SUMMARY OF 2016 PUBLIC ACTS

Connecticut General Assembly

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NOTICE TO USERS

This publication, *Summary of 2016 Public Acts*, summarizes all public acts passed during the 2016 Regular Session and December 2015 and May 2016 Special Sessions of the Connecticut General Assembly. Special acts are not summarized.

Use of this Book

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Organization of the Book

The summaries are organized in chapters based on the committee that sponsored the bill. Bills sent directly to the floor without committee action (emergency certification) are placed in a separate chapter. Within each chapter, summaries are arranged in order by public act number.

2016 VETOED ACTS

1. PA 16-32, An Act Concerning the Impact of Proposed Regulations on Small Businesses (Government Administration and Elections Committee) (OVERRIDDEN)

2. PA 16-85, An Act Implementing the Recommendations of the Auditors of Public Accounts and Repealing a Provision Concerning State Agency Reporting of Certain Contractor Information (Government Administration and Elections Committee)

3. PA 16-98, An Act Concerning Operators of Athletic Activities, Coaches and Referees and The Employer-Employee Relationship (Labor and Public Employees Committee)

4. PA 16-113, An Act Concerning Principal Investment Officers (Appropriations Committee) (OVERRIDDEN)

5. PA 16-115, An Act Concerning the Creation of Connecticut Brownfield Land Banks, Certain Lender Responsibility for Releases at Brownfields and Revisions to Brownfield Remediation and Development Programs (Commerce Committee)

6. PA 16-177, An Act Concerning a Municipal Option for Property Tax Abatements for Arts and Culture (Commerce Committee)

7. PA 16-183, An Act Concerning the Apprenticeship Tax Credit and the Tax Credit Report (Finance, Revenue and Bonding Committee)

Line-Item Veto

1. PA 16-2, May Special Session, An Act Adjusting the State Budget for the Biennium Ending June 30, 2017

TABLE ON PENALTIES

Crimes

The law authorizes courts to impose fines, imprisonment, or both when sentencing a convicted criminal. For most crimes, the court may also impose a probation term. For eligible offenders, the court may order participation in various programs, such as accelerated rehabilitation or the pretrial alcohol education program, and dismiss the charges upon the offender's successful completion of the program.

When sentencing an offender to prison, the judge must specify a period of incarceration. The prison terms below represent the range within which a judge must set the sentence. A judge may suspend all or part of a sentence unless the statute specifies it is a mandatory minimum sentence. The judge also sets the exact amount of a fine, up to the established limits listed below. Repeated or persistent offenses may result in a higher maximum than specified here

Classification of Crime	***Imprisonment***	***Fine***
Class A felony (murder with special circumstances)	Life, without release	up to $20,000
Class A felony (murder)	25 to 60 years	up to 20,000
Class A felony (aggravated sexual assault of a minor)	25 to 50 years	up to 20,000
Class A felony	10 to 25 years	up to 20,000
Class B felony (1st degree manslaughter with a firearm)	5 to 40 years	up to 15,000
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	up to 5 years	up to 5,000
Class E felony	up to 3 years	up to 3,500
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
Class D misdemeanor	up to 30 days	up to 250

Violations

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

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

Infractions

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

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

PA 15-1, December 2015 Special Session—SB 1601
Emergency Certification

AN ACT MAKING CERTAIN STRUCTURAL CHANGES TO THE STATE BUDGET AND ADJUSTMENTS TO THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017

SUMMARY: This act makes various statutory and budgetary changes to reduce projected General Fund deficits for FY 16 and FY 17. It:

1. reduces General Fund appropriations for state programs and purposes (§§ 1-3),
2. requires specified amounts in certain appropriations to lapse in FY 16 instead of being carried forward to FY 17 (§§ 4-7),
3. transfers money from various special funds and accounts to the General Fund for FY 16 (§§ 12-17 & 19), and
4. delays sales tax revenue diversions to the Special Transportation Fund (STF) and Municipal Revenue Sharing Account (MRSA) (§ 32).

The act also makes several tax changes, including the following:

1. imposing a $2.5 million cap on the amount by which a combined group's corporation income tax liability, calculated on a unitary basis, can exceed the tax it would have paid on a separate basis (§ 36);
2. requiring multistate corporations to apportion their income to Connecticut using a single-factor apportionment formula, rather than prior law's three-factor formula (§§ 40-46);
3. raising the cap on the amount of certain tax credits corporations, hospitals, and ambulatory surgical centers may claim each year (§§ 29 & 30);
4. excluding from the income tax compensation for personal services that a nonresident employee performs in Connecticut if he or she is present in the state 15 days or less (§ 26);
5. broadening an exemption from the petroleum products gross earnings tax for propane gas (§ 27);
6. establishing a local option property tax relief program for qualifying commercial and industrial property owners in municipalities with state-approved enterprise zones (§ 34); and
7. eliminating a sales tax exemption for residential weatherization products (§ 49).

Among other things, the act also:

1. modifies the distribution schedule for specified municipal grant programs funded through MRSA and allows the Office of Policy and Management (OPM) to make certain MRSA grant payments before sufficient sales tax revenue has accumulated in the account (§§ 31 & 33);
2. requires various entities to submit reports to the legislature on topics such as state employee overtime, Department of Developmental Services (DDS) facility closures, the state's constitutional spending cap, and the efficiency of certain state services (§§ 21-25); and
3. requires leases for above ground heating fuel tanks to contain a clause allowing the lessee to buy the tank and associated equipment (§§ 47-48).

EFFECTIVE DATE: Various, see below

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§§ 1-3 — REDUCED APPROPRIATIONS FOR FY 16 AND FY 17

This act allows the OPM secretary to reduce specific FY 16 and FY 17 executive branch allotments in the General Fund by a total of $85,752,529 in each fiscal year. Programs must be reduced proportionally, except as necessary to achieve the budgeted savings. The act also authorizes him to make additional unspecified reductions totaling $93,076,192 in each of the fiscal years, provided he does not reduce (1) executive branch allotments by more than 1% of any appropriation or (2) any allotment for municipal aid.

The act authorizes the secretary to reduce FY 16 and FY 17 allotments to the legislative branch by $2 million and the judicial branch by $15 million for each fiscal year. Such reductions must be determined by the six legislative leaders and the chief justice and chief public defender, respectively.

It also allows the secretary to reduce FY 16 allotments to the STF by $35.2 million.

EFFECTIVE DATE: Upon passage

§§ 4-7 — FUNDING LAPSES

The act requires specified amounts in certain appropriations to lapse in FY 16 instead of being carried forward to FY 17 as shown in Table 1.

Table 1: Required FY 16 Lapses

§	*Agency*	*Appropriation Purpose*	*Lapse Amount*
4	Department of Economic and Community Development (DECD)	Statewide marketing	$1,000,000
5	Office of Higher Education	Minority Advancement Program	87,541
6	DECD	Small Business Incubator Program	13,597
7	Department of Rehabilitation Services	Part-time interpreters	61

EFFECTIVE DATE: Upon passage

§§ 8-11 — AMORTIZED GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) DEFICIT

The act requires the state to pay off the General Fund's unreserved negative unassigned balance for FY 14, identified based on GAAP, and to do so over 12 years in equal increments, starting in FY 17 and ending in FY 28. The law already requires the state to pay off accumulated FY 13 unreserved negative balances that happened before the state adopted GAAP in FY 14. The state must do this in equal increments over 13 years, starting in FY 16 and ending in FY 28.

The act changes the source for determining the amount of funds needed to pay off unreserved negative GAAP balances in the General Fund. Under the act, the amount must be the one issued in the comptroller's annual report to the governor. Under prior law, the amount had to be the one reported in the most recently audited comprehensive annual financial report the comptroller issued before the FY begins.

The act also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage except for a conforming change, which takes effect July 1, 2019.

§ 12 — FY 16 TOBACCO SETTLEMENT FUND DISBURSEMENTS

For FY 16, the act disburses an additional $2 million from the Tobacco Settlement Fund to the General Fund. It also reduces, from $4 million to $2 million, disbursements from the Tobacco Settlement Fund to the Biomedical Research Trust Fund.

EFFECTIVE DATE: Upon passage

§§ 13-17— TRANSFERS TO THE GENERAL FUND

The act transfers $5.7 million from various accounts to the General Fund for FY 16, as shown in Table 2.

Table 2: Transfers to FY 16 General Fund Revenue

§	*Fund/Account*	*Amount*
13	School Bus Seat Belt Account	$2,000,000
14	Lottery Assessment Account	1,000,000
15	Drug Asset Forfeiture Account	400,000
16	Non-lapsing account funding certain infrastructure costs for providing services to people with intellectual or psychiatric disabilities	300,000
17	Private Occupational School Student Protection Account	2,000,000

EFFECTIVE DATE: Upon passage

§ 18 — FY 16 GENERAL FUND REVENUE

The budget act (PA 15-244) allows the comptroller to designate, by June 30, 2016, up to $25 million of FY 16 General Fund revenue as FY 17 General Fund revenue. The act requires the OPM secretary to specify the amount the comptroller may designate but retains the $25 million cap.
EFFECTIVE DATE: Upon passage

§ 19 — TRANSFERS FROM HIGHER EDUCATION INSTITUTIONS TO THE GENERAL FUND FOR FY 16

The act transfers $15.1 million from public higher education institutions' operating funds to the General Fund to be counted as General Fund revenue for FY 16, as shown in Table 3. It specifies that the transfer from the UConn operating fund includes $4.4 million of net excess in-kind fringe benefits and constitutes full repayment by the university to the General Fund for all fringe benefit assessment overcharges for FYs 03-15, pursuant to the contingencies in the notes to UConn's FY 14 financial statements.

Table 3: Transfers to General Fund from Higher Education Institutions' Operating Funds

Operating Fund	*Amount Transferred*
UConn	$8.5 million
UConn Health Center	3.0 million
Connecticut State University System	1.8 million
Regional Community-Technical Colleges	1.8 million

EFFECTIVE DATE: Upon passage

§ 20 — REQUEST FOR INFORMATION

The act requires the Department of Correction commissioner and the OPM secretary to issue a request for information on inmate medical services options available to the state and the associated costs of such services. (A request for information, or RFI, is a standard process used to collect written information about the capabilities of various suppliers. It generally follows a format that can be used for comparative purposes to help make a decision on what steps to take next.)
EFFECTIVE DATE: Upon passage

§ 21 — STATE AGENCY OVERTIME REPORTS BY THE OFFICE OF FISCAL ANALYSIS

The act requires the Office of Fiscal Analysis to report to the Appropriations Committee, by January 1, 2016 and each following quarter, on (1) how much overtime each state agency grants and (2) how many employees receive overtime pay. Under the law, "state agency" means a department, board, council, commission, institution, or other executive branch agency.
EFFECTIVE DATE: Upon passage

§ 22 — EXECUTIVE BRANCH OVERTIME REPORT

The act requires the OPM secretary, by March 15, 2016 and March 15, 2017, to report to the Appropriations Committee on efforts to reduce overtime in the executive branch during FY 16 and FY 17, respectively.
EFFECTIVE DATE: Upon passage

§ 23 — DDS FACILITY CLOSURES REPORT

The act requires the OPM secretary, in consultation with the DDS commissioner, to report to the Appropriations and Public Health committees by December 31, 2016 on a plan to close DDS-operated facilities, including Southbury Training School and regional centers, in order to achieve targeted savings.
EFFECTIVE DATE: Upon passage

§ 24 — SPENDING CAP COMMISSION

The act establishes a 24-member spending cap commission to create, for purposes of the state's constitutional general budget expenditures requirement, proposed definitions of (1) "increase in personal income," (2) "increase in inflation," and (3) "general budget expenditures" (see *Background*).

The commission must (1) hold a public hearing on the definitions in each of the state's five congressional districts and (2) submit, by December 1, 2016, its proposed definitions to the Appropriations; Finance, Revenue and Bonding; and Government Administration and Elections committees. The commission members are (1) the chairpersons and ranking members of these committees or their designees; (2) the OPM secretary or his designee; and (3) 11 people appointed as Table 4 shows.

Table 4: Commission Appointees

Appointing Authority	*Number*
Governor	3
Senate president pro tempore	2
Senate majority leader	1
Senate minority leader	1
House speaker	2
House majority leader	1
House minority leader	1

Appointments must be made by January 28, 2016. Vacancies are filled by the appointing authorities. Any of the appointees, other than the governor's appointees, may be legislators.

The House speaker and Senate president pro tempore must select the commission's chairpersons from among its members. The chairpersons must schedule and hold the commission's first meeting by February 27, 2016.

The act requires the Appropriations Committee's administrative staff to serve as the commission's administrative staff. The commission ends when it submits the proposed definitions or December 1, 2016, whichever is later.

EFFECTIVE DATE: Upon passage

Background

The state's statutory and constitutional spending cap bars the legislature from authorizing an increase in general budget expenditures for any fiscal year by a percentage that exceeds the greater of the percentage increase in personal income or the percentage increase in inflation, unless (1) the governor declares an emergency or the existence of extraordinary circumstances and (2) at least three-fifths of each house of the legislature approves the extra expenditure for those purposes (CGS § 2-33a & Conn. Const., art. III, § 18(b)).

§ 25 — EFFICIENCY PLANNING TASK FORCE

The act establishes an efficiency planning task force to (1) identify and evaluate the efficiency of state services that cost the state, on average, more than $250,000 per recipient annually and (2) make recommendations for legislation necessary for more efficient service provision.

The task force consists of eight legislators – four Democrats and four Republicans. The top four majority leaders appoint one member each and the top two minority leaders appoint two members each. Appointing authorities must make their appointments no later than January 28, 2016 and fill any vacancies.

The House speaker and Senate president pro tempore must jointly select a co-chairperson, and the House and Senate minority leaders must jointly select one, from among the task force's members. The chairpersons must schedule and hold the first meeting by February 27, 2016.

By December 8, 2016, the task force must submit its findings to the Appropriations and Government Administration and Elections (GAE) committees. It terminates on the date when it submits the report or December 8, 2016, whichever is later. The GAE Committee administrative staff serves in that capacity for the task force.

EFFECTIVE DATE: Upon passage

§ 26 — PERSONAL INCOME TAX EXCLUSION

By law, people who reside in other states must pay Connecticut income tax on income they derive from a business, trade, profession, or occupation conducted here. The act specifies that such income includes compensation for personal services nonresidents rendered in Connecticut as employees. Starting January 1, 2016, the act excludes income for personal services rendered by a nonresident present in Connecticut for less than 15 full or partial days. But, if the taxpayer is present in the state for a longer period, then he or she must pay Connecticut income taxes on the total compensation received for rendering the services here. Under the act, a day in which the taxpayer is present in the state solely for transit through the state does not count toward the 15-day limit.

The act specifies that the 15-day limit does not apply to (1) compensation for other types of services nonresident taxpayers render in Connecticut as part of a business, trade, profession, or occupation or (2) the income paid to entertainers, performing artists, or athletes, including athletic team members.

The act also specifies that athletic team members must pay income tax on income derived from an event taking place in Connecticut transmitted on closed circuit or cable television only to the extent the transmissions were received or exhibited here. This requirement already applies to athletes, entertainers, and performing artists.

EFFECTIVE DATE: Upon passage and applicable to tax years beginning on or after January 1, 2016.

§ 27 — GROSS EARNINGS TAX EXEMPTION FOR PROPANE

The act broadens the exemption to the gross earnings tax for propane gas by applying it to propane used primarily, instead of exclusively, for heating purposes. The 8.1% petroleum products gross earnings tax applies to the first sale of certain petroleum products in Connecticut. It falls on petroleum product distributors and is thus paid at the wholesale level.

EFFECTIVE DATE: Upon passage and applicable to first sales made on or after December 1, 2015.

§ 28 — SALE OR TRANSFER OF MANUFACTURING APPRENTICESHIP TAX CREDITS BY PASS-THROUGH ENTITIES

Existing law allows eligible companies, including those organized as pass-through entities (i.e., S corporations, LLCs, limited liability partnerships, and limited partnerships), to earn corporate business tax credits for employing apprentices receiving training in the manufacturing trades under a qualified program. These credits cannot be used against the personal income tax or any other tax liability a pass-through entity incurs.

To use any apprenticeship credits they earn, pass-through entities must sell, assign, or transfer them to other taxpayers. Under prior law, pass-through entities could sell, assign, or transfer these credits only to businesses with corporate income tax liability. For income years beginning on or after January 1, 2016, the act allows them to sell, assign, or transfer the credits to other taxpayers with utility companies or petroleum products gross earnings tax liability, in addition to those with corporate income tax liability.

By law, pass-through entities do not pay corporate business taxes; rather, (1) the entities pay the business entity tax and (2) their owners, shareholders, and partners pay personal income taxes on their share of the income the business generates.

EFFECTIVE DATE: January 1, 2016, and applicable to taxable and income years beginning on or after that date.

§ 29 — TAX CREDIT CAP INCREASE FOR CORPORATIONS

Corporation Business Tax

The act raises the cap on the amount of certain tax credits corporations may claim each year against the corporation business tax. The law provides tax credits for many different purposes, but it caps the total value of credits corporations may claim at a specified portion of their annual tax liability. PA 15-244 (§ 88) lowered the cap from 70% to 50.01% of tax liability starting in the 2015 income year.

Starting in the 2016 income year, the act raises the cap over a period of four years to 70% but only with respect to credits for research and development expenditures (CGS §§ 12-217j and 12-217n) and urban and industrial sites reinvestment projects (CGS § 32-9t) that taxpayers could not otherwise use without exceeding the 50.01% cap (i.e., excess credits).

The act specifies how corporations may apply excess credits. A taxpayer must determine its tax liability and reduce it by applying all of its credits up to 50.01% of that liability. It may further reduce its liability by using its excess credits up to the annual cap, which the act increases by 5% per year until 2019. Table 5 shows the act's schedule for increasing the tax credit cap.

Table 5: Schedule for Increasing Tax Credit Cap

Income Year	*Credit Cap*
2016	55%
2017	60%
2018	65%
2019 and after	70%

EFFECTIVE DATE: Upon passage

§ 30 — TAX CREDIT CAP INCREASE FOR HOSPITALS

Hospital Tax and Ambulatory Surgical Center Gross Receipts Tax

PA 15-244 (§ 89) capped the amount by which hospitals can use tax credits to reduce their hospital tax liability at 50.01% of their tax due. Starting in 2016, the act raises this cap by 5% per year until it reaches 70% in 2019. Thus, the cap is 55% in 2016, 60% in 2017, 65% in 2018, and 70% in 2019 and thereafter.

The act extends the same annual caps to the ambulatory surgical center gross receipts tax, thus limiting the amount by which ambulatory surgical centers can use them to reduce their gross receipts tax liability. PA 15-244 imposed a 6% tax on the centers' gross receipts. By law, urban and industrial site reinvestment tax credits are the only credits that apply against these taxes (CGS § 32-9t).

EFFECTIVE DATE: Upon passage and applicable to calendar quarters starting on and after January 1, 2016.

§§ 31 & 33 — MUNICIPAL REVENUE SHARING ACCOUNT (MRSA)

Distribution Schedule

By law, the Department of Revenue Services (DRS) commissioner must begin directing a portion of sales tax revenue to MRSA in FY 16. Prior law required MRSA funds to be transferred or disbursed to various municipal grant programs in a specified order. Under the act, the OPM secretary must set aside and ensure availability of the funds in a specified order of priority and transfer or disburse them accordingly.

The act modifies the disbursement schedule and establishes deadlines for specified grant payments, as shown in Table 6.

Table 6: MRSA Distribution Schedule

Prior Law		*Act*	
FY	***MRSA Disbursement***	***FY***	***MRSA Disbursement***
16	$10 million for education cost sharing (ECS) grants	16	$10 million for ECS grants by April 15
17	$10 million for ECS grants	17	Amount sufficient to make motor vehicle property tax grants to municipalities by August 1
	Amount sufficient to make grants payable from the select PILOT account		Amount sufficient to make grants payable from the select PILOT account
	Amount sufficient to make motor vehicle property tax grants to municipalities		Amount sufficient to pay municipal revenue sharing grants, according to statutory amounts, by October 31
	Amount sufficient to pay municipal revenue sharing grants according to statutory amounts		$10 million for ECS grants by April 15
	$3 million for regional services grants to councils of governments (COGs)		$3 million for regional services grants to COGs
18	Amount sufficient to make grants payable from the select PILOT account	18 and 19	Amount sufficient to make motor vehicle property tax grants to municipalities by August 1
	Amount sufficient to make motor vehicle property tax grants to municipalities		Amount sufficient to make grants payable from the select PILOT account
	Amount sufficient to pay municipal revenue sharing grants according to statutory amounts		Amount sufficient to pay municipal revenue sharing grants, according to statutory amounts, by October 31
	$7 million for regional services grants to COGs		$7 million for regional services grants to COGs
19 and thereafter	Amount sufficient to make grants payable from the select PILOT account	20 and thereafter	Amount sufficient to make motor vehicle property tax grants to municipalities by August 1
	Amount sufficient to make motor vehicle property tax grants to municipalities		Amount sufficient to make grants payable from the select PILOT account
	$7 million for regional services grants to COGs		$7 million for regional services grants to COGs
	Amount sufficient to pay municipal revenue sharing grants according to a statutory formula		Amount sufficient to pay municipal revenue sharing grants according to a statutory formula

Municipal Revenue Sharing Grants

Beginning in FY 17, the law establishes a municipal revenue sharing grant program funded through MRSA. Prior law specified the grant amounts per town for FY 17 and FY 18 and required OPM to distribute the grants according to a formula, beginning in FY 19. The act extends the specified grant amounts to FY 19 and delays the formula grant distribution until FY 20.

Beginning in FY 18, the law requires OPM to reduce the revenue sharing grants to municipalities whose spending, with certain exceptions, exceeds a spending cap (i.e., the greater of 2.5% or more or the rate of inflation). Under prior law, the spending cap applied only to the revenue sharing grants issued according to the formula distribution. The act additionally applies it to the revenue sharing grants issued according to statutory amounts.

The act also postpones until FY 20 the requirement that OPM proportionately reduce each municipality's revenue sharing grant amount if the total amount of grants for all municipalities exceeds available MRSA funds.

Receivables for MRSA Revenue

The act authorizes the OPM secretary to establish receivables for the revenue anticipated from MRSA and sales tax revenue directed into MRSA. (A receivable is an amount due from another source or party.) In doing so, it allows OPM to make the specified MRSA grant payments before sufficient sales tax revenue has accumulated in the account.

EFFECTIVE DATE: Upon passage

§ 32 — DELAYING SALES TAX REVENUE DIVERSION TO STF AND MRSA

Beginning in FY 16, the law requires the DRS commissioner to direct a portion of sales tax revenue to the STF and MRSA according to a specified schedule. The act delays the sales tax revenue diversion to the STF by two months and MRSA by four months.

Under the act, the commissioner must divert to the STF 4.7% of the sales tax revenue received for months beginning on or after December 1, 2015, rather than October 1, 2015. He must divert to MRSA the same percentage for months beginning on or after May 1, 2016, rather than January 1, 2016.

By law, unchanged by the act, the commissioner must increase revenue diverted to (1) 6.3%, beginning October 1, 2016 for the STF and May 1, 2017 for MRSA, and (2) 7.9% beginning July 1, 2017 for both accounts.

EFFECTIVE DATE: Upon passage and applicable to sales occurring on or after October 1, 2015.

§ 34 — GRAND LIST GROWTH

The act establishes a local option property tax relief program for qualifying commercial and industrial property owners in municipalities with state-approved enterprise zones.

The program reduces the property tax assessment on commercial and industrial property improvements and applies some of the revenue the improvements generate to reduce the assessments and taxes on other commercial and industrial property. The act's method for calculating the assessment reductions is based on the difference between the current assessment year's increase in commercial and industrial property values resulting from improvements and the average value of such improvements in the 2012, 2013, and 2014 assessment years. Assessors must calculate this increment when the assessed value of a commercial and industrial property increases by at least $10,000 in an assessment year. The increment is taxed at the planning region’s average mill rate.

Eligible Municipalities

The act allows any municipality with a state-designated enterprise zone to establish the program by a vote of the legislative body (or board of selectmen, in a municipality where the legislative body is a town meeting). Connecticut currently has 17 state-designated enterprise zones, located in Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham. PA 14-217 (§ 177) also requires the Department of Economic and Community Development commissioner to approve enterprise zones in Wallingford and Thomaston beginning July 1, 2014.

Calculating the Reduced Assessments

The act establishes a threshold for assessors to (1) reduce the assessments on improved commercial and industrial property (threshold property) and (2) use the revenue these improvements generate to reduce the assessments and taxes on other commercial and industrial property. The assessors must reduce the assessment of commercial and industrial property improvements that increase a property's value by at least $10,000 over its 2014 assessment, which the act designates as the base year. Improvements include personal property acquired after 2014 that is used exclusively for commercial or industrial purposes.

Assessors in municipalities implementing the program must annually calculate the reduced assessments for threshold property in three steps. First, the assessors must determine the amount by which each property improvement's assessment for the current year (increment) exceeds the average of such increments in the 2012, 2013, and 2014 assessment years. In doing so, they must include any personal property used exclusively for commercial or industrial purposes and disregard the effects of any property revaluation that occurs after the municipality adopts the program.

Next, they must calculate the average regional mill rate. (Using Hartford as an example: based on FY 16 data, the average mill rate in the Capitol planning region is 34.01, compared to Hartford's mill rate of 74.29.) The act does not specify whether the assessors must calculate the average for the fiscal year that includes the October 1 assessment date or the fiscal year that starts the subsequent July 1. Because most municipalities set the mill rate for the next fiscal year in April or May, it appears that they would have to reduce the October 1 assessments based on the current year's mill rates.

The assessors must then reduce each improvement's assessment so that the total tax on the improvement equals the tax that would have been imposed at the average mill rate for the municipality's planning region. (For example, assume that the improvement's assessed value is $100,000. Given a regional average mill rate of 34.01, the tax on this $100,000 assessment would be $3,401, as opposed to $7,429 at a municipal mill rate of 74.29. The act requires the assessor to reduce the $100,000 assessment so that the tax would equal $3,401 based on the municipality's 74.29 mill rate. This would yield an assessment of $45,780.)

Although the act does not specify the date by which the assessors must calculate the reduced assessments, October 1 is the date by which assessors must annually determine the assessed value of property. Property assessed on October 1 is subject to taxation at the rate the municipality adopts for the fiscal year starting nine months later on July 1.

By law, the OPM secretary designates the state's local planning regions. There are currently nine regions.

Property Tax Relief for Other Taxpayers

The act requires a municipality implementing the program to use a portion of the incremental revenue the commercial and industrial property improvements generate to reduce the assessments and total tax levied on other commercial and industrial properties assessed at less than $15 million and not eligible for other forms of tax relief.

The incremental revenue may be applied to each eligible property in the (1) municipality as a whole or (2) neighborhood revitalization zone in which the improved property is located. (Connecticut's Neighborhood Revitalization Zone program helps neighborhood residents and stakeholders collaborate with municipal officials to develop and implement plans to revitalize distressed neighborhoods (CGS § 7-600 et seq.). A municipality may establish zones in one or more neighborhoods by a resolution of its legislative body.)

The act allows municipalities that adopt the program to keep a portion of the incremental revenue for other purposes besides commercial and industrial property tax relief. They may keep an amount equal to the average increase in commercial and industrial property assessments (as calculated above) plus 20% of the difference between that average and the current year's increase in commercial and industrial property values.

Duration

The program lasts until the earlier of the (1) assessment year in which the municipality's mill rate is no more than 10% higher than the planning region's average mill rate or (2) date set by the municipality's legislative body.

EFFECTIVE DATE: Upon passage and applicable to assessment years beginning on or after October 1, 2015.

§ 35 — ENTERPRISE ZONE CORPORATION BUSINESS TAX CREDIT FOR BUSINESSES IN SELECTED INDUSTRIES

The act lowers the employment thresholds that certain businesses engaged in bioscience, clean technology, and cybersecurity technology ("selected industries") must meet to qualify for the 10-year corporation business tax credit for qualifying corporations in enterprise zones. By law, the credit equals 100% of a business's corporate tax liability in its first three taxable years and 50% of its tax liability in the next seven taxable years.

By law, businesses qualify for the credit if they:

1. were created in an enterprise zone on or after January 1, 1997 (presumably, this includes existing businesses that relocate to enterprise zones) and
2. employ the required number of Workforce Investment Act (WIA)-eligible residents of the enterprise zone or the municipality in which the zone is located. (Although the act refers to WIA's predecessor, the Job Training Partnership Act (JTPA), federal law states that any reference in law to the JTPA refers to WIA.)

The WIA provides federal funds for employment and training assistance generally to (1) low-income individuals who lack in-demand job skills and (2) dislocated workers (i.e., workers who have been or will be laid off because of the economic situation) who need in-demand job skills.

The number of WIA-eligible residents a business must employ depends on its overall number of employees. For businesses with 375 or more employees, 40% of the employees must be WIA-eligible residents. For businesses with fewer than 375 employees, at least 150 employees must be WIA-eligible residents.

The act lowers the number of WIA-eligible residents businesses in selected industries must employ to qualify for the credit. For such businesses with 188 or more employees, at least 40% of the employees must be WIA-eligible residents. For businesses with fewer than 188 employees, at least 75 must be WIA-eligible residents. Businesses in selected industries qualify under these reduced requirements only if they were created in an enterprise zone on or after July 1, 2015.

Selected Industries

The act requires businesses to be primarily engaged in bioscience, clean technology, or cybersecurity technology in order to qualify for the credit at the reduced employment thresholds.

Under the act, "bioscience" refers to:

1. manufacturing pharmaceuticals, medicines, analytical laboratory instruments, and medical devices and equipment;
2. operating medical or diagnostic testing laboratories; or
3. conducting pure research and development in the life sciences.

"Clean technology" means producing manufacturing, designing, researching, or developing clean energy, green buildings, smart grid, high-efficiency transportation vehicles, alternative fuels, environmental products, environmental remediation, and pollution prevention.

"Cybersecurity technology" means information technology (IT) products or goods intended to detect or prevent unauthorized access to, exfiltration of, manipulation of, or impairment to the integrity, confidentiality, or availability of an IT system or information stored on or transiting an IT system.

EFFECTIVE DATE: Upon passage, and applicable to taxable years beginning on or after January 1, 2017.

§§ 36, 37 & 39 — COMBINED REPORTING

Combined reporting refers to the way related companies must calculate and report their corporate income tax liability. Beginning with the 2016 income year, the law requires a company that is (1) a member of a corporate group of related companies meeting certain criteria (i.e., combined group) and (2) subject to the Connecticut corporation tax (i.e., taxable member) to file a corporation income tax return based on the combined income or capital base of the group as a whole (i.e., combined reporting), rather than as a separate entity as generally required under prior law.

The act makes several changes to the combined reporting requirements as described below and makes other technical and conforming changes.

§ 36 — Unitary Business Income Derived from Investment Partnerships

In determining the total income or loss subject to apportionment for Connecticut corporation tax purposes, the law requires combined groups to include their members' direct and indirect distributive shares of unitary business income from pass-through entities. The act narrows this provision to exclude income derived from certain investment partnerships and, in doing so, conforms it to existing law exempting such investment partnership income from corporation income tax.

Under the act, the distributive share of income received by a limited partner from an investment partnership is not considered to be derived from a unitary business unless the investment partnership's general partner and the limited partner have the same owner. To the extent that the limited partner is otherwise doing business in Connecticut, the act requires it to apportion its distributive share of the investment partnership's income according to apportionment rules for investment partnerships. If the limited partner is not otherwise doing business in Connecticut, the act exempts its distributive share of income from the investment partnership from corporation income tax.

§ 36 — Application of Federal Tax Rules for Consolidated Returns

The act applies to the combined reporting law the principles established under federal tax rules for federal consolidated returns for affiliated groups of corporations, to the extent that they are consistent with the Connecticut combined group membership and combined unitary reporting principles. This includes principles related to deferrals, eliminations, and exclusions.

It eliminates a requirement that, unless regulations provide otherwise, business income from an intercompany transaction among members of the same combined group be deferred in a manner similar to the deferral under federal tax rules.

§ 36 — Determining the Group's Apportionment Factors

The combined reporting law establishes a method combined group members must use to determine the percentage of their income and losses that is apportioned to Connecticut. By law, each of the combined group's taxable members may apportion its net income according to this method as long as one group member is taxable in another state. The act additionally allows them to do so if one group member is a financial service company.

§ 36 — Determining the Group's Capital Base

The act requires a combined group, in determining its capital base, to exclude assets and liabilities attributable to transactions with another group member, including financial service companies. As under existing law, the group also must exclude intercorporate stockholdings from its capital base and may not take the deduction for private company stockholdings.

§ 36 — Cap on a Combined Group's Tax Liability on a Unitary Basis

The act imposes a $2.5 million cap on the amount a combined group's tax, calculated on a unitary basis and before the application of tax credits and the corporation tax surcharge, can exceed the tax it would have paid on a separate basis (i.e., its nexus combined base tax).

Under the act, the nexus combined base is the tax measured on the sum of each taxable member's net income or loss or minimum tax base, calculated as if the members were not required to file a combined unitary tax return, and separately apportioned to Connecticut under the applicable apportionment formula. Members must exclude intercorporate (1) dividends in calculating their net income or loss and (2) stockholdings from their capital base.

The act also requires related companies to exclude certain costs arising from transactions among the companies in calculating their net income or loss on a nexus combined basis. Existing law requires related companies, under certain circumstances, to add back to their taxable net income, when they arise from transactions among the companies, (1) otherwise deductible interest expenses and costs and (2) intangible expenses and costs. The act requires combined group members, in determining their nexus combined base tax, to exclude such expenses and costs, and any income attributable to them, if the related companies are both taxable members of the combined group. If they do so, the company's intangible property (i.e., patents, patent applications, trade names, trademarks, service marks, copyrights, and similar assets) must be excluded in apportioning its capital base.

The act also requires members, in calculating their apportionment fraction on a nexus combined basis, to exclude (1) intercompany rents in the value of rented property if the lessor and lessee are both taxable members in the combined unitary return and (2) intercompany business receipts (receipts by a taxable member included in a combined unitary return from any other taxable member) in the return.

§ 37 — Water's-Edge Groups

The law requires combined groups to file on a water's-edge basis (i.e., generally including only members within the United States) unless they elect a worldwide or affiliated group basis. The act eliminates a requirement that groups filing on a water's-edge basis include any member that earns more than 20% of its gross income, directly or indirectly, from intangible property or service-related activities, the costs of which generally are deductible for federal income tax purposes against the income of other group members (whether currently or over a period of time). Prior law required groups to include such members only to the extent of such gross income and its related apportionment factors.

§ 37 — Tax Havens

The law generally requires combined groups to include in their combined unitary tax return members incorporated in a tax haven. Under the act, a tax haven excludes a jurisdiction that has entered into a comprehensive income tax treaty with the United States, determined to be satisfactory by the treasury secretary under federal tax law.

The act also eliminates a requirement that the DRS commissioner, by September 30, 2016, publish a list of jurisdictions that he determines to be tax havens. Under prior law, the list applied to income years beginning on or after January 1, 2016 and remained in effect until the commissioner published a revised list.

By law, a tax haven is a jurisdiction that meets any of the following criteria:

1. has laws or practices preventing the effective exchange of information for tax purposes with other governments about taxpayers benefiting from the tax regime;
2. has a tax regime that lacks transparency;
3. facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;
4. explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime benefits or prohibits enterprises benefiting from it from operating in the jurisdiction's domestic market; or
5. has created a tax regime favorable for tax avoidance, based on an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or services sector relative to its overall economy.

§ 38 — NET OPERATING LOSS (NOL) FOR COMBINED GROUPS

NOL deductions are tax deductions for various purposes whose total value exceeds a corporation's gross income for a tax year, thus preventing the corporation from reducing its taxes unless the law allows it to carry forward and apply the unused deductions against future taxes (i.e., carry forward). Connecticut law allows corporations to carry forward a portion of their NOLs and specifies how they must calculate that amount.

The act alters the method for calculating the carry forward amount for groups of related corporations (i.e., combined groups) with over $6 billion in NOLs from pre-2013 tax years. The alteration allows a combined group or any of its members to apply their NOLs sooner than they could under prior law.

Starting with the 2015 tax year, prior law allowed such combined groups to annually carry forward NOLs that equaled their net income for each tax year beginning in 2017 until they applied 50% of their pre-2015 NOLs, after which they had to comply with the standard limit (see *Background*). Groups meeting the NOL threshold had to decide whether to apply this limit before the deadline for filing their 2015 tax returns.

The act instead allows these groups to relinquish 50% of their pre-2015 tax year NOLs and use the balance to reduce their taxes, prior to applying any surcharges or tax credits, to $2.5 million in any income year beginning on or after January 1, 2015. After a group has used all of its NOL balance, it must comply with the standard limit. The group or any member must decide whether to use the act's alternative method before the deadline for filing its 2015 tax return.

EFFECTIVE DATE: Upon passage

Background — Standard Method for Calculating NOL Carry Forwards

The law's standard method for calculating NOL carry forwards applies to tax years beginning in 2015. It allows corporations to carry forward the lesser of (1) 50% of their net income and (2) the difference between the amount of NOL in the current year and the amount carried forward from prior years.

§ 39 — Foreign Corporations in a Combined Group

By law, if a foreign corporation has income effectively connected with a U.S. trade or business, that income must be considered to be its gross income for Connecticut corporation tax purposes. In addition, when such a company calculates its net income apportionment fractions to determine its Connecticut corporation tax liability, the law requires it to do so using only its U.S.-connected property, payroll, and receipts. The act exempts from these provisions any foreign corporation included in a combined group filing a combined unitary tax return, thus clarifying that such foreign corporations must include all of their worldwide income and not just their U.S. income for Connecticut corporation tax purposes.

Existing law, unchanged by the act, exempts from corporation income tax any company that (1) is treated as a foreign corporation under the federal tax code and (2) has no income effectively connected with a U.S. trade or business, as determined under the code.

EFFECTIVE DATE: January 1, 2016 and applicable to income years beginning on or after that date, except the provision concerning foreign corporations in a combined group, which is effective upon passage.

§§ 40-46 — SINGLE-FACTOR APPORTIONMENT

The act changes how multistate corporations must apportion the income they derive in Connecticut. With a few exceptions, it requires all multistate corporations to apportion their Connecticut income based only on their unweighted Connecticut sales (i.e., single-factor formula).

Under prior law, the apportionment formula varied depending on how a corporation derived its income. Except for manufacturers, corporations that derived income by making, selling, or using tangible personal or real property determined the share of Connecticut income based on the total value of property, payroll, and sales (double-weighted) attributed to Connecticut (i.e., three-factor formula).

The act replaces the three-factor formula with the single-factor formula and, with few exceptions, requires all corporations to determine their Connecticut tax liability based on the single-factor formula. Manufacturers that derive at least 75% of their sales from the federal government may choose to continue to apportion their Connecticut income by using the three-factor apportionment formula, and, if they do, they must use this formula for the next five income years.

Corporations must still pay Connecticut taxes based on their capital base (i.e., outstanding stocks, profits, and reserves) instead of net income if it produces a larger tax, as the law requires. But in no case, can they pay less than $250.

EFFECTIVE DATE: January 1, 2016 and applicable to income years beginning on or after January 1, 2016.

§ 47 — OPTION TO PURCHASE LEASED ABOVE GROUND HEATING FUEL TANKS

The act requires heating fuel dealer contracts that provide above ground heating fuel tanks to consumers to contain a clause allowing the consumer to buy the tank and associated equipment within five years after the contract begins. The purchase price for the tank must (1) be disclosed in the contract, (2) not increased during the contract, and (3) not exceed the tank's fair market value. Any liability waiver or warranty transfer must be stated in the contract. By law, "heating fuel" is any petroleum-based fuel used as the primary source of residential heating or domestic hot water (e.g., home heating oil or propane).

For existing oral or written contracts containing an undisclosed or unspecified purchase option or price, the act requires a contract addendum to be mailed or delivered to the consumer by September 1, 2016. The addendum must include (1) an option to purchase the tank and associated equipment before September 1, 2021 and (2) a purchase price that does not exceed fair market value. If the consumer purchases the tank and any associated equipment, all heating fuel and tank contract obligations terminate upon purchase.

The law, unchanged by the act, requires contracts for leasing underground heating fuel tanks to have similar provisions allowing consumers to buy the tank.

The act also requires any contract to rent or lease a propane fuel tank to contain a provision informing the consumer about any restrictions on his or her ability to use another propane fuel provider. Consumers must initial the provision to indicate their awareness of the restrictions.

EFFECTIVE DATE: Upon passage

§ 48 — PROPANE TANK FINANCING PROGRAM

The act expands a program that provides financing for furnace and boiler replacements (known as the EnergizeCT Heating Loan Program) to include financing for purchases of new or leased residential above ground or underground propane fuel tanks. It also (1) extends the program's duration from three to six years (through the end of 2019), (2) establishes eligibility and inspection requirements specific to propane tank loans, (3) allows propane companies to recover their program costs, and (4) requires the Department of Energy and Environmental Protection (DEEP) and Energy Conservation Management Board (ECMB) to report on the expanded program.

EnergizeCT Heating Loan Program

By law, the EnergizeCT Heating Loan Program offers low interest loans for residential customers to purchase furnace or boiler equipment that meets certain energy efficiency requirements. The program is administered by a third-party administrator (currently AFC First) under a plan developed by the electric and gas companies and approved by DEEP in consultation with ECMB.

The act expands the program to include a residential property owner's purchase of propane tanks used in connection with residential space heating, hot water needs, operating an emergency generator, or performing indoor installed-appliance-based cooking on the owner's property. It also requires the program's third-party administrator to make the general public and residential propane purchasers in particular aware of the propane fuel tank purchase provisions.

The program, which is funded through the systems benefit charge (SBC) on electric bills, is open to all residential property owners who are electric distribution company (i.e., Eversource or United Illuminating) customers, regardless of how they heat their buildings. Program participants can receive loans of up to $15,000 at interest rates of up to 3%, based on income eligibility criteria set by the administrator. If the property is sold, the unpaid loans must be transferred to the new owner, who may participate in the program, unless the seller and buyer agree that the loan will not be transferred.

Eligibility & Repayment

To be eligible for propane tank financing under the act, the customer must have six consecutive months of on-time utility bill payments and may not be behind on electric, propane, or gas bill payments. The repayment term cannot exceed 10 years. As in the underlying program, participants must repay the loan through a monthly charge on their electric or gas bill for the premises on which the tank is located.

Inspection Requirement

The act also requires propane tank loan recipients to have their tanks inspected annually and forward an inspection certificate to the program's third-party administrator. An inspector who finds that the tank needs repairs must inform the homeowner and the applicable local fire marshal. If the necessary repair is not made in a timely fashion, the fire marshal must render the tank inoperable.

Cost Recovery

As in the underlying program, propane tank-related financing costs, administrator's costs, and defaults must be recovered through the SBC on electric bills. The act also allows propane companies to recover through the SBC any program costs they incur. By law, unchanged by the act, (1) the electric companies must recover their administrative and capital carrying costs through this charge or another electric rate component, as approved by the Public Utilities Regulatory Authority, and (2) the third-party administrator can take legal actions to secure the loans, including attaching liens to participating properties.

Report

The law requires DEEP and ECMB to engage an independent third party to evaluate the heating loan program and a related program that provides loans for energy efficiency measures and report to the Energy and Technology and Finance, Revenue and Bonding committees by January 1, 2016. The act requires them to submit an additional report on both programs by January 1, 2018. By law, the report must cover, for each program, the (1) program's cost-effectiveness, (2) number of customers served and potential for growth, (3) customer classes served, and (4) fuel type used by the replacement equipment.
EFFECTIVE DATE: Upon passage

§ 49 — ELIMINATION OF ENERGY STAR SALES TAX EXEMPTION

The act eliminates a sales tax exemption for residential weatherization products and compact fluorescent light bulbs. Under prior law, residential weatherization products were:

1. programmable thermostats;
2. insulation, window film, caulking, and window and door weather strips;
3. water heaters and water heater blankets,
4. natural gas and propane furnaces and boilers that meet the federal Energy Star standard;
5. windows and doors that meet the federal Energy Star standard;
6. oil furnaces and boilers that are at least 84% energy efficient; and
7. ground-source heat pumps that meet the minimum federal energy efficiency rating.

EFFECTIVE DATE: January 1, 2016

RA 15-1, December 2015 Special Session —HJ 304
Emergency Certification

RESOLUTION PROPOSING A STATE CONSTITUTIONAL AMENDMENT TO PROTECT TRANSPORTATION FUNDS

SUMMARY: This resolution proposes a constitutional amendment that:

1. maintains the Special Transportation Fund (STF) as a perpetual fund;
2. requires the legislature to use the STF solely for transportation purposes, including paying debt service on state obligations incurred for those purposes;
3. requires STF funding sources that must be legally credited, deposited, or transferred to the STF on or after the amendment's effective date to be credited, deposited, or transferred to the STF as long as state law authorizes the state, or any of its officers, to collect or receive those sources; and
4. prohibits the legislature from enacting a law authorizing the spending of STF funds for any purpose other than transportation.

The ballot designation to be used when the amendment is presented at the general election is "Shall the Constitution of the State be amended to ensure (1) that all moneys contained in the Special Transportation Fund be used solely for transportation purposes, including the payment of debts of the state incurred for transportation purposes, and (2) that sources of funds deposited in the Special Transportation Fund be deposited in said fund so long as such sources are authorized by statute to be collected or received by the state?"

EFFECTIVE DATE: The resolution will be referred to the 2017 session of the legislature. If it passes in that session by a majority of each house, it will appear on the 2018 general election ballot. If a majority of those voting in the general election approve the amendment, it will become part of the state constitution.

BACKGROUND

Special Transportation Fund

By law, the STF pays for state highway and public transportation projects. It is supported by a number of revenue streams, including the motor fuels tax, motor carrier road tax, petroleum products gross earnings tax, certain motor vehicle receipts and fees (e.g., driver's license fees), and motor vehicle-related fines and penalties (CGS §§ 13b-61; 13b-61a, as amended by PA 15-244 (§ 91); 13b-61b; and 13b-61c, as amended by PA 15-244 (§ 92)). In addition, PA 15-244 (§ 74); PA 15-5, June Special Session (JSS) (§ 132); and PA 15-1, December Special Session (§ 32) require the revenue services commissioner to direct a portion of sales tax revenue to the STF beginning in FY 16.

By law, money in the fund must be used first for debt service on special tax obligation bonds and to pay for certain transportation projects. Remaining funds must be used to pay for (1) general obligation bonds issued for transportation projects, (2) budget appropriations for the departments of Transportation and Motor Vehicles, (3) Department of Energy and Environmental Protection boating regulation and enforcement, and (4) the Department of Social Services' transportation for employment independence program (CGS § 13b-69, as amended by PA 15-5, JSS, (§ 40)).

Statutory "Lockbox"

PA 15-5, JSS (§§ 432, 433 & 514) makes the STF a perpetual fund and restricts the use of STF funds to transportation purposes only, including paying debt service on state transportation obligations. It requires STF funding sources that must be legally credited, deposited, or transferred to the STF on or after June 30, 2015, to be credited, deposited, or transferred to the STF as long as the law authorizes the state, or any of its officers, to collect or receive those sources. It also requires all money received, collected, or derived from the use of highways, expressways, or ferries, starting July 1, 2015, to be placed in the STF, except as needed to pay debt service on transportation bonds. Finally, it prohibits the legislature from passing any law authorizing the use of STF funds for any purpose other than transportation. Under the principle of "legislative entrenchment," it is unclear whether these statutory provisions are enforceable on future legislatures.

Legislative entrenchment refers to one legislature statutorily restricting a future legislature's ability to enact legislation. The Connecticut Supreme Court has held that such a provision is unenforceable, writing that "to hold otherwise would be to hold that one General Assembly could effectively control the enactment of legislation by a subsequent General Assembly. This is obviously not true, except where vested rights, protected by the constitution, have accrued under the earlier act" (*Patterson v. Dempsey*, 152 Conn. 431 (1965)).

PA 16-1—SB 474
Emergency Certification

AN ACT MAKING ADJUSTMENTS TO THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017

SUMMARY: This act makes various statutory and budgetary changes to reduce projected General Fund deficits for FY 16. Among other things, it does the following:

1. allows the Office of Policy and Management (OPM) secretary to make a total of $97.4 million in specific reductions to FY 16 General Fund allotments (§ 1);
2. increases, by a total of $10.6 million, the amount by which the OPM secretary may reduce FY 16 allotments to the legislative and judicial branches in order to achieve budget savings (§ 2);
3. increases, by $10 million, FY 16 transfers to the General Fund included in PA 15-1, December Special Session (DSS) (§§ 4-7); and
4. allows the OPM secretary to transfer a total of up to $57.2 million from various accounts to the General Fund for FY 16 (§§ 8-38 & 40-43).

EFFECTIVE DATE: Upon passage

§§ 1 & 2 — REDUCED APPROPRIATIONS FOR FY 16

The act allows the OPM secretary to make a total of $97,433,061 in specific reductions to FY 16 executive branch allotments in the General Fund.

The act also increases the amount by which the OPM secretary may reduce FY 16 allotments to the legislative and judicial branches in order to achieve General Fund budget savings. It increases the reductions to the (1) legislative branch by $1 million, from $2 million to $3 million, and (2) judicial branch by $9.6 million, from $15 million to $24.6 million.

The act retains the secretary's authority to reduce FY 17 allotments to the legislative and judicial branches by $2 million and $15 million, respectively. As under existing law, reductions must be determined by the six legislative leaders and the chief justice and chief public defender, respectively.

§ 3 — DISBURSEMENTS FROM THE TOBACCO SETTLEMENT FUND

The act increases, from $2 million to $4 million, the disbursement from the Tobacco Settlement Fund to the General Fund in FY 16 and eliminates a $2 million disbursement to the Biomedical Research Trust Fund in FY 16.

§§ 4-7 — INCREASED FY 16 TRANSFERS TO THE GENERAL FUND

The act increases transfers from various accounts to the General Fund for FY 16 by a total of $10,008,451 beyond the transfers already required by PA 15-1, DSS. Table 1 shows the total transfer for each account and the increase. Under the act, the OPM secretary is authorized, rather than required, to transfer funds up to the total amount shown in Table 1.

Table 1: Increased Transfers to General Fund in FY 16 under the Act

Act §	*Fund/Account*	*Total Amount*	*Increase Over PA 15-1, DSS*
4	School Bus Seat Belt Account	$3,900,000	$1,900,000
5	Drug Asset Forfeiture Account	528,451	128,451
6	Private Occupational School Student Protection Account	3,000,000	1,000,000
7	University of Connecticut Operating Fund	13,180,000	4,680,000
7	Connecticut State University Operating Fund	4,100,000	2,300,000

§§ 8-38 & 40-43 — NEW TRANSFERS TO THE GENERAL FUND

The act allows the OPM secretary to transfer a total of up to $57,158,486 from various accounts to the General Fund for FY 16, up to the amounts shown in Table 2.

Table 2: New Transfers to General Fund in FY 16 under the Act

Act §	*Fund/Account*	*Amount*
8	Community Investment Account	$6,003,645[1]
9	Correction Commissaries Account	1,250,000
10	Correction Industries Account	1,100,000
11	Hospital Insurance Fund for UConn Health Center	1,000,000
12	Judicial Data Processing Revolving Fund	1,000,000
13	Emissions Enterprise Fund	8,000,000
14	Municipal Video Competition Trust Account	2,000,000
15	Consumer Counsel and Public Utility Fund	2,000,000
16	Criminal Injuries Compensation Fund	750,000
17 & 18[2]	Citizen's Election Fund (CEF)	7,000,000
19	Vocational Education Extension Fund	19,834
20	CEF Administration Fund	391,698
21	Chronic Gamblers Treatment and Rehabilitation Account	13,571
22	Historic Document Preservation Account	18,781
23	Cash Management Improvement Act Settlement Account	19,748
24	Pistol Permits Photographic Costs Account	10,874
25	New Automobiles Warranties Account	200,000
26	Animal Population Control Account	13,474
27	Connecticut Cancer Partnership Account	8,725
28	Siting Council Fund	10,009
29	Preferred Provider Network Account	6,135
30	Wage and Workplace Standards Civil Penalty Fund	19,507
31	Correctional General Welfare Fund	14,301
32	Dry Cleaning Establishment Remediation Administrative Account	2,427
33	Apprenticeship Registration Fee Account	5,757
34	Home Improvement Guaranty Fund	200,000
35	Utilization Review Fee Account	700,000
36	Regional Planning Incentive Account	1,500,000
37	Fund to Defray CT-N (Connecticut Television Network) Costs	700,000
38	Connecticut Housing Finance Authority Investment Trust Account	15,000,000
40	Tobacco Litigation Settlement Account	5,650,000
41	Public Utilities Regulatory Authority Energy Enforcement Account	1,650,000
42	Ed-Net Account	400,000
43	Forfeited Assets Fund	500,000

[1]The act requires this amount to be achieved by proportionately reducing the amount of each distribution from the account required by law, except for the distribution to the agriculture sustainability account.

[2] PA 15-5, June Special Session, transfers $7,750,000 from the CEF to the General Fund for FY 17. The act instead allows the OPM secretary to transfer up to $7,000,000 from the CEF to the General Fund in FY 16 and $750,000 in FY 17.

§ 39 — LIMIT ON CARRYFORWARDS

Under the act, no funds may be carried forward from FY 16 to FY 17 unless approved by the OPM secretary, regardless of any provisions in law; PA 15-244; or PA 15-5, June Special Session.

PA 16-6—sSB 161
Aging Committee
Public Health Committee

AN ACT CONCERNING NOTIFICATION OF PENALTIES FOR ABUSE AND NEGLECT OF NURSING HOME RESIDENTS

SUMMARY: This act requires the Department of Public Health commissioner to include, on the written application for a change in nursing home ownership, a statement notifying the potential nursing home licensee or owner that he or she may be held civilly or criminally liable for abuse or neglect of a resident by a nursing home employee. Specifically, it requires him to include the following statement on the first page of the application:

> "NOTICE: The State of Connecticut values the quality of care provided to all nursing home residents. Please know that any nursing home licensee, owner or officer, including, but not limited to, a director, trustee, limited partner, managing partner, general partner or any person having at least a ten percent ownership interest in the nursing home or the entity that owns the nursing home, and any administrator, assistant administrator, medical director, director of nursing or assistant director of nursing may be subject to civil and criminal liability, as well as administrative sanctions under applicable federal and state law, for the abuse or neglect of a resident of the nursing home perpetrated by an employee of the nursing home."

The act specifies that the statement does not expand or otherwise affect any existing legal liability of the people mentioned in the statement.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2016

PA 16-21—HB 5379
Aging Committee
Human Services Committee

AN ACT CONCERNING REMOVAL OF OBSOLETE PROVISIONS FROM THE CHOICES HEALTH INSURANCE ASSISTANCE PROGRAM STATUTE

SUMMARY: This act eliminates a reporting requirement related to the CHOICES program, which provides seniors and Medicare beneficiaries with, among other things, health insurance information and counseling.

Specifically, the act removes a provision authorizing the insurance commissioner, in cooperation with or on behalf of the aging commissioner, to require that certain Medicare organizations (i.e., those administering Medicare managed care plans) submit to the insurance commissioner:

1. annual data, reports, or information relevant to plan beneficiaries and
2. when changes occur, information on current benefits, services, or costs to beneficiaries.

It also eliminates related provisions requiring:

1. Medicare organizations that fail to file the annual data reports or information to pay a $100 per day late fee and
2. the insurance commissioner, in conjunction with the healthcare advocate, to annually submit, to the governor and the Aging, Human Services, and Insurance committees, a list of Medicare organizations that fail to file the annual data, reports, or information.

The act also makes a conforming technical change.

EFFECTIVE DATE: October 1, 2016

PA 16-59—sSB 166
Aging Committee
Public Health Committee
Judiciary Committee

AN ACT EXPANDING UTILIZATION OF PATIENT-DESIGNATED CAREGIVERS

SUMMARY: This act extends to nursing homes existing requirements for hospitals regarding the designation of patient caregivers at the time of a patient's discharge. Specifically, the act requires a nursing home, when discharging a resident to his or her home, to do the following:

1. allow the resident or his or her representative to designate a caregiver at, or before, the time the resident receives a written copy of his or her discharge plan;
2. document information about the designated caregiver in the resident's discharge plan;
3. attempt to notify the designated caregiver of the resident's discharge; and
4. instruct the caregiver on post-discharge tasks with which he or she will assist the resident at home.

The act specifies that it does not create a private right of action against a nursing home or its employees, contractors, or consultants. It prohibits these entities and people from being held liable for services a caregiver provides or fails to provide to the resident in his or her home.

The act does not affect (1) health insurers' benefit plan or reimbursement obligations, (2) a resident's discharge or transfer from a nursing home to another facility, or (3) a resident's proxy health care rights.

The act allows the Department of Public Health (DPH) to adopt related regulations. It also makes a conforming change.

EFFECTIVE DATE: October 1, 2016

DESIGNATED CAREGIVERS

Under the act, a "caregiver" is a person (e.g., a relative, spouse, neighbor, or friend) the resident or his or her representative designates to provide post-discharge assistance in the resident's home. A resident's "home" is the dwelling the resident considers to be his or her home in the community; it does not include a setting that was not his or her home immediately before entering the nursing home (e.g., assisted living facility, rehabilitation facility, hospital, or group home).

The act requires caregivers to provide post-discharge assistance in accordance with the resident's written discharge plan signed by the resident or his or her representative. Such assistance includes help with basic and instrumental activities of daily living and support tasks (e.g., wound care, medication administration, and medical equipment use).

The act prohibits a caregiver from receiving compensation, including reimbursement from a public or private health insurer, for providing such assistance.

It does not require a resident or the resident's representative to designate a caregiver nor does it obligate the caregiver to perform any post-discharge assistance for the patient.

DOCUMENTATION AND NOTIFICATION REQUIREMENTS

If a resident or his or her representative designates a caregiver before receiving his or her written discharge instructions, the act requires the nursing home to (1) record in the resident's discharge plan the caregiver's relationship to the resident and, if known, his or her name, address, and telephone number and (2) make more than one reasonable attempt to notify the caregiver of the resident's discharge home as soon as practical.

The act specifies that the nursing home's inability to contact the designated caregiver must not interfere with, delay, or otherwise affect the resident's medical care or appropriate discharge.

CAREGIVER INSTRUCTION

Requirements

The act requires nursing homes, before discharging a resident, to provide the designated caregiver with instructions in all post-discharge assistance tasks included in the resident's discharge plan.

To the extent possible, caregiver training or instruction must use nontechnical language and may be provided in writing, conducted in person, or delivered using video technology. The act requires nursing homes to determine which format will effectively provide the training but does not specify where the training must take place. At a minimum, it must include the following:

1. a written, live, or recorded demonstration of the post-discharge assistance tasks performed by a nursing home designee authorized to perform the tasks;
2. an opportunity for the caregiver to ask questions about the tasks; and
3. answers to the caregiver's questions.

Each nursing home must provide the demonstration, including answers to the caregiver's questions, in a culturally competent manner according to the home's requirements for providing language access services under state and federal law.

Under the act, a designated caregiver is not obligated to agree to receive the above instruction.

Documentation

The act requires nursing homes to document in the resident's medical record any (1) training provided to the resident or his or her representative or designated caregiver on how to initially implement the discharge plan and (2) caregiver instruction provided on post-discharge assistance tasks, including the date, time, and subject of the instruction.

HEALTH INSURER OBLIGATIONS

The act specifies that its provisions must not be construed to:

1. eliminate the obligation of an insurance company; health, hospital, or medical service corporation; HMO; or any other entity issuing health benefit plans to provide required benefit coverage or
2. impact, impede, or otherwise disrupt or reduce these entities' reimbursement obligations.

RESIDENT'S PROXY HEALTH RIGHTS

The act specifies that its provisions do not affect or take precedence over an advance directive, conservatorship, or other proxy health care rights that the resident delegates or that apply by law.

REGULATIONS

The act allows DPH to adopt regulations setting minimum standards for nursing home discharge planning services. These standards must require a (1) written discharge plan prepared in consultation with the resident, the resident's family or representative, and resident's physician and (2) procedure for notifying the resident in advance of his or her discharge and providing the resident a copy of the discharge plan before discharge.

PA 16-149—HB 5289
Aging Committee

AN ACT CONCERNING PROTECTIVE SERVICES FOR VULNERABLE PERSONS

SUMMARY: This act makes the following changes related to elderly protective services:

1. broadens the circumstances when the Department of Social Services (DSS) commissioner must disclose the results of an investigation into suspected elderly abuse, neglect, exploitation, or abandonment but limits the type of information that may be disclosed (§§ 3 & 4);
2. requires the DSS commissioner to develop and submit to the legislature a strategic plan to (a) incorporate specified federal guidelines into the state's elderly protective services program and (b) align state elder abuse data collection with specified federal standards (§ 1);
3. requires the DSS commissioner to develop an educational training program to promote accurate and prompt reporting of elderly abuse, neglect, exploitation, and abandonment and make it available to mandated reporters and other interested people (§ 2); and

4. requires the Commission on Aging to evaluate the elderly protective services system and recommend whether it should be expanded to serve individuals age 18 years and older (§ 5).

EFFECTIVE DATE: July 1, 2016

§§ 3 & 4 — DSS SUSPECTED ABUSE REPORT DISCLOSURE

By law, DSS must investigate reports of elderly abuse, abandonment, neglect, or exploitation, or whether an elderly individual is otherwise in need of protective services.

Under prior law, if certain mandated reporters or other individuals reported suspected abuse, neglect, exploitation, or abandonment of a long-term care facility resident, the commissioner had to disclose the investigation's results to the reporter upon request. The act requires the commissioner to disclose the investigation's results to any mandated reporter who makes a report, not just to those making reports about individuals in long-term care facilities.

The act requires the commissioner to disclose, in general terms and within 45 days of completing the investigation, the investigation's results to the individual who initially reported the suspected abuse. The act allows such disclosure only if the

1. person reporting suspected abuse or neglect is a mandated reporter;
2. information is not privileged or confidential under state or federal law;
3. names of the witnesses or other people interviewed as part of the investigation are kept confidential; and
4. name or names of the person or people suspected to be responsible for the abuse, neglect, exploitation, or abandonment are not disclosed unless they have been arrested as a result of the investigation.

§ 1 — STRATEGIC PLAN

The act requires the DSS commissioner to develop a strategic plan to (1) incorporate the federal Administration for Community Living's Voluntary Consensus Guidelines for State Adult Protective Services (i.e., best practices) into the state's elderly protective services program and (2) align state elder abuse data collection with the National Adult Maltreatment Reporting System standards (NAMRS, a voluntary, nationwide elder abuse data collection and reporting system). The commissioner must submit the plan, along with any legislative recommendations, to the Aging and Human Services committees by July 1, 2017.

§ 2 — EDUCATIONAL TRAINING PROGRAM

The act requires the DSS commissioner to develop an educational training program promoting prompt and accurate reporting of elderly abuse, neglect, exploitation, and abandonment. The program must be available to mandated elder abuse reporters and other interested people, on DSS's website, and in person or otherwise at various times and locations throughout the state as determined by the commissioner.

§ 5 — ELDERLY PROTECTIVE SERVICES SYSTEM EVALUATION

Under the act, the Commission on Aging must evaluate the elderly protective services system and recommend whether it should be expanded to serve individuals age 18 years and older. (PA 16-3, May Special Session eliminates the Commission on Aging and creates the Commission on Women, Children, and Seniors as its successor agency.)

The evaluation must describe (1) the current protective services structure, including any gaps in the current system; (2) the need, if any, for an expanded protective services system; (3) protective services models in other states; and (4) the current system's overall capacity to meet present and future needs. The commission must submit its findings to the Aging and Human Services committees by October 1, 2017.

PA 16-209—sSB 266
Aging Committee
Public Health Committee

AN ACT CONCERNING NURSING HOME RESIDENT ADMISSION AGREEMENTS

SUMMARY: This act requires a nursing home to include notice of the following in any resident admission agreement:

1. duties, responsibilities, and liabilities of anyone who signs the agreement (i.e., a "responsible party") and
2. circumstances in which (a) a responsible party will be held legally liable and (b) his or her personal assets may be pursued for payment to the nursing home.

Under the act, the notice must be in 14-point font, bold type and initialed by the responsible party. If a nursing home fails to include the notice and obtain a responsible party's initials, the resident admission agreement is unenforceable against the responsible party.

EFFECTIVE DATE: July 1, 2016

PA 16-91—SB 267
Appropriations Committee

AN ACT MAKING CHANGES TO THE TEACHERS' RETIREMENT SYSTEM CONCERNING RETENTION OF THE PLAN D COPARTICIPANT OPTION AFTER DIVORCE, CREDITING INTEREST ON CERTAIN INACTIVE, NONVESTED MEMBERS, REEMPLOYMENT OF RETIRED TEACHERS AND ELIMINATING CERTAIN OBSOLETE LANGUAGE

SUMMARY: This act makes several changes to the Teachers' Retirement System (TRS) laws. One change allows a retired teacher to keep a divorced spouse as a retirement beneficiary (i.e., co-participant) and another creates an exception to the limit on how much a retired teacher or administrator can be paid while reemployed by a school district. The act also makes minor and technical changes.
EFFECTIVE DATE: July 1, 2016

§ 1 – POST-DIVORCE RETIREMENT BENEFITS

The act allows a teacher retired under the TRS to choose to continue to keep a divorced spouse as a retirement beneficiary. Under prior law, a divorce automatically ended the co-participant's benefit eligibility. The new law applies after a TRS member retires and requires the retiree to file a qualified domestic relations order with the TRS to maintain the co-participant's status (see BACKGROUND).

§ 2 – INTEREST ON INACTIVE MEMBER CONTRIBUTIONS

The act allows the TRS to stop crediting interest on the contributions of inactive non-vesting members after 10 years of inactivity, rather than after 25 years as under prior law. It also deletes a reference to an obsolete pension reserve account.

§ 3 – REEMPLOYMENT PAY FOR RETIRED TEACHERS AND ADMINISTRATORS

The act creates an exception to the limit on how much a retired teacher or administrator can earn when reemployed by a school district and still receive TRS benefits. The exception applies for a limited time in specific circumstances.

Under the act, the limit of 45% of the position's top salary is eliminated until July 1, 2018 for a teacher or administrator who (1) is receiving retirement benefits based on 34 or more years of service, (2) is reemployed in an alliance district, and (3) was employed in that district on July 1, 2015. The act also prohibits those employed under the 45% rule and those under the new exception from receiving TRS health insurance benefits while being reemployed.

The act also eliminates the 45% limit if a retired teacher chooses not to receive retirement benefits while reemployed. It allows a teacher receiving TRS retirement benefits to be employed as a public school teacher and receive pay, health insurance benefits, and other benefits provided to teachers in that district, provided the retired teacher does not receive any TRS retirement income during the reemployment period. It requires that the teacher's retirement benefit resume on the first day of the month following the termination of school reemployment.

BACKGROUND

Co-participant Retirement Option

The TRS offers a retirement option (co-participant option) that allows a TRS member to choose to provide a benefit to the co-participant in the event the member dies before the co-participant. If the retired member dies first, the co-participant continues to receive the benefit for life. Choosing this option means the member's retirement benefits are reduced to account for the possibility the TRS would be providing benefits for a longer period (CGS § 10-183j(c)).

PA 16-113—HB 5420 **(VETOED; OVERRIDDEN)**
Appropriations Committee

AN ACT CONCERNING PRINCIPAL INVESTMENT OFFICERS

SUMMARY: By law, the state treasurer may appoint principal investment officers, who serve at her pleasure, to assist the chief investment officer for the Connecticut retirement pension and trust funds. This act requires that she do so with the advice and consent of the Investment Advisory Council. It also makes the treasurer, in consultation with the council, responsible for determining principal investment officers' compensation. Under prior law, the administrative services commissioner determined their compensation, subject to the Office of Policy and Management secretary's approval.
EFFECTIVE DATE: Upon passage

PA 16-50—sHB 5296
Banking Committee

AN ACT CONCERNING CREDIT AND DEBIT HOLDS

SUMMARY: This act requires gas stations and convenience stores that accept credit or debit card payments for the retail sale of gasoline to provide notice to the customer if they or a third party will place a hold on a credit or debit card payment that is for an amount larger than the actual retail gasoline purchase. The notice must be (1) in conspicuous type and close to the point of payment and (2) given before the customer's purchase.
EFFECTIVE DATE: October 1, 2016

PA 16-65—sHB 5571
Banking Committee
Judiciary Committee

AN ACT CONCERNING BANKING AND CONSUMER PROTECTIONS

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§ 1 — TROUBLED CREDIT UNIONS' SENIOR MANAGEMENT

Requires banking commissioner approval to add members to a troubled credit union's senior management

The act requires the banking commissioner to approve the election, appointment, or employment of any potential member of a troubled Connecticut credit union's senior management. The law already requires him to approve the election or appointment of a director to the credit union's governing board.

By law, a troubled credit union is one the commissioner determines is (1) in danger of becoming insolvent; (2) not likely to meet its members' demands or pay its normal obligations; (3) likely to incur losses that substantially deplete its capital; or (4) operating in an unsafe and unsound manner.

EFFECTIVE DATE: Upon passage

§§ 2, 3, 5, 7 & 9-13 — VARIOUS MINOR CHANGES TO BANKING LAWS

Updates certain capital requirements, makes changes to interest on bank collateral, extends Banking Department confidentiality requirements, makes technical changes, and updates references to federal law

Bank Capital (§ 2)

The act updates certain capital requirements to match those in federal law.

Commissioner's Interest in Certain Bank Collateral (§ 3)

State law requires certain public depositories to maintain, in segregated trust accounts, certain amounts of collateral for their uninsured deposits. Prior law gave the commissioner a perfected security interest in the collateral for the benefit of public depositors, pursuant to an agreement between the depositor and the depository. The act allows the commissioner to have a perfected interest without such an agreement. Generally, someone with a perfected interest has priority over those who later claim an interest in the same property.

Confidential Records (§ 5)

The law generally makes confidential and prohibits Banking Department disclosure of confidential, supervisory, or investigative information the department obtains from regulatory or law enforcement agencies of other states, the federal government, or foreign countries. The act also applies these rules to other supervisory or investigative confidential records from these agencies.

Technical Changes and References to Federal Law (§§ 7 & 9-13)

The act makes technical changes and updates references to federal securities law.

EFFECTIVE DATE: Upon passage, except certain technical changes are effective July 1, 2016.

§ 4 — BANKERS' BANK EXPANSION

Expands who may join a bankers' bank

The act extends, to banks and credit unions in any state or a bank holding company owned exclusively by a combination of them, the ability to join a group of banks that owns a Connecticut-chartered bankers' bank. Existing law allows banks and credit unions in Connecticut, other New England states, New Jersey, New York, and Pennsylvania to join.

Previously, a bankers' bank could only provide services to other banks and their directors, officers, and employees except as further limited by the commissioner's regulations. The act instead subjects a bankers' bank to the laws governing Connecticut banks, except as limited by the commissioner's regulations.

EFFECTIVE DATE: Upon passage

§ 6 — MARTIN LUTHER KING, JR. CORRIDORS

Creates Martin Luther King, Jr. Corridors

The act requires the commissioner to designate three Martin Luther King, Jr. Corridors to promote secured and unsecured lending in the state. It does not provide additional information about these corridors.

EFFECTIVE DATE: October 1, 2016

§ 8 — MORTGAGE SERVICERS HANDLING OF ESCROW FUNDS

Imposes requirements for recordkeeping and handling of escrow funds

By law, a mortgage servicer holding a mortgagor's funds in escrow to pay taxes and insurance premiums must use the money to pay the taxes and premiums when they become due. The act requires servicers to keep records of the handling of each escrow account, including amounts paid into and from the account and the initial and annual escrow statements required by federal regulations. The servicer must keep the records for at least five years after last servicing the account and may do so through electronic, microfiche, or any computerized storage, as long as the information is readily retrievable.

The act also requires licensed servicers and certain mortgage lenders and correspondent lenders exempt from licensure to deposit or invest these escrow funds in one or more segregated deposit or trust accounts with a federally-insured bank, Connecticut or federal credit union, or out-of-state bank. The accounts must be reconciled monthly, including through monthly account statements from the depository institution, if the:

1. institution maintains the accounts in a way that reasonably reflects that the funds are for escrow purposes;
2. funds are not commingled with the servicer's funds and are not used for the servicer's business expenses; and
3. servicer adopts, implements, and maintains internal accounting controls reasonably designed to ensure compliance with the provisions governing escrow funds.

EFFECTIVE DATE: July 1, 2016

§§ 14-18 — RETAIL INSTALLMENT LOANS

Specifies how, with regard to repossessed goods, retail installment contract holders must (1) apply unearned insurance premiums and resale proceeds and (2) calculate fair market value; establishes record keeping requirements for sales finance companies; and specifies what must be included in a notice of intent to repossess

Insurance Refunds

The act requires, in certain situations, a retail installment contract holder to apply unearned insurance premiums toward a buyer's outstanding obligations under the contract. This applies when goods have been repossessed and the contract holder has received a refund of all or part of the unearned insurance premiums paid by the buyer.

Under the act, "unearned insurance premiums" are the premiums insurers collect in advance but that are subject to return if the coverage ends before the term expires.

Records

Beginning October 1, 2016, the act requires sales finance companies to acquire and maintain adequate records, in the form and manner the commissioner directs, for each retail installment contract they acquire by purchase, discount, pledge, loan, advance, or other means.

It also requires these companies to keep records of installment contract applications for the retail sale of motor vehicles in Connecticut that they have reviewed or that relate to a contract they acquired. These records must include the:

1. name, address, income, and credit score of the applicant and any co-applicant, and if known, their ethnicity, race, and sex;
2. type, amount, and annual percentage rate of the loan; and
3. application results.

Sales finance companies must make these records available to the banking commissioner within five business days after he requests them.

They must retain records of (1) denied applications for at least two years after the application date and (2) acquired applications for at least two years after the date of the final payment, sale, or assignment of the contract, whichever occurs first, or a longer period if required by law.

The act requires each sales finance company to provide the commissioner, by January 30, 2017, the records it collects between October 1, 2016 and December 31, 2016.

Service Fee Limits

With some exceptions, the law prohibits contract holders from receiving or collecting any charges or expenses for delinquent payment collections. The act specifies that this includes any service fees for accepting delinquent payments by telephone or through the internet.

Notice of Intention to Repossess

By law, contract holders must give buyers at least 10 days' notice before retaking goods. The notice must state that the buyer is in default and the date when the goods will be retaken. Under the act, the notice must also indicate (1) what the buyer is required to do to cure the default, including the amount of any required payment, and (2) the date by which the buyer must meet these requirements (i.e., the cure period).

Resale Proceeds

Under existing law, a contract holder must apply proceeds from the resale of repossessed goods to the payment of (1) actual and reasonable expenses associated with the resale, repossession, and storage of the goods and (2) the balance owed under the contract. The act specifies that resale proceeds must be applied in this order of priority.

Fair Market Value of Repossessed Motor Vehicles and Boats

The law establishes a formula for calculating the fair market value of a repossessed motor vehicle or boat with an aggregate cash price above a threshold amount. The act increases, from $2,000 to $4,000, the amount above which the motor vehicle or boat's value must be calculated using the statutory formula.

Under the act, the fair market value of such a vehicle or boat is the average of its (1) average trade-in value and (2) highest-stated retail value. Under prior law, it was the average of its (1) average trade-in value and (2) average retail value. By law, these values are determined according to the National Automobile Dealers Association Used Car Guide, eastern edition, or National Automobile Dealers Association Guide for Boats, eastern edition, as applicable. If these guides do not provide a motor vehicle's or boat's average trade-in value, the act requires that the highest-stated trade-in value be used instead.

EFFECTIVE DATE: October 1, 2016, except the records provision is effective upon passage.

§§ 19-36 — SMALL LOAN LICENSEES

Revises the small loan statutes, maintaining many of prior law's provisions; conforms the law to existing practice by requiring all licensing activities to be done through the Nationwide Mortgage Licensing System Registry; establishes a comprehensive list of permitted and prohibited licensee practices and loan provisions; converts the interest rate structure to an annual percentage rate capped at 36%; and makes other changes affecting small loans

The act revises the small loan statutes and in so doing maintains many of prior law's provisions. Additionally, it:

1. establishes a comprehensive list of permitted and prohibited licensee practices and loan provisions;
2. creates a statutory definition of the term "small loan" using the parameters set under prior law (i.e., an amount or value of $15,000 or less and an Annual Percentage Rate (APR) greater than 12%);
3. converts the existing interest rate structure to an APR capped at the maximum 36% allowed under the federal Military Lending Act;
4. conforms to existing practice by requiring small loan licensure to be done through the Nationwide Mortgage Licensing System and Registry (NMLS or "the system");
5. changes the license application fee structure and the length of time a license remains valid; and
6. with some exceptions, voids any small loan made in connection with unlicensed activity, noncompliance with statutory restrictions, or prohibited licensee conduct.

Definitions (§ 19)

The act defines several terms used throughout the small loan statutes, some of which are as follows:

"APR" means the annual percentage rate for the loan calculated according to the federal Truth-in-Lending Act and its implementing regulations. "Disclosed APR" means the APR disclosed, as applicable, pursuant to federal regulations on open-end and closed-end credit. If more than one APR is disclosed, the "disclosed APR" is the highest APR disclosed.

"Connecticut borrower" means any borrower who resides in or maintains a domicile in this state and who:

1. negotiates or agrees to the terms of the small loan in person, by mail, by telephone, or through the internet while physically present in Connecticut;
2. enters into or executes a small loan agreement with the lender in person, by mail, by telephone, or through the internet while physically present in Connecticut; or
3. makes a payment on the loan in this state, including a debit on an account the borrower holds in a branch of a financial institution or the use of a negotiable instrument drawn on an account at a financial institution (i.e., any bank or credit union chartered or licensed under the laws of this or any other state, or the United States, and having its main office or a branch office in Connecticut).

"Control person" means an individual that directly or indirectly exercises control over another person, including any person who:

1. is a director, general partner, or executive officer;
2. in the case of a corporation, directly or indirectly has the right to vote at least 10% of a class of any voting security or has the power to sell or direct the sale of at least 10% of any class of voting securities;
3. in the case of a limited liability company, is a managing member; or
4. in the case of a partnership, has the right to receive upon dissolution, or has contributed, at least 10% of the capital.

"Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise.

"Lead" means any information identifying a potential small loan consumer.

"Generating leads" means:

1. engaging in the business of selling leads for small loans;
2. generating or augmenting leads for small loans for other persons for or with the expectation of compensation or gain; or
3. referring consumers to other persons for a small loan for, or with the expectation of, compensation or gain for the referral, excluding generating or augmenting leads for small loans for an exempt entity (see below) using the exempt entity's data or customer information.

"Open-end small loan" means consumer credit extended by a creditor under a plan in which the (1) creditor reasonably contemplates repeated transactions and may impose a finance charge on an outstanding unpaid balance and (2) amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

"Trigger lead" means a consumer report obtained pursuant to the federal Fair Credit Reporting Act (15 USC § 1681b) triggered by an inquiry made to a consumer reporting agency in response to an application for credit. Trigger lead does not include a consumer report obtained by a small loan lender that holds or services existing indebtedness of the applicant who is the subject of the report.

"Unique identifier" means a number or other identifier assigned by protocols established by the system.

Licensure Required (§§ 19 & 20)

As under existing law, anyone engaged in making small loans to a Connecticut borrower must first obtain a license from the Banking Department. "Small loan" means any loan of money or extension of credit, or the purchase of, or an advance of money on, a borrower's future income where the amount or value is $15,000 or less and the APR is greater than 12%.

Under the act, licensure is also required for anyone who, with respect to a prospective Connecticut borrower:

1. offers, solicits, brokers, directly or indirectly arranges, places, or finds a small loan;
2. engages in other activity intended to help the borrower obtain a small loan, including, but not limited to, generating leads;
3. receives payments of principal and interest in connection with the loan;
4. purchases, acquires, or receives assignment of such a loan; or
5. advertises a small loan or related services in Connecticut.

The act prohibits anyone from accepting, from a person who is not licensed or exempt from licensure, any lead, referral, or application for a small loan to a prospective Connecticut borrower.

It also prohibits anyone from selling, transferring, pledging, assigning, or otherwise disposing of, to a person who is not licensed or exempt from licensure, any small loan made to a Connecticut borrower.

Under the act, similar to prior law, a small loan does not include:

1. a loan or extension of credit for agricultural, commercial, industrial, or government use;
2. a residential mortgage loan; or
3. an open-end credit account accessed by a credit card issued by a federally insured bank or credit union.

The act also excludes a retail installment contract from the definition of small loan.

Exemptions (§ 21)

Licensure Exemption. The act exempts the following persons from small loan licensure:

1. licensed pawnbrokers (also exempt under prior law);
2. licensed consumer collection agencies, when engaged in the activities of such an agency in the normal course of business;
3. small loan servicers for federally insured banks and credit unions and certain of their subsidiaries (see below) who own the small loans, provided the servicing arrangements include receiving payments of principal and interest in connection with the small loans and providing accounting, recordkeeping, and data processing services;
4. retail sellers who offer, extend, or facilitate credit through an open-end or closed-end credit plan for the purchase of goods or services from them;
5. consumer reporting agencies when generating leads; and
6. passive buyers of a small loan.

(A "passive buyer" is a person who: (1) has acquired a small loan from a licensee or a person exempt under the first three listed exemptions for investment purposes, (2) will receive the principal and interest and any other money due under the small loan, and (3) has not had and will not have communications of any kind with the Connecticut borrower regarding the loan.)

Exempt Entities. Under the act, the following entities are exempt from the small loan statutes:

1. any federally insured bank, out-of-state bank, Connecticut credit union, federal credit union, or out-of-state credit union;
2. any wholly-owned subsidiary of such bank or credit union; and
3. any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same bank or credit union.

Prior law exempted similar financial institutions from the small loan statutes.

