTS AND CONCERNING UNEXPENDED BOND PROCEEDS

SUMMARY: This act authorizes $481 million in general obligation (GO) bonds in FY 2001-02 and $731 million in FY 2002-03 for economic development, town and school capital improvements, water pollution control, workers' compensation liability, and other purposes. This total includes $40 million for a new small town economic assistance program and $53 million to transfer some state workers' compensation claims to a third party. The act also authorizes $81 million in Clean Water Fund revenue bonds in FY 2001-02 and $158 million in FY 2002-03. And it reduces the bond authorization for school construction interest subsidy grants by $23 million to $121 million.

The act:

1. reallocates private activity bonding authority and transfers the functions of the Private Activity Bond Commission to the State Bond Commission,
2. establishes a process for reporting on and reallocating unexpended bond allotments after a bond-financed project is completed,
3. provides for the conveyance of certain water company property to the state and the Nature Conservancy,
4. creates a new affordable housing program using existing bond funds to provide financial assistance to a wide range of projects,
5. "fast tracks" a project to develop a juvenile facility for girls,
6. requires the state to credit to a debt retirement reserve account all payments it receives to settle lawsuits related to financing backed by a special capital reserve fund,
7. allows bond funds authorized to construct the convention center at Adriaen's Landing also to be used for constructing related parking facilities,
8. raises from $10 million to $20 million the cap on funding that state economic development agencies can provide for a biotechnology project without legislative approval,
9. opens computer assisted mass appraisal grants to more towns,

10. allows state agencies to use the Capital Equipment Purchase Fund to buy data processing equipment costing less than $1,000 per unit if it has a useful life of at least five years, and
11. makes vineyard and winery development eligible for Manufacturing Assistance Act funding.

EFFECTIVE DATE: July 1, 2001

INCREASED BOND AUTHORIZATIONS

The act increases the following GO and revenue bond authorizations:

Purpose	*Agency*	*Old Authorization (million $)*	*New Authorization (million $)*	*Increase (million $)*	
				FY 02	*FY 03*
Urban Action	Economic and Community Development (DECD)	77.3	81.3	2	2
	Policy & Mgt. (OPM)	545.3	825.3	140	140
Manufacturing Assistance	DECD	465.3	525.3	30	30
Capital Equipment Purchase Fund	OPM	189.5	227.5	21	17
Local Capital Improvements	OPM	410	470	30	30
School Construction Principal Payments	Education	2,565.360	2,158.360	143	450
Farm Land Preservation	Agriculture	83.750	87.750	2	2
Clean Water Fund GO bonds	Environmental Protection (DEP)	717.830	797.830	40	40
Clean Water Fund Revenue Bonds	DEP	999.4	1,238.4	81	158

SMALL TOWN ECONOMIC ASSISTANCE PROGRAM

The act authorizes $20 million in bonds in both FYs 2001-02 and 2002-03 for a new program of economic assistance to certain small towns. OPM administers the program. Towns can receive grants of up to $500,000 a year if (1) their population is under 30,000, (2) they are not designated as a distressed municipality or a public investment community, and (3) the State Plan of Conservation and Development does not show them as having an urban center. They can use the grants for the same activities as larger communities can currently use Urban Action grants. These include:

1. economic development projects such as (a) constructing or rehabilitating commercial, industrial, or mixed-use structures and (b) constructing, reconstructing, or repairing roads, access ways, and other site improvements;
2. urban transit;
3. recreation and solid waste disposal projects;
4. social service-related projects, including day care centers, elderly centers, domestic violence and emergency homeless shelters, multipurpose human resource centers, and food distribution facilities;
5. housing projects;
6. pilot historic preservation and redevelopment programs that leverage private funds; and
7. other kinds of urban development projects involving economic and community development, transportation, environmental protection, public safety, children and families and social service programs, and library renovation and improvement.

The act allows towns with more than 30,000 people that meet all the other eligibility criteria above to apply for up to $500,000 in Urban Action funds during FYs 2001-02 and 2002-03.

TRANSFER OF WORKERS' COMPENSATION LIABILITY

The act authorizes the administrative services commissioner to transfer some disabled state employees' workers' compensation claims to an independent third party (i.e., an insurer) as part of a loss portfolio arrangement program. It permits her to transfer approved claims that require payment of medical and future indemnity benefits. It authorizes $53 million in 10-year GO bonds in FY 2001-02 to finance the transfer.

The loss portfolio arrangement program must make the independent third party responsible for managing and administering the claims liability it assumes in accordance with state workers' compensation law.

PRIVATE ACTIVITY BONDS

The act changes the statutory allocation of private activity bonds, which are revenue bonds towns and state quasi-public agencies issue for the benefit of private borrowers. The federal government caps the total amount of such bonds that can be issued annually by entities in each state. The act:

1. increases the Connecticut Housing Finance Authority's allocation from 40% of the cap to 60%;
2. reduces the Connecticut Development Authority's allocation from 32% of the cap to 15% in 2001 and 12.5% in 2002 and thereafter; and
3. merges the allocation for towns and political subdivisions (previously 18% of the cap) and contingencies (previously 10%), adds the Connecticut Higher Education Supplemental Loan Authority to the entities that can issue bonds under this allocation, and sets this category's allocation at 25% in 2001 and 27.5% in 2002 and thereafter.

The act eliminates the Private Activity Bond Commission and transfers its authority over these bonds to the State Bond Commission. This means that when the General Assembly is not in session, the Bond Commission will be able to reallocate bonding authority for that year if it determines doing so is in the state's best interests. The Private Activity Bond Commission consisted of the governor, treasurer, OPM secretary, and 12 legislators.

UNEXPENDED BOND ALLOTMENTS

The act establishes a process for reporting on and reallocating unexpended bond allotments after a bond-financed project is completed. It requires the chief administrative officer of the department, institution, or agency responsible for any bond-funded, Public Works Department-administered construction project (thus excluding legislative, Judicial Department, transportation-related, and UConn projects) estimated to cost over $10,000 to report the following information to the Bond Commission: (1) the project's actual or estimated cost, (2) the amount held in retainage and the reason for it, and (3) the amount of the unspent bond allotment. This report must be made within 90 days after the project is completed or accepted. By January 1, 2002 and annually thereafter, these agency administrative officers must also report this information to the chairmen of the Finance, Revenue and Bonding Committee.

The report can contain a recommendation to the OPM secretary on how to use the unspent money, and the secretary and governor can forward this recommendation to the General Assembly during its next regular session. If no recommendation is made or if a recommendation is not referred, (1) the Bond Commission can transfer the funds to the General Fund or contingency reserve fund for the act that authorized the funds or (2) the secretary can authorize spending the money to address conditions in state facilities that the public works commissioner declares constitute an emergency.

KELDA LAND

The act requires the environmental protection commissioner to approve the terms and conditions of any contract between him; the Nature Conservancy; and BHC Company, Aquarion, or Kelda Group to protect open space by buying land or land interests from the companies. (PA 01-01, June Special Session specifies some of those terms and conditions.) It requires any land the state purchases under such a contract to be preserved perpetually and kept predominately in its natural and open condition. But recreation consistent with protecting natural resources is permitted.

The act allows the companies to ask a court to enforce whatever contractual rights they have in and to land or interests in land they reserve as part of their property conveyances. This is in addition to their right to bring a claim against the state to the claims commissioner. It authorizes DEP and the state to fulfill their contractual obligations.

The act makes the state's right to acquire land from these companies superior to the right of another water company or a town to buy the land or a town to take it by eminent domain. It supersedes another law that gives water companies and towns priority over the state.

The law generally prohibits the sale, lease, assignment, or change of use of class I or II water company land without a Department of Public Health (DPH) permit. The act allows the DPH commissioner to use his existing authority to issue one or more permits for the sale of the companies' class II land to the Nature Conservancy and for the sale or assignment of interests in class I and II land to the DEP or the conservancy. Under this authority, whoever purchases the land must agree to maintain it according to law and the permit's conditions and cannot subsequently convey the property without getting another permit. The act allows the Department of Public Utility Control (DPUC) to accept the companies' applications to sell or assign their land before DPH grants the permits, but it cannot give final approval to the sale until the permits are issued. And it

exempts the companies from the requirement to notify DPUC before a sale.

AFFORDABLE HOUSING

The act creates a new program through which the DECD commissioner may provide financial assistance to a wide range of affordable housing projects. (SA 01-02, June Special Session allows him to use existing state bond authorizations for this program.) It authorizes him to adopt regulations as necessary to carry out the new program.

Eligible Projects

The act defines "affordable housing" as housing that costs individuals or families with annual incomes at or below the area median income for the town where the housing is located 30% or less of that income. The U.S. Department of Housing and Urban Development determines the area median incomes.

Affordable housing projects include (1) acquisition, construction, rehabilitation, repair, and maintenance of residential or mixed-use structures and related infrastructure and facilities intended to serve affordable housing residents (such as a community room, laundry, or day care area) and (2) demolition, renovation, or redevelopment of vacant buildings or related infrastructure.

Eligible Applicants

Eligible applicants are (1) nonprofit corporations or agencies; (2) municipalities; (3) housing authorities; (4) for-profit corporations the DECD commissioner approves to develop or operate affordable housing; (5) commissioner-approved partnerships, limited liability companies, joint ventures, sole proprietorships, trusts, or associations that develop or operate affordable housing; or (6) any combination of the above.

Applications, Funding Criteria, and Approval

The commissioner must determine the application form and can assess an application fee of up to $250. When determining whether to fund a project, he may consider its (1) ability to further racial and economic integration, including expanding multifamily rental housing in suburban and rural settings; (2) ability to meet the housing needs of the lowest income populations; (3) ability to revitalize urban neighborhoods, including expanding home ownership and increasing multifamily rehabilitation in the central cities; (4) ability to provide supportive housing options for people with special needs or who are at risk of becoming homeless; (5) impact on the local neighborhood, region, and the state; (6) short-term and long-term benefits; (7) impact on affordable housing needs of the neighborhood, community, municipality, and region; (8) feasibility; (9) potential for leveraging other public and private investments; (10) potential for timely implementation; (11) relative need; (12) underlying financial support from the applicant, except in the case of a nonprofit entity or a housing authority; and (13) potential to advance the act's public purposes.

The act requires the commissioner to review and approve a proposed project's site and its estimated total development budget, including the amount and type of aid from nonstate sources. He can look at any other factors he determines necessary or appropriate to protect the state's interests.

The commissioner must determine that the funded costs are necessary and reasonable. The Bond Commission must give preliminary approval to commit bond proceeds, and the governor's approval is necessary when the funding source is other than bonds. The assistance can cover the costs of planning, implementing, and completing a project. It can take the form of grants, loans, loan guarantees, deferred loans, or any combination of these.

Safeguards

Terms and Conditions. The act authorizes the commissioner to determine under what terms and conditions he will grant the assistance to protect the state's interests. These may include each or a combination of the following: (1) a requirement that funds also come from other sources, including public, private, nonprofit, or for-profit organizations; (2) participation interests; (3) subsidy recapture provisions; and (4) resale and prepayment, job retention, residency, use, and affordability restrictions. The commissioner must determine how compliance with the terms and conditions will be met, documented, and secured.

Amending Agreements. The commissioner may take all reasonable steps to protect the state's obligations and interests. These include (1) amending any contract or agreement if amendments are allowed under the agreement or (2) purchasing or redeeming any property (pursuant to foreclosure proceedings, bankruptcy proceedings, or other court action) on which DECD holds a mortgage, lien, or other interest.

Audits and Investigations. The act authorizes the commissioner to request, audit, and investigate the accuracy and completeness of eligible applicants' reports, books, records, and any other financial or project-related information. It specifies that requested

information can include, without limitation, resident or employment information, financial and operating statements, and audits.

"FAST TRACK" FOR GIRLS' JUVENILE JUSTICE FACILITY

The act exempts a project to develop a separate Department of Children and Families (DCF) facility for girls from a variety of state laws and regulations governing such things as how state property is conveyed, DEP regulation, consistency with various state plans, energy life-cycle analysis, State Traffic Commission review, inland wetland and public water supply oversight, and demolition of buildings. It also establishes contracting procedures that the Department of Public Works (DPW) commissioner must follow when consulting on or awarding the contract for the project. The act does this by making this project part of the Connecticut Juvenile Training School project, which previously received these exemptions in PA 99-26.