Exempt Loans. The act exempts from the small loan statutes any loan made by an exempt entity. This includes the provisions applicable to licensed persons, even if:

1. the exempt person uses the services of a person exempt from licensing or required to be licensed in connection with the small loans that are made by the exempt person and
2. a person exempt from licensing or required to be licensed engages in activities intended to assist a prospective or current Connecticut borrower in obtaining a small loan that is made or will be made by an exempt entity.

The act prohibits a licensee, or anyone required to be licensed, from engaging in any activity that requires licensing for any small loan that has a disclosed APR greater than 36%, if that small loan contains any condition or provision inconsistent with the requirements summarized below.

Small Loan Activities by Licensees and Exempt Entities (§ 22)

Under the act, except as provided for exempt loans described above, a small loan licensee or anyone required to have a small loan license may not make; offer, solicit, broker, arrange, place, or find; assist borrowers with; receive payments in connection with; purchase; acquire; receive assignment of; or advertise small loans with conditions or provisions inconsistent with the requirements described below. Also, banks, credit unions, or other exempt entities or persons may not receive payments in connection with; purchase, acquire, or receive assignment of; or advertise small loans made by a licensee, if the loan has provisions inconsistent with the requirements below. Any such small loan is unenforceable in Connecticut except for a bona fide error (e.g., clerical, calculation, programming, or printing errors) or if the loan was valid under another state's law and the borrower was not a Connecticut resident at the time of the loan's inception, but has since become a Connecticut borrower.

Small Loan-Related Activities. Small loan-related activities are those activities that involve making; offering; soliciting; brokering; arranging; placing; finding; assisting with; receiving payments for; purchasing; advertising; or acceptance of leads, referrals, or applications of small loans. Small loans that are the subject of the activities listed above must not contain:

1. for a small loan under $5,000, an APR that exceeds the 36% maximum APR permitted with respect to the consumer credit extended under the federal Military Lending Act, or for a small loan between $5,000 and $15,000, an APR that exceeds 25% as calculated under the Military Lending Act;
2. for small loans that are not open-end loans, a provision that increases the interest rate due to default;
3. a payment schedule with regular periodic payments that (a) when aggregated do not fully amortize the outstanding principal balance or (b) cause the principal balance to increase;
4. a payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds, unless such payments are required to be escrowed by a governmental agency;
5. a prepayment penalty;
6. an adjustable rate provision;
7. a waiver of participation in a class action or a provision requiring a borrower, whether acting individually or on behalf of others similarly situated, to assert any claim or defense in a non-judicial forum that: (a) utilizes principles inconsistent with the statutes or common law or (b) limits any claim or defense the borrower may have;
8. a call provision that permits the lender, in its sole discretion, to accelerate the indebtedness, except when repayment of the loan is accelerated by a bona fide default pursuant to a due-on-sale clause;
9. a security interest, except as described below; or
10. fees or charges of any kind, except as expressly permitted below.

Small Loans that are the Subject of Licensees' and Exempt Entities' Activities (described above). Small loans that are the subject of licensees' and exempt entities' activities may contain provisions:

1. for late fees, if: (a) the fees are assessed after an installment remains unpaid for at least ten consecutive days, including Sundays and holidays; (b) the fees do not exceed the lesser of 5% of the outstanding installment payment, excluding any previously assessed late fees, or a total of $25 per month; and (c) no interest is charged on the fees;
2. allowing charges for a dishonored check or any other form of returned payment, provided the total fee for such returned payment is no more than $20;
3. allowing for collection of deferral charges, but only with the specific written authorization of the borrower and in a total amount not exceeding the interest due during the applicable billing cycle;
4. allowing interest accrual after the maturity date or the deferred maturity date, provided the interest must not exceed 12% per year computed on a daily basis on the respective unpaid balances;
5. providing for reasonable attorney's fees;

6. including credit life insurance or credit accident and health insurance subject to certain conditions and restrictions described below; or
7. taking a security interest in a motor vehicle in connection with a closed-end small loan made solely for the purchase or refinancing of the motor vehicle, provided the APR of the loan must not exceed the rates indicated for the respective vehicle classifications as follows: (a) new motor vehicles, 15%; (b) used motor vehicles up to two model years old, 17%; and (c) used motor vehicles more than two model years old, 19%.

Open-end Small Loans – Additional Requirements. Open-end small loans, in addition to the requirements listed above, must:

1. not provide for a money advance exceeding at any one time an unpaid principal of $15,000;
2. provide for payments and credits to be made to the same borrower's account from which advances, interest, charges, and costs on the loan are debited;
3. provide for interest to be computed on the unpaid principal balance of the account in each billing cycle by one of the following methods: (a) converting the APR to a daily rate and multiplying that rate by the daily unpaid principal balance, in which case the daily rate is determined by dividing the APR by 365 or (b) converting the APR to a monthly rate and multiplying the monthly rate by the average daily unpaid principal balance of the account in the billing cycle in which case the rate is determined by dividing the APR by 12;
4. not compound interest or charges by adding any unpaid interest or charges to the unpaid principal balance of the borrower's account; or
5. not include any other fees or charges of any kind, except as expressly permitted below.

Under the act, as under prior law, in addition to the requirements listed above, open-end small loans may:

1. provide for an annual fee of up to $50 and
2. include credit life insurance or credit accident and health insurance, subject to certain conditions and restrictions.

Prohibited Actions for Lead Generators. Under the act, a person licensed or required to be licensed who provides information identifying a potential customer (i.e., lead generator) must not, in connection with lead generation activities:

1. initiate any telephone call using an automatic telephone dialing system or an artificial or prerecorded voice without the prior express written consent of the recipient;
2. fail to transmit the lead generator's name and telephone number to any caller identification service a consumer uses;
3. initiate a telephone call to a consumer's home between 9:00 p.m. and 8:00 a.m. local time at the consumer's location;
4. fail to clearly and conspicuously identify the lead generator and the purpose of the contact in its written and oral communications with a consumer;
5. fail to provide the consumer the ability to opt out of any unsolicited advertisement communicated to the consumer via an email address;
6. initiate an unsolicited advertisement via email to a consumer more than 10 business days after receiving a request from the consumer opting out of such unsolicited advertisements;
7. use a subject heading or email address in a commercial email message that would likely mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the sender, contents, or subject matter of the message;
8. sell, lease, exchange, or otherwise transfer or release the email address or telephone number of a consumer who has asked to opt out of future solicitations;
9. collect, buy, lease, exchange, or otherwise transfer or receive an individual's Social Security or bank account number;
10. use information from a trigger lead to solicit consumers who have opted out of firm offers of credit under the federal Fair Credit Reporting Act;
11. initiate a telephone call to a consumer who has placed his or her contact information on a federal or state Do Not Call list, unless the consumer has provided express written consent;
12. represent to the public, through advertising or other means of communicating or providing information, such as the use of business cards or stationery, brochures, signs, or other promotional items, that such lead generator can or will perform any other activity requiring licensure under the banking laws, unless such lead generator is duly licensed to perform such other activity or is exempt from the licensure requirements;
13. refer applicants to, or receive a fee from, any person who must be licensed under the banking laws but was not licensed when the lead generator's services were provided; or
14. assist or aid and abet any person in the conduct of business requiring licensure when such person does not hold the required license.

Credit Insurance (§ 23)

As under existing law, a licensee may sell insurance to a Connecticut borrower at his or her request for (1) insuring the lives of the persons obligated on a small loan and (2) providing accident and health insurance covering one person on a small loan. The act allows the borrower to cancel such insurance at any time by giving written notice. Prior law provided a 15-day cancellation period after the date of the loan.

Open-end Small Loan. Under the act, as under prior law, in the case of an open-end small loan, the additional charge for credit life insurance or credit accident and health insurance must be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as determined by the Insurance Commissioner, to the unpaid balances in the account, using any of the methods for the calculation of loan charges described above. The licensee cannot cancel the credit life insurance or credit accident and health insurance written in connection with an open-end small loan because the borrower is delinquent in making the required minimum payments on the loan, unless:

1. one or more of such payments is past due for a period of at least 90 days and
2. the licensee advances to the insurer the amounts required to keep the insurance in force during such period, which may be debited from the borrower's account.

Any cancellation is effective at the end of the billing cycle in which notice is received and the licensee cannot impose further charges for the insurance.

Prohibited Practices (§§ 24 & 25)

Licensees. Under the act, a small loan licensee is prohibited from:

1. causing a borrower, including a co-borrower or guarantor, to owe at any one time more than $15,000 in principal on one or more small loans;
2. inducing or permitting a borrower to split or divide any small loan or loans, or induce or permit a borrower to become obligated, directly or indirectly, under more than one loan contract at a time, primarily for the purpose of obtaining rates or charges that would otherwise be prohibited by the small loan laws;
3. taking any: (a) confession of judgment; (b) power of attorney; (c) note or promise to pay that does not state the actual amount of the loan, the time period for which the loan is made, and the charges for such loan; or (d) instrument related to the loan in which blanks are left to be filled in after the loan is made;
4. offering the borrower any other product or service for which there is or will be any cost to the borrower in connection with a small loan unless (a) permitted by the small loan laws, (b) authorized under another license, or by applicable exemption from any requirement for such licensure, to offer such product or services, or (c) if no separate license or exemption is required to offer such product or services, the product or service is authorized in advance, in writing, by the commissioner after he is satisfied that it is of such a character that the granting of this authority would not permit or easily result in evasion of the small loan statutes or any implementing regulations; or
5. renewing or refinancing a small loan unless it will result in a distinct advantage to the borrower, provided restoration to a contractually up-to-date condition does not, in itself, constitute a distinct advantage to the borrower.

Licensee or Anyone Required to be Licensed. The act explicitly prohibits any licensee or anyone required to be licensed from directly or indirectly:

1. assisting or aiding and abetting any person in conduct prohibited by the small loan statutes;
2. employing any scheme, device or artifice to defraud or mislead any person in connection with a small loan;
3. making, in any manner, any false, misleading, or deceptive statement or representation in connection with a small loan or engaging in bait-and-switch advertising; or
4. engaging in any unfair or deceptive practice toward any person or misrepresenting or omitting any material information in connection with a small loan.

Main and Branch Offices (§ 26)

Under the act, a small loan licensee, in each case where a license is required, must have a main office license and may have a branch office license. All offices must be located in the United States. Each main office must have a qualified individual responsible for supervising all aspects of the licensee's small loan business. Each branch must have a branch manager responsible for supervising all aspects of the branch's small loan business.

License Application Process (§ 27)

Processed through the System. Under the act, an application for a small loan license must be made and processed on the Nationwide Mortgage Licensing System and Registry ("the system") in a form the commissioner prescribes. The form must contain information based on the commissioner's instruction or procedure and may be changed or updated as he deems necessary.

Criminal History Records Check. Similar to prior law, the act requires applicants to furnish the commissioner with information concerning their identity, and that of any control person, the qualified individual, and any branch manager. This includes personal history and experience and information related to any administrative, civil, or criminal findings by any government jurisdiction. The commissioner may conduct a state and national criminal history records check of the applicant and its control persons, qualified individual, and branch manager. He may require the applicant to submit fingerprints to the FBI database or other state, national, or international criminal databases and may require control persons, qualified individuals, and branch managers to authorize the system and the commissioner to obtain an independent credit report from a consumer reporting agency.

Audited Financial Statements. Under the act, applicants also may be required to provide the system with an audited financial statement prepared by a certified public accountant in accordance with generally accepted accounting principles dated not later than 90 days after the end of the applicant's fiscal year. The financial statement must include a balance sheet, income statement, statement of cash flows, and all relevant notes. Only an initial statement of condition is required of a start-up company.

Application Deemed Abandoned. Under the act and similar to prior law, the commissioner may deem an application for a small loan license abandoned if the applicant fails to respond, within 60 days, to any request for information required by the act or any adopted regulations. The commissioner must notify the applicant of this provision on the system.

An application filing fee paid before an application is deemed abandoned is not refunded. Abandonment of an application does not preclude the applicant from submitting a new application.

License Fees (§ 28)

Under the act, each applicant for a small loan license must pay, through the system, a $400 license fee and any other system-required fees or charges. Each license expires at the close of business on December 31 of the year in which the license was approved unless it is approved or renewed after November 1st, in which case it expires at the close of business on December 31 of the following year. Under prior law, a biennial license, which cost $800, expired on September 30 of the odd year following its issuance. Also, under prior law, the application fee was $400 if filed less than a year before it would expire.

The act requires a renewal application to be filed between November 1 and December 31 of the year in which the license expires. The renewal fee is $400, plus any other system-required fees or charges. Under prior law, the renewal fee was $800 and there was a $100 late fee.

The act requires, as under prior law, the commissioner to automatically suspend a license if the system indicates the return of a required payment. He must (1) give the licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew, and an opportunity for a hearing, and (2) require the licensee to take or refrain from taking action as he deems necessary.

Application and renewal fees are nonrefundable.

Investigation and Approval or Denial (§ 29)

Investigation of Applicant. Under the act, upon the license applicant filing the required application and fee, the commissioner must investigate the following facts.

As under prior law, the commissioner may not issue a license unless he finds that the:

1. experience, character, and general fitness of the applicant and its control persons, qualified individual, and any branch manager are satisfactory;
2. applicant's activities will be conducted for the convenience and advantage of the consumers it seeks to serve;
3. applicant has the required minimum available funds (see below); and
4. applicant and its control persons and any qualified individual and branch manager have not made a material misstatement in the application.

The commissioner cannot issue a license if he fails to make these findings, and must notify the applicant of the denial and the reasons for the denial.

Application Denial. The act allows the commissioner to deny an application if the applicant, its control persons, qualified individual, or branch manager have demonstrated a lack of financial responsibility (i.e., when he or she shows a disregard in the management of his or her own financial condition). A determination that a person has not shown financial responsibility may include:

1. current outstanding judgments, except judgments solely due to medical expenses;
2. current outstanding tax liens or other government liens and filings;
3. foreclosures during the three years preceding the application date; or
4. a pattern of seriously delinquent accounts within the previous three years.

The commissioner also may deny an application based on the history of criminal convictions of the applicant, its control persons, qualified individual, or branch manager.

Minimum Available Funds Required. The act requires an applicant to have a minimum of $50,000 continuously available for each licensed location. This may include cash or lines of credit. Prior law required a minimum capital investment of $10,000 or $25,000, depending on the size of the municipality where the business would be located.

Renewal Standards. To renew a small loan license, an applicant must meet the minimum standards for an initial license, pay all required renewal fees, and any outstanding examination fees or other money due the commissioner.

Withdrawal and Surrender of License. A license application withdrawal is effective when the commissioner accepts the request on the system.

Within 15 days after a licensee ceases to be a small loan lender in the state, the licensee must surrender its license on the system for each location in which the licensee has ceased to be a small loan lender. Similar rules applied under prior law.

Failure to Renew. If a license expires because of the licensee's failure to renew, the commissioner may institute a revocation or suspension proceeding or issue an order suspending or revoking the license within one year after the expiration date.

A small loan license remains effective until it is surrendered, revoked, suspended, or expires.

Commissioner's Approval of Changes (§ 30)

Under the act, small loan licenses are not assignable or transferable. Similar to prior law, any proposed change in the control persons requires advance notice, filed on the system at least 30 days before the change takes place. The commissioner must approve any change in the control persons.

No licensee may use any name other than (1) its legal name or (2) a fictitious name approved by the commissioner. A licensee is prohibited from engaging in any activity requiring a small loan license under any other name or at any other place of business than that named in the license. Any proposed change in a licensee's name, place of business, or control persons requires an advance change notice to be filed on the system at least 30 days before the effective date of the change. Any such change requires the commissioner's approval.

Updating Information in the System (§ 31)

Under the act, a licensee must file with the system any change in the license information most recently submitted. If the information cannot be filed on the system, the licensee must directly notify the commissioner, in writing, not later than 15 days after the licensee has reason to know of any such change or the occurrence of any of the following developments:

1. filing for bankruptcy or the consummation of a corporate restructuring of the licensee;
2. filing of a criminal indictment against the licensee related to the licensee's activities or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's control persons or qualified individual or branch manager;
3. receiving notification of a license denial, cease and desist order, suspension, or revocation procedures, or other formal or informal action by any governmental agency against the licensee and the reasons for it;
4. receiving notification of the initiation of any action by the attorney general of Connecticut or any other state and the reasons for it;
5. receiving notice of a material adverse action with respect to any existing line of credit or warehouse credit agreement;
6. receiving notice of the filing for bankruptcy of any of the licensee's control persons, qualified individual, or branch manager; or
7. a decrease in the $50,000 available funds the act requires.

Advertising (§ 32)

Unique Identifier. The act requires the unique identifier of any small loan licensee to be clearly shown on the licensee's small loan application forms and all of the licensee's solicitations or advertisements, including business cards or internet websites, and any other documents as determined by the commissioner.

Licensee Advertising. Under the act, a licensee's advertising:

1. must not include any statement that it is endorsed in any way by this state, but may include a statement that it is licensed here;
2. must not include any statement or claim which is deceptive, false, or misleading;
3. must be retained for one year from the date of its use; and
4. must otherwise conform to the requirements of the small loan statutes and related regulations.

Record Keeping and Retention (§ 33)

The act changes the record keeping and record retention requirements for small loan licensees.

Retention Period. As under prior law, the act requires each small loan licensee to keep, at the place of business specified in the license, adequate books and records in the form and manner the commissioner prescribes. All books, accounts, and records must be preserved for the following time periods:

1. at least two years after the date the licensee offered, solicited, brokered, directly or indirectly arranged, placed, found, or generated leads for a small loan, or
2. if the licensee made, owns, or services a small loan, at least two years after the date the licensee (a) no longer owns the small loan or (b) made the final entry on the loan.

Commissioner's Inspection of Books and Records. Small loan licensees must make their books and records available to the commissioner at the office specified in the license or send the books to him by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after the commissioner requests them. Upon request, the commissioner may grant a licensee additional time to make such books and records available or send them to him.

Reporting Through the System. Licensees must complete any reports of their condition the system requires. Any such reports must be accurately and timely filed on the system according to the due dates and formats it requires.

Until the information can be captured by a system-based report, each licensee must furnish on or before January 30 annually, a sworn statement of the condition of the business as of the preceding December 31, together with such other information and statements the commissioner may require.

License Suspension and Revocation (§ 34)

Conditions Necessary for Revocation or Suspension of License. As under prior law, the commissioner may suspend, revoke, or refuse to renew any small loan license or take any other action for any reason that would be sufficient grounds for the commissioner to deny an application for such a license. Under the act, the commissioner may also do so if he finds that the licensee or any control person of the licensee, qualified individual, branch manager with supervisory authority, trustee, employee, or agent of such licensee has done any of the following:

1. made any material misstatement in the application;
2. committed fraud, misappropriated funds, or misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any of the material particulars of any small loan transaction to anyone entitled to such information, including any disclosures required by the Truth-In-Lending Act or related regulations;
3. violated any of the provisions of the act, any regulations adopted under it or any other law or regulation applicable to the conduct of its business; or
4. failed to perform any agreement with a licensee or a borrower.

The commissioner may take action whenever it appears that (1) a violation has occurred, is occurring, or is about to occur; (2) the violation is due to an act or omission such person knew or should have known would contribute to the violation; or (3) any licensee has failed to perform any agreement with a borrower, committed fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any of the material particulars of any small loan transaction to anyone entitled to such information.

Removal of Violator. The act allows the commissioner to order a licensee to remove any individual from office and from employment or retention as an independent contractor in the small loan business in this state whenever the commissioner finds, after investigating, (1) that such individual has violated the small loan statutes or regulations or (2) any reason that would be sufficient grounds for the commissioner to deny a license. The commissioner must do so by

notifying the individual by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice is deemed received by the individual on the earlier of the date of actual receipt or seven days after mailing or sending.

Notice. The notice must include:

1. a statement of the time, place, nature, and legal authority for the hearing and the jurisdiction where it is to be held;
2. a reference to the particular statutes, regulations, or orders alleged to have been violated;
3. a short and plain statement of the matters asserted; and
4. a statement indicating that the individual may file a written request for his or her own hearing not later than 14 days after receipt of the notice.

Hearing. The commissioner must hold a hearing on the matters asserted if one is requested within the time specified, unless the individual fails to appear at the hearing. If the commissioner finds after a hearing that any of the necessary grounds exist for removal of the individual, the commissioner may order a licensee to remove the individual from office and from any employment in the small loan business in this state. The commissioner may also do this if the individual fails to appear at the hearing.

If the commissioner finds that he must act immediately to protect borrowers, he may suspend any individual from office and require him or her to take or refrain from taking an action or actions that will, in the opinion of the commissioner, carry out the purposes of this act, by incorporating a finding to that effect in the suspension notice. The suspension or prohibition becomes effective on receipt of the notice and, unless stayed by a court, remains in effect until the entry of a permanent order or the matter's dismissal.

Temporary Order to Cease Business. The commissioner may issue a temporary order to cease business if he determines that the license was issued erroneously. The commissioner must give the licensee an opportunity for a hearing. The temporary order becomes effective when the licensee receives it and, unless set aside or modified by a court, remains in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

Commissioner's Oversight (§§ 35 & 36)

As under existing law, the act gives the commissioner broad oversight of small loan licensees and the authority to adopt regulations he believes necessary to administer and enforce the small loan statutes. In order to carry out his duties under these laws, the commissioner, among other things, may (1) accept and rely on examination or investigation reports made by other government officials, (2) accept audit reports from independent certified public accountants, and (3) use, hire, contract, or employ public or privately available analytical systems.

EFFECTIVE DATE: July 1, 2016

§ 37 — TENANTS' SECURITY DEPOSITS

Imposes certain notice requirements on landlords pertaining to tenants' security deposits, and imposes a minimum $10 penalty on a landlord who fails to pay a tenant the accrued interest on a security deposit

Notice to Tenant about Escrow Account

The act requires landlords to provide each tenant with a written notice stating the amount of his or her security deposit and the name and address of the financial institution that holds the deposit. The landlord must do so within 30 days after (1) receiving the security deposit from the tenant or the tenant's previous landlord or (2) transferring the security deposit to another financial institution or escrow account.

Interest Payment

By law, tenants generally forfeit a month's interest otherwise payable to them when they are more than 10 days delinquent in paying rent in a given month. Prior law provided an exception if the rental agreement imposed a late charge for failing to pay rent within a statutorily specified time period. The act broadens this exception by allowing such a tenant to receive interest if the landlord imposes a late charge, regardless of whether the rental agreement provides for it.

The act imposes a minimum $10 penalty on a landlord who fails to pay a tenant the accrued interest on a security deposit. Prior law limited this penalty to twice the amount of the accrued interest. The act instead requires the landlord to pay the greater of $10 or twice the accrued interest. Under the act, "accrued interest" is interest due on a security deposit, compounded annually.

Commissioner's Jurisdiction

The act further limits the commissioner's jurisdiction when a landlord has a good faith claim for actual damages for which the tenant has received written notice. Under the act, the commissioner has no jurisdiction over a landlord who has a good faith claim of actual damages who fails to pay the tenant interest accrued on a security deposit when required to do so. Under prior law, this was the case in situations where the landlord refused or failed to return all or part of the tenant's security deposit.

EFFECTIVE DATE: July 1, 2016

§§ 38-42 — DEPOSIT INDEX

Specifies how the deposit index should be (1) determined and applied by holders of certain deposits, such as a tenant's security deposit, and (2) published and disseminated by the banking commissioner

The act changes the "deposit index" used to determine the interest paid on certain deposits, including (1) tenants' security deposits; (2) claims with the treasurer related to abandoned property held by a bank or other financial organization; (3) security deposits with public service companies, electric suppliers, telephone companies, and certified telecommunications providers; (4) certain loans with annual interest rates not greater than the deposit index; and (5) mortgage-related escrows.

The act specifies that the deposit index is (1) the average of the national rates for savings deposits and money market deposits for the last week in November of the prior year as published by the Federal Deposit Insurance Corporation (FDIC) in accordance with 12 CFR § 337.6 or (2) if the FDIC no longer publishes these rates, the average of substantially similar national rates for the last week in November of the prior year as published by a federal banking agency. Under prior law, the deposit index was equal to the average rate paid on savings deposits by insured commercial banks as last published in the Federal Reserve Board bulletin in November of the prior year.

As under prior law, the act requires the banking commissioner to determine the deposit index for each calendar year and publish it in the department's news bulletin by December 15 of the year before it takes effect. Under the act, he must also publish the deposit index on the department's website by this date.

The act requires the commissioner to also disseminate the deposit index and any information he deems appropriate in a manner designed to alert the parties that may rely on the index. This includes issuing press releases and public service announcements, encouraging news stories, and posting conspicuous notices at financial institutions. Prior law instead required the commissioner to take similar steps to disseminate the deposit index to landlords and tenants.

EFFECTIVE DATE: July 1, 2016

§§ 43 & 44 — PROTECTING TENANTS OF FORECLOSED PROPERTY

Makes permanent protections available to certain tenants of foreclosed properties by eliminating the December 31, 2017 sunset date

The act makes permanent existing law's protections available to certain tenants of foreclosed dwellings by eliminating the December 31, 2017 deadline for these protections to end. These protections are summarized below.

Tenants of Foreclosed Dwellings

By law, an immediate successor in interest to a foreclosed property takes the property subject to the rights of bona fide tenants on the date absolute title vests in the successor in interest. A successor in interest must give tenants at least 90 days' notice to vacate. Under the law, tenants with a lease entered into before absolute title vests in the successor must generally be allowed to remain until the end of the lease but may be evicted under certain circumstances.

Section 8 Tenants

The law limits the circumstances in which an owner who is an immediate successor in interest to a property following foreclosure may terminate the lease of a Section 8 tenant (i.e., a tenant receiving assistance under the federal Housing Choice Voucher Program). By law, an owner may terminate the tenancy on the date he or she takes ownership if the owner (1) will occupy the unit as his or her primary residence and (2) provides the tenant with at least 90 days' notice to vacate.

By law, for foreclosures involving federally-regulated mortgage loans or any residential property occupied by a Section 8 tenant the immediate successor in interest takes the property subject to the (1) lease between the tenant and prior owner and (2) housing assistance payments contract between the prior owner and the public housing agency that administers the program.
EFFECTIVE DATE: October 1, 2016

§ 45 — BANKING DEPARTMENT ASSESSMENTS

Allows the banking commissioner to assess licensed money transmitters and student loan services to cover the Banking Department's expenses

By law, the commissioner collects an assessment from Connecticut banks and credit unions, pro rata based on asset size, to cover the Banking Department's expenses. The assessments are annual, but the commissioner may impose them more frequently.

The act allows the commissioner to also assess licensed money transmitters and student loan servicers. The act applies the assessment pro rata based on the dollar volume of money transmissions for money transmitters and student loans serviced for student loan servicers. The act requires licensees to pay the assessment by the date the commissioner specifies. Failure to do so may result in an action against the person's license.
EFFECTIVE DATE: Upon passage

§ 46 — PROHIBITIONS ON MORTGAGE SERVICERS PLACING INSURANCE ON PROPERTY

Changes when mortgage servicers can place insurance on mortgaged property

Prior law prohibited mortgage servicers from placing hazard, homeowners, or flood insurance on mortgaged property when the servicer knew or had reason to know the mortgagor had an effective insurance policy. The act instead prohibits the servicer from placing the insurance on the property when the servicer knew or should have known of the mortgagor's policy.
EFFECTIVE DATE: October 1, 2016

§§ 47-54 — CONSUMER COLLECTION AGENCIES AND CREDITORS

Expands the consumer collection agency law to include persons who collect federal income tax debt on behalf of the federal government, creates new procedural requirements for certain court cases brought by consumer collection agencies, and makes other changes affecting debt collection

Federal Income Tax Debt Collection Agencies (§§ 47-50)

The act expands the consumer collection agency law to include persons engaged in the business of collecting federal income tax on behalf of the U.S. Treasury Department, and makes several conforming changes. Among other things, these persons must obtain a license from the Banking Department and meet specified bonding and record-keeping requirements.

As under existing law for other consumer collection agencies, the act applies to agencies with a place of business in Connecticut, and to out-of-state businesses who (1) collect from in-state debtors on behalf of in-state creditors or for the agencies' own accounts or (2) regularly collect from in-state debtors on behalf of out-of-state creditors.

The act applies the same license qualifications and exemptions from licensure and related requirements that apply under the existing consumer collection agency law (e.g., banks and state-licensed attorneys are exempt).

Prohibited Practices and Penalties. The act subjects these consumer collection agencies to the applicable prohibitions and corresponding penalties that already apply to other consumer collection agencies (CGS § 36a-805).

By law, a consumer collection agency that engages in a prohibited practice is subject to license suspension, revocation, or other disciplinary action (CGS § 36a-804). In addition, any person who operates a consumer collection agency without a license or who otherwise violates the consumer collection agency law is subject to misdemeanor criminal penalties (CGS § 36a-810). The act also applies these provisions to persons collecting federal tax debt.

As under existing law for other consumer debts, the act allows anyone damaged by the wrongful conversion of federal income tax debtor funds received by a consumer collection agency to recover damages from the bond the agency filed with the banking commissioner.

Deposit of Funds (§ 51)

Existing law requires a third-party consumer collection agency to deposit funds collected on behalf of others in one or more trust accounts maintained at a bank, Connecticut credit union, federal credit union, or out-of-state bank that maintains a branch in Connecticut. Under the act, these institutions must be federally insured.

Legal Actions by Consumer Collection Agencies (§ 52)

The act creates new procedural requirements for legal actions brought by consumer collection agencies to collect consumer debts that they purchased from a creditor.

The act specifies that these provisions do not apply to actions begun before October 1, 2016. These provisions also do not apply to debt purchased by a licensed mortgage lender under a recourse requirement. (In the event of nonpayment of a recourse loan, the lender can pursue the debtor's assets that were not used as collateral for the loan.)

Evidence. The act requires the consumer collection agency to file evidence with the court establishing the amount and nature of the debt before the court may enter judgment against the consumer debtor. The evidence must comply with Superior Court rules and must include a copy of the assignment or other documentation indicating:

1. that the plaintiff owns the debt;
2. the original or charge-off account number, if any, which may be partially redacted to protect the debtor's privacy;
3. the name associated with the debt; and
4. if the debt has been assigned more than once, each assignor's name, address, and dates of ownership, and a copy of each assignment or other documentation that establishes the plaintiff's unbroken chain of ownership of the debt.

Default Judgment. The act requires a plaintiff who claims a default judgment to file a sworn affidavit with specified information in addition to the evidence required under Superior Court rules. The affidavit must list the name, address, and dates of ownership of each owner of the debt, from the charge-off creditor to the current owner.

The plaintiff must also attach documentation to the affidavit that fully substantiates the amount of the debt. Under the act, the following documents generally suffice to substantiate credit card debts subject to federal charge-off requirements:

1. a copy of the most recent monthly statement recording a purchase transaction, service billed, last payment, or balance transfer;
2. a statement reflecting the charge-off balance;
3. an itemization of the balance after the charge-off if different from the charge-off amount;
4. for consumer debts purchased on or after October 1, 2016, an additional monthly account statement sent to the debtor while the account was active, which shows the debtor's name and address; or
5. any other statements that the federal Consumer Financial Protection Bureau's regulations may require.

Additional Documentation. The act specifies that these provisions do not prevent the court or Superior Court rules from requiring the (1) plaintiff to submit additional documentation or (2) plaintiff, plaintiff's authorized representative, or other affiants or counsel to appear before the court before it renders judgment, if the court determines this is necessary.

Redaction. The act requires consumer collection agencies to indicate when they have redacted any items listed above for default judgments or additional documents requested by the court.

Statute of Limitations in Actions by Creditors or Consumer Collection Agencies (§ 53)

The act prohibits creditors and consumer collection agencies that purchased debt from initiating a cause of action to collect debt from a consumer when they know or reasonably should know that the applicable statute of limitations has expired.

Under the act, when the statute of limitations has expired, any subsequent payment toward, or written or oral affirmation of, a debt by the consumer does not extend the limitations period.

For these purposes, a "creditor" is (1) anyone to whom a debt is owed by a consumer debtor if the debt results from a transaction occurring in the ordinary course of such person's business or (2) anyone to whom such a debt is assigned. But a creditor is not a consumer collection agency or a federal, state, or local department or agency.

Penalties for Creditor Violations (§ 54)

Under existing law, a creditor (as defined above) that uses abusive, harassing, fraudulent, deceptive, or misleading practices to collect or attempt to collect a debt, in violation of the law or regulations on creditors' collection practices, is liable to the debtor in an amount equal to the sum of:

1. any actual damages;
2. if the debtor is an individual, any additional damages awarded by the court, up to $1,000; and
3. the costs incurred by a successful action to enforce liability, including reasonable attorney's fees at the court's discretion.

The act provides that creditors are also liable in this manner for such conduct that violates the consumer collection agency law or regulations.

EFFECTIVE DATE: October 1, 2016

§§ 55 & 56 — SECURITY FREEZES

Limits authority to place a security freeze on a child's credit to children under age 16, instead of under age 18, and makes procedural changes

The law allows a parent or legal guardian to request that credit reporting agencies place a security freeze on a minor child's credit report. The act:

1. limits a parent's or legal guardian's authority to request these freezes to when the children are under age 16, instead of under age 18 as prior law allowed and
2. eliminates a parent's or guardian's option to have an agency temporarily lift a freeze for a specific third party or for a period of time, thus only allowing a parent or guardian to request that the agency completely remove the freeze.

The act provides that the law cannot be deemed to require an agency to provide a minor, parent, or legal guardian with a unique personal identification number, password, or similar device to authorize release of a minor's credit report. But it provides that the minor, parent, or legal guardian must use such a number, password, or device if applicable. The law continues to require a parent or legal guardian making a request on a minor child's behalf to present the agency with identification and sufficient proof of authority to act for the child.

The act specifies that any security freeze for an adult's or minor's credit report in effect on October 1, 2016 remains in effect until the adult or the minor's parent or guardian requests its removal.

EFFECTIVE DATE: October 1, 2016

§ 57 — LOOK-BACK PERIOD TO DISCOVER AND REPORT FRAUD

Allows a bank and its customers to agree to a shorter time period to report fraud

The law generally precludes a customer from asserting a claim of an unauthorized signature or alteration against a bank if he or she fails to discover and report the signature or alteration on a statement within one year after the statement is available.

The act specifically allows a bank and its customers to agree to a shorter time frame for discovering and reporting an unauthorized signature or alteration. Under the act, as under existing law, such an agreement does not negate the bank's responsibility for a lack of good faith or failure to exercise ordinary care, or limit the measure of damages.

EFFECTIVE DATE: Upon passage

§ 58 — POSSESSIONS LEFT INSIDE REPOSSESSED MOTOR VEHICLES

Requires contract holders to notify customers of their responsibilities for personal property left inside repossessed motor vehicles and allows the contract holders to charge a total storage fee of up to $25

This act makes changes to notice requirements and storage fee provisions for personal property left inside a motor vehicle that is being repossessed.

Notice Requirements

By law, a contract holder who intends to repossess a motor vehicle may provide notice to the buyer of his or her intention to do so because of the buyer's default. If the holder chooses to provide the notice, it must, among other things, inform the buyer when the vehicle will be taken and of his or her rights. The act requires that the notice also inform the buyer that he or she is responsible for removing all of his or her personal property from the vehicle before it is repossessed.

Additionally, the act requires the contract holder, within three days of repossessing a motor vehicle and regardless of whether advance notice of the repossession was provided to the buyer, to send a written notice to the buyer's last known address. The notice must inform the buyer:

1. that he or she is responsible for retrieving any personal property in the vehicle, other than items turned over to law enforcement;
2. that he or she may, for at least 60 days after the repossession, retrieve any personal property remaining in the vehicle unless the contract terms or holder specify a date at least 60 days after the repossession after which the buyer may no longer retrieve the property; and
3. of the contract holder's contact information and business hours.

Property Storage Fee

If the buyer retrieves some or all of his or her personal property more than 15 days after the repossession, the act permits the contract holder, or the holder's agent maintaining custody of the property, to charge a total storage fee of up to $25.

EFFECTIVE DATE: October 1, 2016

§§ 59-62 — STUDENT LOAN SERVICERS

Requires the banking commissioner to set service standards for student loan servicers, exempts certain entities from student loan servicer licensure, and allows the student loan ombudsman to evaluate moving toward debt-free education in Connecticut

The act makes three changes to the laws that govern student loan servicers. It:

1. requires the banking commissioner to set service standards for licensed student loan servicers and post them on the department's website by July 1, 2017;
2. exempts entities that can act as student loan servicers without a license (e.g., banks and credit unions) from student loan record retention requirements; and
3. clarifies that the law's list of prohibited conduct by student loan servicers applies only to servicers licensed in Connecticut.

By law, a "student loan servicer" is any person, regardless of location, responsible for servicing any student education loan to any student loan borrower.

The act also authorizes the Banking Department's student loan ombudsman to evaluate how the state can move toward debt-free education. It specifies that on or before July 1, 2017, the student loan ombudsman may submit a report to the Banking Committee on (1) the ombudsman's recommendations and (2) the feasibility of establishing a program requiring a student to sign a binding contract to pay a percentage of his or her adjusted gross income upon graduation (presumably to the state), for a specified number of years, instead of taking out a student loan.

EFFECTIVE DATE: October 1, 2016, except the provisions on record retention and prohibited acts are effective July 1, 2016.

§ 63 — HOUSING AUTHORITY PILOT PROGRAM TO BUILD TENANTS' CREDIT

Creates a pilot program for local housing authorities to use rental payments to build tenants' credit

The act requires the housing commissioner to create, within available appropriations, a three-year pilot program for local housing authorities to use rental payments as a way to build tenants' credit. By January 1, 2017, the commissioner must establish the program's parameters and designate up to three housing authorities in distressed municipalities that will record and report tenants' timely rental payments to nationally recognized consumer credit bureaus that agree to participate in the program.

Participating housing authorities must (1) receive technical assistance to implement rent-reporting software and track data on rental payments during the program and (2) train and support their staff. Authority staff must conduct educational briefings to teach tenants about the program and its benefits.

The commissioner must submit, to the Housing Committee, a program status report by July 1, 2017; an interim report by January 1, 2018; and a final report by July 1, 2019.

By law, the Department of Economic and Community Development commissioner annually designates distressed municipalities (CGS § 32-9p).

EFFECTIVE DATE: October 1, 2016

§ 64 — FEE LIENS IN ESTATE SETTLEMENT PROBATE MATTERS

Specifies when a property lien for unpaid estate settlement probate fees is unenforceable against a third party

PA 15-5, § 454, June Special Session, made unpaid estate settlement probate fees a lien in favor of the state on any in-state real property included in the basis for fees. This act specifies that the lien applies only to estates of individuals who died on or after January 1, 2015.

The act also specifies the circumstances in which the lien is unenforceable against a third party. Under prior law, the lien was not valid against a lienor, mortgagee, judgment creditor, or bona fide purchaser until notice of the lien was properly filed or recorded. The act replaces these terms with the terms "bona fine purchaser" and "qualified encumbrancer" and defines both terms, thus specifying the conditions in which a person can claim this status.

Under the act, a bona fide purchaser is a party who takes a conveyance of real property in good faith, pays valuable consideration for it, and had no actual, implied, or constructive notice, that:

1. a holder or former holder of a title interest in the property died while holding an interest in the property or
2. a former holder of such an interest transferred an interest in the property during his or her lifetime to a trustee of a revocable trust, and the trustee held the interest when the former holder died.

A "qualified encumbrancer" is a party who places a burden, charge, or lien on real property, in good faith, without actual, implied, or constructive notice, as described above.

EFFECTIVE DATE: July 1, 2016

§§ 65-71 — INTERNATIONAL TRADE AND INVESTMENT CORPORATIONS

Creates a new optional license for international trade and investment corporations

The act authorizes the banking commissioner to license international trade and investment corporations but does not require them to be licensed. The act defines these corporations as business entities or government agencies approved or seeking approval from the U.S. Export-Import Bank (EXIM), Overseas Private Investment Corporation (OPIC), or U.S. Department of Agriculture (USDA) as lenders under financing guarantee programs. These programs include EXIM loan guarantees for U.S. exporters, OPIC loan guarantees for investment projects in developing countries and emerging markets, and USDA loan guarantees for rural businesses.

The act imposes licensing requirements, fees, and recordkeeping requirements. It also authorizes the commissioner to adopt regulations to administer the act's provisions.

EFFECTIVE DATE: Upon passage

License Applications

The act requires written license applications in a form acceptable to the commissioner. They must include the applicant's:

1. name and address and, if a corporation, its directors and officers;
2. assets and liabilities;
3. business plan; and
4. proof of compliance with applicable state and federal laws.

The act allows the commissioner to (1) require other information and exhibits and (2) arrange state and national criminal history record checks for the applicant's principals, executive officers, and directors.

The act requires the commissioner to investigate an applicant after receiving an application and a nonrefundable $2,500 license fee and authorizes him to issue a license if:

1. the applicant's net worth is at least $2.5 million and adequate to transact business as a licensee;
2. the directors and officers, if the applicant is a corporation, are of good character, competent to perform their functions, and collectively adequate to manage the licensee's business;
3. it is reasonable to believe the applicant will comply with the act and regulations adopted under it; and
4. licensing the applicant will promote public convenience and advantage.

Licenses expire at the close of business on June 30 each year unless renewed. A license is not transferrable or assignable.

Fees

The act requires license applicants to pay a nonrefundable $2,500 fee. Licensees must pay a $1,000 renewal fee by June 20 annually. Licensees also pay the costs of examinations, investigations, and regulations adopted under the act.

Commissioner's Authority over Licensees

The act subjects licensees to the commissioner's investigative authority and sanctions for violating the banking laws, including authority to remove a person from office, issue cease and desist orders, and impose civil penalties.

If a check for the license fee is dishonored, the act requires the commissioner to automatically suspend the person's license or renewed license, if it is not yet effective. The commissioner must notify the licensee of the (1) proceeding for revocation or refusal to renew and (2) opportunity for a hearing.

Within 15 days of surrendering a license or having it terminated, the act requires a licensee to notify its customers and confirm this notification with the commissioner.

Transacting Business

The act requires licensees to use their best efforts to provide financing in conjunction with, and meet the expectations of, the federal financing guarantee programs with which they work. They must transact business in Connecticut in a safe and sound manner. The act prohibits licensees and, if a corporation, their directors and officers, from committing unsafe or unsound acts. Licensees must comply with all applicable state and federal laws and regulations.

Required Records and Annual Reports

The act requires licensees to keep books, accounts, and records in a form and manner the commissioner may require by regulation or order. They must file annual reports with the commissioner within 90 days of the end of a fiscal year or later as determined by the commissioner by regulation. Annual reports must include a:

1. financial statement with balance sheet, income or loss statement, and changes in capital accounts and financial position for the fiscal year or as of the end of the fiscal year, prepared with an audit by an independent certified public accountant (CPA) according to generally accepted accounting principles;
2. report, certificate, or opinion from the CPA that he or she prepared the financial statement according to generally accepted accounting principles and will provide related working papers, policies, and procedures if the commissioner requests them; and
3. other information the commissioner requires.

The annual reports must also include information on the:

1. number and aggregate dollar amount of loans made during the fiscal year;
2. geographic distribution, including by census tract if applicable, of borrowers receiving the loans;
3. percentage of loans to minority- or women-owned U.S. and foreign businesses;
4. dollar amount of the licensee's loan portfolio at the end of the fiscal year;
5. percentage of the loan portfolio representing loans with payments more than 90 days past due at the end of the fiscal year;
6. number and dollar amount of loans in liquidation at the end of the fiscal year;
7. dollar amount of reserves for loan and lease losses; and
8. percentage of reserves relative to total loans and leases.

§ 72 — ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS

Requires a report on converting education savings plans to ABLE accounts and any changes needed to successfully operate the ABLE program

By January 1, 2017, the act requires the treasurer, within available appropriations and in consultation with the Department of Revenue Services, to report to the Banking Committee on:

1. ways to convert an education savings plan (such as a Connecticut Higher Education Trust (CHET) account) into an ABLE account and
2. appropriations or statutory changes needed to ensure successful operation of the ABLE program.

The law requires the treasurer to establish a federally qualified ABLE program and administer individual ABLE accounts. This program encourages and helps eligible individuals and families save to pay for qualifying expenses related to disability or blindness. The law establishes the Connecticut ABLE Trust, administered by the treasurer, to receive and hold ABLE account funds. Money in the trust and interest on it are generally exempt from state and local taxes; the treasurer must ensure that funds are exempt from federal taxation (CGS §§ 3-39j to 3-39r).
EFFECTIVE DATE: Upon passage

§§ 73-80 & 91 — JUDGMENT OF LOSS MITIGATION

Creates a new judicial process as an alternative to foreclosure for owner-occupants of one- to four-family residential properties, in which a court may enter a judgment of loss mitigation which allows (1) certain underwater mortgages to be modified without a junior lienholder's consent and (2) the mortgagor (borrower) to satisfy all or part of his or her obligation by transferring the property to the mortgagee (lender) or a third party

The act creates a new process as an alternative to foreclosure in which a court may enter a judgment of loss mitigation for owner-occupied one- to four-family residential properties that allows (1) certain "underwater" (see below) residential mortgages to be modified without a junior lienholder's consent or (2) the mortgagor to satisfy all or part of his or her obligation by conveying the property using a transfer agreement. The act does not prohibit the parties from completing a consensual mortgage modification or conveyance outside the judicial process.

The act specifies that its provisions should not be construed as eliminating the debt or any judgment associated with a junior lienholder on the residential real property encumbered by the underwater mortgage.

Under the act:

1. an "underwater mortgage" is one in which the debt associated with the mortgage, along with any senior lien, exceeds the property's fair market value, as determined by a court;
2. a "senior lien" is the first security interest placed on a property to secure payment of a debt or performance of an obligation before one or more junior liens; and
3. a "junior lien" is a security interest placed on a property to secure payment of a debt or performance of an obligation after a senior lien is placed on such property.

Mortgage Modification

If approved by the court through a judgment of loss mitigation, the act allows an underwater mortgage to be modified to increase the principal loan balance by the amount of any accrued interest, fees, and costs allowed by law, without (1) any junior lienholder's consent and (2) any loss of priority to the senior lienholder for the full amount of the modified loan.

Conveyance to Mortgagee

It allows a mortgagor of an underwater mortgage to satisfy all or part of his or her obligation to the mortgagee by conveying the residential real property to the mortgagee. The mortgagor may do so through a transfer agreement executed by both parties. This agreement must:

1. convey to the mortgagee all interests in the property except for any interests (a) reserved to the mortgagor in the agreement, (b) held by more senior mortgagees or lienholders, or (c) held by junior lienholders not subject or party to the action;
2. consider a discharge of the mortgage after the mortgagor satisfies the transfer agreement's conditions;
3. consider the termination of any other interest in the property subordinate to the lienholder that is party to the transfer agreement following a judgment of loss mitigation; and
4. contain other provisions mutually agreeable to the mortgagor and mortgagee including either party's cash contribution to the other or the execution of a promissory note by one party in favor of the other.

Conveyance to a Third Party

The act allows a mortgagor of an underwater mortgage to enter into a transfer agreement to convey residential real property subject to the mortgage to a third party and, as a condition of the conveyance, pay less to the mortgagee than the outstanding balance on the mortgage debt. Such payment must satisfy all or part of the mortgagor's obligation to the mortgagee. The transfer agreement must be executed by the mortgagor and the mortgagee and consider:

1. transferring all the mortgagor's interests in the property to the third party, except for interests (a) reserved to the mortgagor in the transfer agreement, (b) held by more senior mortgagees or lienholders, or (c) held by junior lienholders not subject or party to the action;
2. discharging the mortgage after the mortgagor satisfies the transfer agreement's conditions;
3. terminating any other interest in the property subordinate to the mortgagee following a judgment of loss mitigation; and
4. other provisions mutually agreeable to the mortgagor and mortgagee including either party's cash contribution to the other or the execution of a promissory note by one party in favor of the other.

Judgment Following Transfer Agreement

Under the act, 15 days after the return date of a pending foreclosure action, a mortgagee may file a motion for judgment of loss mitigation after entering into one of the transfer agreements described above. The act does not (1) allow the court to enter a judgment without the express written consent of both the mortgagor and mortgagee or (2) require a mortgagee to consider consenting to such a judgment in foreclosure mediation. A party's failure to consent to a judgment of loss mitigation is not a basis for a claim of bad faith.

Findings at the Hearing

Upon the motion of the mortgagee and with the mortgagor's consent, the court, after notice and a hearing, may enter a judgment of loss mitigation approving the modification or conveyance.

All parties to the action may participate in the hearing and the judgment is final for purposes of appeal. The issues at the hearing must be limited to:

1. a finding of the residential property's fair market value, which may be determined by a written appraisal obtained by the mortgagee and performed by a licensed appraiser;
2. a finding of the outstanding balance of any priority liens on such property, to the extent necessary;
3. the debt owed to the mortgagee secured by the mortgage;
4. whether the mortgage is underwater; and
5. for purposes of mitigation, whether the contemplated transaction was agreed to in good faith.

The hearing must also consider whether the parties to the contemplated transaction other than the mortgagee meet the financial requirements of a mortgagor (i.e., personal net liquid assets that are less than $100,000, excluding retirement and tax advantaged health savings plans). This must be determined by (1) a financial statement submitted by the proposed mortgagor or mortgagors or (2) other financial information the court requires.

The act prohibits the court from entering a judgment of loss mitigation unless it makes express findings that the mortgage is an underwater mortgage and the parties agreed to the transaction in good faith. For cases involving mortgage modification or the conveyance of property to a mortgagee, the court must also find that the mortgagor meets the above financial requirements.

Effect of Judgment

The act establishes the effect of a judgment of loss mitigation in cases involving mortgage modification or conveyance to mortgagees. In such cases, if, immediately after the expiration of any applicable appeal period or after the judgment has been affirmed on appeal, the court enters a judgment of loss mitigation, the (1) mortgage must be increased according to the judgment and the lien of any junior lienholder subject or party to the action must be deemed subordinated to the mortgage, in the same order as before the judgment or (2) property is conveyed to the mortgagee in accordance with the transfer agreement. If a conveyance to a mortgagee is later set aside or avoided due to the application of Chapter 11 bankruptcy provisions, the judgment of loss mitigation must be set aside and all parties retain the same interests in the property as existed before the judgment to the extent permitted under the applicable bankruptcy laws.

In cases involving conveyance to a third party, the conveyance to the third party must be ordered to take place by the date in the transfer agreement. This may be extended up to 60 days if the parties agree, or longer as ordered by the court after notice and a hearing.

Appeals

In the event of an appeal, the mortgagor and the mortgagee may withdraw their consent to the foreclosure by loss mitigation. If either does so, the foreclosure may continue without any further restriction.

Title Conveyance and Recording

Within 30 days after a mortgage modification or conveyance to a mortgagee, the mortgagor and mortgagee must record the judgment of loss mitigation with the town clerk.

For conveyances to third parties, the mortgagor must submit the judgment of loss mitigation to the town clerk for recording before recording the document conveying title to the third party. After the mortgagee receives the funds and other consideration as specified in the transfer agreement, the mortgagee must file a satisfaction of judgment of loss mitigation with the court.

The act does not prohibit (1) the parties from consummating a consensual mortgage modification or deed in lieu of foreclosure outside the judicial process or (2) a consensual release of a mortgage by a mortgagee for less than the full indebtedness secured by the mortgage.

Real Estate Conveyance Tax Exemption

The act exempts title transfers resulting from judgments of loss mitigation from the real estate conveyance tax.

Mortgagor's Petition to Enter Foreclosure Mediation

If the court does not enter a judgment of loss mitigation, the loan modification or property transfer described above may not be completed. At this point, the (1) mortgagor may petition for inclusion in the foreclosure mediation program and (2) mortgagee may request a judgment of foreclosure available under existing law, including strict foreclosure.

To be eligible for the mediation program, the mortgagor, in addition to meeting existing law's eligibility criteria for the program, must not have substantially contributed to the events leading to the court's decision or other circumstances resulting in the decision not to enter a judgment. To grant the mortgagor's petition, the court must find that (1) it is highly probable the parties will reach an agreement through mediation and (2) the petition is not motivated primarily by a desire to delay a foreclosure judgment. The court must consider any testimony or affidavits the parties submit supporting or opposing the mortgagor's petition.

EFFECTIVE DATE: October 1, 2016

§§ 81-84, 89 & 90 — FORECLOSURE BY MARKET SALE

Allows a mortgagee, in certain circumstances, to file a motion for judgment of foreclosure by market sale within 30 days of receipt of a sales contract or the expiration or satisfaction of any contingencies, eliminates certain mortgagee notice and affidavit requirements, and makes other modifications to the process

By law, a mortgagee and a mortgagor may agree to pursue foreclosure by market sale, which is a foreclosure option that involves a court-approved sale of residential real property on the open market. The act specifies that it cannot be construed to require either party to pursue a foreclosure by market sale or to consider a foreclosure by market sale in foreclosure mediation. The act also specifies that failure of either party to consent to a foreclosure by market sale for any reason is not a basis for a claim of bad faith.

Foreclosure Notice

By law, before beginning a mortgage foreclosure, a mortgagee must send notice by registered or certified mail, postage prepaid, to the mortgagor at the mortgaged property's address. Prior law required that the notice include specified information about foreclosure by market sale. For example, the notice had to advise the mortgagor to contact a licensed real estate agent to discuss the feasibility of listing the property for sale through the foreclosure by market sale process. The act eliminates the foreclosure notice requirements that specifically relate to the market sale process.

Mortgagee Affidavit

The act also eliminates the requirement that a mortgagee file an affidavit with the court in order to continue the mortgage foreclosure. Under prior law, these affidavits had to indicate that the mortgagee provided the notice described above and either the mortgagor failed to elect foreclosure by market sale by the required date or discussions were initiated but did not proceed because of specific circumstances, such as the mortgagee and mortgagor being unable to agree.

Motion for Judgment

By law, in a foreclosure by market sale, if a mortgagor executes a listing agreement acceptable to both the mortgagee and mortgagor and receives an offer to purchase the property, the mortgagor must execute a sale contract with the purchaser and provide a copy to the mortgagee.

Under the act, if the mortgagee has already initiated a foreclosure action on the date when the sale contract was received or any contingencies satisfied or expired, then, within 30 days after the latest of such dates, the mortgagee must file a motion for judgment of foreclosure by market sale and attach the contract and appraisal to the motion.

"Right of First Refusal Law Days"

By law, within 30 days after the court renders a judgment of foreclosure by market sale, it must schedule "right-of-first-refusal law days," a specific day when others with a lien against the property (i.e., subordinate lienholders) may pay the price agreed on in the purchase and sale contract to the person appointed to make the sale in order to preserve their equity interest in the property. Under prior law, the court was required to schedule the days in inverse order of priority. The act instead requires that it be done in order of priority.

Title Conveyance

By law, the person appointed to sell the property must (1) execute the conveyance of the property and (2) bring the proceeds to court. The conveyance is valid against all parties and people having a legal interest in the property. The act makes the conveyance also valid against all parties subject to the action because of a lawsuit that concerns title to or interest in the property (i.e., lis pendens).

EFFECTIVE DATE: October 1, 2016

§ 85 — FORECLOSURE PROTECTION

Eliminates a requirement that lenders notify certain unemployed and underemployed homeowners of the availability of foreclosure protection

By law, qualifying unemployed or underemployed homeowners facing foreclosure may apply for protection from foreclosure within 25 days of the start of the court action date. In such cases, the court may stop the proceedings for up to six months and order a restructuring of the mortgage debt.

The act eliminates the requirement that a lender, at the start of a foreclosure action, notify homeowners of the availability of foreclosure protection. Under prior law, if a lender failed to do so and the homeowner was eligible for such foreclosure protection, the court, on its own motion or on the homeowner's request, could issue a stay of the action for 15 days to allow the homeowner time to apply for foreclosure protection.

EFFECTIVE DATE: October 1, 2016

§ 86 — FORECLOSURE EVICTIONS

Prohibits a state marshal from carrying out a foreclosure-related eviction order sooner than five days after the court executes it and requires the marshal to use reasonable efforts to find and notify a defendant of an eviction at least five days before notifying the town of the eviction

The act prohibits a state marshal from carrying out a foreclosure-related eviction order sooner than five days after the court executes it.

Existing law requires state marshals to use reasonable efforts to find and notify evicted persons before notifying the municipality about the eviction. The act requires them to do this at least five days before notifying the municipality.

By law, a state marshal enforcing an eviction order following a mortgage foreclosure or similar court action must notify the town's chief executive officer 24 hours before carrying out the order. The notice must state the (1) eviction's date, time, and location; (2) type and amount of the items to be removed; and (3) designated place for storage.

EFFECTIVE DATE: October 1, 2016

§§ 87, 88, 92 & 94 — FORECLOSURE MEDIATION PROGRAM

Authorizes mediators in the judicial branch's foreclosure mediation program to excuse certain parties from mediation sessions and eliminates the (1) restriction that disqualifies a mortgagor from the program when he or she consents to foreclosure by market sale and (2) requirement that a mortgagee provide a certificate of good standing to a mortgagor who has completed the mediation program

The act makes changes to certain components of the state's foreclosure mediation program. This program, funded within available appropriations, uses judicial branch foreclosure mediators to mediate between the mortgagee and the mortgagor in a statutorily prescribed timeframe to determine whether the parties can agree to avoid foreclosure.

Except as specified below, the following changes apply to foreclosure actions with return dates (dates on which action must be taken) on or after (1) July 1, 2009 for residential real property and (2) October 1, 2011 for real property owned by a religious organization.

Notice

By law, the court must notify all appearing parties when (1) it assigns a case to mediation and (2) a mediator determines that the mortgagor must participate in mediation. The court must schedule (1) a pre-mediation meeting with the mediator and mortgagor and (2) the first mediation session with the mortgagee and mortgagor. The act requires that pre-mediation meetings and mediation sessions be scheduled with all mortgagors who are relevant and necessary to the mediation and to any agreement being contemplated in connection with it.

Mortgagor Failing to Attend Meetings with the Mediator

The act expands the conditions in which a mediator may excuse a mortgagor's nonattendance at meetings.

Under the act, the mediator may excuse a mortgagor who shows good cause for nonattendance, such as (1) no longer (a) owning the home because of divorce or a related deed transfer or (b) living in the home, or (2) not being a necessary party to any agreement contemplated in connection with the mediation.

Appearance at Mediation Sessions

The law requires the mortgagor and mortgagee to attend each mediation session in person with the ability to mediate. The law makes an exception for a party represented by counsel in certain circumstances, but prior law required that the mortgagor attend the first mediation session in person. The act eliminates the requirement that a represented mortgagor attend the first mediation session in person.

For foreclosure actions with a return date of July 1, 2008 through June 30, 2009, the act allows the mediator to excuse a mortgagor from attending mediation meetings if the mortgagor shows good cause that his or her presence is not needed to further the interests of mediation. These reasons include those enumerated for nonattendance as discussed above.

For foreclosure actions with return dates on or after (1) July 1, 2009 for residential real property and (2) October 1, 2011 for real property owned by a religious organization, the act allows the mediator to excuse a mortgagor from mediation meetings if the mortgagor shows good cause for nonattendance, as discussed above.

Eligibility

Under prior law, a mortgagor who consented to a foreclosure by market sale was generally ineligible for the foreclosure mediation program. The act eliminates this disqualification and makes corresponding conforming changes.

Certificate of Good Standing

The act eliminates a requirement that a mortgagee, on request, provide a certificate of good standing to a mortgagor who has completed the foreclosure mediation program and remained current on payments for three years.

EFFECTIVE DATE: October 1, 2016

§ 93 — EXPEDITED FORECLOSURE WORKING GROUP

Requires the Banking Committee, within available appropriations, to convene a working group to recommend methods to expedite foreclosures of abandoned properties and requires the working group to submit its findings to the committee by January 1, 2017

By October 1, 2016, the act requires the Banking Committee, within available appropriations, to convene a working group to recommend methods to expedite foreclosures of abandoned properties. It must do so in consultation with representatives of state agencies and departments, financial institutions, mortgage servicers, attorneys with experience in foreclosure law, and municipalities, and submit its findings to the committee by January 1, 2017.
EFFECTIVE DATE: July 1, 2016

PA 16-140—sHB 5564
Banking Committee

AN ACT CONCERNING CASH REFUNDS FOR GIFT CARD BALANCES

SUMMARY: This act requires someone:

1. selling or issuing a gift card to give the buyer an electronic or paper proof of purchase or gift receipt and
2. accepting a gift card as payment to give the purchaser, on request, cash for the remaining balance on the card after the purchase if the (a) balance is under $3 and (b) purchaser provides the proof of purchase or gift receipt.

EFFECTIVE DATE: October 1, 2016

GIFT CARDS

For purposes of the act, a "gift card" is a record showing a seller's or issuer's promise to provide goods or services for the value shown in the record. It includes (1) a record with a microprocessor chip, magnetic stripe, or other way to store information that is prefunded with a value that decreases with each use; (2) an electronic gift card; (3) a stored-value card or certificate; (4) a store card; or (5) similar records or cards. But it does not include a:

1. general-use prepaid card, which is a card, code, or device (a) issued on a prepaid basis primarily for consumer use in a specified amount and in exchange for payment and (b) redeemable at multiple, unaffiliated merchants for goods and services or usable at ATMs;
2. gift certificate donated or sold below face value by a retailer to a charitable or nonprofit community organization;
3. linked prepaid card, which is a type of general-use prepaid card that allows the purchaser or person who increases or replenishes its funds to (a) get back the unused balance and the interest earned on it through a linked financial account, upon its expiration; (b) set an expiration date at least 90 days from the purchase date or date of increasing or replenishing funds, in order to receive a refund of any unused balance and interest on that date; and (c) where the customer has a linked financial account, transfer the unused balance to a bank offering certain benefits until the funds are all used or the card expires;
4. card or certificate issued by a retailer as part of an awards, loyalty, or promotional program for which no money or monetary value was exchanged;
5. gift certificate or card sold by a retailer (a) that does not have a store in Connecticut or (b) at below face value; or
6. gift certificate issued only on paper.

PA 16-11—SB 72
Committee on Children
Appropriations Committee

AN ACT CONCERNING A NOTIFICATION OF SUPPORT FOR FOSTER PARENTS AND RELATIVE CAREGIVERS

SUMMARY: This act requires the Department of Children and Families (DCF), by January 1, 2017, to develop a written form notifying foster parents and relative caregivers of the support they may receive from the department. Starting on that date, DCF must provide this form to foster parents and relative caregivers when it places a child with them and at their request. The act does not create or permit a cause of action for a violation of any of its provisions.
EFFECTIVE DATE: October 1, 2016

NOTIFICATION OF SUPPORT

The written form ("notification of support") must inform foster parents and relative caregivers of the support and services they may receive from DCF, as well as actions they may take on behalf of children in their care. These include the following:

1. receiving a copy of the notification of support when a child is placed with them and subsequently at their request;
2. being a member of the child's placement and treatment teams and being notified of, and included in, DCF-scheduled meetings concerning the child;
3. communicating with the child's social worker about the child's domestic, social, educational, medical, and mental health needs;
4. being notified on a timely basis of all court hearings and administrative case review meetings, including permanency hearings and hearings on motions to revoke commitment of a child in the care of the foster parent or relative caregiver;
5. receiving information, support, and guidance from professional service providers, including referrals to other professionals regarding the child, and help in identifying and obtaining services;
6. receiving open and timely responses to requests for information or services relevant to the care of the child, including access to a regional office on-call system and Careline numbers to reach professional staff after business hours;
7. having access to the domestic, social, educational, medical, and mental health records of a child placed or considered for placement with the foster parent or relative caregiver, provided information identifying the child's birth parents is not disclosed without the birth parent's permission;
8. receiving information on DCF policies on the roles and responsibilities of foster parents or relative caregivers;
9. receiving appropriate training and support to enhance the skills of the foster parent or relative caregiver in meeting any post-licensing training requirements;
10. expressing concerns about a child's treatment plan, advocating for services on the child's behalf, refusing to accept a child for placement, or requesting a child's removal for good cause;
11. communicating with a child's former foster parent, prospective adoptive parent, relative caregiver, or birth parent without risking DCF retaliation;
12. seeking help in navigating DCF's problem resolution process as described in its Foster Parent and Adoptive Parent Handbook (presumably the Foster Care Manual on DCF's website); and
13. receiving information to meet the child's immediate needs no later than 24 hours after accepting an emergency placement or, if such information is not immediately available, no later than 30 days after the placement.

PA 16-28—SB 185
Committee on Children

AN ACT CONCERNING REPORTING REQUIREMENTS AND MINOR AND TECHNICAL REVISIONS TO THE GENERAL STATUTES AFFECTING THE DEPARTMENT OF CHILDREN AND FAMILIES

SUMMARY: This act makes various minor changes affecting the Department of Children and Families (DCF). Among other things, it:

1. specifies that DCF must annually report to the Children's Committee, in addition to the governor and General Assembly as already required, on its progress in achieving its strategic plan for meeting the needs of the children and families it serves (§ 1);
2. requires DCF to submit certain reports to the Children's Committee, instead of the Human Services Committee, if it is not already required to do so (§§ 2, 6 & 7); and
3. requires DCF to include information about parent and sibling visitation determinations in a child's case record, rather than in his or her treatment plan as was previously required) (§ 14) (the treatment plan is a component of the case record.

The act also adds the Children's Committee as a recipient of the (1) Behavioral Health Partnership evaluation the DCF, Department of Social Services, and Department of Mental Health and Addiction Services (DMHAS) commissioners must annually submit to the Appropriations, Human Services, and Public Health committees; (2) program inventory that DCF, DMHAS, the Department of Correction, and the judicial branch's Court Support Services Division must biennially submit to the Appropriations and Finance Committees; and (3) cost-benefit analysis of state criminal and juvenile justice programs the Institute for Municipal and Regional Policy must annually submit to the Office of Policy and Management, the Office of Fiscal Analysis, and the Appropriations and Finance Committees (§§ 5 & 8).

Finally, the act makes numerous technical changes, including updating an obsolete federal law reference and making numerous masculine pronoun references gender neutral (§§ 3, 4, 9-13 & 15-36).

EFFECTIVE DATE: Upon passage for the reporting requirements and some technical changes (§§ 1-13); July 1, 2016 for the provision on visitation determinations and certain technical changes (§§ 14-16); and October 1, 2016 for the remaining technical changes (§§ 17-36).

PA 16-121—HB 5138
Committee on Children

AN ACT CONCERNING CHILD CARE FACILITIES AND CHILDREN WHO ARE HOMELESS OR AT RISK OF HOMELESSNESS

SUMMARY: This act changes when a Department of Children and Families (DCF) license is required to operate a congregate care residence ("child care facility"). By law, a DCF license is required for a child care facility that cares for or boards children or youth under age 18. Prior law also required a DCF license for facilities that cared for or boarded children or youth under age 21 who attended, full-time, a high school, technical school, college, or state-accredited job training program.

The act specifies that a DCF license is not required for facilities that care for or board only individuals age 18 or older. But a license is required if the facility houses both individuals under age 18 and those ages 18 through 20 who (1) are homeless or at risk of homelessness or (2) attend, full-time, a high school, technical school, college, or state-accredited job training program.

By law, a person is considered homeless or at risk of homelessness if he or she is (1) living on the street or in a shelter, (2) leaving a homeless program or transitional housing without having permanent housing, (3) living in an unsafe or abusive environment, (4) paying more than half of his or her income for rent, (5) living in overcrowded conditions, or (6) needing support services to remain in permanent housing (CGS § 17a-484a(2)).

EFFECTIVE DATE: Upon passage

PA 16-123—SB 180
Committee on Children
Appropriations Committee

AN ACT CONCERNING YOUTH ADVISORY COUNCILS AND FOSTER FAMILIES

SUMMARY: This act requires the Department of Children and Families (DCF), starting January 1, 2017, to create family profiles of foster families, fictive kin caregivers, and relative caregivers (see BACKGROUND) and distribute them to children age 12 or older before placing them in foster care. By January 1, 2017, DCF also must develop or approve foster care family surveys to distribute to children age seven or older who leave or are removed from a foster family.

The act also requires DCF to establish youth advisory councils in child care facilities able to house at least 10 children.

EFFECTIVE DATE: Upon passage, except the provision on the distribution of foster family profiles is effective October 1, 2016.

FOSTER FAMILY PROFILES AND SURVEYS

Profiles

The act requires the DCF commissioner, on and after January 1, 2017, to create a family profile of each foster family, fictive kin caregiver, and relative caregiver and distribute it to children age 12 or older placed in foster care. The profile must include, at a minimum, a brief summary of household expectations and:

1. the name and location of the school the child will attend;
2. the name, age, and gender of each person living in the home;
3. household sleeping arrangements; and
4. information on the presence of pets.

DCF must provide the profile to the child at least seven days before placing him or her with a foster family, fictive kin caregiver, or relative caregiver. In the case of an emergency placement, the child must receive this information as soon as practicable.

On or after January 1, 2017, the act prohibits DCF from placing in foster care a child in its custody age 12 or older unless the child has received the profile.

Survey

By January 1, 2017, the commissioner must develop or approve a foster care family survey and give it to children age seven or older who leave or are removed from a foster family. Starting on that date, DCF must (1) give the survey to these children no later than 15 days after they leave or are removed from a foster home and (2) compile survey results to help the department recruit, train, and retain high quality foster families.

YOUTH ADVISORY COUNCILS

The act requires the DCF commissioner, by January 1, 2017, to require each child care facility able to house at least 10 children to establish a youth advisory council. Each council must:

1. create leadership opportunities for children living in the facility;
2. give the children the opportunity to express and address grievances;
3. encourage open communication with facility staff; and
4. enable the children to develop peer advocacy, public speaking, and conflict resolution skills.

The commissioner must establish procedures enabling each council to report at least quarterly to each youth advisory board on its recommendations for policy and practice reforms in child care facilities. (By law, youth advisory boards, comprised of youths in out-of-home care, are established by DCF regional offices (CGS § 17a-10c).) The act applies to facilities that board and care for anyone under age 18 unless otherwise specified, or a person under age 21 who attends, full-time, a high school, technical school, college, or state-accredited job training program (see *Related Act*, below).

BACKGROUND

Fictive Kin Caregivers and Relative Caregivers

By law, as amended by PA 16-124, a "fictive kin caregiver" is someone age 21 or older who is unrelated to a child by birth, adoption, or marriage but who has an emotionally significant relationship with the child amounting to a familial relationship (CGS § 17a-114). By law, as amended by PA 16-124, a "relative caregiver" is someone age 21 or older licensed or approved to provide foster care and related to a child by birth, adoption, or marriage (CGS § 17a-126).

Related Act

By law, DCF must license child care facilities. PA 16-121 excludes from DCF licensing requirements child care facilities that board or care only for children between the ages of 18 and 21.

PA 16-124—sSB 187
Committee on Children
Judiciary Committee

AN ACT CONCERNING TRANSFERS OF GUARDIANSHIP AND SUBSTANTIATED ALLEGATIONS OF ABUSE OR NEGLECT BY A GUARDIAN

SUMMARY: This act expands the categories of people who may (1) assume legal guardianship of a child or youth when a court revokes his or her commitment to the Department of Children and Families (DCF) or (2) adopt a child or youth when a court terminates parental rights.

It expands the categories of people eligible for DCF's subsidized guardianship program while at the same time (1) requiring that these people be licensed or approved to provide foster care services and (2) limiting the program to children for whom neither reunification with a parent nor adoption is an appropriate permanent option.

It allows the DCF commissioner to transfer guardianship subsidies to successor guardians not named in subsidy agreements and makes other changes affecting guardianship, including conforming changes.

The act also requires DCF to notify the probate court when a DCF investigation substantiates an allegation of child abuse or neglect against a guardian the probate court appointed. (The act includes an incorrect statutory reference (§ 4 (e)), which previously would have applied to children who have non-accidental or inadequately explained physical injuries.)

EFFECTIVE DATE: October 1, 2016

LEGAL GUARDIANSHIP AND FOSTER CARE

Relative Caregivers and Fictive Kin Caregivers

The law presumes that it is in the best interests of a child or youth for certain caregivers to (1) assume legal guardianship when a court revokes the child's or youth's commitment to DCF or (2) adopt the child or youth when a court terminates parental rights (CGS § 46b-129(j)(3)). Under prior law, this presumption applied only to a relative licensed as a foster parent for the child or youth or appointed as his or her temporary custodian.

The act terms a related foster parent a "relative caregiver" and requires that he or she be (1) licensed or approved to provide foster care; (2) at least age 21; and (3) related to the child by birth, adoption, or marriage.

It also expands the categories of people who can become legal guardians or who may adopt a child or youth ("caregivers"). In addition to relative caregivers, the act requires the court to also consider fictive kin caregivers and other people licensed or approved to provide foster care in these situations.

By law, a "fictive kin caregiver" is a person age 21 or older who has an emotionally significant relationship with a child akin to a family relationship but who is not related to the child. Under prior law, a fictive kin caregiver was not approved or licensed to provide foster care by DCF.

The act requires that (1) fictive kin caregivers be licensed or approved to provide foster care and (2) fictive kin caregivers and relative caregivers be licensed or approved in order to participate in DCF's subsidized guardianship program (see below).

Child-Placing Agency Approval

The law allows the DCF commissioner, when certain conditions are met and it is in the child's best interest, to place a child with a relative or fictive kin caregiver who has not been licensed by DCF or approved by a child-placing agency. By law, a relative or fictive kin caregiver who accepts such a placement is subject to DCF licensure. The act also subjects these caregivers, as an alternative, to approval by a licensed child-placing agency.

Home Placement

The act allows the commissioner to place a child or youth committed to DCF care in a suitable home of either a fictive kin or relative caregiver. Prior law required that such a home belong to a person related to the child or youth by blood or marriage. By law, unchanged by the act, the commissioner also may place the child or youth in (1) a suitable foster home; (2) a licensed child-caring institution; (3) the care and custody of any accredited, licensed, or approved child-caring agency; or (4) a DCF-maintained and -operated receiving home.

SUBSIDIZED GUARDIANSHIP PROGRAM

DCF's subsidized guardianship program provides subsidies for the benefit of children who have been in foster care for at least six consecutive months and who have been living with caregivers or approved foster care providers.

The act expands the categories of people eligible to receive the subsidies at the same time it restricts the circumstances in which they are provided.

Under prior law, the subsidy was available to two types of caregivers: (1) fictive kin caregivers and (2) licensed foster care providers caring for a child relative because the child's parent had died or was otherwise unable to care for the child for reasons that made reunification with the parent and adoption not a viable option in the foreseeable future.

The act expands the categories of caregivers eligible for the subsidy by (1) allowing a licensed foster care provider to receive the subsidy even if caring for a child who is not a relative and (2) creating a third category of "relative caregiver," as defined above, to include those caregivers caring for a child relative.

It requires that to receive the subsidy, all three types of caregivers (fictive kin, relative, and foster care) be either licensed or approved to provide foster care.

The act limits the subsidy program to caregivers of children for whom neither reunification with a parent nor adoption is an appropriate permanent option. As under prior law, the children must have been in foster care for at least six consecutive months.

Prior law required foster care providers to be licensed by DCF. The act allows, as an alternative, that the provider be approved by a child-placing agency.

Subsidy Transfers

Under prior law, when a person receiving a guardianship subsidy died or became seriously ill or severely disabled, the commissioner could transfer the subsidy to a successor guardian who (1) was identified in the subsidy agreement or an addendum to it, (2) met DCF's foster care safety requirements, and (3) was appointed legal guardian by a court.

The act eliminates the first of these requirements, allowing the commissioner to transfer the subsidy to a successor guardian who meets DCF's foster care requirements and is a court-appointed legal guardian but is not named in the subsidy agreement. But it requires the commissioner to request that the caregiver identify the successor guardian in the subsidy agreement or addendum in order to maximize federal reimbursement for the subsidized guardianship program.

PA 16-156—sSB 74
Committee on Children
Judiciary Committee

AN ACT CONCERNING SECOND PARENT ADOPTION

SUMMARY: This act generally requires the probate court to waive investigation and reporting requirements in adoption proceedings in which the person seeking to adopt shares parental responsibility with the child's parent ("second-parent adoption"). It also allows the court to forgo notifying the Department of Children and Families (DCF) in such cases. These provisions already apply in cases in which a stepparent seeks to adopt. However, as in stepparent adoptions, the court may order an investigation and report by DCF or a child-placing agency if it finds good cause to do so.

The act also makes a technical change.

EFFECTIVE DATE: October 1, 2016

BACKGROUND

Adoption Investigations and Reports

State law generally requires the probate court, when it receives an adoption application, to ask DCF or an adoption agency to investigate to ensure that the adoption is in the child's best interests (CGS § 45a-727(b)).

DCF or the adoption agency must report on the child's physical and mental condition and other facts relevant to the proposed adoption, including the physical, mental, genetic, and educational history of the child and the physical, mental, social, and financial condition of the adopting and biological parents. The report also must include a history of any physical, sexual, or emotional abuse of the child, and may reach a conclusion on whether the adoption is in the child's best interests. The investigator must submit the written report to the court within 60 days after receiving the probate court's request.

Second-Parent Adoptions and Rights of Co-Parents

By law, the parent of a minor child may agree in writing with someone who shares parental responsibility for that child that the person sharing parental responsibility adopt or join in adopting the child. Such an adoption cannot take place unless the parental rights of the child's other parent have been terminated (CGS § 45a-724(a)(3)).

PA 16-186—sSB 75
Committee on Children
Judiciary Committee

AN ACT CONCERNING DETAINED YOUTH

SUMMARY: This act eliminates the requirements that the Department of Children and Families (DCF) in maintaining the Connecticut Juvenile Training School use the American Correctional Association's (ACA) Manual of Standards for Juvenile Training Schools to improve resident and staff safety and allow the school to be accredited by ACA.

It also establishes new reporting requirements for DCF, the Department of Correction (DOC), and the child advocate.

EFFECTIVE DATE: October 1, 2016

REPORTING REQUIREMENTS

DCF

Existing law requires DCF, through 2019, to biennially submit and present to the governor and Appropriations and Children's committees (1) progress reports on efforts to meet Connecticut children's mental, emotional, and behavioral health needs under a comprehensive implementation plan and (2) any data-driven recommendations to change or augment the implementation. The act requires DCF, starting October 1, 2016, to collaborate on the progress reports and recommendations with the (1) departments of Developmental Services, Education, Public Health, and Social Services; (2) Office of Early Childhood; and (3) judicial branch's Court Support Services Division.

The act also requires DCF, by October 1, 2017 and in collaboration with the judicial branch and DOC, to submit to the governor and the Appropriations and Children's committees a plan to prevent or reduce the negative impact of mental, emotional, and behavioral health issues on children and youth age 20 or younger who are held in secure detention or correctional confinement.

DOC

The act requires the DOC commissioner, by October 1, 2017, to begin to annually (1) compile records on the frequency and use of physical restraint and seclusion on children and youth age 20 or younger who are in DOC custody at the John R. Manson Youth Institution in Cheshire and (2) submit a report to the Children's Committee summarizing those records. The report must address the prior year and indicate, at a minimum, how often (1) physical restraint was used as an emergency or nonemergency intervention and (2) restricted housing or other types of administrative segregation or seclusion were used at the facility.

Child Advocate

The act requires the child advocate to prepare an in-depth report on the confinement conditions for children age 20 or younger held in secure detention or correctional confinement in any state-operated facility. The report must also examine the facilities' compliance with the law limiting the use of restraint and seclusion. It must be submitted to the Children's Committee biennially, starting by March 1, 2017.

PA 16-190—sSB 183
Committee on Children

AN ACT CONCERNING THE PROGRAM OF FAMILY ASSESSMENT RESPONSE

SUMMARY: Under the Family Assessment Response program (FAR), when the Department of Children and Families (DCF) receives a report of child abuse or neglect, it can make referrals to appropriate community providers for family assessment and services either when it decides not to investigate a case that it classifies as presenting a lower safety risk or, if it decides to investigate, at any time during the investigation.

This act specifies that the program must provide an array of community-based services and supports designed to meet families' individual needs; build upon their strengths; enhance child development; reduce child abuse and neglect; and increase children's health, safety, and well-being.

The act requires DCF, when it determines that a family is eligible for FAR, to conduct a comprehensive family assessment, including an assessment of (1) safety and risk and (2) family strengths and needs.

It also prohibits DCF from referring the following types of suspected child abuse or neglect reports to FAR: (1) sexual abuse, (2) abuse or neglect in an out-of-home placement, (3) abuse or neglect resulting in a child's death or serious physical or mental injury, or (4) those where the department's safety assessment reveals that the child is unsafe. Under the act, a case supervisor or manager must approve all FAR referrals.

The act requires, instead of allows, DCF to set procedures for monitoring the progress of FAR-referred families and standards for reopening an investigation of a family referred to FAR. These standards must include provisions for immediately reassigning for investigation a child abuse or neglect report referred to FAR based on a (1) reassessment of the initial report or a discovery of new or additional facts indicating that the child is unsafe or (2) determination that the report does not qualify for FAR because it fits into one of the disqualifying categories described above. It also requires the DCF commissioner, by January 1, 2017, to submit a report on these procedures and standards to the Children's Committee.

The act additionally requires (1) DCF, prior to referring a report designated for FAR to the appropriate community provider, to develop a service plan to meet the family's immediate needs for services and support and guide the provider's development of the family's long-term care plan and (2) community providers to develop a plan of care for each family referred for services through the FAR program. It specifies additional requirements the provider must fulfill when working with a family through the program.

Finally, the act requires DCF, starting by July 1, 2016, to annually report to the Children's Committee on the status of FAR for inclusion in the children's report card (see BACKGROUND).

EFFECTIVE DATE: Upon passage

FAMILY ASSESSMENT

Under the act, the family assessment DCF must conduct when it determines that a family is eligible for FAR must include (1) personal interviews with the child and his or her parent or primary caretaker, (2) a home environment evaluation, and (3) criminal background checks on all adults residing in the household. The assessment may also include, as appropriate, personal interviews with other children or adults living in the household as well as any other caregivers, family members, and collateral contacts.

When conducting the assessment, DCF must consider the child's age and vulnerability; family functioning; and the family's history of abuse, neglect, and department involvement. Upon securing any necessary releases, DCF must request any relevant out-of-state history of child abuse or neglect involving any adults residing in the household.

COMMUNITY PROVIDER REQUIREMENTS

Care Plan Development

When a community provider receives a FAR referral, the act requires the provider to schedule an in-person meeting with the family and develop a care plan in consultation with the family. The plan must include a review of DCF's family assessment plan and any services and supports the family currently receives. It must also identify the family's strengths and needs and describe services and supports to be offered to address the family's needs; build upon its strengths; and increase the child's health, safety, and well-being. The provider must monitor the family's participation and progress with the plan.

Contact and Meetings with Referred Families

Under the act, community providers must maintain ongoing contact with a FAR-referred family through in-person meetings, home visits, child and family team meetings, and phone calls. The provider must report to DCF if at any time following the referral or during the care plan implementation he or she has reasonable cause to suspect or believe that any child under age 18 (1) has been abused or neglected, (2) has suffered a non-accidental physical injury or an injury that varies from its given history, or (3) is in imminent risk of serious harm.

The provider must also schedule an in-person meeting with the family before services end. The determination to end services must be based on the family's preference and progress in meeting the goals outlined in the care plan.

Data Requirements

Within 30 days of ending services, the provider must submit to DCF individual child- and family-specific data and administrative service data that identifies the (1) family's needs; (2) services and supports made available to address those needs; (3) family's met and unmet treatment goals; (4) final disposition when services ended; and (5) reasons for the family's discharge, including met treatment goals, family relocation, receipt of a new report from DCF, or transfer to another provider.

The act's care plan, contact, and data requirements apply to all community provider service contracts (1) in effect upon the act's passage, to the extent they do not conflict with the contracts, and (2) entered into, amended, extended, or renewed on or after the act's passage.

STATUS REPORT

Under the act, the status report DCF must annually submit to the Children's Committee must include data from the previous calendar year, including:

1. the number of reports of child abuse or neglect accepted and the percentage of those reports assigned to FAR;
2. the disposition of families assigned to FAR;
3. for cases assigned to FAR, a breakdown by reporter type (e.g., parent, school employee);
4. the number and percentage of FAR cases that changed track from FAR to active investigations;
5. an analysis of DCF's prior or subsequent involvement with a family assigned to (a) FAR, if applicable, or (b) a community provider for services through FAR;
6. a description of services commonly provided to families referred to the community support for families program (i.e., program through which community providers deliver services to families referred through FAR);
7. a description of the department's staff development and training practices relating to intake (presumably into FAR);
8. the number and percentage of (a) FAR-referred families who were ultimately enrolled in the community support for families program and (b) families participating in FAR, broken down by race and ethnicity;
9. the reason for discharge from the community support for families program, broken down by race and ethnicity; and
10. a comparison of the needs identified and addressed for families referred to the community support for families program.

BACKGROUND

Children's Report Card

By law, the Children's Committee, in collaboration with the Offices of Fiscal Analysis and Legislative Research and the Commission on Children, (now the Commission on Women, Children and Seniors) must maintain an annual report card that evaluates the progress of state policies and programs in promoting the result that all Connecticut children grow up in a stable living environment safe, healthy, and ready to lead successful lives. The report must use data and primary indicators to measure the progress towards this goal in a variety of areas (e.g., statewide rates of child abuse and child poverty) (CGS § 2-53m).

PA 16-32—sSB 302 **(VETOED, OVERRIDDEN)**
Commerce Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE IMPACT OF PROPOSED REGULATIONS ON SMALL BUSINESSES

SUMMARY: This act expands the types of information that agencies must include in the regulatory flexibility analyses they prepare before adopting regulations that directly affect small businesses. Agencies include these analyses in the fiscal note they prepare for a proposed regulation. Under prior law, in preparing these analyses, agencies had to consider using specific regulatory methods to minimize adverse effects on small businesses.

The act also specifies that agencies must prepare the regulatory flexibility analysis before, or concurrently with, posting notice of their intended action on the eRegulations system. This notice must be posted at least 30 days before adopting regulations. Prior law required agencies to prepare the fiscal note, which includes the flexibility analysis, at least 30 days before adopting the regulations but did not tie the deadline to posting the notice.

Additionally, the act increases, from 75 to 250, the maximum number of employees a business may have to be considered a small business for the purpose of regulatory flexibility analyses. By law, a small business is an entity that (1) is independently owned and operated and (2) has fewer than the maximum number of employees or gross annual sales of less than $5 million.

Lastly, the act makes a technical change to the definition of small business for the purposes of individual development accounts.

EFFECTIVE DATE: October 1, 2016

REGULATORY FLEXIBILITY ANALYSIS

The act expands the types of information that must be included in a regulatory flexibility analysis, some of which the law already requires agencies to include in the regulations' fiscal note or notice of intended action. The act requires each regulatory flexibility analysis to include the following:

1. the proposed regulation's scope and objectives (existing law requires agencies to include the regulations' purpose in its notice of intended action);
2. the types of businesses potentially affected by the proposed regulation;
3. the total number of small businesses potentially subject to the proposed regulation (existing law requires this to be included in the regulation's fiscal note); and
4. whether, and to what extent, the agency communicated with small businesses or small business organizations in developing the proposed regulation and flexibility analysis.

Under the act, the analysis must also state whether small businesses, in order to comply with the proposed regulation, may be required to do any of the following specific actions:

1. create, file, or issue additional reports;
2. implement additional recordkeeping procedures;
3. provide additional administrative oversight;
4. hire additional employees;
5. hire or contract with additional professionals, including lawyers, accountants, engineers, auditors, or inspectors;
6. purchase any product or make any capital investment;
7. conduct additional training, audits, or inspections; or
8. pay additional taxes and fees.

Prior law required agencies, in their analyses, to use specific strategies to accomplish statutory objectives while minimizing the regulation's impact on small businesses. The act instead requires agencies to state whether, and to what extent, the regulations provide alternative compliance methods for small businesses, which may include any of the strategies specified in law (e.g., establishing less stringent reporting requirements for small businesses).

Existing law, unchanged by the act, requires an agency, before adopting any regulations that may adversely affect small businesses, to notify the Department of Economic and Community Development (DECD) and the Commerce Committee of its intent to adopt the proposed regulations. DECD and the committee must advise and assist an agency in preparing its regulatory flexibility analysis.

By law, these requirements do not apply to emergency regulations, small business set-aside program regulations, or regulations that do not directly impact small businesses, including regulations (1) for the administration of federal programs or (2) concerning costs and standards for service businesses (e.g., nursing homes, day care facilities, and nonprofit agencies).

PA 16-114—sHB 5423
Commerce Committee

AN ACT ENCOURAGING MIDDLE SCHOOL AND HIGH SCHOOL STUDENTS TO CONSIDER CAREERS IN MANUFACTURING AND CONCERNING INFORMATION POSTED ON THE LABOR DEPARTMENT'S APPRENTICESHIP WEB SITE

SUMMARY: This act requires the education commissioner, in collaboration with the Board of Regents for Higher Education, to establish a committee to coordinate efforts to educate middle and high school students about manufacturing careers.

Under the act, the committee must annually (1) compile a catalog of manufacturing training programs at public and private educational institutions in the state and (2) analyze, in consultation with the manufacturing industry, whether current programs available to Connecticut students are meeting workforce needs. It must annually report its findings to the Commerce and Higher Education committees, with the first report due by February 1, 2017.

The act also requires the education commissioner to develop a (1) program, in consultation with the committee, to introduce middle and high school students to manufacturing careers and (2) best practices guide, in consultation with representatives from the manufacturing industry and the Connecticut Center for Advanced Technology (CCAT), to help local and regional school boards incorporate relationships with the manufacturing industry in their middle school and high school curricula.

Additionally, the act requires the Department of Labor (DOL) to update its apprenticeship website by March 1, 2017 with certain information, such as a list of occupations in which apprentices are employed and the coursework and cost of such apprenticeships.

EFFECTIVE DATE: Upon passage

COMMITTEE COMPOSITION

The committee must include middle and high school teachers and guidance counselors and representatives of the following departments and entities:

1. Department of Economic and Community Development,
2. DOL,
3. CCAT,
4. technical high school system,
5. advanced manufacturing centers at the regional community-technical colleges,
6. independent higher education institutions that offer manufacturing training,
7. Connecticut Employment and Training Commission,
8. manufacturing companies, and
9. employee organizations representing manufacturing workers.

MANUFACTURING PROGRAM CATALOG

The act requires the committee to annually compile a catalog of manufacturing training programs at public and independent higher educational institutions. It must complete the first catalog by January 1, 2017, and each subsequent catalog by August 1, annually. The education commissioner must post the catalog on the Education Department's website and also distribute it to each local and regional school board.

The catalog must include the following information for each program:

1. degree, certification, license, or credential awarded on completion of the program;
2. time period and requirements for completion;
3. enrollment process; and
4. cost of attendance.

PROGRAM TO INTRODUCE STUDENTS TO MANUFACTURING

The act requires the education commissioner, in consultation with the committee, to develop and administer a program to introduce middle and high school students and their parents or guardians and guidance counselors to manufacturing careers. Under the act, the program may include posters, videos, pamphlets, hands-on learning opportunities, social media, and other technology to describe and promote (1) modern manufacturing and (2) the manufacturing training programs included in the catalog created by the committee.

Under the act, the commissioner may enter into partnerships with one or more private sector entities to further the program's goals. The partnerships can include student visits to manufacturers and manufacturer visits to schools to give students first-hand exposure to modern manufacturing and the products and materials created by in-state manufacturers.

DOL'S APPRENTICESHIP WEBSITE

The act requires DOL to update its website for the Office of Apprenticeship Training by March 1, 2017. The update must at least:

1. simplify the process by which current and prospective apprentices and employers can access comprehensive information about apprenticeship training;
2. provide an accurate list of occupations in which apprentices are employed in the state and the number of apprentices who participated in each occupation during the previous calendar year; and
3. include comprehensive information about apprenticeship coursework, with a list of coursework providers, their websites and locations, the occupations in which they offer coursework, and associated costs.

Any information on associated costs of apprenticeships must be accompanied by a disclaimer that cost is only one factor to consider when selecting coursework. DOL may provide electronic links to the information.

Under the act, DOL must update the lists of occupations with apprentices and coursework providers as often as practicable, but at least annually, to improve the efficiency with which current and prospective apprentices and employers may engage in apprenticeships in the state.

Lastly, DOL must report on the website update to the Program Review and Investigations and Labor and Public Employees committees by March 31, 2017.

PA 16-115—sHB 5425 (**VETOED**)
Commerce Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE CREATION OF CONNECTICUT BROWNFIELD LAND BANKS, CERTAIN LENDER RESPONSIBILITY FOR RELEASES AT BROWNFIELDS AND REVISIONS TO BROWNFIELD REMEDIATION AND DEVELOPMENT PROGRAMS

SUMMARY: This act establishes a framework for organizing and operating local nonprofit land banks to acquire, remediate, and sell brownfields. As part of that framework, these Connecticut Brownfield Land Banks (CBLBs) may access the same brownfield remediation tools and incentives as municipalities. To do so, a CBLB must first (1) be certified as meeting the act's requirements by the Department of Economic and Community Development (DECD) and (2) enter into a land banking agreement with one or more municipalities.

The act specifies that the liability protection afforded developers under DECD's Brownfield Remediation and Revitalization Program (see BACKGROUND) applies to any lender to whom a developer conveys a security interest in a property being remediated under the program, provided that the developer is not responsible under any statute for polluting property. The program shields developers that clean up brownfields according to the program's standards from liability to the state and third parties. Developers must apply to DECD to have a brownfield admitted into the program.

The law protects lenders from liability when they hold or obtain a security interest in a remediated property as long as they do not participate in its management (CGS § 22a-452f). The act specifies that the protection provided under this law does not change when a property is remediated under the Brownfield Remediation and Revitalization Program.

The act also changes the fees required as a condition of extending the program's protections to a party that acquires a property being remediated under the program (i.e., a transferee). Under prior law, the transferee had to pay the same fee as the property's initial owner. The act instead requires the transferee to pay a $10,000 fee or the balance of any unpaid fee, whichever is greater.

The act specifies that developers remediating brownfields under the program do not have to investigate and remediate any hazardous substance that was released beyond the boundaries of the brownfield. Prior law exempted developers from investigating and remediating plumes of such substances beyond the brownfield's boundaries. (Plumes are volumes of contaminated groundwater that extend downward and outward from a specific source.)

Lastly, the act makes conforming technical changes.

EFFECTIVE DATE: July 1, 2016

§§ 1 & 2 — CONNECTICUT BROWNFIELD LAND BANK CERTIFICATION PROCESS

Overview

The act establishes a process for certifying nonprofit organizations as CBLBs. An organization seeking CBLB certification must apply to DECD and once certified, may:

1. acquire, retain, remediate, and sell brownfields for a municipality's benefit;
2. educate government officials, community leaders, economic development agencies, and nonprofit organizations on brownfield redevelopment best practices; and
3. engage in other activities the act authorizes.

As discussed below, CBLBs operate on behalf of municipalities under a land banking agreement. Municipalities include cities, towns, consolidated cities and towns, boroughs, special taxing districts, and any other political subdivision with taxing and bonding powers. They also include any U.S. Census Bureau-designated metropolitan area, which is a city with at least 25,000 people and surrounding municipalities within 15 miles of its boundary.

Application Content

A nonprofit organization applying for CBLB certification must provide:

1. its certificate of incorporation and bylaws,
2. a list of its current officers and directors,
3. a proposed land banking agreement with one or more municipalities,
4. proof that it has the financial and technical capacity to fulfill the purposes of a CBLB,
5. its proposed business plan, and
6. any other information the commissioner requires.

Approval Criteria

In reviewing an application for certification, the commissioner must consider:

1. whether the applicant has the financial and technical wherewithal to fulfill the purposes of a CBLB,
2. the relative economic conditions of the municipalities the organization proposes to serve,
3. the degree to which these municipalities support the organization's certification,
4. the quality of the CBLB's business plan, and
5. any other criteria the commissioner establishes.

If the commissioner approves the application, she must issue a certificate granting the organization all the rights, privileges, and immunities the act grants to CBLBs.

Annual Reviews

CBLBs must submit a report to the commissioner annually by January 31, describing their activities for the previous year, including:

1. the CBLB's updated business plan and a list of current officers and directors,
2. the CBLB's complete operating and financial statement,
3. copies of any land banking agreements the CBLB entered into during the preceding year, and
4. any other information the commissioner requests.

The commissioner must review the report to determine if it includes the required information. If it does not, she must notify the CBLB's officers by mail that she will decertify the organization 120 days after the mailing date unless CBLB submits a revised report that she determines provides the required information. The commissioner may extend the 120-day deadline by an additional 60 days.

If the commissioner decertifies the CBLB, it cannot enter into any new land banking agreements but continues to (1) enjoy its rights and (2) remains bound by its obligations, with respect to any property it acquired under a land banking agreement it executed before it was decertified. A decertified CBLB may reapply for certification.

§ 3 — CBLB DIRECTORS AND OFFICERS

CBLBs exercise their powers through their boards of directors, which must consist of between five and 11 members, each with knowledge and expertise in the land bank's purposes and activities. The board must elect from its members the board's chairperson and any other officers it deems necessary. It may establish committees and subcommittees and adopt bylaws and procedures needed to perform its functions.

Members serve without compensation, but are entitled to reimbursement for the actual and necessary expenses they incur while performing their official duties. The members are not personally liable for CBLB's loans, other financial obligations, or environmental liabilities, nor are they subject to creditors' rights, which apply only against the CBLB.

Elected and appointed state and local officers may serve on CBLB boards, and their appointment neither terminates nor impairs their public duties. State and municipal employees also may serve on a board.

Board members may organize and reorganize a CBLB's executive, administrative, clerical, and other departments, and can specify the duties, powers, and compensation of the CBLB's employees, agents, and consultants.

§ 4 — CBLB'S PURPOSES

The act gives CBLBs broad contractual, financial, and development powers, except the power to take property by eminent domain. A CBLB may:

1. enter into land banking agreements with municipalities to acquire, retain, remediate, and sell land and buildings in those municipalities on their behalf;
2. enter into contracts and agreement with municipalities to receive or provide staff support;
3. obtain grants or borrow money from private lenders, municipalities, and state and federal agencies to fund its operations;
4. secure the payment of some or all of its debt by procuring insurance or state and federal guarantees and making the necessary premium payments;
5. acquire property by purchase contracts, lease purchase agreements, installment sales contracts, land contracts, and foreclosure of municipal tax liens; and
6. do all things necessary to fulfill its purposes and comply with applicable laws.

The act complements the CBLBs' property acquisition powers by allowing municipalities to transfer or convey land and buildings and interests in them to a CBLB. A municipality may do this regardless of any conflicting statute, special act, charter, or home rule ordinance. The CBLB may accept property from the municipality according to the terms and conditions specified in their land banking agreement. The CBLB may also convey the property as its procedures allow.

§ 5 — TAX EXEMPTION

CBLBs must exercise their powers to benefit state residents, specifically to increase their commerce, wealth, and prosperity. Consequently, the act deems the exercise of these powers an essential public function and exempts CBLBs from paying state and local taxes and assessments on:

1. the revenue or property they receive, acquire, transfer, or use;
2. any income derived from these sources; and
3. any notes or other obligations issued or transferred, including the income they derive from these transactions.

§ 6 — SPECIFIED LAND ACQUISITION AND DISPOSITION POWERS

A CBLB may acquire only brownfields and adjacent or nearby property identified in the land banking agreement between it and the municipality where the property is located. It must hold this property in its own name regardless of the entity that transferred it. CBLBs must also maintain an inventory of all the real property they acquire and allow the public to review and inspect it.

CBLBs must adopt policies and procedures specifying their terms and conditions for acquiring real property or property interests. Those terms and conditions may allow for different types of compensation, including (1) monetary payments; (2) secured financial obligations, covenants, or conditions related to the property's current or future use; (3) contractual commitments imposed on the party transferring the property; and (4) other forms a CBLB's directors determine are in the CBLB's best interest.

CBLBs may also dispose of property they acquire as their land banking agreements allow. They can convey, exchange, sell, transfer, lease as lessee, grant, release, demise, and pledge as collateral any and all interests in, on, or to the property as long as the municipality where the property is located approves the transaction, as specified in the land banking agreement.

BROWNFIELD REMEDIATION TOOLS AND INCENTIVES

The act allows CBLBs to access the same brownfield remediation tools and incentives available to municipalities.

§ 7 — Local Option Property Tax Abatement (CGS § 12-81r)

It allows municipalities to forgive all or a portion of the principal and interest due on delinquent property taxes for a property the CBLB acquires or plans to acquire in the municipality. Existing law already allows them to:

1. forgive the delinquent taxes on a property for a party that intends to acquire, investigate, and remediate it according to state standards;
2. abate the property taxes for up to seven years on a property the owner agrees to remediate according to state standards; and
3. tax a remediated property for up to seven years based on its pre-remediation fair market value.

§ 8 — Conducting Environmental Site Assessments (CGS § 22a-133dd)

The law sets conditions under which a municipality, or a licensed environmental professional (LEP) it employs, may enter a property, without liability, to assess or investigate it. The act sets similar conditions under which a CBLB or an LEP it employs may enter a property it controls for the same purposes.

The CBLB or its LEP may enter the property subject to a land banking agreement between the CBLB and the municipality if:

1. the land banking agreement requires it to be investigated and assessed and the municipality is authorized to enter the property or
2. the property's owner and the municipality or CBLB entered into a voluntary agreement allowing the property's environmental condition to be investigated or assessed.

The act's liability protection does not protect the CBLB or the LEP for gross negligence or intentional misconduct. The CBLB or the LEP must give the property owner 45-day notice before entering the property.

§ 9 — Department of Energy and Environmental Protection (DEEP) Liability Relief Program (CGS § 22a-133ii)

The act makes CBLBs eligible to participate in DEEP's liability relief program, which under prior law was open only to municipalities, economic development agencies, municipally-formed nonprofit economic development corporations, and nonstock or limited liability companies these corporations form and control. The program protects these entities from liability for contamination that occurred before they acquired the property.

§§ 10 & 11 — Transfer Act Exemptions (CGS § 22a-134)

Under the act, properties municipalities convey to CBLBs are exempt from the transfer act. The transfer act requires parties to a real estate transaction involving contaminated property to notify DEEP about the contamination and identify the party that will investigate and remediate it. The law already exempted property that municipalities foreclosed on and subsequently conveyed, remediated under DECD's municipal brownfield grant program (CGS § 32-376), or acquired by eminent domain.

The act also sets conditions that exempt from the transfer act a property that a CBLB remediates and subsequently transfers. The transfer is exempt if the property was remediated under a DEEP or DECD liability relief program, is still compliant with that program when the transfer occurs, and was not used to generate hazardous waste after entering the program.

§ 12 — Remedial Action and Redevelopment Municipal Grant Program (CGS § 32-763)

The act makes CBLBs eligible for DECD remedial action and redevelopment grants, which had previously been available only to municipalities and local economic development agencies. The grants are for investigating, assessing, and cleaning up contaminated properties.

§ 13 — Abandoned Brownfield Cleanup Program (CGS § 32-768)

The act allows CBLBs to recommend property for remediation under DECD's Abandoned Brownfield Cleanup Program under the same conditions that apply to municipalities. As such, CBLBs can recommend property regardless of whether they own it. It also exempts them having to meet the program's responsible party criteria (i.e., the party that contaminated the property cannot be determined, no longer exists, or is unable to remediate it).

The program exempts participants from investigating and remediating contamination that emanated from the property before they acquired it and limits their liability to the state or third parties for the contamination as long as they did not cause or contribute to the contamination or negligently or recklessly exacerbate it.

§ 14 — Liability Protection Program (CGS § 32-769)

The act allows CBLBs to nominate property for remediation under the existing Brownfield Remediation and Revitalization Program under the same conditions that apply to municipalities (see BACKGROUND). A CBLB can nominate a property only if it has not already been nominated by the owners of contiguous property, a party proposing to acquire it (i.e., bona fide prospective purchaser), or its current owner, as long as that owner did not contaminate it.

BACKGROUND

Liability Protection Program (CGS § 32-769)

The program protects developers from liability to the state and third parties for cleaning up brownfields according to its requirements. But the protection is not absolute; developers accepted into the program are liable for any contamination they cause, including exacerbating the contamination that existed before they acquired the brownfield. The program's protection during or after remediation extends to the brownfield's immediate prior owner and the party that acquires it from the developer.

The program is open to people, businesses, nonprofit organizations, municipalities, public and nonprofit municipal economic development agencies, and state agencies. These entities and the property they propose to remediate must meet specific criteria. The DECD commissioner may accept up to 32 brownfields per year into the program.

The program protects participants from liability if they investigate and remediate the property according to DEEP standards. The law specifies the timeframe and process for completing these tasks. The protection continues after they transfer a property to another party as long as the transferor complied with its provisions.

PA 16-177—SB 397 **(VETOED)**
Commerce Committee
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING A MUNICIPAL OPTION FOR PROPERTY TAX ABATEMENTS FOR ARTS AND CULTURE

SUMMARY: This act allows municipalities to abate up to 100% of the property taxes due on otherwise taxable property used for arts or culture, including art galleries and studios, installation galleries, movie theaters, performance venues, and stores and restaurants catering or relating to the arts. A municipality that chooses to abate the taxes on these properties must do so by a vote of its legislative body. If that body is a town meeting, the board of selectmen must vote on whether to abate the taxes.

The law already exempts nonprofit organizations from paying property taxes on arts and cultural facilities they own and operate as long as they use them only for scientific, educational, literacy, historical, or charitable purposes. Nonprofit organizations that preserve open space land also pay no property taxes on the land (CGS § 12-81(7)).

EFFECTIVE DATE: October 1, 2016 and applicable to assessment years beginning on or after October 1, 2016.

PA 16-199—sSB 301
Commerce Committee
Environment Committee

AN ACT MODIFYING THE STANDARD FOR MANDATORY REPORTING OF ENVIRONMENTAL SPILLS

SUMMARY: This act requires the Department of Energy and Environmental Protection (DEEP) commissioner to adopt regulations specifying numerical thresholds for reporting discharges, spills, or other releases of specified substances, materials, and waste (i.e., regulatory thresholds) to DEEP.

Under the act, a person responsible for a release must report it to DEEP if it exceeds the applicable threshold established in regulations. Under prior law, anyone responsible for causing a release had to report it to DEEP if the released substance, material, or waste posed a threat to human health or the environment, regardless of the amount released. Under the act, the person must continue to report such releases until the regulatory thresholds take effect.
EFFECTIVE DATE: October 1, 2016

REGULATORY THRESHOLDS

Under the act, the DEEP commissioner must adopt regulatory thresholds for reporting discharges, spills, uncontrolled losses, seepages, or filtrations of certain substances to DEEP. In doing so, he may specify the facts that must be included in the report in addition to those the law already requires. Under the law, a person's report must include the name and address of the person reporting the spill; the date, location, amount, and cause of the release; the name and address of the owner of the real or personal property from which the spill occurred; and the reporting person's relationship with the owner. Existing law already allows the commissioner to specify additional information that must be included in the report.

BACKGROUND

Reporting Requirements

Under the law, the reporting requirement applies to release of specific substances, materials, and wastes under different situations. A release can be a discharge, spill, uncontrolled loss, seepage, or filtration of oil or petroleum; chemical liquids; solid, liquid, or gaseous products; or hazardous wastes that poses a potential threat to human health or the environment. It can be from a ship, boat, barge, or other vessel; a terminal where these substances are loaded and unloaded; or an establishment, vehicle, trailer, or other machine where a substance is accidently, negligently, or otherwise released.

A vessel's master, the person in charge of a terminal, an establishment's owner, and a machine's operator are specifically responsible for reporting a release to DEEP. They and their employers must pay fines if the responsible person fails to report. For most substances, the fine is up to $1,000 for the responsible person and up to $5,000 for the person's employer. The maximum fines increase to $5,000 and $10,000 respectively for gasoline releases.

PA 16-200—sSB 305
Commerce Committee
Transportation Committee

AN ACT ESTABLISHING A STATE FILM PERMITTING PROCESS

SUMMARY: This act makes the Department of Economic and Community Development's (DECD) Office of Film, Television, and Digital Media ("office") the statewide point of contact for all film, television, and digital media producers requesting permission to:

1. conduct film production activities ("film") on state-owned property, including state roads and highways, railroads and train stations, state forests and parks, airports, seaports, hospitals, and all public higher education institution campuses and
2. use any other state-owned real or personal property, except courthouses and judicial branch facilities, for film production.

Under the act, DECD may issue state film permits to people seeking to film on state-owned property. The act specifies the information that the permit must contain, such as insurance coverage requirements. Presumably, under existing law, people seeking to film on state property go directly to the state agency controlling the property. Under the act, state film permit holders must still obtain permission to film from the controlling agency, but must first present their permit.

Existing law requires anyone seeking to film on property owned or controlled by the Department of Transportation (DOT) to obtain a DOT filming permit (CGS § 13a-259). Under the act, people seeking a DOT filming permit must first obtain a state film permit. The act also eliminates a requirement that DOT determine, and specify on the DOT filming permit, the insurance coverage a permit holder must obtain.

Lastly, the act requires (1) DECD to develop guidelines to work with agencies to implement the film permitting process and (2) agencies to make reasonable efforts to work with the office.

EFFECTIVE DATE: October 1, 2016

DECD-ISSUED STATE FILM PERMIT

The act allows DECD to issue state film permits, on a form it designates, to anyone seeking to film on state-owned property. The state film permit must (1) identify the person requesting to film on state property and (2) indicate that the holder has provided documentation to DECD that substantiates the holder's ability to conduct indemnified film production activities.

Obtaining Permission to Film from State Agencies

A person who holds a state film permit must present it to the state agency, authority, or institution in control of the state property when seeking permission to film on the property. After the holder presents the permit, the agency may authorize him or her to film on the property. The act also makes a change to allow DOT to issue filming permits only after a person presents his or her state film permit.

Insurance Coverage and Liability

The act requires state film permits to specify the insurance coverage the holder must obtain, as determined by DECD and the state's director of Insurance and Risk Management, with the state named as the additional insured. It also eliminates a similar requirement that the DOT commissioner, in consultation with the state's director of Insurance and Risk Management, determine the insurance coverage a DOT filming permit holder must obtain and specify the coverage on the DOT filming permit.

Under the act, no liability accrues to the state or any of its agencies or employees for any injury or damages to people or property that may directly or indirectly result from a state film permit holder's production activities on state-owned property.

GUIDELINES AND AGENCY COOPERATION

Existing law requires DECD to formulate and propose guidelines, forms, or model local ordinances to state agencies and municipalities for creating a "one-stop permitting process" for using state or municipal roads and highways or other state or municipal property for film production activities (CGS § 32-1p).

Under the act, DECD must develop guidelines to work with agencies to implement the act's film permitting process. The guidelines must include:

1. an agency contact at the office for filing applications and obtaining information on the permit's requirements;
2. the identification of each individual within each agency who is a point of contact for an agency permit application;
3. a single, coordinated production activity form, including an equipment checklist and roster;
4. a process by which the office may forward permit applications to other state agencies on behalf of applicants; and
5. a fee structure, at the DECD commissioner's discretion.

The guidelines must also include a mandatory pre-application review process to reduce permitting issues or conflicts by providing guidance to applicants on:

1. information required for permit approval or authorization from the relevant state agencies;
2. specifications for desired on-site production and production-related activities, site suitability, and limitations; and

3. steps applicants can take to ensure expeditious permit application.

The act allows the office, at the DECD commissioner's request, to ask any state agency to provide information and assistance as may be necessary to expedite the permitting process the act creates. Each state agency officer or employee must make reasonable efforts to cooperate with the office.

EFFECTIVE DATE: October 1, 2016

PA 16-201—sSB 306
Commerce Committee

AN ACT CONCERNING THE OFFICE OF THE PERMIT OMBUDSMAN AND ASSISTANCE FOR BIOSCIENCE COMPANIES

SUMMARY: This act makes projects to develop bioscience businesses eligible for assistance from the Department of Economic and Community Development's (DECD) Office of the Permit Ombudsman. By law, the office coordinates expedited permit reviews of eligible economic development projects with the transportation, public health, and energy and environmental protection departments.

The act also requires the permit ombudsman to assist and provide guidance to bioscience businesses seeking to expedite the review and approval of permits required by local zoning authorities.

EFFECTIVE DATE: October 1, 2016

BACKGROUND

Project Eligibility Criteria for Expedited Permit Reviews

By law, DECD's Permit Ombudsman Office provides for the expedited review of projects meeting one of two sets of economic development criteria. It must do so for projects:

1. creating at least 50 permanent, full-time equivalent non-construction jobs in any of the state's 17 enterprise zones or at least 100 such jobs elsewhere in Connecticut;
2. located in a brownfield;
3. compatible with the state's responsible growth initiatives;
4. considered transit-oriented development, or
5. developing green technology businesses.

The office also must review other types of projects the commissioner approves based on specified economic impact factors, such as the project's total capital investment and the extent to which it will diversify and strengthen the local and state economy.

PA 16-204—sSB 401
Commerce Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE CONNECTICUT BIOSCIENCE INNOVATION FUND AND INVESTMENTS BY CONNECTICUT INNOVATIONS, INCORPORATED

SUMMARY: This act allows Connecticut Innovations, Inc. (CI) to use its unrestricted funds and funds in the Connecticut Bioscience Innovation Fund (CBIF) to invest in private equity investment funds under certain conditions (see BACKGROUND).

It makes the following changes to CBIF administration and eligibility:

1. crediting to CI's unrestricted funds any income or earnings in excess of the original award amount that result from CBIF financial assistance awards;
2. making businesses' eligibility for CBIF funding contingent on annual commercial revenue, rather than the age of the business and current activity; and
3. allowing CI to provide, through CBIF, additional funding to eligible recipients that have already received financial assistance from CI or CBIF ("follow-on funding").

The act also makes technical and conforming changes.
EFFECTIVE DATE: July 1, 2016

PRIVATE EQUITY FUND INVESTMENT

CI's General Powers

The act authorizes CI to (1) invest its unrestricted funds in private equity investment funds, or "funds of funds," and (2) enter into related limited partnership agreements or other contractual arrangements with the investment funds. The investment funds may be organized and managed and invested in businesses in- or out-of-state, as long as the funds' investment objectives and criteria are consistent with policies adopted by CI's board of directors. Under the act, these policies must require an investment fund to invest at least as much money as CI invested in the fund, discounting reasonable management fees and closing costs, to support the (1) growth of technology, bioscience, or precision manufacturing businesses or (2) relocation of these businesses to Connecticut.

CBIF

Under existing law, the CBIF advisory committee provides CBIF financial assistance directly to eligible recipients. Under the act, the committee may additionally provide financial assistance indirectly to eligible recipients by investing in private equity investment funds, including those organized, managed, and investing in businesses in- or out-of-state.

The act requires the committee to adopt guidelines to provide CBIF financial assistance through private equity investment funds. The guidelines must require any fund that receives a CBIF investment to invest an amount at least equal to the CBIF investment, discounting reasonable management fees and closing costs, in Connecticut entities that qualify for CBIF assistance.

CBIF ADMINISTRATION AND ELIGIBILITY

Income and Earnings

Under prior law, all money recovered or earned as a result of financial assistance provided from CBIF had to be credited back to CBIF and held for its use. Under the act, (1) any repayment of loan principal or other recovery of the original amount of financial assistance awarded from CBIF must be credited to CBIF and (2) any interest repayments and additional income, earnings, or return on investment in excess of the original CBIF award amount are deemed unrestricted funds of CI. Consequently, CI can use the CBIF returns to fund any of its other programs or for other purposes.

Eligibility

By law, entities eligible for CBIF financial assistance include accredited colleges or universities, nonprofits, for-profit start-ups, and early-stage businesses. The act makes businesses' eligibility for CBIF funding contingent on annual commercial revenue, rather than the age of the business and current activity, by modifying the definition of "early-stage business." Under prior law, an early-stage business was one that had been operating for seven years or less and was developing or testing a product or service that was (1) not yet available for commercial release or (2) commercially available in a limited manner, including market testing of prototypes and certain clinical trials. Under the act, an early-stage business is instead one that has not yet achieved annual commercial revenue of more than $2 million.

BACKGROUND

CI

CI is a quasi-public agency with broad powers to finance and promote technological innovation. It is governed by a 17-member board composed of gubernatorial and legislative appointees, as well as four ex-officio members. Among other things, CI invests in startups in software and information technology, bioscience, clean technology, digital media, and technology important to advanced manufacturing (e.g., photonics and advanced materials). CI can also fund research that has commercial applications (CGS § 32-35).

CBIF

CBIF is administered by CI and governed by an advisory committee. CBIF provides grants, loans, equity, and other types of investments ("financial assistance") to colleges, universities, nonprofits, start-ups, and early-stage businesses to further the development of disciplines, such as bioscience, medical devices, and health information management, that (1) are likely to lead to an improvement in or development of commercializable services, therapeutics, diagnostics, or devices; (2) are designed to advance the coordination, quality, or efficiency of health care and lower health care costs; and (3) promise, directly or indirectly, to lead to job growth in the state in these or related fields. CBIF is capitalized by bond funds (CGS §§ 32-41aa to 32-41dd).

PA 16-41—SB 379
Education Committee

AN ACT CONCERNING THE RECOMMENDATIONS OF THE MINORITY TEACHER RECRUITMENT TASK FORCE

SUMMARY: This act makes changes to the laws affecting the entrance requirements for teacher preparation programs and the minority teacher recruitment task force. It also requires the State Department of Education (SDE) to take several actions regarding minority teacher recruitment, teacher certification, and alternative route to teacher certification (ARC) programs.

Under prior law, an applicant had to receive a satisfactory score on the State Board of Education (SBE)-prescribed reading, writing, and math competency exam (known as the Praxis exam) to be admitted into an SBE-approved teacher preparation program. The act eliminates this requirement and instead requires that all those accepted in these programs take the test and the results be used as a diagnostic tool for the applicant while in the program.

EFFECTIVE DATE: Upon passage for the task force changes (§ 1) and the new SBE teacher preparation remedial guidelines (§ 5); July 1, 2016 for the other provisions.

§ 1 — MINORITY TEACHER RECRUITMENT TASK FORCE

PA 15-108 created an 11-member minority teacher recruitment task force to study and develop strategies to increase and improve the recruitment, preparation, and retention of minority teachers in Connecticut public schools.

The act (1) extends the task force's duration until January 1, 2026; (2) extends, from February 1, 2016 to June 30, 2017, the deadline by which the task force must report to the Education Committee; (3) expands the task force's mission to include an analysis of the causes of Connecticut's minority teacher shortage; and (4) adds the Asian Pacific American Affairs Commission (APAAC) executive director, or her designee, to the task force. (PA 16-3, May Special Session, §§ 127, 128, and 131 merges the APAAC with the African-American Affairs Commission and the Latino and Puerto Rican Affairs Commission to form the Commission on Equity and Opportunity (CEO) and changes references in any 2016 public act from APAAC to the new CEO. Thus the appointment in PA 16-41 now comes from CEO.)

§ 2 — MINORITY TEACHER RECRUITMENT POLICY OVERSIGHT COUNCIL

The act establishes the Minority Teacher Recruitment Policy Oversight Council within SDE and requires it to meet at least quarterly and advise the education commissioner on a number of activities related to minority teacher recruitment. For this portion of the act, "minority" means someone whose race is defined as other than white, or whose ethnicity is defined as Hispanic or Latino by the federal Office of Management and Budget for U.S. Census use.

Under the act, the council membership consists of:

1. the education commissioner, or her designee;
2. two representatives from the minority teacher recruitment task force;
3. one representative from each of the teachers' unions and the administrators' union;
4. the Board of Regents for Higher Education president, or his designee; and
5. a representative from an ARC program, appointed by the education commissioner.

The act requires the council to advise the commissioner on ways to:

1. encourage minority middle and secondary school students to attend institutions of higher education and enter teacher preparation programs,
2. recruit minority students attending institutions of higher education to enroll in teacher preparation programs and pursue teaching careers,
3. recruit and retain minority teachers in Connecticut schools,
4. recruit minority teachers from other states to teach in Connecticut, and
5. recruit minority professionals from other fields to enter teaching.

The council must annually report the recommendations it gives the commissioner to the Education Committee. The act does not provide a deadline for these reports.

§ 3 — SURVEY OF MINORITY TEACHER RECRUITMENT PROGRAM PARTICIPANTS

By January 1, 2017 and annually thereafter, the act requires SDE to survey students participating in minority teacher recruitment programs offered by Connecticut regional educational service centers (RESCs) or public institutions of higher education. The survey must include questions addressing the components and effectiveness of the minority teacher recruitment program. SDE must annually report the survey results and findings to the Education Committee. The act does not provide a deadline for these reports.

§§ 4 & 5 — PRAXIS TEST REMOVED AS REQUIREMENT FOR ENTRY INTO TEACHER PREPARATION PROGRAMS

Under prior law, an applicant had to receive a satisfactory score on the SBE-prescribed reading, writing, and math competency exam to be admitted into an SBE-approved teacher preparation program. (The exam is known as the Praxis test, see BACKGROUND.) The act eliminates this requirement and instead requires that (1) all those accepted in a teacher preparation program take the test and (2) the results be used as a diagnostic tool, in accordance with new remedial instruction guidelines the act requires SBE to adopt, while the applicant is in the program. Thus, the act removes the statutory requirement for admissions in teacher preparation programs (the programs otherwise set their own admission requirements).

The act requires SBE to adopt remedial instruction guidelines related to the competency exam scores by January 1, 2017. The guidelines must establish standards for using the exam scores as a diagnostic tool to provide any remedial instruction in areas identified through the scores to students enrolled in a teacher preparation program. Under the act, SBE may revise and update the guidelines as necessary.

The act also make conforming changes, including eliminating the competency exam waivers.

§ 6 — REPORT ASSESSING EFFECTIVENESS OF MINORITY TEACHER RECRUITMENT PROGRAMS

The act requires SDE, by July 1, 2017 and annually thereafter, to submit a report to the Appropriations and Education committees that assesses the effectiveness of state minority teacher recruitment programs using results-based accountability measures. The minority teacher recruitment programs include those administered by RESCs and the minority teacher incentive program administered by the Office of Higher Education (OHE).

§ 7 — SCHOOL SUPPORT STAFF ALTERNATIVE ROUTE TO CERTIFICATION

The act requires SDE to review and approve proposals to create ARC programs for school support staff, defined as board certified behavior analysts or board certified assistant behavior analysts, athletic coaches, and school paraprofessionals.

To be approved under the act, an ARC program must:

1. be provided by a public or independent institution of higher education, a local or regional board of education, a RESC, or an SBE-approved private nonprofit teacher or administrator training organization;
2. accept only participants who (a) hold a bachelor's degree from a state or regionally accredited institution of higher education, (b) have been employed by a local or regional board of education for at least 40 school months (four school years) as school support staff, and (c) are recommended by their immediate supervisor or district administrator on the basis of their performance;
3. require each participant to complete a one-year residency that requires the participant to serve (a) in a position requiring professional certification and (b) in a full-time position for 10 school months at a local or regional board of education under the supervision of a certified administrator or teacher and a supervisor from the institution or organization providing the ARC program; and
4. meet other criteria as the department requires.

Initial Educator Certificate

The act requires SBE to award an initial educator certificate beginning July 1, 2016, on receipt of a proper application to any person who (1) successfully completed the ARC program under the act's provisions and (2) achieves a satisfactory evaluation on an appropriate subject area assessment approved by SBE. By law, SBE grants three levels of educator certificate (initial, provisional, or professional) based on the applicant's qualifications.

The initial educator certificate issued under the act is valid for three years.

Master's Degree Deadline

The act sets a five-year deadline to earn a master's degree for a person awarded an initial educator certificate through the ARC program who seeks to obtain a professional educator certificate. By law, an applicant must hold a master's degree, among other requirements, in order to be awarded a professional educator certificate.

Under the act, if the person does not obtain a master's degree within the five years, he or she will not be eligible for a professional educator certificate.

§ 8 — CERTIFICATION FOR OUT-OF-STATE TEACHERS

Under prior law, an out-of-state teacher could be awarded a professional educator certificate in Connecticut if he or she met certain criteria. The act modifies the criteria and makes the certification awarded a provisional rather than a professional certification. (Provisional is the middle level certification in Connecticut's three level system.)

The act eliminates the requirement that out-of-state teachers (1) be nationally board certified and (2) hold a master's degree in an appropriate subject matter area as determined by SDE.

It replaces those with requirements that the applicant must have (1) received at least two satisfactory performance evaluations while teaching in another state, territory, U.S. possession, District of Columbia, or Puerto Rico and (2) fulfilled post-preparation assessments as approved by the education commissioner.

The act also exempts an applicant who has successfully completed a teacher preparation program or an ARC program in another state, territory, U.S. possession, District of Columbia, or Puerto Rico from having to complete a course of study in special education, as otherwise required under teacher certification law.

§ 9 — TEACHER CERTIFICATION INTERSTATE AGREEMENTS

By law, the education commissioner can establish or join interstate agreements with other states or jurisdictions to facilitate the Connecticut certification of qualified teachers from other states or jurisdictions. The act removes the criteria that such agreements require that the applicants (1) have taught under an appropriate certificate issued by another state, territory, or possession of the U.S., the District of Columbia, or Puerto Rico and (2) meet all other conditions of the interstate agreement. It instead requires that the applicant successfully complete an approved educator preparation program. The act leaves unchanged the criteria that these applicants (1) hold a bachelor's degree from a regionally accredited college or university and (2) have fulfilled post-preparation tests the commissioner approves. For purposes of interstate agreements or recognition statements, a "state" means another state, territory, possession of the U.S., the District of Columbia, or Puerto Rico.

Under prior law, SBE had to issue an initial educator certificate to an out-of-state applicant who satisfied the interstate agreement's requirements. Under the act, SBE must instead grant any appropriate level of educator certificate (initial, provisional, or professional) to an applicant who satisfies the agreement and based on the applicant's qualifications.

The act also provides that when the commissioner is unable to establish or join an interstate agreement with another state, she may create and make available a recognition statement that specifies the states, assessments, and educator preparation programs that she will recognize for purposes of issuing teacher certification.

BACKGROUND

Praxis Exams

Receiving a passing score, as set by SDE, on certain Praxis exams is one requirement for teacher certification. In Connecticut most teachers must pass a general Praxis competency exam and a more specific subject matter exam (there are some waivers to the Praxis requirement). Praxis exams, a product of the Educational Testing Service, are used by more than 40 state education departments in teacher licensing.

PA 16-42—SB 383
Education Committee
Commerce Committee

AN ACT CONCERNING THE TECHNICAL HIGH SCHOOL SYSTEM

SUMMARY: This act makes changes to the budgetary process for the Connecticut technical high school system. The act specifies that the State Board of Education (SBE) must review, but cannot amend, the proposed operating budget that the system must, by law, submit to SBE. It allows SBE to attach comments or recommendations for revisions when submitting the budget to the Office of Policy and Management (OPM) secretary.

Additionally, the act (1) makes several changes to the system's budgetary process regarding staffing needs and (2) requires the system superintendent to present additional information about technical high school and state workforce issues at an annual joint meeting of legislative committees.

EFFECTIVE DATE: July 1, 2016

BUDGETARY PROCESS AND SYSTEM STAFFING

The act makes several changes to the budgetary process regarding system staffing. It requires each technical high school to include a staffing needs statement in its proposed operating budget for the succeeding school year that it submits to the system superintendent.

Additionally, the act requires the superintendent to include a staffing needs statement for both the entire system and each school within it in her proposed operating budget for submission to the system's board, OPM, and the Appropriations and Education committees. The act also requires the superintendent to communicate directly with the OPM secretary about creating or filling staff positions included in the approved operating budget.

JOINT COMMITTEE MEETING ON TECHNICAL HIGH SCHOOLS AND WORKFORCE ISSUES

The act requires the system superintendent to submit staffing information about each technical high school for the current academic year at the annual joint meeting of the Education, Higher Education, and Labor committees about technical high school and state workforce issues.

Existing law also requires the superintendent to submit the following at this meeting:

1. information ensuring that the system's curriculum incorporates workforce skills the labor commissioner identifies as needed for the next 30 years;
2. information on technical high school graduates and individuals who have completed an approved program of study (e.g., their employment status, age and gender, and wages); and
3. an assessment of whether the system's resources can meet workforce needs.

Prior law also required the superintendent to provide recommendations to SBE on how to carry out the three provisions above. The act instead requires the superintendent to submit such recommendations to the system's board.

PA 16-92—sSB 317
Education Committee

AN ACT CONCERNING DYSLEXIA

SUMMARY: Beginning July 1, 2017, this act establishes additional requirements for applicants seeking a teacher certification endorsement as a remedial reading, remedial language arts, or reading consultant. It requires them to complete a reading and language diagnosis and remediation program that includes supervised practicum hours and instruction in the detection of, and evidence-based structured literacy interventions for, students with dyslexia. This requirement applies to applicants for any of the three teacher certification levels (initial, provisional, or professional), as well as certified teachers seeking the endorsement.

Prior law only required applicants for these endorsements to achieve a satisfactory score on the State Board of Education (SBE)-approved reading instruction exam or a comparable reading instruction exam with standards equivalent to the SBE-approved exam. The act suspends this exam requirement for one year, starting on July 1, 2016, and reinstates it when the new diagnosis and remediation program requirement becomes effective on July 1, 2017.

Under the act, dyslexia has the same meaning found in the State Department of Education's guidance manual for individualized education programs (IEP) under special education law *(IEP Manual and Forms*, revised January 2015). The manual defines dyslexia as a type of learning disability that affects reading, specifically spelling, decoding words, and fluent word recognition.
EFFECTIVE DATE: July 1, 2016

PA 16-100—sHB 5306
Education Committee
Appropriations Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE OFFICE OF EARLY CHILDHOOD

SUMMARY: This act makes numerous changes to the laws affecting early childhood programs, including:

1. limiting the Office of Early Childhood's (OEC) authority to waive the requirement that a child care center or group child care home submit a new license application in certain instances (§ 1);
2. requiring all license-exempt child care programs to notify the parents or guardians of participating children that the program is not licensed by OEC (§ 2); and
3. authorizing the OEC commissioner to enter into enforcement agreements with child care and youth camp programs in licensing matters (§ 7).

It also makes other minor, technical, and conforming changes.
EFFECTIVE DATE: July 1, 2016 for the section on OEC licensing exemptions; October 1, 2016 for the sections on authority to waive license requirements and conforming and technical changes; and upon passage for all other sections.

§ 1 — AUTHORITY TO WAIVE LICENSE REQUIREMENTS IN CERTAIN SITUATIONS

OEC has the authority to grant, suspend, or revoke licenses for child care programs, group child care homes, and youth camps. Prior law allowed the OEC commissioner to determine whether the change of operator, ownership, or location of a licensed child care center or group child care home required the person or entity holding the license to file a new license application. Under the act, the commissioner may only waive the requirement to re-apply if the request comes before the change of operator, ownership, or location. The act specifies that the commissioner may grant or deny the request to waive the requirement.

§ 2 — NOTICE REGARDING LICENSE-EXEMPT PROGRAMS

The act extends to all license-exempt child care programs the requirement to notify participating children's parents or guardians that the program is not licensed by OEC. The law already required this notification by two license-exempt programs: Solar Youth, Inc. of New Haven and the Cardinal Shehan Center in Bridgeport.

The act extends the notification requirement to the following:

1. programs administered by public school systems or municipal agencies or departments;
2. programs administered by private schools that (a) comply with state law regarding private school student attendance reporting and (b) are State Board of Education (SBE)-approved or accredited by an SBE-recognized accrediting agency;
3. (a) classes teaching music, dance, drama, art, or a single skill that are up to two hours long; (b) library programs up to two hours long; (c) scouting; (d) programs that offer exclusively sports activities; (e) rehearsals; (f) academic tutoring programs; or (g) programs exclusively for children age 13 or older;
4. informal arrangements among neighbors and formal or informal arrangements among certain relatives in their own homes;
5. supplementary child care operations for educational or recreational purposes where the child receives the care infrequently and the parents are on the premises;
6. supplementary child care operations in retail businesses where the parents remain in the same store as the child for shopping, provided the operation does not charge a fee or refer to itself as a child care center;
7. programs administered by a nationally chartered boys' and girls' club that are exclusively for school-age children;

8. religious educational activities administered by religious institutions exclusively for children whose parents or legal guardians are institution members; and
9. programs administered by organizations under contract with the Department of Social Services that promote teenage pregnancy reduction through services to people age 10 through 19.

§ 5 — MEMBERSHIP OF THE HOME VISITATION PROGRAM CONSORTIUM

The act expands the maximum number of members of the Home Visitation Program Consortium from 25 to 28. It adds (1) the state Maternal, Infant Early Childhood Home Visiting program director (or designee) and (2) up to two more members who represent home visitation programs in the state. Other members already include representatives of (1) state agencies, (2) families receiving home visitation services, and (3) other early childhood or home visitation programs.

This consortium advises OEC and other state agencies on home visitation programs within the early childhood system.

§ 6 — MEMBERSHIP OF LOCAL SCHOOL READINESS COUNCILS

The act expands the required members of local school readiness councils to include the local homeless education liaison designated by the local or regional board of education under the federal McKinney-Vento Homeless Assistance Act. School districts must form these councils to apply for and receive school readiness funding from the state. The councils include municipal, school district, parent, and early childhood program representatives.

§ 7 — COMMISSIONER'S AUTHORITY TO ENTER INTO LICENSING ENFORCEMENT AGREEMENTS

The act authorizes the commissioner to enter into enforcement agreements for child care and youth camp program licensing matters. It authorizes her to enter into stipulations, agreements, memorandums of understanding, interim consent orders, or consent orders with any person, group, or entity that does the following:

1. maintains, or applies for, a license for a child care center or group or family child care home;
2. establishes, conducts, maintains, or applies for a license as a youth camp;
3. acts or seeks to act as a family child care home assistant or substitute staff member;
4. is the subject of an investigation or disciplinary action pursuant to various child care and youth camp laws while holding an OEC-issued license; or
5. is a party in a contested case in which OEC also is a party.

§§ 8 & 9 — REPEAL OF OBSOLETE CHILD CARE FACILITIES GRANT PROGRAM

The act repeals an obsolete child care facilities development and construction grant for municipalities and state agencies and related regulatory authority.

PA 16-131—sHB 5466
Education Committee

AN ACT CONCERNING CRIMINAL HISTORY RECORDS CHECKS FOR HOUSEHOLD MEMBERS OF A FAMILY CHILD CARE HOME AND PROVIDING CHILD CARE FOR ASSISTANCE RECIPIENTS ENROLLED IN APPROVED HIGHER EDUCATION PROGRAMS

SUMMARY: This act requires any household member age 16 or older who lives in a prospective family child care home to undergo state and national criminal history records checks when the care provider first applies to the Office of Early Childhood (OEC) for licensure, thus conforming the law to existing OEC practice. It defines a "household member" as anyone residing in the family child care home other than the person licensed to provide child care. This includes the licensee's spouse, children, tenants, or any other occupant. It also authorizes the OEC commissioner to take action against licensees with household members who have committed specific crimes.

Additionally, the act requires, rather than allows, the Department of Labor (DOL) to approve higher education courses as required employment activities for temporary family assistance (TFA) recipients in the Jobs First Employment Services (JFES) program (see BACKGROUND). It also adds enrollment at a public or independent institution of higher education to the list of employment services that DOL, if the department deems it appropriate, must provide to TFA recipients. In doing so, the act allows TFA recipients participating in approved education courses to receive Care 4 Kids child care subsidies. It also repeals a conflicting law on DOL approval of higher education courses as employment activities.

The act also makes several technical and conforming changes.

EFFECTIVE DATE: Upon passage, except the Care 4 Kids and TFA provisions take effect July 1, 2016.

HOUSEHOLD MEMBERS IN FAMILY CHILD CARE HOMES

The act allows the OEC commissioner to refuse to approve, as well as to suspend or revoke, a family child care provider's license or take other action against the licensee, if a household member age 16 or older has a (1) felony conviction anywhere in the United States involving the use or threatened use of physical force or (2) criminal record in Connecticut or any other state that the commissioner reasonably believes makes the provider unsuitable to own, conduct, operate, or maintain the family child care home. As under existing law, the commissioner may also take such action if a household member is convicted of various felonies involving a victim under age 18, sexual assault, or illegal substances, among other things.

Prior law required family child care home licensees or assistant or substitute staff members to immediately notify the commissioner on learning that a person residing in the family child care home has been convicted of a crime that affects the commissioner's discretion in licensing or approving individuals. The act specifies that the notice requirement applies to household members age 16 or older.

HIGHER EDUCATION COURSES FOR TFA RECIPIENTS

Prior law authorized the DOL commissioner, in consultation with the social services commissioner, to approve education courses as required employment activities for TFA recipients. The act requires, rather than allows, him to do so. It also requires the approved courses to include all degree programs offered at public and private, nonprofit higher education institutions, rather than two- or four-year programs. Enrollment in degree-granting, for-profit institutions is therefore no longer acceptable. Additionally, it adds public and independent institutions of higher education to the list of permissible employment service providers.

The act repeals a law which required TFA's JFES program to approve two- or four-year higher education degree programs as acceptable work activities when the labor commissioner determined that the state unemployment rate has been at least 8% for the preceding three months.

BACKGROUND

JFES

The state's JFES program includes two parts: (1) TFA, which generally provides up to 21 months of cash assistance to needy families with children, and (2) JFES, which provides services and support to help adult caretakers secure permanent employment within the time limit. Unless exempted by law, TFA recipients generally have to participate in JFES to remain eligible for TFA.

PA 16-132—sHB 5467
Education Committee

AN ACT ESTABLISHING A RED RIBBON PASS PROGRAM

SUMMARY: This act requires the State Department of Education (SDE) to establish a Red Ribbon PASS Program recognizing school districts that qualify as "highly performing" or "improving" physically active school systems (PASS).

Under the act, SDE must (1) develop new standards or adopt existing standards to use in recognizing school districts under the program and (2) post program information on its website. SDE may accept private donations for this program.

The act allows local or regional boards of education to request Red Ribbon PASS Program recognition by providing SDE with, in a time and manner prescribed by the department, (1) the school district's results on the Connecticut physical fitness assessment and (2) a demonstration of how the district satisfied the PASS standards.
EFFECTIVE DATE: July 1, 2016

PA 16-139—HB 5553
Education Committee

AN ACT CONCERNING MAGNET SCHOOL TUITION

SUMMARY: This act prohibits local or regional boards of education operating interdistrict magnet schools ("operating boards") from charging tuition, under certain circumstances and with some exceptions, to other boards of education sending students to attend these magnet schools ("sending boards").

Specifically, beginning in the 2015-16 school year, the act prohibits operating boards from charging tuition to sending boards that were not charged tuition for the 2014-15 school year. It allows operating boards to charge tuition, however, for each student attending their magnet schools that sending boards would otherwise have been responsible for educating, under the following conditions: (1) the education commissioner authorizes the proposed tuition charges and (2) upon such authorization, the operating board gives written notice of the charges to the sending board by September 1 of the school year preceding the school year in which tuition is to be charged.

Under the act, the commissioner must consider the following when deciding whether to authorize an operating board's tuition charges: (1) the board's average per pupil expenditure for each magnet school under its control and (2) the amount of any per pupil state subsidy and any revenue from other sources the magnet school operator received. The act also allows the commissioner to conduct a comprehensive financial review of a magnet school's operating budget to verify that the tuition is appropriate.

The act does not apply to magnet schools (1) operated by regional education service centers (RESCs) or (2) assisting the state in meeting the racial integration goals of the *Sheff v. O'Neill* settlement (i.e., "*Sheff* magnet schools"). It also makes several technical changes.
EFFECTIVE DATE: Upon passage

PA 16-163—sSB 178
Education Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE EDUCATION AND EARLY CHILDHOOD STATUTES

SUMMARY: This act makes technical and conforming changes to statutes affecting education and early childhood services. The act updates obsolete statutory language referring to child care services and providers. Generally, it replaces the term "day care" with "child care" and makes conforming changes in references to child care "centers" and "facilities" throughout.
EFFECTIVE DATE: Upon passage

PA 16-188—SB 179
Education Committee
Public Health Committee

AN ACT CONCERNING EDUCATION ISSUES

SUMMARY: This act makes the following changes to the education and human services statutes:

1. requires the State Board of Education (SBE), in consultation with the Department of Veterans' Affairs, to award an exemplary veterans education program distinction to deserving local and regional boards of education (§ 1);
2. requires boards of education to post the telephone number for the Department of Children and Families' (DCF) child abuse hotline ("Careline") in a conspicuous school location for students to view (§§ 2 & 3);

3. requires public schools to add cancer awareness to their health and safety program of instruction, including age and developmentally appropriate instruction in performing breast and testicular self-examinations to screen for cancer (§ 4);
4. establishes a task force to review, streamline, and align state policies relating to school climate, bullying, school safety, and social-emotional learning (§ 5);
5. requires the East Haven school district, in school years 2016-17 through 2025-26, to participate in a pilot program to transport students whose private schools have closed to equivalent private schools in New Haven (§ 6);
6. requires the State Department of Education (SDE) to reimburse the Franklin board of education for special education and transportation costs incurred during FYs 12-14 attributed to any "no-nexus" student (i.e., a child in DCF custody who is involved in a parental rights termination proceeding) (§ 7); and
7. adjusts the calculations for special education state aid eligibility for Newtown for FYs 15-17 (§ 8).

EFFECTIVE DATE: July 1, 2016, except the provisions on minor and technical DCF hotline changes (§ 3), the school climate task force (§ 5), and the Franklin no-nexus student cost reimbursement (§ 7) take effect upon passage.

§ 1 — EXEMPLARY VETERANS EDUCATION PROGRAM

The act requires SBE, in consultation with the Department of Veterans' Affairs, to award an exemplary veterans education program distinction to boards of education that offer programs providing students with opportunities to learn about veterans' contributions or collaborate with local veterans organizations. Such opportunities may include classes, extracurricular activities, presentations, or symposiums, among other things.

Under the act, boards may submit to SBE requests for this distinction by providing details about their respective programs at a time and in a manner that SBE prescribes. SBE must make information about this distinction available on SDE's website.

§§ 2 & 3 — CHILD ABUSE HOTLINE POSTING

The act requires each local or regional board of education to post the telephone number for DCF's 24-hour child abuse reporting hotline in a conspicuous location frequented by students in each school under the board's jurisdiction. The posting must include the hotline's website address and be written in various languages most appropriate to students at each school.

The act also makes minor and technical changes to the law that requires DCF to have a child abuse hotline. Principally, it (1) names the hotline "Careline" (already its name in practice), and (2) requires the hotline to also receive reports of suspected child neglect and provide information about child abuse and neglect.

§ 5 — SCHOOL CLIMATE TASK FORCE

The act establishes a 13-member task force to review, streamline, and align state policies on school climate, bullying, school safety, and social-emotional learning. Specifically, the task force must do the following:

1. examine how boards of education are implementing their respective safe school climate plans, along with any issues resulting from implementation and
2. recommend (a) how boards can use school climate standards for boards to develop and implement safe school climate plans and (b) an accountability methodology that uses student survey results to assess safe school climate plans' effectiveness.

The task force consists of the following members:

1. the Education Committee chairpersons;
2. the education commissioner, or her designee;
3. the director of the Center for Behavioral Education and Research in the Neag School of Education at UConn;
4. the director of the Yale Center for Emotional Intelligence;
5. one representative from each of the following associations: (a) Connecticut Association of Boards of Education, (b) Connecticut Association of Public School Superintendents, (c) Connecticut Association of Schools, (d) Connecticut Federation of School Administrators, (e) Connecticut Education Association, (f) American Federation of Teachers – Connecticut, and (g) Connecticut PTA; and
6. the executive director of the Commission on Children, or her designee.

(PA 16-3, May Special Session, eliminates the Commission on Children and creates the Commission on Women, Children, and Seniors as its successor agency.)

The Education Committee chairpersons must chair the task force and schedule its first meeting by August 8, 2016. The task force must report its findings and recommendations to the committee by January 1, 2017. It terminates on the date it submits its report or January 1, 2017, whichever is later.

The Education Committee's administrative staff serves as task force staff.

§ 6 — TRANSPORTATION PILOT PROGRAM

The act requires the East Haven school district to participate in a school transportation pilot program for school years 2016-17 through 2025-26. The pilot program provides school transportation for private school students living in East Haven as of the 2015-16 school year whose schools have closed on or after January 1, 2016 to equivalent private schools located in New Haven.

The act allows East Haven to receive reimbursements for these transportation costs on the same basis and in the same manner as state law allows public school districts in general to be reimbursed for transporting resident students to private schools located within the public school district (see BACKGROUND).

§ 7 — FRANKLIN NO-NEXUS STUDENT COST REIMBURSEMENT

By law, if DCF places a child in a school district and the board of education that would otherwise be responsible for educating the child cannot be determined, then the receiving board of education must assume responsibility for the cost of educating this "no-nexus" child for one calendar year, or until the child is committed to the state or returned to his or her parents or guardians. If the child remains in the placement longer than one calendar year, then DCF becomes responsible for these costs (CGS § 10-76d(e)(2)(B)).

Under the act, SDE must reimburse Franklin for special education and transportation costs the town incurred during FYs 12-14 for any no-nexus student involved in a parental rights termination proceeding. SDE must make the reimbursement from its Excess Cost – Student Based account.

§ 8 — SPECIAL EDUCATION STATE AID FOR NEWTOWN

By law, the state provides special education excess cost grants to help local districts pay for special education services if the services' cost exceeds four-and-a-half times the district's average per-pupil education costs (CGS § 10-76g). A district's total current education expenditure amount is considered in calculating its eligibility for this grant. For the purpose of calculating Newtown's special education excess cost grant eligibility for FYs 15-17, the act excludes from the total current educational expenditure calculation any funds the town received in FYs 14-16 from the (1) U.S. Department of Justice or (2) U.S. Department of Education's School Emergency Response to Violence program.

Additionally, the act requires that Newtown receive a special education excess cost grant payment in FY 17 in an amount equal to the following:

1. the difference between the amount received in FY 15 and FY 16, and the amount that would have been received during such fiscal years as calculated with the above exclusions, plus
2. the amount Newtown is entitled to receive as calculated with the above exclusions for FY 17.

BACKGROUND

Reimbursement for Transportation to Private Schools

State law requires school districts to provide transportation services to students in grades kindergarten through 12 enrolled in nonprofit, private schools located in the district when a majority of the students attending the private school are Connecticut residents. The state must reimburse any school district that provides such transportation services for the cost in the same manner as it does for transporting students to public schools (CGS § 10-281(a)).

The state provides an annual grant to local school districts to reimburse them for part of the cost of providing public school transportation. Reimbursement percentages vary from 0% to 60% depending on the relative wealth of the town or towns making up the district. By law, reimbursement amounts are capped at the amount appropriated for the grants in each year's state budget (CGS § 10-266m).

PA 16-189—sHB 5469
Education Committee

AN ACT CONCERNING STUDENT DATA PRIVACY

SUMMARY: This act restricts how student information, student records, or student-generated content may be used by (1) contractors that provide student data services to boards of education and (2) certain operators of websites, online services, or mobile applications ("apps").

For contractors, the act establishes requirements for contract content; contract execution notice to parents and guardians; and protection, deletion, and use of student information.

The act requires operators of websites, online services, or apps to maintain reasonable security practices to protect student information and delete student information upon student, parent, guardian, or board of education request. It prohibits, with some exceptions, operators from engaging in targeted advertising, creating student profiles for purposes unrelated to school, or selling or disclosing student information. However, the act allows operators to use some student information and de-identified student information for purposes related to student learning or product operational improvements.

The act also prescribes how contractors and operators must respond to security breaches involving student information, directory information, student records, or student-generated content in their possession.

Additionally, the act establishes a task force to study student data privacy issues.

EFFECTIVE DATE: October 1, 2016, except the provisions about (1) contracts apply to contracts entered into, amended, or renewed on or after October 1, 2016 and (2) the task force take effect upon passage.

§ 1 — DEFINITIONS

Parties Defined

The act defines a "contractor" as an operator or consultant that possesses or has access to student information, student records, or student-generated content as a result of a written contract with a local or regional board of education. An "operator" is anyone who (1) operates a website, online service, or app with actual knowledge that such website, service, or app is used for and was designed and marketed for school purposes, to the extent that it is engaged in its operation, and (2) collects, maintains, or uses student information. A "consultant" is a professional who provides non-instructional services, including administrative, planning, analytical, statistical, or research services to a board of education under a contract.

The act defines a "student" as a Connecticut resident who is (1) enrolled in a preschool program participating in the statewide public school information system (see BACKGROUND), (2) enrolled in grades kindergarten through 12 in a public school, (3) receiving special education services under an individualized education program, or (4) otherwise the responsibility of a board of education.

Related Terms Defined

The act defines "school purposes" as purposes that (1) customarily take place at the direction of a teacher or a board of education or (2) aid in the administration of school activities, including (a) classroom instruction, (b) administrative activities, and (c) collaboration among students, school personnel, or students' parents or legal guardians.

"Student information" is personally identifiable information or student material in any media or format that is not publicly available and is any of the following:

1. created or provided by a student or a student's parent or legal guardian by using an operator's website, online service, or app for school purposes;
2. created or provided by an employee or agent of a board of education to an operator for school purposes; or
3. gathered by an operator through its website, online service, or app and identifies a student, including (a) information in the student's records or email account; (b) first or last name; (c) home address or telephone number; (d) date of birth; (e) email address; (f) discipline records; (g) test results; (h) grades; (i) evaluations; (j) criminal, medical, or health records; (k) Social Security number; (l) biometric information; (m) disabilities; (n) socioeconomic information; (o) food purchases; (p) political or religious affiliations; (q) text messages; (r) documents; (s) student identifiers; (t) search activity; (u) photographs or voice recordings; (v) survey responses; or (w) behavioral assessments.

The act defines a "student record" as any information (1) directly related to a student that boards of education, the State Department of Education, or the State Board of Education maintains or (2) acquired through a student's use of educational software that a teacher or other public education employee assigned. It does not include de-identified student information that the contract permits the contractor to use for any of the following purposes:

1. improving educational products for adaptive learning purposes and for customizing student learning,
2. demonstrating the product's effectiveness for marketing purposes, and
3. developing and improving the contractor's products and services.

"De-identified student information" is any student information that has been altered to prevent identification of an individual student.

The act defines "targeted advertising" as presenting an advertisement to a student where the selection of the advertisement is (1) based on student information, student records, or student-generated content or (2) inferred over time from the (a) student's use of the operator's website, online services, or app or (b) retention of the student's online activities or requests over time for the purpose of targeting subsequent advertisements. It does not include any advertising to a student on a website that the student accesses at the time or in response to a student's response or request for information or feedback.

§ 2 — CONTRACTORS

The act establishes requirements for contractors who provide student data services to boards of education, specifically about contract content, notice of contract execution, protection and deletion of student information, and restrictions on use of student information. It applies to contracts entered into, amended, or renewed on or after October 1, 2016.

Required Contract Contents

Beginning October 1, 2016, the act requires boards of education to enter into a written contract with any contractor with whom it shares or provides access to student information, student records, or student-generated content. The contract must state the following:

1. student records, student information, and student-generated content are not the property of, or under the control of, a contractor;
2. the contractor will not use student information, student records, and student-generated content for any purposes except those the contract authorizes;
3. the contractor must take actions designed to ensure security and confidentiality of student information, student records, and student-generated content;
4. the contractor will not retain or have available student information, student records, or student-generated content after completing the contracted services unless a student, parent, or guardian chooses to establish or maintain an electronic account with the contractor to store student-generated content (e.g., essays, research papers, portfolios, creative writing, music, audio files, or photographs, but not standardized assessment responses);
5. the contractor and the board of education must ensure compliance with the federal Family Educational Rights and Privacy Act of 1974 (FERPA) (see BACKGROUND);
6. Connecticut law governs the rights and duties of all parties to the contract; and
7. a court finding of invalidity of any contract provision does not invalidate other contract provisions or applications not affected by the finding.

The contract must also describe the following:

1. how the board of education may request deletion of student information, student records, or student-generated content in the contractor's possession;
2. procedures for a student, parent, or guardian to (a) review personally identifiable information in student information, student records, and student-generated content and (b) correct erroneous information, if any, in the record; and
3. procedures that a contractor will follow to notify the board of education when there has been an unauthorized release, disclosure, or acquisition of student information, student records, or student-generated content.

Under the act, a contractual provision is void if it conflicts with any of the above 10 provisions. Similarly, a contract is void if it lacks any of the above 10 provisions. However, the board of education must give the contractor reasonable notice to amend the contract to include the missing provisions.

Notice of Contract Execution

The act requires boards of education to electronically notify affected students and their parents or guardians within five business days after entering into a contract with a contractor. The notice must (1) state that the contract has been executed and its date of execution; (2) provide a brief description of the contract and its purpose; and (3) state what student information, student records, or student-generated content may be collected under the contract. The act also requires boards of education to post the notice and contract on their websites.

Requirement to Protect and Delete Student Information

Under the act, a contractor must implement and maintain security procedures and practices designed to protect student information from unauthorized access, destruction, use, modification, or disclosure that, based on the data's sensitivity and risk from unauthorized access, do the following:

1. use technologies and methodologies consistent with guidance issued about protected health information under the federal Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) (see BACKGROUND),
2. maintain technical safeguards for student records in a manner consistent with federal HITECH Act regulations on technical safeguards for electronic protected health information, and
3. otherwise meet or exceed industry standards.

Restrictions on Contractors

The act bans contractors from using (1) student information, student records, or student-generated content for any purposes other than those the contract authorizes or (2) personally identifiable information contained in student information, student records, or student-generated content to engage in targeted advertising. The act specifies that all student-generated content is the property of the student or his or her parents or guardians.

§ 3 — OPERATORS

Under the act, operators of Internet websites, online services, and apps must meet several security requirements and abide by various restrictions on the use of student information, records, and student-generated content. However, the act permits operators to disclose and share such data under certain circumstances.

Operator Requirements

The act requires operators to do the following:

1. implement and maintain security procedures and practices that meet or exceed industry standards and are designed to protect student information, student records, and student-generated content from unauthorized access, destruction, use, modification, or disclosure and
2. delete any student information, student records, or student-generated content within a reasonable amount of time if requested by a student, parent, or guardian or a board of education that has the right to control such student information.

Operator Restrictions

The act prohibits operators from knowingly doing the following:

1. collecting, storing, and using student information, student records, student-generated content, or persistent unique identifiers, except to further school purposes;
2. selling, renting, or trading student information, student records, or student-generated content unless the sale is part of the purchase, merger, or acquisition of an operator by a successor operator, and the successor operator continues to be subject to the act's provisions;
3. disclosing student information, student records, or student-generated content, with some exceptions (see below); or
4. engaging in targeted advertising on (a) the operator's website, online service, or app or (b) any other website, service, or app if the advertising is based on student information, student records, student-generated content, or persistent unique identifiers the operator acquired through the use of the operator's website, service, or mobile app for school purposes.

The act defines "persistent unique identifier" as a unique piece of information that (1) can be used to recognize a user over time and across different websites, online services, or apps and (2) is acquired as a result of a student's use of an operator's website, online service, or app.

Permissible Disclosures

The act permits operators to disclose student information, student records, or student-generated content if the disclosure is made under any of the following circumstances:

1. in furtherance of school purposes of the website, online service, or app, as long as the recipient of the information uses it to improve the operability and functionality of the website, service, or app;
2. to ensure compliance with federal or state law or regulations or pursuant to a court order;
3. in response to a judicial order;
4. to protect the safety or integrity of users or others, or the security of the website, online service, or app;
5. to an entity hired by the operator to provide services for the website, online service, or app, as long as the operator contractually (a) prohibits the entity from using the student information, student records, or student-generated content for any purpose other than providing the contracted service to, or on behalf of, the operator; (b) prohibits the entity from disclosing student information, student records, or student-generated content provided by the operator to subsequent third parties; and (c) requires the entity to agree to maintain security procedures and delete any student information at a student's, parent's, or guardian's request; or
6. for a school purpose or other education or employment purpose requested by a student, parent, or guardian, as long as such student information is not used or disclosed for any other purpose.

Permissible Uses Related to Products and Services

The act permits an operator to use student information for adaptive learning purposes or customized student learning, or to do the following:

1. maintain, support, improve, evaluate, or diagnose the operator's website, online service, or app;
2. provide recommendation engines to recommend content or services relating to school purposes or other educational or employment purposes, as long as the recommendation is not determined in whole or in part by payment or other consideration from a third party; or
3. respond to a request for information or feedback from a student, as long as the response is not determined in whole or in part by payment or other consideration from a third party.

The act permits an operator to use de-identified student information or aggregated student information to (1) develop or improve the operator's website, online service, or app or other websites, services, or apps owned by the operator or (2) demonstrate or market the effectiveness of the operator's website, online service, or app. It also permits an operator to share aggregated or de-identified student information to improve and develop websites, online services, or apps designed for school purposes.

Prohibited Effects

The act specifies that the above provisions may not be interpreted to do any of the following:

1. limit a law enforcement agency's ability to obtain student information, student records, or student-generated content when authorized by law or court order;
2. limit a student's, parent's, or guardian's ability to download, export, transfer, or otherwise save or maintain student information, student records, or student-generated content;
3. impose a duty on an "interactive computer service" provider to ensure compliance of third-party "information content providers" (as defined in the federal Communications Decency Act of 1996, see BACKGROUND) with the act's operator prohibitions and requirements;
4. impose a duty on a seller or provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software applications to review or enforce compliance with the act's operator prohibitions and requirements regarding such software apps;
5. limit an Internet service provider from giving a student, parent, guardian or board of education the ability to connect to the Internet;
6. prohibit an operator from advertising other websites, online services, or apps used for school purposes to students' parents or guardians, as long as it does not result from the operator's use of student information, student records, or student-generated content; or

7. regulate websites, online services, or apps designed and marketed for general use by individuals, even if their account credentials are designed and marketed for school purposes.

§ 4 — SECURITY BREACHES

Security Breach Involving a Contractor

Breach of Student Information. The act requires a contractor to notify the board of education without unreasonable delay upon discovering the unauthorized release, disclosure, or acquisition (i.e., "breach") of student information, directory information, student records, or student-generated content. The contractor must do so within 30 days for a breach of student information (excluding any directory information contained) and within 60 days for a breach of directory information, student records, or student-generated content.

The act defines "directory information" according to federal FERPA regulations (see BACKGROUND).

During the 30- and 60-day periods, the act allows the contractor to (1) determine the breach's nature and scope and the identity of the students whose student information is involved or (2) restore the reasonable integrity of the contractor's data system.

Student, Parent, and Guardian Notice. Upon receiving notice of a security breach from a contractor, the board of education must electronically notify, within 48 hours, the student and parents or guardians of the student whose information, student records, or student-generated content was compromised. The board must also post this notice on its website.

Security Breach Involving an Operator

The act requires an operator, upon discovering a security breach of student information, student records, or student-generated content as a result of a student's use of the operator's website, online service, or app, to notify the student, parents, or guardians about the breach without unreasonable delay. As with the notice requirements for contractors, the operator must do so within 30 days for breaches of student information (excluding any directory information contained) and within 60 days for breaches of directory information, student records, or student-generated content.

During the 30- and 60-day periods, the act allows the operator to (1) determine the breach's nature and scope and the identity of the students whose student information, student records, or student-generated content are involved or (2) restore the reasonable integrity of the data system.

§ 5 — STUDENT DATA PRIVACY TASK FORCE

Purpose and Charge

The act creates a 14-member task force to study student data privacy issues. The study must include an examination of the following topics:

1. when a student's parent or guardian may reasonably or appropriately request the deletion of student information, student records, or student-generated content possessed by a contractor or operator;
2. the means of providing notice to parents and guardians when a student uses an operator's website, online service, or app for instructional purposes in the classroom or as assigned by a teacher;
3. reasonable penalties for violating the act's provisions, such as restricting a contractor or operator from accessing or collecting student information, student records, or student-generated content;
4. other states' strategies that ensure that school employees, contractors, and operators are trained in data security handling, compliance, and best practices;
5. the feasibility of developing a district-wide list of approved websites, online services, and mobile apps;
6. the use of an administrative hearing process to provide legal recourse to students, parents, and guardians aggrieved by violations of this act's provisions;
7. the feasibility of creating an inventory of student information, student records, and student-generated content currently collected under state and federal law;
8. the feasibility of developing a tool kit for use by boards of education to (a) improve student data contracting practices and compliance, including a statewide template for use by districts; (b) increase school employee awareness of student data security best practices, including model training components; (c) develop district-wide lists of approved software applications and websites; and (d) increase the availability and accessibility of student data privacy information for students' parents and guardians and educators; and
9. any other issue involving student data security the task force deems relevant.

Membership

Table 1 below lists the task force members and their respective appointing authorities.

Table 1: Student Data Privacy Task Force Membership

Members	*Appointing Authority*
• Operator • Expert in information technology systems	House speaker
• Connecticut Education Association representative • Connecticut high school student	Senate president pro tempore
• Contractor representative • Information technology systems expert	House majority leader
• Connecticut Parent Teacher Association representative • American Federation of Teachers representative	Senate majority leader
• Student privacy advocate • Connecticut Association of Boards of Education representative or member	House minority leader
• Connecticut Association of School Administrators representative • Connecticut Association of Public School Superintendents representative	Senate minority leader
• Attorney general or his designee	n/a
• Education commissioner or her designee	n/a

Under the act, all membership appointments must be made by July 9, 2016. The appointing authorities must fill any vacancies that arise.

The act requires the House speaker and Senate president pro tempore to select the task force chairpersons from among its members. The chairpersons must schedule the first task force meeting by August 8, 2016. The administrative staff of the General Law Committee must staff the task force.

Report Deadline

The act requires the task force to submit a report on its findings and recommendations to the General Law and Education committees by January 1, 2017. The task force ends on the day it submits this report, or on January 1, 2017, whichever is later.

BACKGROUND

Public School Information System

This system is a statewide, standardized electronic database that tracks and reports data on student, teacher, school, and district performance growth. This data is available to boards of education for evaluating educational performance and growth of teachers and students enrolled in Connecticut public schools (CGS § 10-10a).

Family Educational Rights and Privacy Act (FERPA)

FERPA is the federal law that protects the privacy of student education records, with some exceptions (20 U.S.C. § 1232g). One exception is that FERPA allows school districts to disclose information they designate as "directory information" without prior parental consent (or student consent if the student is age 18 or older). Once a year, districts must notify parents of the policy and give them the opportunity to restrict the disclosure of directory information. Unless the parent affirmatively requests limiting disclosure, the district can disclose this information.

Under FERPA regulations, "directory information" is information contained in a student's education record that would generally not be considered harmful or an invasion of privacy if disclosed. It includes, among other things, a student's (1) name, address, and telephone listing; (2) email address; (3) date and place of birth; or (4) grade level and enrollment status. It does not include a student's Social Security number or student ID number that can be used to gain access to educational records (34 C.F.R. § 99.3).

Health Information Technology for Economic and Clinical Health (HITECH) Act

The federal HITECH Act (P.L. 111-5, § 13402(h)(2)) addresses privacy and security concerns associated with electronically transmitting health information through several provisions that strengthen the civil and criminal enforcement of federal HIPAA (Health Insurance Portability and Accountability Act) rules.

Communications Decency Act (CDA) of 1996

This federal law protects online service providers and Internet users from civil actions based on harmful or offensive content posted by third parties (47 U.S.C. § 230). PA 16-189 incorporates two terms from this federal law and their definitions.

The CDA defines "interactive computer service" as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions (47 U.S.C. § 230(f)(2)).

The CDA defines "information content provider" as any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service (47 U.S.C. § 230(f)(3)).

PA 16-46—HB 5242
Energy and Technology Committee

AN ACT CONCERNING AGRICULTURAL VIRTUAL NET METERING

SUMMARY: This act broadens eligibility for virtual net metering by allowing participation by agricultural customers that lease or have a long-term contract for an agricultural virtual net metering facility. Prior law limited participation by agricultural customers to only those who owned such a system.