The girls' facility project includes acquiring land or buildings and designing, constructing or reconstructing, improving, or equipping the facility.

SETTLEMENT PAYMENTS ON STATE-BACKED BONDS

The act requires the state to credit to a debt retirement reserve account all payments it receives to settle lawsuits related to financing backed by a special capital reserve fund (SCRF). Credited amounts must be available to the treasurer to prevent a draw on the SCRF. The statutes authorize SCRFs to back bonds issued, among other purposes, by various quasi-public authorities, for UConn 2000 projects, and to finance debt in Bridgeport and Waterbury.

BIOTECHNOLOGY FINANCING

The act raises from $10 million to $20 million the cap on funding that DECD, Connecticut Innovations, Inc., and the Connecticut Development Authority can provide for a commercial biotechnology project over a two-year period without legislative approval. The $10 million cap remains in effect for all other business projects.

COMPUTER-ASSISTED MASS APPRAISAL (CAMA) GRANTS

The act allows towns that conducted property revaluations before January 1, 1987 or after December 31, 1996 to apply for and receive CAMA grants, including the additional 10% grant, if they did so without postponing or extending the revaluation date. The act specifies that these towns can receive the grants only once.

AID FOR WINERIES

The act permits businesses creating or developing vineyards or wineries to receive DECD financing through the Manufacturing Assistance Act. It adds cultivation of real property as a project that can receive such financing.

PA 01-8, June Special Session—SB 2005
Emergency Certification

AN ACT CONCERNING COMMUNITY MENTAL HEALTH STRATEGIC INVESTMENT

SUMMARY: This act creates a Mental Health Strategic Investment Fund comprising subaccounts for new or expanded mental health facilities and community-based services and supportive housing. The act capitalizes the Fund with $40 million in FY 2000-01 surplus funds and $5 million in FY 2001-02 appropriations. A Community Mental Health Strategy board develops strategic and financial plans to guide disbursements from the fund, which may go to state agencies, the Connecticut Housing Finance Authority (CHFA), or other entities with which the board contracts.

The act establishes a supportive housing pilots initiative to provide up to 650 units of affordable housing and support services to people with special needs, such as mental illness, chronic chemical dependency, homelessness, or risk of homelessness. It authorizes $10 million in bond funds for the Department of Economic and Community Development (DECD) to use for initiative-funded projects and requires CHFA to set aside $1 million a year in tax credits for them.

The act establishes a Pretrial Account in the General Fund, where fees from the Department of Mental Health and Addiction Services (DMHAS) drug and alcohol education programs and $600,000 in FY 2001 surplus funds appropriated in SA 01-1, June Special Session must be deposited. The account must be used to operate these programs. It is a separate, nonlapsing account that can be carried forward, and earnings on account investments must be credited to it.

The act requires the DMHAS and Department of Social Services (DSS) to study the implementation of adult rehabilitation services under Medicaid and permits the DSS commissioner to amend the state Medicaid plan to cover such services private providers supply to

DMHAS clients. It also requires DMHAS and DSS to study the advisability of their entering into an interagency agreement under which DMHAS would provide clinical management of behavioral health services.

EFFECTIVE DATE: July 1, 2001

STRATEGIC INVESTMENT FUND

Eligible Population and Uses

The act creates a Community Mental Health Strategic Investment Fund in DMHAS to finance new and expanded existing clinical and nonclinical community mental health services, related mental health services, and supportive housing for people with mental illness, including (1) offenders supervised in the community by executive and judicial branch agencies, (2) people who are homeless or at risk of homelessness and their families, and (3) children and youth who are not under Department of Children and Families (DCF) care. The fund is set up as an account in the General Fund. It is separate from all other funds; its investment earnings are credited to it; and it does not lapse.

The strategic investment fund is divided into two subaccounts.

1. A community services restoration subaccount finances new or expanded mental health facilities and services. These can include rent subsidies; case management; assertive community treatment teams; intensive residential programs; specialized treatment programs; hospital outpatient behavioral health services; regional independent living grants; multicultural services; training, technical assistance, and evaluation; and grants to nonprofit providers for home- and community-based services for the early detection, diagnosis, and treatment of mental illness and emotional disturbance in children and youth from birth through their transition to adult services.
2. A supportive housing pilots initiative subaccount can be used to finance up to 650 additional supportive housing units.

Fund Capitalization

The act transfers $40 million of FY 2000-01 surplus funds the budget act (SA 01-1, June Special Session) appropriates to DMHAS for the fund to the restoration subaccount ($25 million) and the supportive housing enhancement subaccount ($15 million). These funds can be carried forward into FY 2001-02 and 2002-03. The act transfers to the restoration subaccount $5 million appropriated to two other DMHAS accounts in FY 2001-02. And it gives the DMHAS commissioner discretion to use $650,000 appropriated to its managed service system account in FYs 2001-02 and 2002-03 for hospital-based mental health programs.

COMMUNITY MENTAL HEALTH STRATEGY BOARD

The board consists of 21 members, 14 of whom are voting members. The DMHAS commissioner serves as chairman. The governor, Senate president pro tempore, House speaker, and Senate and House minority leaders each appoint two voting members. The House and Senate majority leaders each appoint one. The DCF commissioner is also a voting member. These members are not paid but may be reimbursed for their expenses. The nonvoting members are the Office of Policy and Management (OPM) secretary; the commissioners of DECD, education, correction, public health, and social services; and the chief court administrator. All nonvoting members can designate someone to serve in their place.

The act requires all initial appointments to be made by September 1, 2001; the DMHAS commissioner must convene the first meeting by September 15. It requires DMHAS, within available funds, to provide the board with staff and administrative support.

STRATEGIC INVESTMENT FUND EXPENDITURES

The act requires the board annually to adopt a strategic plan and a financial assistance plan. The strategic plan must be consistent with other state mental health services plans. The board must adopt its first plans by January 1, 2002. The act requires the nonvoting board members and the DMHAS and DCF commissioners to provide information the board asks for, including needs assessments, program reviews, and revenue and expense data. They can also recommend expenditures at the board's request.

At least once a year, the voting members must approve disbursements and commitments from the fund by a majority vote. These must be consistent with its strategic plan. The DMHAS commissioner may make the disbursements. They can go to (1) state agencies the board designates or CHFA and (2) other entities with which the board asks the commissioner to contract following a request for proposal process that it conducts in conjunction with other state agencies or CHFA. It can also assign undesignated revenue among the subaccounts as it determines appropriate.

The board must report to the governor and legislature by February 1 each year on its prior fiscal year's disbursements. The report must also evaluate the effectiveness and outcomes of each program or service that received funding in expanding access to quality, appropriate community-based mental health care.

SUPPORTIVE HOUSING PILOTS INITIATIVE

The act establishes a supportive housing pilots initiative to provide up to 650 units of affordable housing and support services to people who are homeless or at risk of homelessness and their families and to offenders under executive or judicial branch community supervision with serious mental health needs. It authorizes $10 million in state general obligation bonds for DECD to use to implement the initiative. The housing can be permanent or transitional; permanent housing can include individuals and families with or without special needs.

The act requires the DMHAS commissioner and OPM secretary to enter into a memorandum of understanding with the DSS and DECD commissioners and CHFA by January 1, 2002. That memorandum must provide for:

1. submission of a collaborative plan and timetables for creating up to 650 supported units, up to 300 of which can be new;
2. an option for DSS to provide project-based rent subsidy certificates;
3. CHFA and DECD to offer viable financing through grants, mortgages, and tax credits, including capitalized operating reserves, to construct up to 300 new units;
4. DMHAS to provide annual grants for supportive services during the term of any mortgage;
5. a plan for private and federal predevelopment financing and for grants and loans from nonstate sources generated by federal and state tax credits and federal project-based rent subsidies; and
6. CHFA, by July 1, 2002, to issue a request for proposals (RFP) for participation in the initiative. The RFP process can give priority to applicants that include organizations that DMHAS, following a request for qualifications process, deems qualified to provide services.

The act requires CHFA to review and underwrite projects developed under this initiative. It requires CHFA to set aside $1 million each year of its $5 million in low- and moderate-income housing tax credits for supportive housing pilots initiative projects. If the set-aside credits are not used by November 1, they become available for any eligible housing.

The DMHAS and DECD commissioners and CHFA must submit interim and final reports on the initiative to the Public Health; Human Services; Finance, Revenue and Bonding; and Appropriations committees. The interim report is due by January 1, 2004. The final report is due by January 1, 2006 and must show the number and location of the units created, the number of individuals served, the number and type of services offered, and an estimate of costs avoided as a direct result of the initiative.

MEDICAID REHABILITATION SERVICES OPTION

The act requires DMHAS and DSS to study implementing Medicaid coverage of adult rehabilitation services. They must develop an implementation plan, describe its effect on existing services, and analyze its costs and benefits. They must include this in a report to the governor and Public Health, Human Services, and Appropriations committees.

The report is due by February 1, 2002. Once this report is completed, the act requires the DSS commissioner to take necessary action to amend the state Medicaid plan to cover adult rehabilitation services private providers supply to DMHAS clients under a contract with the department. Any federal reimbursement for these services during FYs 2001-02 and 2002-03 must be credited to the community mental health restoration subaccount and used for that subaccount's purposes.

DMHAS CLINICAL MANAGEMENT SERVICES STUDY

The act also requires DMHAS and DSS to study the advisability of their entering into an interagency agreement under which DMHAS would provide clinical management of behavioral health services. Clinical management would include review and authorization of services, quality assurance and improvement initiatives, and case management for Medicaid-enrolled elderly, blind, and disabled adults, to the extent permitted by federal law. The agencies must report their findings and recommendations to the governor and Public Health, Human Services, and Appropriations committees by February 1, 2002.

PA 01-09, June Special Session—HB 7507
Emergency Certification

AN ACT CONCERNING THE EXPENDITURES OF THE OFFICE OF POLICY AND MANAGEMENT

SUMMARY: This act:

1. redesigns part of and makes several changes in the centralized system for conducting motor vehicle exhaust emissions inspections;
2. keeps solely state-funded welfare programs open for legal immigrants who are barred from federally funded programs and adds $2 million to the state's biennial budget for this purpose, but prohibits new applications after June 30, 2002;
3. requires the Department of Correction (DOC) commissioner to contract for ombudsman services to receive, investigate, and propose resolution of inmates' complaints and to recommend policy revisions to the department;
4. establishes a program under which state correctional institutions must return specified unused drugs to vendor pharmacies for re-dispensing and reimbursement to DOC;
5. substantially revises the Department of Environmental Protection (DEP) program that provides financial assistance for the removal or replacement of residential underground oil tanks;
6. authorizes a state business tax credit for taxpayers investing any amount in eligible environmental remediation and urban site reinvestment projects through community development entities; and
7. alters the responsibilities of the State Marshal Commission and creates a state marshal account.

In addition, the act makes many unrelated changes in a variety of statutes and in public and special acts previously enacted in the 2001 regular and special sessions. The changes, other than those that are technical, are described below in the order they appear in the act.

EFFECTIVE DATE: July 1, 2001

EDUCATIONAL TECHNOLOGY FUND (*§* 1)

The act changes the name of the Educational Technology Fund to "Educational Technology Account." The fund contains private donations to supplement appropriations for the state's educational technology and related activities.

COLLECTIVE BARGAINING COSTS FOR BOARD OF EDUCATION AND SERVICES FOR THE BLIND (BESB) PAYROLL EMPLOYEES (*§* 2)

The act requires any increased costs associated with the BESB Industries Division "360" payroll employees' collective bargaining agreement to be funded with General Fund money transferred from the Reserve for Salary Adjustment Account. The transferred amounts must agree with the cost estimate for implementing the agreement prepared by the employer's bargaining representative (typically the Office of Policy and Management (OPM)) and filed with the House and Senate clerks.

STATE PLAN OF CONSERVATION AND DEVELOPMENT (§§ 3 & 4)

The act delays the deadline for OPM to revise the State Plan of Conservation and Development from March 1, 2002 to March 1, 2003. It also delays the deadline for submitting a draft of the revised plan to the General Assembly from September 1, 2001 to September 1, 2002. The law requires OPM to revise the plan every five years.

HUMAN RIGHTS REFEREES (*§* 5)

Beginning July 1, 2001, the act reduces the number of human rights referees from seven to five, while permitting all current referees to serve out their terms. Referees hear and decide discrimination cases brought by the Commission on Human Rights and Opportunities.

STATE-WIDE CENTRALIZED VOTER REGISTRATION SYSTEM (*§* 6)

The act requires the secretary of the state to pay up to $700,000 of the annual costs incurred in FYs 2001-02 and 2002-03 to implement the state-wide centralized voter registration system from the commercial recording account. This separate nonlapsing account was formerly used only to pay for administering the Commercial Recording Division of the Secretary of the State's Office.

SHERIFFS' SALARIES (*§* 7)

The act reduces county sheriffs' salaries to $1 per year beginning July 1, 2001. By law, the statutory salary is full compensation for the sheriff's duties. Under prior law, a sheriff's salary was either $35,000 or $37,000, depending on the county.

RESTRAINING ORDERS, REGULATIONS, AND STATE MARSHAL COMMISSION PLACEMENT IN THE DEPARTMENT OF ADMINISTRATIVE SERVICES (*§* 8)

The State Marshal Commission fills vacancies in state marshal positions, establishes professional standards for marshals, and periodically reviews and audits their records and accounts. The act requires the commission to consult with the State Marshals Advisory Board when establishing professional standards, including training requirements and minimum fees for execution and service of process. It also specifies that the commission must adopt regulations (1) to establish these requirements and fees and (2) for the application and investigation requirements for filling state marshal vacancies. The state marshals elect the 24-member advisory board.

The act requires the commission to equitably assign the service of restraining orders to state marshals in each county and ensure that the orders are served expeditiously. It makes failure to accept service of a restraining order or failing to expeditiously serve it without good cause grounds for a hearing to remove a marshal. By law, the commission can remove a state marshal for cause, after notice and hearing.

The act places the commission in the Department of Administrative Services (DAS) for administrative purposes only. Under prior law, the commission was an autonomous body within the Judicial Department for fiscal and budgetary purposes only.

APPOINTMENT OF STATE MARSHALS (*§* 9)

The act requires the commission to appoint as state marshals individuals who:

1. were deputy sheriffs or special deputy sheriffs of a corporation on or after May 31, 1995 (under a law repealed last year, a county sheriff could appoint special deputy sheriffs, who had all of a deputy sheriff's powers except for service of civil process on application of a corporation),
2. served in that position for at least four years,
3. applied to the commission by July 31, 2001, and
4. submitted an initial application dated on or before June 30, 2000.

For purposes of these appointments, the act allows the commission to appoint more state marshals than are otherwise allowed by statute. It specifies that information in the *Connecticut State Register and Manual* is evidence of service as a deputy sheriff. A person applying under this provision and found ineligible can appeal to the Superior Court in the Hartford Judicial District.

FEES AND THE STATE MARSHAL COMMISSION ACCOUNT (*§§* 10 & 11)

The act creates a separate, nonlapsing state marshal account in the General Fund. By October 1 each year, starting October 1, 2001, it requires state marshals to pay an annual $250 fee. Starting July 1, 2001, it imposes an additional $5 fee on anyone filing a civil action (except small claims) in Superior Court. These funds are deposited in the General Fund.

Under the act, the first $250,000 collected each fiscal year from the state marshals' fee is credited to the state marshal account for the commission's operating expenses. For FY 2001-02, the next $110,000 collected must be transferred to the Judicial Department for the operating expenses of the Commission on Racial and Ethnic Disparity. The next $230,000 is transferred to OPM for purposes of the report on traffic stop data (see *§* 128 below).

The act requires the OPM secretary to review and approve or disapprove the commission's annual budget until July 1, 2006.

SERVICE OF EXECUTIONS BY LEVYING OFFICERS (*§* 12)

By law, an entity that is owed money (creditor) can get a court order (execution) directing a bank to remove and pay it money from the debtor's account. Executions are served by levying officers (usually state marshals or support enforcement services investigators) on banks or branch offices located within their jurisdiction. The act permits a levying officer who has served an initial execution on one such bank within seven days of receipt to also serve it on other banks or branches where the debtor has accounts. He must do this within 45 days of receiving the execution.

ENERGY CONSERVATION PROJECTS IN STATE BUILDINGS (*§* 13)

By law, 0.3 cents for each kilowatt-hour of electricity sold at retail in the state goes into the Energy Conservation and Load Management funds of the two electric utilities. The Department of Public Utility Control (DPUC) regulates expenditures from the funds. The act requires DPUC to authorize the funds to disburse $1 million per month in calendar year 2002, with the amount disbursed being proportionate to the amount each fund receives. The money must go into a nonlapsing Department of Public Works (DPW) account

in the General Fund and be used for energy conservation projects in state buildings.

NOTICE OF WHOLESALE OIL AND PROPANE PRICES (§ 14)

The act eliminates requirements that fuel oil and propane gas wholesalers give their customers and OPM 24 hours' notice of their per-gallon prices. Under prior law, an initial failure to provide notice was subject to a fine of up to $100; subsequent violations were subject to a fine of up to $500.

KELDA LANDS USE RESTRICTIONS (§ 15)

PA 01-7, June Special Session requires the DEP commissioner to approve the terms and conditions of any contract among (1) the commissioner; (2) the Nature Conservancy; and (3) BHC Company, Aquarion, or Kelda Group to protect open space by buying land or land interests from the companies. This act specifies some of those terms and conditions.

The act requires the contract must provide for filing restrictions and easements on the land records in the town where the land is located to perpetually preserve the land in its natural state in order to protect natural resources and public water supplies. The easements and restrictions may allow only (1) recreation that does not require intensive development and (2) improvements and activities needed for land and natural resources management and safe and drinkable water. The restrictions must also (1) be in favor of the state acting through the DEP commissioner, (2) require the property to be available for public recreation not requiring intensive development, and (3) allow the state to install permanent fixtures needed for authorized recreation.

HIGH SHERIFF'S APPLICATION TO BE STATE MARSHAL (§ 16)

The act allows any high sheriff to apply, not later than October 1, 2001, to the State Marshal Commission to be a state marshal. The individual must resign as high sheriff by the time he is appointed and he cannot be a state marshal and state employee at the same time. The commission can make these appointments regardless of statutory limits on the number of state marshals in each county.

DPUC CONSULTANTS (§§ 17 & 18)

The act reinstates, until December 31, 2005, the DPUC's authority to hire consultants to help it develop and implement the public education program established as part of the law restructuring the electric industry to permit competition. By law, the costs for these consultants are recovered in the systems benefits charge which appears on every retail electric bill.

INDIAN TRIBES AND THE UNEMPLOYMENT COMPENSATION SYSTEM (§§ 19–21)

The act makes state law conform to new federal requirements by changing the way the Mashantucket Pequot and Mohegan Indian tribes, their subdivisions, subsidiaries, and any businesses wholly owned by them are treated for purposes of unemployment compensation. In 2000, federal law was amended to exclude services performed by employees of those tribes from the Federal Unemployment Tax Act (FUTA). This act requires most tribe employees who are excluded from federal coverage to be covered under the state unemployment compensation system effective December 21, 2000. It also gives the tribes the same option as state and local governments to pay for their unemployment compensation liability by reimbursing the unemployment fund dollar-for-dollar for benefits to their former employees rather than through contributions (taxes).

Exclusions

The act excludes the following service performed by tribe employees from state unemployment compensation coverage: (1) as an elected official; (2) as a member of a legislative or judicial body; (3) in temporary service in natural emergencies; (4) in major nontenured policymaking or advisory positions; (5) in policymaking positions that do not normally require more than eight hours of work a week; (6) in positions in rehabilitative programs for employees with reduced earning capacity; (7) as a recipient of such rehabilitative programs; (8) as part of an unemployment work-relief or work-training program financed, at least in part, by a tribe; or (9) as a recipient of such unemployment programs. Excluding such service from coverage means employees cannot collect benefits based on it.

Payments

Under the act, a tribe that chooses to make contributions must make them in the same manner as all other contributing employers. Similarly, a tribe that chooses to make reimbursement payments must be billed in the same manner as other reimbursing employers.

The act permits the tribes to make reimbursements as a whole, by unit, or by a combination of units. If a

tribe fails to make a reimbursement within 90 days of receiving a bill, it loses the reimbursement option in the following year unless it makes full payment or pays according to a schedule approved by the labor commissioner before contribution rates for the next year are computed. A tribe that loses its reimbursement option must be reinstated if, after one year, it has made all of its contributions on time and has no outstanding unemployment debts.

If the labor commissioner exhausts all available collection procedures and the tribe has still not made all of its payments, the commissioner may exclude the tribe from the state unemployment compensation system. He may reinstate a tribe once it has paid all outstanding debts. The commissioner must notify the Internal Revenue Service and the U.S. Department of Labor of (1) a tribe's failure to make payments within 90 days of a final delinquency notice and (2) any termination or reinstatement of coverage.

The commissioner may require a tribe that elects to make reimbursement payments to, within 60 days after its election, either execute and file a surety bond approved by him or deposit a certain amount of money or securities with him on the same basis as other reimbursing employers.

Notices to tribes about delinquencies must include information that failure to make payments within the prescribed time will (1) subject the tribe to federal unemployment compensation tax, (2) cause it to lose the option of making payments instead of contributions, and (3) exclude it from state coverage.

WATERBURY PERFORMING ARTS MAGNET SCHOOL (*§* 22)

Regardless of the Waterbury City Charter and state education laws, the act establishes a seven-member committee to oversee development of the Interdistrict Magnet School for the Performing Arts in Waterbury in conformity with an overall plan for the city's Downtown Arts and Education Cluster. The committee consists of three members each from the Waterbury Board of Education and Naugatuck Valley Development Corporation and one from the Waterbury Parking Authority. The act exempts the school project from regular school construction requirements and requires only that it be (1) built within the limits of state fiscal authorizations and (2) designed to provide an interdistrict education program for a racially, ethnically, and economically diverse student body.

The act requires the Naugatuck Valley Development Corporation to apply for the state school construction grant authorized for the school in 2000 and to act as the applicant for all other school construction grant requirements. It allows the corporation to make and receive state school construction grant payments and decide about and fund construction and change orders, with the approval of the state financial oversight board for Waterbury.

NEW AUTOMOBILE WARRANTIES ACCOUNT (*§§* 23 & 24)

The act creates a separate, nonlapsing General Fund account to pay for the new car lemon law program and funds it with a $3 surcharge on each new passenger vehicle and motorcycle sold in Connecticut. Licensed new motor vehicle and motorcycle dealers must collect the surcharge. Money from this "New Automobile Warranties Account" must be allocated to the Department of Consumer Protection (DCP) for the operation of the lemon law program. The new car lemon law established a consumer's right to a refund or replacement vehicle if a manufacturer or its representative cannot make a new vehicle live up to its warranty after a reasonable number of repair attempts, and the defect substantially impairs the vehicle's use, safety, or value.

CORRECTIONAL INSTITUTIONS' PHARMACY SERVICES (*§§* 25-27)

The act sets conditions under which state correctional institutions must return specified unused drugs to vendor pharmacies for re-dispensing and reimbursement to DOC. The department must establish procedures for returning the unused drug products to the pharmacies and must reimburse the vendor pharmacies for the reasonable cost incurred in operating the program, as determined by the DOC commissioner.

The act exempts from the definition of drug wholesalers retail pharmacies that supply limited amounts of non-controlled drugs or controlled substances for emergency use to the medical director of a state correctional institution. Retail pharmacies that supply these drugs to chronic and convalescent nursing homes and rest homes were already exempt. The act allows retail pharmacies to distribute certain controlled substances to a correctional institution's medical director for use as emergency stock. The law already allowed them to distribute these substances to chronic and convalescent nursing homes and rest homes.

DOC must establish procedures for the return of unused drug products to the pharmacy from which they were purchased.

Except for drugs dispensed in a bulk-dispensing container, which may not be returned, the act requires

the return to vendor pharmacies, for repackaging and reimbursement, of unused drug products that are:

1. prescription drugs that are not controlled substances,
2. sealed in individual packages,
3. returned to the vendor pharmacy within the recommended period of shelf life for re-dispensing,
4. determined to be of acceptable integrity by a licensed pharmacist,
5. oral and parenteral (taken by injection) drugs in single-dose sealed containers approved by the U.S. Food and Drug Administration (FDA),
6. topical or inhalant drugs in FDA-approved units-of-use containers, or
7. parenteral drugs in FDA-approved multiple-dose sealed containers from which no doses have been withdrawn.