In general, virtual net metering allows customers to (1) receive a billing credit for excess power they generate (i.e., "run their meters backward") and (2) share their excess credits with certain other designated electric accounts (i.e., also run other meters backward). Existing law requires electric distribution companies (i.e., Eversource and United Illuminating) to make virtual net metering available, subject to a cap on credits, to agricultural electric customers that own their virtual net metering facilities and municipal and state agency customers that own, lease, or enter into a long term contract with virtual net metering facilities. Generally, virtual net metering facilities are renewable or clean energy systems that meet certain requirements.
EFFECTIVE DATE: July 1, 2016

PA 16-101—sHB 5311
Energy and Technology Committee

AN ACT CONCERNING TELECOMMUNICATIONS PROVIDER TARIFFS FOR SERVICES OFFERED TO BUSINESS RETAIL END USERS AND CERTAIN TELECOMMUNICATIONS SERVICE-RELATED REPORTS

SUMMARY: Beginning July 1, 2016, this act allows any certified telecommunications provider or telephone company to choose to be exempt from requirements that it file and maintain tariffs with the Public Utilities Regulatory Authority (PURA) for services it offers or provides to business retail end users. Under the act, any such entity electing to be exempt must (1) submit written notice to PURA and (2) make its rates, terms, and conditions for those services available to business retail end users in a clear and conspicuous manner that is apparent to the reasonable business retail end user. The entities must make such information available either in their customer service guide, on their websites, or in their contracts with business retail end users.

The act also eliminates (1) PURA's annual report on the status and regulation of telecommunications service and (2) a related requirement that telephone companies provide PURA with certain information for the report.

The act also makes conforming changes and a technical correction.
EFFECTIVE DATE: Upon passage

PURA'S TELECOMMUNICATIONS REPORT

Report Contents

The act eliminates a requirement that PURA report annually by January 1 to the Energy and Technology Committee on the status and regulation of telecommunications service in the state. Prior law required the report to include, among other things:

1. an analysis of any impact of competition in the telecommunications industry on the state's employment opportunities and workforce;
2. an analysis of the level of regulation required in the public interest; and
3. the status of (a) implementing statutory requirements related to telecommunication service regulation, competition, network unbundling, and protection of the public interest; (b) achieving the state's goals for telecommunication services; and (c) implementing alternate forms of regulation for telephone companies.

Telephone Company Requirements

The act eliminates a requirement that PURA, in compiling information for its report, require each telephone company to annually provide information on:

1. its aggregate number of access lines, excluding resold lines or other wholesale lines, and the annual change in the number of such lines over the previous five years;
2. the number of active wholesale customers the company serves and the nature of the wholesale services;
3. the number of wholesale service requests and the time it takes for the company to respond to them;
4. the impact of competition on the company's workforce;
5. the state of the industry, industry trends, and competitive alternatives available in the market; and
6. the number of competitive local exchange carriers.

PA 16-116—sHB 5427
Energy and Technology Committee

AN ACT CONCERNING THE SHARED CLEAN ENERGY FACILITY PILOT PROGRAM

SUMMARY: This act establishes a financing mechanism for, and makes other changes to, the shared clean energy pilot program. It requires the program to be financed by one or more tariff mechanisms (rate schedules) approved by the Public Utilities Regulatory Authority (PURA) for the state's electric distribution companies (EDCs, i.e., Eversource and United Illuminating). It allows the EDCs to (1) purchase power from facilities in the program, (2) issue billing credits to the facilities' subscribers, and (3) recover their costs for implementing the program. It also extends certain program deadlines.

In general, a "shared clean energy facility" in the program is a clean energy-powered electricity generating facility to which a customer subscribes for a portion of the total electricity produced. The electricity produced under the subscription is then used to offset the subscriber's electric costs at another billing meter (e.g., a subscription for 100 kilowatt hours (kWh) produced by the facility would reduce the subscriber's residential electric bill by 100 kWh).
EFFECTIVE DATE: Upon passage

SHARED CLEAN ENERGY FACILITY PILOT PROGRAM

PA 15-113 required DEEP to establish a two-year pilot program to support the development of shared clean energy facilities. Among other things, it required DEEP to (1) develop and issue a request for proposals (RFP) to develop shared clean energy facilities and (2) establish a billing credit and certain consumer protections for the facilities' subscribers.

This act extends the deadline for DEEP to issue the RFP from January 1, 2016 to July 1, 2016 and requires the department to seek public comment on the RFP. It specifies that DEEP must establish the billing credits and consumer protections after it receives the proposals.

The act requires DEEP to consider all proposals it receives, including those for cost-effective projects of various nameplate (i.e., generating) capacities that may allow for the construction of multiple projects in each EDC's service area. It also allows the billing credits to be issued through the EDCs' monthly billing systems and extends the deadline for DEEP to report on the program to the Energy Committee from January 1, 2018 to July 1, 2018.

Program Financing

The act requires the program to be financed using one or more tariff (rate) mechanisms with the EDCs, subject to approval by PURA, to (1) pay for EDC purchases of energy products produced by a facility that DEEP identifies in the RFP or (2) provide billing credits to a facility's subscribers. The tariffs' terms cannot exceed 20 years and must be consistent with the program requirements DEEP establishes in the RFP. The EDCs must submit any proposed tariffs under the program to PURA for review and approval, including those for (1) any shared clean energy facility projects selected in DEEP's RFP or (2) a shared clean energy facility project's subscribers.

The act entitles the EDCs to recover the reasonable costs and expenses they prudently incur implementing and operating the program through an adjustable electric rate component, as determined by PURA. They must submit their proposals to recover their costs for PURA's review and approval and can recover them for the pilot program's term or while any facility is enrolled in the tariff, whichever is longer.

PA 16-134—sHB 5496
Energy and Technology Committee

AN ACT CONCERNING CERTAIN VIRTUAL NET METERING FACILITIES

SUMMARY: This act establishes a generally longer timeframe for certain projects to remain eligible for virtual net metering (see BACKGROUND).

Generally, virtual net metering project development and approval are governed by the Public Utilities Regulatory Authority's (PURA) final decision in Docket 13-08-14RE01. Under the decision, once project administrators satisfy all electric distribution company (EDC, i.e., Eversource and United Illuminating) requirements on a virtual net metering application and are assigned an annual virtual net metering cap by the EDC, they have one year to begin commercial operation, though PURA may grant a six month extension. This time limit applies regardless of any Department of Energy and Environmental Protection (DEEP) permitting requirements or when such permits are issued.

For certain projects, the act instead establishes a timeframe of 18 months from the date DEEP issues a final permit to become operational and remain eligible for virtual net metering. The act applies to virtual net metering facilities and agricultural virtual net metering facilities that meet the following conditions:

1. they require a DEEP air emissions or solid waste permit;
2. their municipal, state, or agricultural host has submitted a virtual net metering application to the EDC for the facility as of December 1, 2015; and
3. the EDC has accepted their virtual net metering application.

EFFECTIVE DATE: Upon passage

BACKGROUND

Virtual Net Metering

The virtual net metering law allows municipal, state agency, and agricultural electric customers that install certain renewable generation systems ("hosts") to (1) receive a billing credit for excess power their system generates and (2) share this credit with certain other accounts ("beneficial accounts.") For example, if a photovoltaic system on a school's roof generated more power than the school used, a town could use the excess credits to reduce the electricity bill for its fire station (CGS § 16-244u).

Related Act

PA 16-216 requires PURA to authorize an additional $6 million of virtual net metering credits per year to municipal customer hosts that submitted their interconnection and virtual net metering applications to an EDC by April 13, 2016.

PA 16-135—sHB 5510
Energy and Technology Committee
Transportation Committee

AN ACT CONCERNING ELECTRIC AND FUEL CELL ELECTRIC VEHICLES

SUMMARY: This act includes several provisions related to electric vehicles, including requirements related to data collection, electric vehicle charging stations, and electric rate structures.

Under the act, the Public Utilities Regulatory Authority (PURA) must require electric distribution companies (EDCs, i.e., Eversource and United Illuminating) to integrate electric vehicle charging load projections into their distribution planning. The act also requires the Department of Motor Vehicles (DMV) to collect and make available certain information on electric vehicles in the state. It adds an analysis of electric vehicles to the required contents of the state's integrated resource plan.

The act restricts what types of vehicles may park in public vehicle charging stations. It also establishes disclosure, subscription and payment, and annual registration requirements related to the stations. Under the act, owning an electric vehicle charging station does not alone confer the status and regulatory requirements of a utility, public utility, or public service company.

Prior law required, within one year, PURA to determine whether it is appropriate for EDCs to implement electric vehicle time of day rates and certain municipal electric companies to determine whether such rates are appropriate for them. The act instead requires PURA and the municipal electric companies to make their determinations by July 1, 2017. The act specifies that the considered rates are for residential and commercial customers and expands the rates to include consideration of non-public charging stations and those that are not free of charge.

The act makes exceptions to the laws concerning vehicles that use or carry pressurized gas as a fuel. Prior law required all vehicles in the state that carry pressurized gas for fuel in a tank attached to the vehicle in any concealed area to display "Pressurized Flammable Gas," or another standard abbreviation determined by the Office of the State Fire Marshal, on the vehicle's exterior. The act exempts vehicles that comply with applicable federal codes and standards for light-duty passenger use from the labeling requirement. Existing law prohibits motor vehicles that use pressurized gas for fuel from entering or parking in any area under grade level. Prior law exempted natural gas-fueled vehicles from this prohibition. The act additionally exempts hydrogen-fueled vehicles.

EFFECTIVE DATE: July 1, 2016

§ 1 — ELECTRIC VEHICLES DEFINED

Under the act, electric vehicles include:

1. battery electric vehicles, which are vehicles operated solely by a battery or battery pack or powered primarily in this way and use a flywheel or capacitor that stores energy produced by an electric motor or through regenerative braking to assist in vehicle operation;
2. fuel cell electric vehicles, which are vehicles that operate solely by use of a fuel cell (i.e., a device that directly or indirectly produces electricity directly from hydrogen or hydrocarbon fuel through a noncombustive electro-chemical process);
3. range-extended battery electric vehicles, which are vehicles (a) powered mainly by a zero-emission energy storage device, (b) with a manufacturer rating of more than 75 all-electric miles, and (c) equipped with a backup auxiliary power unit that does not operate until the energy storage device is fully depleted; and
4. plug-in hybrid electric vehicles, which are hybrid electric vehicles (see below) with the capacity to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source that cannot be connected to the vehicle while the vehicle is in motion.

Under the act, "hybrid electric vehicles" are motor vehicles that allow power to be delivered to the driver wheels solely by a battery-powered electric motor that also uses a combustion engine to provide power to the battery, or any vehicle allowing a combustion engine or battery-powered motor to deliver power to the driver wheels, or both. Only plug-in hybrid electric vehicles are subject to the act's provisions concerning electric vehicles.

§ 2 — DMV DATA COLLECTION

Required Data and Frequency

Under the act, by January 1, 2018, DMV must record the number of electric vehicles registered in Connecticut. DMV must post the information on its website and include the number of electric vehicles registered in the state each year and total number registered in the state. It must update this information every six months.

§ 4 — ELECTRIC VEHICLE TIME OF DAY RATES AND OTHER RATE DESIGNS

Prior law required PURA to determine, within one year, whether it was appropriate for EDCs to implement electric vehicle time of day rates and municipal electric utilities with annual sales of over 500 million kilowatt-hours to determine, within one year, whether they should implement such rates. (This requirement became law in 2013.) The act instead requires PURA and the municipal electric companies to make their determinations by July 1, 2017. It also specifies that the considered rates are for residential and commercial customers.

The act expands electric vehicle time of day rates to include consideration of non-public electric vehicle charging stations and charging stations that charge a fee for use. Under prior law, electric vehicle time of day rates were based on use of a public electric vehicle charging station, then defined as an electric vehicle charging station, electric recharging point, charging point, or electric vehicle supply component, that supplies electricity for recharging plug-in electric vehicles and allows any electric vehicle owner or operator to access and use the station free of charge.

Under the act, electric vehicle time of day rates are based on use of electric vehicle charging stations. An "electric vehicle charging station," under the act, is an electric component assembly or cluster of component assemblies designed specifically to charge batteries in electric vehicles by permitting the transfer of electric energy to a battery or other storage device in the vehicle.

Prior law required municipal electric companies with annual sales of over 500 million kilowatt-hours to determine, within two years, whether it was appropriate to implement various rate design standards (i.e., not solely for electric vehicles, but broadly), including time of day, seasonal, and interruptible rates. (This requirement became law in 2013.) The act resets the deadline for this requirement; thus, the companies must now make these determinations by July 1, 2018.

§§ 5 & 6 — PLANNING FOR ELECTRIC VEHICLES

EDC Distribution Planning

Under the act, PURA must require each EDC to integrate electric vehicle charging load projections into its distribution planning. EDCs must base their projections on the number of electric vehicles registered in Connecticut and projected increases or decreases in electric vehicle sales.

The act requires the EDCs to annually publish on their websites, starting January 1, 2017, a report explaining the incorporation of electric vehicle charging load projections in the company's distribution planning.

Integrated Resource Plan

Existing law requires DEEP, in consultation with the electric companies, to review the state's energy and capacity resources and develop an integrated resource plan for procuring energy resources. Prior law required the plan, among other things, to indicate specific options to reduce electric rates and costs and analyze in-state renewable sources of electricity in comparison to other options. The act expands the issues that the plan must address. Under the act, the plan must also (1) analyze the potential for electric vehicles to provide energy storage and other services to the electric grid and (2) identify strategies to ensure that the grid is prepared to support increased electric vehicle charging, based on projections of electric vehicle sales.

§§ 4, 7 & 8 — PUBLIC ELECTRIC VEHICLE CHARGING STATIONS

The act establishes new requirements for electric vehicle charging stations located at a publicly available parking space ("public electric vehicle charging stations", i.e., stations at a parking space designated by a property owner or lessee as available to and accessible by the public). Under the act, a publicly available parking space may include on-street parking spaces and parking spaces in surface lots or parking garages, but does not include parking spaces that are:

1. part of, or associated with, a private residence;
2. reserved for the exclusive use of an individual driver, vehicle, or a group of drivers or vehicles, such as employees, tenants, visitors, common interest development residents, or residents of an adjacent building; or
3. reserved for people who are blind or living with a disability that limits or impairs their ability to walk.

New Requirements

The act requires owners or operators of public electric vehicle charging stations to disclose the stations' locations and characteristics, including the address, voltage, and timing restrictions, to the federal database operated by the U.S. Department of Energy Alternative Fuels Data Center.

Under the act, station owners or operators who require station users to pay a fee must provide multiple payment options that allow public access, and they cannot charge subscription fees or require membership in any club, association, or organization as a condition of using the station. But they can have different price schedules based on such a subscription or membership.

The act prohibits anyone from parking in a publicly available parking space for an electric vehicle charging station, except for those operating plug-in hybrid vehicles or battery electric vehicles. It allows station owners and operators to restrict the length of time that an electric vehicle may be charged at the station.

By law, various weight and measurement devices must be registered annually with the consumer protection commissioner, who must charge registration fees. Under the act, public electric vehicle charging stations must be registered annually with the commissioner, who must collect a $50 registration fee.

PA 16-173—sSB 334
Energy and Technology Committee

AN ACT CONCERNING REVISIONS TO CERTAIN ENERGY PURCHASING POOL AND LIFE-CYCLE COST ANALYSES STATUTES

SUMMARY: This act makes several unrelated changes to the energy statutes.

It restructures the state's electricity purchasing pool, which the Department of Energy and Environmental Protection (DEEP) operates to buy electricity for state operations and certain low-income households. The act requires the Department of Administrative Services (DAS) commissioner to negotiate electricity purchases in cooperation with the DEEP commissioner, rather than the Office of Policy and Management.

The act eliminates a requirement for the DEEP and DAS commissioners to jointly establish standards for life cycle cost analyses and energy performance standards for state-owned and -leased buildings and authorization for them to establish such standards for equipment and state-owned and -leased appliances. It correspondingly requires DEEP to establish specific objectives for state agencies to meet any applicable performance standards, rather than those the commissioners establish. The act makes numerous other conforming changes.

The act also eliminates certain requirements state agencies must meet when proposing major capital improvements, including (1) a requirement that the DAS commissioner make a written determination that an improvement's preliminary design is cost effective on a life cycle cost basis and (2) various other requirements for design proposals.

The act extends, from 15 to 20 years, the limit on the financing payback period for energy-savings measures implemented by a municipality or state agency under an energy-savings performance contract (i.e., a contract with a third party to find savings through energy efficiency measures). The act also applies the limit to a comprehensive package of measures, rather than each energy-savings measure. Under existing law, unchanged by the act, the financing payback period for each proposed energy-savings measure cannot exceed its functional life.

The act removes a requirement that the social services commissioner administer the weatherization assistance program funded by the U.S. Department of Energy. In practice, DEEP administers this program.

EFFECTIVE DATE: Provisions related to life cycle cost analyses, energy performance standards, and state agency major capital projects are effective July 1, 2016; sections on the electricity purchasing pool, energy savings performance contracting, and the weatherization assistance program are effective upon passage.

§§ 1 & 2 — ELECTRICITY PURCHASING POOL

Municipal Participation

The act eliminates provisions allowing (1) municipalities to elect to participate in DEEP's electricity purchasing pool and (2) the DEEP commissioner to make grants to those municipalities that elect to join the pool and commit to achieving the state's solid waste management goals.

Solicitation Requirements

The act eliminates the DEEP commissioner's option, when operating the purchasing pool, to solicit proposals for electric generation services on behalf of any state agency, municipality, or higher education institution to (1) buy electricity for state and municipal operations and (2) meet the state's energy policy goals.

The act eliminates a requirement that DEEP solicit proposals on behalf of state agencies, participating municipalities, and higher education institutions from specific types of electric energy suppliers and renewable energy sources. By January 1, 2020, DEEP had to (1) solicit proposals from retail electric suppliers and municipal electric energy cooperatives and (2) select proposals that meet certain requirements to provide at least 370,000 megawatt hours of electricity per year for at least five consecutive years with at least 60% of it supplied by Class II renewable energy sources. The act eliminates these requirements and related provisions regarding the following:

1. proposal requirements for minimum proportions of power from certain trash-to-energy facilities and criteria the DEEP commissioner must use to select the proposals,
2. caps on the term length (five years) and price (one-half cent per kilowatt hour above the standard generation service price) of selected proposals,
3. the DEEP commissioner's authority to select proposals with the highest percentage of electricity from Class II renewable energy sources generated at certain trash-to-energy facilities if no proposal meets the minimum requirements, and
4. the DEEP commissioner's authority to select proposals that do not meet the minimum requirement for additional power if the pool exceeds 370,000 megawatt hours per year.

Municipal Electric Energy Cooperatives

The act eliminates the authorization for the Connecticut Municipal Electric Energy Cooperative (CMEEC), which supplies power for municipal electric utilities, to contract with the purchasing pool or any energy improvement district to buy and sell power. Additionally, the act makes conforming changes by removing related provisions (1) prohibiting CMEEC from charging electric cooperative participants for costs of providing these generation services and (2) requiring CMEEC, when supplying such services, to comply with the state's renewable portfolio standard but exempting it from electric supplier licensing requirements.

§§ 4-17 — ENERGY REQUIREMENTS FOR STATE PURCHASES

Commissioners' Life Cycle Cost Analyses

The act eliminates a requirement that the DEEP and DAS commissioners jointly establish and publish standards for life cycle cost analyses for state-owned or -leased buildings. Prior law required the standards to provide the following information:

1. the estimated initial cost of each energy-consuming system being compared and evaluated,
2. annual operating and maintenance costs of all energy-consuming systems over the building's useful life,
3. cost of energy,
4. salvage value, and
5. the estimated replacement cost for each energy-consuming system or component expressed in annual terms for the building's useful life.

The act also eliminates provisions allowing the commissioners to establish standards for life cycle cost analyses for state-owned or -leased equipment and appliances. Prior law specified factors the commissioners had to consider when establishing standards. Under prior law, the standards had to (1) require maximum energy efficiency and (2) be more stringent than federal standards, for those products with standards defined in federal law.

Under existing law, unchanged by the act, "life cycle cost" is the cost of a major facility, determined through methodology published by the National Institute of Standards and Technology, including (1) the initial cost of construction or renovation; (2) the marginal cost of future energy capacity; (3) the cost of energy the facility consumes over its expected useful life or, for leased facilities, over the remaining term of the lease; and (4) the costs of operating and maintaining the facility as such cost affects energy consumption. The act makes conforming changes by referencing life cycle cost analyses generally, rather than those life cycle cost analyses established by the commissioner, applicable to the following:

1. state agency evaluation of bids for the purchase of certain equipment and appliances (§ 6),
2. the study the DAS commissioner must conduct for proposed facilities in the Office of Policy and Management's (OPM) integrated state facility plan (§ 8),
3. the installation of systems using renewable energy sources in newly constructed state buildings (§ 9),
4. application requirements for grants for school building projects (§ 10), and
5. the summary included in DEEP's annual report to the Energy and Technology Committee on energy use planning and management in state buildings (§ 12).

The act requires OPM to include in its integrated state facility plan measures to attain any applicable energy performance standards, rather than life cycle cost analyses established by the commissioners. By law, unchanged by the act, an "energy performance standard" is the minimum rate of energy consumption one can practically achieve, on a life cycle cost basis, by adjusting maintenance or operating procedures, modifying a building's equipment or structure, and using renewable sources of energy.

The act requires the DAS and DEEP commissioners to take necessary and appropriate actions to enable all state facilities to meet energy performance standards generally, rather than those standards based on life cycle cost analyses established by the commissioners. The act requires the DAS commissioner to give preference to buildings that meet any applicable energy performance standards, rather than life cycle cost analyses established by the commissioners.

Commissioners' Energy Performance Standards

The act eliminates a requirement that the DEEP and DAS commissioners jointly establish and publish energy performance standards for existing and new state-owned or -leased buildings. Under prior law, such standards required maximum efficiency in energy use and maximum practicable use of renewable energy sources. The act also eliminates provisions allowing the commissioners to establish energy performance standards for state-owned or -leased equipment and appliances. Prior law specified factors the commissioners had to consider when establishing such standards for buildings, equipment, and appliances. Under prior law, the standards had to (1) require maximum energy efficiency and (2) be more stringent than federal standards for those products with standards defined in federal law.

The act continues to allow the DAS commissioner to adopt energy performance standards as a requirement for state purchases of supplies, materials, and equipment but no longer references those standards established by the commissioners. It makes similar conforming changes in provisions requiring DAS and other state agencies to procure equipment and appliances that meet or exceed energy performance standards.

Under the act, to purchase equipment and appliances with any established energy performance standard, DAS and other state agencies must make purchases from specific equipment and appliance models that meet such standards, and the purchases must be based on competitive bids when possible. Under prior law, these requirements applied only to equipment and appliances for which the commissioners established energy performance standards.

§ 4 — STATE AGENCY MAJOR CAPITAL PROJECT APPROVAL

The act eliminates provisions related to state agency major capital projects. By law, unchanged by the act, major capital projects are for construction or renovation of any building (1) owned by the state or constructed or renovated with state funds and (2) used or intended to be used as a school, over 10,000 square feet, or designated as a major facility by the DAS commissioner.

The act eliminates a requirement for the DAS commissioner to make a written determination that a preliminary design for a major capital project is cost effective on a life cycle cost basis in order for the preliminary design to be approved. It also repeals requirements that design proposals for such projects include (1) at least two differing energy systems for space heating, cooling, and hot water to supplement passive features designed into the building and (2) a life cycle cost analysis for each competing energy system. It eliminates requirements that (1) approved projects achieve, to the maximum extent practicable, energy standards established by the commissioners and (2) applications for state funding for major capital projects include a life cycle cost analysis.

PA 16-196—sSB 272
Energy and Technology Committee

AN ACT CONCERNING THE USE OF MICROGRID GRANTS AND LOANS FOR CERTAIN DISTRIBUTED ENERGY GENERATION PROJECTS AND LONG-TERM CONTRACTS FOR CERTAIN CLASS I GENERATION PROJECTS

SUMMARY: This act expands the types of projects from which electric distribution companies (EDCs, i.e., Eversource and United Illuminating) must purchase renewable energy credits (RECs, see BACKGROUND) in year six of their ongoing procurement (i.e., 2017) to include larger, low-emission generation. It also adopts the REC procurement schedule that prior law required if the Public Utilities Regulatory Authority (PURA) determined that the cost of technologies included in purchase contracts had declined. (In practice, PURA determined that the cost has declined and thus extended this procurement schedule.)

The act also expands the Department of Energy and Environmental Protection's (DEEP's) microgrid grant and loan program (see BACKGROUND). It allows the program to provide matching funds or low interest loans for energy storage systems or distributed energy generation projects placed in service on or after July 1, 2016 and derived from Class I (e.g., solar or wind) or Class III (e.g., certain cogeneration or energy conservation) energy sources for eligible microgrids. Under prior law, recipients of grants and loans under the program could only use the funds for design, engineering services, and interconnection infrastructure (i.e., not for generation).

EFFECTIVE DATE: July 1, 2016

REC PURCHASE REQUIREMENTS

Beginning in January 2012, the law required each EDC to solicit long-term (i.e., 15-year) contracts with owners or developers of certain generation projects to purchase RECs produced by the projects. The law establishes a dollar amount of RECs that the EDCs must purchase each year. Prior law required the EDCs to meet their obligations with projects that fulfill the following requirements:

1. are Class I generation projects,
2. are less than 1000 kilowatts, and
3. emit no pollutants.

Under the act, the EDCs can only use contracts with such projects to meet up to half of the dollar amount of their year six (2017) obligation. The act requires the EDCs to meet the other half of their year six requirements with projects that meet the following requirements:

1. use Class I technologies;
2. are less than two megawatts in size; and
3. have emissions of no more than (a) 0.07 pounds per megawatt-hour of nitrogen oxides, (b) 0.10 pounds per megawatt-hour of carbon monoxide, (c) 0.02 pounds per megawatt-hour of volatile organic compounds, and (d) one grain (presumably of particulate matter) per one hundred standard cubic feet.

The act retains requirements that all projects must (1) be on the customer's side of the meter and (2) serve the EDC's distribution system.

Existing law allows PURA, when approving zero-emission project contracts, to give preference to contracts for technologies manufactured, researched, or developed in the state. The act similarly allows PURA to do so for low-emission project contracts.

BACKGROUND

REC

A REC is a tradeable commodity that represents the attributes associated with power generation from renewable energy (e.g., carbon emissions avoided). Owners of renewable generation projects can sell the power they produce on the wholesale electric market as "green power," or they can sell the RECs associated with this power separately from the power.

Microgrid Grant and Loan Program

A "microgrid" generally refers to a small-scale electric distribution network that (1) links several users to one or more nearby distributed (onsite) energy resources and (2) can be operated in conjunction with the larger electrical grid or independently from the larger grid during a storm or other power outage.

By law, municipalities, electric companies, municipal electric utilities, energy improvement districts, and private entities may apply to DEEP's microgrid grant and loan program. Applicants may collaborate and submit applications together. The proposed microgrid must support critical facilities, such as hospitals, police and fire stations, and other facilities DEEP identifies.

PA 16-212—sSB 366
Energy and Technology Committee

AN ACT CONCERNING ADMINISTRATION OF THE CONNECTICUT GREEN BANK, THE PRIORITY OF THE BENEFIT ASSESSMENTS LIEN UNDER THE GREEN BANK'S COMMERCIAL SUSTAINABLE ENERGY PROGRAM AND THE GREEN BANK'S SOLAR HOME RENEWABLE ENERGY CREDIT PROGRAM

SUMMARY: This act expands the Connecticut Green Bank's powers to, among other things, allow it to (1) hire its own employees; (2) enter into and invest in joint ventures to form businesses that advance the bank's purposes; and (3) subject to certain conditions, form subsidiaries to carry out the bank's purposes. It eliminates prior laws that placed the bank within Connecticut Innovations, Inc. (CI) for administrative purposes only and required a member of CI's board of directors to serve on the bank's board.

The act requires the bank's board of directors to adopt certain procedures related to operating the bank independently. It generally prohibits, as a conflict of interest, those in certain leadership positions in other businesses from serving on the bank's board if their business receives support from the bank's programs. It also specifies that the state pledges to, and agrees with, any person with whom the Green Bank contracts, to not limit or alter the bank's rights unless (1) the bank has fully met its obligations under the contracts or (2) the state provides adequate provisions in law to protect the other parties to the contracts.

The act also makes several changes to the Green Bank's residential solar investment program, such as (1) allowing the program to use power purchase agreements as incentives, (2) extending the deadline for the bank and electric distribution companies (EDCs, i.e., Eversource and United Illuminating) to negotiate a master purchase agreement under which the companies must buy renewable energy credits generated through the program, and (3) requiring the companies to annually purchase 15-year tranches (blocks) of credits under the agreement through the end of the program.

Lastly, the act makes a minor change to the Green Bank's Commercial Property Assessed Clean Energy (C-PACE) program to specify how the priority of the program's liens is subject to an existing mortgage holder's consent. It also makes technical and conforming changes.
EFFECTIVE DATE: Upon passage

GREEN BANK POWERS

The act makes the Green Bank independent of CI and maintains its existing powers to carry out its statutory purposes (generally, to develop programs to finance, support, and promote investment in clean energy projects and stimulate demand for clean energy and the deployment of clean energy sources in the state). It also gives the bank new powers and specifies that these powers are in addition to, and not in limitation of, any other powers the bank already has. It gives the Green Bank the power to:

1. have perpetual succession as a corporate body and adopt bylaws, policies, and procedures to regulate its affairs and business conduct;
2. make and enter into all contracts and agreements needed or incidental to conduct its business;
3. invest in, acquire, lease, purchase, own, manage, hold, sell, and dispose of real or personal property or any interest in it;
4. borrow money or guarantee a return to investors or lenders;
5. hold patents, copyrights, trademarks, marketing rights, licenses, or other intellectual property rights;
6. invest funds that are not needed for immediate use or disbursement under investment policies the bank's board of directors adopts;
7. procure property or business insurance against any loss or liability in such types and amounts and from such insurers as it deems desirable;
8. enter into a memorandum of understanding or other arrangements with CI that provide for space sharing, office systems, or administrative support staff; and
9. do anything else necessary or convenient to carry out the bank's purposes.

The act allows the Green Bank to employ any assistants, agents, and employees that it needs or wants, who (1) must be exempt from the state employee classified service (i.e., not subject to state employee civil service laws) and (2) will not be allowed to collectively bargain as state employees. The bank may establish all needed or appropriate personnel practices and policies, including those related to hiring, promotion, compensation, and retirement. It may also engage consultants, attorneys, financial advisers, appraisers, and other professional advisers as it needs or wants.

The act allows the bank to enter into joint ventures and invest in and participate with any person, including government entities and private corporations, to form, own, manage, and operate business entities formed to advance the bank's purposes. These entities include stock and nonstock corporations, limited liability companies (LLCs), and general or limited partnerships. If the bank's officers, employees, or directors serve as the business entity's officers, members, or directors, their service is deemed to be in the discharge of their bank duties or within the scope of their bank employment as long as they do not receive any compensation or financial benefit from the business entity.

It also specifies that (1) the bank's powers specified in statute must be interpreted broadly to effectuate its purposes and not be construed to limit its powers and (2) if any provision of the Green Bank's statutes is inconsistent with any other state laws or special acts, the bank's statutes must be deemed controlling.

Subsidiaries

The act allows the Green Bank to (1) form subsidiaries to develop programs to finance and support clean energy investments and (2) transfer money or property of any kind or nature to them. The subsidiaries may be organized as a stock or nonstock corporation or an LLC. Each subsidiary must have and exercise (1) the bank's powers, as stated in a resolution by the bank's board of directors that explains why the subsidiary was formed, and (2) any other powers provided to it by law. Each subsidiary must act through its board of directors or managing members, at least half of whom must be either the bank's (1) directors or their designees or (2) officers or employees.

Under the act, the bank's subsidiaries are not considered quasi-public agencies under state law regulating such agencies and do not have all the privileges, immunities, tax exemptions, and other exemptions of the Green Bank. No subsidiary may hire or retain employees and its governing documents must require it to dissolve after completing the purpose for which it was formed. The subsidiaries may sue and be sued, but their liability is limited solely to their assets, revenues, and resources, without recourse to the bank's general funds, revenues, resources, or other assets.

The act authorizes the subsidiaries to (1) assume or take title to property subject to an existing lien, encumbrance, or mortgage and (2) mortgage, convey, or dispose of their assets and pledge their revenues to secure any borrowing. If a subsidiary borrows or mortgages its property it must be as the subsidiary's special obligation, which may be in the form of bonds, bond anticipation notes, and other obligations to (1) fund and refund the obligation; (2) provide for the rights of the holders of the bonds, notes, or other obligations; and (3) secure the obligation by pledging revenues, notes, and other assets that are payable solely from the subsidiary's revenues, assets, and other resources. The Green Bank may assign a subsidiary any rights, moneys, or other assets it has under any governmental program. No subsidiary may borrow without approval from the bank's board of directors.

Under the act, any of the bank's officers, directors, designees, or employees appointed as a subsidiary's member, director, or officer receives the personal liability protection afforded to directors, officers, and employees of other quasi-public agencies and is not personally liable for the subsidiary's debts, obligations, or liabilities. The subsidiary must, and the bank may, save harmless and indemnify an appointee from financial loss and expense if the appointee was acting in the discharge of his or her duties or within the scope of his or her employment and the actions were not wanton, reckless, willful or malicious.

The act allows the Green Bank and its subsidiaries to take any actions needed for a subsidiary to qualify and remain a tax exempt corporation under federal tax law. It also allows the bank to make loans to the subsidiaries from its assets and the proceeds from its bonds, notes, and other obligations, as long as the source and security for the loans' repayment comes from the subsidiary's assets, revenues, and resources.

Green Bank's Board of Directors

Procedures. The act requires the directors to adopt written procedures for the following:

1. adopting an annual budget and operations plan, including a requirement that the board approve it before the budget or plan takes effect;
2. hiring, dismissing, promoting, and compensating the bank's employees, including an affirmative action policy and a requirement for board approval before a position is created or filled;
3. acquiring real and personal property and personal services, including a requirement that the board approve any non-budgeted expenditure over $5,000;
4. contracting for financial, legal, bond underwriting, and other professional services, including a requirement that the bank solicit proposals at least once every three years for each service it uses;
5. issuing and retiring the banks' bonds, notes, and other obligations;
6. awarding loans, grants, and other financial assistance, including the application process, eligibility criteria, and the bank's staff and directors role; and
7. using surplus funds as the law allows.

All of these procedures must be adopted according to the notice requirements for quasi-public agencies (generally, at least 30 days' notice in the *Connecticut Law Journal*). Prior law required the Green Bank's board of directors to adopt bylaws and procedures needed to carry out its functions but did not specify the required components.

Conflicts of Interest. The act prohibits, as a conflict of interest, a trustee, director, partner, or officer of any business (person, firm, or corporation), or anyone with a financial interest in a business, from being on the bank's board of directors if the business participates in or receives support from programs that the bank developed, administers, or otherwise supports. However, it will not be a conflict of interest for a member of the bank's board to serve as a director, member, or officer of a joint venture that the bank enters into as the act allows.

RESIDENTIAL SOLAR INVESTMENT PROGRAM

The act makes several changes to the Green Bank's Residential Solar Investment Program, which offers financial incentives to purchase or lease certain residential solar photovoltaic systems. Prior law required eligible systems to be less than 20 kilowatts (kW) in size. The act eliminates this size restriction and instead limits the financial incentives to a system's first 20 kW of direct current.

The act expands the types of incentives provided by the program to include power purchase agreements (PPAs), and requires the PPAs to be included in the schedule of incentives that the Green Bank must post on its website. Existing law, unchanged by the act, also allows the incentives to be (1) performance-based incentives paid out on a per kilowatt-hour (kWh) basis for the electricity the system produces or (2) expected performance-based buy-downs that are a one-time upfront payment based on the system's expected performance.

Prior law prohibited customers who were eligible for the program from also participating in the small Z-REC program (a similar program that requires the EDCs to purchase renewable energy credits from zero-emission facilities). The act instead applies the prohibition to any solar projects located on a property that contains or will contain a residence that meets the bank's criteria as a residential dwelling for the program. It also extends the prohibition to include participation in the L-REC program (a similar program that requires the EDCs to purchase credits from low-emission facilities). Basing the prohibitions on individual projects, rather than customers, allows customers who may own multiple facilities to participate in different programs for each facility.

Master Purchase Agreement

Under prior law, the Green Bank, within 180 days after July 1, 2015, had to negotiate and develop a 15-year master purchase agreement with each EDC that requires the EDC to purchase the renewable energy credits produced through the program. The bank and EDCs had to file the agreements for the Public Utilities Regulatory Authority's (PURA) approval by January 1, 2016. The act instead gives the bank and EDCs until July 1, 2016 to negotiate and develop the agreements and until January 1, 2017 to file them for PURA's approval. (In practice, the bank and companies have completed their negotiations on the agreements, which include terms similar to the act's, and are waiting to submit them for PURA's approval.)

While prior law required the agreements to have 15-year terms with the EDCs' obligation to purchase credits expiring at the end of 2022, the act instead requires the (1) agreements to require the EDCs to purchase 15-year tranches of credits produced through the program and (2) companies to purchase 15-year tranches of credits each year through the program's end, which by law must be at the end of 2022 or when the program deploys 300 megawatts of residential solar photovoltaic installations, whichever occurs earlier.

The act also requires the EDCs' obligation to purchase credits to be apportioned based on a fixed percentage, rather than on their respective systems' electricity demand. Under the act, 20% of the annual aggregate of credits must be purchased by an EDC that serves up to 17 municipalities (i.e., United Illuminating) and the other 80% of the credits must be purchased by an EDC that serves at least 18 municipalities (i.e., Eversource). It makes the same change in how the renewable energy credits must be apportioned between the EDCs after their obligation to purchase the credits expires.

C-PACE

The Green Bank's C-PACE program provides financing for energy efficient or renewable energy improvements on certain commercial properties in participating municipalities. The property owner repays the cost of the improvements through an assessment on the property, backed by a lien that takes precedence over all other liens except municipal tax liens. Under prior law the lien's precedence was subject to the consent of existing mortgage holders. The act instead specifies that the lien's precedence over any lien held by an existing mortgage holder is subject to that mortgage holder's written consent.

PA 16-216—sSB 394
Energy and Technology Committee

AN ACT CONCERNING AUTHORIZATIONS RELATING TO VIRTUAL NET METERING

SUMMARY: This act requires the Public Utilities Regulatory Authority (PURA) to authorize an additional $6 million of virtual net metering credits per year to municipal customer hosts that submitted their interconnection and virtual net metering applications to an electric distribution company (EDC, i.e., Eversource and United Illuminating) by April 13, 2016. The additional credits must be apportioned to each EDC based on its customer load (i.e., approximately 80% to eligible Eversource customers and 20% to eligible United Illuminating customers).

The virtual net metering law allows municipal, state agency, and agricultural electric customers that install certain renewable generation systems ("hosts") to (1) receive a billing credit for excess power their system generates and (2) share this credit with certain other accounts ("beneficial accounts"). For example, if a photovoltaic system on a school's roof generated more power than the school used, a town could use the excess credits to reduce the electricity bill for its fire station. In addition to the $6 million of municipal credits authorized by the act, the law allows beneficial accounts to receive a total of up to $10 million of credits annually and limits the three categories of hosts to 40% of this amount.
EFFECTIVE DATE: July 1, 2016

BACKGROUND

Related Act

PA 16-134 gives certain virtual net metering projects more time to become operational after an EDC accepts their virtual net metering application.

PA 16-5—sSB 386
Environment Committee

AN ACT CONCERNING THE FISCAL SUSTAINABILITY OF STATE PARKS

SUMMARY: This act requires the Department of Energy and Environmental Protection (DEEP) commissioner, by January 1, 2017, to provide the Environment Committee with (1) a report on establishing a per-person admission fee at all state parks by July 1, 2017 and (2) copies of responses to a request for information (RFI) on state park concessions, services, and amenities. (DEEP developed the RFI pursuant to PA 15-106.) The act requires DEEP to forward the RFI to specified parties by September 1, 2016.
EFFECTIVE DATE: Upon passage

PER-PERSON STATE PARK ADMISSION FEE REPORT

Under the act, DEEP's report on a per-person admission fee to state parks must recommend a fee that (1) when combined with, or in lieu of, any required parking fee, is comparable to admission and parking fees at state parks in New York and other New England states and (2) results in increased revenue.

When developing the recommendation, DEEP must account for the continued availability of (1) parking and (2) free state park admission and parking for people age 65 and older and disabled veterans. Existing law allows such individuals free access to parks if they are state residents.

REQUEST FOR INFORMATION

PA 15-106 required DEEP to prepare an RFI on operating concessions, providing services, and offering recreational amenities at state parks. The law directed the commissioner to post the RFI to the state's contracting portal and send it to any known private vendors who could provide such concessions, services, and amenities.

The act requires DEEP, by September 1, 2016, to additionally forward the RFI to statewide business associations, chambers of commerce, and trade associations representing or including members who may be able to operate or offer concessions, services, or amenities at state parks. DEEP must accept any response to the RFI and, by January 1, 2017, provide the Environment Committee with a copy of each response received.

PA 16-17—sSB 231
Environment Committee
Planning and Development Committee

AN ACT CONCERNING POLLINATOR HEALTH

SUMMARY: This act establishes numerous requirements related to pollinator health and habitat. Pollinators are organisms that spread pollen between flowers, such as bees and butterflies.

Among other things, the act does the following:

1. generally prohibits applying neonicotinoid (a) insecticide to linden or basswood trees or (b) labeled for treating plants to plants with blossoms (§§ 2 & 4);
2. requires the Department of Energy and Environmental Protection (DEEP) commissioner to classify certain neonicotinoids as "restricted use" pesticides (§ 3);
3. requires the Department of Agriculture (DoAg) commissioner to develop best practices for minimizing the release of neonicotinoid insecticide dust from treated seeds (§ 1);
4. requires the Connecticut Agricultural Experiment Station (CAES) to compile a citizen's guide to model pollinator habitat (§ 11);
5. establishes a Pollinator Advisory Committee to inform legislators about pollinator issues (§ 5);
6. sets minimum credentials for apiary inspectors appointed by the state entomologist (§ 15);
7. specifies that Connecticut Siting Council orders to restore or revegetate in certain rights-of-way must include provisions for model pollinator habitat (§ 13);
8. includes model pollinator habitat in any conservation plan DoAg requires as part of its farm preservation programs (§§ 9 & 10);

9. requires reports on the (a) effect of applying current pesticide spraying requirements to the planting of neonicotinoid-treated seeds, (b) conditions leading to an increase in varroa mites, and (c) areas where the Department of Transportation (DOT) can replace turf grass with native plants and model pollinator habitat (§§ 6, 7 & 12);
10. authorizes the Office of Policy and Management (OPM) to identify ways to foster development in a way that increases pollinator habitat (§ 8); and
11. allows the DOT commissioner, if there are federal funds available, to plant vegetation with pollinator habitat, including flowering vegetation, in deforested areas along state highway rights-of-way (§ 14).

Under the act, a "neonicotinoid" is a pesticide that selectively acts on an organism's nicotinic acetylcholine receptors (i.e., impacts the nervous system), including clothianidin, dinotefuran, imidacloprid, thiamethoxam, and any other pesticide that the DEEP commissioner, after consulting with CAES, determines will kill at least 50% of a bee population when up to two micrograms of the pesticide is applied to each bee.

EFFECTIVE DATE: Upon passage

§§ 2 & 4 — NEONICOTINOID APPLICATION BANS

The act prohibits applying neonicotinoid insecticides to linden or basswood trees in the state. It also prohibits applying neonicotinoid labeled for treating plants to any plant with blossoms unless the (1) plant is grown in a greenhouse inaccessible to pollinators and (2) application is consistent with best management strategies for growing annuals, perennials, trees, and shrubs that will be safe for pollinators after the plants are purchased and planted. The act also exempts academic research from its plant application ban.

The act allows the DEEP commissioner to enforce and establish a fine for violations of the tree application ban and the DoAg commissioner, in conjunction with the DEEP commissioner, to enforce and establish a fine for violations of the plant application ban.

By law, the commissioners have the power to initiate and receive complaints for alleged violations of any law, regulation, permit, or order they administer or issue. They may hold hearings, administer oaths, subpoena witnesses and evidence, enter orders, and institute legal proceedings.

§ 3 — RESTRICTED USE CLASSIFICATION

The act requires the DEEP commissioner, by January 1, 2018, to classify all neonicotinoids labeled for treating plants as "restricted use" pesticides, meaning that they may cause unreasonable adverse environmental effects. By law, this classification requires these pesticides to be applied only by, or under the direct supervision of, a certified applicator or subject to other restrictions the commissioner imposes through regulations.

§ 1 — BEST PRACTICES FOR NEONICOTINOID DUST

By January 1, 2017, the act requires the DoAg commissioner, in collaboration with CAES and DEEP, to develop best practices for (1) minimizing airborne liberation of neonicotinoid insecticide dust from treated seeds and (2) mitigating the dust's effects on pollinators. The best practices must include the following:

1. methods to minimize dust when dispensing treated seeds from a seed bag into seed planter equipment,
2. guidance on positioning vacuum system discharge from seed planter equipment so that it is directed at the soil,
3. timeframes for mowing flowering vegetation adjacent to crop fields,
4. identification of weather conditions that minimize dust drift, and
5. suggestions for using seed lubricants to effectively minimize dust drift.

CAES, DEEP, and DoAg must post the best practices on their websites by February 15, 2017 so that they are available to the general public, including farmers and anyone who owns, operates, or manages a farm or agricultural facility.

§ 11 — CITIZEN'S GUIDE TO MODEL POLLINATOR HABITAT

The act requires CAES to compile a citizen's guide to model pollinator habitat by January 1, 2017 and make the guide available on its website.

The guide must provide information on and the steps for establishing a succession of flowers, wildflowers, vegetables, weeds, herbs, ornamental plants, cover crops, and legumes to attract honeybees and other pollinators. It must (1) suggest groupings or clumpings of the plantings to create a long season of continuous bloom and (2) provide information on how to protect important nesting sites for honeybees and other pollinators.

§ 5 — POLLINATOR ADVISORY COMMITTEE

The act requires the CAES director to establish a Pollinator Advisory Committee, consisting of at least three CAES staff. Committee members must have (1) expertise in the health and viability of Connecticut's pollinator populations and (2) knowledge of efforts at the federal level and in other states on pollinator health.

The act charges the committee with serving as an information resource for the Environment Committee, requiring it to work collaboratively with legislators on pollinator matters.

§ 15 — APIARY INSPECTOR CREDENTIALS

By law, the state entomologist may appoint inspectors to examine apiaries for disease. These inspectors have access at reasonable times to any apiary or place where bees are kept or where honeycomb and appliances are stored.

The act establishes minimum credentials for these inspectors. It requires them to have at least (1) five years of beekeeping experience or (2) three years of state or federal bee inspector experience. They must also meet the qualifications for a CAES Agricultural Research Technician II.

§ 13 — VEGETATION IN RIGHTS-OF-WAY

By law, the Connecticut Siting Council may order restoration or revegetation of overhead transmission line rights-of-way (ROW). It may do so to promote the long-term restoration of vegetation in the parts of the ROW in residential areas where there has been a significant and material loss of screening (e.g., fewer trees blocking the view of the line) due to clearing activities.

The act requires the council's restoration or revegetation orders to include establishing vegetation with model pollinator habitat.

§§ 9 & 10 — DOAG FARMLAND PRESERVATION PROGRAMS

By law, DoAg administers two programs to preserve farmland by purchasing development rights: the Farmland Preservation Program and the Community Farms Program. As part of these programs, the DoAg commissioner may require that the preserved land be managed according to a conservation plan. Under the act, if the commissioner requires a conservation plan, the plan must require establishing model pollinator habitat.

§§ 6, 7 & 12 — REPORTING REQUIREMENTS

Restrictions on Planting Treated Seeds

The act requires the DEEP and DoAg commissioners and CAES to jointly report, by March 1, 2017, to the Environment Committee on the potential effects of applying current statutory and regulatory restrictions and licensing requirements for pesticide spraying to planting seeds treated with neonicotinoids.

The report must analyze (1) the consistency of applying the restrictions with federal law; (2) any potential effects of the changes on the state's agriculture, including improved pollinator health and expenses and delays; and (3) the administrative resources needed to oversee the restrictions.

Varroa Mites

The act requires the state entomologist to report, by January 1, 2017, to the Environment Committee on the conditions that cause an increase in varroa mites (i.e., parasitic mites) that affect honeybee and other pollinator populations in Connecticut.

The report must include legislative recommendations to help limit or offset the conditions' effects, including any authority needed to develop a varroa mite management strategy that (1) creates a line of local bees from survival stock with mite resistance and acclimation to Connecticut's environment and (2) develops queen bees with a high varroa mite tolerance to limit the need for importing bees.

DOT-Identified Areas for Native Plant Communities

Under the act, DOT must (1) identify areas where non-native, cool-season turf grass installed along state highways can be replaced with native plant communities that have model pollinator habitat and (2) report to the Environment and Transportation committees on these areas by January 1, 2017. In identifying these areas, DOT may consider available partnerships with private entities to help fund the replacement costs.

DOT's report must include the following:

1. information on (a) the location and dimension of any identified areas for replacement or proposed replacement and (b) any proposed timeframe for replacement,
2. a description of anticipated replacement costs,
3. a comparison of these costs to the operational expenses made to otherwise maintain the areas, and
4. information on any private partnership to reduce replacement costs and the availability of federal funds.

§ 8 — DEVELOPMENT OPPORTUNITIES WITH POLLINATOR HABITAT

The act authorizes OPM to (1) identify opportunities to foster development at the local and state levels that increase pollinator habitat and (2) recommend ways to prioritize using state funds for conservation purposes when the conservation includes protecting or enhancing pollinator habitat.

PA 16-27—sSB 139
Environment Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE AUTHORITY OF THE COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION TO ESTABLISH A TROUT STAMP AND A RESIDENT GAME BIRD CONSERVATION STAMP AND AMENDING CERTAIN HUNTING AND FISHING FEES FOR RESIDENTS LESS THAN EIGHTEEN YEARS OF AGE

SUMMARY: This act makes various changes to the laws governing fishing and hunting. Among its provisions, the act:

1. expands the types of birds that a person with a migratory bird conservation stamp can hunt and increases, from $13 to $17, the maximum fee the Department of Energy and Environmental Protection (DEEP) can charge for the stamp;
2. requires a person seeking to hunt resident game birds to buy a DEEP resident game bird conservation stamp, which the act establishes;
3. requires the DEEP commissioner to adopt regulations establishing a three-day bird hunting license for out-of-state residents; and
4. authorizes the commissioner to adopt regulations establishing a trout permit, tag, or stamp, which anyone fishing in Connecticut would have to purchase in addition to the general fishing license, and authorizes DEEP to charge up to $10 for it.

Additionally, the act reduces the fee DEEP charges a child younger than age 16 for a hunting, trapping, or fishing permit, tag, or stamp by 50%, rounded to the next higher dollar (§ 2). Existing law already reduces the fee by 50% for children age 16 or 17.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2016

§§ 1 & 3-5 — MIGRATORY AND RESIDENT GAME BIRD STAMPS

Migratory Birds (§§ 1 & 3)

Under existing law, anyone age 16 or older wishing to hunt or take waterfowl in Connecticut must obtain a hunting license and a migratory bird conservation stamp. Waterfowl, a subset of migratory birds, generally include ducks and geese.

The act increases, from $13 to $17, the maximum fee DEEP may charge for the stamp, and it expands the types of birds that hunters with a stamp may hunt to include all migratory birds, not only waterfowl. Migratory birds generally include birds that spend the summer in northern latitudes and the winter in southern latitudes. These include waterfowl, certain webless waterbirds (e.g., rails and coots), and certain webless upland birds (e.g., woodcocks and snipes).

Resident Game Birds (§§ 1 & 3-4)

Prior law authorized the DEEP commissioner to establish by regulation a pheasant permit, tag, or stamp and charge up to $28 for it. The act instead requires anyone wishing to hunt or take any resident game birds to obtain a DEEP resident game bird conservation stamp, in addition to a hunting license, which the law already requires. Resident game birds, which stay in the area year-round, generally include an array of commonly hunted birds, including pheasants, crows, wild turkeys, ruffed grouse, prairie chickens, partridges, and quail.

The act:

1. requires the commissioner to arrange for the design, production, and procurement of the resident game bird conservation stamp and adopt regulations for issuing it;
2. authorizes him to reproduce the stamp as a print or related artwork for sale; and
3. establishes $28 as the maximum fee DEEP can charge for the stamp.

Voluntary Donations (§ 3)

Under existing law, the DEEP commissioner must establish a program allowing people to voluntarily donate $2 or more for the conservation of migratory birds. Donations must be deposited in a subaccount in the state's migratory bird conservation account. The act requires the commissioner to expand the program by also accepting voluntary donations of $2 or more for the conservation of resident game birds. It renames the account the migratory bird and resident game bird conservation account. Any donations received must be deposited in the subaccount.

Migratory Bird and Resident Game Bird Conservation Account (§ 4)

The act adds to the funds that DEEP must deposit in the renamed account, which the state treasurer must maintain as a separate, nonlapsing account in the General Fund. Under existing law, DEEP must deposit fees received from the sale of migratory bird stamps and related artwork and voluntary migratory bird conservation donations. The act requires that DEEP also deposit fees received for selling resident game bird stamps and related artwork, voluntary resident bird conservation donations, and license fees collected from the new out-of-state bird hunting license (see § 6 below).

The act expands the purposes for which the funds in the account and subaccount may be used. Existing law requires that the funds be used for (1) developing, managing, preserving, conserving, acquiring, purchasing, and maintaining waterfowl habitat and wetlands and (2) purchasing or acquiring recreational rights or interests related to migratory birds. Under the act, funds must be used in the same ways for migratory and resident game birds. As under existing law, the account funds may also be used for designing, producing, promoting, procuring, and selling artwork related to the stamps.

Citizen's Advisory Board (§ 5)

The act expands the functions of the citizen's advisory board, which advises the DEEP commissioner on the design, production, and procurement of the migratory bird conservation stamp and the use of funds in the conservation account. Under the act, the board must also advise him on the design, production, and procurement of the resident game bird conservation stamp.

Prior law required that the seven-member advisory board, which the commissioner appoints, include people active in migratory bird or wetland habitat conservation. Under the act, the board must instead include people active in migratory or resident game bird or habitat conservation. By law, board members may, instead of such activity, have expertise or knowledge pertinent and valuable to the program.

§ 6 — OUT-OF-STATE BIRD HUNTING LICENSE

The act requires the DEEP commissioner to adopt regulations establishing a three-day bird hunting license for nonresidents to hunt migratory and resident game birds in Connecticut. He must charge $35 for the license, which is in addition to any permit or stamp required by law. All license fees collected must be deposited in the migratory bird and resident game bird conservation account described above.

PA 16-37—SB 76
Environment Committee
Education Committee
Government Administration and Elections Committee

AN ACT CONCERNING CONNECTICUT'S FARM TO SCHOOL PROGRAM

SUMMARY: This act requires food service management companies to include in their response to a board of education's request for proposal (RFP) or bid solicitation for a school nutrition program a description of how the proposal or bid is consistent with the state's farm to school program and how it facilitates the purchase of products from local farmers. The requirement applies to RFPs and bid solicitations posted to the state contracting portal, which the Department of Administrative Services maintains. When a board is awarding a contract, which must be done in accordance with any applicable laws, regulations, or rules, the act requires it to give preference to the proposal or bid that promotes the purchase of local farm products, all other factors being equal.

The act also requires the State Board of Education (SBE), by October 1, 2017, to amend its regulations on nutrition standards for school breakfasts and lunches. The amended regulations must facilitate purchases by boards of education from local farmers to further the state's farm to school program. By law, SBE must adopt the regulations in consultation with the Department of Public Health, the School Food Service Association, and the Connecticut Dietetic Association.
EFFECTIVE DATE: October 1, 2016, except the amended regulations requirement is effective on passage.

BACKGROUND

Farm to School Program

PA 06-135 established Connecticut's farm to school program to encourage the use of Connecticut-grown farm products in school cafeterias. The law requires the Department of Agriculture, in consultation with the state Department of Education (SDE), to run the program to promote the sale of Connecticut-grown farm products by farms to school districts, individual schools, and other educational institutions under SDE's jurisdiction (CGS § 22-38d).

PA 16-38—SB 81
Environment Committee

AN ACT CONCERNING THE DESIGNATION OF CERTAIN AREAS OF THE HOUSATONIC RIVER AS A WILD AND SCENIC RIVER

SUMMARY: This act designates the northern section of the Housatonic River as a wild and scenic river in order to preserve it according to the federal Wild and Scenic Rivers Act. The 41-mile section extends from the Massachusetts border to New Milford's Boardman Bridge.

Under the act, the Northwest Hills Council of Governments (NHCOG) acts as the administering agency for the river on behalf of the Housatonic River Commission (HRC). It must do so according to terms set out in a memorandum of agreement between the NHCOG, HRC, National Park Service, state Department of Energy and Environmental Protection, and Housatonic Valley Association, Inc. For this purpose, the act deems NHCOG to be a political subdivision of the state.

The act requires the governor to apply to the U.S. interior secretary to complete the river's designation as a wild and scenic river. Rivers designated by the secretary are included in the National Wild and Scenic Rivers System.

Lastly, the act specifies that the designation will not affect authorized agricultural activity along the river as long as the activity does not need a federal Army Corps of Engineers permit. These permits are required when conducting certain activity in navigable waters or other areas such as wetlands.
EFFECTIVE DATE: Upon passage

BACKGROUND

Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act (P.L. 90-542) protects free-flowing rivers with important scenic, natural, recreational, historic, cultural, or similar values, from federal or federally assisted projects that would alter their free-flowing nature or harm their outstanding resources.

A river may be designated as wild and scenic and included in the National Wild and Scenic Rivers System either (1) through congressional action or (2) by the U.S. interior secretary, at the request of a governor if the river is already protected by a state river protection program. The latter process requires administration of the river by an agency or political subdivision of the state.

PA 16-86—sHB 5150
Environment Committee
Transportation Committee

AN ACT CONCERNING TREE WARDENS' NOTICES ON TREES AND SHRUBS PRIOR TO REMOVAL AND TREE REMOVAL AND CLEAN-UP BY PUBLIC UTILITY CORPORATIONS

SUMMARY: This act imposes two requirements on utility companies (telephone, telecommunications, and electric distribution companies) related to pruning or removing trees or shrubs around utility poles and wires.

It requires, by January 31, 2017, utilities intending to prune or remove these trees or shrubs ("vegetation management") to begin annually providing the tree warden or chief elected official of the town or borough where the work will occur (1) a plan with the proposed roads or areas for the vegetation management activity and (2) an estimated schedule for the work. Within 14 days after receiving the plan, the town or borough must make it publicly available for the rest of the year, either electronically or by some other method.

The act also requires utilities to remove or dispose of any debris they generate from vegetation management activities in a "utility protection zone" (i.e., the area extending eight feet from either side of the wires and anywhere above or below them). The requirement applies only to projects that a utility requests and which a tree warden or other applicable authority has approved.

The act also allows tree wardens to post notices of proposed shrub removal or pruning on groups of shrubs, instead of on each individual shrub. By law, a warden must do this at least 10 days before removing or pruning a shrub under his or her control unless its condition requires immediate attention.

EFFECTIVE DATE: October 1, 2016

PA 16-89—SB 230
Environment Committee

AN ACT CONCERNING THE SITING OF CERTAIN DOCKS AND STRUCTURES, THE USE OF NOISE-MAKING DEVICES FOR AGRICULTURAL PURPOSES AND MAKING TECHNICAL AND CONFORMING REVISIONS TO ENVIRONMENT-RELATED STATUTES

SUMMARY: This act prohibits the Department of Energy and Environmental Protection (DEEP) commissioner from issuing a certificate or permit to construct a dock or other structure in an area designated as inappropriate or unsuitable for a dock or structure in an approved and adopted harbor management plan (§ 9). By law, municipal harbor management commissions prepare such plans, which are reviewed and approved by DEEP and the Department of Transportation and adopted by local ordinance.

The act also does the following:

1. requires anyone applying for a DEEP permit to conduct certain activities within wetlands or state waters to notify property owners within 500 feet from the property line of the property where the proposed activity will occur (§ 8),
2. makes changes related to agricultural noisemaking devices used to deter wildlife from damaging crops (§ 10),
3. makes a conforming change pertaining to running bamboo (§ 7), and
4. makes other technical and conforming changes (§§ 1-6).

EFFECTIVE DATE: Upon passage

§ 8 – PERMIT TO CONDUCT CERTAIN ACTIVITIES IN WETLANDS OR STATE WATERS

The act requires anyone applying for a DEEP permit to (1) conduct a regulated activity in a wetland or (2) dredge, erect structures, or place fill in state waters waterward of the coastal jurisdiction line, to provide notice to landowners whose property is located within 500 feet from the property line of the property where the proposed activity will occur. By law, the applicant must already publish notice in a newspaper of general circulation in the affected area and notify the chief elected official of the municipality where the proposed activity will occur. The notice must include information on the proposed activity and state that the permit application is available for inspection at DEEP.

§ 10 – PERMIT FOR NOISEMAKING DEVICES TO DETER WILDLIFE

By law, the Department of Agriculture commissioner issues permits for people to use agricultural noisemaking devices, which are used to deter wildlife from damaging crops. He may deny or cancel a permit if (1) a municipal legislative body adopts a resolution asking him to do so and (2) he determines that a device causes or will cause undue hardship to nearby residents. The act defines "undue hardship" as causing significant injury to the health and comfort of a person while on his or her property and within the curtilage of (i.e., area immediately surrounding) his or her home.

The act also allows the commissioner to institute a "best practical use procedure" at a municipality's request, instead of denying or cancelling a noisemaking device permit, if he determines it is feasible to limit excessive use of the device while allowing it to be effective. In developing a best practical use procedure, the commissioner must assess the (1) device, (2) accepted trade practices associated with the device's effective use, (3) technical feasibility of implementing the procedure, (4) nature of the area where the device is used, (5) crop being protected, and (6) wildlife being repelled. The act states that these provisions do not authorize a cause of action.

§ 7 – RUNNING BAMBOO

The act makes a conforming change to PA 14-100 by removing a reference to "properly contained" bamboo. The law prohibits anyone from planting, or letting anyone plant, "running bamboo" (i.e., bamboo in the genus Phyllostachys, including yellow-groove bamboo) on his or her property within 40 feet of abutting property or a public right of way. PA 14-100 eliminated an option of containing bamboo by a barrier system.

PA 16-96—sHB 5147
Environment Committee
Judiciary Committee

AN ACT INCREASING THE MAXIMUM PENALTY FOR PERSONS CONVICTED OF SUBSEQUENT OFFENSES OF MALICIOUS AND INTENTIONAL ANIMAL CRUELTY

SUMMARY: This act increases the penalty for a subsequent offense of malicious and intentional animal cruelty (i.e., maliciously or intentionally maiming, mutilating, torturing, wounding, or killing an animal) by classifying it as a class C felony, instead of a class D felony (see Table on Penalties). Under existing law, unchanged by the act, a first offense remains a class D felony. Specified people are exempt from this crime (see BACKGROUND).

By law, the first violation of certain other animal cruelty offenses, including failing to provide animals with proper care, food, and water, is punishable by imprisonment for up to one year, a fine of up to $1,000, or both. A subsequent offense is a class D felony (CGS § 53-247(a)).
EFFECTIVE DATE: October 1, 2016

BACKGROUND

Exemptions from Malicious and Intentional Animal Cruelty

The law exempts from the malicious and intentional animal cruelty statute, anyone who is:
1. a licensed veterinarian following accepted standards of practice;
2. following statutorily approved slaughter methods;
3. performing medical research as an employee, student, or person associated with a hospital, educational institution, or laboratory;

4. following generally accepted agricultural practices; or
5. lawfully taking wildlife (CGS § 53-247(b)).

PA 16-102—sHB 5317
Environment Committee

AN ACT CONCERNING COMMERCIAL FEED AND THE TERM AND FEE FOR CERTAIN LICENSES ISSUED BY THE DEPARTMENT OF AGRICULTURE

SUMMARY: This act modifies the state's statutory commercial feed requirements to align them with the state Department of Agriculture's (DoAg) cooperative agreement with the U.S. Food and Drug Administration (FDA) on animal feed. By law, "commercial feed" is generally any feed used for pets and other animals, except for unmixed seeds and commodities (e.g., hay, straw, silage, and husks) and individual substances not mixed with other material.

Among its provisions, the act:

1. requires in-state commercial feed manufacturers to register with DoAg annually, instead of once, and pay an annual registration fee;
2. establishes statutory fines for violating the commercial feed requirements;
3. eliminates a requirement that DoAg provide a commercial feed facility owner or operator with written notice of an inspection;
4. requires, instead of authorizes, DoAg to apply to Superior Court for a warrant when a facility owner refuses entry to an inspector; and
5. exempts manufacturers with less than $25,000 in annual commercial feed sales from registration and inspection requirements, while allowing DoAg to investigate written complaints against such manufacturers about adulterated or misbranded feed or illness or injury related to feed.

The act also decreases, from annually to biennially, the frequency for renewing certain DoAg licenses and registrations and adjusts the associated fees to reflect the longer term.

EFFECTIVE DATE: October 1, 2016

§§ 1-3 — COMMERCIAL FEED

Annual Registration

The act requires in-state commercial feed manufacturers with $25,000 or more in gross annual sales of commercial feed to register their facilities with DoAg annually. The DoAg commissioner must prescribe the registration forms and process.

Each registration expires on December 31 and may be renewed in December. Registrants must pay an annual registration fee, which the act establishes at $100 for a manufacturer that employs five or more full-time staff and $50 for one that employs fewer than five full-time staff. The commissioner may adopt regulations to change the annual fee.

Under prior law, all in-state commercial feed manufacturers had to file information with the commissioner once and for no charge.

Under existing law, commercial feed distributors must annually register their commercial feeds with DoAg. Registrants pay an annual $40 fee for each feed registered (Conn. Agencies Regs. § 22-118q-2).

Suspension or Revocation of Registration

Under prior law, the commissioner could cancel or refuse a distributor's commercial feed registration for noncompliance with the commercial feed laws, after giving the registrant an opportunity for a hearing. The act instead allows him to cancel, refuse, suspend, or revoke a commercial feed manufacturer's facility or distributor's commercial feed registration for noncompliance. But he may not cancel or refuse to issue a commercial feed registration unless the registrant is given an opportunity to amend the registration application to comply with the law.

Appeal and Hearing

Under the act, anyone aggrieved by an action of the commissioner (either cancellation, refusal, suspension, or revocation of a registration or imposition of an administrative fine (see below)) may submit a written appeal to the commissioner within 10 days after the action. The commissioner must hold a hearing in accordance with the Uniform

Administrative Procedure Act (UAPA) and DoAg's administrative code within 90 days after receiving the appeal. Appeals are limited to the question of whether an alleged violation occurred.

Anyone aggrieved by a final decision of the commissioner or hearing officer may appeal to Superior Court in accordance with the UAPA.

The act specifies that these provisions do not limit the authority of the commissioner or his designated agent to issue orders necessary to protect the safety, health, and welfare of people or animals.

Statutory Fines for Violations

The act establishes fines for (1) failing to register a manufacturing facility or a commercial feed or (2) violating other commercial feed laws or regulations (e.g., requirements on proper labeling and barring the sale of misbranded or adulterated feed), as shown in Table 1.

Table 1: Fines for Violating Commercial Feed Requirements

Violation	*Fine*
Failing to register a commercial feed manufacturing facility	An infraction for a first violation; $500 for a subsequent violation
Failing to register a commercial feed	$100 for each commercial feed in violation
All other violations of the commercial feed statutes and regulations for which there is no specified penalty	$250 per violation for a first offense; $500 per violation for a subsequent offense occurring within one year of the first offense

Under the act, a person or entity that fails to register a commercial feed manufacturing facility or a commercial feed is fined only after receiving notification of the registration requirement. The DoAg commissioner may assess an administrative fine for other violations of the commercial feed requirements only after giving notice of the violation and an opportunity to correct it.

By law, when the commissioner or his designee has reasonable cause to believe commercial feed is being distributed in violation of the laws and regulations, he or she may order the distributor (1) to withdraw the feed from distribution and (2) not to dispose of it unless the commissioner or a court gives permission to do so. The commissioner may seek a court's permission to seize, condemn, and dispose of any noncompliant feed. A distributor must be given an opportunity to make the feed compliant before the court orders disposal (CGS § 22-118s).

Inspection

Under prior law, DoAg employees could enter and inspect, at reasonable times and in a reasonable manner, feed manufacturing, processing, packaging, and distribution facilities, vehicles, and equipment. The act instead allows the commissioner's designated agents to perform such inspections.

The act eliminates a requirement that the inspector present written notice of the inspection to the facility owner, operator, or agent in charge. But the law, unchanged by the act, requires the inspector to notify the person in charge when the inspection is complete.

If the owner or his or her agent denies entry to an inspector, the act requires, rather than allows, the commissioner or his agent to apply to Superior Court for a warrant.

Sampling and Analysis

Existing law allows inspectors to obtain samples of commercial feed for analysis. It requires the sampling and analysis to be done according to methods published by the Association of Official Analytical Chemists International or other generally recognized methods. The act requires these other methods to be approved by the FDA or DoAg commissioner. Upon request, the commissioner or his agent must prepare and leave a duplicate sample with the registrant.

The act eliminates a requirement that the analysis results be provided to the purchaser and the person named on the label. Prior law allowed a registrant, within 30 days after receiving a copy of the results, to request a portion of the analyzed sample.

The act specifies that a report issued by an accredited laboratory is prima facie evidence of the components of the sample collected. By law, the commissioner must use the report in determining if a commercial feed is deficient.

§§ 4-7 — LICENSE AND REGISTRATION TERMS AND FEES

The act doubles the term of certain licenses and registrations DoAg issues, making them renewable every two years, instead of annually. It adjusts the required fees to reflect the longer term. Table 2 lists the fees under prior law and the act.

Table 2: License and Registration Fees

Licensee or Registrant	*Annual Fee under Prior Law*	*Biennial Fee under the Act*
Milk dealer; subdealer; or cheese, dry milk, or yogurt manufacturer	$100	$200
Milk-selling store	60	120
Commercial kennel or pet shop	200	400
Animal grooming or training facility	100	200
Animal importer	100	200

Under the act, licenses related to milk and milk products extend from July 1 to June 30 of the second following year. Applicants must apply for renewal on or by July 1 of the second year. Applicants who renew late are charged a late fee of $50 or $15 for a milk-selling store.

Commercial kennel, pet shop, grooming facility, and training facility licenses and animal importer registrations extend from January 1 to December 31 of the second following year. Applicants must apply for renewal on or by December 31 of the second year.

PA 16-107—HB 5383
Environment Committee

AN ACT CONCERNING THE FARM VIABILITY MATCHING GRANT PROGRAM AND THE CONNECTICUT FARM LINK PROGRAM

SUMMARY: This act requires the Department of Agriculture (DoAg) to expand the Farm Link program to include more participants. Under existing law, the program links farmers and agricultural land owners who want to sell their farm or land with people who want to start or expand an agricultural business. The act opens the program to farmers and agricultural land owners who want to lease or transfer their farm or land.

By law, DoAg must maintain a database of program participants and post information about the program on its website; provide educational programing, such as farm transfer and succession planning; and make reasonable efforts to facilitate contact between parties. The act requires DoAg to also post information on its website about farmland access, restoration, and transfer; conduct outreach to farmers and land owners; and perform on-site investigations of land enrolled in the program. It authorizes DoAg to create partnerships or use third-party entities to implement the program.

In addition, the act expands the purposes for which DoAg's farm viability matching grants may be used to include developing and implementing programs and services to promote farm and farmland access and farm transfers. Under existing law, the grants may be used to (1) fund capital projects fostering agricultural viability (e.g., farmers' markets and processing facilities); (2) develop and implement land use regulations and farmland protection strategies that sustain and promote local agriculture; and (3) develop new marketing programs and venues for products grown in the state. Farm viability grants are available to nonprofit agricultural organizations, municipalities, groups of municipalities, and regional councils of government.

EFFECTIVE DATE: Upon passage

PA 16-122—sHB 5189
Environment Committee

AN ACT AUTHORIZING AN ADMINISTRATIVE PENALTY FOR CERTAIN LITTERING VIOLATIONS AND REQUIRING CERTAIN REPORTS AND DISCLOSURES BY PRODUCT STEWARDSHIP ORGANIZATIONS IN THE STATE

SUMMARY: This act allows municipalities to assess, after a hearing, an administrative penalty of up to $500 on anyone who violates a municipal littering ordinance if the litter includes furniture, automobiles or automobile parts, large appliances, tires, bulky waste, hazardous waste, or similar material. This penalty is in addition to the fine imposed by the ordinance (see BACKGROUND).

The act also imposes two reporting requirements on the nonprofit representative organization created by paint producers to implement the state's paint stewardship program.

EFFECTIVE DATE: October 1, 2016, except the paint stewardship reporting provisions are effective upon passage.

PAINT STEWARDSHIP PROGRAM REPORTS

The paint stewardship program allows consumers and businesses to drop off, at no cost, unused architectural paint at various locations around the state. The program is funded by an assessment added to the purchase price of paint covered by the program (CGS §§ 22a-904 & -904a).

The act requires, by January 1, 2017, the paint stewardship program representative organization (i.e., PaintCare, the nonprofit organization created by producers to implement the program) to report to the Environment Committee on (1) its efforts to assure the retail availability of remanufactured architectural paint in Connecticut, (2) the factors that resulted in the program having a fiscal surplus, and (3) its plan for assuring the program does not generate such a surplus.

It also requires any paint stewardship organization operating in the state to submit to the Department of Energy and Environmental Protection (DEEP), by May 1 each year, certified audited financial statements and the name of any contractor or organization with which the organization has a contract valued at $2,000 or more. DEEP must post and maintain information (presumably the financial statements and list of contractors and organizations) on its website.

The representative organization already submits an annual report on the program to DEEP. This report includes, among other things, (1) a description of the methods used to collect, transport, and process the unused paint; (2) the amount and type of paint collected; (3) the total cost to implement the program; and (4) an evaluation of the program's funding mechanism (CGS § 22a-904a(h)).

BACKGROUND

Litter and Littering

State law makes it illegal to litter on public land or public property, in state waters, or on private property not owned by the litterer. Public land includes a state park or state forest, municipal park, or other publicly owned land open to the public for recreation. A violator is subject to a fine of up to $199 and, under certain circumstances, a 50% surcharge (CGS § 22a-250).

The law allows municipalities to adopt an ordinance imposing a fine for violating the state littering law and authorizing municipal police officers and other people to issue citations to enforce it. It allows municipalities with these ordinances to adopt a citation hearing procedure (CGS § 22a-226d).

PA 16-141—HB 5583
Environment Committee

AN ACT CONCERNING AN AGREEMENT REGARDING ANNUAL WATER LEVEL DRAW DOWNS AT BASHAN LAKE IN THE TOWN OF EAST HADDAM

SUMMARY: This act requires the energy and environmental protection commissioner to enter into an agreement with East Haddam and the Bashan Lake Association by November 1, 2017 regarding a schedule for annual water level draw downs of Lake Bashan.

The parties must agree on a draw down level that controls weeds and prevents property damage, property erosion into the lake, and association property devaluation. The act specifies that the draw downs must be designed to balance the concerns of the lake community, including recreational needs, lakefront infrastructure preservation, fisheries habitat, and other natural resource concerns.

The act requires the association to monitor the lake and submit to East Haddam any petition about a draw down at least 60 days before a draw down is to begin.

EFFECTIVE DATE: Upon passage

PA 16-160—SB 137
Environment Committee
Government Administration and Elections Committee
Judiciary Committee

AN ACT CONCERNING THE SUSPENSION OF A HUNTING OR FISHING LICENSE FOR FAILURE TO APPEAR, PAY OR PLEA IN A HUNTING OR FISHING VIOLATION CASE

SUMMARY: This act expands the energy and environmental protection commissioner's authority to suspend fishing, hunting, and trapping licenses for certain violations when a person cited for the violation fails to appear in court or pay or plea to an infraction and an arrest warrant is issued for him or her. The act requires the commissioner to suspend the license until the person is adjudicated in court or pays the associated fine. The person must have been cited for violating state or federal migratory bird regulations or any of the following state laws: (1) fisheries or game laws; (2) hunting or discharging a firearm from a public highway; (3) carrying a loaded gun in a vehicle or snowmobile; (4) 3rd degree criminal trespass; or (5) 1st, 2nd, or 3rd degree criminal mischief.

EFFECTIVE DATE: October 1, 2016

BACKGROUND

Penalty for Fishing, Hunting, or Trapping Violations

By law, the commissioner may suspend the fishing, hunting, or trapping license of anyone convicted of violating certain laws or regulations. Anyone who fishes, hunts, or traps under a suspended credential is subject to a fine of between $100 and $200 and an indefinite suspension of all of his or her fishing, hunting, and trapping permits, licenses, and registrations (CGS § 26-61(d)). The law allows anyone whose credential is suspended to apply to the commissioner to have it restored (CGS § 26-61(c)).

PA 16-161—sSB 140
Environment Committee
Finance, Revenue and Bonding Committee
Commerce Committee

AN ACT CONCERNING THE DUTIES OF THE CONNECTICUT MARKETING AUTHORITY

SUMMARY: This act expands the Connecticut Marketing Authority's (CMA) administrative powers to include the leasing, permitting, or licensing of property under its control. Prior law allowed it only to lease its land or markets.

By law, CMA may lease to an agricultural cooperative, a farm produce or supply wholesaler, a dealer in other commodities, or anyone providing essential services to the market. The act allows CMA to (1) permit or license these entities and (2) lease to, permit, or license an entity that benefits market operations.

The act applies existing requirements related to administering CMA leases to the leases, permits, and licenses the act covers. Such requirements address (1) their duration, renewal, and termination and (2) written records of CMA's actions. Changes to the status of a lease, permit, or license must be reported to the Office of Policy and Management secretary.

Lastly, the act requires CMA to adopt regulations to address the expanded authority to lease, permit, and license its property. Prior law required regulations on leasing land and markets.

EFFECTIVE DATE: Upon passage

BACKGROUND

Connecticut Marketing Authority (CMA)

The CMA is an 11-member board within the Department of Agriculture. It oversees the operation and planning of the Hartford Regional Market, a wholesale farmers' market. The market allows farmers and wholesalers to sell and distribute food and other agricultural products and is funded by fees it generates.

PA 16-187—sSB 136
Environment Committee
Finance, Revenue and Bonding Committee

AN ACT REGULATING THE USE OF JETTED ARTICULATED VESSELS AND CERTAIN WATER SKIING DEVICES

SUMMARY: This act establishes regulatory requirements for operators of jetted articulated vessels (JAVs) that are similar to the requirements for operators of personal watercraft (PWC) (e.g., jet skis). Violators are subject to a $60 to $250 fine for each violation.

The act also extends the definition of water skiing to include watersports performed behind a vessel whether or not the person is connected by a towing line to the vessel (e.g., wake surfing). By doing so, it subjects such watersport participants to existing water skiing requirements.

The act also makes minor and technical changes.

EFFECTIVE DATE: Upon passage

DEFINITIONS

The act defines a "JAV" as a watercraft with a base pumping unit that uses an articulated hose or jointed or flexible conduit to convey water or other media under pressure through a device that ejects the high-pressure media to propel, elevate, or submerge the operator or passenger. A JAV operator includes anyone on the JAV who can energize or de-energize it or control its thrust, speed, or direction.

JAV REQUIREMENTS

Under the act, a JAV operator must be at least age 16 and hold a certificate of personal watercraft operation (CPWO) issued by the Department of Energy and Environmental Protection (DEEP) (see BACKGROUND). The act prohibits JAV owners from knowingly allowing someone under age 16 who does not have a CPWO to operate a JAV. But for all PWCs, it allows the DEEP commissioner to modify or suspend the age requirement in writing for certain authorized marine events (e.g., parades, exhibitions, and tournaments). Under existing law, he may already suspend or modify the CPWO requirement for marine events.

The act prohibits people from operating JAVs in a slow-no-wake area, except to transit the area, unless the commissioner allows the operation for a marine event. It also prohibits operating a JAV within 200 feet of a dock, shore, pier, or fixed structure, or within 100 feet of any vessel, except to transit the area.

WATER SKIING

Under the act, "water skiing" includes towing someone behind a vessel under power, whether or not the person is connected to the vessel by a towing line, and similar activities in which a passenger exits the vessel and uses the vessel's suction or wake to engage in the activity.

Under existing law, among other restrictions, no one may:

1. operate a motorboat towing a water skier unless a responsible person at least age 12 is on board assisting the operator and observing the water skier's progress,
2. water ski or operate a motorboat engaged in water skiing anywhere that water skiing is prohibited or in a way that strikes or threatens to strike another person or vessel, or
3. water ski from one-half hour after sunset to sunrise or when weather conditions limit visibility to less than 100 yards (CGS § 15-134).

BACKGROUND

Obtaining a CPWO

To obtain a CPWO from DEEP, an applicant must do one of the following:

1. complete a course on safe boating operation and safe PWC handling approved by the DEEP commissioner,
2. meet the requirements for a safe boating certificate and complete a safe PWC handling course approved by the commissioner, or
3. pass an equivalency examination administered by the commissioner testing the applicant's knowledge of safe boating operation and safe PWC handling (CGS § 15-140j(c)).