Drugs meeting these criteria must also meet specified packaging standards before they can be returned.

If drugs are packaged in the manufacturer's unit-dose packages, they must be returned to the vendor pharmacy if they can be re-dispensed for use before the expiration date, if any, stated on the package.

If drugs are repackaged in the manufacturer's unit-dose or multiple-dose blister packs, they must be returned to the vendor pharmacy if (1) the repackaged drug clearly indicates the date of repackaging, lot number, and expiration date; (2) 90 days or less have elapsed from the date of repackaging; and (3) the pharmacy keeps a repackaging log for drugs that are repackaged before they are needed.

The act requires the DCP commissioner, in consultation with DOC, to adopt regulations governing the repackaging and labeling of returned drug products. Until January 1, 2003, DCP must implement policies and procedures needed to carry out the act while adopting the policies and procedures in regulation form. Within 20 days of implementing the policies and procedures, he must give notice of intent to adopt the regulations in the *Connecticut Law Journal.*

FEDERAL BLOCK GRANT APPROVAL PROCESS (*§* 28)

The act requires the Appropriations Committee and committees of cognizance to hold a public hearing on the governor's recommended allocations for federal block grants and sets a 15-day deadline for them to do so. By law, the committees must submit their approval or changes within 30 days of receiving the governor's recommendations from the House speaker and Senate president pro tempore.

WORKERS' COMPENSATION COMMISSION ASSESSMENT (*§* 29)

For FYs 2001-02 and 2002-03, the act increases the maximum annual employer assessment for the Workers' Compensation Commission's (WCC) budget from 4% to 4.5% of employers' workers' compensation expenses for the prior year. It lowers the cap back to 4% for FY 2003-04 and thereafter. Under prior law, the cap was 5% for FY 2000-01 and 4% for FY 2001-02 and thereafter.

By law, the General Fund does not support the WCC budget. Rather, it is financed through a special assessment by the state treasurer on private-sector employers and those towns that do not insure their workers' compensation liability through an interlocal risk-management agency. Each employer's assessment is based on its workers' compensation-related expenses in the previous calendar year, up to the established cap. The WCC administers the workers' compensation system.

HOME INSPECTORS LICENSING (*§§* 30 & 31)

Under prior law as amended by PA 01-116, in addition to paying a fee, non-exempt applicants for a home inspector license must have (1) completed high school or its equivalent, (2) passed a competency examination, (3) earned a home inspector intern permit, and (4) performed at least 100 home inspections. This act reduces, from 100 to 10, the number of home inspections that an applicant must conduct under the direct supervision of a licensed inspector. The remaining number may be done under indirect supervision. The act explicitly adds the provision that the inspections be performed in accordance with DCP rules and regulations.

DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS (*§§* 32 & 130)

The act requires crediting to the Hospital Assistance Program account any federal financial participation funds the state receives for disproportionate share (DSH) payments to hospitals for the final quarter's DSH settlement for hospital fiscal year 1999 under PA 01-3, June Special Session. This account is used to reconcile DSH over- and underpayments. Under the act, federal funds deposited in that account during FY 2001-02 will not lapse and will continue to be available to be spent in FY 2002-03. The act further requires the Department of Social Services (DSS) to distribute whatever remains in the

account to Yale-New Haven Hospital during FY 2002-03. (PA 01-3, June Special Session, restructured the DSH program, which provides extra Medicaid payments to hospitals that have a disproportionate number of patients for whose care the hospitals are not compensated. It increased both in- and out-patient hospital Medicaid rates and created a new DSH program aimed at helping hospitals in distressed municipalities with populations over 70,000.)

It also reinstates two statutes repealed in PA 01-2, June Special Session. One deals with children's general hospitals and prior disproportionate share settlements and adjustments and the other details how the DSS commissioner must apply hospitals' tax liability to calculate DSH payments to hospitals.

BOND FUNDS FOR URBAN HOMEOWNERSHIP PROGRAM (§ 33)

The act allows the Department of Economic and Community Development (DECD) to use an existing bond authorization to grant up to $5 million to the Connecticut Housing Finance Authority (CHFA) for an urban homeownership program instead of using it for CHFA's Residential Mortgage Refinancing Guarantee Program. It also allows CHFA to use the grant funds to cover the administrative cost of running the homeownership program.

DIVISION OF SPECIAL REVENUE (DSR) GAMBLING IMPACT STUDY (§ 34)

The act requires DSR to conduct its statutorily required gambling impact studies at minimum seven-year, instead of minimum five-year, intervals, thus potentially reducing the frequency of the studies. By law, the division can conduct the studies more frequently if it thinks necessary. The studies must look at existing legalized gambling in the state and the desirability of changing or maintaining current levels. The last study was in 1997 and cost $288,846.

NONLAPSING ACCOUNT FOR BESB VENDOR REVENUES (§ 35)

The act authorizes BESB to maintain a separate, nonlapsing account (and to accrue interest on it) for income derived from vending machines in state- or locally-owned or leased buildings. It must use this account for (1) paying fringe benefits, training, and support for vending facility operators and (2) entrepreneurial and independent living training and equipment for blind or visually impaired children or blind adults. By law, state and local authorities must permit BESB to provide vending machines and other retail vending services in these buildings when they determine that these operations are desirable.

Under prior law, BESB could maintain a savings account, which could accrue interest, for "non-state" vending machine income and use it to pay the fringe benefits of vending facility operators. The act allows this account instead not to lapse, and specifies that its income comes from vending machines BESB operates on federal property, instead of non-state property. In practice, BESB has maintained a single account for all vending machine revenue for some time. Most of this revenue comes from state and local vending sales.

The act authorizes BESB to also disburse state and local vending machine income to student or client activity funds, as defined in state law. But it appears that these funds could not come from the act's nonlapsing account since spending on this type of activity is not one of the purposes for which the act authorizes disbursements from the account. The law defines "activity fund" as any fund operated in any state educational institution or welfare or medical agency for the benefit of their employees or students, including so-called clients' funds in state hospitals.

RESIDENTIAL UNDERGROUND STORAGE TANK REMOVAL PROGRAM (§§ 36-40)

The act substantially amends the DEP program that provides money for certain costs incurred in connection with removing or replacing residential underground oil tanks, thus, in effect, creating a new program for projects that start on or after July 1, 2001.

Under the existing program, a DEP-registered contractor must conduct the remediation in order for the costs to be reimbursable. The contractor is responsible for paying the costs of the remediation (other than a deductible paid by the homeowner) and seeking reimbursement from the board that administers the program. The act limits the existing program to projects where work began before July 1, 2001. (However, another section limits contractor reimbursement to projects completed by this date.) The act requires contractors to submit their applications by December 1, 2001 to be eligible for reimbursement for such projects.

Starting July 1, 2001, the act makes homeowners eligible for reimbursement of the costs they incur, thus implicitly requiring them to pay the costs of projects that start on or after this date. It requires that such projects be completed by December 1, 2001.

Under the new program, the homeowner, rather than the contractor, must apply to the board that administers the program for reimbursement. The application must be submitted by December 31, 2001.

The act generally subjects applications filed by homeowners to the same review as applications filed by contractors. But it requires the homeowner, as a condition of eligibility for this program, to comply with the law's requirements under a separate program. That program requires a homeowner to (1) provide for the removal or replacement of his underground tank by January 1, 2002 and (2) notify DEP of the completion of these steps, in order to gain immunity from liability to the state for oil spills.

Under the new program, homeowners whose adjusted gross income (AGI) is above $50,000 must pay larger deductibles than under the existing program (see Table 1). For homeowners with incomes below $50,000, the deductible remains $500. The act makes homeowners with AGIs over $500,000 ineligible.

Table 1: Deductible Under the Oil Storage Tank Program

AGI	*Deductible*
$50,000 to $100,000	$ 2,000
$100,000 to $150,000	$ 4,000
$150,000 to $200,000	$ 5,000
$200,000 to $250,000	$ 7,500
$250,000 to $500,000	$10,000

The act requires the homeowner to apply to DEP before signing a contract with the registered contractor. The application form must include (1) the owner's name and Social Security number, (2) a verification that the tank serves his primary home, (3) a verification of his AGI, and (4) the name of the contractor who will complete the remediation. It bars contractors and their subcontractors from accepting payment for costs that are eligible for reimbursement until they have provided the homeowner with the information needed to apply to DEP.

DEP must notify the homeowner within 30 days of receiving the application whether he is eligible, whether funds are available under the program, and the deductible the homeowner must pay.

Under the new program, a contractor must immediately notify DEP if he determines there has been any spill from the tank. Under the existing program, he must provide notice only if the estimated remediation costs are more than $5,000. Under the act, DEP may revoke a contractor's registration for failing to provide notice under the new program. Under the existing program, the board can deny reimbursement to a contractor who does not comply with the notice requirement. Under the existing program, but not the new program, DEP or a DEP-licensed environmental professional must inspect the site when the estimated remediation cost is more than $10,000.

The act caps reimbursements to homeowners at $157 per ton of contaminated soil removed, as full payment for all eligible costs. If no contaminated soil is removed, the reimbursement is based on guidelines adopted by the board under existing law.

By law, the existing program is funded from a subaccount in the Environmental Quality Fund. The act allows the subaccount to be used to reimburse homeowners under the new program, and authorizes the board to make the reimbursements. It explicitly limits reimbursement to contractors and homeowners to the availability of money in the subaccount.

DEP has another program that covers nonresidential underground storage tanks. The act increases the amount annually allocated to DEP for its administrative costs for this program from $1,150,000 to $2 million.

TREATMENT OF CERTAIN STATE COSTS PAID BY INDIAN TRIBES (§ 41)

The law requires state agencies to turn over to the treasurer for deposit in the General Fund any indirect costs they recover that were originally paid by the General Fund. PA 01-6, June Special Session exempts "overhead charges" for state regulatory and law enforcement costs collected through assessments on the Mashantucket Pequot and Mohegan tribes. This act applies the exemption to "surcharges," rather than overhead charges, for such costs.

MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM (*§* 42-46)

The act makes several changes in the current centralized system for conducting exhaust emissions inspections on most motor vehicles in the state. The most significant changes involve a redesign of part of the program by (1) giving the Department of Motor Vehicles (DMV) commissioner the discretion to provide for on-board diagnostic (OBD) testing for 1996 model year and newer vehicles in DMV program regulations and (2) allowing all vehicles to be tested either at facilities operated by an independent contractor under contract to the state or at licensed motor vehicle dealers or repairers DMV approves for conducting such tests.

Specifically, the act:

1. allows the commissioner to appoint any licensed motor vehicle dealer or repairer to conduct emissions inspections, if it meets the qualifications, requirements, and conditions he establishes;

2. allows any independent contractor the commissioner may select to run a system of official inspection stations, in addition to conducting testing at its own facilities, to (a) contract directly with any motor vehicle dealer (but not a repairer) approved to conduct emissions tests to provide the testing services at the dealer's location and (b) operate inspection stations at suitable locations owned or operated by others, including retail business establishments, with adequate facilities to accommodate and perform inspections;
3. allows the commissioner to enter into one or more personal service agreements with any qualified person or business in order to provide for the management and oversight of the independent contractor-run emissions inspection facilities and to establish and maintain the necessary electronic data capture and reporting systems for these and for dealers and repairers authorized to conduct inspections;
4. makes the emissions testing exemption for vehicles during their first four model years effective with the 2000 through 2003 models and requires DMV program regulations to incorporate the exemption by July 1, 2002 instead of October 1, 2002;
5. beginning July 1, 2002, requires the commissioner to charge a $40 fee for any newly registered motor vehicle and for the registration of any vehicle eligible for the four-model-year test exemption that has not previously been registered in Connecticut, in addition to all other fees required by law to be deposited in the Special Transportation Fund (STF);
6. requires $1.625 million to be transferred from the STF to the Emissions Enterprise Fund beginning on July 1, 2001 and every October, January, April, and July thereafter; and
7. allows the commissioner to make an agreement or agreements with one or more nonprofit associations or organizations representing the interests of Connecticut dealers or repairers to assist in specific aspects of implementing dealer- or repairer-based emissions testing, and exempts this agreement process from numerous state laws governing state purchasing and contracting; DPW jurisdiction over real property, construction and alteration of state buildings; and OPM jurisdiction over budgeting and appropriations and state planning.