PA 16-72—sHB 5627
Finance, Revenue and Bonding Committee

AN ACT ELIMINATING THE SALES TAX ON PARKING FEES AT CERTAIN FEDERAL, STATE AND LOCAL PARKING LOTS

SUMMARY: This act exempts from sales and use tax non-metered motor vehicle parking in (1) seasonal lots with 30 or more spaces operated by the state or its political subdivisions and (2) municipally owned lots with 30 or more spaces. As under existing law, parking in metered lots or lots with fewer than 30 spaces is exempt from the tax.
EFFECTIVE DATE: Upon passage and applicable to sales made on or after that date.

BACKGROUND

Related Act

PA 16-3, May Special Session (§ 180), contains identical provisions.

PA 16-128—sSB 461
Finance, Revenue and Bonding Committee

AN ACT CONCERNING A SMALL MINORITY BUSINESS REVOLVING LOAN FUND

SUMMARY: This act establishes, within the Small Business Express program (SBX), up to two minority business revolving loan funds ("funds") to support the growth of small minority-owned businesses by providing them with loans.

Under the act, the Department of Economic Development (DECD) must provide up to two minority business development entities with grants, from SBX bond funds, to establish the funds. The development entities must use the grants to provide loans to small minority-owned businesses that meet SBX eligibility criteria.

The act also specifies amounts, terms, and eligible uses of the loans and imposes various administrative requirements on the funds.

It also makes technical and conforming changes.
EFFECTIVE DATE: Upon passage

REVOLVING LOAN FUNDS

Establishment of Funds

The act requires the DECD commissioner to allocate a total of $5 million in grants to up to two minority business development entities in each year from FY 16 through FY 20 ($25 million total) to establish up to two minority business revolving loan funds.

Under the act, a "minority business development entity" is a nonprofit organization that, on or before June 9, 2016 (the act's effective date), (1) has a lending portfolio from which at least 75% of lending is provided to minority-owned businesses statewide and (2) provided at least 75% of its technical assistance to minority-owned business statewide.

Under the act a "minority" refers to:

1. Black Americans, including people with origins in any of the Black African racial groups not of Hispanic origin;
2. Hispanic Americans, including anyone of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless or race;
3. anyone with origins in the Iberian Peninsula, including Portugal, regardless of race;
4. women;
5. Asian Pacific Americans and Pacific Islanders; and
6. American Indians and people with origins in any of the original people of North America who maintain identifiable tribal affiliations through membership and participation or community identification.

Funding and Administration

The money in the revolving loan funds must be used to provide loans to eligible small minority-owned businesses and fund the development entity's administrative costs of providing the loans.

The development entities cannot use more than 10% of the amount they receive from DECD for their administrative costs. Within five years of the funds' establishment, they must provide loans in a way that makes their annual investment income, loan repayments, or other revenue sources sufficient to cover the funds' administrative costs. They must also annually submit to DECD an independent financial audit of expenditures until they have spent all funding they received from DECD. If DECD finds that an entity used any of the funding for unauthorized purposes, the commissioner may require it to repay DECD for the funding it provided.

Loans

To be eligible for loans from the funds, a business must:

1. be owned by one or more members of a minority,
2. employ fewer than 100 employees on at least 50% of its working days in the previous 12 months,
3. operate in Connecticut,
4. have been registered to conduct business for at least 12 months, and
5. be in good standing with the payment of all state and local taxes and with all state agencies.

Under the act, the development entities must prioritize applicants that, as part of their business plan, are creating new jobs that will be maintained for at least 12 consecutive months. They may provide loans to small minority-owned businesses in amounts from $10,000 to $100,000. They must review and approve loan terms, conditions, and collateral requirements in a way that prioritizes job growth and retention. The act caps the repayment rate on the loans at 4% and their term at 10 years.

Businesses may use the loans (1) to acquire or purchase machinery or equipment or (2) for construction or leasehold improvements, relocation expenses, working capital, or other business-related expenses authorized by the development entity.

PA 16-143—HB 5593
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE REAPPLICATION PROCEDURE FOR ELDERLY PROPERTY TAX RELIEF

SUMMARY: This act extends, from March 15 to April 15, the deadline by which elderly, and in some cases disabled, homeowners must reapply biennially for property tax relief under three income-restricted programs. By law, qualified taxpayers must reapply for tax relief every two years by submitting copies of their federal income tax returns to their municipal tax assessors. By extending the filing deadline to April 15, the act aligns it with the deadline for filing federal tax returns, thus giving taxpayers more time to complete those returns and submit them to the municipality.

The deadline extension applies to the following programs:

1. the state-funded Tax Relief Program for Elderly and Totally Disabled Homeowners (i.e., the Circuit Breaker Program; CGS § 12-170aa);
2. the local-option Elderly Property Tax Freeze Program (CGS § 12-170v); and
3. the state-funded Elderly Property Tax Freeze Program, which has been closed to new applications since 1980 (CGS § 12-129b).

The act also extends the deadline, from April 1 to April 30, by which assessors must notify taxpayers whose applications they did not receive by the filing deadline. It requires them to send the notices by regular mail evidenced by a certificate of mailing instead of by certified mail. By law, taxpayers who receive this notice have until May 15 to submit an application. This may be done personally or, for reasonable cause, by someone the assessor approves.
EFFECTIVE DATE: October 1, 2016

PA 16-146—sHB 5637
Finance, Revenue and Bonding Committee

AN ACT MAKING MINOR AND CONFORMING CHANGES TO CERTAIN TAX STATUTES

SUMMARY: This act aligns the motor vehicle mill rate cap for special taxing districts and boroughs with the existing cap for municipalities. The law bars districts and boroughs from setting a mill rate that, if combined with the municipality's motor vehicle mill rate, would exceed 32 mills for the 2015 assessment year and 29.36 mills for the 2016

assessment year. The act extends the 29.36 mill rate cap to the 2017 assessment year and thereafter, thus aligning it with the cap for municipalities for those assessment years (see BACKGROUND).

The act also does the following:

1. revises two statutes to reflect the separate mill rates on motor vehicles and real and personal property other than motor vehicles, beginning in FY 17;
2. corrects statutory references in the payment in lieu of taxes (PILOT) program and Mashantucket Pequot and Mohegan Fund distribution formula statutes;
3. corrects a personal income tax bracket calculation for head of household filers, thus conforming the statutes to existing practice; and
4. makes other technical and conforming changes.

EFFECTIVE DATE: Upon passage, except (1) the PILOT changes are effective July 1, 2016 and (2) some technical changes to the consensus revenue estimate statutes are effective October 1, 2016 and others are effective July 1, 2019.

MILL RATES

Beginning in FY 18, the law establishes a mechanism for increasing PILOT grants for the 35 municipalities with the highest percentage of tax-exempt property on their grand lists, provided their mill rates are at least 25. The act specifies that the mill rate used to determine which municipalities qualify for the increased PILOTs is the mill rate imposed on real and personal property other than motor vehicles. (PA 16-3, May Special Session (MSS) (§§ 190 & 191), delays the implementation of this mechanism until FY 20 and makes conforming changes. It also makes identical technical changes to the PILOT statutes.)

The act makes a similar change to the mill rate used to calculate reduced property tax assessments under a local option property tax relief program for qualifying commercial and industrial property owners in municipalities with state-approved enterprise zones.

BACKGROUND

Related Act

PA 16-3, MSS (§ 187), similarly extends the motor vehicle mill rate cap for districts and boroughs to the 2017 assessment year and thereafter. It also increases the cap from (1) 32 mills to 37 mills for the 2015 assessment year and (2) 29.36 mills to 32 mills for the 2016 assessment year and thereafter.

PA 16-183—sHB 5636 (**VETOED)**
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE APPRENTICESHIP TAX CREDIT AND THE TAX CREDIT REPORT

SUMMARY: This act extends the manufacturing apprenticeship tax credit to pass-through entities, such as S Corporations, partnerships, and limited liability companies (LLCs), whose profits are taxed as the personal income of their owners and partners. By extending the credit to these entities, the act allows their owners and partners to claim it against their personal income taxes.

The act also shifts, from the Department of Economic and Community Development (DECD) to the Program Review and Investigations (PRI) Committee, responsibility for preparing the three-year evaluation of the state's economic development tax incentives; reduces the evaluation's scope; and requires the Appropriations; Commerce; and Finance, Revenue and Bonding committees to hold hearings on the report.

EFFECTIVE DATE: Upon passage, except the provision extending the apprenticeship credit to the personal income tax takes effect July 1, 2017 and is applicable to income or tax years beginning on or after January 1, 2017.

MANUFACTURING APPRENTICESHIP TAX CREDIT

The act allows the owners and partners of S corporations, LLCs, partnerships, and other pass-through entities to use the manufacturing apprenticeship tax credit to reduce their personal income tax liability. If the entity is an S corporation or one treated as a partnership for federal tax purposes, its shareholders or partners may claim the credit. If the business is an LLC, has only one owner, and does not file a separate federal tax return, (i.e., "disregarded entity"), the owner may

claim the credit against his or her personal income taxes.

Under prior law, the credit applied only against the corporation business tax, which is imposed on businesses organized as corporations. Businesses organized as pass-through entities are not liable for this tax, but their owners and partners must pay personal income taxes on the income they derive from these entities.

Although prior law allowed pass-through entities to earn the manufacturing apprenticeship tax credit, it barred their owners and partners from applying the credits to their personal income taxes. Instead, it allowed them to cash in the credits by selling, assigning, or transferring them to corporations, utility companies, and petroleum products distribution companies, which could use the credits to reduce their tax liability. The act eliminates the ability of pass-through entities to sell, assign, or transfer the credits to these other businesses.

By law, the credit equals $6 per hour, up to the lesser of $7,500 or 50% of the actual apprenticeship wages. The period for claiming the credit depends on the apprenticeship program's duration: the program's first year for a two-year program and first three years for a four-year program.

TAX INCENTIVE PROGRAMS' TRIENNIAL EVALUATION

Responsibility

The act shifts, from DECD to the PRI Committee, the responsibility for preparing the three-year evaluation of the state's tax incentives for recruiting and retaining businesses. On or before February 1, 2018, the committee must prepare the report in consultation with the revenue services and DECD commissioners, and the DECD commissioner must provide all data, data analysis, or economic modeling the committee needs to complete the report. The committee must comply with any confidentiality requirements the law imposes on any data it receives.

The committee must submit the report to the governor, the Office of Policy and Management secretary, and the Appropriations; Commerce; and Finance, Revenue and Bonding committees.

Content

The act requires the committee to evaluate each tax credit and abatement program and state its methodology and assumptions. The evaluation must:

1. describe each program, including its beneficiaries and statutory and programmatic goals;
2. analyze the programs' fiscal impact and their projected costs;
3. analyze the programs' economic impact, whether they are meeting their statutory and programmatic goals, and, if possible, any obstacles preventing them from meeting those goals;
4. analyze whether the programs are being administered efficiently and effectively and the ease with which taxpayers comply with the programs' requirements;
5. recommend whether each program should be continued, modified, or repealed and the basis for the recommendation; and
6. recommend how to improve the programs' administrative efficiency and effectiveness.

Prior law explicitly required the report to (1) identify the total number of jobs associated with the programs' recipients and the state tax revenue they generated and (2) provide a detailed examination of the credits DECD administered, including an economic and cost-benefit analysis of each program.

Besides providing an evaluation of the programs, prior law required the report to include an assessment of the state's corporation and insurance premium taxes. Specifically, the report had to examine how the taxes affected businesses, how much it cost the state to administer the credits, how that cost compared to the revenue the taxes generated, and how much it cost taxpayers to comply with the administrative requirements for remitting the taxes.

Hearing

Beginning March 1, 2018, the act requires the Appropriations and Finance, Revenue and Bonding committees to hold one or more public hearings on the PRI Committee report every three years.

PA 16-207—sSB 453
Finance, Revenue and Bonding Committee

AN ACT CONCERNING REMITTANCE OF REVENUE FROM CERTAIN TRAFFIC FINES TO MUNICIPALITIES

SUMMARY: Existing law requires the state to remit fines imposed for certain traffic violations, such as parking violations, to the municipality in which the violation occurred. For select municipalities, this act additionally requires the state to remit 50% of the fines imposed for obstructing a designated intersection (i.e., "blocking the box") to the municipality in which the violation occurred. It applies to the eight most populous municipalities based on the most recent federal decennial census (i.e., Bridgeport, Danbury, Hartford, New Britain, New Haven, Norwalk, Stamford, and Waterbury).
EFFECTIVE DATE: October 1, 2016

PA 16-208—sSB 463
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE PENALTY FOR VIOLATIONS OF A MUNICIPAL ORDINANCE CONCERNING THE OPERATION OF A DIRT BIKE, ALL-TERRAIN VEHICLE OR MINI-MOTORCYCLE

SUMMARY: This act adds mini-motorcycles to the list of motorized vehicles municipalities may regulate by ordinance. Under the act, municipalities may regulate the operation and use of mini-motorcycles on public property and impose penalties for their improper use up to the same limits applicable to dirt bike, all-terrain vehicle (ATV), and snowmobile ordinance violations (see BACKGROUND).

Under the act, municipal officers and employees may issue citations without first providing a written warning to individuals who violate a mini-motorcycle ordinance. By law, the same is true for citations concerning a dirt bike or ATV ordinance.

The act also authorizes municipalities with 20,000 or more people to enforce ordinances concerning mini-motorcycle, dirt bike, or ATV operation by confiscating a vehicle used to violate them. The act (1) establishes protections for lienholders and innocent owners and (2) requires municipalities to sell confiscated vehicles at public auction.
EFFECTIVE DATE: October 1, 2016

"MINI-MOTORCYCLE" DEFINITION

The act defines mini-motorcycle the same way as an existing law prohibiting its operation on highways and public sidewalks. Under the law, a "mini-motorcycle" is a vehicle that (1) has no more than three wheels in contact with the ground; (2) has a manufactured seat height of less than 26 inches, measured at the lowest point on top of the seat cushion without the rider; and (3) is propelled by an engine having a piston displacement of less than 50 cubic centimeters (CGS § 14-289j).

CONFISCATED MINI-MOTORCYCLES, DIRT BIKES, OR ATVS

Under the act, a municipality with a population of 20,000 or more that adopts an ordinance regulating mini-motorcycle, dirt bike, or ATV use may include provisions providing for the seizure and forfeiture of these vehicles. If a municipality confiscates a mini-motorcycle, dirt bike, or ATV used to violate an ordinance, it must sell it at a municipally conducted public auction. The sale proceeds must be paid to the municipal treasurer for deposit into the municipality's general fund.

The act's forfeiture provisions are subject to any bona fide lien, lease, or security interest (including a lien for towing and storing a vehicle). The act protects an owner or lienholder's interest when forfeiture is due to someone else's act or omission if the owner or lienholder did not know, and could not have reasonably known, that the mini-motorcycle, dirt bike, or ATV was used or was intended to be used in violation of a municipal ordinance.

BACKGROUND

Regulating Dirt Bikes, ATVs, and Snowmobiles by Ordinance

By law, municipalities may adopt ordinances on the operation and use of (1) dirt bikes on public property, including hours of use, and (2) ATVs and snowmobiles, including hours and zones of use. An ordinance may set fines of up to:

1. $1,000 for a first violation,
2. $1,500 for a second violation, and
3. $2,000 for subsequent violations (CGS §§ 14-390 & -390m).

PA 16-3—sSB 191
General Law Committee

AN ACT CONCERNING INSTALLERS OF RESIDENTIAL STAIR LIFTS

SUMMARY: This act establishes a residential stair lift technician's license. The license is valid for one year from the date of issuance. The initial license fee is $150 and the renewal fee is $75.

By December 31, 2016, the consumer protection commissioner, after consulting with the Elevator Installation, Repair and Maintenance Board, must adopt regulations to establish the license. The regulations must include the amount and type of experience, training, continuing education, and exam requirements, if any, for anyone obtaining or renewing the license.

Under the act, licensed tradesmen (e.g., unlimited contractor elevator licensee) whose license allows them to install and repair residential stair lifts may continue to do so and are not required to obtain a residential stair lift technician's license.

EFFECTIVE DATE: Upon passage

PA 16-18—HB 5428
General Law Committee

AN ACT CONCERNING CASE BOTTLE QUANTITIES FOR CERTAIN ALCOHOLIC LIQUOR

SUMMARY: This act allows the Department of Consumer Protection (DCP) to permit cases of alcoholic liquor other than beer, cordials, cocktails, wines, and mixed drinks to have less than the statutorily required bottle number and quantity. But the DCP commissioner may not allow any one person or entity to have a lower case number and quantity more than four times in a calendar year.

The act also simplifies and replaces the statutorily required bottle numbers and quantities for a case of liquor with a smaller list based on the metric system. Under the act, a case must generally be in the following number and quantity:

1. six 1,750-milliliter bottles;
2. 12 one-liter bottles;
3. 12 750-milliliter bottles;
4. 24 375-milliliter bottles;
5. 48 200-milliliter bottles;
6. 60 100-milliliter bottles; or
7. 120 50-milliliter bottles, except a case of 50-milliliter bottles may be in a number and quantity as originally configured, packaged, and sold by the manufacturer or out-of-state shipper before shipment, provided the number of bottles does not exceed 200.

Prior law required a case of liquor to be in the following number and quantity:

1. three or four gallon bottles;
2. six half-gallon bottles;
3. 12 quart bottles, liter bottles, 1/5-gallon bottles, or 750-milliliter bottles;
4. 24 pint bottles, 1/10-gallon bottles, 6.4-ounce bottles, or 375-milliliter bottles;
5. 48 187.5-milliliter bottles or half-pint bottles;
6. 96 93.7-milliliter bottles or 100-milliliter bottles;
7. 192 46.8-milliliter bottles; or
8. 200 41.5-ounce, 1.6-ounce, or two-ounce bottles.

EFFECTIVE DATE: Upon passage

PA 16-20—SB 189
General Law Committee

AN ACT CONCERNING IRREVOCABLE FUNERAL SERVICE CONTRACTS

SUMMARY: This act increases, from $5,400 to $8,000, the maximum allowable amount of an irrevocable funeral service contract.

A funeral service contract requires compensation in exchange for funeral, burial, or related services or providing certain items, where use or delivery of the services or items is not immediately needed. Compensation may take the form of a monetary payment, the delivery of securities, or the assignment of a death benefit under a life insurance policy. Such a contract is sometimes referred to as a "prepaid" or "pre-need" funeral service contract because the person making the contract is paying for services to be provided in the future.

EFFECTIVE DATE: July 1, 2016

PA 16-35—HB 5327
General Law Committee
Appropriations Committee

AN ACT REQUIRING CERTAIN RESIDENTIAL RESTORATION SERVICE PROVIDERS TO REGISTER AS HOME IMPROVEMENT CONTRACTORS

SUMMARY: This act requires people who perform property repair or remediation work to meet several new requirements.

First, the act expands the scope of the home improvement registration law by requiring anyone performing water, fire, or storm restoration or mold remediation to register with the Department of Consumer Protection (DCP) as a contractor (§ 1). This requirement applies to work done on property that is used or designed for use as a private residence, dwelling place, or residential rental property (see BACKGROUND).

The act requires any contract for repair, remediation, or mitigation work relating to a claim under a personal or commercial risk insurance policy to comply with the home improvement law's required contract content requirements (§ 3). By law, these contracts must include specific information about the contractor and the work to be done and provide certain disclosures (see BACKGROUND).

The act also requires contractors conducting home improvement repair work related to a loss covered under these insurance policies to provide the insured with a written notice of the work to be completed and the estimated total price (§ 2). Prior law exempted home improvement contractors from this notice requirement.

Lastly, the act requires contractors to make additional disclosures to insureds on their ability to waive the right to cancel contracts for certain repair, remediation, or mitigation work performed on an emergency basis (§ 2) (see below). If the contractor does not comply with the notice requirements, any contract for the service between that person and the insured is void.

EFFECTIVE DATE: January 1, 2017

DISCLOSURE ABOUT WAIVING THE RIGHT TO CANCEL

The act requires contractors to add a disclosure in contracts or documents related to repair, remediation, or mitigation work conducted under a personal risk insurance or commercial risk policy that is (1) subject to the Home Solicitation Sales Act, which governs situations where a contractor personally solicits work, and (2) needed to meet an insured's bona fide immediate personal emergency.

Specifically, this disclosure must state that the insured may waive his or her right to cancel within three business days. The insured may waive this right by providing the contractor with a handwritten, separate, dated, and signed personal statement describing the emergency needing immediate relief and expressly acknowledging and waiving the right to cancel within three business days.

BACKGROUND

Home Improvement Contractors

By law, home improvement contractors must register with DCP and pay $220 annually, $100 of which goes to the Home Improvement Guaranty Fund (CGS §§ 20-420, -421 & -432). The fund reimburses customers (up to $15,000 per claim) who are unable to recover losses suffered because a registered contractor failed to fulfill a contract valued at more than $200. Performing home improvement work without a registration is a class B misdemeanor (see Table on Penalties) and an unfair or deceptive trade practice. A violator must pay restitution. The DCP commissioner may also impose civil penalties of up to $1,500 and must have the motor vehicles commissioner deny reissuance of the contractor's commercial motor vehicle registration until the violator registers with DCP (CGS §§ 20-427 & -427a).

Among other things, registered contractors must (1) include their registration number in advertisements, (2) show their registration when asked to do so by any interested party, and (3) use written contracts that meet certain statutory requirements (CGS §§ 20-427 & -429).

Home Improvement Contract Requirements

By law, a home improvement contract must include certain provisions for it to be enforceable. Specifically, it must meet the following requirements:

1. be written, dated, and signed by both parties;
2. include the entire agreement;
3. identify the contractor and state his or her address and registration number;
4. include a notice of cancellation rights in accordance with the Home Solicitations Sales Act;
5. include starting and completion dates;
6. be entered into by a registered contractor or salesperson; and
7. include a provision disclosing each legal entity that is or has been a home improvement or new home construction contractor in which the owner or owners are or were shareholders, members, partners, or owners within the past five years (CGS § 20-429).

PA 16-56—sHB 5430
General Law Committee

AN ACT PERMITTING THE SALE OF PRIVATELY HELD ALCOHOLIC LIQUOR FOR AUCTION

SUMMARY: This act establishes a narrow circumstance in which the sale or transfer of ownership of alcoholic liquor (e.g., beer, spirits, or wine) from a decedent's estate is exempt from the Liquor Control Act.

It allows the estate's fiduciary to sell or transfer alcoholic liquor listed in the estate inventory filed with the probate court without a liquor permit if the purpose of the sale or transfer is to have a licensed auctioneer auction the alcoholic liquor and both the probate court with jurisdiction over the estate and the consumer protection commissioner, or his designee, have approved the transaction in writing.

EFFECTIVE DATE: July 1, 2016

PA 16-69—HB 5435
General Law Committee

AN ACT CONCERNING CONSUMERS AND PROPANE FUEL PROVIDERS

SUMMARY: This act makes several changes to the requirements heating fuel dealers must include in their contracts for selling, leasing, or renting an underground or aboveground fuel tank. "Heating fuel" is any petroleum-based fuel used as the primary source of residential heating or domestic hot water (e.g., home heating oil or propane) (CGS § 16a-17).

The act requires heating fuel contracts to give consumers the option of purchasing any underground or aboveground tank at any point during the contract, not just within five years of a contract's start date, as prior law required. It also limits the sale price of these tanks and associated equipment to one that does not exceed the fair market value of a propane tank and associated equipment (i.e., commercially reasonable price). Prior law limited the sale price only of

aboveground tanks, which could not exceed a tank's fair market value. The act also makes other minor changes to the contract requirements for aboveground, underground, and propane tanks.

By law, violators of the heating fuel contract provisions are deemed to violate the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND) and are subject to maximum fines of (1) $500 for a first offense, (2) $750 for a second offense within three years of the prior offense, and (3) $1,500 for subsequent offenses within three years of a prior offense.

EFFECTIVE DATE: July 1, 2016

OPTION TO PURCHASE UNDERGROUND AND ABOVEGROUND TANKS

Under prior law, heating fuel dealer contracts for both underground and aboveground tanks had to contain a provision allowing a consumer to purchase the tank and associated equipment within five years after the contract began. Under the act, the provision must allow the consumer to purchase the tank at any point during the contract. For these contracts to be valid or enforceable, the act requires the (1) contract to include a clear and conspicuous statement in all capital letters and at least 12-point bold type that the consumer is aware of the purchase option and (2) consumer to initial the statement.

Under prior law, contract obligations terminated immediately after the consumer purchased the tank and any associated equipment. The act limits this termination requirement only to existing obligations, but not to guaranteed price plans. By law, "guaranteed price plans" are contracts offering heating fuel at a guaranteed future price or a maximum future price, irrespective of when payment was made (CGS § 16a-23m).

UNDERGROUND TANK SALES PRICE LIMIT

The act limits the sale price for underground tanks and associated equipment to the fair market value of a propane tank and associated equipment. There was no limit under prior law, which required only that dealers disclose the price and prohibited them from increasing it before the contract expired.

ABOVEGROUND TANKS

The act requires heating fuel dealers providing aboveground tank contracts to allow the consumer to buy a new tank, rather than any tank. It also requires them to disclose the sale price of the tank, associated equipment, and installation costs, which must be sold at a commercially reasonable price. Prior law required them to disclose only the sale price of the tank.

The act limits the sale price of these tanks and associated equipment to the commercially reasonable price of a propane tank and associated equipment. Prior law limited only the tank's sale price, which could not exceed its fair market value.

The act also eliminates a requirement that existing oral or written contracts for aboveground tanks with an undisclosed or unspecified purchase option or price include a contract addendum giving consumers the option to purchase by September 1, 2021.

PROPANE TANK DISCLOSURE

Prior law required contracts for renting or leasing propane fuel tanks to include a provision informing consumers of any restrictions on using another propane fuel provider. The consumer had to initial the provision to acknowledge this restriction. The act instead invalidates and makes unenforceable contract provisions that restrict a consumer's ability to use another propane provider, unless the consumer initials a clear and conspicuous statement in all capital letters of at least 12-point font indicating he or she is aware of the restriction.

BACKGROUND

CUTPA

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to regulate what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than $10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to $5,000 for willful violations and $25,000 for violation of a restraining order.

PA 16-103—sHB 5324
General Law Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING ALCOHOLIC LIQUOR

SUMMARY: This act makes several unrelated changes to the Liquor Control Act.

The act generally expands the hours during which liquor permittees (e.g., restaurants and taverns) may sell or dispense alcohol for on-premises consumption by allowing them to sell and dispense alcohol an hour earlier on Sundays, starting at 10:00 a.m. instead of 11:00 a.m. By law, such permittees are generally allowed to sell and dispense alcohol from 9:00 a.m. to 1:00 a.m. the next morning on Monday through Thursday and from 9:00 a.m. to 2:00 a.m. the next morning on Friday and Saturday.

The act expands the hours when farm winery manufacturer permittees may sell at retail and offer free samples of wine on their premises. It allows sales and free samples two hours earlier on Monday through Saturday, starting at 8:00 a.m. instead of 10:00 a.m. The act also allows them to offer at a farmers' market free tastings of wine manufactured at the winery. By law, a farm winery permittee can already sell such wine at retail at a farmers' market, if he or she is invited by the farmers' market and holds a farmers' market wine sales permit.

The act increases, from four to 16, the number of events for which the Department of Consumer Protection can waive certain alcohol sale and service limitations for catering establishment restaurant permittees. According to these limitations, alcohol may only be (1) served for on-premises consumption to guests invited to and attending a function, occasion, or event at the catering establishment and (2) sold during the specific hours of the scheduled function, occasion, or event. By law, the establishment must apply for a waiver at least 10 days before the function, occasion, or event.

By law, grocery store beer permittees may employ people as young as age 15, but employees under age 18 are prohibited from serving or selling alcoholic liquor. The act requires an employee age 18 or over to approve all beer sales on a grocery store permittee's premises.

EFFECTIVE DATE: Upon passage, except the restaurant catering permit provision takes effect July 1, 2016.

BACKGROUND

Related Act

PA 16-117, § 6, allows a farm winery permittee to sell and offer free samples of wine an hour earlier on Sundays, starting at 10:00 a.m. instead of 11:00 a.m.

PA 16-104—HB 5328
General Law Committee

AN ACT CONCERNING PUBLIC WORK CONTRACT RETAINAGE AND ENFORCEMENT OF THE RIGHT TO PAYMENT ON A BOND

SUMMARY: This act generally lowers the maximum retainage allowed in state contracts from 10% to 7.5%. (Retainage is the amount withheld from payments conditioned on substantial or final completion of work in accordance with a construction contract.) The act prohibits state agencies, except the Department of Transportation, from withholding more than 7.5% from any periodic or final payment properly due to the general or prime contractor. It also prohibits the

contractor from withholding from a subcontractor more than the amount the agency withheld.

The act requires the retainage amount to be reduced to 5% when the contract is 50% complete. The payment to the contractor or subcontractor must be made within 90 days after a contractor or subcontractor submits a complete application for payment to the awarding authority demonstrating the contract is 50% complete.

Existing law requires public works contracts valued at more than $100,000 to require the general contractor to, among other things, furnish a payment bond from a surety company (CGS § 49-41). The act requires the surety company, if it fails to respond to a claim, to indemnify the claimant (e.g., subcontractor or supplier) for reasonable attorney's fees and costs incurred thereafter to recover any amount found to be due or owed. By law, sureties must pay or deny claims within 90 days.

The act specifies that a surety's failure to respond does not constitute a waiver of defenses that the surety or the principal of the bond may have or acquire to the claim, except for the undisputed amounts reached in a settlement.

EFFECTIVE DATE: July 1, 2016

PA 16-117—sHB 5433
General Law Committee
Judiciary Committee
Insurance and Real Estate Committee

AN ACT MAKING MINOR AND TECHNICAL CHANGES TO DEPARTMENT OF CONSUMER PROTECTION STATUTES

SUMMARY: This act makes various unrelated changes to the consumer protection statutes by:

1. eliminating a requirement that the Real Estate Commission automatically revoke a real estate broker's or salesperson's license when a judgment is entered against him or her;
2. eliminating "trickery" by a real estate broker or salesperson as a reason a person may receive compensation from the Real Estate Guaranty Fund;
3. allowing a coliseum concession permittee to sell beer in plastic or aluminum containers, rather than only in paper containers as required under prior law;
4. specifying that pharmacist continuing education requirements do not apply in the first year a pharmacist is licensed;
5. allowing the Department of Consumer Protection (DCP) to establish a program for the test audit of alternative electronic retail pricing, based on a prior pilot program;
6. eliminating all state regulation of kosher foods by repealing the (a) DCP commissioner's specific authority to enter premises to inspect kosher food and (b) criminal offense of fraudulently selling kosher food; and
7. allowing manufacturer permittees for a farm winery to sell and offer free samples of wine one hour earlier on Sundays, starting at 10:00 a.m. instead of 11:00 a.m.

The act also makes other minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2016, except the farm winery provision is effective upon passage.

REAL ESTATE GUARANTY FUND

The act removes trickery by a real estate broker or salesperson as a reason a consumer may recover from the Real Estate Guaranty Fund. (The term trickery is not defined in statute.)

By law, a consumer may still recover if a licensed real estate broker or salesperson or his or her unlicensed employee causes injury through certain fraudulent actions (e.g., embezzlement, false pretense, or misrepresentation). To collect from the fund, a consumer must have a court judgment that the broker, salesperson, or unlicensed employee lacks the funds to satisfy. Consumers must apply to DCP to receive compensation, which may be up to $25,000 for any single real estate transaction or claim.

ELECTRONIC RETAIL PRICING PROGRAM

The act allows DCP to establish, within available appropriations, an alternative electronic retail pricing system program based on a prior pilot program. The program test audits different cash register systems that use bar codes and scanners and displays the consumer commodity's name and price.

By law, a consumer commodity is any food, drug, device, cosmetic, product, or commodity of any class, except prescription drugs, that is customarily produced for retail sale for individual consumption, personal care, or household purposes and is usually consumed or expended during use. It does not include alcoholic liquor or carbonated soft drink containers (CGS §§ 21a-79 & -73).

Retailer Requirements

Under the act, a retailer that conducts business in at least one store in the state may submit to the commissioner a written request to participate and pay all costs associated with the test audit. The commissioner must then select one or more retailers to participate.

The retailer must put in place a system to be tested that, at a minimum:

1. stores the retailer's current item and unit price for each product in an electronic database;
2. prints shelf tags that meet all applicable requirements for item and unit pricing; and
3. directly transmits price increases and decreases to the point of sale (but for price increases, only if shelf tags have been posted and verified in the electronic database).

Audits

The commissioner can choose a private auditing organization to carry out the audit program, which must not last more than 12 months, and pass the cost on to the selected retailer. During its audit, the store is exempt from the universal product coding and electronic shelf labeling law and regulations, including the "get one free" law that generally allows consumers to receive a free item, up to a $20 value, if an item scans incorrectly at a higher price.

KOSHER FOOD REPEALER

The act eliminates DCP's authority to enter certain business premises to determine if they are fraudulently selling food advertised as kosher. Such premises included (1) places where meat or meat products are sold or offered for sale as kosher and (2) restaurants or other places where food being sold is represented as kosher.

The act also eliminates the criminal offense of fraudulently selling kosher meat, meat products, and other foods. Among other things, a person committed this offense if he or she, with intent to defraud, sold or advertised for sale any food and falsely represented that it was kosher or had been prepared according to orthodox Hebrew religious requirements. A person also committed this offense if he or she sold both kosher and non-kosher food without having a sign indicating that such foods were being sold together. Under prior law, a violator could be fined up to $100, imprisoned up to six months, or both.

BACKGROUND

Related Act

PA 16-103, § 3, allows a farm winery permittee to sell and offer free samples of wine two hours earlier Monday through Saturday, starting at 8:00 a.m. instead of 10:00 a.m.

PA 16-172—SB 311
General Law Committee
Judiciary Committee

AN ACT CONCERNING FOOD ENRICHMENT REQUIREMENTS

SUMMARY: This act eliminates the mandatory enrichment requirement for flour, white bread or rolls, corn meal or grits, rice, and macaroni. Enrichment refers to adding essential elements (e.g., iron) or vitamins to food.

Prior law made it unlawful to manufacture, mix, or compound these foods, or sell or offer them for sale in Connecticut for human consumption unless they were enriched, before retail sale, according to federal standards and there was evidence of compliance. Under the act, these foods no longer need to be enriched. But they must still, as required by existing law, meet (1) federal regulatory standards of identity, quality, and fill of container under the federal Food, Drug, and Cosmetic Act or (2) in the absence of such regulations, requirements that the consumer protection commissioner and the director of the Connecticut Agricultural Experiment Station may establish by regulation (CGS § 21a-100). The act permits the commissioner to require evidence of compliance.

The act applies the same penalty for violating prior law's enrichment requirement to people who violate the standards of identity, quality, and fill of container requirements: (1) a fine of up to $100, up to three months imprisonment, or both, for a first offense and (2) a fine of up to $500, up to one year imprisonment, or both, for subsequent offenses (CGS § 21a-30).

EFFECTIVE DATE: July 1, 2016

BACKGROUND

Federal Regulations

Regulations adopted under the Food, Drug, and Cosmetic Act set standards for food ingredients, manufacturing processes, and packaging. The standards provide the specific type and level of enrichment required for a food to be labeled as "enriched." There is a corresponding standard of identity for the unenriched version of each food (21 C.F.R. Parts 136, 137, and 139).

RA 16-1—SJ 36
Government Administration and Elections Committee
Environment Committee

RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE TO PROTECT REAL PROPERTY HELD OR CONTROLLED BY THE STATE

SUMMARY: This resolution proposes a constitutional amendment that, with limited exceptions, prohibits the legislature from enacting legislation requiring a state agency to sell, transfer, or dispose of real property or interest in real property to non-state entities. Under the resolution, the legislature may require such actions only if it (1) holds a public hearing on the subject property and (2) passes, by a two-thirds vote of the membership of each chamber, an act whose subject matter is limited to such sale, transfer, or disposal.

The ballot designation to be used when the amendment is presented at the general election is: "Shall the Constitution of the State be amended to require a public hearing and a two-thirds vote of the General Assembly to authorize any sale, transfer or disposition of state-owned or state-controlled real property or interest in real property?"

EFFECTIVE DATE: The resolution will be referred to the 2017 session of the legislature. If it passes in that session by a majority of each house, it will appear on the 2018 general election ballot. If a majority of those voting in the general election approves the amendment, it will become part of the state constitution.

PA 16-14—sSB 251
Government Administration and Elections Committee

AN ACT CONCERNING REPORTING OF MUNICIPAL ELECTION RESULTS

SUMMARY: This act does the following:

1. aligns the procedures for reporting regular municipal election results with those for reporting regular state election results;
2. requires election officials in multi-district towns to meet after municipal, not only state, elections to identify any errors in the election night returns previously submitted to the secretary of the state;
3. requires head moderators in multi-district towns to file any amended election returns with town clerks, not only the secretary and registrars of voters; and
4. establishes a $50 late filing fee for failure to electronically transmit timely state or municipal results.

The act also act makes technical changes.

EFFECTIVE DATE: Upon passage

REPORTING MUNICIPAL ELECTION RESULTS

Existing law requires head moderators to transmit regular municipal election results to the secretary of the state (1) electronically within 48 hours after the polls close and (2) in hard copy within three days after the election. The results submitted within 48 hours after the polls close must indicate the total number of names on the registry list and those that voted.

The act conforms the procedures for reporting regular municipal election results to those that the law sets for reporting regular state election results. Specifically, with respect to the municipal results, the act does the following:

1. requires moderators to prepare a “preliminary list” of results and immediately transmit it to the secretary of the state by midnight on election day;
2. renames the “results of the vote” the “duplicate list of the votes” and continues to require moderators to electronically transmit it to the secretary within 48 hours after the election;
3. requires moderators to also provide the duplicate list to their town clerk, (but does not set a deadline for doing so); and
4. requires registrars to provide the election results to their town clerk within 48 hours after the election.

AMENDING ELECTION RETURNS IN MULTI-DISTRICT TOWNS

For towns with more than one voting district, the law requires (1) head moderators, town clerks, and registrars to meet by 9:00 a.m. on the third day after a regular state election to identify any errors in the election night returns and (2) head moderators to file an amended return, if necessary, by 1:00 p.m. on that day with the secretary of the state and registrars.

The act extends these requirements to regular municipal elections. For both state and municipal elections, it requires head moderators to also file amended returns with the town clerk, not only the secretary and registrars.

LATE FEES

The act imposes a $50 late fee on moderators who fail to electronically transmit state or municipal election results to the secretary of the state by the 48-hour deadline. Existing law, unchanged by the act, already imposes a $50 fee on those who fail to deliver the hard copy to the secretary within the three-day deadline.

PA 16-31—SB 254
Government Administration and Elections Committee

AN ACT CONCERNING SATURDAY REGISTRARS OF VOTERS SESSIONS

SUMMARY: This act eliminates a requirement that registrars of voters hold a voter registration session from 10:00 a.m. to 2:00 p.m. on the Saturday of the third week before a regular election. It also makes technical changes.

The act retains requirements that the registrars hold the following registration sessions:

1. a session for two hours between 5:00 p.m. and 9:00 p.m. on the 14th day before a primary for towns with 25,000 or more residents;
2. a session from 9:00 a.m. to 8:00 p.m. on the seventh day before a regular election;
3. a limited session on the last weekday before a regular election, from 9:00 a.m. to 5:00 p.m., to admit individuals who become eligible to vote after the voter registration session held on the seventh day before the election; and
4. one session annually, between January 1 and the last day of school, at each public high school in their town. (In regional school districts, the registrars of the member towns rotate the responsibility for conducting this session.)

EFFECTIVE DATE: July 1, 2016

PA 16-53—HB 5393
Government Administration and Elections Committee

AN ACT CONCERNING ELECTION ADMINISTRATION

SUMMARY: This act extends the deadline for submitting online voter registration applications from 14 days before to seven days before a regular election, thus making it the same as the deadline for submitting mail-in and in-person applications. By law, a person who misses these deadlines cannot vote in the election unless he or she registers under the state's Election Day Registration process.

EFFECTIVE DATE: Upon passage

PA 16-58—sHB 5498
Government Administration and Elections Committee

AN ACT REVISING THE REGULATION REVIEW PROCESS

SUMMARY: This act makes the following changes to the Uniform Administrative Procedure Act (UAPA), which governs the regulation adoption process for state agencies:

1. transfers, from the Regulation Review Committee to state agencies' legislative committees of cognizance, responsibility for conducting periodic reviews of agencies' existing regulations;

2. makes minor changes to certain deadlines and effective periods associated with emergency regulations;
3. adds to the circumstances in which agencies may propose amendments to regulations without prior notice or public comment; and
4. modifies provisions concerning the agencies' (a) posting of notices of proposed regulations on the eRegulations System, (b) delivery of the notices to certain interested parties, and (c) responses to public comments.

The act also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, except that provisions on (1) notifying persons that request advance notice of proposed regulations are applicable to regulations noticed on or after January 1, 2017; (2) responses to public comment and submission to the attorney general are effective January 1, 2017 and applicable to regulations noticed on or after that date; and (3) emergency regulations and technical amendments, as well as a technical change (§ 3), are effective October 1, 2016.

§ 4 — REVIEWS OF EXISTING REGULATIONS

Prior law required the Regulation Review Committee to establish, every five years, a date by which each state agency had to submit to the committee a review of the agency's existing regulations. The committee had to establish the date in consultation with each agency. The act instead requires (1) the agencies' committees of cognizance to establish these dates and conduct these reviews and (2) that these dates be established every seven years, rather than every five. The committees of cognizance must notify the Regulation Review Committee administrator of the dates and any extensions.

The act requires agencies and the committees of cognizance to establish these dates by July 1, 2017. It allows the committees to establish a schedule of dates to review various portions of the regulations upon agreement with an agency's administrative head.

Review Requirements

The act retains existing law's provisions on the review's requirements and makes conforming changes that give the committees of cognizance authority over the review By law, the review must include (1) recommendations for reducing regulations' number and length; (2) determinations on whether they are obsolete, unused, inconsistent with other laws, no longer effective, or the subject of written complaints; and (3) recommendations regarding extraordinary circumstances warranting their waiver. Agencies must submit the review to the committee of cognizance and the Regulation Review Committee's administrator.

Under prior law, the Regulation Review Committee and the committee of cognizance had to conduct a joint public hearing on the agency's review. The act eliminates the requirement that the Regulation Review Committee take part in the hearing. It also extends (1) from 30 days after the agency's submission to 90 days after the submission, the deadline by which the committee of cognizance must hold the hearing and (2) from five days before the hearing to 15 days before the hearing, the deadline by which copies of the review must be made available to the public.

The act also makes conforming changes by eliminating the Regulation Review Committee's role in certain post-hearing procedures. For example, under the act, the committee of cognizance, instead of the Regulation Review Committee (1) may ask an agency to initiate the UAPA's process for amending or repealing an existing regulation when legislative action is not required and (2) must consider any recommendation by the agency requiring legislative action. The committee of cognizance may also conduct its own review of the agency's regulations if the agency did not, in the committee's judgment, conduct a satisfactory review.

§§ 1 & 2 — EMERGENCY REGULATIONS

By law, an agency may adopt an emergency regulation either without prior notice and hearing or with an abbreviated notice and hearing process. Under prior law, an emergency regulation was effective for up to 120 days, but the agency could extend this period for up to an additional 60 days by posting a notice on the eRegulations system and notifying the Regulation Review Committee. The act instead makes emergency regulations effective for up to 180 days from the date they are approved and posted online, with no extensions permitted (except as described below).

Under existing law and the act, the Department of Energy and Environmental Protection's (DEEP) emergency regulations on fishery management and marine resources emergencies may be extended for an additional 60 days after the end of the 180-day period. The act requires DEEP to submit requests for these extensions to the Regulation Review Committee at least 15 days before the regulation expires, rather than 10 days before as prior law required. The act also changes, from 10 business days to 15 calendar days, the time that the Regulation Review Committee has to act on a proposed emergency regulation. By law, an emergency regulation is deemed approved if the committee does not act on it

within the specified timeframe.

By law, regulations (including emergency regulations) are generally effective when the secretary of the state posts them on the eRegulations system. The act eliminates an exception in prior law that allowed emergency regulations to become effective upon submission to the secretary if the agency found it necessary because of imminent peril to public health, safety, or welfare.

§ 1 — TECHNICAL AMENDMENTS

Under the UAPA, the regulation-adoption process generally requires notice of the proposed regulation and the opportunity for public comment. However, agencies may propose, without prior notice or hearing, (1) technical amendments to regulations when necessary to conform to certain changes (e.g., a change to the agency's name) or (2) a repeal of a regulation if the authorizing statute is repealed. The act allows an agency to also use this expedited process to (1) amend an existing regulation solely to conform it to amendments to state law, as long as the amendment to the regulation does not involve any agency discretion; (2) update or correct contact information contained in the regulation; or (3) correct spelling, grammar, punctuation, formatting, or typographical errors.

§§ 5-9 — NOTICES OF PROPOSED REGULATIONS

Notice to Interested Parties (§§ 5-6 & 9)

By law, agencies seeking to adopt regulations must post notice of their intent on the eRegulations System at least 30 days before adoption. Prior law required agencies to provide electronic or paper copy notice of the intent to every person that had requested advance notice of their regulation-making proceedings.

The act eliminates this requirement beginning January 1, 2017 and instead requires agencies to mail a paper copy only to persons that request advance notice on or after October 1, 2016. The agency must mail the notice no later than five days after posting it on the eRegulations System. The act also requires that the eRegulations System enable members of the public to request and receive an electronic notification when an agency posts a notice of intent to adopt regulations.

The act requires agencies, by September 1, 2016, to provide the Office of Policy and Management (OPM) with the email or mailing address, as applicable, of each person that has requested notice of regulation-making proceedings. By October 1, 2016, OPM must notify each of these persons that, on and after January 1, 2017, the notice of intent will be provided (1) electronically on the eRegulations System or (2) by mail to any person that submits a written request to the agency. Notices delivered by mail must include instructions on how to subscribe to electronic notifications on the eRegulations System.

Responses to Public Comment and Submission to the Attorney General (§§ 7-8)

By law, an agency must post on the eRegulations System a notice that states whether the agency has decided to move forward with a proposed regulation. The act eliminates a requirement that the agency send this notice to anyone that submitted written or oral comments on the proposed regulation. It instead requires the agency to distribute to these persons only the agency's response to comments it received. It must send the response electronically to anyone that provided a valid email address and mail a copy to each person that specifically requested a paper copy on or after January 1, 2017.

Under prior law, the agency had to also post on the eRegulations System statements of the principal reasons (1) in support of its intended action and (2) in opposition to its intended action, as urged in written or oral comments on the proposed regulation, and its reasons for rejecting these considerations. The act specifies that the agency must post these statements only if it receives comments on the proposed regulation.

The act also eliminates a requirement that the agency post the final wording of the proposed regulation on the eRegulations System before it submits the regulation to the attorney general for approval. It instead requires the agency to post on the system the version it submits to the attorney general, presumably at the same time as the submission.

PA 16-62—sHB 5513
Government Administration and Elections Committee

AN ACT REVISING CERTAIN STATUTES CONCERNING THE STATE COMPTROLLER

SUMMARY: This act makes several changes to the statutes governing the Connecticut State Employees Campaign for Charitable Giving (CSEC), which is overseen by the State Employee Campaign Committee and the state comptroller. Among other things, the act (1) revises the requirements for the organization selected to administer the campaign, (2) expands the comptroller's oversight of the CSEC, and (3) codifies certain of the committee's responsibilities.

Lastly, the act makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

PRINCIPAL COMBINED FUNDRAISING ORGANIZATION

By law, the CSEC is administered by a principal combined fundraising organization (PCFO) that the committee selects annually. Under prior law, the PCFO had to be a federation, which is a legally constituted group of affiliated 501(c)(3) organizations. The act (1) additionally allows charitable organizations and consultants to serve as the PCFO; (2) reduces, from 10 organizations to five, the minimum number of nonprofit organizations required to form a federation; and (3) eliminates a requirement that a federation be a community chest or other organization incorporated as a nonstock corporation. It also requires the comptroller to contract with the PCFO on behalf of the committee.

Existing law requires that the PCFO have previous workplace campaign experience and have previously participated in the CSEC. The act specifically requires that the PCFO have experience (1) developing procedures for processing and tracking contributions and expenditures and (2) conducting CSEC campaign operations and events. It also requires the PCFO to (1) have the staff necessary to administer the campaign and (2) administer the campaign equitably and fairly. Existing regulations establish additional qualifications (Conn. Agencies Regs. § 5-262-9).

COMPTROLLER AND STATE EMPLOYEE CAMPAIGN COMMITTEE

The act expands the comptroller's oversight of the CSEC. It requires him to exercise general supervision of all campaign operations and take any steps necessary to ensure that campaign objectives are achieved. It gives the comptroller authority, for purposes of compliance with the CSEC laws and regulations, to audit, investigate, and report on CSEC administration, the PCFO, and any federation or federation member organization participating in the campaign.

The act codifies certain responsibilities of the committee established in regulations (Conn. Agencies Regs. §§ 5-262-8 and 5-262-9). By law, the committee is responsible for selecting the PCFO through a competitive process, supervising its activities, and selecting participating federations. The act codifies requirements that the committee (1) coordinate the overall CSEC, (2) approve campaign materials, and (3) select the lowest responsible qualified bidder as the PCFO.

Beginning in 2017, the act moves, from July 1 to April 1, the deadline by which the committee must annually (1) conduct a comprehensive review of the previous year's campaign and (2) submit a report to the governor and legislature with the results and recommendations for improving the next campaign. As under existing law, the committee must submit its 2016 report by July 1, 2016. The act additionally requires the committee to submit this report to the comptroller.

PA 16-76—sSB 252
Government Administration and Elections Committee

AN ACT CONCERNING POST-ELECTION AUDIT INTEGRITY AND EFFICIENCY

SUMMARY: The law requires registrars of voters to audit the state's voting districts, selected at random by the secretary of the state, after a federal, state, or municipal regular election or primary. This act reduces, from 10% to 5%, the minimum percentage of voting districts in the state, municipality, or district that must be audited.

By law, the following elected offices are subject to audit in the selected districts:

1. in a presidential or gubernatorial election, all offices required to be audited by federal law, plus one office selected at random by the secretary of the state, but in no case fewer than three offices;

2. in a municipal election, three offices or 20% of the offices on the ballot, whichever is greater, randomly selected by the town clerk; and
3. in a primary election, all offices required to be audited by federal law, plus one office, if any, but in no case fewer than 20% of the offices on the ballot, randomly selected by the town clerk (CGS § 9-320f(b)).

EFFECTIVE DATE: July 1, 2016

PA 16-78—sHB 5050
Government Administration and Elections Committee

AN ACT MODERNIZING THE SYMBOL OF ACCESS FOR PERSONS WITH DISABILITIES

SUMMARY: This act requires the administrative services commissioner, by January 1, 2017, to promulgate a policy and adopt regulations designating a new access symbol for people with disabilities. The symbol, which replaces the international access symbol, must (1) depict a logo with a dynamic character leaning forward with a sense of movement, be readily identifiable, and be simply designed with no secondary meaning and (2) provide for the equivalent facilitation and accessibility as the international access symbol (see BACKGROUND).

Beginning January 1, 2017, the act requires that any references in the State Building Code to the international symbol of accessibility be deemed to mean the new symbol established under the act. It requires use of the new symbol in all buildings and structures constructed, substantially renovated, or expanded on or after that date.

The act similarly replaces the international access symbol with the new symbol for (1) special license plates and temporary windshield placards for individuals with disabilities or who are blind, or the parent or guardian of these individuals, and (2) parking space signs for such individuals replaced, repaired, or erected on and after January 1, 2017. In addition, the act replaces "handicapped" with "reserved" on the parking signs, which currently read "handicapped parking permit required," and "violators will be fined."

The act also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, except that the provisions concerning license plates, placards, and parking space signs are effective January 1, 2017.

BACKGROUND

International Symbol of Accessibility

The 2010 ADA (Americans with Disabilities Act) Standards for Accessible Design, published by the U.S. Department of Justice and applicable to public and private entities, require the use of the international symbol of accessibility in several different contexts (e.g., entrances, elevators, restrooms, and parking space identification signs). They allow covered entities to use designs, products, or technologies that are different from those specified in the standards as long as the alternatives result in "substantially equivalent or greater accessibility and usability" (i.e., the equivalent facilitation exception). If an alternative is challenged, the covered entity is responsible for demonstrating equivalent facilitation (Standard 103).

PA 16-81—sHB 5228
Government Administration and Elections Committee

AN ACT CONCERNING THE NOTIFICATION OF DEPARTMENT OF ADMINISTRATIVE SERVICES PROJECTS, THE DEFINITION OF "PROJECT" AND REPEALING A PROVISION CONCERNING STATE AGENCY REPORTING OF CERTAIN CONTRACTOR INFORMATION

SUMMARY: This act eliminates requirements that the Department of Administrative Services (DAS) advertise, in a newspaper, bidding opportunities for (1) public works projects that use the design-build delivery method and (2) consultant services (e.g., those provided by architects, professional engineers, or accountants). Under existing law and the act, it must advertise these opportunities on the State Contracting Portal website (§§ 1 & 3).

By law, DAS must establish a selection panel to evaluate consultant services proposals if the cost of those services exceeds a certain threshold. The act increases this threshold from $300,000 to $500,000 (§ 2). After evaluating the proposals, the panel must submit a list of the most qualified firms to the DAS commissioner, who must negotiate a

contract with the firm the panel ranks most qualified. Panels consist of three members for projects of less than $5 million and five members for projects of $5 million or more (CGS §§ 4b-56 to 4b-58).

The act eliminates a requirement that each public agency that purchases goods or services or leases real or personal property provide, annually by August 1, the revenue services commissioner with a list of all persons that provided goods or services or leased real or personal property to the agency. It also eliminates a requirement that the agency require the contractor to provide its Social Security number or federal employee identification number, or both, if available, or the reasons why they are unavailable (§ 14).

Lastly, the act repeals obsolete language concerning UConn's Homer Babbidge Library and makes technical changes (§§ 2 & 4-13).

EFFECTIVE DATE: July 1, 2016

PA 16-84—sHB 5245
Government Administration and Elections Committee

AN ACT PERMITTING ELECTRONIC NOTIFICATION OF A SPECIAL SESSION OR A RECONVENED SESSION

SUMMARY: This act allows the secretary of the state to notify legislators of special and reconvened sessions through email. She retains existing law's notification options of (1) sending a copy of the session call, by first class mail, to their home addresses or (2) having the copy delivered to them in person by a state marshal, constable, state police officer, or indifferent person.

If the secretary opts to notify legislators by email, the act requires that she send an electronic copy of the session call at least 72 hours before the session convenes. If she notifies members by mail, existing law requires that she do so between 10 and 15 days before a special session and at least five days before a reconvened session. If she opts to notify them in person, the copy of the session call must be delivered at least 24 hours before the session convenes.

EFFECTIVE DATE: Upon passage

PA 16-85—sHB 5247 **(VETOED)**
Government Administration and Elections Committee
Judiciary Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS AND REPEALING A PROVISION CONCERNING STATE AGENCY REPORTING OF CERTAIN CONTRACTOR INFORMATION

SUMMARY: This act makes numerous changes to statutes concerning government administration. Among other things, it does the following:

1. allows the auditors of public accounts (state auditors) to (a) delay a full report of certain misuses of state and quasi-public agency funds until the subject agency completes its investigation into those activities and (b) permit aggregate reporting by state and quasi-public agencies to the auditors of these activities (§§ 1-2);
2. requires the state auditors to notify the Government Administration and Elections (GAE) Committee whenever state and quasi-public agencies fail to notify them of certain misuses of state funds (§ 2);
3. expands who must report certain suspected ethics violations to the Office of State Ethics (OSE) to include state agencies' human resources directors (§ 4);
4. limits the circumstances in which the Office of Policy and Management (OPM) secretary may waive competitive bidding requirements and authorize sole source purchases for certain personal services agreements (§ 3);
5. requires the OPM secretary to notify the auditors whenever he receives a request from a state agency for a sole source procurement of certain audit services (§ 3);
6. allows the state auditors to conduct a full audit of a state agency foundation that does not have its audit completed within six months after the end of the audited fiscal year (§§ 5-6);
7. subjects probate courts to the state's whistleblower law (§ 9);
8. requires executive branch agencies to receive approval from the attorney general or governor before making certain payments to retiring or resigning state employees (§ 12); and

9. eliminates a reporting requirement associated with state purchases of goods and services and leases of real or personal property (§ 13).

The act also makes minor changes affecting (1) audits of Bradley Enterprise Fund reimbursements, (2) quasi-public agencies' annual reports, and (3) the Commission on Health Equity (§§ 8 & 10-11). Lastly, it (1) makes technical changes to a statute concerning UConn's awarding of construction contracts (§ 7) and (2) repeals obsolete statutes concerning sheriffs (§ 13).

EFFECTIVE DATE: Upon passage, except that provisions affecting (1) personal service agreement waivers and audit services procurements are effective July 1, 2016, and (2) whistleblowers, foundation audits, ethics reporting, and payments to departing employees are effective October 1, 2016.

§§ 1-2 & 4 — REPORTS OF CERTAIN ACTIVITIES

Misuse of State Funds

Under existing law, the state auditors must immediately report, to the governor, comptroller, House and Senate clerks, Program Review and Investigations (PRI) Committee, and attorney general, any actual or contemplated (1) unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds or (2) breakdowns in the safekeeping of any other state resources. The act extends these requirements to quasi-public agency funds and resources.

By law, boards of trustees of state institutions, state department heads, boards, commissions, other state agencies responsible for state property and funds, and quasi-public agencies, must promptly notify the state auditors and the comptroller of any misuses of state funds described above. The act allows the auditors to permit aggregate reporting of these matters in a manner and schedule they determine. It also allows the auditors, in cases where a state or quasi-public agency is still investigating such a matter, to permit the agency a reasonable period of time to conduct the investigation before the auditors notify the governor, comptroller, House and Senate clerks, and PRI Committee. The auditors must immediately notify the attorney general of such a delay.

The act requires the auditors to notify the GAE Committee whenever state or quasi-public agencies fail to notify them of the misuses of state funds described above. The auditors must notify the committee within 30 days after discovering the failure. The committee may hold a public hearing and require the agency or quasi-public agency head to appear before it to explain the noncompliance.

Reports of Suspected Ethics Violations

The act requires any person in charge of state agency human resources to report to OSE when he or she reasonably believes that a person has violated the Code of Ethics for Public Officials or any law or regulation concerning ethics in state contracting. Existing law requires commissioners, deputy commissioners, state or quasi-public agency heads or deputies, and state agency procurement and contracting heads to make such a report to OSE.

§ 3 — PERSONAL SERVICES AGREEMENTS

Waivers for Sole Source Purchases

The act limits the services for which the OPM secretary may waive competitive bidding requirements (i.e., "qualifying services") and authorize sole source purchases for personal services agreements (PSAs). It limits qualifying services to (1) those for which the cost of a competitive selection outweighs the benefits, as documented by the agency; (2) proprietary services; (3) services to be provided by a contractor mandated by the general statutes or a public or special act; and (4) emergency services. Under prior law, qualifying services could include other types of services beyond these four categories, as determined by the secretary.

By law, PSAs costing more than $20,000 or lasting for more than one year must be based on competitive negotiation or competitive quotations unless the purchasing agency applies for, and receives a waiver from, the OPM secretary to allow a sole source purchase. Additionally, PSAs that are expected to last for more than one year or cost more than $50,000 must be approved by the OPM secretary before the agency begins the solicitation process.

Audit Services

The act requires the OPM secretary to notify the state auditors whenever he receives a request for a sole source purchase for audit services that cost more than $20,000, but do not exceed $50,000. He must allow the auditors to review the application and advise him on whether the services are necessary and, if so, could be provided by the auditors. Under existing law, the secretary must allow the auditors to review requests for audit services PSAs that cost more than $50,000.

§§ 5 & 6 — FOUNDATION AUDITS

The law requires that state agency foundations (i.e., nonprofit entities established for fundraising purposes) be audited at specified times by (1) an independent certified public accountant or (2) if requested by the agency and with the foundation's consent, the state auditors. The act requires that these audits be completed, and copies submitted to the attorney general and state agency's executive authority, within six months after the audited fiscal year ends. Prior law did not establish a submission deadline. If a foundation does not have an audit completed by the six-month deadline, the act allows the state auditors to conduct a full audit of its books and accounts.

§ 9 — WHISTLEBLOWING

The act subjects probate courts to the state's whistleblower law. Under prior law, the whistleblower provisions applied only to the Office of the Probate Court Administrator, not individual probate courts.

Generally, the act does the following:

1. requires the state auditors to review whistleblower complaints made against probate courts and report any findings or recommendations to the attorney general;
2. requires the attorney general to conduct any investigation he deems proper, with the auditors' assistance, and report any findings to the probate court administrator and any matters involving criminal activity to the chief state's attorney;
3. prohibits probate court officers and employees from retaliating against a probate court employee who files a whistleblower complaint;
4. allows a probate court employee who believes he or she was retaliated against to either (a) file a retaliation complaint with the Commission on Human Rights and Opportunities or (b) bring a civil action in Superior Court; and
5. requires each probate court to post a notice of the whistleblower law in a conspicuous location.

§ 12 — PAYMENTS TO RETIRING OR RESIGNING EMPLOYEES

The act prohibits executive branch agencies, boards, and commissions, including the constituent units of higher education, from making a payment to a retiring or resigning employee that is intended to avoid litigation costs or is pursuant to a non-disparagement agreement unless the payment is (1) made pursuant to a settlement agreement the attorney general enters into on the agency's behalf or (2) authorized by the governor, upon the attorney general's recommendation, to settle a disputed claim by or against the state.

§ 13 — ELIMINATED REPORTING REQUIREMENT

The act eliminates a requirement that each public agency contracting for goods or services or leasing real or personal property provide, annually by August 1, the revenue services commissioner with a list of all persons that provided goods or services or leased real or personal property to the agency. It also eliminates a requirement that the agency require the contractor to provide its Social Security number or federal employee identification number, or both, if available, or the reasons why they are unavailable.

§§ 8 & 10-11 — MISCELLANEOUS CHANGES

The act requires the state auditors to audit biennially, rather than annually, reimbursements from the Bradley Enterprise Fund to the Department of Emergency Services and Public Protection (§ 8). (The reimbursements support State Police patrols at Bradley International Airport.) It requires quasi-public agencies to include an operating statement, showing all revenues and expenditures, in their annual report to the governor, state auditors, and PRI Committee. Prior law required them to include only a balance sheet to show revenues and expenditures (§ 10).

The act places the Commission on Health Equity in the Insurance Department for administrative purposes only. Under prior law, the commission was within the Office of the Healthcare Advocate for administrative purposes only (§ 11).

BACKGROUND

Related Act

PA 16-81 also repeals the reporting requirements associated with goods, services, and leases, effective July 1, 2016.

PA 16-174—sSB 338
Government Administration and Elections Committee

AN ACT CONCERNING THE FILING OF STATEMENTS OF FINANCIAL INTERESTS UNDER THE STATE CODE OF ETHICS FOR PUBLIC OFFICIALS

SUMMARY: By law, people required to file a Statement of Financial Interests (SFI) with the Office of State Ethics (OSE) who leave their position or office must file a final SFI that covers their activities from the most recent filing through their departure. This act increases, from 30 days to 60 days, the period of time after the person's departure that OSE has to notify him or her of the filing requirement. Under existing law, the departing individual must file the SFI within 60 days after receiving notice from OSE.

By law, SFI filers must disclose, among other things, all sources of income exceeding $1,000, without specifying any amounts. The act clarifies that the filer must also describe the type of income received (e.g., wages or dividends). Lastly, it makes technical changes to the SFI requirements concerning certain business affiliations between the filer and a (1) registered lobbyist, (2) person the filer knows or has reason to know is doing or seeking to do business with the state, or (3) person engaged in activities directly regulated by the filer's department or agency.

By law, a person must file an SFI if he or she is, among other things, a (1) statewide elected officer, legislator, department head or deputy department head, member or director of a quasi-public agency, member of the Investment Advisory Council, or state marshal; (2) member of the Executive Department designated by the governor; or (3) quasi-public agency employee designated by the governor. The SFIs must be filed annually by May 1.
EFFECTIVE DATE: January 1, 2017

PA 16-181—HB 5612
Government Administration and Elections Committee

AN ACT CONCERNING THE PROHIBITION ON THE USE OF PUBLIC FUNDS FOR ELECTION CAMPAIGN ACTIVITY

SUMMARY: This act specifies that a candidate's participation in connection with any Council of State Governments activity is not considered a violation of two of existing law's campaign finance prohibitions on the use of public funds. Existing law bans:

1. incumbents, during the three months preceding an election in which they are running for reelection or election to another office, from using public funds to mail or print flyers or other promotional material to help them get elected and
2. state and local officials and employees, during the 12 months preceding an election, from authorizing public spending on television, radio, movie theater, billboard, bus poster, newspaper, or magazine promotional campaigns or advertisements that feature a candidate's name, face, or voice or promote the candidate's nomination or election.

By law, "candidates" include those running for statewide, legislative, or municipal office. "Public funds" do not include grants qualified candidate committees receive from the Citizens' Elections Fund.
EFFECTIVE DATE: Upon passage

PA 16-185—sSB 15
Government Administration and Elections Committee
General Law Committee

AN ACT ADOPTING THE REQUIREMENTS OF NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION AND REVISING CERTAIN BOARDS AND COMMISSIONS STATUTES

SUMMARY: This act:

1. gives the Department of Consumer Protection (DCP) greater authority over the professional licensing boards and commissions it oversees;
2. authorizes the DCP commissioner to reject or modify actions taken by these boards or commissions if they exercise their statutory functions in a way that is adverse to a party (see BACKGROUND); and
3. makes changes to the composition of various boards, panels, and councils, including the Education Arbitration Panel, Medical Examining Board, and Materials Innovation and Recycling Authority board of directors.

The act requires an appointing authority to notify all other appointing authorities within five calendar days after making an appointment to a board of the state or a political subdivision subject to the law's minority representation requirement (see BACKGROUND). The appointing authority must provide the appointee's name, town of residence, and political affiliation (notice may be made electronically).

The act also makes several minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except that the provisions on the Materials Innovation and Recycling Authority and DCP's oversight of its boards and commissions take effect July 1, 2016.

§§ 1-4 & 16-46 — DCP BOARDS AND COMMISSIONS

DCP oversees several professional licensing boards and commissions that, under prior law, exercised their statutory functions independently of the commissioner, including issuing final decisions subject to judicial review under the Uniform Administrative Procedure Act (UAPA). Statutory functions include licensing, certification, and registration; school accreditation; and rendering findings, orders, and adjudications.

The act makes any exercise of statutory functions by these boards or commissions, if adverse to a party, a proposed final decision subject to approval, rejection, or modification by the DCP commissioner. More generally, the act increases DCP's authority over its boards and commissions by requiring that the (1) commissioner exercise the boards' and commissions' functions in consultation with them and (2) department perform any function necessary for their operation. Prior law limited the latter requirement to those functions not specifically vested by statute in the board or commission.

Meetings (§ 2)

By law, the boards and commissions in DCP must meet at least quarterly, and their chairpersons may call additional meetings as they deem necessary. The act authorizes the DCP commissioner to also call additional meetings as he deems necessary and eliminates a general requirement that the boards and commissions meet at the request of a majority of their members. However, this requirement is retained for certain boards and commissions (e.g., the Commission of Pharmacy, CGS § 20-573(a)).

Complaints and Investigations (§ 3)

By law, DCP receives complaints about people licensed, certified, or registered by its boards or commissions, and about anyone engaging in unauthorized work these boards oversee. It investigates when an allegation, if substantiated, would constitute a violation. After an investigation, the commissioner may dismiss a complaint for lack of probable cause.

The act allows the commissioner to dismiss a complaint for lack of probable cause without first obtaining the approval of the applicable board or commission, which prior law required. It also eliminates a requirement that the commissioner obtain approval from the complainant, practitioner, and board or commission before authorizing a settlement.

The act reduces, from monthly to quarterly, the frequency with which DCP must distribute to the boards and commissions a list of complaints received during the previous reporting period. It eliminates a requirement that the department provide to the boards and commissions, on a monthly basis, all dispositions and final decisions after an investigation has begun.

Third Party Contractors (§ 3)

The act eliminates a requirement that DCP's boards and commissions consent before DCP contracts with third parties to administer license examinations and monitor continuing education requirements. It instead allows the department to contract with third parties if the commissioner deems it necessary.

Proposed Final Decisions (§§ 2 & 16)

Under the act, DCP's boards and commissions must submit to the commissioner any proposed final decision they issue that is adverse to a party. The commissioner must (1) notify the board or commission within 30 calendar days after receiving the proposed final decision that he will issue the final decision and (2) issue the final decision within 30 days after receiving the proposed final decision.

The act authorizes the commissioner to approve, modify, or reject a proposed final decision or remand it for further review or to gather additional evidence. If he finds a proposed final decision will have an anticompetitive effect, he must reject it to ensure compliance with the federal Sherman Act (15 USC § 1 et seq.). The commissioner must inform the board or commission in writing of his decision and explain his rationale.

Under the act, the commissioner's decision is final, subject to an aggrieved person's right to (1) file a petition for reconsideration with DCP or (2) appeal to Superior Court under the UAPA.

Licensing and Enforcement Procedures (§§ 17-46)

In addition to its general grant of authority to DCP, the act makes specified changes to certain licensing and enforcement procedures, as summarized in Table 1. The act also requires the DCP commissioner to exercise supervision, rather than general supervision, over the Commission of Pharmacy (§ 43).

For each board or commission, the table lists only the changes specified by the act. Because the act makes any exercise of statutory functions by a board or commission that is adverse to a party a proposed final decision, additional licensing and enforcement procedures may be subject to the commissioner's review.

Additionally, in several instances listed below, the act makes both DCP and a board or commission responsible for certain licensing-related duties. However, it does not specify how these duties will be shared between the department and the board or commission.

Table 1: Changes to Licensing and Enforcement Procedures

§	*Board or Commission*	*Licensing Changes*	*Enforcement Changes*
17 & 18	Architectural Licensing Board	None specified	Specifies that any license or certificate suspension or revocation by the board, or any order it issues or penalty it assess for violations, is a proposed final decision that must be submitted to the commissioner
19-22	State Board of Examiners for Professional Engineers and Land Surveyors	Allows the commissioner, not just the board, to judge applicants' qualifications and waive exams Removes the requirement that the board authorize DCP to issue licenses and instead requires the department to do so directly	Specifies that any order the board issues for violations is a proposed final decision that must be submitted to the commissioner
23-31	Connecticut Real Estate Commission (The act does not address the commission's regulation of community association managers (CGS § 20-450 et seq.))	Allows the commissioner, not just the commission, to waive or require exams, judge applicants' qualifications, receive license applications and fees, issue licenses, and grant reciprocity	Specifies that license suspensions or revocations by the commission, or fines it issues, are proposed final decisions that must be submitted to the commissioner

§	*Board or Commission*	*Licensing Changes*	*Enforcement Changes*
2 & 32-37 (see below)	Examining boards for electrical work; plumbing and piping work; heating, piping, cooling and sheet metal work; elevator installation, repair and maintenance work; fire protection sprinkler systems work and automotive glasswork and flat glass work (The act does not address the Electrical Work Board's regulation of television and radio service dealers and electronics technicians (CGS § 20-342 et seq.))	Allows the commissioner, not just the board, to (1) judge applicants' qualifications and (2) conduct any hearing or other action required for an application or renewal Potentially extends the date by which a hearing on an application or renewal much be held, from 30 days after submission to a period of time the commissioner deems appropriate, up to 60 days after submission (The act contains conflicting provisions on whether the commissioner may grant this extension) Requires DCP to issue certain licenses or certifications with the advice and assistance of, or in consultation with, the applicable board; under prior law, it had to receive the board's authorization to do so Allows DCP to adopt certain licensing regulations in consultation with, rather than with the advice and consent of, the appropriate examining board	Specifies that license or certification suspensions or revocations are proposed final decisions that must be submitted to the commissioner
38 & 39	State Board of Landscape Architects	None specified	Specifies that the following constitute a proposed final decision that must be submitted to the commissioner: (1) refusing or denying a license; (2) suspending or revoking a license or registration; (3) issuing a letter of reprimand; (4) placing a licensee or registrant on probation; or (5) imposing a civil penalty
40 & 41	Home Inspection Licensing Board	None specified	Specifies that the following constitute a proposed final decision that must be submitted to the commissioner: (1) revoking, suspending, or refusing a license or permit; (2) issuing a letter of reprimand; (3) placing a licensee on probationary status; (4) limiting a licensee's practice areas; or (5) ordering a licensee to obtain additional education to increase competence in an area that is the basis for probation

§	Board or Commission	Licensing Changes	Enforcement Changes
			Requires the board to obtain the commissioner's consent before imposing a civil penalty
42	Connecticut Real Estate Appraisal Commission	None specified	Specifies that license or certification refusals, suspensions, or revocations are proposed final decisions that must be submitted to the commissioner
44-46	State Board of Examiners of Shorthand Reporters	Allows licensure applicants to apply directly to DCP, not just to the board Allows the commissioner, not just the board, to judge applicants' qualifications Removes the requirement that the board authorize DCP to issue licenses and instead allows the department or the board to do so directly Allows DCP, not just the board, to reinstate lapsed licenses without examination	Specifies that license suspensions or revocations by the board, or civil penalties it imposes, are proposed final decisions that must be submitted to the commissioner

Electrical Work Board (§§ 36 & 37)

The act removes the requirement that DCP obtain authorization from the Electrical Work Board before issuing registration certificates to public service technicians. Instead, it requires the department to issue these certificates in consultation with the board. It requires that the utility company employing the technician certify to DCP, rather than to the board, that the employee has the training and experience necessary to perform the job. It similarly requires that utility companies inform DCP, rather than the board, of changes in board-certified technicians' job descriptions.

§§ 5-14 — COMPOSITION OF VARIOUS BOARDS, PANELS, AND COUNCILS

The act makes the following changes to various boards, panels, and councils:

1. extends, from two to four years, the terms of Education Arbitration Panel members, who arbitrate collective bargaining agreements between boards of education and their employees (§ 5);
2. changes the qualifications of one of the governor's appointments to the Connecticut Health and Educational Facilities Authority's (CHEFA) board of directors (see below) (§ 6);
3. removes the requirement that gubernatorial appointees to the Medical Examining Board undergo legislative confirmation (this board adjudicates complaints against physicians and decides license suspension and revocation issues) (§ 8);
4. removes the prohibition on alternate members of the State Board of Labor Relations serving terms longer than one year, allowing them to serve at the pleasure of the governor, until the end of his term (this board interprets and administers four employee collective bargaining laws) (§ 9);
5. adds the president of each of the five regional emergency medical services (EMS) councils, or their designees, to the EMS Advisory Board in place of a gubernatorial appointee from each council (this board reviews and comments on EMS regulations, guidelines, and policies, and helps state agencies to coordinate the EMS system) (§ 10);
6. requires that the bylaws for each regional EMS council include a process for electing a president (§ 12);

7. removes the prohibition on more than two of the governor's three appointees to the 11-member Materials Innovation and Recycling Authority board of directors belonging to the same political party (this board plans, designs, builds, and operates solid waste disposal, volume reduction, recycling, intermediate processing, and resources recovery facilities) (§ 14); and
8. makes technical changes to the Connecticut Lottery Corporation board of directors and regional EMS councils (§§ 7, 11 & 13).

CHEFA Board of Directors

CHEFA is a quasi-public agency that assists higher education and health care institutions, nursing homes, child care and child development facilities, and qualified nonprofit organizations in financing capital projects. Its board of directors consists of the Office of Policy and Management secretary, state treasurer, and eight gubernatorial appointees.

By law, one of the governor's appointees must have a favorable reputation for skill, knowledge, and experience in state and municipal finance. Prior law allowed the appointee to gain this reputation as a partner, officer, or employee of an investment bank that originates and purchases state and municipal securities. The act instead allows the appointee to gain the reputation as a member of the financial business industry.

Under existing law, unchanged by the act, the appointee can also gain this favorable reputation as an officer or employee of an insurance company or bank with duties relating to state and municipal securities as an investment and to managing and controlling a portfolio of these securities.

BACKGROUND

Related Case

In *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S.Ct. 1101 (2015), the U.S. Supreme Court held that a state regulatory board that is made up of active market participants can claim state action immunity from federal anti-trust actions only if it is subject to active supervision by the state. In rejecting the argument that entities designated by a state as an agency are exempt from the active supervision requirement, the Court noted that "the need for supervision turns not on the formal designation given by States to regulators but on the risk that active market participants will pursue private interests in restraining trade."

The Court identified certain required factors for active supervision but noted that the overall inquiry on the adequacy of supervision depends on context. It also noted that an entity may be excused from the active supervision requirement in some situations, such as when the entity is electorally accountable.

Minority Party Representation

The law generally requires minority party representation on state or political subdivision boards, commissions, legislative bodies, committees, and similar entities. It does so by setting a maximum number of members who may be from one party, based on the entity's total membership. For example, boards with more than nine members cannot have more than two-thirds of their members from one party. This law does not apply to certain entities, such as those with members based on geographic areas.

PA 16-203—sSB 342
Government Administration and Elections Committee

AN ACT CONCERNING ELECTRONIC FILING OF CAMPAIGN REPORTS

SUMMARY: Beginning July 1, 2017, this act lowers, from $250,000 to $1,000, the receipt and expenditure threshold at which statewide office candidate committees must file periodic campaign finance statements electronically with the State Elections Enforcement Commission (SEEC) using its web-based program, eCRIS (the electronic Campaign Reporting Information System). It also:

1. extends the electronic filing requirement to specified exploratory committees, candidate committees, party committees, political committees (known as PACs), and persons making independent expenditures (IEs);
2. expands the requirement to include all financial disclosure statements these committees or persons must file to comply with state campaign finance law or the Citizens' Election Program (CEP);

3. authorizes SEEC to waive the electronic filing requirement for good cause, upon receiving a written request; and
4. modifies what constitutes a timely filing for hard copy financial disclosure statements filed with SEEC.

The act also makes technical and conforming changes, primarily to reflect the implementation of eCRIS. For example, it eliminates references to a SEEC-created "software" program and replaces them with a "web-based" program. It also eliminates an obsolete provision allowing mandatory electronic filings to be made using alternative media forms (e.g., disks or tapes).

EFFECTIVE DATE: Upon passage for the provision on timely filing of hard copy financial disclosure statements and July 1, 2017 for the electronic filing provisions.

ELECTRONIC FILING

Covered Committees and Individuals

Under prior law, statewide office candidate committees that raised or spent $250,000 or more during an election campaign had to file periodic campaign finance statements electronically with SEEC. There was no electronic filing requirement for other committees (candidate, party, or PAC).

The act lowers the electronic filing threshold to $1,000 and extends the requirement to (1) exploratory committees for statewide office candidates that raise or spend the threshold amount or more and (2) exploratory and candidate committees for legislative office and judge of probate candidates that raise or spend the threshold amount or more.

The act also extends the electronic filing requirement to:

1. state central, legislative caucus, and legislative leadership committees;
2. town committees and PACs that register with SEEC and (a) raise or spend $1,000 or more during the current calendar year or (b) raised or spent $1,000 or more during the last regular election cycle; and
3. persons and committees that make or obligate to make IEs exceeding $1,000 in the aggregate and are required to file financial disclosure statements with SEEC.

By law, unchanged by the act, committee treasurers file campaign finance disclosure statements. If no committee exists, as is sometimes the case with persons making IEs, then the individual responsible for making the expenditure files the statements.

Waiver. The act authorizes SEEC to waive the electronic filing requirement, for good cause, for any committee or person listed above. It may do so upon receiving a written request from the committee treasurer or person making or obligating to make an IE.

Covered Financial Disclosure Statements

For covered committees and individuals, the act expands the electronic filing requirement to include all financial disclosure statements they must file to comply with state campaign finance law, including the CEP. In addition to periodic campaign finance statements, these include declarations of excess expenditures and the cumulative itemized accounting that accompanies a CEP grant application.

Resubmitting Reports

Existing law requires statewide office candidate committees that reach the electronic filing threshold during an election campaign to electronically resubmit any previously filed statements that were not in electronic form. The act extends this requirement to (1) candidate and exploratory committees for legislative office and judge of probate candidates and (2) exploratory committees for statewide office.

Permissive Electronic Filings

By law and under the act, candidate committees for statewide or legislative office, or judge of probate, and party committees or PACs that file periodic campaign finance statements with SEEC may do so electronically even if they are not subject to the electronic filing requirement. The act extends this authorization to cover all financial disclosure statements required pursuant to state campaign finance law, including the CEP.

TIMELY FILING FOR HARD COPIES

By law, financial disclosure statements filed as hard copies are considered timely when SEEC receives them by 5:00 p.m. on the filing deadline. Previously, SEEC could not levy a penalty for failure to timely file a hard copy if a treasurer had a return receipt from the U.S. Postal Service, or a similar receipt from a commercial delivery service, confirming that the commission received the statement by the deadline. The act instead prohibits SEEC from levying a penalty if the receipt confirms that the statement was delivered, or should have been delivered, by the deadline.

HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT COMMITTEE

PA 16-15—SB 273
Higher Education and Employment Advancement Committee

AN ACT CONCERNING REVISIONS TO THE HIGHER EDUCATION STATUTES

SUMMARY: This act changes the title of the Connecticut State Colleges and Universities' leader from "President of the Board of Regents for Higher Education" to "President of the Connecticut State Colleges and Universities." It does so to differentiate this position from the Board of Regents for Higher Education's leader, whose title is "Chairman of the Board of Regents for Higher Education." These two positions have different responsibilities under state law.

The act also makes various technical, grammatical, and conforming changes, including grammatical changes to postsecondary academic degree titles.

EFFECTIVE DATE: July 1, 2016, except the sections containing technical revisions to academic degree titles take effect upon passage.

PA 16-24—SB 97
Higher Education and Employment Advancement Committee

AN ACT CONCERNING THE PRIVATE OCCUPATIONAL SCHOOL STUDENT PROTECTION ACCOUNT

SUMMARY: This act eliminates a provision in prior law that adjusted private occupational schools' required payments to the private occupational school student protection account once its balance reaches $2.5 million. The act instead requires that all schools pay 0.4% of their tuition revenues into the account in every quarter, regardless of its balance.

By law, the account is funded by (1) quarterly assessments on private occupational schools' tuition revenue and (2) other fees related to the schools' operations. Under prior law, when the account balance exceeded $2.5 million, schools that began making payments to the account on or before October 1, 1987 ceased making payments until the balance fell below 5% of the annual net tuition income. Schools that began payments after October 1, 1987 had to continue making payments for the same number of calendar quarters as elapsed between October 1, 1987 and the date when the account balance first reached 6% of the annual net tuition income.

Under existing law, correspondence schools must contribute to the account only for their enrolled Connecticut residents, and only the Connecticut residents enrolled in these schools are eligible for refunds from the account. The act (1) specifies that these provisions also apply to distance learning programs and (2) removes obsolete references to home study schools.

By law, the account is used to refund tuition to students unable to complete a course at a private occupational school because the school becomes insolvent or stops operating.

EFFECTIVE DATE: July 1, 2016

PA 16-36—SB 24
Higher Education and Employment Advancement Committee
Appropriations Committee

AN ACT CONCERNING PROGRAM APPROVAL FOR INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION

SUMMARY: This act exempts, until July 1, 2018, certain nonprofit independent higher education institutions from the Office of Higher Education's (OHE) approval process for new programs of higher learning and program modifications (see BACKGROUND). The act exempts such institutions that (1) are eligible to participate in the Federal Family Education Loan program; (2) do not have a financial responsibility score of less than 1.5, as determined by the U.S. Department of Education, for the most recent fiscal year for which the necessary data is available; and (3) have been located in Connecticut and accredited as degree-granting institutions in good standing for at least 10 years by a regional accrediting association recognized by the U.S. education secretary. It specifies that teacher education programs remain subject to the State Board of Education's regulatory authority.

Institutions that are exempt under the act must file with OHE, annually by July 1, (1) a list and brief description of any new programs introduced and existing programs discontinued in the preceding academic year; (2) a description of the

institution's current program approval process; and (3) the institution's financial responsibility composite score, as determined by the U.S. Department of Education, for the most recent fiscal year for which the data necessary for determining the score is available.

The act also requires OHE, by December 31, 2017, to report to the governor and Higher Education and Employment Advancement Committee on the appropriate roles and responsibilities of a state higher education regulatory agency in protecting student interests and outcomes. The report must include the agency's role in implementing the state's higher education strategic master plan, goals, and policies.

EFFECTIVE DATE: July 1, 2016

BACKGROUND

Program Approval

By law, non-exempt, independent higher education institutions seeking to offer a new academic program must receive approval from OHE. A public higher education institution must have its new academic programs approved by the institution's governing board (i.e., the UConn Board of Trustees or the Board of Regents for Higher Education).

Composite Score

According to the U.S. Department of Education, the composite score reflects the overall relative financial health of institutions along a scale from -1 to 3. A score of 1.5 or more indicates that the institution is considered financially responsible.

Institutions Currently Exempt

In practice, Connecticut College, Trinity College, Wesleyan University, and Yale University are already exempt from OHE's program approval authority. These institutions, classified by OHE as national independents, are longstanding institutions that predate the state's regulation of postsecondary academic programs. Additionally, the institutions' charters give the schools the power to decide which degrees to confer but do not require state approval for additional degrees.

PA 16-44—HB 5072
Higher Education and Employment Advancement Committee

AN ACT CONCERNING HIGHER EDUCATION CERTIFICATE PROGRAMS

SUMMARY: This act requires the Board of Regents for Higher Education (BOR) and the Office of Higher Education (OHE) to define and monitor sub-baccalaureate certificate programs offered by higher education institutions and private occupational schools.

The act also requires each in-state institution and school to annually submit data to OHE from the previous academic year on its for-credit and noncredit sub-baccalaureate programs and the types of certificates these programs offer. OHE must develop a uniform format for data submissions, and the act prescribes a detailed list of data that institutions and schools must submit.

Annually, beginning January 1, 2020, OHE must compile the collected data in order to compare various types of sub-baccalaureate programs to determine similarities to other programs, student interest in each program and similar programs, and the need for each program. By July 1, 2020, and annually thereafter, OHE must post the compiled data on its website so that students and prospective students can make informed decisions about enrollment in and choice of sub-baccalaureate certificate programs.

The act also requires the following:

1. OHE to develop and post on its website one-page fact sheets for each sub-baccalaureate certificate program offered by Connecticut institutions and schools,
2. the institutions and schools to post these fact sheets on their own websites,
3. BOR to establish a working group to review all noncredit sub-baccalaureate certificate programs offered by each regional community-technical college (CTC) to develop a uniform naming convention for them, and
4. OHE to annually review data samples submitted by institutions and schools.

EFFECTIVE DATE: July 1, 2016

§ 1 — PRIVATE OCCUPATIONAL SCHOOLS

Under existing law, a private occupational school is a person, board, association, partnership, corporation, limited liability company, or other entity offering instruction in any trade or industrial, commercial, service, professional, or other occupation for a remuneration, consideration, reward, or promise. It does not include (1) publicly supervised and controlled instruction, (2) employee or member training offered by a firm or organization, or (3) instruction from a school authorized by the legislature to confer degrees (CGS § 10a-22a).

The act specifies that private occupational schools include hospital-based occupational schools or any program, school, or entity offering postsecondary instruction in barbering or hairdressing.

§§ 2-3 — CERTIFICATE DEFINITIONS

The act requires BOR, in collaboration with OHE, to create consistency among the various certificate programs by formulating written definitions for all sub-baccalaureate certificates earned on a for-credit or noncredit basis and awarded by Connecticut higher education institutions and private occupational schools. BOR must report the completed definitions to the Higher Education and Employment Advancement Committee by January 1, 2017.

§ 4 — CERTIFICATE PROGRAM DATA COLLECTION

Data Submitted by Institutions to OHE

The act requires that institutions' and schools' data submissions to OHE about sub-baccalaureate certificate programs include the following information:

1. the program's name and subject matter area;
2. total program enrollment;
3. any entry-level requirements for program enrollment;
4. the number and type of certificates the program awarded;
5. tuition and fees charged for completing the program within the prescribed timeframe;
6. the estimated range of costs for purchasing books and supplies, unless the program's tuition or fees include such costs;
7. to the extent it has been reported to the institution's or school's financial aid office, median debt students incur when completing the program, reported separately by Title IV loans and other education debt, including private and institutional loans;
8. basic demographic information, to the extent available, on students enrolled in the program, including their gender, age, race, and ethnicity;
9. percentage of students in each student cohort (i.e., group of students enrolled at the same period of time in the same certificate program) who completed such a program within the prescribed timeframe;
10. whether there is a clear pathway from successful program completion to enrollment in a related associate degree program;
11. whether the program leads to a credential recognized by the industry for which the program prepares a student;
12. whether a student may combine the certificate awarded with another sub-baccalaureate certificate awarded in order to achieve a heightened qualification level for a particular trade or occupation;
13. the average length of time to complete the program;
14. employment rates, to the extent available, for students who have completed the program, six months after program completion;
15. student cohort pass rate, to the extent available, for national certification programs; and
16. student cohort licensure rate, to the extent available, for positions requiring the certificate and state licensure.

Institutions and schools must submit data on their (1) for-credit sub-baccalaureate programs and certificates by January 1, 2018, and annually thereafter and (2) non-credit programs and certificates by January 1, 2019, and annually thereafter.

Data Collected by OHE

The act requires OHE to collect, for each sub-baccalaureate certificate program offered by Connecticut higher education institutions or private occupational schools, the average (1) starting salary for entry-level positions requiring the certificate and (2) salary for jobs requiring the certificate. OHE must use available Labor Department statistics and

collect this information about (1) for-credit programs by January 1, 2018, and annually thereafter and (2) noncredit programs by January 1, 2019 and annually thereafter.

§ 5 — PROGRAM FACT SHEETS

The act requires OHE, by July 1, 2019, and annually thereafter, to develop and post on its website a one-page fact sheet for each sub-baccalaureate certificate program offered by Connecticut higher education institutions and private occupational schools. The fact sheet must contain data that the act requires such institutions and schools to submit to OHE (see above), including tuition, fees, costs of books and supplies, graduation rates, and, to the extent available, job placement rates and average student debt.

Additionally, the act requires the institutions and schools to make these fact sheets available to current and prospective students by (1) posting them on their own websites within seven days of OHE's online posting and (2) other methods of their choosing.

§ 6 — BOR WORKING GROUP

The act requires BOR, under the direction of its chief academic officer, to establish a working group of CTC continuing education deans or their designees to review all noncredit sub-baccalaureate certificate programs that CTCs offer for the purpose of designing a uniform naming convention for these programs. The working group must design this convention by January 1, 2019 to help students distinguish between noncredit certificate programs with similar yet varied requirements in the same field of study. The naming convention must uniformly designate varying programs by indicating different, enhanced, or more demanding requirements.

Additionally, by February 1, 2019, and periodically thereafter at BOR's request, the working group must review tuition for the uniformly named noncredit sub-baccalaureate certificate programs leading to the same qualifications. The review must determine if tuition and fee variations between the programs are reasonable.

BOR's president must report to the Higher Education and Employment Advancement Committee by March 1, 2019, on the uniform naming convention and tuition review determination.

§ 7 — ANNUAL REVIEW PROGRAM

The act requires OHE to develop, by July 1, 2019, an annual review program for at least a sample of the student data submitted for each for-credit and noncredit sub-baccalaureate certificate program offered by higher education institutions and private occupational schools. The act does not specify the sample size that should be used. OHE must not disclose any personally identifiable student information it may obtain from this review.

PA 16-79—HB 5069
Higher Education and Employment Advancement Committee

AN ACT CONCERNING A TWO-GENERATION INITIATIVE FOR FAMILIES

SUMMARY: This act adds at least four and up to 10 members, including two legislators, to the interagency working group that oversees the state's two-generational school readiness and workforce development pilot program. The interagency working group includes legislators, executive branch officials, and representatives of the nonprofit and other sectors. By law, the group must report to the Appropriations and Human Services committees by January 1, 2017. The act changes the contents of the report and additionally requires the group to submit it to the Education, Housing, Public Health, and Transportation committees.

By law, the pilot program operates at sites in Bridgeport, Colchester, Greater Hartford, Meriden, New Haven, and Norwalk, and its purpose is to foster family economic self-sufficiency by delivering academic and job readiness support services across two generations in the same household. The act specifies that "Greater Hartford" means Hartford, East Hartford, and West Hartford and that "households" may include mothers, fathers, noncustodial parents, and other primary caregivers. The act requires that the pilot sites be informed by members of low-income households within the sites and peer-to-peer exchange. Existing law already requires that the sites work together as a learning community and be informed by technical assistance in best practices. The act also requires that the pilot program include health and mental health services as part of the support services it offers.

EFFECTIVE DATE: Upon passage

INTERAGENCY WORKING GROUP

Membership

The act adds at least four and up to 10 members to the interagency working group, as shown in Table 1.

Table 1: Interagency Working Group Membership

Member	***Appointing Authority (if applicable)***
Added by the Act	
One member representing the interests of business or trade organizations	Senate majority leader
One member with expertise on issues concerning children and families	House majority leader
One legislator serving on the Transportation Committee	Senate minority leader
One legislator serving on the Education Committee	House minority leader
Up to six members of low-income households	Agency coordinating services at each pilot site
Existing Requirements, Unchanged by the Act	
One legislator serving on the Appropriations Committee	House speaker
One legislator serving on the Human Services Committee	Senate president pro tempore
Correction, early childhood, education, housing, labor, public health, social services, and transportation commissioners or their designees	N/A
Chief court administrator or his designee	N/A
Representatives of nonprofit and philanthropic organizations and scholars who are experts in two-generational programs and policies	N/A
Other business and academic professionals as needed to achieve goals for two-generational systems planning, evaluations, and outcomes	N/A

Under existing law, unchanged by the act, the interagency working group's membership is not limited to those members required by statute.

Report Contents

The act changes what the working group's report must include. Prior law required it to describe the number of:

1. families served by the pilot program;
2. adults who have obtained jobs since receiving program services;
3. children who have improved academically, including achievement band increases and improvements in reading comprehension and math literacy; and
4. adults who have received job training, completed job training, enrolled in educational courses, and obtained educational certificates or degrees.

The act eliminates these requirements and instead requires that the report describe:

1. the parent-informed strategies selected for success;
2. the challenges and opportunities in working with a parent and child concurrently to promote school and workforce success;
3. the changes in policy, program, budget, or communications at the local and state levels to achieve the program's goals;

4. child, parent, and family outcomes in areas of school readiness and school success, as determined by the interagency working group in consultation with state and national evaluators; and
5. workforce readiness, work success, and family support outcomes, as determined by the interagency working group in consultation with state and national evaluators.

The act retains requirements that the report include (1) the program's cost in both state and private dollars and (2) recommendations for expanding the program to additional communities statewide.

PA 16-93—sSB 333
Higher Education and Employment Advancement Committee

AN ACT CONCERNING THE FOUNDATION OF THE UNIVERSITY OF CONNECTICUT

SUMMARY: This act imposes several requirements on foundations established to support constituent units of higher education ("institutionally related foundations"), including barring them from engaging in certain conduct. Existing law defines the following institutions as constituent units: UConn, the public universities that comprise the Connecticut State University System, the regional community-technical colleges, and Charter Oak State College.

Specifically, the act requires all institutionally related foundations for constituent units to do the following:

1. refrain from engaging in any prohibited acts listed under the state Solicitation of Charitable Funds Act and
2. submit, to both the executive authority of the constituent units they support and the attorney general, two separate annual reports, rather than one, containing additional fiscal auditor opinions as part of their fiscal year auditing process.

Additionally, the act requires the UConn Foundation to do the following:

1. provide informational filings annually to the Higher Education and Employment Advancement Committee and legislative leaders if the foundation has an endowment fund with a market value exceeding $1.5 million per year and
2. add provisions to the contract between the foundation and UConn about (a) cash compensation paid from the university to the foundation and (b) efforts to raise gifts and commitments for student support.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

NEW REQUIREMENTS FOR INSTITUTIONALLY RELATED FOUNDATIONS

Solicitation of Charitable Funds Act Compliance

The act prohibits institutionally related foundations from engaging in any act that violates the state's Solicitation of Charitable Funds Act (see BACKGROUND). This law (1) regulates organizations, activities, and professions related to charitable giving and (2) prohibits individuals and charities from performing specified acts related to charities. (Presumably, prohibitions that apply to both individuals and charities apply to such foundations.)

Fiscal Year Audit Reports

The act requires institutionally related foundations to submit two audit reports, rather than one, to both the executive authority of the constituent units they support and the attorney general as part of their fiscal year auditing process. The reports must include additional fiscal auditor opinions. By law, the foundations must undergo fiscal year audits either (1) annually if their fiscal year receipts and investment earnings total $100,000 or more or (2) in the last fiscal year of any three-year period if receipts and investment earnings total less than $100,000 per fiscal year for three consecutive fiscal years.

Table 1 compares the fiscal audit report requirements under prior law and the act.

Table 1: Foundation Audit Report Requirements under Prior Law and PA 16-93

	Prior law (CGS § 4-37f(8))	***The Act***	
Number of required reports	One	Two	
Required report content	Financial statements Management letter Audit opinion on conformance of foundation operating procedures to state law and recommendations for corrective actions needed to ensure such conformance	Report one: Audit opinion on financial statements Management letter	Report two: Audit opinion on conformance of foundation operating procedures to state law Recommendations for corrective actions needed to ensure such conformance
Total number of audit opinions	One	Two	

NEW REQUIREMENTS FOR THE UCONN FOUNDATION

Annual General Assembly Filings

The act requires the UConn Foundation, when its annual endowment funds exceed $1.5 million, to annually provide to the Higher Education Committee and the six legislative leaders a copy of each of the following items:

1. the most recent annual foundation report;
2. the most recent audited financial statements, management letter, and audit reports of the foundation required by law;
3. the legally required written agreement between UConn and the foundation;
4. the legally required written policy on investigations of ethical and legal violations and whistle-blowing;
5. the foundation's conflicts of interest policy and bylaws;
6. the foundation's most recently filed IRS form 990, including all portions and schedules required by federal law to be available for public inspection;
7. a list of the current members and officers of the foundation's governing board;
8. a list of all deanships, professorships, chairs, schools, institutes, centers, or facilities that were named in recognition of foundation donors upon the UConn Board of Trustees' approval during the previous fiscal year;
9. the identity of any person, firm, corporation, or other entity donating funds or other items of value to the foundation on or after July 1, 2017, unless the donor has requested that his or her identity not be publicly disclosed;
10. the total number and average size of foundation disbursements made to UConn for (a) undergraduate and graduate scholarships, fellowships, and awards; (b) program and research support; (c) equipment; and (d) facilities construction, improvements, and related expenses; and
11. the position of each UConn employee for whom the foundation contributes all or some of the salary, wages, or fringe benefit expenses, along with the financial reimbursement amount from the foundation for these expenses for each position.

The act deems all of the above information reported by the UConn Foundation to the Higher Education Committee and leadership to be a public record under the Freedom of Information Act.

Required Contract Provisions

By law, each institutionally related foundation must enter a written agreement with the constituent unit or public higher education institution that governs their relationship. The act requires that the UConn Foundation's agreement with UConn include two additional provisions beginning July 1, 2017.

The first new provision governs the cash compensation paid by UConn to its foundation. The act requires that the agreement contain the following three statements governing this compensation:

1. Cash compensation paid by UConn to the foundation in a fiscal year must decrease from the greater of the amount paid in the preceding fiscal year or the fiscal year ending June 30, 2016, and it must decrease by (a) $1 million when the market value of the foundation's endowment fund is between $500 million and less than $700 million as of January 1 of the preceding fiscal year, (b) $1.5 million when the market value of the fund is between $700 million and less than $900 million as of January 1 of the preceding fiscal year, or (c) $3 million when the market value of the fund is between $900 million and less than $1.25 billion as of January 1 of the preceding fiscal year.
2. UConn may not pay the foundation any cash compensation when the endowment fund is $1.25 billion or more as of January 1 of the preceding fiscal year.
3. If the foundation's endowment fund market value decreases to an amount below any of the above thresholds as of January 1 of the preceding fiscal year, then UConn must increase the cash compensation it pays to the foundation to the same amount that it paid before the threshold was exceeded, until the July 1 following a January 1 on which the market value of the endowment fund once again exceeds the threshold.

The second new provision requires the foundation, on and after July 1, 2017, to use reasonable efforts to raise gifts and commitments each fiscal year for student support, including scholarships, assistantships, fellowships, awards, and prizes. Such gifts and commitments must equal at least 15% of the total amount of all gifts and commitments raised by the foundation in the same fiscal year.

BACKGROUND

Prohibited Acts under the Solicitation of Charitable Funds Act

The Solicitation of Charitable Funds Act makes it illegal for an individual to do the following:

1. misrepresent (a) a solicitation's purpose or beneficiary, (b) a charity's purpose or nature, or (c) that any other person sponsors or endorses a solicitation;
2. use or exploit the charity's registration with the Department of Consumer Protection to make the public believe that the registration constitutes state endorsement or approval;
3. use the charity's name or display its emblem, device, or printed matter without its express written permission;
4. make any false or misleading statement on any document required by this law;
5. fail to comply with this law's requirements; or
6. appropriate a charity's property for private use.

It is also unlawful for any person conducting a charity's affairs to engage in any financial transaction unrelated to accomplishing its charitable purpose.

Additionally, it is unlawful for any charity to do the following:

1. engage in any financial transaction unrelated to accomplishing its charitable purpose,
2. expend an unreasonable amount of money for solicitation or management,
3. use a name which is the same as or confusingly similar to another charity's name unless the latter charity provides written consent to do so,
4. represent itself as being associated with another charity without its express written acknowledgement or endorsement, or
5. use an unregistered fund-raising counsel's or paid solicitor's services.

It is also unlawful for a fund-raising counsel or paid solicitor to perform services for an unregistered charity (CGS § 21a-190h).

PA 16-106—sHB 5376
Higher Education and Employment Advancement Committee

AN ACT CONCERNING AFFIRMATIVE CONSENT

SUMMARY: This act requires higher education institutions in Connecticut to use an affirmative consent standard when determining, in the context of their required policies on sexual assault and intimate partner violence, whether sexual activity is consensual. It requires that the policies include clear statements advising students and employees of the affirmative consent standard.

Additionally, the act specifies that the policies must describe the institutions' investigation procedures for students and employees. (Existing law requires that the policies describe the institutions' disciplinary procedures.) The act also requires that an official trained annually in issues relating to sexual assault, stalking, and intimate partner violence conduct investigations if students are the respondents. (Existing law applies this requirement to disciplinary proceedings if students are the respondents.)

The act requires higher education institutions (except for Charter Oak State College) to include an explanation of the affirmative consent standard in the awareness programming they offer to students and employees. It also replaces references to "victim" and "accused" in prior law. Generally, it replaces references to (1) "victim" with "student or employee who reports or discloses the alleged violation" and (2) "accused" with "student or employee responding to such report or disclosure."

Lastly, the act makes technical and conforming changes.
EFFECTIVE DATE: July 1, 2016

AFFIRMATIVE CONSENT

The act defines "affirmative consent" as an active, clear, and voluntary agreement by a person to engage in sexual activity with another person. It specifies that higher education institutions, in exercising their sole authority to adopt a definition of "affirmative consent," are not required to adopt this definition but must use one that has the same or a substantially similar meaning.

Institutional Policies

By law, higher education institutions in Connecticut must adopt and disclose policies on sexual assault, stalking, and intimate partner violence. The policies must include provisions on (1) providing information about assistance options to students and employees who report or disclose being subject to such violence, (2) disciplinary procedures, and (3) possible sanctions.

The act requires that institutions' sexual assault, stalking, and intimate partner violence policies include provisions for informing students and employees that, in the context of alleged violations of the policies on sexual assault and intimate partner violence,

1. affirmative consent (a) is the standard used to determine whether sexual activity was consensual and (b) may be revoked at any time during the sexual activity,
2. each person is responsible for ensuring that (a) he or she has affirmative consent from all people engaged in the sexual activity and (b) the affirmative consent is sustained throughout the sexual activity, and
3. a past or current dating or sexual relationship is not by itself determinative of a finding of affirmative consent.

The policies must also provide that an alleged lack of affirmative consent is not excused by the respondent's belief that the student or employee complainant consented because the respondent was intoxicated, reckless, or failed to take reasonable steps to ascertain whether the complainant affirmatively consented. It is similarly not excused if the respondent knew or should have known that the complainant was unable to consent because the complainant was unconscious, asleep, unable to communicate due to a mental or physical condition, or was incapacitated due to drugs, alcohol, or medication.

Awareness Programming

The act requires higher education institutions (except for Charter Oak State College) to include an explanation of the affirmative consent standard in the awareness programming they offer to students and employees. Under existing law, higher education institutions (except for Charter Oak State College) must offer sexual assault, stalking, and intimate partner violence primary prevention and awareness programming for all students and employees that includes an explanation of the definition of consent in sexual relationships.

PA 16-120—HB 5070
Higher Education and Employment Advancement Committee

AN ACT CONCERNING PARTICIPATION IN THE STANDARD AUTHORIZATION RECIPROCITY AGREEMENT REGARDING DISTANCE LEARNING PROGRAMS

SUMMARY: This act requires the Office of Higher Education (OHE), by January 1, 2017, to enter into a multistate or regional reciprocity agreement to allow Connecticut and its higher education institutions to participate in a nationwide state authorization reciprocity agreement on distance learning programs. The nationwide agreement must (1) establish uniform standards across states and (2) eliminate the need for participating states to assess the quality of a program offered by an out-of-state institution.

The act requires Connecticut higher education institutions that seek to participate in the nationwide agreement to submit an application to OHE on a form prescribed by the office. OHE must approve or reject the application in accordance with the agreement's terms and establish an application and renewal fee schedule. The schedule must be graduated based on the number of full-time equivalent students at each Connecticut higher education institution. Under the act, an institution's authorization is valid for one year and is renewable for additional one-year periods.

By law, a person, school, board, association, or corporation must have an OHE license to operate a program of higher learning or higher education institution in Connecticut (CGS § 10a-34). The act allows out-of-state institutions that participate in the nationwide reciprocity agreement to operate a distance learning program in Connecticut according to the agreement's uniform standards and without licensure from OHE. They may do so upon OHE entering into the agreement. The act specifies that it does not affect the attorney general's authority to enforce the Connecticut Unfair Trade Practices Act or Title X of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203).
EFFECTIVE DATE: July 1, 2016

PA 16-154—sSB 25
Higher Education and Employment Advancement Committee
Public Safety and Security Committee
Appropriations Committee

AN ACT CONCERNING SPECIAL POLICE FORCES ON COLLEGE CAMPUSES

SUMMARY: This act establishes special police forces on all of Connecticut's regional community technical college (CTC) campuses, subject to the Board of Regents for Higher Education's approval. Officers on these forces generally have the same powers as municipal police officers. State law requires armed special police force members to be certified by the Police Officer Standards and Training Council, which establishes minimum qualifications for municipal police officers and enforces their professional standards.

The following 12 community college campuses comprise the Connecticut State University System's CTCs: Asnuntuck (Enfield), Capital (Hartford), Gateway (New Haven), Housatonic (Bridgeport), Manchester (Manchester), Middlesex (Middletown), Naugatuck Valley (Waterbury), Northwestern Connecticut (Winsted), Norwalk (Norwalk), Quinebaug Valley (Danielson), Three Rivers (Norwich), and Tunxis (Farmington).
EFFECTIVE DATE: July 1, 2016

PA 16-155—sSB 26
Higher Education and Employment Advancement Committee
Appropriations Committee

AN ACT CONCERNING PRIVATE OCCUPATIONAL SCHOOLS

SUMMARY: This act makes various changes to laws governing private occupational schools, which are privately controlled schools that offer instruction in trades or industrial, commercial, professional, service, or other occupations for remuneration. They are regulated by the Office of Higher Education (OHE).

Specifically, the act does the following:

1. conforms state law to federal regulations by defining private occupational schools as "postsecondary career schools" (i.e., institutions authorized to operate educational programs beyond secondary education) (§ 1);
2. specifies that private occupational schools include hospital-based occupational schools, hairdressing schools, and barbering schools (§ 1);
3. allows OHE's executive director to accept, for hospital-offered occupational instruction, programmatic accreditation to satisfy authorization renewal requirements unless there is reasonable cause not to rely upon such accreditation (§ 2);
4. allows OHE to compensate members of its occupational school evaluation teams at the executive director's discretion provided they are not state employees, eliminating a blanket prohibition under prior law against compensating any team members (§ 2);
5. requires barbering and hairdressing schools enrolling fewer than 10 students to submit to OHE's executive director, for both initial authorization and reauthorization purposes, financial statements compiled by an independent licensed certified public accountant or independent licensed public accountant (§§ 2 & 4);
6. requires any entity seeking to offer instruction through a private occupational school or establish new school branches to meet additional application and evaluation requirements (§§ 2-4 & 5);
7. allows OHE's executive director to seize a private occupational school's letter of credit (see BACKGROUND), which must be payable to the private occupational school student protection account, if the school (a) closes before graduating all current students and (b) does not meet statutory closure requirements (§§ 6 & 7); and
8. allows OHE's executive director, in the event a private occupational school closes, to (a) spend student protection account funds for a "teach-out" (see below) of remaining students and (b) issue completion certificates to students who have completed their course of study (§ 7).

The act also makes several technical and conforming changes.

EFFECTIVE DATE: July 1, 2016

APPLICATION AND EVALUATION REQUIREMENTS

The act requires any entity that wishes to offer instruction through a private occupational school or establish new school branches to meet additional application and evaluation requirements. These new requirements affect the entity's initial and renewal applications for authorization and evaluation process, all of which OHE oversees. By law, entities that may offer occupational instruction include a person, board, association, partnership, corporation, limited liability company, or other entity.

Authorization Renewal (§ 3)

The act requires the entity to provide evidence to OHE, at the executive director's discretion, that it is current on its rent and mortgage obligations in order for OHE to renew its certificate of authorization to operate.

New Branch Establishment (§ 5)

The act requires an OHE-authorized private occupational school to request authorization to open additional school branches or sites at least 60 days before establishing the new location, doubling the 30-day notification period prior law required.

Financial Statements (§§ 2 & 4)

The act requires barbering and hairdressing schools enrolling fewer than 10 students to submit financial statements compiled by an independent licensed certified public accountant or independent licensed public accountant (1) when submitting an initial application for authorization to OHE and (2) as a condition for authorization renewal. By law, other private occupational schools must, for the same purposes, submit financial statements that are instead prepared by management and reviewed and audited by such accountants.

Evaluation Process (§ 2)

The law requires the OHE executive director or his designee to evaluate any private occupational school that applies for initial or renewal authorization to operate. The act requires the executive director to appoint an evaluation team either (1) within 60 days after receiving its complete initial application for authorization or (2) 60 days before the expiration date of the school's current authorization certificate. By law, the executive director must notify an applicant within 120 days after the evaluation team's appointment about whether it has been authorized to operate.

The act also reduces the amount of time a school has to demonstrate compliance with the evaluation team report for an initial or renewal authorization. By law, an evaluation team must submit a written report outlining evidence of noncompliance by the school, to which the school previously had 60 days to respond with evidence of compliance. The act reduces the school response deadline to 30 days from the report date.

§§ 6 & 7 — TEACH-OUTS AND CERTIFICATES OF COMPLETION

In the event a private occupational school closes without complying with statutory procedures, the act allows the OHE executive director to (1) spend funds from the private occupational school student protection account as needed for a "teach-out" of any remaining students and (2) issue completion certificates to students whom the OHE executive director determines have successfully completed their course of study. Under existing law, unchanged by the act, the account may also be used to provide tuition refunds to students who do not complete a course because of a school's insolvency or closure. The account is funded by (1) quarterly assessments on private occupational schools' tuition revenue received from Connecticut students and (2) other fees related to the schools' operations.

The act defines a "teach-out" as the completion of a course or program of study in which a student was enrolled. If the course is part of a program of study, then the teach-out must include the entire program. The act defines "certificate of completion" as a written credential issued to a student who completes a course or program of study offered by a private occupational school.

By law, a private occupational school must provide at least 60 days' notice to the OHE executive director before closing. The school also must, among other things, provide evidence that all current students' coursework is or will be completed.

BACKGROUND

Letter of Credit

By law, a private occupational school must file with the OHE executive director an irrevocable $40,000 letter of credit, issued by a bank with its main office or branch in Connecticut, guaranteeing the school's payments to the private occupational school student protection account (CGS § 10a-22c(d)).

PA 16-179—sHB 5332
Higher Education and Employment Advancement Committee

AN ACT CONCERNING THE GOVERNOR'S SCHOLARSHIP PROGRAM

SUMMARY: This act makes numerous changes to the Governor's Scholarship Program (renamed by the act as the Roberta B. Willis Scholarship Program), the state's financial aid program for Connecticut residents who attend a public or independent higher education institution in the state.

Under prior law, the program had four award categories: a (1) need and merit-based (i.e., merit) award, (2) need-based award, (3) performance incentive pool, and (4) Charter Oak Grant. The act eliminates the incentive award and makes the following additional changes, among others:

1. establishes a maximum award amount for the need award and requires that the maximum amount for part-time students be proportional to the maximum amount for full-time students;
2. eliminates requirements that need awards be made according to sliding scales annually determined by the Office of Higher Education (OHE), which administers the scholarship program;
3. revises the criteria for determining how funds for need awards are allocated among higher education institutions;
4. prohibits OHE from making merit award determinations based on the order of institutions a student provides on the FAFSA (Free Application for Federal Student Aid);
5. earmarks 2.5% of the program's appropriation for the community-technical colleges to use for financial aid purposes;
6. caps the percentage of the program's appropriation that may be allocated to the merit award; and
7. modifies the program's compliance requirements and extends, from February 15 until May 1, the annual deadline by which higher education institutions must return unspent scholarship funds to OHE.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2016

NEED AWARD

The act eliminates a provision in prior law that required institutions to make need awards according to a sliding scale annually determined by OHE (i.e., fixed amounts that were inversely proportional to the student's expected family contribution (EFC), as determined by the FAFSA). It instead allows institutions to award each eligible (1) full-time student up to $4,500 per year and (2) part-time student an amount up to a prorated maximum (see *Awards to Part-Time Students* below). Prior law did not specify any award amounts, but, in practice, OHE established $3,000 per year as the maximum need award for full-time students.

Institutional Allocations

Under prior law, OHE had to allocate funding for need awards to higher education institutions based on their eligible enrollment (i.e., the number of the institution's students eligible for an award based on their EFC amounts) during the fiscal year preceding the award year. The act instead requires OHE to use each institution's eligible full-time equivalent enrollment of undergraduate Connecticut residents during the fall semester of the fiscal year two years before the grant year.

Under the act, eligible students are those whose EFC is up to 200% of the maximum eligible EFC for the federal Pell Grant for the academic year one year before the grant year. For the 2016-17 academic year, 200% of the maximum Pell-eligible EFC is $10,468. Prior law did not establish a maximum EFC for program eligibility, but, in practice, OHE established (1) $10,999 as the maximum EFC for full-time students and (2) $7,999 as the maximum EFC for part-time students.

The act requires higher education institutions to report enrollment data to OHE annually by July 1. OHE must, annually by October 1, (1) publish the enrollment data on its website, (2) notify each institution of the proportion of the appropriation that the institution will receive in the ensuing fiscal year, and (3) publish these proportions on its website.

Awards to Part-Time Students

By law, part-time students are eligible for a need award from the program if they carry at least six credits in each semester. The act establishes maximum need award amounts for part-time students that are proportional to the maximum amount for full-time students. The maximum part-time amounts are (1) 50% for at least six but fewer than nine credits and (2) 75% for at least nine but fewer than 12 credits. Prior law did not prescribe criteria for determining award amounts to part-time students.

MERIT AWARD

The act prohibits OHE from making merit award determinations based on the order of institutions provided by a student on the FAFSA. In practice, students may list on the FAFSA up to 10 institutions that they are considering attending.

INCENTIVE AWARD

The act eliminates the program's incentive award, which under prior law was provided to encourage retention and completion for students who (1) received a need award, (2) returned with sufficient credits to complete an associate degree in two years or a bachelor degree in four years, and (3) exceeded minimum academic performance standards as determined by OHE.

ALLOCATION OF ANNUAL APPROPRIATION

Prior law allocated the program's appropriation across the four award categories as follows: (1) at least 20% for the merit award, (2) up to 80% for the need award, (3) at least 2.5% for the incentive pool, and (4) at least $100,000 for the Charter Oak Grant. The act (1) caps the merit award allocation at 30% of the program appropriation and (2) eliminates the allocation for the incentive pool and instead allocates 2.5% of the program's appropriation to the state's community-technical colleges for financial aid purposes. It specifies that this allocation is in addition to the amount allocated to the colleges for merit and need awards.

COMPLIANCE REQUIREMENTS

By law, institutions participating in the scholarship program must biennially submit to OHE the results of an audit completed by an independent certified public accountant for each year of program participation. The act specifies that OHE itself must conduct compliance reviews of the participating institutions, rather than compliance audits as required by prior law. It similarly specifies that institutions' records that substantiate the reported number of Connecticut students and documentation used to determine student eligibility are subject to audit or review. (Under prior law, the records were subject only to audit.)

PA 16-16—sSB 152
Housing Committee
Judiciary Committee

AN ACT CONCERNING THE DISCLOSURE OF HOUSING DISCRIMINATION AND FAIR HOUSING LAWS

SUMMARY: This act requires the Commission on Human Rights and Opportunities (CHRO), by July 1, 2016, to create and post on its website a one-page form on housing discrimination and federal and state fair housing laws. This "disclosure form" must be (1) in plain language and easily readable and understandable and (2) reviewed and updated by CHRO as necessary.

Beginning 60 days after CHRO posts the form, anyone selling, leasing with the option to buy, or exchanging a residential property with at least two units must, at the time of closing, attach a copy of the disclosure form, signed by the prospective purchaser, to the purchase agreement, option, or lease containing a purchase option. The act (1) does not provide any penalties for failing to attach the form and (2) specifies that failure to attach it does not void an otherwise valid purchase agreement, option, or lease containing a purchase option.
EFFECTIVE DATE: Upon passage

PA 16-51—HB 5335
Housing Committee
Judiciary Committee

AN ACT CONCERNING THE RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS REGARDING THE TREATMENT OF BED BUG INFESTATIONS

SUMMARY: This act establishes a framework to identify and treat bed bug infestations in residential rental properties, including public housing but excluding detached, single-family homes. It sets separate duties and responsibilities for landlords and tenants, including notice, inspection, and treatment requirements. It also gives landlords and tenants remedies when either party fails to comply with these duties and responsibilities.

Under the act, if tenants report that they know or suspect that their units are infested with bed bugs (i.e., Cimex lectularius, the common bed bug), landlords must retain a third-party inspector or inspect the units themselves. Landlords must hire and pay a pest control agent to treat bed bug infestations if they are unable to successfully treat an infestation themselves. Landlords who treat the infestation themselves must get a third-party inspector to confirm that the treatment was successful. The act makes tenants financially responsible for subsequent treatment costs for their unit and contiguous units if they knowingly and unreasonably fail to comply with treatment measures. It also prohibits landlords from renting units that they know or suspect are infested with bed bugs.

The act requires the Connecticut Agricultural Experiment Station, in consultation with the Department of Public Health and Department of Energy and Environmental Protection (DEEP), within available appropriations, to develop and publish guidelines and best practices identifying the most effective and least burdensome ways to investigate and treat bed bug infestations.

The act also makes technical and conforming changes to the statute allowing tenants to enforce a landlord's duties (CGS § 47a-14h).
EFFECTIVE DATE: October 1, 2016

DEFINITIONS

The act defines "certified applicator" as an individual who is certified by DEEP to apply pesticides. A "qualified inspector" is a certified applicator, local health department official, or bed bug detection team. "Bed bug detection team" means a scent detection canine team that holds a current, independent, third-party certification according to standards set by the National Pest Management Association. "Dwelling unit" is defined to exclude detached, single-family homes.

LANDLORD'S DUTIES

Under existing law, landlords must comply with building and housing codes materially affecting health and safety and keep units in fit and habitable condition (CGS § 47a-7). Under the act, landlords must:

1. provide reasonable written or oral notice to a tenant before entering a unit for bed bug inspection or control purposes;
2. pay for inspecting and treating bed bug infestations;
3. within five business days after receiving notice from a tenant that his or her unit may be infested, inspect or have inspected the unit and contiguous units;
4. if units are inspected by a qualified inspector and found to be free of an infestation, obtain from the inspector a written certification of such determination;
5. if inspecting the units themselves, provide tenants with a written notice within two days stating (a) whether the unit is infested, (b) that the tenant may contact the local health department if he or she is still concerned that the unit is infested, and (c) the local health department's contact information;
6. if the inspection reveals that the unit is infested, take reasonable measures to treat it and contiguous units within five business days after the inspection;
7. offer assistance to tenants who cannot physically comply with preparation for inspection or treatment procedures, for which the landlords may charge a reasonable amount;
8. offer reasonable accommodations to people with disabilities in compliance with state and federal disability laws;
9. refrain from offering a unit for rent if they know or reasonably suspect it is infested;
10. disclose to prospective tenants whether the rental unit or a contiguous unit is currently infested; and
11. upon request from a current or prospective tenant, disclose the last date the rental unit was inspected for bed bugs and found free of infestation.

Under the act, a landlord's rights and duties, as they relate to contiguous units, apply only if the landlord owns, leases, or subleases the contiguous unit.

The act allows landlords to treat infestations themselves or hire a pest control agent, which it defines as a certified applicator or person otherwise specially licensed or qualified to treat bed bug infestations. A landlord who chooses to do the former must:

1. vacuum areas to be treated before treatment;
2. have a qualified inspector inspect the unit within five business days after the treatment;
3. obtain written certification from the inspector that the unit is no longer infested; and
4. if the inspector determines the treatment was not effective, hire a pest control agent within five business days after the inspection.

TENANT'S DUTIES

Under the act, tenants must:

1. promptly notify their landlord, orally or in writing, when they know or suspect their unit is infested with bed bugs;
2. not unreasonably deny access to their unit after receiving reasonable notice of intent to enter;
3. cover the costs associated with preparing the unit for inspection and treatment (e.g., moving furniture or laundering clothing);
4. comply with reasonable measures, as determined by the landlord and qualified inspector or pest control agent, to eliminate and control the infestation, or pay additional costs arising from noncompliance; and
5. not remove infested material from their units until treatment is complete or the landlord gives them permission to do so.

INSPECTIONS AND TREATMENT

Landlords, qualified inspectors, and pest control agents must enter units in accordance with the law on entry into rental units. Thus, landlords must (1) provide reasonable notice of their intent to enter and (2) have the tenant's consent to enter, unless there is an emergency, court order, extended absence, or abandonment.

Under the act, landlords and qualified inspectors conducting bed bug inspections may visually or manually inspect a tenant's bedding and upholstered furniture. They may also inspect other items, including personal belongings, when they deem it necessary and reasonable, including when they find bed bugs in the unit or in a contiguous unit.

Preparing Unit for Inspection and Treatment

The act requires landlords to assist tenants who are physically unable to comply with their duty to prepare their unit. They may charge tenants a reasonable amount for the assistance, which they must disclose, and set a repayment schedule of up to six months, unless both parties agree to an extension. If a tenant fails to make a required payment, the landlord can deduct the amount owed from the tenant's security deposit at the end of the tenancy but cannot initiate summary process (eviction) proceedings against the tenant on that basis. Under the act, the landlord must treat the infested unit, even if the tenant does not agree to the charges or repayment schedule.

Tenants who unreasonably fail to comply with inspection and treatment procedures must pay for additional treatments of their unit and contiguous units.

Duties Regarding Tenant Relocation

Under the act, landlords are not responsible for (1) providing tenants with alternative accommodations during treatment or (2) replacing tenants' personal property. However, under the state's Uniform Relocation Assistance Act, landlords may be liable for costs related to relocating tenants displaced by code enforcement activity, such as code enforcement related to a bed bug infestation (CGS § 8-266 et seq.).

REMEDIES

In addition to the act's remedies below, aggrieved landlords and tenants may pursue other remedies available in law or equity. The act does not restrict the authority of state or local housing or health code enforcement agencies. It states that tenants may contact any agency at any time about an infestation.

Tenant's Remedies

If a landlord fails to comply with the act, tenants may follow existing procedures for (1) asking the court for relief, including rent abatement or an order to comply or (2) terminating the rental agreement after giving the landlord notice of the breach and 15 days to comply (CGS §§ 47a-12 and 47a-14h). Noncompliant landlords are additionally liable for a $250 fine or actual damages, whichever is greater, plus reasonable attorney's fees.

Landlord's Remedies

If tenants unreasonably refuse to give a landlord, qualified inspector, or pest control agent access to their unit, a landlord may ask the court to provide relief under an existing law that authorizes courts to (1) compel access or terminate the rental agreement and (2) hold tenants responsible for actual damages, including attorney's fees (CGS § 47a-18).

The act additionally specifies that a landlord may, if a tenant refuses to grant access or fails to comply with inspection or treatment procedures or control measures, ask the court to:

1. grant the landlord (a) access to the unit to carry out bed bug inspection or treatment measures and (b) the right to carry out such inspection and treatment and
2. require the tenant to comply with inspection or control measures or charge him or her for the costs of noncompliance.

Under the act, the fee for initiating such an action is the same as for a small claims case (currently $95).

Any order granting the landlord, qualified inspector, or pest control agent access to the premises must be served on the tenant at least 24 hours before entry.

PA 16-74—sSB 153
Housing Committee

AN ACT CONCERNING SECURITY DEPOSITS FOR AGE-RESTRICTED PUBLIC HOUSING

SUMMARY: This act requires housing authorities, community housing development corporations, and other corporations providing state-assisted public housing to seniors and individuals with disabilities to allow these tenants to pay security deposits in installments, pursuant to a written agreement. The agreement must include a payment schedule and a determination of the tenant's ability to pay according to the schedule. The installments must be (1) reasonable in light of the tenant's income and (2) paid in equal amounts and at approximately equal intervals not exceeding one month, over a period of at least 12 months. The act specifies that it does not prohibit a housing authority or corporation from

waiving a security deposit requirement or extending installments beyond 12 months.

The act eliminates the requirement that housing authorities and the corporations noted above return security deposits to seniors and individuals with disabilities after the tenant has lived in the housing for one year. It instead requires them to return security deposits when the tenancy terminates.

By law, housing authorities and corporations must pay an annual interest rate on these tenants' security deposits equal to the deposit index (0.08% for calendar year 2016). The act prohibits interest from accruing on a security deposit until all installments have been paid in full.

Finally, the act makes technical changes. It expands the definition of "security deposit" to include installment payments and replaces an outdated reference to the social services commissioner with the housing commissioner. By law, the housing commissioner is responsible for housing for seniors and individuals with disabilities.

EFFECTIVE DATE: October 1, 2016 and applicable to individuals whose tenancy begins on or after that date.

PA 16-108—sHB 5340
Housing Committee

AN ACT CONCERNING THE REPLACEMENT OF HOUSING PROJECTS BY HOUSING AUTHORITIES

SUMMARY: Existing law generally prohibits housing authorities that receive or have received state assistance from selling, leasing, transferring, or destroying a housing project if the project would no longer be available for, or replaced by, low- or moderate-income rental housing. However, the housing commissioner may approve the action if she finds, after a public hearing, that various conditions are met (see BACKGROUND).

This act requires the commissioner, in deciding whether to grant such an approval, to consider the extent to which the project's housing units will be replaced with housing that is affordable to households with incomes less than (1) 25% of the area median income (AMI) and (2) 50% of the AMI.

EFFECTIVE DATE: October 1, 2016

BACKGROUND

Conditions Required for Approval to Sell, Lease, Transfer, or Destroy a Housing Project

The law authorizes the housing commissioner to approve the sale, lease, transfer, or destruction of a housing project upon finding that:

1. an adequate supply of low- or moderate-income rental housing exists in the municipality where the project is located;
2. the action is in the best interest of the state and the municipality;
3. the housing authority developed the plan in consultation with the project's residents and municipal representatives and made adequate provision for the residents and representatives to participate in the plan; and
4. anyone displaced by the action will receive assistance under the Uniform Relocation Assistance Act (URAA) and will either be relocated to a comparable public or subsidized housing dwelling unit in the municipality or be given a tenant-based rental subsidy. (Subject to certain conditions, the URAA requires municipalities to pay relocation assistance benefits when they displace people from their homes.)

PA 16-8—sSB 280
Human Services Committee
Aging Committee

AN ACT CONCERNING THE LONG-TERM CARE OMBUDSMAN'S NOTICE TO NURSING HOME RESIDENTS

SUMMARY: This act requires nursing homes and other facilities planning to terminate a service or substantially decrease their bed capacity to include information on patients' rights and available services with the written notice they must already provide to patients and other parties. By law, when planning to terminate a service or decrease beds, a nursing home, rest home, residential care home, and intermediate care facility for individuals with intellectual disabilities must submit a letter of intent to the Department of Social Services as part of the certificate of need process. At that time, these facilities must also (1) notify the Office of the Long-Term Care Ombudsman and (2) provide written notice to all patients and their guardians, conservators, legally liable relatives, or other responsible parties.

Under the act, the information must be in a letter jointly issued by the Office of the Long-Term Care Ombudsman and the Department on Aging.
EFFECTIVE DATE: July 1, 2016

PA 16-12—SB 107
Human Services Committee
Appropriations Committee

AN ACT CONCERNING THE TREATMENT OF THE CASH VALUE OF LIFE INSURANCE POLICIES WHEN EVALUATING MEDICAID ELIGIBILITY

SUMMARY: Existing law generally prohibits the Department of Social Services (DSS) from determining that an institutionalized individual is ineligible for Medicaid solely because he or she has a life insurance policy with a cash value of less than $10,000. By law, such individuals must pursue the policy's surrender (i.e., cancel the insurance), but this act eliminates a requirement that they use the surrender's proceeds to pay for their long-term care.
EFFECTIVE DATE: Upon passage

BACKGROUND

Medicaid Long-Term Care Eligibility

Generally, to be eligible for Medicaid long-term care services, a single (unmarried) applicant cannot have more than $1,600 in assets. In determining the amount of an applicant's assets, DSS excludes the value of certain items, including their home, burial plots and funds, and certain vehicles. Applicants with assets that exceed the eligibility limit for long-term care may reduce their assets by selling them and spending the funds on their care or other costs, as long as the assets are not exchanged for less than fair market value.

PA 16-13—sSB 109
Human Services Committee
Judiciary Committee

AN ACT RENAMING THE BUREAU OF CHILD SUPPORT ENFORCEMENT TO THE OFFICE OF CHILD SUPPORT SERVICES

SUMMARY: This act renames the Department of Social Services' Bureau of Child Support Enforcement as the Office of Child Support Services. It makes conforming changes throughout the statutes.

By law, the office develops and provides child support services for the state, including implementing Title IV-D of the federal Social Security Act, which requires states to provide certain child support services and reimburses enforcement programs.
EFFECTIVE DATE: Upon passage

PA 16-19—sSB 135
Human Services Committee

AN ACT CONCERNING REVISIONS TO HUSKY PLUS

SUMMARY: This act makes several changes in the law governing HUSKY Plus, which is a supplemental health program for HUSKY B (i.e., the State Children's Health Insurance Program) members with intensive physical health needs that cannot be met through the basic HUSKY B benefit package. These changes include the following:

1. requiring HUSKY Plus providers who are not enrolled Medicaid providers to accept (a) Medicaid rates as payment in full and (b) other conditions the Department of Social Services (DSS) commissioner may specify;
2. modifying the criteria used to determine if children are eligible to receive HUSKY Plus services;
3. allowing HUSKY Plus recipients to receive respite services under the federal Maternal and Child Health Services block grant program (i.e., Title V of the Social Security Act (SSA)); and
4. setting a July 1, 2017 deadline for DSS to adopt regulations.

Additionally, existing law requires DSS to contract for an external quality review of HUSKY Plus. The act requires the review to be completed by July 1, 2017, and it limits the requirement to within available appropriations.

Finally, the act eliminates requirements that:

1. the HUSKY Plus program be led by a steering committee consisting of (a) the Department of Public Health's Children and Youth with Special Health Care Needs advisory council and (b) DSS and Department of Children and Families representatives and
2. acuity standards or diagnostic eligibility criteria, the services benefit package, and the provider network for HUSKY Plus be consistent with Title V of the SSA.

EFFECTIVE DATE: Upon passage

ELIGIBLE CHILDREN

The act removes an obsolete provision that limited HUSKY Plus eligibility to children who were members of the subsidized portions of HUSKY B. (The legislature eliminated unsubsidized HUSKY B coverage in 2015.) It also eliminates a requirement that children on HUSKY B with intensive physical health needs meet acuity standards or diagnostic eligibility criteria adopted by the DSS commissioner in order to be eligible for HUSKY Plus services. Instead, for a child to be eligible for HUSKY Plus services, the act specifies that HUSKY B benefits must be insufficient to meet his or her medical needs.

RESPITE SERVICES

Generally, an eligible member who begins receiving HUSKY Plus benefits is no longer eligible for SSA's Title V services because all such services are covered as HUSKY B services, except for respite care (i.e., services that provide caregivers with temporary relief from their care responsibilities). The act permits HUSKY Plus members to receive respite care services under Title V.

HUSKY PLUS REGULATIONS

Existing law requires the DSS commissioner to adopt regulations establishing (1) criteria and specifying services for the HUSKY Plus program and (2) an appeals procedure for HUSKY Plus coverage denials. The act requires him to adopt these regulations by July 1, 2017 and eliminates requirements that the regulations (1) require appeals of coverage denials to be taken to the HUSKY Plus program's steering committee and (2) allow applicants to appeal the committee's decision to the DSS commissioner. As under existing law, the regulations must state that the program gives priority to members with household incomes at or below 249% of the federal poverty level.

PA 16-47—HB 5252
Human Services Committee
Appropriations Committee

AN ACT CONCERNING NURSING HOME BEDS FOR AIDS PATIENTS

SUMMARY: This act adds beds for AIDS patients to the types of beds exempt from the nursing home bed moratorium. By law, the moratorium generally prohibits the Department of Social Services from approving nursing home requests for a certificate of need (CON) to add new beds. (A CON is a formal request to expand capacity.) Other types of beds exempt from the moratorium, under existing law, include (1) beds for patients requiring neurological rehabilitation, (2) beds associated with a continuing care facility that guarantees life care for its residents, and (3) certain relocated Medicaid-certified beds.
EFFECTIVE DATE: July 1, 2016

PA 16-48—HB 5254
Human Services Committee

AN ACT EXPANDING THE COMMISSION FOR CHILD SUPPORT GUIDELINES

SUMMARY: This act expands, from 11 to 13, the membership of the Commission for Child Support Guidelines by adding (1) the child advocate or her designee and (2) one member the governor appoints who must represent the rights and best interests of children.

The act requires the Department of Social Services to provide (1) staffing for the commission's administrative and regulatory responsibilities and (2) funding, within available appropriations, for economic studies the commission requires.

The commission issues and reviews child support and arrearage guidelines to ensure that child support awards are based on appropriate criteria.
EFFECTIVE DATE: October 1, 2016

PA 16-49—HB 5255
Human Services Committee
Judiciary Committee

AN ACT CONCERNING GUARDIANSHIP OF PERSONS WITH INTELLECTUAL DISABILITY

SUMMARY: This act makes unrelated changes in the statutes governing probate court processes to appoint guardians for adults with intellectual disabilities. Prior law allowed the court to appoint only people, legally authorized state officials, and nonprofit corporations. The act adds (1) corporations, (2) limited liability companies, (3) partnerships, and (4) other state-recognized nonprofit or for-profit entities. The change applies to both (1) plenary guardians, who supervise all aspects of an adult's care, and (2) limited guardians, who supervise certain specified aspects of an adult's care. By law, unchanged by the act, residential care homes cannot be plenary guardians, and hospitals and nursing homes cannot be plenary or limited guardians.

The act also makes several changes regarding the confidentiality of documents in guardianship cases. The act replaces the term "ward" with "protected person." But the definition remains a person for whom the probate court grants guardianship.

Lastly, the act makes other technical and conforming changes and repeals an obsolete provision on probate court fees.
EFFECTIVE DATE: October 1, 2016, except for the repealer, which is effective July 1, 2016.

CONFIDENTIALITY OF DOCUMENTS IN GUARDIANSHIP CASES

Prior law required applications for guardianship and subsequent records of probate court proceedings to be sealed, except for the guardian's name. The act eliminates the sealing requirement. It instead makes such records and all other records related to guardianship cases confidential, except for the names of the guardian and protected person.

It allows disclosure of the records to all parties in the case and their counsel, the Department of Developmental Services (DDS), and the Office of the Probate Court Administrator. Prior law limited disclosure to the respondent, the respondent's counsel or guardian, and the DDS commissioner or her designee, except for cause.

Under prior law, the probate court could disclose records to other parties for cause shown, as long as the court held a hearing and provided notice to the (1) respondent, respondent's counsel, or guardian, and (2) DDS commissioner or her designee. The act instead requires the court to notify (1) all of these people and (2) DDS, instead of the commissioner or her designee.

PA 16-118—HB 5438
Human Services Committee

AN ACT DELETING OBSOLETE STATUTORY PROVISIONS CONCERNING WORKSHOPS FOR PEOPLE WITH DISABILITIES

SUMMARY: This act eliminates the Department of Rehabilitation Services' (DORS) workshops for blind people and state employee health insurance coverage for the blind individuals formerly employed in those workshops. (According to DORS, the agency has not operated such workshops since 2003.) It also eliminates:

1. labeling and registering requirements for certain goods made by blind people,
2. an exemption from license requirements and fees for products produced by the Connecticut Institute for the Blind, and
3. a requirement that entities supported in whole or part by the state that purchase products or services provided by persons with disabilities (excluding blindness) do so through DORS.

By law, DORS may expend up to $10,000 per person per fiscal year for services for individuals who are over age 21, blind or visually impaired, and deaf. The act conforms to agency practice by specifying that services provided through this expenditure are community inclusion services. Under the act, "community inclusion services" help people with disabilities connect with their peers without disabilities and with the community.

The act also allows, rather than requires, DORS to adopt regulations setting reimbursement rates for people or entities receiving DORS interpreting services for people who are deaf or hard of hearing.
EFFECTIVE DATE: October 1, 2016

DORS WORKSHOPS FOR THE BLIND

The act eliminates DORS' ability, within available appropriations, to maintain and develop workshops to train and employ blind people to provide services and produce products used by state agencies and departments and municipalities. (According to DORS, the agency has not operated such workshops since 2003.) It removes provisions related to these workshops, such as the administrative services commissioner's workshop-related responsibilities and a requirement that agencies give purchasing preference to the workshops' products and services.

The act also eliminates a provision allowing DORS, within available appropriations, to fund employment and vocational training at community rehabilitation facilities. By law, unaffected by the act, DORS may establish, operate, foster, and promote the establishment of rehabilitation facilities and make grants to various organizations to do so.

For blind people formerly employed in DORS workshops on December 31, 2002, the act eliminates eligibility for coverage under the state's group health insurance plan for state employees. Under prior law, DORS paid for the cost of providing coverage for such individuals under this plan.

LABELING GOODS PRODUCED BY THE BLIND

The act also eliminates a (1) prohibition and related penalty for labeling, representing, or designating goods as having been manufactured by any blind person or entity serving the blind unless at least 75% of the total hours of labor used to produce the goods were rendered by blind individuals and (2) requirement that any person, institute, agency, or nonprofit corporation that manufactures or produces goods meeting the labeling requirement register annually with DORS.

GOODS AND SERVICES PROVIDED BY PEOPLE WITH DISABILITIES

By law, and with certain exceptions, any department, institution, or agency supported by the state must give preference in purchasing to goods and services that (1) are produced by individuals with disabilities (excluding blindness) through community rehabilitation programs or workshops established, operated, or funded by nonprofit and nonsectarian organizations and (2) meet quality, quantity, and price requirements. The act removes the requirement that such purchases be made from DORS.

PA 16-142—sHB 5587
Human Services Committee

AN ACT CONCERNING RECOMMENDATIONS FOR SERVICES PROVIDED TO CHILDREN AND YOUNG ADULTS WITH DEVELOPMENTAL DISABILITIES

SUMMARY: This act establishes within the Council on Medical Assistance Program Oversight a standing subcommittee to (1) study and make recommendations to the council on children and adults who have complex health needs and (2) advise the council on the specific needs of these children and adults. The subcommittee consists of council members, appointed by the council's chairpersons, and others who must serve terms set by the chairpersons. By law, the council (1) advises the social services commissioner on the planning and implementation of the HUSKY Health program's health care delivery system and (2) monitors planning and implementation of Medicaid care management initiatives.

Under the act, the subcommittee must submit two reports (see below) to the governor; the council; and the Children's, Human Services, and Public Health committees on the efficacy of support systems for children and young adults age 21 or younger who have developmental disabilities, with or without co-occurring mental health conditions. The first report is due by July 1, 2017 and the second by January 1, 2018.

For purposes of completing the two reports, the act requires the following individuals to be on the subcommittee:

1. the child and healthcare advocates, or their designees;
2. a family or child advocate;
3. the executive directors of the Council on Developmental Disabilities and the Connecticut Association of Public School Superintendents, or their designees; and
4. an expert in diagnosing, evaluating, educating, and treating children and young adults with developmental disabilities.

For the act's purposes, "developmental disability" means an individual's severe, chronic disability as defined by federal law (see BACKGROUND).

EFFECTIVE DATE: July 1, 2016

REPORT REQUIREMENTS

First Report

The report due by July 1, 2017 must include:

1. metrics to evaluate the quality of state-funded services to children and young adults age 21 or younger with developmental disabilities, with or without co-occurring mental health conditions, that can be used by state agencies that fund the services;
2. statutory changes needed to promote effective service delivery for those children, young adults, and their families; and
3. any other changes needed to address identified gaps in services for those children, young adults, and their families.

Second Report

The report due by January 1, 2018 must assess:

1. available early intervention services for those children and young adults;
2. the system of community-based services for them;
3. the treatment provided by congregate care settings that provide residential supports and services and how the quality of care is measured; and

4. how the State Department of Education, local school boards, departments of Children and Families and Developmental Services, and other appropriate agencies can collaborate to improve educational, developmental, medical, and behavioral health outcomes for those children and young adults and reduce the number at risk of entering institutional care.

BACKGROUND

Developmental Disability

Under federal law, a "developmental disability" is generally a severe, chronic disability that:

1. is attributable to a mental or physical impairment or combination of impairments;
2. manifests before age 22;
3. is likely to continue indefinitely;
4. results in substantial functional limitations in at least three areas of major life activity, including self-care, receptive and expressive language, learning, mobility, self-direction, independent living capacity, or economic self-sufficiency; and
5. reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other assistance that is (a) of lifelong or extended duration and (b) individually planned and coordinated.

A child from birth to age nine, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of these criteria if, without services and supports, he or she has a high probability of meeting those criteria later in life (42 U.S.C. § 15002(8)).

PA 16-176—sSB 392
Human Services Committee

AN ACT CONCERNING THE ADOPTION OF THE SPECIAL NEEDS TRUST FAIRNESS ACT IN CONNECTICUT UPON PASSAGE IN CONGRESS

SUMMARY: This act makes a technical change to the law governing Medicaid eligibility and special needs trusts, which are exempt from asset calculations when determining Medicaid eligibility. It specifies that any changes to the definition of "special needs trusts" under federal law are incorporated by reference into state law.
EFFECTIVE DATE: Upon passage

PA 16-63—sHB 5521
Insurance and Real Estate Committee

AN ACT CONCERNING SHORT-TERM CARE INSURANCE

SUMMARY: This act establishes "short-term care" insurance as a new type of insurance policy that may be offered in Connecticut. These policies provide certain health benefits for 300 days or less. The act requires short-term care insurance policies to be filed with and approved by the insurance commissioner before they are issued or delivered. It also requires the commissioner to adopt regulations establishing, among other things, a short-term care insurance policy review process and permissible loss ratios.

The act establishes disclosure requirements for insurers and other entities (fraternal benefit societies, hospital service corporations, medical service corporations, and health care centers) issuing or delivering short-term care insurance policies in Connecticut. It also prohibits these entities from refusing to accept or reimburse claims submitted by, or prepared with the help of, a managed residential community solely because the community submits or prepares the claim. Upon an insured's written request, these issuing entities must also (1) disclose to an insured's managed care community the insured's coverage eligibility and (2) provide the community with a copy of an initial claim acceptance or declination at the same time they provide one to the insured.
EFFECTIVE DATE: October 1, 2016

SHORT-TERM CARE INSURANCE FILING REQUIREMENTS

Short-Term Care Insurance Policies

Under the act, short-term care insurance policies are individual health insurance policies that provide coverage for 300 days or less, on an expense-incurred, indemnity, or prepaid basis, for necessary care or treatment of an injury, illness, or loss of functional capacity provided by a certified or licensed health care provider in a setting other than an acute care hospital. They do not include policies primarily providing (1) supplemental Medicare coverage (i.e., Medigap coverage) or (2) coverage for basic medical-surgical expenses, hospital confinement indemnities, major medical expenses, disability income protection, accidents only, specified accidents, or limited benefits.

Submission

The act requires (1) insurers to file copies of short-term care insurance policy forms, risk classifications, and premium rates with the insurance commissioner before delivering or issuing them to Connecticut residents and (2) the commissioner to adopt regulations establishing review procedures for these policies. ("Form" is a term of art that includes policies, riders, and endorsements.)

Commissioner Approval of Rate Filings

Under the act, the commissioner must adopt regulations ensuring rates are not excessive, inadequate, or unfairly discriminatory. Rates are not effective until she approves them in accordance with these regulations, and the act authorizes her to disapprove rates failing to meet the standards in the regulations.

Commissioner Disapproval of Forms

The commissioner must reject any forms that (1) do not comply with the law, (2) contain unfair or deceptive provisions, or (3) contain provisions that misrepresent the policy. In such cases, the commissioner must notify the insurer in writing, specifying the reasons for her disapproval and ordering that no short-term care insurer deliver or issue a Connecticut policy on or containing the disapproved form.

Any insurer disagreeing with the commissioner may request a hearing under existing insurance provisions.

Required Disclosure

The act prohibits insurers and other issuing entities from issuing or delivering a short-term care policy without first providing, at the time of solicitation or application, a full and fair written disclosure of the policy's benefits and limitations. For short-term care policies with premium rate revisions or rate schedule increases, the disclosure must include:

1. a statement, in at least 12-point bold face type, that the policy does not provide long-term care insurance coverage and is not a long-term care insurance policy or a Connecticut Partnership for Long-Term Care insurance policy;
2. a statement that the policy may be subject to future rate increases;
3. an explanation of potential future premium rate revisions and the policyholder's subsequent options; and
4. the premium rate or rate schedule applicable to the applicant until the issuer files a request with the commissioner for a premium rate or rate schedule revision.

Applicants must sign an acknowledgment, at the time of the application, that the insurer or other issuing entity has disclosed this information. If the application method does not allow for a signature (e.g., an electronic application), the applicant must sign an acknowledgement before the policy is delivered.

Regulations

The act requires the commissioner to adopt implementing regulations for short-term care insurance policies, including:

1. permissible loss ratios and exclusionary periods,
2. circumstances when a policy is renewable, and
3. the benefits payable in relation to an insured's other insurance coverage.

PA 16-82—sHB 5233
Insurance and Real Estate Committee
Appropriations Committee

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR TOMOSYNTHESIS FOR BREAST CANCER SCREENINGS

SUMMARY: This act requires certain Connecticut health insurance policies to cover, at the option of the beneficiary, breast tomosynthesis. Breast tomosynthesis is a three-dimensional mammogram. By law, such policies must cover baseline mammograms for women age 35 through 39, and annual mammograms for women age 40 or older.

The act applies to (1) individual or group health insurance policies that cover (a) basic hospital expenses; (b) basic medical-surgical expenses; (c) major medical expenses; or (d) hospital or medical services, including those provided under an HMO plan; and (2) individual health insurance policies that provide limited benefit health coverage. Because of the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2017

PA 16-119—sHB 5051
Insurance and Real Estate Committee

AN ACT ADOPTING THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

SUMMARY: This act adopts the National Association of Insurance Commissioners' (NAIC) Interstate Insurance Product Regulation Compact and makes the insurance commissioner Connecticut's representative to the multi-state public entity the compact creates, the Interstate Insurance Product Regulation Commission.

Through the commission, compacting states develop uniform national product standards for life insurance, annuities, disability income, and long-term care insurance products. The compact establishes a centralized filing process for insurers to use for these insurance products. The commission reviews product filings and makes regulatory decisions about them according to the uniform standards. Insurers may sell commission-approved products in each compacting state in which the insurer is licensed to operate. The commission collects filing fees from the insurers and remits to compacting states their portion of them.

A compacting state may opt out of a uniform product standard through legislation or regulation if it determines that the standard does not provide reasonable protections for its citizens. Under the act, Connecticut opts out of existing and prospective uniform standards for long-term care insurance products and existing uniform standards for disability income insurance products. Thus, Connecticut is adopting the compact for only life insurance and annuity products.

The compact outlines the commission's purposes, powers, organizational structure, rulemaking procedures, and financial requirements. It requires open meetings, public inspection of the commission's official records, and an ethics code for the commission and its employees.

A compacting state retains its authority to perform market conduct examinations of insurers and respond to consumer complaints, including those relating to commission-approved products. The commission's actions do not abrogate or restrict a person's access to state courts; remedies under state law for breach of contract, tort, or other laws not directed at a product's content; state law on interpreting insurance contracts; or an attorney general's authority under law.

Judicial proceedings by or against the commission must be brought in a court of competent jurisdiction where the commission's principal office is located (i.e., Washington, D.C.).

EFFECTIVE DATE: July 1, 2017

INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

Article I — Purposes

The compact's purposes are, through joint and cooperative action of compacting states, to do the following:

1. promote and protect consumers' interests in individual and group annuity, life insurance, disability income, and long-term care insurance products;
2. develop uniform standards for these insurance products;
3. establish a central clearinghouse to receive and promptly review product filings from insurers authorized to do business in one or more compacting states;
4. give appropriate regulatory approval to filings satisfying the applicable uniform standards;
5. improve the coordination of regulatory resources and expertise between state insurance departments;
6. create the Interstate Insurance Product Regulation Commission; and
7. perform these and other related functions that are consistent with the state regulation of insurance.

Article II — Definitions

The compact defines various terms, including "product" and "uniform standard." Under the compact, a "product" is a policy or contract form, including any application, endorsement, or related form attached to and made a part of the policy or contract, and any evidence of coverage or certificate an insurer is authorized to issue.

A "uniform standard" is a standard the commission adopts for a product line. It must include all the product requirements in the aggregate. Each uniform standard must be construed to prohibit any inconsistent, misleading, or ambiguous provisions. The product form made available to the public must not be unfair, inequitable, or against public policy, as determined by the commission.

Article III — Establishment of the Commission and Venue

The compact creates, as a joint public agency and instrumentality of the compacting states, the Interstate Insurance Product Regulation Commission, which may develop uniform product standards, receive and promptly review filings insurers submit, and approve filings that satisfy the applicable uniform standards. But the compact specifies that the commission is not the only entity for receiving and reviewing filings. An insurer may file its product in any state in which it is licensed to operate, and any such filing is subject to the laws of the state where filed.

The compact makes the commission solely liable for its liabilities except as the compact otherwise provides.

Under the compact, judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the commission's principal office is located (i.e., Washington, D.C.).

Article IV — Powers of the Commission

The compact grants the commission the power to do the following:

1. promulgate rules that have the force and effect of law and will be binding in the compacting states in accordance with the compact;

2. exercise its rulemaking authority and establish reasonable uniform product standards and related advertisements, but (a) a compacting state has the right to opt out of a uniform standard and (b) any uniform standard for long-term care insurance must provide the same or greater protections for consumers as those in the NAIC's Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation adopted in 2001, and the commission must consider if subsequent amendments to them require the commission to amend its long-term care uniform standards;
3. receive and expeditiously review (a) product filings, (b) rate filings for disability income and long-term care insurance products, and (c) advertisements for long-term care insurance products for which the commission has adopted uniform standards, and approve those that satisfy the applicable uniform standards;
4. for any product covered under the compact, other than long-term care insurance, require an insurer to submit all or any part of its advertisement for that product for review or approval before it is used if the commission determines a product's advertisement could mislead the public;
5. exercise its rulemaking authority and designate products and advertisements that may be self-certified without the need for the commission's prior approval;
6. promulgate operating procedures;
7. bring and prosecute legal proceedings or actions, as long as a state insurance department's standing to sue or be sued is not affected;
8. issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;
9. establish and maintain offices;
10. purchase and maintain insurance and bonds;
11. borrow, accept, or contract for personnel, including a compacting state's employees;
12. hire employees, professionals, or specialists and elect or appoint officers; fix their compensation; define their duties; give them appropriate authority to carry out the compact's purposes; and determine their qualifications;
13. establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications;
14. accept, receive, use, and dispose of appropriate donations and grants of money, equipment, supplies, material, and services, while avoiding any appearance of impropriety;
15. lease, purchase, accept as gifts or donations, own, hold, improve, or use any property (real, personal, or mixed), while avoiding any appearance of impropriety, and sell, convey, mortgage, pledge, lease, exchange, abandon, or dispose of property;
16. remit filing fees to compacting states;
17. enforce compacting states' compliance with rules, uniform standards, operating procedures, and bylaws;
18. provide for dispute resolution among compacting states;
19. advise compacting states on issues relating to insurers domiciled or doing business in non-compacting jurisdictions;
20. provide advice and training to state insurance department personnel responsible for product review and be a resource for the departments;
21. establish a budget, make expenditures, and borrow money;
22. appoint committees, including advisory committees;
23. provide and receive information from, and cooperate with, law enforcement agencies;
24. adopt and use a corporate seal; and
25. perform other functions as necessary or appropriate to achieve the compact's purposes consistent with state insurance regulation.

Article V — Organization of the Commission

The commission includes one person from each compacting state (usually the insurance commissioner), each with an equal vote. The commission can adopt a uniform standard only if at least two-thirds of the members vote in favor of it.

Commission Bylaws. The commission must write bylaws to govern its conduct. It must publish its bylaws in a convenient form and file them, and any amendments, with each compacting state.

The bylaws must do the following:

1. establish the commission's fiscal year;
2. provide reasonable procedures for holding meetings of, and appointing and electing members of, a management committee and other committees;
3. provide reasonable standards and procedures to govern delegation of the commission's authority;
4. provide reasonable procedures for calling and conducting commission meetings;

5. establish the titles, duties, authority, and reasonable procedures for electing the commission's officers;
6. provide reasonable standards and procedures for establishing the commission's personnel policies and programs;
7. promulgate a code of ethics to address permissible and prohibited activities of commission members and employees; and
8. provide a mechanism for winding up the commission's operations and the equitable disposition of any surplus funds existing after the compact's termination and after paying or reserving its debts and obligations.

The bylaw's procedures for calling and conducting commission meetings must (1) require a majority of commission members to conduct a meeting; (2) ensure reasonable advance notice of each meeting; and (3) provide the public the right to attend each meeting, with exceptions to protect the public's interest, people's privacy, and insurers' proprietary information. The commission may meet in camera only after a majority of the entire membership votes to close a meeting in whole or in part. As soon as practicable, it must make public a copy of the vote to close the meeting, identifying each member's vote (no proxy votes are allowed) and votes taken during the closed meeting.

Management Committee. Under the commission's bylaws, a 14-member management committee manages the commission's activities. It includes one person from (1) the six largest compacting states based on national premium volume, (2) four compacting states with at least 2% national premium volume, and (3) four compacting states with less than 2% national premium volume.

The management committee is authorized to do the following:

1. manage the commission's affairs consistent with the commission's bylaws and purposes;
2. establish and oversee the commission's organizational structure and appropriate procedures for (a) creating uniform standards and rules, (b) receiving and reviewing product filings, (c) administrative and technical support functions, (d) reviewing decisions to disapprove a product filing, and (e) reviewing elections a compacting state makes to opt out of a uniform standard;
3. oversee the commission's offices; and
4. plan, implement, and coordinate communications and activities with other state, federal, and local government organizations to advance the goals of the commission.

The commission annually elects officers from the management committee. The management committee may, subject to the commission's approval, appoint or retain an executive director on terms and conditions and for compensation the commission deems appropriate. The executive director (1) must serve as the commission's secretary, (2) must hire and supervise other staff that the commission authorizes, and (3) cannot be a commission member.

Legislative Committee. The commission must establish a legislative committee in accordance with its bylaws. The committee must monitor the commission's operations and make recommendations to it and its management committee. Under the compact, the management committee must consult with and report to the legislative committee before adopting any uniform standard, revision to the bylaws, annual budget, or other significant matter that may be provided for in the bylaws.

Advisory Committees. The commission must establish two advisory committees. One must consist of consumer representatives and the other of insurance industry representatives. The compact authorizes the commission to create other advisory committees as its bylaws may provide to carry out its functions.

Corporate Records. The commission must maintain corporate books and records in accordance with its bylaws.

Qualified Immunity, Defense, and Indemnification. The compact protects commission members, officers, executive directors, employees, or representatives from civil actions for damage to or loss of property, personal injury, or other civil liability caused by or arising out of their actual or alleged act, error, or omission that occurred, or for which there is a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. Specifically, the compact (1) grants such people immunity, (2) requires the commission to defend them, and (3) requires the commission to indemnify and hold them harmless for any settlement or judgment amount obtained against them.

These immunity, defense, and hold harmless provisions do not apply to any damage, loss, injury, or liability caused by the person's intentional or willful and wanton misconduct.

Article VI — Commission Meetings and Actions

The commission must meet and take actions consistent with the compact and bylaws. Each commission member has the right and power to vote and participate in the commission's business and affairs. A member must vote in person or by other means the bylaws permit. The bylaws may provide for members' participation in meetings by telephone or other means. The commission must meet at least once a year and additionally as the bylaws may require.

Article VII — Rulemaking and Opting Out of Uniform Standards

The commission must adopt reasonable rules, including uniform standards, and operating procedures to effectively and efficiently achieve the compact's purposes. If an action exceeds the compact's scope, it is invalid and has no force and effect. Rules and operating procedures must conform to the Model State Administrative Procedure Act.

Before the commission adopts a uniform standard, it must give written notice of its intention to adopt the standard to each compacting state's legislative committee with insurance jurisdiction. It must consider fully all submitted material when adopting a standard and issue a concise explanation of its decision. A uniform standard is effective 90 days after the commission adopts it unless the commission sets a later effective date.

Opt Out. A compacting state may opt out of (i.e., decline to adopt or participate in) a uniform standard through legislation or regulation. Under the act, Connecticut is opting out of certain uniform standards (see Article XVII below).

When opting out by regulation, the compacting state must (1) give the commission written notice within 10 business days after the commission adopts the standard or when the state first joins the compact and (2) find that the uniform standard does not provide reasonable protections to the state's citizens. The insurance commissioner must consider and balance whether the state's conditions and its citizens' needs outweigh the (1) legislature's intent to participate in the interstate agreement and (2) presumption that an adopted uniform standard provides reasonable protections to consumers. The commissioner must issue specific findings and conclusions, based on a preponderance of the evidence, that detail the state's conditions warranting a departure from the uniform standard and determine that the uniform standard would not reasonably protect the state's citizens.

A compacting state may, at the time it enacts and joins the compact, prospectively opt out of all uniform standards involving long-term care insurance by expressly providing for it in the enacted compact.

If a compacting state elects to opt out of a uniform standard, the standard is applicable until the opt-out legislation is enacted into law or the regulation is effective. Once the opt-out is effective, the standard has no further force and effect in that state unless and until the opt-out legislation or regulation is repealed or otherwise becomes ineffective under the state's laws. If a compacting state opts out of a uniform standard after the standard takes effect, the opt-out has the same prospective effect as the effect Article XIV provides for withdrawals (see below).

If a compacting state has formally initiated the opt-out process by regulation, it may petition the commission, at least 15 days before the uniform standard's effective date, to stay the effectiveness of the standard in that state. The commission may grant a stay if it determines the regulatory opt-out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted, the commission may postpone the effective date for up to 90 days. It may extend a stay, but the compact prohibits a stay from remaining in effect for more than one year unless the compacting state can show extraordinary circumstances, including an existing legal challenge that prevents the state from opting out. The commission may end a stay upon notice that the rulemaking process has been terminated.

Judicial Review. Within 30 days after the commission adopts a rule or operating procedure, anyone may file a petition for judicial review of the rule or procedure. But the petition does not stay or otherwise prevent the rule or procedure from taking effect unless the court finds that the petitioner has a substantial likelihood of success. The court must (1) give deference to the commission's actions consistent with applicable law and (2) not find the rule or procedure to be unlawful if it represents a reasonable exercise of the commission's authority.

Article VIII — Commission Records and Enforcement

The commission must adopt rules allowing public inspection and copying of its information and official records, excluding information and records involving a person's privacy and an insurer's trade secrets. The commission may adopt rules under which it may (1) give federal and state agencies records and information otherwise exempt from disclosure and (2) enter into agreements with the agencies to receive information subject to nondisclosure and confidentiality provisions.

Except for privileged records, data, and information, the laws of any compacting state on confidentiality or nondisclosure do not relieve any compacting state's insurance commissioner of the duty to disclose any relevant records, data, or information to the commission. Disclosure to the commission does not waive or otherwise affect any confidentiality requirement. Except as the compact otherwise expressly provides, the commission is not subject to the compacting state's laws on confidentiality and nondisclosure with respect to records, data, and information in its possession. The commission's confidential information remains confidential after disclosure to an insurance commissioner.

The commission must monitor compacting states for compliance with duly adopted bylaws, rules, uniform standards, and operating procedures. The commission must notify any non-complying compacting state in writing of any noncompliance. If a non-complying compacting state fails to comply within the time specified in the notice, the compacting state is in default (see Article XIV).

A state's insurance commissioner retains his or her authority to examine and investigate an insurer's activities in the market according to state law.

An insurance commissioner is prohibited from citing an insurer for a violation of the compact provisions, standards, or requirements, with some exceptions. First, citation of an insurer is prohibited unless he or she has obtained from the commission a final order, issued at the commissioner's request, after notice to the insurer and an opportunity for a hearing before the commission. Second, citation is prohibited relating to the content of an advertisement the commission did not approve or certify, unless the commission, or an authorized commission officer or employee, authorizes the action, but this authorization does not require notice to the insurer, opportunity for a hearing, or disclosure of authorization requests or records of the commission's actions on such requests.

Article IX — Dispute Resolution

The commission must attempt, upon a member's request, to resolve any disputes or other issues subject to the compact and arising between two or more compacting states or between compacting and non-compacting states. It must adopt an operating procedure for resolving such disputes.

Article X — Product Filing and Approval

Insurers seeking the commission's approval for a product must file the product with, and pay applicable filing fees to, the commission. The compact does not prevent an insurer from filing its product with a state's insurance department for its review and determination under the state's laws.

The commission must (1) establish appropriate filing and review processes and procedures and (2) adopt rules for public access to product filing information. In establishing such rules, the commission must consider the public's interests in having access to the information, along with the protection of personal medical and financial information and trade secrets.

An insurer may sell and issue any product the commission approves in those compacting states in which it is legally authorized to do business.

Article XI — Review of Commission's Filing Decisions

Within 30 days after the commission has given an insurer notice of a disapproved product or advertisement, the insurer may appeal the determination to a review panel the commission appoints. The commission must adopt rules to establish procedures for appointing review panels and provide for notice and hearing.

An allegation that the commission, when disapproving a product or advertisement, acted arbitrarily or capriciously, abused discretion, or did not act in accordance with law is subject to judicial review in accordance with Article III.

The commission has authority to monitor, review, and reconsider products and advertisements after their filing or approval if it finds that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the above appeal process.