Dealer- and Repairer-Based Emissions Inspections

The act authorizes the commissioner to appoint any licensed dealer or repairer he determines to be qualified to conduct emissions inspections in a designated area of his licensed premises. Any such dealer or repairer must sign an agreement acknowledging that he understands the laws and regulations governing inspections, the necessity for complying with DMV administrative and technical directives and advisories, and that failure to comply with any of these constitutes grounds for suspension or revocation of authority to do inspections.

Inspections must be conducted on any vehicle presented for inspection during normal and posted hours of operation. The dealer or repairer may charge no more than $20 for a biennial inspection or reinspection of a 1996 model year or newer vehicle. (The more general provision that appears intended to give dealers and repairers a more general authority to charge $20 for all inspections contains an incorrect internal statutory reference to a provision that does not refer to inspection fees. Thus it appears that the only explicit authority to charge the $20 fee the act provides is for 1996 and newer vehicles.)

A written vehicle inspection report must be provided to the vehicle operator when the inspection is completed. It must contain the information and certification the commissioner prescribes. A dealer or repairer with inspection authority must provide one free reinspection to any vehicle it has previously inspected and which failed the inspection, provided the vehicle is presented for reinspection within 30 days following the first inspection. If the 30th day occurs on a day the facility is closed, the period extends until the next day it is open for business.

To be appointed to conduct inspections, a dealer or repairer must employ one or more certified emissions inspectors and repair technicians. These employees must conduct all the inspection and related repair work and must meet the training and certification requirements specified in federal and DMV regulations.

The commissioner may suspend or revoke a dealer's or repairer's inspection authority if the licensee fails to comply with the act, regulations adopted pursuant to the act, or DMV directives or advisories. The commissioner must issue regulations establishing qualifications for receiving inspection authority, inspection standards and procedures, reporting requirements, and inspector and technician training and certification requirements.

Independent Contractor Operations

The act makes the prior requirement that the commissioner enter into one or more negotiated inspection agreements with an independent contractor or contractors for the purpose of providing a system of official emissions inspection stations discretionary instead of mandatory.

In addition to operating its own test facilities, the act allows any contractor retained to operate the official inspection station system to conduct inspections at one or more dealer locations DMV authorizes to conduct inspections. It does not similarly allow contractor operations at repairer facilities that may be authorized to do inspections.

An inspection facility on a licensed dealer's premises must get prior DMV approval to operate. The contractor and licensee must follow the operational procedures and requirements as may be prescribed in the contract the DMV enters with the contractor for the statewide inspection system and DMV regulations.

The state cannot be a party to, nor assume or incur any liability under, any agreement between the independent contractor and any dealer in furtherance of their arrangement. The state's contract with the independent contractor must indemnify the state with respect to the operation of any such facility located in a dealership to the same extent that applied to the official emissions inspection stations.

Contracts for System Oversight

The act allows the commissioner to enter into one or more personal service agreements with any qualified person or business in order to provide for the management and oversight of the independent contractor-run emissions inspection facilities and to establish and maintain the necessary electronic data capture and reporting systems for these and for dealers and repairers authorized to conduct inspections. Any such agreements are subject to the statutory requirements applicable to personal service agreements.

Any contractor retained for these purposes must, at least, be responsible for (1) reviewing and analyzing data from inspections performed and recommending to the commissioner improvements in the quality and integrity of the data; (2) providing program information and standards to inspection facilities and locations; (3) providing to the commissioner regular reports, assessments, and recommendations to maintain or improve the effectiveness, efficiency, quality, and integrity of inspection operations; and (4) identifying measures to enhance public convenience and compliance with inspection requirements. A contractor retained for these purposes may not be licensed as or have any financial interest in any firm engaged in the business of selling or repairing motor vehicles or be a provider of emissions inspection equipment or facilities to the state.

DMV Implementation Agreement with Trade Association

The act allows the commissioner to make an agreement or agreements with one or more nonprofit associations or organizations that represent the interests of Connecticut motor vehicle dealers or repairers. The purpose of any such agreement must be to (1) facilitate the designation of dealers and repairers to conduct the emissions inspections the act allows; (2) establish and maintain necessary electronic data capture and reporting systems for all emissions inspection activities; (3) assist in providing the technical training, education, and certification of inspectors and repair technicians; (4) enhance communications with licensees authorized to conduct inspections and with vehicle owners subject to inspection requirements; and (5) provide any additional services or administrative assistance the commissioner requests.

The agreement cannot require the state to purchase any asset or assume any unfunded liability.

Four-Model-Year Exemption for Newer Vehicles

Previously, DMV regulations, by October 1, 2002, had to include an inspection exemption for every motor vehicle during the first four model years from its manufacture. The exemption lapsed if federal officials found that it caused the state to violate applicable environmental or transportation planning requirements.

The act moves the implementation date for the exemption regulation up to no later than July 1, 2002 and specifies that it must begin with 2003 model year vehicles and earlier. This means that the initial set of exempt vehicles will be 2000-2003 models, followed the next year by 2001-2004 models, and so on.

The act allows the commissioner to design a windshield sticker for all vehicles that are exempt from emissions inspections. In the case of vehicles under the four-year exemption, the sticker must be issued and have the date on which the vehicle is no longer exempt and must be presented for inspection. The sticker must be displayed on the windshield.

$40 Initial Registration Fee

The act requires the commissioner to charge a one-time $40 fee, in addition to all other required

registration fees, upon registration of (1) each new motor vehicle subject to emissions inspection requirements and (2) each motor vehicle that is four model-years old or newer that has not been previously registered in Connecticut. The money from this fee must go into the STF.

DRIVER'S LICENSES AND VISION SCREENING REQUIREMENTS (*§§* 47-51)

The act delays the beginning of vision screening for driver's license renewals from July 1, 2001 to July 1, 2003. These screenings, when implemented, must, by law, apply to every other license renewal. The act also requires DMV regulations for licensing people with health problems to specify the vision standards that are necessary to safely drive. It also allows the commissioner to require someone who has not previously held a Connecticut driver's license, or who has not operated a motor vehicle within the preceding two years, to pass a vision screening before being issued a Connecticut license.

The act modifies a provision of PA 01-6, June Special Session that requires driver and motorcycle operator licenses to be renewed for six rather than four years. Instead, it requires them to be renewed for either four or six years according to a schedule the commissioner determines, and makes conforming changes related to the license fees.

DEALER-ISSUED TEMPORARY AND TRANSFER REGISTRATIONS (*§§* 52 & 53)

By law, the DMV commissioner can appoint any motor vehicle dealers he deems qualified to issue temporary new or transfer registrations for certain passenger vehicles, motorcycles, campers, camp trailers, and trucks up to 26,000 pounds gross weight. Previously, these dealers had to pay $10 for a book of 25 new registration forms and $5 for each book of 25 temporary transfer forms. The act increases these fees to $10 for each individual form. It allows the commissioner to require any dealer approved to issue these types of registrations to file each application for a permanent registration by electronic transmission of an electronic record if he determines that the dealer, on average, files 25 or more such applications a month. Any such dealer may still file the permanent registration application in person at a DMV branch office, but would be paying more to do so due to the act's higher fee for the application documents.

POSTPONEMENT OF DMV COLLECTION OF SOCIAL SECURITY NUMBERS (*§* 54)

The act delays, from October 1, 2001 to July 1, 2003, the requirement that the commissioner begin collecting Social Security numbers or federal employer identification numbers before issuing new or renewal vehicle registrations and delays, from February 1, 2002 to February 1, 2004, the related requirement that he forward this information to the Department of Revenue Services. By law, these numbers, or the reasons they are unavailable, must be collected and forwarded to the revenue services commissioner for the purpose of establishing the identification of those affected by the taxes the commissioner administers.

COURTHOUSE SECURITY (*§* 55)

By law, the Judicial Department is responsible for courthouse security. The department must employ judicial marshals to perform this function and can establish standards and training to ensure court security.

The act specifies that "courthouse security" and "court security" include providing security services to any judicial or state agency facility under a written agreement when (1) the facility is next to a courthouse and (2) the chief court administrator determines that the security requirements of the facilities are mutual and best served by the judicial marshals' security services based on the facilities' proximity and design.

ENTREPRENEURIAL TRAINING PROGRAM (*§* 56)

The act allows the DECD commissioner to establish, within available appropriations, a program to train and prepare former welfare recipients, ex-offenders, and high school dropouts for self-employment and entrepreneurial opportunities. Welfare recipients receiving Temporary Family Assistance, Aid to Families with Dependent Children, Town General Assistance, and State Administered General Assistance can participate. In establishing the program, the commissioner must consult with the labor and social services commissioners and may adopt regulations.

MATCHING FUNDS FOR BOUNDLESS PLAYGROUNDS (*§* 57)

The act requires OPM to make $1 million in grants before June 30, 2002 available to Boundless Playgrounds to provide challenge grants and technical services to towns, school districts, or nonprofit agencies that develop universally accessible playgrounds for children of all abilities. The funds must be used to buy

and install surface materials and equipment and for project management, playground design, and quality control. But challenge grant funds may be used only for purchasing and installing the surface materials and equipment. The grantees must match each state dollar with $1 of non-state funds.

SMALL CLAIMS VENUES (*§§* 58 & 59)

The act permits the chief court administrator to change where some small claims matters (i.e., streamlined proceedings involving claims valued at less than $3,500) are filed and heard. Under prior law, they had to be filed in Superior Courts he designated within the boundaries of the judicial district where (1) the plaintiff lives, (2) the defendant lives or does business, or (3) where the transaction or injury occurred. But if the plaintiff was a corporation or limited liability company, they could be filed in location (2) or (3) only.

The act permits the administrator to designate courts outside judicial district boundaries in cases where the plaintiff is not one of the designated business entities. It also permits him to assign small claims hearings to any Superior Court facility he designates, rather than only those within the judicial district where they were filed or transferred.

MOTOR VEHICLE CASE VENUES (*§* 60)

The act permits the chief court administrator to assign presentments of defendants in motor vehicle matters to Superior Courts outside the geographical area where the incident occurred. (By law, judicial districts are sub-divided into geographical areas.) These cases involve violations of the criminal motor vehicle laws and serious infractions.

LOW-LEVEL RADIOACTIVE WASTE (LLRW) COMPACT (*§§* 61-63)

Under federal law, states can enter into compacts to dispose of LLRW, which includes things such as clothing and equipment exposed to radioactivity in power plants. Connecticut and New Jersey formed a compact under which each would be responsible for siting its own LLRW facility, and Connecticut passed a law establishing a fund to pay related expenses. The fund receives money from generators of LLRW in the state. In 2000, South Carolina joined the compact and agreed to dispose of all of the LLRW generated in all three states.

The act transfers the money in the fund to a nonlapsing account for OPM to use for LLRW management activities and related contingencies. Under the act, if the Northwest Interstate Low-Level Radioactive Waste Commission rescinds Connecticut's designation as a host for a LLRW facility, the OPM secretary must recommend a plan to the legislature for disposing of the fund and any balances owed to it. It eliminates a requirement for OPM to recommend assessments by February 1 in any year that it determines an assessment is not needed.

APPELLATE JUDGE APPOINTMENT (*§* 64)

The act permits the governor to appoint a 10th appellate court judge when the chief justice has appointed a sitting judge as chief court administrator. It specifies that, like the other nine members of the appellate court, the 10th judge is also a Superior Court judge appointed by the legislature, upon nomination of the governor, for an eight-year term. He serves as an appellate judge for the remainder of the newly designated court administrator's term or until the administrator retires, whichever comes earlier.

When an appellate judge becomes chief court administrator, the act releases him from sitting on the appellate court. The chief justice can override this if he determines the public business requires it.

The act's provisions apply to the appellate judge serving as chief court administrator on July 1, 2001, and all future chief court administrator appointments.

ASSESSMENT FOR OFFICE OF MANAGED CARE OMBUDSMAN (*§§* 66 & 67)

The act adds the actual expenditures, including fringe benefits and capital equipment purchases, of the Managed Care Ombudsman's office to the required payments that domestic insurance companies and hospital and medical service corporations must pay and deposit in the Insurance Fund, which pays the Insurance Department's annual expenditures.

By July 31, annually, the act requires the Managed Care Ombudsman's office to provide each insurer and hospital and medical service corporation with (1) a statement of the amount appropriated to the office for the same fiscal year beginning July 1, including the state comptroller's estimates for fringe benefit costs and capital equipment expenditures for the year; (2) a statement of the total premium tax imposed on them for business done in the state during the preceding calendar year; and (3) the proposed assessment for each company. The act specifies that the amount appropriated to the Managed Care Ombudsman's office plus fringe benefit costs and estimated capital equipment purchases are the office's actual expenditures.

The act prohibits an assessment against any one company in excess of 25% of the Managed Care Ombudsman's office actual expenditures, and requires instead that any excess assessment be paid by all companies in proportion to their respective shares of premium taxes and other charges they must pay on business done in the state during the preceding calendar year.

Finally, by September 1 annually, the act requires the Managed Care Ombudsman, after receiving objections to any proposed assessment, to adjust the assessment if he thinks it reasonable and provide each company with an adjusted assessment, and at the close of the fiscal year recalculate the proposed assessment using the actual expenditures of the office. By July 31, the Managed Care Ombudsman must provide each company with a statement showing the difference between its respective recalculated assessment and the amount it previously paid. Objections to any proposed assessment must be made by August 31.

SPENDING CAP EXEMPTION (*§* 68)

The act specifies that, because Hartford and Waterbury are designated distressed municipalities, a $9 million FY 2001-02 budget appropriation for supplemental education aid for the two cities is not considered general budget spending for FY 2001-02, thus exempting it from the state spending cap. By law, increased expenditures for grants to distressed municipalities are already exempt from the spending cap, but only if the grants were in effect as of July 1, 1991.

FEE FOR SERVING PROCESS (*§* 69)

The act increases, from $20 to $30, the maximum fee people can charge for serving process, a summons, or attachments on a defendant. The fee for serving an additional defendant remains $10. By law, different rates apply for serving process in eviction, support enforcement, and certain debt collection matters and serving potential jurors.

FUNDING TRANSFERS (*§* 70)

The act transfers $125,000 budgeted for FYs 2001-02 and 2002-03 from the Department of Agriculture to the Agricultural Experiment Station to be used for wildlife fertility control instead of for the Connecticut Grown Product Promotion Program.

It also transfers $150,000 in FY 2001-02 from the Labor Department to the Judicial Department to be used for the Through Any Door program instead of for phasing out the Community Employment Incentive program.

PESTICIDE SPRAYING STUDY (*§* 71)

The act requires the Agricultural Extension Station, within available funds, to study aerial pesticide spraying and alternative ways to apply pesticides. It must report any findings to the Environment and Commerce committees.

INCREASED REVENUE SHARING AID TO NORWICH (*§* 72)

The act increases Norwich's municipal revenue sharing grant by $250,000 from $400,825 to $650,825. It does so by transferring $250,000 of a $10 million appropriation from the FY 2000-01 surplus to OPM for Arts, Recreation, and Culture grants to municipal revenue sharing and allocating it to increase Norwich's aid.

EFFECTIVE DATE CHANGE (*§* 73)

The act makes a provision of PA 01-204 that allows trained lake patrolmen to use batons, effective on passage rather than on October 1, 2001.

REPORT ON PAROLE DENIALS (*§* 74)

The act requires the Board of Parole, by January 15, 2002, to report the number of prisoners eligible for parole after serving 50% of their sentences in prison (those who did not commit offenses involving violence) and who, by January 1, 2002, have completed 75% of their sentences and have not been approved for parole. By February 15, 2002, and by the 15th of each subsequent month, the board must report the number of eligible prisoners who completed 75% of their sentences in the preceding month and were not approved for parole.

The board must send these reports to the OPM secretary and the Judiciary, Public Safety, and Appropriations committees.

STANDARDIZED RISK ASSESSMENT (*§* 75)

The act requires the Department of Mental Health and Addiction Services (DMHAS), within available appropriations and in conjunction with the Board of Parole and the DOC, to report to the Judiciary and Public Health committees by February 6, 2002, recommendations to develop and implement a standardized risk assessment of people with mental

health needs who are eligible for parole or other community release programs. DMHAS can also consult with representatives of public and private higher learning institutions.

DEPARTMENT OF CORRECTION OMBUDSMAN (*§* 76)

The act requires the DOC commissioner, within available appropriations, to contract for ombudsman services and annually report the name of the provider or providers to the Judiciary Committee. Under the act, ombudsman services include:

1. receiving complaints from DOC inmates (including those housed in other states) regarding DOC decisions, actions, omissions, policies, procedures, rules and regulations;
2. investigating all complaints, making decisions on the merits, and communicating decisions to inmates;
3. recommending to the DOC commissioner a resolution of any complaint found to have merit;
4. recommending policy revisions to the DOC; and
5. publishing a quarterly report of all ombudsman service activities.

It requires a person in DOC's custody to have reasonably tried to resolve his complaint through DOC's internal grievance or appellate procedure before using the ombudsman's services.

The act makes all oral and written communications and related records between an inmate and the ombudsman or his staff confidential and not disclosable without the inmate's consent. The confidentiality requirement includes the inmate's identity, the details of the complaint, and the ombudsman's findings and conclusions. But the act allows the ombudsman to disclose without the inmate's consent:

1. communications and records needed for him to investigate and support any recommendations he may make and
2. the formal disposition of the inmate's complaint when requested in writing by a court hearing the inmate's application for a writ of habeas corpus filed after his adverse findings on the inmate's complaint.

The act requires the ombudsman to notify the DOC commissioner or a facility administrator of a criminal act or threat and the nature and target of the act or threat if he or a member of his staff learns of the commission or planned commission of a crime or a threat to someone's health or safety or the security of a correctional facility.

The act also requires the ombudsman to give the DOC commissioner all relevant oral or written communications if the commissioner reasonably believes an inmate told the ombudsman about a safety or security threat within the department or directed at a DOC employee.

NEW HAVEN ALTERNATIVE INCARCERATION CENTER (*§* 77)

The act authorizes the Judicial Department, within available appropriations, to establish an alternative incarceration center in the New Haven Judicial District. In addition to the programs and services offered by alternative incarceration centers, this center must provide a residential and day reporting program for accused and convicted people with mental health needs. The act requires, within available appropriations, a full range of mental health services for program participants. It requires a clinical coordinator to (1) work with the center's director to facilitate timely access to appropriate services and (2) develop a network of community, social, and vocational rehabilitation support to enhance successful program participation and long-term community integration.

REIMBURSEMENTS FOR THE COST OF MOVING BUILDINGS (§ 78)

The act allows any program eligible to use state funds to demolish buildings to fund their relocation instead. A program can fund relocation if:

1. the building, after renovation, will contain at least one dwelling unit;
2. the cost of relocating the building is not more than 5% higher than the total cost of demolishing it; and
3. the entity seeking the funds to relocate the building can show that preserving the area's character by keeping the building benefits the town or neighborhood.

In comparing the moving cost to the demolition costs, the funding agency must look at the costs of:

1. the actual demolition;
2. demolition preparation, including asbestos and other hazardous material abatement;
3. relocating residents and utilities;
4. remediating environmental problems after demolition;
5. foundation removal;
6. clean fill required to level the site; and
7. other costs associated with demolition, including making the site suitable for development.

The act equates building relocation with building rehabilitation for purposes of determining state rehabilitation assistance for the building or the project, making it eligible for rehabilitation funds.

Under the act, any building moved must meet the State Building Code's rehabilitation standards. The act also specifies that it does not bar state agencies from funding building relocation when the relocation does not meet the requirements it establishes.

TECHNOLOGY GRANTS (§ 79)

The act authorizes the Department of Information Technology to make grants for furthering the use of technology, including education in technology.

CONNECTICUT INNOVATIONS, INC. (CII) POWERS (§ 80)

The act narrows the requirement that CII obtain OPM's and the State Properties Review Board's approval when engaging in a transaction involving real property. It requires CII to obtain approval only if intends to use the property for its own purposes and complete the transaction with state-appropriated funds or the proceeds of state general obligation bonds.

URBAN REHABILITATION ASSESSMENT DEFERRAL (§ 81)

The act authorizes towns participating in CHFA's Urban Rehabilitation Homeownership Program (URHP) to provide a five-year deferral on property assessment increases resulting from that participation. It authorizes these CHFA-designated towns to approve ordinances that allow them to enter into agreements with property owners who agree to rehabilitate their property with URHP assistance to defer rehabilitation-related assessment increases for five years. The agreements must provide (1) that the applying owner live in the property for the length of the deferral; (2) for local building inspection and certification that the completed rehabilitation conforms with applicable state and local building, housing, and health codes; and (3) a date for the rehabilitation completion.

The agreements must also provide that, if a general revaluation in the year the rehabilitation is completed results in a property assessment increase, only the portion of the increase resulting from the rehabilitation can be deferred. Furthermore, if a general revaluation occurs in any year after the rehabilitation is completed, the deferred assessment will be increased or decreased in proportion to the increase or decrease in the total property assessment.

DESIGNATED COMMUNITY HOUSING DEVELOPMENT CORPORATIONS (§ 82)

The act designates the following organizations as specially chartered community housing development corporations (CHDCs):

1. Connecticut Housing Investment Fund;
2. Co-Op Initiatives, Inc.;
3. Greater New Haven Community Loan Fund, Inc.; and
4. Nutmeg Housing Development Corporation.

The designation allows these organizations to develop low- and moderate-income housing and provide technical assistance and management training to other groups developing this type of housing. It also qualifies these organizations for state funds to develop low- and moderate-income housing, capitalize revolving loan funds for this purpose, make units accessible to people with disabilities, and provide technical assistance to other housing developers.

The legislature already designated Co-Opportunity, Inc. and the Local Initiatives Support Corporation as CHDCs. By law, any nonprofit organization qualifies for the designation if it was organized to develop housing and was designated as a CHDC by the governing bodies of two or more towns to apply for state housing funds.

GRANTS TO TOWNS WITH SEWAGE SLUDGE INCINERATORS (§ 83)

The act specifies that the $250,000 appropriation for each fiscal year in the current budget for OPM's water treatment facility host town grant must go to the towns that host a plant with a sewage sludge incinerator (Cromwell, Hartford, Naugatuck, New Haven, and Waterbury), with each town receiving $50,000.

PERMIT FEE FOR MOTOR VEHICLE RACING EVENTS (§ 84)

The act decreases, from $177 to $75, the application fee for a DMV-issued permit for a motor vehicle racing event or exhibition. By law, anyone operating such a race, contest, or demonstration must get a DMV permit and undergo an examination of the facility and other conditions associated with the event before it can be held.

STUDY OF STRUCTURE-HEIGHT HAZARDS NEAR GENERAL AVIATION AIRPORTS (§ 85)

The act requires the transportation commissioner, within available appropriations, to study the safety

hazards relating to the height of structures to be erected adjoining general aviation airports. He must submit his findings to the Transportation Committee by January 1, 2002.

PROPERTY TAXES ON NEW POWER PLANTS (§ 86)

The act allows any municipality to treat a power plant that completes construction after July 1, 1998, as though the plant were located in an enterprise zone and used for commercial or retail purposes. It thus allows the municipality's legislative body, either before or after this act takes effect, to fix the property taxes and assessments on the plant's real and personal property both during and after the construction period. This may occur despite the enterprise zone law's requirement that towns fix property taxes and assessments only after the property improvement occurs. This provision applies only if the taxes or assessments set by the municipality approximate the plant's projected tax liability based on a reasonable estimate of its fair market value that the municipality determined using its best efforts.

REBATES TO PARI-MUTUEL FACILITIES WITH OPERATING LOSSES (§ 87)

By law, towns where pari-mutuel facilities (horse and dog racing tracks, jai alai frontons, and off-track betting (OTB) and simulcasting facilities) are located receive from .25% to 2.1% of the amounts wagered at the facilities, depending on the type of facility, its location, and the town's population. The act allows such a town's legislative body to direct the Special Revenue Division's executive director to credit or rebate all or part of its revenue from these payments to the pari-mutuel facility, if he determines the facility's licensee incurs a loss from operating it. The credit or rebate cannot exceed the loss nor can it affect the total fees the authorized OTB system operator pays the state from its OTB activities in any fiscal year.