Article XII — Finance

The commission must pay, or provide for payment of, the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the NAIC, compacting states, and other sources. But in accepting contributions, the commission's independence in performing its duties must not be compromised.

The commission must collect a filing fee for each filing submitted to it to cover the cost of its operations and activities in an amount sufficient to cover its annual budget.

The commission's fiscal year budget will not be approved until it has been subject to notice and comment as provided for in Article VII. The commission is exempt from all taxation in and by the compacting states. It is prohibited from pledging any compacting state's credit except with the state's appropriate legal authorization.

The commission must keep complete, accurate internal financial accounts for receipts and disbursements of all funds under its control. The accounts are subject to accounting procedures the commission's bylaws establish. An independent, certified accountant must annually audit the commission's financial accounts and reports, including internal controls and procedures. At least every three years, the accountant's report must include a commission management and performance audit.

The commission must report annually to the governor and legislature of each compacting state. The report must include the independent audit's findings.

The commission's internal accounts are not confidential and may be shared with a compacting state's insurance commissioner upon request. But work papers related to an internal or independent audit and any information on a person's privacy and insurer's proprietary information remain confidential.

A compacting state does not have a claim to or ownership of any commission property or funds.

Article XIII — Compacting States, Effective Date, and Amendment

Any state, district, or U.S. territory may become a compacting state.

The compact is effective and binding when two states enact it into law. For purposes of adopting uniform standards and reviewing, approving, or disapproving product filings, the commission is effective only after 26 jurisdictions, or those representing 40% of the premium volume for life insurance, annuity, disability income, and long-term care insurance products have become compact states. After that, it is effective and binding as to any other compacting state when that state enacts the compact into law.

The commission may propose compact amendments for the compacting states' enactment. No amendment is effective and binding until all compacting states enact it into law.

Article XIV — Withdrawal, Default, and Termination

Withdrawal. Once effective, the compact continues in force and remains binding on each compacting state. A state may withdraw from the compact by repealing the statute that enacted it into law. The effective date of withdrawal is the effective date of the repealing statute.

The insurance commissioner of the withdrawing state must immediately notify the management committee in writing when legislation is introduced to repeal the compact, and the commission must notify the other compacting states within 10 days after receiving the notice.

The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal. The commission's approval of products and advertisements before the withdrawal continues to be effective and is given full force and effect in the withdrawing state, unless the withdrawing state rescinds the approval in the same way as provided for in the state's laws for the prospective disapproval of previously approved products.

A state may reinstate the compact after its withdrawal by reenacting the compact into law.

Default. If the commission determines that any compacting state has defaulted in the performance of any of its obligations or responsibilities under the compact, bylaws, rules, or operating procedures, then, after notice and hearing, all rights, privileges, and benefits the compact conferred on the defaulting state are suspended. The commission must immediately notify the defaulting state in writing of its suspension pending a cure of the default. The commission must provide the conditions and the deadline by which the defaulting state must cure its default. If the defaulting state fails to do so, it is terminated from the compact and all rights, privileges, and benefits the compact conferred are terminated.

Product approvals, self-certifications, and related advertisements in force on the termination date remain in force in the defaulting state in the same manner as if the state had voluntarily withdrawn from the compact.

A state may reinstate the compact after its termination by reenacting the compact into law.

Compact Dissolution. The compact dissolves on the date a compacting state withdraws or defaults, thereby reducing the compact membership to one compacting state.

Upon the compact's dissolution, the compact becomes null and void and has no further force or effect. The commission must wind up its business and affairs and distribute any surplus funds in accordance with the bylaws.

Article XV — Severability and Construction

The compact's provisions are severable and must be liberally construed to effectuate its purposes. If any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions remain enforceable.

Article XVI — Binding Effect of Compact and Other Laws

The compact does not prevent the enforcement of any compacting state's laws, except that, for products the commission approves or were self-certified and advertisements subject to its authority, the commission's rules, uniform standards, and any other requirements are the exclusive provisions that apply.

Except for products and advertisements, no commission action abrogates or restricts the following:

1. anyone's access to state courts;
2. remedies available under state law related to breach of contract, tort, or other laws not specifically directed to a product's content;
3. state law relating to the construction of insurance contracts; or

4. a state's attorney general's authority, including the authority to maintain any actions or proceedings as the law permits.

All insurance products filed with individual states are subject to the laws of those states.

The commission's lawful actions, including adopted rules and operating procedures, are binding on the compacting states. All agreements between the commission and the compacting states are binding in accordance with their terms.

The commission may issue advisory opinions on the meaning or interpretation of a commission action that is in dispute upon the request of someone involved in a conflict over the action.

If any compact provision conferring obligations, duties, powers, or jurisdiction on the commission exceeds a compacting state legislature's constitutional limits, the provision is ineffective as to that state and those obligations, duties, powers, or jurisdiction shall remain with the compacting state.

Article XVII — State of Connecticut Opt Out

Under the act and in accordance with Article VII, Connecticut opts out of all existing and prospective uniform standards for long-term care insurance products and all existing uniform standards for disability income insurance products to preserve the state's statutory requirements governing these products. Thus, Connecticut adopts the compact for life insurance and annuity products.

BACKGROUND

Compact Members

The Interstate Insurance Product Regulation Commission became operational in May 2006. As of March 2016, 44 jurisdictions had joined the compact: Alabama, Alaska, Arizona, Arkansas, Colorado, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

The commission has adopted and made available on its website bylaws, an operating budget, an ethics code, uniform product standards, and operating rules.

PA 16-129—HB 5444
Insurance and Real Estate Committee

AN ACT CONCERNING THE EXECUTION OF SURETY BONDS BY THE CONNECTICUT HEALTH INSURANCE EXCHANGE AND THE CONNECTICUT AIRPORT AUTHORITY

SUMMARY: This act allows the Connecticut Health Insurance Exchange (Access Health CT) and the Connecticut Airport Authority (CAA) to obtain insurance covering their respective board members, executive officer or director, and employees, instead of executing a bond for them (see BACKGROUND). The insurance must be equivalent to the bond and it must be conditioned on the faithful performance of duties; issued by an insurer authorized to transact business in Connecticut; and paid for by the exchange or authority, as appropriate.

The act also eliminates a requirement that the bonds be approved by the attorney general and filed with the secretary of the state.

EFFECTIVE DATE: October 1, 2016

BACKGROUND

The law requires (1) each Access Health CT board member to execute a $50,000 surety bond or (2) the exchange chairperson to execute a blanket position bond covering each board member, the executive officer, and exchange employees (CGS § 38a-1081(c)(8)). The law similarly requires (1) each CAA board member to execute a $50,000 surety bond and the executive director to execute a $100,000 surety bond or (2) the authority's board or chairperson to execute a blanket position bond covering each board member, the executive director, and employees (CGS § 15-120dd(c)).

PA 16-136—HB 5520
Insurance and Real Estate Committee

AN ACT CONCERNING HOMEOWNERS AND MOTOR VEHICLE INSURANCE POLICIES

SUMMARY: This act eliminates a requirement for an automobile or homeowners insurance policyholder to be at least age 55 to designate a third party to receive cancellation or nonrenewal notices from insurers.

The removal of the age restriction applies to policies issued, renewed, amended, or endorsed in Connecticut on and after October 1, 2017. The act retains existing law's requirements related to third-party designation and the insurer's notices to designees. These include the insurance commissioner's approval of the statement in each policy, the third-party's written acceptance and termination of the designation, and required disclosures on the insurer's mailings.

The act also codifies in statute the definition of homeowners insurance, which is currently in regulations (Conn. Agencies Regs. § 38a-824-2). "Homeowners insurance" is property and casualty insurance for owner-occupied buildings with four or fewer dwelling units.

EFFECTIVE DATE: October 1, 2017, except the definition of homeowners insurance is effective October 1, 2016.

PA 16-162—sSB 160
Insurance and Real Estate Committee

AN ACT CONCERNING PRIOR AUTHORIZATION FOR THE INTERHOSPITAL TRANSFER OF CERTAIN NEWBORN INFANTS AND THEIR MOTHERS

SUMMARY: This act prohibits health insurance carriers from requiring preauthorization for an inter-hospital transfer of (1) a newborn infant with a life-threatening emergency or condition or (2) the infant's hospitalized mother to accompany him or her.

The act applies to insurers, health care centers (i.e., HMOs), hospital service corporations, medical service corporations, or other entities delivering, issuing, renewing, amending, or continuing individual or group health insurance policies in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) hospital or medical services, including those provided under an HMO plan; (5) limited benefits; or (6) accidents only. Because of the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2017

PA 16-175—sSB 372
Insurance and Real Estate Committee

AN ACT CONCERNING CLINICAL REVIEW CRITERIA FOR UTILIZATION REVIEW AND ADVERSE DETERMINATION NOTICES

SUMMARY: This act allows insurers, HMOs, and other types of health carriers to develop, purchase, or license clinical review criteria that address technological or treatment advances for substance use, child or adolescent mental, or adult mental disorders not covered in the most recent edition of the professional medical society publications for these disorders (see BACKGROUND). Under prior law, carriers could not use such criteria until after they were included in these publications. (Carriers use clinical review criteria to determine the appropriate covered care for these and other disorders.)

Under prior law, health carriers had to post on their websites certain information about the clinical review criteria they used for the disorders listed above. The act (1) requires health carriers to post information about the clinical review criteria they use for all disorders and (2) changes the information that must be posted.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2017

CLINICAL REVIEW CRITERIA

The act allows health carriers to develop, purchase, or license clinical review criteria for substance use, child or adolescent mental, or adult mental disorders that address advancements in technology or the type of care for treating these disorders not covered in the most recent edition of the professional medical society publications for these disorders. Prior law required health carriers, for these disorders, to either adopt the criteria published in, or develop criteria demonstrably consistent with, specified professional medical society publications. Because of this requirement, health carriers could not, under prior law, update their criteria to address advances in technology or treatment until the respective societies updated their publications.

Under the act, any criteria developed, purchased, or licensed to treat these disorders must be based on sound clinical evidence and evaluated periodically. These standards already apply to the clinical review criteria existing law allows carriers to develop, purchase, or license for other disorders.

Instead of developing, purchasing, or licensing review criteria, health carriers may still choose to adopt criteria in, or demonstrably consistent with, the medical societies' publications. If they choose the latter, the act specifies they must demonstrate the criteria's consistency to the insurance commissioner.

CLINICAL REVIEW DISCLOSURE REQUIREMENTS

The act requires health carriers to post on their websites any clinical review criteria they use and links to any rule, guidelines, protocol, or other similar criteria they rely on to make an adverse determination decision.

Prior law required internet posting for clinical review criteria that addressed the specific mental health disorders. It required health carriers to maintain, in an easily accessible location on their websites, a document that (1) compared their clinical review criteria for substance use, child or adolescent mental, or adult mental disorders with the respective medical society's published review criteria and (2) provided citations to peer-reviewed medical literature generally recognized by the relevant medical community or professional society guidelines that justify any difference between the two review criteria. As under existing law, health carriers must still make clinical review criteria available upon request to authorized government agencies.

BACKGROUND

Medical Society Publications

Notwithstanding the exception created by the act, the law generally requires health carriers to adopt the criteria published in, or develop criteria demonstrably consistent with, the following publications:

1. American Society of Addiction Medicine Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, for substance use disorders;
2. American Academy of Child and Adolescent Psychiatry's Child and Adolescent Service Intensity Instrument guidelines, for child or adolescent mental disorders; or
3. American Psychiatric Association guidelines or the Standards and Guidelines of the Association for Ambulatory Behavioral Healthcare, for adult mental disorders.

PA 16-205—sSB 433
Insurance and Real Estate Committee

AN ACT CONCERNING STANDARDS AND REQUIREMENTS FOR HEALTH CARRIERS' PROVIDER NETWORKS AND CONTRACTS BETWEEN HEALTH CARRIERS AND PARTICIPATING PROVIDERS

SUMMARY: This act establishes requirements for health carriers' (e.g., insurers and HMOs) provider networks, contracts, and directories and authorizes the insurance commissioner to adopt implementing regulations.

The act requires health carriers to establish and maintain adequate provider networks to assure that all covered benefits are accessible to covered individuals without unreasonable travel or delay. It requires that covered individuals have access to emergency services at all times. Prior law required networks to be consistent with (1) the National Committee for Quality Assurance's (NCQA) network adequacy requirements or (2) URAC's provider network access and availability standards. (URAC, formerly known as the Utilization Review Accreditation Commission, and NCQA are nonprofit health quality organizations.)

The act requires the insurance commissioner to review and determine the sufficiency of a health carrier's provider network, subject to specified criteria. Additionally, it requires a carrier to provide benefits at the in-network level of coverage when a nonparticipating provider performs covered services for a covered individual if a participating provider is not available in the network.

The act requires carriers to (1) make a good faith effort to give written notice to a participating provider's patients when the provider leaves the network and (2) provide for the continuity of care for patients in an active course of treatment with the provider.

It also (1) establishes standards for contracts between a health carrier and its participating providers, specifying provisions that the contracts must contain, and (2) requires a carrier to maintain current provider directories on its website that it updates at least monthly.

Lastly, the act prohibits a provider from collecting, or attempting to collect, from an insured patient any money the patient's health carrier owes to the provider. Under existing law and unchanged by the act, it is an unfair trade practice for a provider to request payment from a health care plan enrollee, except for a copayment, deductible, coinsurance, or other out-of-pocket expense, for covered health care services (CGS § 20-7f).

EFFECTIVE DATE: January 1, 2017

§ 1 ─ NETWORK ADEQUACY REQUIREMENTS

Filing of Network, Access Plan, and Material Change

The act requires each health carrier, beginning January 1, 2017, to file with the insurance commissioner each existing provider network and access plan (described below). For each new network a carrier plans to offer after that date, the carrier must file the new network and access plan with the commissioner within 30 days before offering the network.

A carrier must notify the commissioner of any material change to a network within 15 days after the change and must file an update to the network within 30 days after the change. The act defines a "material change" as (1) a change of 25% or more in the participating providers in the network or (2) any change that makes the network noncompliant with the network adequacy requirements. Such changes include, for example, a significant reduction in the number of primary or specialty care providers in the network, a change in inclusion of a major health system (e.g., a hospital or affiliated entities) that causes the network to be significantly different from what a covered individual initially purchased, or other changes the commissioner deems material.

Sufficiency of Network

The act requires the insurance commissioner to determine the sufficiency of a health carrier's network. In determining sufficiency, she may refer to any reasonable criteria, including the following:

1. ratio of participating providers to covered individuals by specialty;
2. ratio of primary care providers to covered individuals;
3. geographic accessibility of participating providers;
4. geographic variation and dispersion of the state's population;
5. wait times for appointments with participating providers;
6. participating providers' hours of operation;
7. network's ability to meet covered individuals' needs;
8. availability of other health care delivery system options, including telemedicine, centers of excellence, and mobile clinics;
9. volume of technological and specialty care services available to those who require them;
10. extent to which participating providers are accepting new patients;
11. degree to which (a) participating providers are authorized to admit patients to participating hospitals and (b) hospital-based providers are participating; and
12. regionalization of specialty care.

Access Plan

A health carrier's access plan must be in a form the commissioner prescribes and must include the following:

1. the carrier's procedures for making and authorizing referrals within and outside its network;
2. the carrier's procedures for ongoing monitoring and assuring the sufficiency of its network;
3. factors used to build the network, including criteria used to select and tier health care providers and facilities;

4. the carrier's efforts to address the needs of all covered persons and to include various types of essential community providers (i.e., those serving low-income, medically underserved people) in its network;
5. methods for assessing the health care needs of covered individuals and their satisfaction with the health care services provided;
6. the carrier's methods for informing covered individuals of covered benefits, including processes for (a) grievances and appeals, (b) choosing or changing participating providers, (c) updating participating provider directories, and (d) approving emergency and urgent care;
7. methods for covered individuals to change who they designate as a primary care provider;
8. the carrier's system for ensuring coordination and continuity of care for covered individuals referred to specialty physicians or using covered ancillary services;
9. the carrier's proposed plan for providing continuity of care for covered individuals in the event of (a) a contract termination between the carrier and a participating provider or (b) the health carrier's insolvency or other inability to continue operations;
10. the process for monitoring access to certain specialist services (i.e., emergency room care, anesthesiology, radiology, hospitalist care, and pathology and laboratory services) at the carrier's participating hospitals;
11. the carrier's efforts to ensure that its participating providers meet available and appropriate quality of care standards and health outcomes;
12. the carrier's accreditation by (a) NCQA, affirming that the carrier meets NCQA's network adequacy requirements or (b) URAC, affirming that the carrier meets URAC's provider network access and availability standards; and
13. any other information the commissioner requires to determine the carrier's compliance with the act.

The act requires a health carrier to post each access plan on its website and make it available at its Connecticut business location and to anyone upon request. But the carrier may exclude from a publicly available access plan any information that it deems proprietary. A carrier may also ask the commissioner not to disclose proprietary information under the Freedom of Information Act.

Carrier Requirements

The act requires a health carrier to do the following:

1. maintain adequate arrangements with providers to assure that its covered individuals have reasonable access to participating providers near their homes or jobs;
2. monitor the ability, clinical capacity, and legal authority of its participating providers to provide all covered benefits to its covered individuals;
3. establish and maintain procedures for notifying a participating provider of the specific covered health care services for which he or she is responsible;
4. notify participating providers of their obligations to (a) collect coinsurance, deductibles, or copayments from covered individuals and (b) notify individuals of their financial obligations for noncovered benefits before delivering health care services, if possible;
5. establish and maintain procedures by which a participating provider may determine, in a timely manner when benefits are provided, whether an individual is covered or is within a grace period for premium payment during which the carrier may hold a claim for health care services pending receipt of premium payment;
6. notify a health care provider or facility of the provider's or facility's network participation status in a timely manner;
7. notify participating providers of their responsibilities with respect to the carrier's administrative policies and programs, including payment terms, utilization review, quality assessment and improvement programs, credentialing, grievance and appeals processes, reporting if the practice is not accepting new patients, confidentiality requirements, and obtaining necessary referrals to nonparticipating providers; and
8. establish and maintain procedures for resolving disputes between it and a participating provider.

Carrier Prohibitions

The act prohibits a health carrier from doing the following:

1. offering or providing an inducement to a participating provider to encourage the provider to provide less than medically necessary health care services to a covered individual;
2. prohibiting a participating provider from discussing any specific treatment option with covered individuals or advocating on behalf of covered individuals during utilization review or grievance and appeals processes; or

3. penalizing a participating provider because the provider reports in good faith to state or federal authorities a carrier's action or practice that jeopardizes patient health or welfare.

Selecting and Tiering Participating Providers

The act requires a health carrier to develop standards for selecting and tiering participating providers and provider specialties. The carrier must make the standards available to the insurance commissioner for her review and to the public, in plain language, on its website.

The act defines a "tiered network" as a network of participating providers that identifies and groups health care providers and facilities into specific categories for which different reimbursement, cost-sharing, or access requirements apply for the same health care services.

Under the act, a carrier cannot establish standards that would do the following:

1. allow the carrier to discriminate against high-risk populations by excluding or tiering providers located in a geographic area that presents higher-than-average claims, losses, or health care service utilization;
2. exclude providers because they treat or specialize in treating populations that present higher-than-average claims, losses, or health care service utilization; or
3. allow the carrier to discriminate against a provider acting within the scope of his or her license or certification.

The act specifies that it does not require a carrier to contract with every provider or facility willing to abide by its participation terms. It also does not require a carrier, the carrier's intermediaries, or a contracted provider network to (1) employ specific providers or (2) contract with more providers than are needed to maintain a sufficient network.

Coverage at In-Network Level of Benefits

Under the act, a health carrier generally must provide benefits at the in-network level of coverage when a nonparticipating provider performs covered services for a covered individual if a participating provider is not available in the network. Specifically, a carrier must establish and maintain a process that ensures a covered individual receives covered benefits at the in-network level of benefits and cost sharing from a nonparticipating provider when the carrier's network is either insufficient or sufficient but lacking a (1) type of participating provider needed to provide the covered benefit or (2) participating provider available without unreasonable travel or delay.

A carrier must disclose to a covered individual how to request a covered benefit from a nonparticipating provider at the in-network level of benefits when the individual is diagnosed with a condition or disease that requires specialty care and the carrier (1) does not have a participating provider of the required specialty with the training and expertise to treat the person or (2) cannot provide reasonable access to such a participating provider without unreasonable travel or delay.

The carrier must respond to a request in a timely fashion appropriate for the individual's condition but no longer than allowed under the law for an external review. It must treat the health care service as being performed in-network, including counting the individual's cost sharing toward the out-of-pocket maximum limit applicable to in-network services.

The carrier must document all such requests and provide the documentation to the commissioner upon request.

The act prohibits a carrier from using this process as a substitute for maintaining an adequate network. It also prohibits a covered individual from using the process to circumvent using covered benefits available through the carrier's network.

The act specifies that it does not affect the rights or remedies available under state or federal law relating to grievances and appeals.

When a Participating Provider Leaves the Network

The act, as under existing law, requires that a health carrier and participating provider provide each other at least 60 days' notice before a carrier removes the provider from the network or the provider leaves the network.

The act requires a participating provider who is removed from or leaving the network to give the carrier a list of his or her patients covered under a network plan of the carrier. The carrier must make a good faith effort, within 30 days after providing or receiving a notice of termination, to give written notice of the provider's departure to each covered patient being treated on a regular basis.

Continuity of Care

The act requires a health carrier to establish and maintain continuity of care procedures to transition a covered individual in an active course of treatment with a participating provider to a different participating provider after the original one is removed from or leaves the carrier's network.

Under the act, an "active course of treatment" is medically necessary care provided during the second or third trimester of pregnancy or a medically necessary, ongoing course of treatment for a condition that (1) is life-threatening; (2) is serious; or (3) will worsen or interfere with anticipated outcomes if the treatment is discontinued, according to the treating provider. A "serious condition" is one that requires complex, ongoing care such as chemotherapy, radiation therapy, or postoperative visits.

In addition to requiring the carrier to provide notice that a provider is leaving the network (as described above), the act requires the carrier to also give the covered individual a list of the same type of available participating providers in the same geographic area and the procedures for requesting continuity of care.

A carrier's continuity of care procedures must provide that:

1. a covered individual or his or her authorized representative may request continuity of care;
2. a continuity of care request for a covered individual undergoing an active course of treatment must be reviewed by the carrier's medical director after consulting with the treating provider, as long as the treating provider is not leaving the network for cause; and
3. the continuity of care period for an individual in the second or third trimester of pregnancy must extend through the postpartum period.

Under the act, the continuity of care period for someone undergoing an active course of treatment must last until the earliest of:

1. the end of the course of treatment;
2. 90 days after the treating provider leaves the network, unless the medical director decides a longer period is needed;
3. the date the individual's care is transitioned to another participating provider;
4. the date benefit limitations under the plan are met or exceeded; or
5. the date the carrier determines the care is no longer medically necessary.

The act specifies that a carrier can grant a continuity of care period only if the treating provider leaving the network agrees in writing to (1) accept the same payment and terms as when he or she was participating in the network and (2) not seek any payment from a covered individual for any amount he or she would not have been responsible for if the provider was still in the network.

§ 2 — PROVIDER CONTRACT REQUIREMENTS

Required Provisions

The act specifies certain provisions that a contract between a health carrier and a participating provider ("provider contract") must contain. The requirements apply to contracts entered into, renewed, or amended on or after January 1, 2017.

The act requires a provider contract to include a specified hold harmless provision that protects covered individuals from being billed for more than they are required to pay for services covered under the plan. It also requires a provider contract to include a provision stating that if a carrier becomes insolvent or operations cease, the participating provider must continue delivering covered health care services to covered individuals until the date the individual's coverage under the plan ends or the provider contract would have ended had the carrier remained in operation, whichever is earlier.

Under the act, a provider contract must require a participating provider to make health records available to state and federal authorities investigating grievances or assessing the quality of care provided to covered individuals. The contract must require the provider to comply with applicable state and federal laws on the confidentiality of health records and an individual's rights to view, obtain copies of, or amend his or her health records.

In addition, the act requires a provider contract to define "timely notice" and "material change" to comply with a requirement that the carrier give providers timely notice of any material changes to the contract.

The act specifies that a provider contract's terms must:

1. be construed in favor of covered individuals;
2. survive the termination of the contract; and
3. supersede any agreement between a provider and a covered individual, or his or her authorized representative, that is contrary to the act.

Prohibitions

Under the act, a provider contract cannot conflict with the provisions contained in the carrier's network plan or the act's network adequacy, provider contract, and provider directory requirements.

The act prohibits carriers and participating providers that are parties to a provider contract from assigning or delegating any right or responsibility under the contract without the other party's written consent.

Required Disclosure

The act requires a carrier or its intermediary, when a provider contract is signed, to disclose to the provider all provisions and other documents incorporated by reference in the contract. An "intermediary" is a person or entity authorized to negotiate and execute provider contracts with carriers on behalf of providers.

Contracts between Carriers and Intermediaries

The act requires contracts between a health carrier and an intermediary to comply with certain provisions. The requirements apply to contracts entered into, renewed, or amended on or after January 1, 2017.

Under the act, a carrier cannot delegate to an intermediary the carrier's responsibilities to monitor the offering of covered benefits to covered individuals. To the extent a carrier delegates other responsibilities to an intermediary, the carrier remains responsible for the intermediary's compliance with the act's provider contract requirements.

The act gives the carrier the right to approve or disapprove a provider's or facility's participation status in the carrier's network, whether its own or a subcontracted network. It requires the carrier to keep at its principal place of business in Connecticut copies of all intermediary subcontracts or at least have access to all such contracts. Under the act, a carrier has the right, upon 20 days' prior written request, to make copies of all such subcontracts for regulatory review purposes.

The act requires an intermediary, if applicable, to give a carrier documentation of the health care services used and claims paid. An intermediary must also keep at its principal place of business in Connecticut, for regulatory review purposes, books, records, financial information, and documentation of health care services covered individuals received, for as long as the insurance commissioner prescribes. An intermediary must allow the commissioner access to such information as needed for her to determine compliance with the act's network adequacy and provider contract requirements.

Under the act, a health carrier must monitor the timeliness and appropriateness of (1) payments an intermediary makes to participating providers and (2) health care services covered individuals receive.

If an intermediary becomes insolvent, the act gives a health carrier the right to require the intermediary to assign to it the provider contract provisions that address a provider's obligation to provide covered benefits. If such assignment is required, the carrier remains obligated to pay the participating provider under the same terms and conditions as applied before the insolvency.

Disputes

Under the act, the insurance commissioner cannot arbitrate, mediate, or settle disputes (1) over a carrier's decision not to include a provider or facility in its network or (2) between a carrier, an intermediary, or a participating provider that arise under a provider contract or its termination.

§ 3 — PROVIDER DIRECTORY REQUIREMENTS

Accurate Directories Required

The act requires a health carrier to post on its website a current directory, updated at least monthly, of its participating providers ("provider directory") for each of its network plans. Consumers must be able to view the directories on a carrier's website without having to create or access an account or enter a policy or contract number. A carrier must provide a printed copy of a directory or information from it upon request of a covered individual or his or her authorized representative.

Contents of a Directory

The act requires a carrier to include a plain language description of the following in each provider directory:

1. the criteria used to build the network and, if applicable, tier participating providers;
2. methods the carrier uses to designate the different tiers in the network and in which tier each participating provider is placed using a name, symbol, or grouping that allows the consumer to identify the tiers; and
3. if applicable, a statement that an authorization or referral may be required to access some participating providers.

A provider directory must also include a customer service email address and telephone number or a website address that consumers and covered individuals can use to inform the carrier of inaccuracies in the provider directory.

A carrier must clearly identify which provider directory applies to which network plan. And each directory must accommodate individuals with disabilities and individuals with limited English proficiency.

Online Directories. For each participating provider, a carrier's online provider directory must include the provider's name, gender, specialty, board certification, participating office locations, medical group affiliations, facility affiliations, participating facility affiliations, languages the provider and staff speak other than English, contact information, and whether the provider is accepting new patients.

For each participating hospital, the online directory must include the name and the type of hospital (e.g., acute, rehabilitation, children's, cancer), the participating location, the hospital's accreditation status, and its telephone number.

For each participating facility other than a hospital, the online directory must include the facility name, the types of health care services performed there, the participating locations, and its telephone number.

Online directories must also make available the sources of, and any limitations on, their information.

Print Directories. A carrier's printed provider directories must be available upon request and include the following information:

1. for a participating provider, the provider's name, contact information, specialty, participating office locations, languages spoken other than English, and whether he or she is accepting new patients;
2. for a participating hospital, the name and the type of hospital, participating location, and telephone number; and
3. for a participating facility other than a hospital, by type, the name and the type of facility, type of health care services performed there, participating locations, and telephone number.

A carrier must state in a printed directory that the information is accurate as of the print date and the consumer should consult the carrier's online provider directory or call the carrier for more information.

Audit Required

The act requires a carrier to periodically audit a reasonable sample size of its provider directories for accuracy. It must keep the audit documentation and provide it to the insurance commissioner upon her request.

§ 1 — ENFORCEMENT

If the insurance commissioner determines that a health carrier has not complied with the act's network adequacy, provider contract, or provider directory requirements, the health carrier must implement a corrective action plan as directed by the commissioner. The commissioner may take any action authorized under the state's insurance laws to bring a carrier into compliance. Under existing law, the commissioner may fine a carrier up to $15,000 per violation (CGS § 38a-2).

PA 16-206—sSB 436
Insurance and Real Estate Committee

AN ACT CONCERNING INSURER CORPORATE GOVERNANCE ANNUAL DISCLOSURES AND THE REGULATION OF RISK RETENTION GROUPS

SUMMARY: This act adopts provisions substantially similar to the National Association of Insurance Commissioners' (NAIC) Corporate Governance Annual Disclosure and Risk Retention model acts. Among other things, the act requires:

1. domestic insurers (i.e., those chartered, incorporated, organized, or constituted under Connecticut laws) or the insurance group to which they belong to file with the insurance commissioner or other regulatory official confidential corporate governance annual disclosures (CGADs; i.e., information on the insurer's or insurance group's corporate governance structures) and
2. risk retention groups (RRGs) chartered in Connecticut to meet specific governance standards, such as requiring board members to be independent and establishing an independent audit committee.

(RRGs are self-insured groups organized under state and federal laws and formed to spread commercial liability risks among their members. RRGs may operate in multiple states but are primarily regulated by their domiciled state (see BACKGROUND).)

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2017 for the CGAD provisions, and October 1, 2016 for the RRG provisions.

§ 1 — CORPORATE GOVERNANCE ANNUAL DISCLOSURES (CGADS)

Beginning by June 1, 2017, the act requires domestic insurers or their insurance groups to annually submit to state regulators CGADs containing, among other things, detailed information on their corporate structure, compensation, performance evaluations, oversight, and risks. The act makes CGADs confidential, privileged, and exempt from subpoenas and state Freedom of Information Act (FOIA) requests.

Under the act, CGAD requirements may not be construed to (1) prescribe or impose corporate governance standards or internal procedures beyond those required by state corporation laws or (2) affect the insurance commissioner's authority to examine insurers.

Reporting Requirements

The act requires domestic insurers or the insurance group to which they belong to annually submit, by June 1, CGADs to the insurance commissioner or the insurance group's lead state commissioner, respectively. The lead state commissioner, which is determined by NAIC's applicable financial analysis handbook, is generally the regulatory official (e.g., insurance commissioner) in the state where the insurer or group is domiciled. (By law, insurers may be part of an insurance group, which is a group of insurers and affiliates operating under an insurance holding company (see BACKGROUND).)

Subsequent CGAD submissions must be an amended version of the prior year's submission with any changes indicated. If the submission is identical to the previous year's, the CGAD must state so.

Under the act, domestic insurers not required to submit a CGAD to the commissioner (e.g., those domiciled outside of Connecticut) must do so upon her request.

CGAD-Required Information

The act requires insurers or insurance groups, in completing CGADs, to (1) be as descriptive as possible and include attachments or document examples of corporate governing processes and (2) maintain any CGAD-related documents and supporting information and make them available to the commissioner upon request.

Specifically, CGADs must include information on insurers' or insurance groups' (1) corporate governance framework and structure, (2) leadership policies and practices, (3) critical risk oversight processes, (4) performance evaluation processes, and (5) policies and practices directing senior management.

In addition, the act authorizes the commissioner to request any additional information she deems material and necessary to understand the insurer's or insurance group's corporate governing policies, reporting or information systems, or controls over such policies or systems. The act gives insurers and insurance groups discretion over the information they provide in a CGAD, as long as it (1) is consistent with the act's requirements and (2) contains material information necessary to allow the commissioner to understand the corporate governance structure, policies, and practices.

The act details the required components for each category of information as described below.

Corporate Governance Framework. CGADs must describe the insurer or insurance group's corporate governance framework and structure, including the following:

1. its board and each significant committee responsible for oversight and the level at which such oversight occurs, such as the ultimate control level, an intermediate holding company level, or an individual legal entity level;
2. its rationale for the current board size and structure;
3. its board's and significant committees' duties and governing methods (i.e., bylaws, charter, or informal mandates); and
4. its board's leadership structure, including a discussion of the chief executive officer's (CEO) and board chairman's roles.

Leadership Policies and Practices. CGADs must describe the board's and any of its significant committees' policies and practices, including the following:

1. how each board member's qualifications, expertise, and experience meet the insurer's or insurance group's needs;
2. how the insurer or insurance group ensures that the board and committees are appropriately independent;
3. the number of board and committee meetings, including board member attendance information, from the previous year;
4. how board and committee members are identified, nominated, and elected, and whether a nomination committee identifies and selects individuals for consideration;
5. whether board members are term-limited;
6. how election and reelection processes function; and

7. whether a board diversity policy exists and how it functions.

Critical Risk Oversight Processes. CGADs must describe how the board, significant committees, and senior management ensure an appropriate amount of oversight of critical risk areas impacting business activities, including how (1) oversight and management responsibilities are delegated; (2) the board is informed of strategic plans, associated risks, and any steps senior management takes to monitor and manage such risks; and (3) each critical risk areas' reporting responsibilities are organized. The descriptions for critical risk areas must contain enough detail for the commissioner to understand the frequency at which information on each critical risk area is reported to, and reviewed by, the board and senior management. Critical risk area information may include the following:

1. actuarial functions,
2. investment and reinsurance decision-making processes,
3. businesses strategy and financial decision-making processes,
4. compliance functions,
5. financial reporting and internal auditing,
6. market conduct decision-making processes, and
7. risk management processes.

The act specifies that an insurer or insurance group required to file an Own Risk and Solvency Assessment (ORSA) Summary Report may refer to it to meet the risk management processes description requirement.

Performance Evaluation Processes. CGADs must contain a description of (1) the board's performance evaluation processes for itself and its committees and (2) any recent performance improvement measures, including training programs.

Policies and Practices Directing Senior Management. CGADs must contain policies and practices for directing senior management, including the senior management's (1) code of business conduct and ethics, including a discussion of its compliance with laws, rules, and regulations and its proactive reporting of any illegal or unethical conduct, and (2) succession plans. It also must include processes or practices, such as suitability standards, to determine whether officers and key individuals in control functions have the appropriate background, experience, and integrity to fulfill their roles. The CGAD must describe (1) suitability standards and identify any specific positions for which standards have been developed, (2) suitability monitoring and evaluation standards and procedures for officers and key individuals, and (3) any changes in an officer's or key individual's suitability as a result of applying the standards or procedures.

The CGAD must also describe processes for performance evaluation, compensation, and corrective action that ensure effective senior management throughout the organization, including descriptions of significant compensation programs' general objectives and what such programs are designed to reward. The description must be detailed enough to allow the commissioner to understand how the insurer or insurance group ensures compensation programs do not encourage or reward excessive risk taking and may include the following:

1. the board's role in overseeing management compensation programs and practices,
2. the compensation elements and calculations,
3. the relationship between the compensation programs and organizational and individual performance over time,
4. whether the compensation programs include risk adjustments and how such adjustments are incorporated into different levels of employee compensation programs,
5. any clawback provisions to recover awards or payments if the performance measures are restated or adjusted, and
6. any other factors relevant to understanding how insurers or insurance groups monitor compensation programs and determining whether employee incentives meet risk management objectives.

Under the act, senior management means any corporate officer responsible for reporting information to the board at regular intervals or providing information to shareholders or regulators. It includes chief executive, financial, operations, procurement, legal, information, technology, revenue, and visionary officers.

Reporting Levels

The act allows the insurer or insurance group to provide the required information at the ultimate control level, an intermediate holding company level, or an individual legal entity level, depending on the structure of such insurer's or insurance group's corporate governance system.

Under the act, the insurer or insurance group may report CGAD information at the level at which (1) it determines risk appetite; (2) its earnings, capital, liquidity, operations, and reputation are collectively overseen and such factors are supervised, coordinated, and exercised; or (3) it would be legally liable for failing to comply with corporate governance duties. Insurers or insurance groups using these criteria must indicate which of them it used to determine its reporting level and explain any subsequent changes in reporting levels.

Additional Documents and Information

The insurer or insurance group may use and reference other existing documents that include comparable information to fulfill CGAD reporting requirements, including ORSA Summary Reports, Holding Company Form B or F filings, Security and Exchange Commission proxy statements, and foreign regulatory filings. It must attach these documents, if they are not already filed with or available to the commissioner, to the CGAD and clearly reference within the CGAD that the other documents provide such information.

Verification

CGADs must be signed by the CEO or corporate secretary, who must attest that to the best of his or her belief and knowledge, the corporate governance practices the CGAD describes are implemented and that a copy of the CGAD has been provided to the insurer's or insurance group's board or appropriate committee.

Confidentiality

The act deems all CGAD-related documents, materials, and other information ("information") proprietary and containing trade secrets and makes them confidential, privileged, and exempt from subpoena and disclosure under FOIA. The information is also not subject to discovery or admissible as evidence in any civil action. The confidentiality provisions apply to the documents in the possession or control of the Insurance Department and obtained by, created by, or disclosed to the commissioner or anyone else under the act. The commissioner is prohibited from making such information public without prior written consent.

The act prohibits the commissioner, or any person acting under her authority that obtained, received, or was disclosed CGAD-related information, from being required or allowed to testify in any civil action in Connecticut about the information.

The act allows the commissioner, as part of her official duties, to use the information in any regulatory or legal action. Under certain circumstances, she may also receive and share, upon request, CGAD documents with certain other officials, third-party consultants, and NAIC (see below). In such cases, the act specifies that it may not be construed to require an insurer's written consent.

Sharing and Receiving CGAD Documents

Under the act, the commissioner must share, upon request, an insurance group's CGAD with other states' insurance regulatory officials if:

1. she is the insurance group's lead state commissioner,
2. the CGAD is shared in accordance with the act's confidentiality provisions requiring her to keep CGADs confidential and obtain written agreement that recipients must do so as well (see below), and
3. the CGAD is only shared with an insurance regulatory official in a state in which the group has a domestic insurer.

The commissioner may share, upon request, CGAD-related information, including that deemed proprietary and containing trade secrets, confidential and privileged, or not disclosable, with (1) other state, federal, and international financial regulatory officials, including members of a supervisory college (i.e., a group of insurance regulatory officials); (2) NAIC; and (3) any third-party consultants she engages to review the CGAD and associated documents. The recipients, in writing, must (1) agree to maintain the confidentiality and privileged status of the information and (2) verify their legal authority to maintain confidentiality.

The commissioner may also receive CGAD-related information from other state, federal, and international financial regulatory officials, including NAIC and members of a supervisory college. The commissioner must maintain any information she receives as confidential and privileged, with notice and the understanding that the information is confidential and privileged under the laws of the jurisdiction in which the information originates.

Under the act, any written agreement between the commissioner and NAIC or a consultant governing the sharing or use of CGAD documents must expressly require the insurer's prior written consent before NAIC or a consultant may make any CGAD information public. The agreement must specify policies and procedures for maintaining the shared information's confidentiality and security, including the following:

1. procedures and protocols limiting sharing by NAIC to only state regulatory officials where the insurance group has domiciled insurers;
2. a provision requiring NAIC or a consultant to agree in writing to maintain the information's confidentiality and privileged status and verifying his or her legal authority to maintain confidentiality; and

3. a provision, if applicable, requiring NAIC to obtain from a requesting regulatory official a written agreement to maintain the information's confidentiality and privileged status and verifying his or her legal authority to maintain confidentiality.

The agreement must also do the following:

1. specify that the commissioner retains ownership of the information and that she uses it at her discretion;
2. prohibit NAIC or consultants from storing any received information in a permanent database after they complete the underlying analysis;
3. require NAIC or third-party consultants, if they are subject to a subpoena or request for disclosure, to promptly notify the commissioner and the insurer or insurance group; and
4. require NAIC or consultants, if they are required to disclose any CGAD information, to allow the insurer or insurance group to intervene in any judicial or administrative action regarding the disclosure.

The act specifies that (1) the commissioner sharing or disclosing CGAD information according to the act's requirements does not waive any applicable confidentiality or privilege and (2) these requirements must not be construed to delegate the commissioner's regulatory authority to any person or entity with which the information is shared.

CGAD Reviews and Information Requests

The act requires CGAD reviews and requests for related documents to be conducted by, or made through, the insurance group's lead state commissioner.

The commissioner may engage third-party consultants, including attorneys, actuaries, accountants, and other experts, as reasonably necessary to assist in reviewing CGADs. Consultants must be under the commissioner's direction and control, act in an advisory capacity only, and verify to the commissioner and provide notice to the insurer or insurance group that he or she (1) does not have a conflict of interest, (2) has internal procedures in place to monitor conflicts of interest that may arise, and (3) complies with the act's confidentiality standards and requirements. The act requires insurers or insurance groups to pay for the consultant services.

Penalties

The commissioner, after notice and hearing, may impose a civil penalty of $175 per day on an insurer or insurance group that fails, without just cause, to timely file a CGAD. She may reduce the penalty if the insurer or insurance group demonstrates the penalty causes financial hardship.

§§ 2-8 — RISK RETENTION GROUPS (RRG)

This act requires an RRG seeking to be chartered and licensed in Connecticut on or after October 1, 2016 to meet specific governance standards at the time of licensure. An RRG chartered before October 1, 2016 must comply with the standards by October 1, 2017.

The standards require an RRG to, among other things, be governed by a board of directors elected by owners or members of the group. A majority of the board members must be independent (i.e., have no conflict of interest).

The act also (1) requires an RRG's captive manager, president, or CEO to promptly notify the insurance commissioner, in writing, if he or she becomes aware of any material noncompliance with the act's standards and (2) gives the commissioner the authority to examine any documents or materials relating to the standards.

The act (1) expands provisions regarding information that certain RRGs, including those chartered outside Connecticut, must submit to the commissioner and (2) adds a notice requirement, already required on policies issued by RRGs, to applications.

Board of Directors' Independence

The act requires RRGs seeking to be chartered and licensed in Connecticut to be governed by a board of directors, a majority of whom must be independent as described below. It also requires such independence and compliance for (1) all committee members of any member advisory committee the board establishes and (2) in the case of a reciprocal RRG, the attorney-in-fact acting as the RRG's agent or manager.

To qualify as independent, a director, advisory committee member, or, in the case of a reciprocal RRG, an attorney-in-fact must be affirmatively determined by the board to have no material relationship (see below) with the RRG. However, for an RRG owned solely by an organization that is comprised exclusively of the RRG's members, the following individuals must be deemed independent unless a different position or relationship constitutes a material relationship: a direct or indirect owner, insured, officer, director, or employee of an owner or insured.

The act prohibits the board from determining that an individual is independent until one year after he or she no longer has a material relationship with the RRG. It requires RRGs to disclose to the commissioner, at least annually, all such determinations.

Material Relationship

Under the act, a material relationship is any of the following:

1. receipt of compensation from the RRG, its consultants, or service providers above certain thresholds (see below) in any previous 12-month period by a board member, attorney-in-fact, advisory committee member, or immediate family members or affiliated businesses of such members or attorneys;
2. affiliation or employment in a professional capacity of a director or a member of his or her immediate family with the RRG's present or former internal or external auditor; or
3. employment of a director or a member of his or her immediate family as an executive officer with another company on which any of the RRG's current officers serve as board members.

For the first provision, the act specifies the compensation threshold is the greater of (1) 5% of the RRG's gross written premiums or (2) 2% of its surplus.

Board of Directors' Duties

The act requires an RRG's board of directors to adopt a written policy in its plan of operation or a feasibility study that requires the board to do the following:

1. ensure that all of the RRG's owners and members receive evidence of their ownership interest;
2. develop a set of governance standards;
3. oversee the evaluation of the RRG's management, including the performance of the captive manager, managing general underwriter, or other parties responsible for underwriting, determining premium rates, collecting premiums, adjusting and settling claims, and preparing financial statements; and
4. review and approve the amount to be paid to a service provider under a material service contract (see below).

Under the policy, the board must also, at least annually, review and approve (1) the RRG's goals and objectives relative to the compensation of its officers and service providers, (2) such officers' and service providers' performances in light of the goals and objectives, and (3) the continued engagement of such officers and service providers.

The act also requires the board to adopt governance standards for the RRG and a code of business conduct and ethics for the RRG's officers, directors, and employees. The code must include provisions relating to the following:

1. conflicts of interest;
2. matters covered under the corporate opportunities doctrine in the RRG's state of domicile;
3. confidentiality;
4. fair dealing;
5. the protection and proper use of the RRG's assets;
6. compliance with all applicable laws, rules, regulations, and requirements;
7. the required reporting of any illegal or unethical behavior that affects the RRG's operations; and
8. any waivers of the code of conduct and ethics for officers or directors.

The board must post the governance standards and code of conduct and ethics on the RRG's website or disclose them through other means.

The board must also provide to members and insureds, upon request, additional information that includes the:

1. process for electing the board,
2. qualifications to be a board member,
3. responsibilities of the board,
4. access of a board member to the RRG's management and independent advisors,
5. board members' compensation,
6. board member orientation process and continuing education requirements or opportunities, and
7. RRG's policies and procedures for management succession and board members' annual performance evaluations.

Material Service Contracts

Under the act, the board of directors must approve an initial or renewed material contract by a majority vote. The board may terminate such a contract for cause at any time, as long as the contract's notice requirements are satisfied. A material contract is a contract that includes a payment for services of at least the greater of (1) 5% of the RRG's annual gross written premiums or (2) 2% of its surplus.

The act prohibits the following:

1. material contracts between an RRG and a service provider (see below) that include a term longer than five years and
2. the board from entering a contract with a service provider with a material relationship to the RRG, unless the (a) RRG submits the contract to the commissioner as a revision, or part thereof, to its plan of operation and (b) commissioner approves it in accordance with the act.

For a reciprocal RRG, the act specifies that any contract must be between the RRG and a service provider, instead of between the RRG's attorney-in-fact and the service provider.

The act defines a service provider as a captive manager, auditor, accountant, actuary, investment advisor, attorney, managing general underwriter, or any other party responsible for underwriting, determining premium rates, collecting premiums, adjusting and settling claims, or preparing financial statements. An attorney is also a service provider under the act, unless retained by the RRG as defense counsel. (But an attorney whose fees constitute a material contract is still considered a service provider.)

Reporting Requirements and Prior Commissioner Approval

The act requires an RRG seeking to be chartered in Connecticut to provide to the commissioner with its charter application a summary of the (1) identity of the initial members of the group, (2) identity of the individuals who organized the group or who will provide administrative services or influence or control coverages to be offered, and (3) states in which the group intends to operate. The commissioner must forward this information to NAIC upon receipt.

By law, an RRG, before offering insurance, must submit to the commissioner for approval its plan of operation or feasibility study and, if it intends to offer any additional lines of liability insurance, any revisions to the plan or study. Under the act, revisions must be submitted only for material changes to the plan or study. The act also prohibits RRGs from offering additional liability insurance lines in any state or operating under any material change, including a change in rates, until the commissioner approves a revised plan or study.

By law, the plan or study must include, among other components, the following content:

1. the historical and expected loss experience of the proposed members;
2. expert opinions on minimum premium or participation levels;
3. proof that its members are engaged in activity with similar risks; and
4. identification of its management, underwriting and claims procedures, and reinsurance agreements.

By law, all RRGs, regardless of where they are chartered or licensed, must include in the plan or study the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the RRG offers. The act expands the scope of the plan or study, requiring that it contain the required information for all states in which the RRG intends to operate.

Audit Committee

The act requires each RRG seeking to be chartered and licensed in Connecticut to establish an audit committee with at least three independent board members. The audit committee may invite a non-independent board member to participate in committee activities, although he or she is prohibited from becoming a committee member.

The audit committee must adopt a written charter that defines the committee's purposes. At a minimum, the charter must require the committee to do the following:

1. assist the board with oversight of (a) financial statement integrity; (b) compliance with legal and regulatory requirements; and (c) the qualifications, independence, and performance of any auditor or actuary under contract with the RRG;
2. discuss the annual audited financial statements and quarterly financial statements with members of the RRG's management;
3. discuss the annual audited financial statements and, if advisable, the quarterly financial statements, with the RRG's external auditor;
4. discuss the RRG's risk assessment and risk management policies;
5. meet separately and periodically, directly or through a designated committee member, with the RRG's management and external auditor;
6. review with the external auditor any audit problems or difficulties and the RRG management’s response;
7. set clear hiring policies for the RRG's hiring of current or former employees of the RRG’s external auditor;
8. require the external auditor to rotate or coordinate the lead auditor and the auditor responsible for reviewing the RRG’s audit so that no individual performs the RRG’s audit for more than five consecutive years; and
9. report on its activities regularly to the RRG’s board of directors.

The act allows the commissioner to exempt an RRG from the audit committee requirements if it demonstrates that it is impracticable to do so and the board is able to accomplish the same obligations.

RRGs Chartered or Domiciled in Another State

By law, an RRG chartered in another state and seeking to do business in Connecticut must submit to the commissioner its plan of operations or a feasibility study and any revisions to the plan or study that were submitted to the RRG's domiciled state. The act requires the submission of such material revisions within 30 days (1) after the RRG receives the approval of its domiciled state's chief insurance regulatory official or (2) if no approval is required, after its submission to its domiciled state.

By law, an RRG doing business in Connecticut but not domiciled here must submit to the commissioner certain financial information, including a statement of opinion on loss and loss adjustment expense reserves prepared by a member of the American Academy of Actuaries or a qualified loss reserve specialist. The act requires such a statement to be prepared using NAIC-established criteria.

Under the act, such RRGs must also submit to the commissioner upon request a copy of any information or document pertaining to any outside audit of the RRG. Prior law required an RRG to submit only a copy of the audit.

Under existing law, the commissioner may request an examination of the financial condition of an RRG chartered in another state, to be conducted by the commissioner, in the RRG's chartered jurisdiction. If such an examination is not initiated within 60 days, an RRG must submit to such an examination by the Connecticut commissioner. The act limits this provision to RRGs that are both chartered and licensed, instead of only chartered as required under prior law, in another state.

Notice Requirement

Existing law requires an RRG to publish a notice on the front and declaration pages of each issued policy that (1) RRGs may not be subject to all of the state's insurance laws and regulations and (2) state insurance insolvency guaranty funds are not available for policies issued through RRGs. The act requires this notice on insurance applications as well.

BACKGROUND

RRGs and Related Federal Law

An RRG is a corporation or other limited liability association formed to assume and distribute the risk exposure of its members. By law, an RRG must meet certain chartering, licensing, and antitrust criteria and be owned by, and provide insurance to, only its members (or an organization comprised solely of its members). Its members must share similar commercial risks, and insurance provided by an RRG to its members must be limited to coverage of the shared risks. Under the federal Liability Risk Retention Act and with certain exceptions, an RRG is primarily regulated by its domiciled state, regardless of whether it also sells insurance in other states. In practice, RRGs are formed as captives. (Captives are insurance companies or entities formed to insure or reinsure the risks of their owners.)

Insurance Groups and Insurance Holding Companies

Insurance groups are insurers and affiliates within an insurance holding company. Insurance holding companies are affiliations between insurance companies and other people, corporations, partnerships, limited liability companies, associations, joint stock companies, business trusts, unincorporated organizations, or other legal entities.

PA 16-213—sSB 368
Insurance and Real Estate Committee
Public Health Committee

AN ACT CONCERNING THE INSURANCE DEPARTMENT'S MARKET CONDUCT AUTHORITY AND DATA CALL CONFIDENTIALITY, AUTHORIZING MULTISTATE HEALTH CARE CENTERS IN CONNECTICUT, ELIMINATING A HEALTH CARRIER UTILIZATION REVIEW REPORT FILING REQUIREMENT, AND CONCERNING LICENSURE OF SINGLE PURPOSE DENTAL HEALTH CARE CENTERS

SUMMARY: This act makes changes to the insurance statute on market conduct examinations (§ 1). By law, the insurance commissioner must examine regulated entities (i.e., insurers, HMOs, third-party administrators, and fraternal benefit societies doing business in Connecticut) to determine their compliance with applicable state laws and regulations. The commissioner appoints examiners to perform the examinations. Specifically, the act:

1. allows the commissioner to conduct examinations in accordance with the National Association of Insurance Commissioners' (NAIC) Market Regulation Handbook;
2. immunizes from liability examiners or people providing information in support of an examination for acts performed in good faith;
3. makes examination workpapers confidential;
4. allows the commissioner to share examination reports or results with insurance regulatory officials, law enforcement officials, and government agencies; and
5. clarifies when domestic regulated entities are required to pay examination expenses.

Additionally, the act allows the Insurance Department to (1) authorize health care centers organized outside of Connecticut (i.e., foreign HMOs) to do business in Connecticut (§§ 3-16) and (2) license HMOs that offer only dental services (§§ 20-24). It generally subjects foreign HMOs and dental-only HMOs to the same laws that apply to domestic HMOs, with certain exceptions. It adds dental hygienists to the definition of "healing arts" for purposes of the HMO statutes (§ 20).

The act also (1) authorizes Insurance Department data calls (§ 2), (2) eliminates the need for health carriers (e.g., insurers, HMOs, and other entities issuing health benefit plans) to report utilization review data to the department separate from their annual managed care reports (§§ 17-19), and (3) makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2016, except the market conduct examination and data call provisions are effective October 1, 2016, and the dental-only HMO provisions are effective July 1, 2017.

§ 1 — MARKET CONDUCT EXAMINATIONS

Immunity

The act immunizes from liability (1) the commissioner, her authorized representatives, and appointed examiners for statements made or conduct performed in good faith during an examination and (2) anyone who, in good faith and without intent to defraud or deceive, gives the above people information in support of an examination. It does not abrogate or modify any common law or statutory privilege or immunity the commissioner, her representatives, or appointed examiners enjoy.

Confidentiality

Under the act, examination workpapers, recorded information, documents, and copies of these are confidential and not subject to subpoena. The act prohibits anyone, including the commissioner, from making such information public, but it allows her to give NAIC access to the information, if NAIC agrees in writing to keep it confidential.

The act allows the commissioner to share examination reports, preliminary reports, or their results with insurance regulatory officials, law enforcement officials, and government agencies if the recipient agrees in writing to keep the information confidential. (In practice, the Insurance Department makes final examination reports publicly available on its website.)

Examination Expenses

By law, the entity being examined must pay the examination expenses, except for domestic insurers or HMOs. However, domestic entities examined outside the state must pay the examiners' travel and maintenance expenses.

The act specifies that domestic insurers and HMOs assessed to pay for the expenses of the Insurance Department and Office of Healthcare Advocate do not have to pay the examination expenses (i.e., salaries, fringe benefits, and travel and maintenance costs) of the department's examination personnel. However, domestic insurers and HMOs examined outside of the state must pay for the examiners' travel and maintenance expenses.

§ 2 — DATA CALLS

The act explicitly authorizes the insurance commissioner to issue "data calls" to regulated entities and exempts response data from disclosure under the Freedom of Information Act.

A data call is commonly understood to mean a request or directive for regulated entities to provide the Insurance Department with information, usually within a certain timeframe, for analysis and potential regulatory action. Existing law already authorizes the commissioner to conduct investigations into any matter arising under the insurance statutes (CGS § 38a-16).

§§ 3-16 — FOREIGN HMOS

The act generally subjects foreign HMOs to the same laws that currently apply to domestic HMOs, with certain exceptions. But it does not require foreign HMOs to pay a health and welfare fee or public health fee, which domestic HMOs must pay (§§ 8-9). These fees are used to pay for certain Department of Public Health programs, including a vaccination program, needle and syringe exchange program, and breast and cervical cancer detection and treatment program.

The act also applies certain existing HMO and insurance laws to domestic HMOs only, as shown in Table 1.

Table 1: Other Existing Laws Applying Only to Domestic HMOs under the Act

CGS §	*Act §*	*Description*
38a-178	4	Requires an HMO organized under Connecticut law to include on its certificate of incorporation or other organizational document a list of other jurisdictions in which it is authorized to do business
38a-179	5	Requires a nonprofit, nonstock, domestic HMO to vest management of its affairs in a board of directors Requires other types of domestic HMOs to follow applicable state laws
38a-186	6	Addresses how a nonprofit, nonstock, domestic HMO must dispose of its property if the HMO terminates Prohibits certain stock transactions and mergers unless the parties comply with existing laws governing a change of control
38a-14(h)	10	Requires the insurance commissioner to examine domestic HMOs at least once every five years
38a-55	15	Prohibits a domestic HMO from encumbering its assets to secure debt without the commissioner's written consent
38a-59	16	Addresses how a domestic HMO with capital stock may amend its certificate of incorporation for a name change

Additionally, the act specifies that all HMOs, foreign or domestic, are subject to CGS § 38a-58a, the law governing how a company can transfer its state of domicile to or from Connecticut (§ 7). The act also allows the insurance commissioner to prohibit a foreign HMO from doing business in Connecticut if permission to transact business in its state or country of domicile has been refused to a domestic HMO (§ 11).

§§ 17-19 — UTILIZATION REVIEW REPORT

The act eliminates a requirement that health carriers annually, by March 1, file a utilization review report with the insurance commissioner. Health carriers must already report similar utilization review information in their annual managed care reports due May 1 to the commissioner (CGS § 38a-478c).

§§ 20-24 — DENTAL-ONLY HMOS

The act generally subjects a dental-only HMO to the same requirements as other HMOs. However, it specifies that a dental-only HMO does not have to conduct certain activities that the law allows a medical HMO to perform (see below). Additionally, the law requires that one-fourth of a nonprofit HMO's board of directors be healing arts practitioners. The act requires instead that one-fourth of the board members of a nonprofit dental-only HMO be in dental or related fields.

HMO Activities

By law and unchanged by the act, an HMO may (1) establish, maintain, and operate health care facilities and (2) provide health care using its own properly licensed employees or under agreement with a licensed hospital, hospital or medical service corporation, clinic, or health care provider.

Under existing law, an HMO also must enter into agreements with a government agency or health care provider for personnel training; establish, operate, and maintain medical service centers or clinics for education and research purposes; market and administer health care plans; contract with Connecticut-licensed insurers; offer out-of-area or emergency services; and provide health services not included in the health care plan on a fee-for-service basis. The act specifies that a dental-only HMO does not have to perform these activities.

Healing Arts Definition

The act adds dental hygienists to the list of professions defined as "healing arts" in the HMO statutes. Various HMO statutes refer to the healing arts, including those containing provisions on:

1. training of personnel under the direction of people licensed to practice a healing art (CGS §§ 38a-176 & 38a-177),
2. requiring certain representation of healing arts practitioners on a nonprofit HMO's board of directors (CGS § 38a-179), and
3. allowing (a) healing arts practitioners to be employed by and participate in an HMO and (b) patients to choose healing arts practitioners in the HMO (CGS § 38a-180).

Under existing law, "healing arts" professionals include doctors, surgeons, chiropractors, naturopaths, podiatrists, physician assistants, nurses, dentists, optometrists, opticians, psychologists, and pharmacists.

PA 16-214—sSB 371
Insurance and Real Estate Committee
Public Health Committee
General Law Committee

AN ACT CONCERNING THE USE OF EXPERIMENTAL DRUGS

SUMMARY: This act allows certain terminally ill patients, under specified conditions, to access medications and devices not approved for general use by the U.S. Food and Drug Administration (FDA). It applies to investigational drugs, biological products, or devices (hereinafter "investigational drugs") that have completed Phase 1 of an FDA-approved clinical trial and are still part of the trial. To qualify for the program, patients must meet certain eligibility criteria and complete a detailed informed consent document.

The act allows investigational drug manufacturers to provide eligible patients with investigational drugs and charge for them. It also allows health carriers (e.g., insurers and HMOs) to cover investigational drugs and specifies when they may deny coverage to patients being treated with them.

The act specifies that it does not create a private cause of action against (1) an investigational drug manufacturer, the treating physician, or other people or entities involved in the patient's care for any harm caused by an investigational drug or (2) a health carrier that provides or denies coverage for an insured patient being treated with an investigational drug.

The act prohibits the Department of Public Health and the Medical Examining Board from taking any disciplinary action against a physician based solely on his or her recommendation to a patient to access or use an investigational drug, as long as the recommendation is consistent with medical standards of care. It also prohibits state officials, employees, and agents from preventing or attempting to prevent an eligible patient from accessing an investigational drug.
EFFECTIVE DATE: October 1, 2016

INVESTIGATIONAL DRUGS

Patient Eligibility

The act allows investigational drug manufacturers to provide terminally ill patients with investigational drugs under certain conditions. It defines a "terminal illness" as a medical condition that the treating physician anticipates, with reasonable medical judgment, will result in a patient's death or a state of unconsciousness from which recovery is unlikely within a year.

Under the act, to be eligible to receive treatment with an investigational drug, a patient must:

1. have a terminal illness verified by his or her treating physician (i.e., a state-licensed physician with primary responsibility for the patient's medical care and treatment of the terminal illness);
2. not be a hospital inpatient;
3. have considered all other FDA-approved treatment options;
4. be unable to participate in a clinical trial within 100 miles of his or her home, or not be accepted into a clinical trial within a week after the trial application process ends;
5. receive a recommendation for the drug from his or her treating physician;
6. give written informed consent for the drug's use (see below); and
7. obtain from the treating physician written documentation that he or she meets requirements (3) through (6).

Informed Consent

Under the act, the required informed consent document must be verified by the treating physician and a witness. The patient must sign the document, unless he or she is a minor or lacks the capacity to provide informed consent, in which case his or her parent or legal guardian must consent on his or her behalf.

The document must:

1. explain the currently approved and conventionally recognized products and treatments for the terminal illness;
2. verify that the patient agrees with the treating physician in believing that all currently approved and conventionally recognized products and treatments are unlikely to prolong the patient's life;
3. clearly identify the specific proposed investigational drug with which the patient is seeking treatment;
4. describe the potentially best and worst outcomes of using the drug with a realistic description of the most likely outcome, including the possibility that new, unanticipated, or worse symptoms may result and that the treatment could hasten death, based on the physician's knowledge of the treatment and awareness of the patient's condition; and
5. state that the patient understands that he or she is liable for the costs of, or associated with, the drug and that this liability extends to the patient's estate, unless a contract between the patient and the manufacturer provides otherwise.

The document must also clearly state that:

1. the patient's health carrier, treating physician, or other providers are not obligated to pay for any care or treatment resulting from taking the investigational drug;
2. the patient's hospice care eligibility may be withdrawn if the patient begins treatment with an investigational drug, but hospice care may be reinstated if the treatment ends and the patient is hospice eligible; and
3. in-home health care may be denied if treatment begins.

Insurance Provisions

Under the act, health carriers may cover investigational drugs made available to eligible patients as set forth above but are not required to do so. While a patient is being treated with an investigational drug and for the following six months, health carriers may deny coverage to the patient, except for (1) preexisting conditions or (2) benefits that began before treatment with the drug.

The act defines a "health carrier" as an insurer, HMO, hospital or medical service corporation, fraternal benefit society, or other entity that delivers, issues, renews, amends, or continues a health insurance policy that covers (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) hospital or medical services; or (5) ancillary services, such as dental, vision, or prescription drugs.

It specifies that (1) treatment with investigational drugs as set forth in the act is the practice of medicine and not a clinical trial for purposes of the law's requirements for insurance coverage of certain clinical trial costs and (2) it does not affect those coverage requirements.

PA 16-7—sSB 219
Judiciary Committee

AN ACT CONCERNING PROBATE COURT OPERATIONS

SUMMARY: This act makes various substantive, minor, and technical changes in probate statutes. Among other things, it:

1. establishes a process for a probate court that finds it does not have jurisdiction to hear a matter to transfer the matter to another probate court, if that court has jurisdiction, without requiring an additional filing fee (§ 1);
2. allows a person under voluntary conservatorship who is not represented by an attorney to waive certain rights if a hearing determines that the waiver represents the person's wishes (§ 3);
3. expands the list of probate matters subject to the general $225 filing fee (§ 4);
4. increases the number of probate court locations in which individuals may file petitions to remove a parent as guardian or to terminate parental rights (§§ 6 & 7); and
5. adds to the type of entities that may serve as conservators (§ 8).

The act also makes minor or clarifying changes concerning out-of-state wills (§ 2), visitation rights related to certain proceedings (§ 5), and periodic accounts (§§ 9 & 10).
EFFECTIVE DATE: October 1, 2016

§ 1 — TRANSFER TO OTHER PROBATE COURTS

Under the act, if a probate court finds, after notice and hearing on any petition, application, or motion that it lacks jurisdiction over the matter but another probate court in the state has jurisdiction, the court may (1) order that the file be transferred to the court with jurisdiction or (2) dismiss the matter for lack of jurisdiction. If multiple courts have jurisdiction, the transferring court may transfer the matter to the court that it finds most convenient for the parties.

The act requires the transferring court to make written findings on its determination that the transferee court has jurisdiction and, if applicable, which court is most convenient. These findings are conclusive for all further proceedings, except the transfer order is subject to appeal under the general rules for probate appeals.

The transferring court must deliver certified copies of all related documents in its file to the transferee court after issuing the transfer order. The transferee court must proceed on the matter as if it had originally been filed with that court and may not charge an additional filing fee.

The act specifies that these provisions do not prevent a court with jurisdiction over a case from transferring the case to another court under a statute authorizing such a transfer.

§ 2 — OUT-OF-STATE WILLS

By law, if an out-of-state will conveys property in Connecticut, the executor or another interested person may present an authenticated copy of the will and record of the related proceedings to a Connecticut probate court, requesting that these documents be filed and recorded. The court must grant the request if there is not sufficient objection after a hearing and the documents then have the same effect as if they were originally proved in this state. The act eliminates the requirement that the revenue services commissioner receive notice of the hearing.

§ 3 — VOLUNTARY REPRESENTATION AND HEARING WAIVER

By law, a person under conservatorship may waive the right to certain required hearings if his or her attorney consults with the person and files with the court a record of the waiver. The waiver must represent the person's wishes.

The act similarly allows such a waiver for a person under voluntary conservatorship who does not have an attorney. The court must hold a hearing to determine whether the waiver represents the person's wishes.

Under existing law and the act, this applies to hearings that are generally required before a conservator may change a conserved person's residence (including placing the person in a long-term care institution), terminate the person's tenancy or lease, or sell or dispose of the person's property.

§ 4 — PROBATE FEES

PA 15-5, June Special Session, raised the general filing fee for most probate matters, other than estate settlement, from $150 to $225 and specified the matters to which the fee applies. The act subjects additional filings to the $225 fee, as shown in Table 1. It also makes minor and technical changes.

Table 1: Additional Probate Filings Subject to $225 Fee under the Act

Action
With respect to a minor: • Approve placement of a child for adoption outside Connecticut • Review, modify, or enforce a cooperative post-adoption agreement • Review an order concerning contact between an adopted child and his or her siblings • Determine whether the termination of voluntary services provided by the Department of Children and Families complies with applicable regulations • Resolve a dispute on custodianship under the Uniform Transfers to Minors Act
With respect to a conservatorship: • Determine whether informed consent was given for voluntary admission to a hospital for psychiatric disabilities • Excuse accounts under the Probate Court Rules of Procedure
With respect to an elderly person: • Authorize the social services commissioner to enter the person's premises to determine whether he or she needs protective services
With respect to an adult with intellectual disability: • Determine competency to vote
With respect to a testamentary or inter vivos trust: • Excuse a final account under the Probate Court Rules of Procedure

§ 5 — VISITATION OF MINORS

Under certain conditions, existing law allows a probate court to grant visitation rights to (1) anyone who has been removed as guardian of a minor, (2) any relative of the minor, or (3) any parent who has been denied temporary custody pending a hearing on removal or termination of parental rights. The act specifies that the last provision similarly applies to guardians if temporary custody was granted to someone else pending a hearing. It also (1) specifies that the court's authority to grant visitation rights additionally applies in connection with proceedings to appoint or remove a guardian and (2) makes technical and clarifying changes.

§§ 6 & 7 — VENUE FOR PETITIONS TO REMOVE A PARENT AS GUARDIAN OR TERMINATE PARENTAL RIGHTS

Under prior law, (1) petitions to remove one or both parents as a minor's guardian had to be brought in the probate district where the minor resides and (2) petitions to terminate parental rights had to be brought in the district where the minor or petitioner resides or, if the child is under guardianship of a child care facility or child-placing agency, in the district where an agency office is located.

The act allows such petitions to also be brought in the district where the minor is domiciled or is located when the petition is filed.

§ 8 — ENTITIES SERVING AS CONSERVATORS

The act expands the types of entities that may serve as a conservator of the estate or conservator of the person by generally allowing for-profit or nonprofit limited liability companies, partnerships, or other entities recognized under state law to serve in these roles. Existing law already allows for-profit or nonprofit corporations to serve as conservators.

Existing law, unchanged by the act, prohibits (1) hospitals or nursing home facilities from serving as either type of conservator and (2) residential care homes from serving as a conservator of the estate.

§§ 9 & 10 — PERIODIC AND FINAL ACCOUNTS

Existing law generally requires conservators, guardians, and trustees to provide periodic accounts of their trusts to the probate court at least once every three years and more frequently if required by the will or trust instrument creating the trust. The act:

1. eliminates an obsolete reference to persons other than conservators or guardians appointed by the court to sell minors' land;
2. conforms to existing practice by specifying that the court may also require more frequent accounting;
3. eliminates specific references to submission of periodic accounts for filing only during the three-year period and related procedures upon this filing; and
4. eliminates the requirement that the account include an inventory of the trust estate. (The Probate Court Rules of Procedure specify what must be included in a periodic account.)

The act also eliminates a requirement that the probate court hold a hearing when a trustee in insolvency provides his or her final account to the court. It retains this requirement for conservators, guardians, and trustees of a testamentary trust.

PA 16-26—sSB 428
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING FUNDING OF LEGAL SERVICES FOR THE POOR

SUMMARY: This act increases certain court filing fees and directs the revenue from the fee increase to the organization administering the Interest on Lawyers' Trust Accounts (IOLTA) program to fund legal services for the poor.

It also expands the permissible uses of the Superior Court's Client Security Fund (see BACKGROUND) to include grants to the organization administering the IOLTA program for this same purpose. The act specifies that only money deposited in the fund on or after October 1, 2016 may be used for such grants.

By law, with some exceptions, attorneys must pay an annual fee to the Client Security Fund. The practice book sets the fee at $75. Attorneys who do not practice law as their occupation pay half the fee if their earned legal fees are below a certain annual threshold. The act increases this threshold from $450 to $1,000.

EFFECTIVE DATE: July 1, 2016

INCREASED COURT FILING FEES

The act increases the fees for filing certain court actions and motions, as shown in Table 1.

Table 1: Fee Increases

Act §	*Action or Motion*	*Prior Fee*	*Fee under the Act*
2	Request for a jury in civil cases	$425	$440
3	Filing civil cases generally (different fees apply to certain types of cases)	350	360
3	Filing a case in which the sole claim for relief is damages and the amount, legal interest, or property in demand is less than $2,500	225	230
3	Filing a small claims case or a counterclaim in such a case	90	95
3	Request for designation as a complex litigation case	325	335
3	Application for a pre-judgment remedy	175	180
3	Motion for admittance as attorney pro hac vice	600	620

Act §	*Action or Motion*	*Prior Fee*	*Fee under the Act*
3	Filing a counterclaim, cross complaint, apportionment complaint, or third-party complaint	200	205
4	Motion to modify the judgment in a family relations matter	175	180
4	Motion to modify a Superior Court judgment in any matter other than those in which a different fee applies (i.e., housing, small claims, and family relations) or no fee applies (e.g., juvenile matters)	125	130
4	Motion to open or reargue a Supreme Court or Appellate Court judgment	125	130
5-8	Application for execution of an unsatisfied judgment, including (1) debts due from financial institutions or other sources and (2) wage executions against a judgment debtor who fails to comply with an installment payment order	100	105

The act requires the chief court administrator or his designee, by the last day of January, April, July, and October each year, to:

1. certify the amount of revenue received as a result of the fee increases and
2. transfer that amount to the organization administering the IOLTA program to fund legal services for the poor.

BACKGROUND

Client Security Fund

Existing law authorizes the Superior Court, under rules adopted by the judges, to create this fund to (1) reimburse claimants for losses caused by an attorney's dishonest conduct in an attorney-client relationship and (2) provide crisis intervention and referral assistance to attorneys who have alcohol or substance abuse, gambling, or behavioral health problems.

PA 16-30—sHB 5344
Judiciary Committee

AN ACT CONCERNING SUPPORT FOR CATS AND DOGS THAT ARE NEGLECTED OR TREATED CRUELLY

SUMMARY: This act allows judges to appoint volunteers, from a list of attorneys and law students provided by the agriculture commissioner, to advocate for the interests of justice in certain proceedings involving animals. (It is unclear, but presumably the act applies only to proceedings involving the welfare or custody of cats or dogs.) Specifically, the court may appoint a separate advocate in (1) prosecutions for animal cruelty or fighting, (2) court proceedings stemming from an animal control officer's seizure of a cruelly treated or neglected animal, and (3) criminal cases involving the welfare or custody of cats or dogs.

Under the act, the court may appoint an advocate on its own initiative or when any party requests one. The act prohibits the appeal of a decision denying a request for an advocate.

The act requires the Department of Agriculture to maintain a list of (1) attorneys with knowledge of animal issues and the legal system and (2) law schools that have or anticipate having students interested in animal issues and the legal system. It authorizes these attorneys and law students to serve as advocates and requires law students doing so to be governed by the Connecticut Practice Book's legal intern provisions.

The act allows these advocates to do the following:

1. monitor the case;
2. consult individuals with information that could aid the judge or fact finder;

3. review records of the cat's or dog's condition and the defendant's actions, including records from animal control officers, veterinarians, and police officers;
4. attend hearings; and
5. present to the court information or recommendations related to the interests of justice, provided the information and recommendations are based solely on the advocate's duties under the act.

EFFECTIVE DATE: October 1, 2016

PA 16-33—sSB 349
Judiciary Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE PRIVACY OF A MINOR

SUMMARY: This act modifies the applicability of the Freedom of Information Act (FOIA) to police body camera recordings. It generally makes body camera recordings of a minor confidential but requires disclosure if:

1. the minor and his or her parent or guardian consent to disclosure;
2. the minor or his or her parent or guardian alleges police misconduct, and the person representing the accused officer in an investigation requests disclosure solely to prepare a defense; or
3. a person is charged with a crime and his or her counsel requests disclosure solely to aid in the person's defense, provided the record's discovery as evidence is otherwise allowed.

The act also modifies provisions on disclosing recordings of the scene of an incident involving a victim of domestic abuse, sexual abuse, homicide, suicide, or a fatal accident. Prior law exempted these recordings from disclosure under FOIA if disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy. The act (1) limits this provision to protect only the victim's personal privacy from invasion and (2) makes these recordings confidential (presumably, this means they must be withheld). Under prior law, it was unclear whether a recording could be withheld because of its effect on the personal privacy of another person, such as a victim's family member.

The law prohibits officers from intentionally making certain other types of body camera recordings, unless agreed to by the law enforcement agency and the federal government. These recordings are not subject to disclosure under FOIA and the act makes them confidential. The recordings consist of the following:

1. communications with other law enforcement personnel unless within the performance of their duties;
2. encounters with undercover officers or informants;
3. officers on break or engaged in personal activity;
4. people undergoing medical or psychological evaluations, procedures, or treatment;
5. people, other than suspects, in a hospital or medical facility; or
6. those made in a mental health facility, unless in response to a call involving a suspect in such a facility.

By law, body camera recordings not referred to in the act are subject to disclosure under FOIA unless they meet a generally applicable FOIA exemption.

EFFECTIVE DATE: Upon passage

PA 16-34—sHB 5054
Judiciary Committee

AN ACT PROTECTING VICTIMS OF DOMESTIC VIOLENCE

SUMMARY: This act makes changes in various laws that relate to restraining and civil protection orders (see BACKGROUND), service of process, the state marshal commission, and firearms and ammunition possession.

With regard to the service of civil restraining orders, the act, among other things:

1. revises the civil restraining order application form to allow the inclusion of information on whether the respondent (accused) has a firearm eligibility or ammunition certificate;
2. reduces, from five to three, the number of days before a hearing date when process must be served;
3. in certain circumstances, requires a proper officer (i.e., person authorized to serve process) to request the presence of a state or municipal police officer when service is executed; and
4. continues an ex parte order (i.e., an order issued without a hearing) beyond the initial hearing date under certain circumstances.

The act requires the chief court administrator to (1) revise and simplify the restraining order application process; (2) allocate space in the court, where feasible, for meetings between state marshals and restraining order applicants; (3) annually collect civil restraining and protection order data; and (4) develop and make available to the public educational material on risk warrants.

The act extends certain firearms and ammunition prohibitions to people subject to an ex parte civil restraining or protection order issued in a case involving physical force. It expressly prohibits the Department of Emergency Services and Public Protection (DESPP) commissioner from issuing a gun permit or firearms eligibility certificate to anyone subject to such an order. The act makes a person ineligible to possess firearms or ammunition on receiving legal notice that he or she is subject to an ex parte order and makes it a class C felony (see Table on Penalties) for such a person to violate firearms or ammunition transfer, delivery, or surrender requirements, as is already the case for anyone subject to any other order of protection.

The act also requires the commissioner, at the request of a person who was subject to such an order and on verification of the order's expiration, to reinstate any gun or ammunition credential revoked as a result of the order, if the person is otherwise eligible for the credential.

The act also shortens, from two business days to 24 hours, the deadline by which a person who becomes subject to any type of order of protection in a case involving physical force must transfer, deliver, or surrender his or her firearms and ammunition. It imposes the same 24-hour deadline on such transfers by people subject to an ex parte order. It (1) gives people required to surrender their firearms or ammunition to law enforcement the option to surrender them to a municipal police department, instead of just the DESPP commissioner; (2) requires the DESPP commissioner to update the protocol to allow for such a surrender; (3) requires DESPP and law enforcement agencies, in certain circumstances, to return firearms and ammunition when an ex parte order expires; and (4) provides for the request and return of firearms and ammunition when an order expires or is rescinded.

The act also requires state marshals and other proper officers to enter specific service-related information in the judicial branch's internet-based service tracking system (see BACKGROUND). And it requires, rather than allows, the state marshal commission to adopt rules to conduct its internal affairs.

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016

§ 3 — CIVIL RESTRAINING ORDERS

Application

The act expands the type of gun-related information that may be included in an application for a civil restraining order. Under prior law, the form had to allow the applicant to indicate only whether the respondent held a gun permit or possessed firearms or ammunition. Under the act, the form must also allow the applicant to indicate whether the respondent has a handgun or long gun eligibility certificate or an ammunition certificate.

Initial Hearing Date

Under existing law, the court must hold a hearing within 14 days after receiving a restraining order application. Under the act, the court must order a hearing within seven days after issuing an ex parte order if an application indicates that the respondent holds a gun permit, possesses firearms or ammunition, or has a handgun or long gun eligibility certificate or an ammunition certificate.

The act reduces, from five to three, the number of days before a hearing by which a respondent must be served notice of the hearing, the application and accompanying affidavits, and any ex parte order.

Ex Parte Order Extension

The act sets conditions under which the court can continue an ex parte order. Under existing law, an ex parte order is generally in effect until the hearing date. The act requires the court to continue the order for up to 14 days from the original hearing date if the (1) respondent has not been served by the date of the hearing and (2) applicant requests the extension. The court must do so based on the information in the original application.

Under the act, the court must prepare a new hearing and notice order containing the new hearing date. The respondent must be served with the new hearing and notice order at least three days before the new hearing date.

Service of Process

The act requires the officer responsible for serving an ex parte order to take certain steps when the court issues an ex parte order if the application indicates that the respondent (1) holds a gun permit, a handgun or long gun eligibility certificate, or an ammunition certificate or (2) possesses ammunition or one or more firearms. In such a case, the proper officer must, whenever possible, provide in-hand service and, before serving the order:

1. notify the law enforcement agency of the town in which the respondent will be served of the time and place of service;
2. send, or cause to be sent by fax or other means, a copy of the application, applicant's affidavit, ex parte order, and hearing notice to the law enforcement agency; and
3. request the presence of a police officer from the appropriate law enforcement agency when service is executed.

The act allows the law enforcement agency (State Police or any municipal department), on receiving such a request, to designate a police officer to be present when the proper officer serves process.

§§ 3 & 6 — SERVICE TRACKING

The act requires state marshals and other proper officers, as soon as possible but no more than two hours after serving a civil restraining or protection order, to enter the date, time, and method of service into the judicial branch's internet-based service tracking system. If the respondent is not served before the date of the scheduled hearing, the officer must indicate in the system that service was unsuccessful.

§ 6 — COPY OF ORDER TO DESPP

By law, the court must send, by fax or other means, a copy of any civil restraining or protection order (including an ex parte order) or the information in the order, within 48 hours of its issuance, to the law enforcement agency or agencies for the towns where the applicant and respondent reside and where the applicant works. Under the act, the court must also send such a copy or information to the DESPP commissioner immediately after issuing a civil protection order.

§§ 4 & 5 — COURT SPACE, APPLICATION PROCESS, AND EDUCATIONAL MATERIAL

Civil Restraining Order

The act requires the chief court administrator (administrator), where feasible, to allocate space for a meeting between state marshals and restraining order applicants in each Superior Court to which the service of a restraining order may be returned.