L-CHAD DEFICIENCY (§ 88)

By February 1, 2002, the act requires the Department of Public Health (DPH) to report to the Public Health and Appropriations committees on the feasibility, cost, and time frames for establishing testing programs for L-chad and similar protein deficiencies. The report must include the operating costs associated with the program and the feasibility of including the cost of any testing equipment within existing resources.

L-chad is a genetic deficiency resulting in an inability to break down fatty acids as a usable energy source.

CHILDREN'S COMFORT CARE CENTER PILOT PROGRAM (§ 89)

The act extends from September 30, 2001 to September 30, 2003, the expiration date of the Sunshine House, Inc. pilot program for a comfort care center for children with limited life expectancies and their families.

GUILFORD AGRICULTURAL SOCIETY (§ 90)

The act eliminates a $10,000 limit on the amount of real and personal property that the Guilford Agricultural Society may hold at any one time.

ALTERNATE ROUTE TO TEACHER CERTIFICATION (ARC) PROGRAM APPROPRIATION (§ 91)

PA 01-1, June Special Session transfers $200,000 of the state budget appropriation for higher education and health initiatives to the Department of Higher Education (DHE) to expand the summer ARC program for teachers. This act allows DHE to use the money to expand any of its ARC programs, not just the summer one.

CHILDREN'S BEHAVIORAL HEALTH ADVISORY COMMITTEE (§ 93)

The act puts the executive director of the Office of Protection and Advocacy for Persons with Disabilities back on the Children's Behavioral Health Advisory Committee. PA 01-19 had initially put him on the committee, but PA 01-2, June Special Session made other changes in that statute without taking PA 01-19 into account.

HARTFORD BOARD OF EDUCATION APPOINTMENTS (§ 96)

SA 01-7 establishes a partly elected, partly appointed Hartford board of education to manage the Hartford school system from December 3, 2002, when the state-appointed board of trustees for the system expires, and December 5, 2005, when an all-elected board of education takes control. The transition board consists of four elected members and three Hartford voters appointed by the Hartford mayor and approved by the city council. This act requires the mayor to make

the appointments in consultation with the governor, the Senate president pro tempore and majority and minority leaders, and the House speaker and majority and minority leaders.

ELDERLY TAX FREEZE PROGRAM (§ 98)

PA 01-06, June Special Session requires people receiving tax freeze benefits to refund them if they fail to disclose all matters relating to the benefit or make false statements with the intent to defraud. This act specifies that they must refund the amount to the town or the state, as the case may be.

APPEALS FROM TAX ASSESSOR DECISIONS REGARDING RENTAL REBATES AND TAX RELIEF FOR ELDERLY AND DISABLED HOMEOWNERS (§§ 101 & 102)

In creating a uniform procedure for appealing OPM decisions regarding property tax benefits, PA 01-06, June Special Session repealed statutes allowing taxpayers to appeal OPM and tax assessor decisions under the rental rebate and elderly and disabled tax relief programs.

This act reinstates taxpayers' right to appeal tax assessors' decisions to OPM. It adopts the same timetable for registering and deciding the appeals as the uniform procedures: 30 business days (instead of 30 days) to bring the appeal and 30 business days (instead of 60 days) to decide it. It allows taxpayers to appeal OPM's decisions to Superior Court under the uniform procedure and makes conforming technical changes.

DSS DRUG ASSISTANCE INFORMATION (§ 104)

The act requires DSS, within available appropriations, to make information about pharmaceutical company drug programs for indigent people available to the elderly and disabled by using the ConnPACE program, CHOICES health insurance health insurance counseling and assistance program, and Infoline.

SCHOOL HEALTH ASSESSMENTS (§ 105)

The act eliminates a provision of PA 01-4, June Special Session that allowed licensed natureopaths and chiropractors to perform required school health assessments.

MEDICARE PART B PREMIUM PAYMENTS (§ 106)

The act requires DSS, for FY 2001-02, to pay any applicable Medicare buy-in cost for dually eligible Medicaid and Medicare recipients from funds deposited in a nonlapsing account created for this purpose. The account will hold revenue received from the U.S. Department of Health and Human Services for the portion designated for any applicable buy-in cost. The act also requires DSS to continue the payments until it contracts with the federal government to administer the Medicare Part B Buy-in Program. PA 01-2, June Special Session made nearly the same change but referred to paying the Medicare Part B premiums instead of the applicable Medicare buy-in cost.

GA MEDICAL PROGRAM (§ 107)

The act restores town General Assistance (GA) medical program coverage for glasses, which PA 01-2, June Special Session had eliminated. Norwich is the only town that still administers its own GA program. The others are part of the State-Administered General Assistance program (SAGA), which covers glasses just as the Medicaid program does.

IMMIGRANT WELFARE AND MEDICAL PROGRAMS (§§ 108-112, 126 & 127)

The act keeps solely state-funded welfare programs open for legal immigrants who are barred from federally funded programs but, with several exceptions, prohibits new applications after June 30, 2002. Under prior law, many of these programs would have ended July 1, 2001. The change applies to cash assistance under Temporary Family Assistance (TFA) and SAGA, town GA, state-funded medical assistance equivalent to Medicaid, SAGA medical aid, HUSKY Part B (the state's children's health insurance program), and the Connecticut Home Care Program for Elders. But those who are victims of domestic violence or have mental retardation are exempt from the bars on new applications.

(PA 01-2, June Special Session also bars new applications after June 30, 2002 for the state-funded food stamp program, which serves legal immigrants who are not eligible for the federal food stamp program.)

This act applies to legal immigrants and those whom the Immigration and Naturalization Service (INS) formerly classified us "permanently residing under color of law (PRUCOL)."

The act adds $2 million to the state's biennial budget to keep the immigrant programs open until June 30, 2002. Up to half of the $2 million will not lapse at the end of FY 2001-02 and will continue to be available for this purpose in FY 2002-03. The budget already contains $1 million to continue intake for the immigrant food stamp program effective July 1, 2001.

PILOT PAYMENTS FOR PRIVATE HIGHER EDUCATION INSTITUTIONS (§ 113)

The act reverses the changes in payment in lieu of taxes (PILOT) payments for private higher education institutions made in PA 01-6, June Special Session and restores the provisions of prior law.

PA 01-6, June Special Session eliminated the January 1 deadline for the OPM secretary to determine each municipality's PILOT grant for tax-exempt property owned by private colleges, general and chronic disease hospitals, and certain urgent care facilities. This act restores the deadline.

PA 01-6, June Special Session spelled out the types of private college property eligible for PILOT grants, specifying that the eligible property must not only be owned by, but also be used as, a private nonprofit institution of higher learning.

In addition, PA 01-6, June Special Session specified that the institution offer, or accept transfer of, college-level credit and be either licensed or accredited by the Board of Governors of Higher Education to offer degrees, or meet the following conditions:

1. be established in Connecticut,
2. have degree-granting authority and its home campus here,
3. not be part of the state public higher education system, and
4. not have the primary function of preparing students for a religious vocation.

This act eliminates these changes and restores prior law, which requires the state to pay PILOT grants on tax-exempt real property owned by any private nonprofit institution that is primarily engaged in post-secondary education.

EXPANSION OF MERIDEN ENTERPRISE ZONE (§ 114)

The law sets conditions under which the DECD commissioner can approve the expansion of an enterprise zone. This act requires him to approve expanding Meriden's enterprise zone to include a specific parcel. People who develop or improve the parcel qualify for property tax abatements, corporate business tax credits, and job creation grants.

FUNDING OF DPH ASTHMA ACTIVITIES (§ 115)

For FYs 2001-02 and 2002-03, the act transfers $300,000 from the Tobacco and Health Trust Fund to DPH to implement the asthma monitoring system and comprehensive statewide asthma plan that PA 01-4, June Special Session directs the department to establish.

VOTING TECHNOLOGY (§ 116)

The act (1) establishes a commission to study voting technology, including absentee ballot counters and (2) permits towns to use new voting machines on a pilot basis at the November 2001 municipal election and allows the secretary of the state to provide grants for it.

By January 1, 2002, the 16-member commission must report its findings and recommendations on current and alternative voting technologies to the secretary of the state and the Government Administration and Elections (GAE) Committee. The report must recommend:

1. the type or types of voting technology (other than punch card machines) and absentee ballot counting technology for use in all elections, primaries, and referenda held in the state and
2. plans for installing and maintaining it and distributing grants to towns for that purpose and for providing training and public information related to the new voting equipment.

Each of the following must appoint one commission member: (1) the House speaker and Senate president pro tempore, (2) the House and Senate majority and minority leaders, (3) the secretary of the state, and (3) the State Elections Enforcement Commission.

The Registrars of Voters Association of Connecticut and the Connecticut Town Clerks Association each appoint two members who must be from different political parties. The chairmen and ranking members of the GAE Committee or their designees also serve. The committee chairmen (or their designees) are the chairmen of the commission. Appointing authorities must name their appointments by July 31, which is also the deadline for holding the first meeting. Appointing authorities fill any commission vacancies. The GAE Committee's administrative staff serves as staff to the commission.

The act allows a town to use a new type of voting machine or absentee ballot counter on a pilot basis in the November 2001 municipal election if both its registrars of voters request it and the secretary of the state approves. The secretary may provide a grant, within her available appropriations, to defray the town's

costs.

CONNECTICUT RESOURCES RECOVERY AUTHORITY (CRRA) POWERS (*§* 117)

The act expands CRRA's powers to allow it to make contracts in connection with the remediation or development of property it owns as of July 1, 2001.

USE OF EDUCATION COST SHARING (ECS) GRANT INCREASES (*§* 118)

The act eliminates a redundant requirement in PA 01-1, June Special Session that towns use all money they receive for ECS grant increases for FYs 2001-02 and 2002-03 for education. The law already applies this requirement to ECS grant increases towns receive for any fiscal year.

HOSPITAL OUTPATIENT RATES (*§* 119)

The act specifies that the outpatient hospital Medicaid rate increase required by PA 01-3, June Special Session is for the rate period beginning July 1, 2000 instead of July 1, 2001 and effective June 1, 2001.

HOSPITAL INPATIENT RATES (*§* 120)

The act makes the inpatient hospital Medicaid rate increase, as required under PA 01-3, June Special Session effective June 1, instead of July 1, 2001.

DSS RATES TO FREESTANDING CHRONIC DISEASE HOSPITALS SERVING VENTILATOR DEPENDENT PATIENTS (*§* 121)

For FYs 2001-02 and 2002-03, the act allows the DSS commissioner to pay up to an additional $300,000 annually to freestanding chronic disease hospitals to cover services provided to their long-term ventilator patients, on top of the hospital's normal daily rate. PA 01-2, June Special Session changes the existing rate formula beginning with rate year 2001-02. It requires the commissioner to give the rate of the highest-paid freestanding chronic disease hospital to any hospital having more than an average of 15% of its inpatient days used as ventilator patient days paid by DSS for the previous rate period, in lieu of any other rate paid. PA 01-02, June Special Session, gives all freestanding chronic disease hospitals rate increases of 2.5% in FY 2001-02 and 2% in FY 2002-03.

URBAN AND INDUSTRIAL SITES REINVESTMENT PROGRAM (*§* 122)

Community Development Entities (CDEs)

Under the act, taxpayers investing any amount in eligible environmental remediation and urban site reinvestment projects through CDEs qualify for state business tax credits. The CDE must have been created to receive federal "new markets tax credits" in exchange for investing in community development projects. (The credits were authorized under the Consolidated Appropriations Act of 2001, PL 106-554, *§* 121). Under prior law, taxpayers qualified for credits only if they invested funds directly in an eligible project or through a state-registered fund.

A CDE must be a corporation, partnership, or limited liability company qualified to do business in the state on or before October 1, 2001. Its purpose must be to provide investment capital or financing for eligible projects, and it must be accountable to the residents of two or more designated towns through its governing board. Designated towns are those where taxpayers investing in urban reinvestment projects qualify for credits. They are the 17 towns with enterprise zones, 25 state-designated distressed municipalities (11 of which have enterprise zones), and the five towns with populations over 100,000 (all of which have enterprise zones).

CDEs must register with the DECD commissioner in the same manner as funds, but the act explicitly states that a CDE does not constitute a fund. They must provide evidence documenting their financial responsibility, integrity, professional competence, and experience managing investment money. They must also report annually to the commissioner.

CDEs must be certified by the U.S. Treasury to receive federal tax credits before they can earn the state tax credits.

Tax Credits

The act allows taxpayers investing through a CDE to qualify for dollar-for-dollar business tax credits when investing in industrial or urban sites reinvestment projects. It specifies that they can claim the credits against a combination of different business taxes.

The credit amount and the schedule for claiming the credits through a CDE are the same as those for claiming credits directly or through a fund manager. By law, taxpayers qualify for tax credits equal to 100% of the invested amount spread over 10 years from the investment date. They can begin claiming the credits

three years after that date: 10% per year in years four through seven and 20% per year in the last three years.

The act specifies that taxpayers making direct investments or through funds or CDEs qualify for credits against a combination of business taxes.

PROJECT APPLICATION REQUIREMENTS AND ELIGIBILITY CRITERIA

The act requires businesses, fund managers, and CDEs to project the amount of state and local tax revenue the proposed project will generate when they apply for tax credits. Prior law requires them to project only the amount of state revenue the project will generate.

The act makes investments in urban reinvestment projects eligible for tax credits without requiring the projects to create new jobs. Under prior law, the jobs had to go to new hires or current employees transferred from other states.

Recapturing Credits

By law, taxpayers must recapture (i.e., repay) credits if the DECD commissioner revokes the project's eligibility certificate. He can do this if the project fails to generate enough state tax revenue to cover the amount actually invested. Prior law imposed different requirements for determining the recapture amount. The act reconciles them.

Prior law defined the recapture amount as that amount by which the generated state tax revenues exceeded the amount of the approved investment. But it also required taxpayers to recapture the credits if the generated revenues exceed the total value of the credits they claimed. The act conforms these requirements, basing the recapture amount on the difference between the total value of the credits claimed and the generated revenues. It also bases the recapture requirement on a number that varies from year to year depending on the schedule for claiming credits or the amount a taxpayer actually claims.

Recapture Amounts

The law requires taxpayers to repay credits based on the proportion of their investment to the project's total investment. The act changes how a taxpayer must calculate his pro rata share. Under prior law, that share was based on a taxpayer's share of the total amount that was actually invested. Under the act, the pro rata share is based on the total amount of the investment the commissioner approved for tax credits. In effect, the act lowers each taxpayer's pro rata share since the amount approved is likely to be greater than the amount actually invested.

The amount the taxpayer actually repays on his return is based on a schedule the law specifies. According to that schedule, the recapture amount depends on the year in which he claimed credits. If he must repay the credits in the first year he claimed them, he must repay 90% of the recapture amount. The percent declines with each subsequent year: 65% in the second year, 50% the third, 30% the fourth, 20% the fifth, and 10% for the sixth through tenth years.

TECHNICAL CHANGES

The act defines project in terms of a broad range of activities associated with redeveloping sites and furnishing the improved property.

The act changes the definition of investment. Under prior law, investments included direct investments and loans made to a fund for the benefit of a taxpayer, who guarantees the loan. The act specifies that investments include equity investments and loans, but does not specify the parties lending or borrowing the money.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) AND AFDC RECOVERIES (*§* 123)

Starting in FY 2001-02, the act permits DSS, with OPM's approval, to credit the federal share of recoveries or overpayments under the TANF program to a nonlapsing account in the General Fund. It can pay the federal share out of that account. PA 01-02, June Special Session authorizes the same treatment for Aid to Families with Dependent Children (AFDC) recoveries and overpayments. By law, DSS must make reasonable efforts to recoup funds it has paid out under both TANF and AFDC and return to the federal government its proportional, or federal, share. Congress essentially replaced AFDC with TANF when it passed the Personal Responsibility and Work Opportunities Reconciliation Act of 1996.

TEMPORARY FAMILY ASSISTANCE (TFA) SANCTIONS FOR UNMARRIED TEEN PARENTS (*§* 124)

PA 01-2, June Special Session prohibits an unmarried minor parent who does not have a high school diploma and who has a child at least 12 weeks old in her care from receiving TFA benefits unless she is participating in educational activities directed towards attaining a high school diploma or its equivalent. This act makes it clear that those parents with the equivalent

of a high school diploma (e.g., a GED) do not have to participate in these activities.

TFA TIME LIMITS AND ASSISTANCE RECEIVED OUTSIDE OF CONNECTICUT (§ 125)

PA 01-2, June Special Session establishes a five-year maximum for TFA benefits paid to families who are subject to state law's 21-month TFA time limit, but qualify for six-month extensions. It counts towards the 60-month limit any month during which a family received TFA benefits from another state. This act instead counts such benefits received from another jurisdiction, which would appear to include other states, U.S. territories, and tribal nations. But, since it appears that no other jurisdiction calls its welfare program "Temporary Family Assistance," it is unclear whether this provision will have any legal effect.

TRAFFIC STOP DATA REPORTS AND REVIEW (§ 128)

By law, state and local police departments must collect data on the race, color, ethnicity, gender, and age of drivers they stop and the offenses and dispositions involved. The act requires them to submit, by October 1, 2002, one more annual summary of this data to the chief state's attorney. Under prior law, their obligation to provide summaries ended with their October 1, 2001 submission. (See also § 11 above.)

The act also extends, from January 1, 2002 to January 1, 2003, the chief state's attorney's obligation (within appropriations) to review the prevalence and disposition of traffic stops and reported complaints. By law, he is required to make one report of his results and recommendations to the governor and legislature. The report is due by January 1, 2002.

EFFECTIVE DATE CHANGES IN DSS IMPLEMENTER (§ 129)

The act changes several effective dates in PA 01-2, June Special Session. It delays the effective date from July 1 to October 1, 2001 for that act's changes concerning (1) exceptions to TFA work requirements for parents with minor children and (2) child placements in residential facilities. It delays the effective date from July 1 to August 1, 2001 for the elimination of SAGA and GA coverage for nonemergency medical transportation.

REPEALED PROVISIONS (§ 130)

Interlocal Agreement Revaluation Grants

The act eliminates OPM grants to towns that jointly revalue property under an interlocal agreement. The grants covered the cost of hiring a state-certified revaluation company to revalue properties in the participating towns. Grant amounts varied based on a town's population, ranging from $12,500 for towns with fewer than 20,000 people to $30,000 for towns with 100,000 or more people.

Transfers of Property Subject to Succession Tax

The act eliminates remaining requirements for the revenue services commissioner to be notified of, and consent to, transfers of a decedent's property subject to the succession tax. Under prior law, failure to obtain the required consent resulted in a penalty of triple the tax due. The following transfers were already exempt:

1. transfers of money in a joint account to the surviving account holder or in a trust account to the account beneficiary;
2. payments under a retirement or pension plan, trust, or contract receivable after death to the beneficiary; and
3. property transfers to a surviving spouse.

(PA 01-6, June Special Session also eliminates the notice and consent requirements and the penalty.)

Bristol Resource Recovery Facility Bonds

The act repeals provisions of SA 01-2, June Special Session that would have allowed the Bristol Resource Recovery Facility to refinance its outstanding debt and expanded the types of projects it could fund and the uses to which it could put its bond funds. It also eliminates provisions of a 1993 special act concerning facility bonds.

Appealing Tax Assessor Decisions Regarding Elderly and Disabled Property Tax Relief Benefits

The act reinstates two laws that were repealed by PA 01-6, June Special Session which, among other things, creates a uniform procedure for appealing decisions under different property tax exemption and relief programs. The reinstated statutes allow taxpayers to appeal OPM and tax assessor decisions under the Renter Rebate and Circuit Breaker programs for the elderly and disabled.

BACKGROUND

Federal Welfare Reform Law's Effects on Legal Immigrants

The 1996 federal welfare reform law (PL 104-193, 8 U.S.C. § 1601 *et seq*.) barred aliens who are not "qualified aliens" as defined in federal law (8 U.S.C. § 1641) from most federally funded public assistance programs. Even "qualified aliens" who enter the U.S. legally as permanent residents after the law's effective date, August 22, 1996, cannot receive federally funded public assistance for their first five years here (8 U.S.C § 1613(a)). But the federal law makes some exceptions. It allows qualified aliens who are refugees or have been granted asylum and certain other disadvantaged groups to qualify for assistance immediately for up to either five or seven years, depending on the program. Also, permanent resident aliens who have worked here for 10 years and those who are veterans of, or on active duty with, the U.S. armed forces and their spouses and children have no time restrictions on eligibility. All qualified aliens admitted into this country before August 22, 1996 remain eligible for federally funded assistance programs.

Federal law permits states to enact laws setting up separate state-funded programs for legal immigrants. In 1997, Connecticut established two-year, state-funded cash, medical assistance, and home care programs for qualified aliens and other lawfully residing immigrant aliens. In 1999, the legislature extended these programs to July 1, 2001. In 2000, it also made people who formerly held PRUCOL immigration status eligible for those state-funded programs. Prior to federal immigration reform, the 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 were ineligible for state assistance before the 2000 change.

In 1998, Connecticut established a permanent state-funded food stamp program for legal immigrants barred from the federal program.

01-54

01-107

01-189

BONDS

BRIDGES

BUILDINGS AND BUILDING CODES
See also State Buildings

BUSINESS
See also Corporations; Economic Development; Limited Liability Companies

CAPITAL PUNISHMENT

CONFIDENTIALITY
See also Freedom of Information

CONNECTICUT DEVELOPMENT AUTHORITY

CONNECTICUT HOUSING FINANCE AUTHORITY

CONNECTICUT INNOVATIONS, INC.

CREDIT UNIONS

CRIME VICTIMS

CRIMES AND OFFENSES

See also Capital Punishment; Criminal Procedure

CRIMINAL PROCEDURE
See also Evidence; Juries

CUTPA
See Connecticut Unfair Trade Practices Act

DAIRIES AND DAIRY PRODUCTS

DAY CARE

ELDERLY PERSONS

ELECTIONS

See Voters and Voting

ELECTRIC UTILITIES

EMERGENCY SERVICES

See also Firefighters and Fire Officials; Law Enforcement Officers

EMINENT DOMAIN

ESTATES AND TRUSTS
See also Probate Courts

EVICTION
See Landlord and Tenant

EVIDENCE

FIREARMS
See Weapons

FIREFIGHTERS AND FIRE OFFICIALS

FISH AND GAME
See also Animals

FREEDOM OF INFORMATION

HIGHER EDUCATION
See Colleges and Universities

HIGHER EDUCATION, DEPARTMENT OF

HIGHWAYS AND ROADS

HOSPITALS

HOUSING
See also Landlord and Tenant

HUMAN RIGHTS AND OPPORTUNITIES, CONNECTICUT COMMISSION ON

IMMUNITY
See Liability

INCOME TAX
See Taxation

INDIANS

INFORMATION TECHNOLOGY

INSURANCE
See also Health Insurance; Medicaid

INSURANCE DEPARTMENT

INVESTMENTS

JUDGES

JUDICIAL BRANCH
See also Alternative Sanctions Office; Judges

MUNICIPAL OFFICIALS AND EMPLOYEES
See also Firefighters and Fire Officials; Law Enforcement Officers; Teachers

MUNICIPALITIES
See also Government Purchasing; Municipal Officials and Employees; Planning and Zoning; Property Tax; Schools and School Districts

POLLUTION
See Air Pollution; Noise Pollution; Water Pollution

PRISONS AND PRISONERS

PRIVACY
See Confidentiality

PROBATE COURTS
See also Estates and Trusts

PROPERTY TAX

SALES AND USE TAXES

SCHOOLS AND SCHOOL DISTRICTS

SOLID WASTE MANAGEMENT

SPECIAL EDUCATION

SPORTS

STATE AGENCIES

See also specific agencies

STATE AID

STATE BUDGET

STATE BUILDINGS

STATE COMPTROLLER

STATE FUNDS

STATE OFFICERS AND EMPLOYEES
See also specific Constitutional Officers; Judges; Judicial Branch; Law Enforcement Officers; State Veterinarian

STATE PARKS AND FORESTS

STATE TREASURER

STATE VETERINARIAN

STATUTES

STUDENTS

TASK FORCES

TAXATION

TEACHERS

TELECOMMUNICATIONS

TEMPORARY FAMILY ASSISTANCE

TOBACCO PRODUCTS

TOURISM

See Economic Development

TRAFFIC RULES AND REGULATIONS