The act also requires the administrator to revise and simplify the process for filing a civil restraining order application. Under the act, the administrator must ensure that anyone seeking to apply for relief from abuse receives a one-page, plain language explanation of how to apply for a restraining order. By law, an applicant for such an order must be a family or household member. A non–household or non-family member may only apply for a civil protection order.

Civil Restraining and Civil Protection Orders

Under the act, the administrator must also collect data annually on the:

1. number of restraining and protection orders issued,
2. number of these orders that applicants did not pick up from the court,
3. method used when service was successful,
4. number of requests that a police officer be present when service of process for a restraining order is executed, and
5. number of orders that expired or were dismissed because the respondent could not be served.

The act also requires the administrator to develop educational materials on the risk warrant process relating to someone who poses a risk of imminent personal injury to himself, herself, or others. (A risk warrant is a warrant to search a specific person, place, or thing to seize any firearms and ammunitions.) The administrator must make this educational material available to the public.

§ 2 — STATE MARSHAL COMMISSION RULES

The act requires, rather than allows, the state marshal commission to adopt rules it deems necessary to conduct its internal affairs. Under the act, this includes rules that provide for:

1. timely, consistent, and reliable access to a state marshal for civil restraining order applicants (but not for civil protection order applicants),
2. services to people with limited English proficiency or who are deaf or hearing impaired, and
3. service of process using a clear and accurate copy of the original document.

§ 7 — ELIGIBILITY TO POSSESS FIREARMS AND AMMUNITION

Under existing law, a person is ineligible to possess firearms and ammunition when the court issues a civil restraining or protection order against him or her after notice and a hearing in a case involving the use, attempted use, or threatened use of physical force against another person.

Under the act, in the same type of case, the respondent becomes ineligible to possess firearms and ammunition when he or she receives notice of an ex parte order.

§§ 7, 15 & 16 — TRANSFER, DELIVERY, OR SURRENDER OF FIREARMS AND AMMUNITION

Time Frame for Transfer, Delivery, or Surrender (§ 7)

The act shortens the deadline by which a person must transfer, deliver, or surrender his or her firearms and ammunition if he or she becomes ineligible to possess them after becoming subject to a civil restraining order, civil protection order, criminal protective order, or foreign order of protection involving force. Under prior law, the deadline was within two business days after the person became ineligible. Under the act, the deadline is within 24 hours of becoming ineligible.

The act also extends its gun-related surrender requirements to people subject to an ex parte order.

Delivery or Surrender to Police Department (§ 7)

The act gives people who must surrender their firearms or ammunition the option of surrendering them to a municipal police department on the DESPP commissioner's behalf, instead of just to the commissioner. It requires the police department, as is already the case for the commissioner, to exercise due care when receiving and holding the weapons.

The act removes prior law's option that allowed anyone subject to such an order to transfer ammunition to another person eligible to possess it.

By law, a person or his or her legal representative may, up to one year after delivering or surrendering his or her firearms or ammunition to DESPP, ask the commissioner to transfer them to an eligible person. The commissioner must conduct the transfer within 10 days of receiving the request (except in a case involving a protection order, in which case weapons may only be transferred to a federally licensed dealer pursuant to a sale). The act makes a conforming change allowing the person or legal representative to request the police department to make such a transfer.

By law, the commissioner must destroy any firearms or ammunition that has not been transferred after one year. Under the act, this also applies to police departments to which weapons are delivered or surrendered.

Return of Firearms and Ammunition (§ 7)

Under the act, a person subject to a restraining order, protective order, foreign order of protection, or civil protection order who has delivered or surrendered any pistol, revolver, or other firearm or ammunition to the DESPP commissioner or a local police department, may request the return of the firearm or ammunition when such an order expires or is rescinded. The person making the request must provide notification of the order's expiration or rescission to the commissioner or department.

Within five business days after receiving the request, the act requires the commissioner or department to review the request. They must make any firearm or ammunition available for retrieval if they confirm that the order expired or was rescinded and that the requestor (1) is not otherwise disqualified from possessing the firearm or ammunition and (2) was legally entitled to possess the firearm or ammunition when it was delivered or surrendered.

Violations (§§ 7, 15 & 16)

By law, a person subject to an order of protection who violates the firearms and ammunition transfer, delivery, or surrender requirement is guilty of criminal possession of a firearm or ammunition, as applicable. The act extends these penalties to people who commit such violations while subject to an ex parte order.

By law, criminal possession of a firearm or ammunition is a class C felony, punishable by up to 10 years in prison with a two-year mandatory minimum.

§§ 8-14 — ISSUING, REVOKING, AND REINSTATING GUN AND AMMUNITION CREDENTIALS

The act expressly states that the DESPP commissioner must not issue a gun permit, handgun eligibility certificate, or long gun eligibility certificate to anyone subject to an ex parte order issued in a case involving the use, attempted use, or threatened use of physical force against another person. By law, the commissioner may revoke a permit or certificate for any event that would have disqualified the holder from being issued such a credential.

Under the act, DESPP must reinstate a gun or ammunition credential it revoked based on an ex parte order if the order expires and the respondent, who is not otherwise disqualified, notifies DESPP and DESPP verifies the expiration.

§ 17 — PROTOCOL FOR GUN AND AMMUNITION TRANSFER, DELIVERY, OR SURRENDER

Existing law requires the DESPP commissioner, in conjunction with the chief state's attorney and the Connecticut Police Chiefs Association, to develop a protocol to ensure that people who become ineligible to possess firearms transfer, deliver, or surrender them, as appropriate. The act requires the commissioner to update the protocol to apply its provisions.

BACKGROUND

Orders of Protection

*Civil Restraining Order***.** A family or household member may apply for a civil restraining order for relief from physical abuse, stalking, or a pattern of threatening from another family or household member (CGS § 46b-15).

Civil Protection Order. A victim of sexual abuse, sexual assault, or stalking may apply for a civil protection order if he or she is not eligible for the restraining order described above (CGS § 46b-16a).

Criminal Protective Orders. Courts may independently issue, on behalf of a victim, a (1) protective order after a person is arrested for certain crimes or (2) standing criminal protective order after a person is convicted of certain crimes. The statutes governing these orders do not require a victim to apply for the order (CGS §§ 54-1k and 53a-40e).

Foreign Order of Protection. A foreign order of protection is an injunctive or other court order issued by: another state; the District of Columbia; a U.S. commonwealth, territory, or possession; or an Indian tribe in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection from (1) violence, threatening acts, or harassment or (2) contact, communication with, or physical proximity to, another person (CGS § 46b-15a and 18 U.S.C. § 2266(5)).

Judicial Branch's Service Tracking System

The judicial branch's Protective Order Registry's tracking component enables state marshals to record the service of process in civil restraining order cases. It uses a 24-hour, toll-free voice recognition system that marshals can access by cell phone. The system updates state and national protection order files and faxes a notice of service to corresponding police departments as soon as service information is recorded.

PA 16-40—sSB 142
Judiciary Committee

AN ACT CONCERNING REVISIONS TO THE CONNECTICUT UNIFORM POWER OF ATTORNEY ACT

SUMMARY: This act delays the effective date of the Uniform Power of Attorney Act (UPOA) (adopted in PA 15-240) from July 1, 2016 to October 1, 2016. It also designates the existing sample form that is part of the UPOA as the statutory "long form" and creates a new statutory "short form" for creating a power of attorney (POA). It makes changes to the provisions governing estate planning powers in the long form.

Lastly, the act makes additional minor, technical, and conforming changes to the UPOA.

EFFECTIVE DATE: October 1, 2016, except the provision delaying the UPOA's effective date is effective upon passage.

§§ 2, 5 & 7 — PERSONAL AND FAMILY MAINTENANCE

The UPOA established nine powers that a POA may grant to an agent when the POA grants general authority over personal and family maintenance. The act alters one of the existing powers and adds a tenth one.

Care for Certain Individuals

One of the powers a principal may grant an agent in a POA is authority to perform acts to maintain the customary standard of living of the principal; his or her spouse; and certain others, including the principal's children. The act limits this default provision on supporting the principal's children to those children the principal is legally obligated to support.

Document Directing Disposition or Custody of Body on Death

Existing law allows a principal to authorize an agent to execute a written document, before the principal's death, directing (1) the disposition of the principal's body upon death or (2) someone to have custody and control of the body upon death. The act clarifies that a conservator cannot revoke this document unless authorized by the court.

The act specifies that a principal may grant this authority to an agent under a POA as part of the agent's authority over personal and family maintenance. It allows the document to designate an alternate person to have custody and control of the body. The act specifies that dispositions may include, among other things, cremation, incineration, disposition of cremains, burial, method of internment, alkaline hydrolysis, and cryogenic preservation.

§ 3 — POA FORMS

Designation of Existing Form and Creation of New Short Form

The act designates the existing sample form that is part of the UPOA as the statutory long form and creates a new statutory short form for creating a POA. The short form is generally similar to the long form and includes the categories of powers a principal may grant an agent. Unlike the long form, the short form does not include certain estate planning powers. The act specifies that it does not prohibit the use of other POA forms as desired by the parties.

Both forms (1) list powers that a principal can grant an agent and (2) require the principal to strike out and initial each power that he or she does not wish to grant.

Estate Planning Powers

The act designates certain powers in the long form as estate planning powers. For these powers, the principal must initial next to a specific power listed in the form in order to grant that power to the agent. This applies to powers, with some restrictions, over:

1. inter vivos trusts (trusts made during the grantor's lifetime),
2. gifts,
3. rights of survivorship,
4. designating beneficiaries,
5. authorizing another person to exercise authority under the POA,
6. waiving the right to be a beneficiary of a joint and survivor annuity,
7. exercising fiduciary powers, and
8. disclaiming or refusing an interest in property.

§ 8 — REINSTATEMENT OF AGENT AFTER CONSERVATORSHIP TERMINATES

By law, a probate court appointing a conservator of the estate to manage the affairs of a principal may limit, suspend, or terminate an agent's authority to act for the principal under a POA. Beginning July 1, 2016, prior law would have allowed the probate court to reinstate an agent whose authority was previously limited, suspended, or terminated. The act allows reinstatement only if the agent's authority was limited or suspended, but not terminated.

PA 16-54—sHB 5403
Judiciary Committee
Transportation Committee

AN ACT INCREASING PENALTIES FOR FAILURE TO YIELD TO PEDESTRIANS IN CROSSWALKS AND FAILURE TO EXERCISE DUE CARE TO AVOID HITTING A PEDESTRIAN OR CYCLIST

SUMMARY: This act increases the penalty for two motor vehicle infractions to violations punishable by a fine of up to $500 but subjects the violations to infraction procedures. Thus, it allows violators to (1) pay the fine by mail without a court appearance or (2) contest the fine in court.

The act's penalties apply when a motor vehicle operator:

1. fails to give the right of way, slow, or stop as appropriate for pedestrians at crosswalks; passes a vehicle stopped at a crosswalk; fails to yield to pedestrians and others when crossing a sidewalk; or fails to reduce speed and stop as necessary to yield to a blind pedestrian carrying a white cane or guided by a guide dog or
2. fails to exercise due care to avoid colliding with a pedestrian or person propelling a human-powered vehicle (such as a bicycle) or fails to give a reasonable warning to avoid collision (such as sounding a horn).

Previously, the conduct described first above was punishable by a fine, fee, and surcharge totaling $181 and the second by a fine, fee, and surcharge totaling $92.

Under the act, the fine is also subject to an additional $15 fee, which the state must remit to the municipality where the violation occurred.

By law, infractions and violations subject to infraction procedures are not considered crimes.

EFFECTIVE DATE: October 1, 2016

PA 16-64—sHB 5526
Judiciary Committee

AN ACT CONCERNING THE PAYMENT OF A REASONABLE FEE TO AN OFFICER OR PERSON WHO RECORDS A DOCUMENT IN THE OFFICE OF A TOWN CLERK AND SERVICE OF PROCESS OF A WAGE EXECUTION

SUMMARY: This act expands the duties for which state marshals and others may collect fees by allowing them to collect a reasonable fee for any recording that does not have a recording fee prescribed by law (e.g., recording in municipal land records a "lis pendens" notice that a lawsuit has been filed concerning the title to real property in the municipality). By law, they may collect fees for specified duties (e.g., a $20 travel fee and costs for recording an execution levied on real property).

The act also provides for the proper service of process of a wage execution in a case involving an employer whose address is not within a levying officer's appointed jurisdiction. In such a case, the act allows the officer to serve process or other notice by mail to an address designated by the employer. Under prior law, the officer could serve by mail only to an address within the officer's appointed jurisdiction.

By law, a "levying officer" is a state marshal, constable, or, in certain child support-related cases, any investigator employed by the social services commissioner (CGS § 52-350a(12)).

EFFECTIVE DATE: October 1, 2016

PA 16-67—sHB 5400
Judiciary Committee
Education Committee

AN ACT CONCERNING THE DISCLOSURE OF CERTAIN EDUCATION PERSONNEL RECORDS, CRIMINAL PENALTIES FOR THREATENING IN EDUCATIONAL SETTINGS AND THE EXCLUSION OF A MINOR'S NAME FROM SUMMARY PROCESS COMPLAINTS

SUMMARY: This act adds new requirements to the hiring processes of local or regional boards of education, state or local charter school governing councils, and inter-district magnet school operators ("education employers") for positions

that place applicants in direct contact with students. Specifically, it requires applicants for these positions, education employers, and the State Department of Education (SDE) to participate in additional investigative measures to determine, prior to employment, whether an applicant has a history of sexual misconduct or abuse or neglect involving children. It also requires charter school governing councils and magnet school operators to conform to investigative hiring procedures that apply to boards of education under existing law.

The act also does the following regarding hiring processes:

1. establishes procedures for and prohibitions against hiring certain applicants for select positions with education employers, including student transportation workers, temporary hires, substitute teachers, contractor employees, and prior violators of the mandated reporter law;
2. establishes requirements for sharing information about applicants between education employers and SDE and among education employers;
3. grants immunity from civil and criminal liability to SDE and current and former employers that share information about applicants; and
4. extends regional education service center (RESC) fingerprinting services to charter and magnet schools and regulates fees for these services.

The act also increases the criminal penalty for certain school-related threats and establishes (1) conditions under which the Board of Pardons and Paroles must grant an absolute pardon for such crimes and (2) an absolute defense to a civil action for reporting certain threats.

It also requires the court to remove a minor's name from certain eviction-related records, makes technical and conforming changes, and removes obsolete language.

EFFECTIVE DATE: July 1, 2016, except (1) the provision requiring SDE to make available a standardized employment inquiry form (§ 3) takes effect upon passage and (2) the provisions on threatening crimes and a minor's name on eviction-related records (§§ 6-10) take effect October 1, 2016.

DEFINITIONS

Sexual Misconduct (§ 2(k))

The act defines "sexual misconduct" as any verbal, nonverbal, written, or electronic communication or any act directed toward or with a student that is designed to establish a sexual relationship with the student, including (1) a sexual invitation; (2) dating or soliciting a date; (3) engaging in sexual dialogue; (4) making sexually suggestive comments; (5) self-disclosure or physical exposure of a sexual or erotic nature; and (6) any other sexual, indecent, or erotic contact with a student.

Abuse or Neglect (§ 2(k))

The act refers to existing law to define "abuse" and "neglect." Thus, it defines abuse of a child under age 18 as (1) inflicting physical injury or non-accidental injuries; (2) inflicting injuries that do not match the story associated with their origin; or (3) maltreatment, including (a) malnutrition, (b) sexual molestation or exploitation, (c) deprivation of necessities, (d) emotional maltreatment, or (e) cruel punishment.

The act defines "neglect" as neglect of a child under age 18, other than due to impoverishment, by (1) abandonment; (2) denial of proper care and attention physically, educationally, emotionally, or morally; or (3) allowing a child to live under conditions, circumstances, or associations injurious to his or her well-being.

The act also specifically includes the following crimes in the definition of "abuse or neglect": (1) 1st degree sexual assault; (2) 1st degree aggravated sexual assault; (3) 2nd degree sexual assault; (4) 3rd degree sexual assault; (5) 3rd degree sexual assault with a firearm; and (6) 4th degree sexual assault.

INVESTIGATIVE HIRING PROCEDURES FOR CHARTER AND MAGNET SCHOOLS

The act extends investigative hiring procedures that apply to boards of education to charter governing councils and magnet school operators.

Requirements for Applicants (§ 1(a))

Under the act, charter governing councils and magnet school operators must require applicants for positions in their schools to state whether they have ever been convicted of a crime or have criminal charges pending against them. Additionally, magnet school operators must require applicants to submit to the following:

1. a records check of the Department of Children and Families (DCF) child abuse and neglect registry prior to hire; and
2. state and national criminal history records checks within 30 days of their date of employment, beginning July 1, 2016.

Existing law already requires all charter school applicants and contractors doing business with charter schools to undergo these records checks. The act also allows charter governing councils and magnet school operators to require any employees hired before July 1, 2016 to submit to state and national criminal history records checks.

Additionally, the act requires the following individuals who perform services involving direct student contact in magnet or charter schools to submit to such records checks within 30 days of the date they begin working: individuals (1) placed in a school under a public assistance program; (2) employed by a supplemental services provider (e.g., nonprofit or for-profit entities, local or regional school districts, or private schools that provide free academic extra help); or (3) in an unpaid, noncertified position while completing teacher certification requirements.

NEW REQUIREMENTS FOR APPLICANTS WITH EDUCATION EMPLOYERS

The act requires anyone applying to an education employer for a position involving direct student contact to make three disclosures (see below). It also subjects applicants to disciplinary action for falsifying information or failing to make required disclosures.

Applicant Disclosures (§ 2(a))

First, an applicant must provide the education employer with contact information for current and former employers if they were education employers or if the employment otherwise involved contact with children. The contact information must include each employer's name, address, and telephone number.

Second, the applicant must provide written authorization consenting to and authorizing current and former employers' disclosure of information and related records about him or her that are requested on the SDE-designed standardized inquiry form sent by the interviewing education employer. The written authorization also must consent to and authorize SDE's disclosure of information and related records to requesting education employers and release former employers and SDE from any liability that may arise from this disclosure or release.

Third, the applicant must give a written statement about whether he or she

1. has been the subject of an abuse, neglect, or sexual misconduct investigation by any employer, state agency, or municipal police department unless the investigation resulted in a finding that all allegations were unsubstantiated;
2. has been disciplined or asked to resign from a job or resigned from or otherwise separated from any job while an allegation of abuse or neglect was pending or under investigation by DCF, or an allegation of sexual misconduct was pending or under investigation, or because of an allegation substantiated by DCF of abuse, neglect, or sexual misconduct or a conviction for abuse, neglect, or sexual misconduct; or
3. has had a professional or occupational license or certificate suspended or revoked or ever surrendered one while an allegation of abuse or neglect was pending or under investigation by DCF, or an investigation of sexual misconduct was pending or under investigation, or because of an allegation substantiated by DCF of abuse, neglect, or sexual misconduct or a conviction for any such conduct.

Applicant Discipline (§§ 1(a) & 2(h))

The act subjects both applicants and current employees to discipline for knowingly providing false information or knowingly failing to disclose information the act requires to education employers. Discipline may include denial of employment or termination of a certified employee's contract.

The act also removes the requirement that boards of education give noncertified employees who are dismissed for failure to disclose a criminal conviction an opportunity to file a written answer with the board. Under the act, a copy of the notice of such criminal conviction, the employee's answer, and the dismissal order are no longer required to become part of board records.

NEW REQUIREMENTS FOR EDUCATION EMPLOYERS

The act establishes several new requirements for education employers about (1) procedures prior to offering employment, (2) efforts to contact applicants' current and former employers, and (3) employment agreements to which they are a party.

Requirements Prior to Offering Employment (§§ 2(a) & 2(c))

The act prohibits education employers from offering to hire someone for any position involving direct student contact until the following has occurred:

1. the applicant has complied with the above three disclosure requirements;
2. the education employer has reviewed, either through written or telephone communication with the applicant's current and former employers, the applicant's employment history using SDE's standardized inquiry form for current and past employers, which such employers must complete and return within five business days; and
3. the education employer has requested information from SDE about (a) the applicant's eligibility status for a position requiring a certificate, authorization, or permit; (b) whether SDE knows of any finding of abuse, neglect, or sexual misconduct against the applicant substantiated by DCF, along with any information about such a finding; and (c) notice of any criminal convictions or pending criminal charges against the applicant.

The act also allows education employers to subsequently request additional information from an applicant's current or former employers to further investigate any response the employers supplied on the standardized form, to which the employers must respond within five business days of receipt.

Efforts to Contact Applicants' Employers (§ 2(l))

The act requires education employers to make a documented good faith effort to contact an applicant's current and former employers that were education employers or employers of positions involving child contact. It specifies that a "good faith effort" does not require more than three telephone requests on three separate days to obtain information and recommendations about the applicant's fitness for employment. Prior law required boards of education to make a good faith effort to contact previous employers before hiring applicants but did not quantify the number of contact attempts or specify the contact methods required.

Employment Agreements (§ 2(e))

The act bars education employers from entering into any collective bargaining agreement, employment contract, resignation or termination agreement, severance agreement, or any other agreement, or take any action that:

1. suppresses information about the investigation of reported suspected abuse, neglect, or sexual misconduct by a current or former employee;
2. affects the education employer's ability to report suspected abuse, neglect, or sexual misconduct to the appropriate authorities; or
3. requires the education employer to expunge information about an allegation or finding of abuse, neglect, or sexual misconduct from any documents maintained by the board unless after investigation the allegation is dismissed or found false.

NEW REQUIREMENTS FOR SDE

Under the act, SDE must share information about applicants with education employers and create a standardized inquiry form for education employers to use when contacting applicants' current and former employers for information.

Information Sharing (§ 1(h))

The act requires SDE to make the following applicant information available to any education employer that requests it:

1. any information about the applicant's employment eligibility with such education employer for a position requiring a certificate, authorization, or permit;
2. whether SDE knows if the applicant was disciplined for a finding of abuse, neglect, or sexual misconduct and any information related to the finding; and
3. whether SDE received notice that the applicant has been convicted of a crime or has pending criminal charges against him or her and any information about such charges.

The act specifies that SDE is not required to investigate any education employer's request for information about an applicant.

Standardized Inquiry Form (§§ 2(a)(2) & 3)

By June 30, 2016, SDE must design and make available to education employers a standardized form for current and past employers of such applicants to complete. Before offering employment to an applicant, education employers and contractors are responsible for sending the questions on this form, either in writing or orally by telephone, to the applicant's current and former employers. The form must request the applicant's dates of employment and ask whether the employer knows if the applicant:

1. was the subject of abuse, neglect, or sexual misconduct allegations for which there is a pending investigation by any employer, state agency, or municipal police department or which have been substantiated;
2. was disciplined, asked to resign, or resigned from any job (a) while such allegations were pending or under investigation or (b) due to substantiated findings of abuse, neglect, or sexual misconduct; or
3. ever had a professional or occupational license, certificate, authorization, or permit suspended or revoked, or has ever surrendered one while an allegation of abuse, neglect, or sexual misconduct was pending or under investigation or due to a substantiation of such an allegation.

HIRING PROCEDURES AND PROHIBITIONS FOR SELECT POSITIONS

The act establishes new procedures and applies existing procedures for hiring applicants for select positions to certain education employers. These positions include school transportation workers, temporary hires, substitute teachers, and employees of contractors serving education employers. The act also revises an existing prohibition on hiring violators of the mandated reporting law.

School Bus Drivers and Other Student Transportation Workers (§ 1(d))

By law, school transportation workers (i.e., school bus drivers or operators of other vehicles that transport students) must submit to criminal history records checks prior to receiving an operator's license with school or student transportation vehicle endorsements from the Department of Motor Vehicles. Prior law exempted these workers from having to submit to these records checks again as part of the hiring process with education employers. The act removes this exemption.

Temporary Hires (§ 2(d))

The act allows education employers to employ or contract with an applicant temporarily, for up to 90 days, while awaiting the complete review of his or her application information, as long as the following has occurred:

1. the applicant has submitted to the education employer the three disclosures required under the act,
2. the education employer has no information about the applicant that would disqualify him or her from employment, and
3. the applicant has affirmed that he or she is not disqualified from employment with the education employer.

Substitute Teachers (§§ 1(c), 2(f) & 4)

The act requires charter school governing councils and interdistrict magnet school operators to require state and national criminal history records checks for applicant substitute teachers. It exempts from these checks substitute teachers continuously employed by charter and magnet schools. (Existing law already requires substitute teachers employed by local and regional boards of education to submit to these checks and grants them an identical exemption.) For all education employers, however, the act requires that continuously-employed substitute teachers be rechecked at least once every five years.

The act requires education employers to only hire applicants for substitute teaching positions (1) who fulfill the disclosure requirements and (2) after requesting information from the applicants' prior employers and SDE (in the same manner the act requires for other applicants).

Also, the act requires local and regional boards of education to maintain a list of individuals suitable to work as substitute teachers and requires education employers to hire only those on the list. (It is unclear whether charter and magnet schools must create similar lists or use the lists generated by boards of education.) An individual remains on the list as long as (1) he or she is continuously employed by the education employer as a substitute teacher and (2) the education employer is not aware of anything that would cause the person to be removed from the list.

Contractors' Employees (§ 2(g))

In practice, education employers occasionally hire contractors to provide services that involve direct student contact. The act establishes requirements for contractors' employees who provide these services.

Under the act, a contractor's employee must fulfill the same three disclosure requirements as an applicant for employment with an education employer. Additionally, the contractor must contact any current or former employers that were education employers or caused the applicant to have contact with children and request, either by telephone or in writing, any information about whether there was a finding of abuse, neglect, or sexual misconduct against the employee. The employer must report any such information.

Should the contractor receive any information indicating such a finding or otherwise knows of one, the contractor must immediately forward, either by telephone or in writing, the information to any board of education with which it contracts. (It is unclear whether such information must be sent to contracting charter school governing councils or magnet school operators as well.) The education employer must then determine whether the contractor's employee may work in a position involving direct student contact at any school under its jurisdiction. It is not considered a breach of contract under the act for a board of education to bar the contractor's employee from working under any such contract in such a position.

Mandated Reporting Law Violators (§§ 2(m) & 11)

The act prohibits boards of education from hiring anyone who was terminated by an education employer, or resigned, because he or she failed to report a suspected crime against a minor when required to do so (e.g., abuse, neglect, or injury of a child or imminent risk of serious harm to a child). Prior law established this hiring prohibition for applicants who were terminated by a board of education or who resigned from a position with a board of education.

Under the act, this prohibition applies only when an allegation of abuse, neglect, or sexual assault has been substantiated. Under prior law, the hiring prohibition applied regardless of whether the allegation was substantiated.

INFORMATION SHARING

The act requires SDE, potential education employers, and former and current employers to share information about the misconduct of applicants and current employees. It also establishes legal protections for these entities when sharing this information about applicants.

Sharing by Education Employers with SDE (§ 2(b))

The act requires education employers to notify SDE when they receive information that applicants or current employees have been disciplined for a finding of abuse, neglect, or sexual misconduct.

Requests to Share among Education Employers (§ 2(j))

Under the act, an education employer must provide, on request, to any other education employer or to the education commissioner, information it may have about a finding of abuse, neglect, or sexual misconduct regarding someone being considered for a job as a direct employee of another education employer or a contractor. An education employer also must provide, at the education commissioner's request, information about current employees who have been disciplined as a result of such findings.

Immunity for SDE and Applicant Employers (§ 2(i))

The act provides immunity from criminal and civil liability to SDE and any employer that provides an education employer with information about an applicant as required under this act, as long as the information supplied is not knowingly false.

FINGERPRINTING SERVICES

Services and Fees (§ 1(b))

The act allows charter school governing councils and magnet school operators to request RESC fingerprinting services for state and national criminal history records checks. Existing law already allows local and regional boards of education, special education facilities, and endowed or incorporated academies to access this service. The act also prohibits RESCs from charging a fee for fingerprinting services that exceeds any fee the RESC charges its own employment applicants.

Results Availability (§ 1(b))

Under the act, a RESC must provide records check results to the following parties that requested the service: charter school governing councils; magnet school operators; and contractors, if the contractor's employee is subject to the records checks upon applying for a position with an education employer. Existing law requires RESCs to provide these results to boards of education, special education facilities, and endowed or incorporated academies that request fingerprinting services.

THREATENING CRIMES

Penalties for School-Related Threats (§§ 6 & 7)

By law, 1st degree threatening includes threats to commit a violent crime, or a crime using a hazardous substance, with intent to cause, or with reckless disregard of the risk of causing, (1) evacuation of a building, place of assembly, or public transportation facility; (2) serious public inconvenience; or (3) for hazardous substance crimes, terror in a person.

The act increases the penalty for 1st degree threatening, from a class D felony to a class C felony (see Table on Penalties), if the threat was made with intent to cause the evacuation of a building or the grounds of a public or private preschool, school, or higher education institution during instructional hours or when the facility or the grounds are being used for school- or institution-sponsored activities.

By law, a person is guilty of 2nd degree threatening when he or she (1) by physical threat, intentionally places or attempts to cause someone to fear imminent serious physical injury or (2) threatens to commit a violent crime with intent to terrorize someone or in reckless disregard of the risk of doing so.

The act increases the penalty for this crime from a class A misdemeanor (see Table on Penalties) to a class D felony if the threatened person was in the building or on the grounds of a school, as defined above, during instructional hours or when the school or the grounds are being used for school- or institution-sponsored activities.

Absolute Pardon (§ 8)

Under the act, the Board of Pardons and Paroles must grant an absolute pardon to an adult applicant who was convicted of 1st or 2nd degree threatening related to a preschool, school, or higher education institution as described above, if the following circumstances apply:

1. the person was under age 18 when he or she committed the offense;
2. at least three years have passed since the person's conviction or discharge from court supervision or the care of an institution or agency to which he or she was committed, whichever is later, and during that three-year period, the person was not convicted as an adult of any crime; and
3. the person has no subsequent pending juvenile proceeding or adult criminal proceeding.

Defense for Reporting Threats (§ 9)

The act also gives someone who reports 1st degree threatening intended to cause a school evacuation an absolute defense to a civil action brought as a result of making the report, if the person exercised due care when making the report and acted in good faith at all times while making the report.

§ 10 — MINOR'S NAME ON EVICTION-RELATED RECORDS

By law, a summary process judgment (i.e., eviction order) binds the named defendants and their minor children. This means that minors are also required to adhere to an eviction order. If the minor's name was included in the complaint, the act allows the court, upon its own motion or the motion of any party, to order that the minor's name be stricken from the case record and removed from the records the judicial branch maintains on its website.

PA 16-70—sHB 5605
Judiciary Committee

AN ACT CONCERNING THE TERMINATION OF PARENTAL RIGHTS

SUMMARY: This act reduces the standard of proof a Superior Court or probate court judge must apply when determining whether to terminate parental rights in cases involving a child conceived as a result of a sexual assault. It no longer requires a finding of guilty in such cases but instead allows judges to terminate parental rights if they find, upon clear and convincing evidence, that the respondent (accused) parent committed the assault.

If the respondent parent was found not guilty of sexual assault in the Superior Court and there is a termination proceeding in probate court, the act requires the probate court to transfer the case, original files, and related papers to Superior Court. In such a case, the act allows the Superior Court to terminate parental rights after notice and a hearing.

The act specifically applies to eight types of sexual assault crimes: 1st, 2nd, 3rd, and 4th degree sexual assault; 3rd degree sexual assault with a firearm; 1st degree aggravated sexual assault; aggravated sexual assault of a minor; and sexual assault in a spousal or cohabiting relationship.

The act maintains existing law's requirement that in all termination of parental rights cases, the court also find, upon clear and convincing evidence, that terminating parental rights is in the child's best interest.
EFFECTIVE DATE: July 1, 2016

PA 16-71—sHB 5621
Judiciary Committee

AN ACT CONCERNING HUMAN TRAFFICKING

SUMMARY: This act makes a number of changes related to human trafficking. It:

1. increases the Trafficking in Persons Council's membership and changes the council's charge;
2. requires the state's attorneys for the 13 judicial districts and all municipal police chiefs to annually report information on trafficking cases and their anti-trafficking efforts to the Children's and Judiciary committees;
3. requires operators of hotels, motels, inns, and similar lodgings to (a) maintain a system to keep records of all guest transactions and receipts for at least six months and (b) ensure that their employees receive training on human trafficking when they are hired and conduct ongoing awareness campaigns (§§ 3 & 5);
4. requires the Department of Children and Families (DCF) and Department of Emergency Services and Public Protection (DESPP) commissioners to consult with state and national hotel and lodging associations to recommend a training and refresher training program on human trafficking; and
5. requires more people to post a notice about services for human trafficking victims.

The act also makes a number of changes to trafficking-related crimes. Among other things, it:

1. prohibits someone age 16 or 17 from being convicted of prostitution and alters eligibility for vacating a prostitution conviction,
2. expands the conduct punishable as a class C felony (see Table on Penalties) under the crime of patronizing a prostitute,
3. sets the fine that is part of the penalty for certain prostitution-related crimes at the maximum of the range that previously applied for each crime,
4. expands the crime of enticing a minor to include enticing a minor age 16 or 17 or someone reasonably believed to be under age 18,

5. changes the types of property subject to forfeiture as tainted funds and property related to sexual exploitation and human trafficking by (a) eliminating funds and property related to prostitution from these procedures and (b) subjecting to forfeiture property used or intended for use to commit or facilitate committing the crimes of patronizing a prostitute or patronizing a prostitute from a motor vehicle, and
6. expands the trafficking in persons crime and allows the court to impose a standing criminal protective order against someone convicted of certain types of trafficking.

The act also requires the judicial branch's family violence training program for judges, certain judicial branch employees, and guardians ad litem to include an examination of the factors that contribute to a family being at risk of domestic violence.

EFFECTIVE DATE: October 1, 2016, except the annual reporting requirement for state's attorneys and municipal police chiefs is effective upon passage.

§ 1 — TRAFFICKING IN PERSONS COUNCIL

The act increases the Trafficking in Persons Council's membership from 22 to 25 by:

1. adding as members the consumer protection commissioner and Police Officer Standards and Training Council Basic Training Division director, or their designees;
2. adding as a second appointment by the Senate president pro tempore a public member representing the Connecticut Alliance to End Sexual Violence;
3. adding as a second appointment by the House speaker a public member representing the Connecticut Lodging Association; and
4. eliminating, as one of the governor's appointments, a member representing Connecticut Sexual Assault Crisis Services, Inc.

The act changes the council's charge by (1) eliminating the council's duty to identify criteria for providing services to adult and child trafficking victims and (2) requiring it to coordinate the collection, analysis, and dissemination of data on human trafficking. By law, the council must also meet to provide updates and progress reports and consult with government and private organizations in developing recommendations on trafficking efforts.

§ 2 — REPORTS ON TRAFFICKING ACTIVITIES AND STATISTICS

The act requires each state's attorney and each municipal police chief to report to the Children's and Judiciary committees annually, beginning by October 1, 2016, on:

1. their participation in federal, statewide, or regional anti-trafficking efforts;
2. the criteria used when deciding whether to investigate human trafficking allegations or initiate related criminal proceedings;
3. coordination between the Chief State's Attorney's Office and local police departments on trafficking cases;
4. the nature of annual training provided by each state's attorney and local police department on trafficking;
5. obstacles to investigating trafficking; and
6. the number of (a) referrals made related to human trafficking allegations, (b) missing children investigations, (c) referrals from DCF relating to trafficking, and (d) trafficking cases referred for prosecution.

The act also requires state's attorneys to report for the previous 12 months on the (1) number of trafficking cases that resulted in convictions and (2) final dispositions of trafficking cases, including those appealed.

§§ 4 & 5 — TRAINING

The act requires the DCF and DESPP commissioners to consult with state and national hotel and lodging associations to recommend a training and refresher training program for accurately and promptly identifying and reporting suspected human trafficking. As part of the training, the commissioners must develop and approve a video presentation that offers guidance to hotel, motel, and similar lodging employees on recognizing potential trafficking victims and common trafficking activities.

The act also requires operators of hotels, motels, and similar lodgings to ensure that employees in these establishments receive training when they are hired on recognizing potential trafficking victims and common trafficking activities. They must also (1) conduct ongoing awareness campaigns for employees on common human trafficking activities and (2) annually, beginning by October 1, 2017, certify in each employee's personnel file that the employee received the training.

§§ 6 & 15 — PROSTITUTION

Conviction

The act prohibits convicting someone age 16 or 17 of prostitution. Previously, someone this age could be convicted of prostitution but he or she was presumed to be a human trafficking victim. The presumption provided an affirmative defense to a prostitution charge.

By law, prostitution is a class A misdemeanor (see Table on Penalties).

Vacating Conviction

Prior law allowed anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct that, at the time of the offense, amounted to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law.

Instead of tying eligibility to the person's status at the time of the prostitution crime as described above, the act requires the person to show that his or her participation in the prostitution crime was because he or she was a victim of trafficking or the conduct described above.

By law, after receiving an application to vacate a prostitution conviction, the court must (1) give the prosecutor an opportunity to investigate and contest the application and (2) vacate the judgment and dismiss the charge if the defendant proves he or she was a victim of the conduct.

§ 7 — PATRONIZING A PROSTITUTE

Under prior law, patronizing a prostitute was a class C felony if the person knew or reasonably should have known at the time of the offense that the prostitute was under age 18 or a trafficking victim. The act subjects someone to this penalty regardless of whether he or she knows or should have known the prostitute's age or status as a trafficking victim.

By law, other forms of patronizing a prostitute are punishable as a class A misdemeanor. The act sets the fine at $2,000 for this crime. Previously, courts could impose a fine of up to $2,000.

§§ 8 & 16-19 — FINES FOR CERTAIN PROSTITUTION-RELATED CRIMES

The act sets the fine that is part of the penalty for certain prostitution-related crimes at the maximum of the range that was previously applicable for each crime, as shown in Table 1.

Table 1: Penalties for Various Prostitution-Related Crimes and Changes to Fines Under the Act

Crime (§)	*Classification*	*Prison Penalty*	*Prior Fine*	*Fine Under the Act*
Patronizing a prostitute from a motor vehicle (§ 8)	Class A misdemeanor	Up to one year	Up to $2,000	$2,000
1st degree promoting prostitution (§ 16)	Class B felony	Up to 20 years, with a nine-month mandatory minimum if involving prostitute under age 18	Up to $15,000	$15,000
2nd degree promoting prostitution (§ 17)	Class C felony	Up to 10 years	Up to $10,000	$10,000
3rd degree promoting prostitution (§ 18)	Class D felony	Up to five years	Up to $5,000	$5,000
Permitting prostitution (§ 19)	Class A misdemeanor	Up to one year	Up to $2,000	$2,000

§ 9 — ENTICING A MINOR

By law, a person commits this crime by using an interactive computer service to knowingly persuade, induce, entice, or coerce a minor to engage in prostitution or illegal sexual activity.

The act expands this crime to include enticing a minor age 16 or 17; prior law applied to minors under age 16. It also expands the crime to punish someone who reasonably believes the person being enticed is under age 18.

By law, this crime is a class D felony for a first offense, a class C felony for a second offense, and a class B felony for a third or subsequent offense. But if the victim is under age 13, it is a class B felony, with a five-year mandatory minimum for a first offense and a 10-year mandatory minimum for a subsequent offense.

§ 10 — POSTING TRAFFICKING NOTICES

The act requires more people to post a notice developed by the Office of the Chief Court Administrator about services for human trafficking victims.

It expands the types of service stops that must post the notice. Previously, privately owned and operated facilities offering food, fuel, lawful overnight truck parking, and shower and laundry facilities were required to post it. The act instead requires any publicly or privately operated highway service plaza to post it. It also requires hotels, motels, similar lodgings, and businesses that offer materials for sale or promote performances for adult audiences to post the notice.

The act requires someone to post the notice if he or she holds one of the following types of on-premises consumption permits for the retail sale of alcohol: restaurant permit, restaurant permit for beer, restaurant permit for wine and beer, or café permit. As under existing law, other retail alcohol permit holders must post the notice, except for those who hold only one or more of the following permits:

1. caterer, railroad, boat, airline, military, charitable organization, or special club permit;
2. temporary liquor or temporary beer permit; or
3. farm winery or beer manufacturer permit, beer and brew pub manufacturer permit, or other manufacturer permit.

By law, this notice must state the toll-free state and federal anti-trafficking hotline numbers that someone can call if he or she is forced to engage in an activity and cannot leave.

§§ 12 & 14 — TRAFFICKING IN PERSONS CRIME AND STANDING CRIMINAL PROTECTIVE ORDERS

The act expands the trafficking in persons crime. Previously, a person could commit this crime by compelling or inducing another person to engage in multiple occurrences of sexual contact with at least one third person by (1) using or threatening to use force against either person or (2) committing fraud or coercing the person. The act expands the crime by requiring only one occurrence of sexual contact under these circumstances.

Previously, another way to commit this crime was to compel or induce someone under age 18 to engage in more than one occurrence of sexual contact that is prostitution or illegal sexual contact with a third person. The act expands the crime by requiring only one occurrence of sexual contact and eliminating references to prostitution. The act also allows the court to impose a standing criminal protective order against someone convicted of committing this type of trafficking.

By law, this crime is a class B felony.

§ 13 — JUDICIAL BRANCH TRAINING

The act requires the judicial branch's family violence training program to include an examination of the factors that contribute to a family being at risk of domestic violence. By law, the branch provides this training to judges, Court Support Services Division personnel, guardians ad litem, and clerks.

As under existing law, this training program covers policies and procedures on family relations matters, family violence prevention and response, the function of family violence intervention units, and restraining and protective orders.

As under existing law, the branch may consult with domestic violence organizations on the training program.

BACKGROUND

Standing Criminal Protective Order

The law allows the court to issue one of these orders when someone is convicted of a family violence crime or certain other crimes against a family or household member and the history, character, nature, and circumstances of the offender's conduct indicate that the order best serves the victim's and public's interests.

The court may issue an order for just cause after a person is convicted of another type of crime.

The court sets the order's duration and terms and can modify or revoke it for good cause (CGS § 53a-40e).

PA 16-90—sSB 244
Judiciary Committee

AN ACT CONCERNING THE REPORTING OF INJURIES RESULTING FROM THE DISCHARGE OF A FIREARM AND STAB WOUNDS

SUMMARY: This act requires hospitals, outpatient surgical facilities, and outpatient clinics to report to the police when they treat patients for stab wounds that are serious physical injuries likely caused by a knife or other sharp or pointed instrument ("stab wounds"). Existing law already requires these health care facilities to report on injuries caused by a firearm discharge ("gunshot wounds"). The act also (1) adds to the list of required information for these reports and (2) sets requirements for how these facilities' employees must handle evidence related to such injuries.

Finally, under certain circumstances, the act grants these facilities and their employees immunity from civil or criminal liability or professional discipline concerning this reporting and related matters.

EFFECTIVE DATE: October 1, 2016

REPORTING STAB WOUNDS OR GUNSHOT WOUNDS

As under existing law regarding gunshot wounds, the act requires hospitals, outpatient surgical facilities, and outpatient clinics to report to the local or state police on patients treated for stab wounds as soon as practicable after treatment.

Existing law requires gunshot wound reports to provide the (1) injured person's name and address, if known; (2) nature and extent of the injury; and (3) treatment circumstances. The act extends these provisions to stab wound reports. It also requires reports for both gunshot and stab wounds to include the (1) patient's age and sex, (2) wound type, and (3) name of each health care provider who treated the wound.

EVIDENCE RETENTION

Under the act, an employee of these health care facilities must ensure that any bullet, other foreign object, or clothing removed from a patient with damage potentially related to a gunshot or stab wound is identified as coming from that patient. A facility employee must also ensure that these items are kept in a way that preserves their integrity until an employee surrenders them to the police or their retention period expires under the facility's retention policy, whichever is earlier.

IMMUNITY

Under the act, any of these facilities or their employees making the report, cooperating during the ensuing investigation or proceeding, or preserving or surrendering the item to the police as set forth above are generally immune from liability arising from or related to these actions. The immunity applies to civil or criminal liability or the suspension, revocation, or surrender of a professional license, registration, or certification. However, immunity does not apply if the facility or employee (1) did not act in good faith or (2) committed gross negligence or willful or wanton misconduct.

PA 16-94—SB 346
Judiciary Committee

AN ACT CONCERNING PENALTIES FOR EVASION OF RESPONSIBILITY BY AN OPERATOR OF A MOTOR VEHICLE IN THE CASE OF INJURY

SUMMARY: By law, a motor vehicle operator who is knowingly involved in an accident that causes physical injury to a person must (1) immediately stop and render any needed assistance and (2) give his or her name, address, and license and registration numbers to the injured person, any officer, or witness to the injury. If the operator is unable to provide this information to any of those individuals, he or she must immediately report the injury to a municipal or state police officer, constable, or motor vehicle inspector or at the nearest police precinct or station. In the report, the operator must state the accident's location and circumstances and include the information required above.

This act extends, from one year to five years, the maximum prison sentence a court may impose on an operator who violates the above requirements or commits a subsequent offense. It retains the fines that the court may impose for such violations (from $75 to $600 for a first offense and from $100 to $1,000 for a subsequent offense).
EFFECTIVE DATE: October 1, 2016

PA 16-97—sHB 5259
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING ADOPTION OF THE CONNECTICUT UNIFORM LIMITED LIABILITY COMPANY ACT

SUMMARY: This act makes many changes to the laws governing limited liability companies (LLCs). It includes provisions that apply to domestic LLCs, which are formed under Connecticut law, and foreign LLCs, which are formed under another jurisdiction's law and registered to do business in Connecticut. Its rules generally apply when an LLC's operating agreement does not cover a particular matter, except for certain items that the act does not allow in an agreement or that an agreement cannot change.

Among its major provisions, the act:

1. adds more detailed provisions on fiduciary duties and charging orders against members (i.e., court orders to collect a debt);
2. changes when a member can bind the LLC as an agent;
3. adds provisions on derivative actions by a member, which allow for an action on behalf of the LLC to enforce a right;
4. makes changes to the provisions governing mergers between LLCs, including mergers with foreign LLCs, and adds provisions governing interest exchanges; and
5. allows an LLC's operating agreement to include certain aspects of its governance, such as designating whether it is managed by its members or a manager.

The act also modifies terminology, changing the name of an LLC's founding document from "articles of organization" to "certificate of organization." For LLCs formed before the act takes effect, their articles of organization are deemed certificates of organization and any language in them determining the LLC's management structure is considered to be in the operating agreement for purposes of the act's requirements (§ 10).

The act's provisions govern all LLCs beginning July 1, 2017 (§ 10). The act's repeal of prior law governing LLCs does not affect (1) the operation of statutes or actions taken under them before their repeal; (2) any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal; (3) any violation of a statute, penalty, forfeiture, or punishment incurred before its repeal; or (4) any proceeding, reorganization, or dissolution begun under a statute before its repeal that may be completed in accordance with the statute as if it had not been repealed (§ 24).

The act requires the secretary of the state to make any changes to the CONCORD commercial records database that are required to satisfy the act's provisions within available appropriations. This includes any database reprogramming or upgrading and additional or upgraded software purchases. The database, among other things, compiles records that business entities file with the secretary (§ 109).

The below analysis describes the act's significant changes and new provisions. The act also makes many other minor changes.

EFFECTIVE DATE: July 1, 2017

§§ 2 & 5-7 — OPERATING AGREEMENTS

Previously, an LLC's operating agreement could cover the regulation and management of the LLC's affairs, including appointment or designation of officers, as allowed by its articles of organization and the law. For a manager-managed LLC, the operating agreement could establish the number; qualifications; and selection, removal, and replacement method of managers.

The act eliminates these specific provisions and instead has general provisions allowing an operating agreement to govern:

1. relations among the members and between the members and the LLC,
2. a manager's rights and duties,
3. the LLC's activities and affairs and their conduct, and
4. procedures for amending the operating agreement.

Previously, an operating agreement could be in writing or oral. The act allows it to be in a record, oral, implied, or any combination of these (§ 2).

All provisions of the act may be varied by the operating agreement except for the 14 items listed below (see *Prohibited Contents*). The act's provisions govern the matters described above if they are not covered by the operating agreement.

Prohibited Contents

The act prohibits an operating agreement from:

1. applying another state's law to govern a domestic LLC;
2. changing an LLC's capacity to sue and be sued in its own name;
3. changing the act's provisions on registered agents or the secretary of the state, including provisions on delivering records to the secretary for filing;
4. varying the provisions that allow a person to ask a court to order someone to sign or deliver a document to the secretary or the secretary to file it (see § 28);
5. altering or eliminating the duties of loyalty or care, except as provided below;
6. eliminating the implied contractual obligation of good faith and fair dealing under the act (but the operating agreement may prescribe the standards, if not manifestly unreasonable, used to measure performance of the obligation);
7. relieving or exonerating a person from liability for conduct involving bad faith, willful or intentional misconduct, or a knowing violation of law;
8. unreasonably restricting the duties and rights regarding access to LLC information (see § 48) (but the operating agreement may impose reasonable restrictions on the information's availability and use and may define appropriate remedies, including liquidated damages, for a breach of any reasonable use restriction);
9. varying certain causes of dissolution (when the LLC's activities are unlawful, it is not reasonably practicable to continue the LLC's activities, or managers or members are acting illegally or oppressively);
10. varying certain requirements regarding winding up the LLC;
11. unreasonably restricting the right of a member to maintain a direct or derivative action against the LLC;
12. varying the provisions on special litigation committees regarding derivative suits (but the operating agreement may prohibit having such a committee);
13. varying the required contents of a plan of merger or interest exchange; or
14. restricting the rights under the act of someone who is not a member or manager, with some exceptions.

Varying Members' Duties (§ 5)

Under the act, an operating agreement may:

1. specify how a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by disinterested persons after full disclosure of all material facts and
2. alter the act's rule on making distributions, but only if it still requires the LLC's total assets to at least equal the sum of its total liabilities (see § 43).

To the extent the operating agreement of a member-managed LLC expressly relieves a member of a responsibility that the member otherwise would have under the act's provisions and imposes the responsibility on one or more other members, the operating agreement may correspondingly eliminate or limit that member's fiduciary duty related to the responsibility.

Also, if not manifestly unreasonable, the act allows an operating agreement to:

1. alter or eliminate a member's or manager's duty of loyalty (see § 47);
2. identify specific types or categories of activities that do not violate the duty of loyalty;
3. alter the duty of care, but not authorize conduct involving bad faith, willful or intentional misconduct, or a knowing violation of law; and
4. alter or eliminate any other fiduciary duty.

Under the act, a court must determine whether a term is manifestly unreasonable as of the time the term became part of the operating agreement and consider only the circumstances existing at that time. It may invalidate the term only if, in light of the LLC's purposes and affairs, it is readily apparent that the (1) term's objective is unreasonable or (2) term is an unreasonable means to achieve its objective.

Binding Authority of Operating Agreement and Amendments (§§ 6 & 7)

Under the act, an LLC is bound by and can enforce the operating agreement whether or not the company assented to it. Someone who becomes a member is deemed to assent to the agreement. Two or more people who are becoming the LLC's initial members can make an agreement that becomes the operating agreement when the LLC is formed. One person may do so as well.

The act allows an operating agreement to specify that amending it requires the (1) approval of a person that is not a party to the agreement or (2) satisfaction of a condition.

The act provides that the operating agreement governs the LLC's and its members' obligations to a person who is a transferee or who dissociated as a member. Under the act, an operating agreement amendment (subject only to a court order to collect a distribution under a charging order) made after a person becomes a transferee or dissociates is:

1. effective as to an LLC or member debt, obligation, or liability to the transferee or dissociated member and
2. ineffective to the extent it imposes a new debt, obligation, or liability on the transferee or dissociated member.

The act makes an operating agreement provision in a record delivered by the LLC to the secretary ineffective if the act prohibits its inclusion in the operating agreement.

If a record delivered to the secretary becomes effective and conflicts with an operating agreement provision, the act provides that the agreement prevails as to members, dissociated members, transferees, and managers, but the record prevails as to others to the extent they reasonably rely on the record.

§ 9 — PROFESSIONAL SERVICES LLC

Under the act, an LLC formed on or after July 1, 2017 to render professional services must include in its name "professional limited liability company," "P.L.L.C.," or "PLLC." "Limited" may be abbreviated as "Ltd." and "company" as "Co.".

By law, numerous professions can be part of a professional services LLC. The act adds physician assistants to the list of these professions (§ 2).

§§ 12-14 — LLC NAMES

The law requires the name of an LLC to be distinguishable on the secretary's records. The act specifies that:

1. a person can consent in a record to allow another to use its name if the person granting consent changes its name in a distinguishable way on the secretary's records;

2. the secretary cannot consider certain words, phrases, or abbreviations when determining if a name is distinguishable, such as "corporation," "corp.," "incorporated," "Inc.," "professional corporation," "P.C.," "PC," "Limited," "Ltd.," "limited partnership," "professional limited liability company," "P.L.L.C.," "PLLC," "limited liability partnership," "L.L.P.," or "LLP";
3. a person may consent in a record to the use of a name that is not distinguishable from its name, other than a word, phrase, or abbreviation as described above, and the person need not change its name; and
4. an LLC's name cannot contain language stating or implying that it is organized for a purpose not allowed under the act.

Reserving Names (§§ 13 & 14)

By law, a person can reserve an LLC name for 120 days. The act eliminates (1) the ability to renew the reservation for successive 120-day periods and (2) a provision allowing someone who has reserved a name to cancel the reservation.

Similarly, under prior law, a foreign LLC intending to register in Connecticut could reserve a name with the secretary for 120 days, with the option to renew it for successive 120-day periods. The act instead allows a foreign LLC to register a name for one year, with the option to renew it for successive one-year periods by filing within 90 days of the registration's expiration.

§§ 15-19 — REGISTERED AGENTS

By law, LLCs must designate someone to receive legal process in Connecticut on their behalf. The act changes the term for this person from "statutory agent for service" to "registered agent." Among the minor changes the act makes regarding these agents, the act specifies that by designating the agent the LLC affirms that the agent consents to serving in this role.

It also specifies that the agent's only duties under the act are to:

1. forward to the domestic or foreign LLC, at the address most recently supplied to the agent, any process, notice, or demand served on or received by the agent;
2. notify the domestic or foreign LLC, if he or she resigns, at the address most recently supplied to the agent; and
3. provide notice if he or she changes his or her name or address.

Prior law required an LLC to inform the secretary "forthwith" when the agent changed its address. The act instead requires the agent to inform the secretary within 30 days of the address change and similarly inform the secretary within 30 days of a name change. The act also requires the agent, within 30 days of filing with the secretary, to notify the LLC of the change (§ 18).

The act also makes a number of changes to how an LLC is served when it does not have an agent, such as:

1. removing required service on the secretary and
2. requiring the papers to be mailed to the LLC's principal office address found in the LLC's most recent annual report (§ 19).

Resignation (§ 17)

By law, an agent can resign its position. The act specifies that:

1. when a certificate of resignation takes effect, the agent ceases its responsibilities for any matter later given to it as agent;
2. resignation does not affect any contractual rights between the LLC and the agent; and
3. the agent may resign whether or not the LLC is in good standing.

Service on Others (§ 19(d))

The act also eliminates a provision allowing service of legal papers on any LLC manager or a member acting as a manager (1) in person, (2) by leaving it at the member's usual place of abode in Connecticut, or (3) at the manager's usual place of abode in Connecticut if the manager is an individual.

The act instead allows service on an individual in charge of any regular place of business of the LLC, if the individual is not a plaintiff, when service cannot be made on the agent or secretary as appointed agent for a foreign LLC.

§ 22 — FEES

The act adds fees for filing the following documents with the secretary:

1. certificate of interest exchange, $60;
2. certificate of abandonment, $50;
3. statement of withdrawal of foreign LLC, $120;
4. registration of name or a removal of registration of name, $60;
5. statement of correction, $100; and
6. transfer of registration, $60 plus the qualification fee.

§ 25 — FORMING AN LLC

The act renames the LLC's founding document filed with the secretary the "certificate of organization," instead of the "articles of organization."

The act eliminates requirements that the:

1. LLC's organizers prepare a written document to be held with the LLC's records with the names and addresses of initial members and, if manager-managed, managers and
2. LLC maintain a record of members and managers.

Prior law required the articles of organization to state whether the LLC is manager-managed. The act instead requires that the operating agreement state if the LLC will be manager-managed. It specifies that the certificate of organization can contain other matters, but not provisions prohibited from being in an operating agreement.

The act no longer requires that the certificate of organization state the nature of the LLC's business or purposes or that it will engage in any lawful activity. It requires the certificate to state a member's or manager's name and business and residential address, but the secretary can allow only a business address if there is good cause, such as exposing the person's personal security to significant risk (prior law required this information in a separate record).

The act makes several other minor changes to these documents.

§ 26 — INACCURACIES IN A CERTIFICATE OF ORGANIZATION

The act requires a member of a member-managed LLC or manager of a manager-managed LLC who knows that information in a filed certificate of organization is inaccurate to (1) have the certificate amended or (2) if appropriate, deliver to the secretary a statement of change of agent or statement of correction (see § 33). It also makes minor changes to amendment procedures.

§§ 27 & 28 — SIGNING DOCUMENTS

Prior law required a document filed with the secretary to be signed by:

1. an organizer, if the LLC had not been formed;
2. a member, if the LLC was member-managed, or a manager if the LLC was manager-managed;
3. a fiduciary, if the LLC was in the hands of a receiver, trustee, or court-appointed fiduciary; or
4. a person on behalf of another person, if authorized by a power of attorney.

The act instead requires:

1. an organizer to sign the initial certificate of organization,
2. a person authorized by the LLC to sign other documents,
3. a person winding up the LLC's affairs to sign on behalf of a dissolved corporation, and
4. a person to sign any records delivered on behalf of that person.

It allows an agent to sign any record and the legal representative of a deceased or incompetent person to sign a record if the act requires that person's signature.

The act specifies that (1) an agent's or legal representative's signature affirms the person's authority to sign, (2) the secretary is not required to verify a signature's authenticity or the signer's authority to commit the LLC, and (3) accepting a document does not validate the signature or person signing.

Action to Force Signing or Filing (§ 28)

If a person required to sign or deliver a record to the secretary under the act does not do so, the act allows an aggrieved person to ask the Superior Court to order the (1) person to sign or deliver the record or (2) secretary to file the record unsigned. If the person seeking the court order is not the LLC that is the subject of the record, the LLC must be a party to the action.

§ 29 — HARM CAUSED BY INACCURATE RECORDS

Under the act, a person who suffers a loss by relying on inaccurate information in a record filed by the secretary may recover damages from the following two sources. First, the person who suffers a loss may collect from a person who (1) signed the record or caused another to sign it on the person's behalf and (2) knew the information was inaccurate at the time of signing.

Second, he or she may collect from a member of a member-managed LLC or manager of a manager-managed LLC if both of the following conditions are met:

1. the record was delivered for filing on the LLC's behalf and
2. the member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied on, so that the member or manager could have taken appropriate action to correct the information.

But an operating agreement of a member-managed LLC may expressly relieve a member of responsibility for maintaining the accuracy of information in records filed with the secretary and impose this responsibility on another member or members.

§§ 30-32 — FILING DOCUMENTS WITH THE SECRETARY

The act makes (1) a certificate of organization or foreign registration statement effective when filed by the secretary and (2) other records effective when filed by the secretary or at a later date or time specified in the record, up to 90 days after filing.

The act allows an authorized person to file a statement of withdrawal in order to withdraw a record delivered to the secretary if the record has not taken effect. The statement must (1) identify the record being withdrawn and (2) be signed by those who signed the original record or state that all parties agreed to withdrawal or it is done as the operating agreement allows.

The act also makes minor changes to the filing requirements for documents.

§ 33 — CORRECTION STATEMENT

The act allows a person on whose behalf a record was delivered to the secretary to correct the record if it was (1) inaccurate when filed or (2) defectively signed or electronically transmitted. The person must file a signed statement of correction identifying the record and identifying and correcting the record's inaccuracy or defect. The correction statement cannot (1) have a delayed effective date, (2) be effective before the original record's filing date, or (3) take effect more than 90 days after the original record's filing date.

A correction statement is effective as of the effective date of the originally filed record. But it is effective on the date it is filed as to (1) anyone who relied on the original record and was adversely affected by the correction and (2) certain others if the statement relates to a dissolution or entity transaction.

§ 34 — FILING BY SECRETARY

The act specifies that the secretary must file a record delivered for filing and this duty is ministerial. The record is considered filed at the time it was delivered and the secretary must send an acknowledgement of the filing time to the person who submitted the record.

If the secretary refuses to file a record, she must, within 15 business days of the record's delivery, (1) return it or notify the person who submitted it of the refusal and (2) briefly explain the reason for refusal. The person who submitted the record may petition the Superior Court to compel its filing, attaching to the petition the record and the secretary's explanation. The court may decide the matter in a summary proceeding.

The filing of or refusal to file a record does not create a presumption about the accuracy of information in the record.

Except as required by other law or when serving legal papers as provided in the act, the secretary may deliver a record (1) in person to the person that submitted it; (2) to the person's principal office; or (3) to another address, including an email address, that the person provided the secretary for delivery.

§ 35 — CERTIFICATE OF GOOD STANDING OR REGISTRATION

The act allows the secretary, on anyone's request, to issue a certificate of good standing for an LLC or certificate of registration for a registered foreign LLC. The certificate must state:

1. the LLC's name or registered foreign LLC's name used in Connecticut;
2. for a domestic LLC, that (a) no statement of dissolution, administrative dissolution, or termination has been filed; (b) the secretary's records do not reflect that the company has been dissolved or terminated; (c) the LLC has filed all annual reports due; and (d) no dissolution by forfeiture proceedings are pending (the secretary can begin these proceedings for failure to file an annual report or maintain an agent); and
3. for a registered foreign LLC, that it is registered to do business in Connecticut and has filed all annual reports due.

The act allows someone to rely on the certificate as conclusive evidence of the facts stated in it.

§ 36 — ANNUAL REPORT

By law, domestic and foreign LLCs must file annual reports with the secretary. The act alters their due dates. It requires filing the reports between January 1 and April 1 each year (beginning with the calendar year after filing as an LLC or registering as a foreign LLC), instead of on the anniversary of filing the LLC's original documents as required under prior law.

The act makes a number of other changes, including eliminating provisions (1) requiring the secretary to notify each LLC that its annual report is due and (2) prohibiting the secretary from accepting an LLC's annual report until it submits overdue reports.

By law, the secretary may return an incomplete report to the LLC for correction.

§ 37 — MEMBERS AS AGENTS OF AN LLC

Under the act, a member is not an agent of an LLC solely because he or she is a member. Status as a member does not prohibit other laws from imposing liability on an LLC because of the person's conduct.

This replaces prior law, which (1) made every member an agent of the LLC for the purpose of its affairs and bound the LLC by each member's acts carrying on the LLC's usual affairs (unless the member actually had no authority to act and the person with whom the member was dealing knew it) but (2) in a manager-managed LLC, provided that members were not agents solely because they were members.

The act eliminates specific provisions about a member's or manager's admissions or representations about the LLC's affairs being used as evidence against the LLC.

§ 38 — LIABILITY OF MEMBERS

By law, LLC members and managers are not liable for LLC debts or other obligations solely because they are members or managers. The act specifies that the LLC's failure to observe formalities in exercising its powers or managing its activities and affairs is not a ground for imposing liability on a member or manager.

The act eliminates a specific provision that a member or manager is not a proper party to a proceeding by or against an LLC solely because he or she is a member or manager, except when the proceeding is to enforce a member's or manager's right against or liability to the LLC or as otherwise provided in an operating agreement.

§ 39 — ADMITTING MEMBERS

The act changes the rules for admitting members. Under prior law, someone became an LLC member by:

1. acquiring an LLC interest from the LLC under the operating agreement or by consent of a majority in interest of members or
2. becoming an assignee of an LLC interest if (a) the assignor validly gave the assignee that right under the operating agreement or (b) a majority in interest of members, excluding the assignor, consented, unless the operating agreement provided otherwise.

Under the act, a person becomes a member after formation (1) as provided in the operating agreement, (2) as the result of a transaction under the Entity Transaction Act (which involves transactions such as mergers of different types of entities), (3) with the unanimous consent of the members, or (4) with the consent of transferees who have the right to receive the majority of distributions when the LLC has no members.

Under the act, members owning more than 50% of the LLC's transferable interests, excluding those not owned by the members, constitute a majority in interest of the members for this and other provisions. If it is not possible to make this determination based on the operating agreement, the majority in interest of the members means:

1. the members who would receive more than 50% of the distributions with respect to the dissolution of the LLC at the time of the vote if there would be distributions or
2. if there would not be distributions, the members who at the time of the vote contributed more than 50% of the unreturned capital contributions made to the LLC since its formation (§ 2).

The act specifies that a person may become a member without acquiring a transferable interest or making or being obligated to make a contribution to the LLC.

§ 41 — MEMBER CONTRIBUTIONS

The act eliminates a provision in prior law that required a member's promise to contribute to the LLC to be written in order to be enforceable.

The act adds that if an LLC's creditor extends credit or acts in reliance on a member's obligation to contribute and does not have notice that the LLC compromised the obligation, the creditor may enforce the obligation.

§§ 42-44 — DISTRIBUTIONS

The act defines a "distribution" as a transfer of money or other property from an LLC to a person on account of a transferable interest or status as a member. It includes (1) an LLC's purchase of a transferable interest and (2) a transfer to a member in return for the member relinquishing the right to participate as a member in the LLC's management, activities, and affairs or to have access to the LLC's records or information. It does not include reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement or benefits program (§ 2).

As under existing law, a member or other person entitled to a distribution becomes a creditor. The act specifies that the LLC's obligation to make the distribution can be offset by the amount the distribution's recipient owes the LLC. It eliminates specific provisions on distributions when a member dissociates.

Restrictions on Making Distributions (§ 43)

The act prohibits an LLC from making a distribution if, after the distribution, the:

1. LLC would be unable to pay its debts as they become due in the ordinary course of its activities and affairs or
2. LLC's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the LLC dissolved and was wound up at the time of the distribution, to satisfy the preferential rights of members and transferees whose preferential rights are superior to those of persons receiving the distribution.

The act allows an LLC to base a decision that a distribution is proper on (1) financial statements prepared using reasonable accounting practices and principles or (2) a fair valuation or other reasonable method.

The act measures a distribution's effect on the date the:

1. distribution is authorized, if the payment occurs within 120 days of authorization;
2. payment is made, if it is more than 120 days since authorization; or
3. money or other property is transferred or debt is incurred, if the distribution is connected to an LLC's purchase of a transferable interest or a transfer to a member in return for the member relinquishing the right to participate as a member.

The act provides that an LLC's debt to a member or transferee for a distribution is at parity with its debts to general, unsecured creditors. An LLC's debts, including those issued as a distribution, are not liabilities when determining whether a distribution is appropriate if the debt's terms provide that payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this provision. If the debt is issued as a distribution, then each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

In measuring a distribution's effect when an LLC is winding up its affairs, the dissolved LLC's liabilities do not include claims disposed of under the provisions governing its winding up (see §§ 59-61).

Liability for Distributions that Violate the Act's Provisions (§ 44)

The act makes a member of a member-managed LLC or manager of a manager-managed LLC personally liable to the LLC if he or she consents to a distribution that violates the above provisions and violates the duty of loyalty or care. The liability is for the amount the distribution exceeds the amount that could be properly paid under the act.

But, if the operating agreement of a member-managed LLC expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, then only those members with authority can be liable.

The act also makes a person who receives a distribution knowing that it violates the act's provisions personally liable to the LLC to the extent the distribution exceeded the amount that could be properly paid under the act.

A person subject to an action under these provisions may make part of the lawsuit anyone who (1) is also liable for consenting to the distribution and seek to enforce a right of contribution from the person or (2) received a distribution knowing it violated the act's provisions and seek to enforce a right of contribution from the person in the amount the person received in violation of the act.

An action under these provisions must be brought within two years of the distribution.

§ 45 — VOTING REQUIREMENTS

As under prior law (except as provided in organizational documents, the operating agreement, or law), decisions regarding the LLC generally require approval by a majority in interest of members of a member-managed LLC or more than one-half of the managers in a manager-managed LLC. But under prior law:

1. a majority in interest of members had to approve an amendment to the articles of organization, unless the documents provided otherwise, and
2. two-thirds in interest of members, unless the articles or operating agreement required otherwise, had to approve (a) amendments to the written operating agreement or (b) authorizing someone to act for the LLC in a way that contradicted the written operating agreement.

Unless the operating agreement provides otherwise, the act requires (1) unanimous member approval for amendments to the certificate of organization or operating agreement and (2) two-thirds in interest of members to approve any act outside the LLC's ordinary course of activities and affairs or a transaction under the Entity Transaction Act.

In a manager-managed LLC, the act specifies that each manager has equal rights in managing and conducting the LLC's activities.

The act allows members to vote without a meeting, and a member may appoint a proxy or agent to vote or act by signing an appointing record personally or through an agent.

Under the act, the LLC's dissolution does not affect these provisions, but a person who wrongfully causes the dissolution loses the right to participate as a member and manager.

§ 45 — MANAGERS

As under prior law, the operating agreement may set many of the requirements for choosing managers. The act specifies a number of rules regarding managers, including the following: (1) dissociation of a member who is a manager removes the person as manager, but a member who ceases to be a manager is not dissociated because of it, and (2) ceasing to be a manager does not discharge debts, obligations, or liabilities to the LLC that the person incurred as a manager.

§ 45 — MEMBER ADVANCES AND SERVICES

The act requires an LLC to reimburse a member for an advance to the LLC beyond the capital the member agreed to contribute. It considers such a payment and other payments by a member to the LLC a loan.

Under the act, unless it is stated in the operating agreement, a member is not entitled to remuneration for services performed for a member-managed LLC except for reasonable compensation for services in winding up the LLC's activities.

§ 46 — MEMBER, MANAGER, AND OFFICER LIABILITY PROTECTION

The act requires an LLC to reimburse a member of a member-managed LLC or manager of a manager-managed LLC for any payment made by them or in the course of their activities on behalf of the LLC, if they complied with the act's provisions on voting and duty of loyalty.

Prior law allowed an operating agreement to eliminate or limit a member's or manager's personal liability for monetary damages for a breach of duty to the LLC and indemnify a member or manager for judgments, settlements, penalties, fines, or expenses incurred in a proceeding due to their status as a party because of being a member or manager.

The act similarly allows an LLC to indemnify and hold harmless someone for acting as a member or manager as long as liability is not based on breaching duties regarding distributions, voting, or the duty of care or loyalty. It extends these provisions to officers.

The act requires an LLC to indemnify and hold harmless a person who was wholly successful in defending a proceeding with respect to a claim or demand based on the person's capacity as a member, manager, or officer. This applies to reasonable expenses, including attorney's fees and other costs. It applies to any threatened, pending, or completed action, arbitration, investigation, suit, or proceeding, whether civil, criminal, or administrative, and whether formal or informal.

The act also allows an LLC to advance reasonable expenses for these purposes as long as the person promises to repay them if he or she is not ultimately entitled to indemnification.

The act authorizes an LLC to have insurance on behalf of a member, manager, or officer against liability asserted against or incurred by the member, manager, or officer in that capacity or arising from that status even if the operating agreement could not eliminate or limit the person's liability to the LLC for the conduct.

§ 47 — DUTY OF CARE AND LOYALTY TO AN LLC

As under existing law, a member or manager must discharge his or her duties in good faith with the care an ordinarily prudent person would use in similar circumstances and in the LLC's best interests. The act requires that members in a member-managed LLC and managers in a manager-managed LLC have a duty of loyalty, including:

1. accounting to the LLC and holding as trustee property, profit, or benefit from (a) conducting or winding up the LLC's affairs; (b) a member's use of the LLC's property; or (c) appropriating an LLC opportunity;
2. refraining from dealing with the LLC in conducting or winding up its affairs as, or on behalf of, a person with an adverse interest (but it provides a defense for a violation of this duty if the transaction was fair to the LLC and also provides that if the transaction is ratified, the member's rights and obligations as to the transaction are the same as those of a non-member); and
3. refraining from competing with the LLC in conducting its affairs.

The act requires members and managers to discharge their duties and obligations under the act's provisions or the operating agreement and exercise rights consistent with the implied contractual obligation of good faith and fair dealing. A member who is not acting as a manager does not violate these obligations solely because of conduct that furthers his or her own interest.

Prior law allowed a vote of at least half of disinterested managers or a majority in interest of disinterested members to approve a violation related to the duty to account to the LLC and hold property as trustee. The act allows a majority in interest of disinterested members, but not a majority of managers, to approve such a violation but expands their authority to allow the members to approve any violation of the duty of loyalty after full disclosure of all material facts.

§ 48 — ACCESS TO LLC INFORMATION

The act replaces prior law on access to LLC information with more detailed provisions. It eliminates prior law, which (1) required an LLC to keep specific information at its principal place of business or a location stated in the operating agreement; (2) allowed members access to records during ordinary business hours; and (3) required members or managers, to the extent it was just and reasonable, to provide other members with true and full information of all things affecting them.

Member-Managed LLC Access Rules

The act imposes the below rules on a member-managed LLC.

1. On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record the LLC maintains about its activities, affairs, financial condition, and other circumstances to the extent the information is material to the member's rights and duties under the operating agreement or law.
2. An LLC must give each member (a) without demand, information about the LLC that it knows and that is material to the proper exercise of the member's rights and duties under the operating agreement or law, except if the LLC can establish that it reasonably believes the member already knows the information and (b) on demand, other information concerning the LLC, except if it is unreasonable or improper.

3. The duty to provide the above information also applies to each member if he or she knows any of the information.

Manager-Managed LLC Access Rules

The act imposes the below rules on a manager-managed LLC.

1. The right to information and duty to furnish information described above applies to the managers, but not members.
2. During regular business hours and at a reasonable location specified by the LLC, a member may inspect and copy information on the LLC's activities, affairs, financial condition, and other circumstances as is just and reasonable if the (a) member seeks the information for a purpose reasonably related to his or her interest as a member, (b) member makes a demand in a record received by the LLC that describes with reasonable particularity the information sought and the purpose for seeking it, and (c) information is directly connected to the member's purpose.
3. Within 10 days of receiving a member's demand, the LLC must inform the member in a record of the (a) information the LLC will provide and when and where it will be available and (b) LLC's reasons for declining to provide any of the demanded information.
4. When the act or operating agreement provides for a member to give or withhold consent to a matter, the LLC must, without demand, provide the member with all information that it knows and that is material to the member's decision before the member makes a decision.

Dissociated Member

If an LLC receives a demand from a dissociated member in the form of a record, the act requires the LLC to allow the dissociated member to access information he or she was entitled to as a member if the (1) information pertains to the period during which the person was a member, (2) information is sought in good faith, and (3) person satisfies the requirements imposed on a member described above.

The LLC must respond within 10 days that it will provide the information or with the reason for its denial.

Other Provisions

The act allows a member or dissociated member to exercise his or her rights to access information through an agent or, in the case of an individual under legal disability, a legal representative. These rights do not extend to a transferee, and a legal representative has certain rights on behalf of a member who dies.

In addition to a restriction or condition in the operating agreement, the act allows an LLC to impose reasonable restrictions and conditions on access to and use of information. This can include designating confidential information and imposing nondisclosure and safeguarding obligations on the recipient. The LLC must prove that a restriction is reasonable if there is a dispute.

The act allows an LLC to charge reasonable copying costs, limited to labor and material.

§ 50 — TRANSFERABLE INTERESTS

The act adds provisions on transfers of interests, but it treats them similarly to prior provisions on assignments of interests, which the act repeals. Among its provisions, the act provides that (1) a transferee is not entitled to access LLC records except for an account of a dissolving LLC's transactions since the date of dissolution and (2) an LLC need not give effect to a transferee's rights until it knows or has notice of the transfer.

§ 51 — CHARGING ORDERS

As under existing law, a judgment creditor of a member can ask a court to enter a charging order against the member's transferable interest for the unsatisfied amount of the judgment. The act applies this to any transferee as well.

The act adds a number of provisions related to charging orders.

1. A charging order is a lien on the transferable interest and requires the LLC to pay the creditor any distribution that otherwise would be paid to the member or transferee.
2. If necessary to collect distributions, the court may appoint a receiver and make other necessary orders.
3. The member or transferee may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court.

4. The LLC or one or more members whose transferable interests are not subject to the charging order may pay the amount due under the judgment and succeed to the rights of the judgment creditor, including the charging order.
5. A charging order is the exclusive remedy to satisfy a judgment against a transferable interest.

§ 53 — WRONGFUL DISSOCIATION

Under existing law, when a member's withdrawal breaches the operating agreement or occurs because of the member's wrongful conduct, the LLC can recover damages from the member.

The act also makes the withdrawing member liable to a member who brings a direct action against the person. And it also provides that a member's dissociation is wrongful if it occurs before completing the LLC's winding up and the member:

1. withdraws by express will;
2. is expelled by judicial order (see below);
3. is a trust that becomes dissociated because it distributes its entire transferable interest; or
4. is expelled or otherwise dissociated as a member because of a willful dissolution or termination, in the case of a person that is not a trust other than a business trust, an estate, or an individual.

§ 54 — MEMBER WITHDRAWAL OR EXPULSION

Under prior law, a member could voluntarily withdraw, unless the operating agreement provided otherwise, by giving 30 days' written notice to the other members or other notice as the operating agreement allows. Unless the operating agreement states that a member cannot withdraw, the act allows a member to withdraw on the date of notice to the LLC or a later date the member specifies.

The act contains provisions similar to those in prior law on other types of member dissociation. Generally, situations such as a member's death, bankruptcy, or an entity's dissolution or termination dissociate a member. The act adds that a member ceases to be a member when the LLC participates in certain transactions (such as a merger).

The act makes many minor changes and, in some circumstances, changes the default rules that apply if the operating agreement does not address a particular type of dissociation (such as the voting requirement for dissociating a member in a particular circumstance).

Judicial Expulsion of a Member

The act adds provisions that allow the LLC or a member to seek a judicial order to expel a member who:

1. engages in wrongful conduct that has or will adversely and materially affect the LLC,
2. materially breaches the operating agreement or his or her duty in a willful or persistent manner, or
3. engages in conduct in the LLC's affairs that makes it not reasonably practicable to carry on the LLC's affairs with the person as a member.

§ 55 — EFFECT OF MEMBER'S DISSOCIATION

When a person dissociates as a member, the act specifies that:

1. the person's right to participate as a member in the LLC's management and conduct of its affairs terminates;
2. if the LLC is member-managed, the person's duties and obligations as a member end with regard to matters arising and events occurring after the dissociation;
3. subject to other provisions, any transferable interest owned by the person in his or her capacity as a member immediately before dissociation is owned by the person solely as a transferee; and
4. dissociation does not discharge the person from any debt, obligation, or liability to the LLC or its other members that the person incurred while a member.

§ 56 — LLC DISSOLUTION

Previously, one way an LLC dissolved was when the articles of organization or operating agreement designated an event to trigger dissolution, and that event occurred. The act provides that the event is designated in the operating agreement alone.

Prior law allowed a member, legal representative, or assignee to apply to court to wind up an LLC when a member or manager engaged in wrongful conduct or for other cause shown. The act instead allows a member to apply for a court-ordered dissolution because the (1) conduct of substantially all of the LLC's affairs is unlawful or (2) managers or members in control (a) have acted, are acting, or will act in an illegal or fraudulent manner or (b) have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant. (The court can order remedies other than dissolution.)

The act adds a new circumstance when dissolution may occur. Specifically, it occurs when the LLC has no members for 90 consecutive days unless, during that period, transferees with the right to receive a majority of the LLC's distributions consent to admit at least one specific person as a member, and at least one person becomes a member accordingly.

§ 57 — WINDING UP A DISSOLVED LLC

The act provides that if a dissolved LLC has no members, the legal representative of the last member may wind up the LLC's affairs. If the legal representative does not do so, transferees with a majority in interest may appoint a person to wind up the LLC.

The act also allows a member or transferee to apply to court for judicial supervision of an LLC's winding up, including appointing a person to perform this function. A member must show good cause for court supervision and a transferee may only apply if the LLC has no members, the legal representative described above does not wind up the LLC, and the transferees do not appoint someone as described above. Courts can also act in other circumstances (see § 56).

§ 58 — REINSTATEMENT

Existing law allows a dissolved LLC to be reinstated. Previously, filing a certificate of reinstatement with the secretary began the LLC's legal existence. The act instead allows a reinstated LLC to resume its activities as if dissolution had not occurred, but the rights of a third party that relied on the dissolution before knowing or having notice of the reinstatement cannot be adversely affected.

§§ 59-62 — DISSOLVED LLC

Notice to Claimants and Court Proceeding (§§ 59-61)

The act makes minor changes to the way a dissolved LLC gives notice to known and unknown claimants.

It also adds a provision that allows the dissolved LLC to file an application with the Superior Court in the judicial district where its principal office is located or, if the office is not located in this state, where the office of its registered agent is located to determine the amount and form of security to be provided for payment of claims that (1) are contingent, (2) have not been made known, or (3) are based on an event occurring after the dissolution's effective date but which, based on the facts known to the dissolved company, are reasonably expected to arise. Security is not required for any claim that is or is reasonably anticipated to be barred.

The act requires the dissolved LLC to give notice of the judicial proceeding to each claimant holding a known contingent claim within 10 days of filing in court. The court can appoint a guardian ad litem to represent claimants whose identities are unknown. The dissolved LLC pays the guardian's reasonable fees and expenses, including reasonable expert witness fees.

Under the act, a dissolved LLC that provides the security ordered by the court satisfies its obligations with respect to these claims, and they cannot be enforced against a member or transferee that received assets in liquidation.

Distributions from a Dissolved LLC (§ 62)

By law, a dissolved LLC must first distribute its assets to its creditors. Previously, any surplus was then paid to members and former members (1) in the same way they were entitled to distributions and (2) for the return of their contributions to the LLC and in proportion to their share of distributions. The act instead pays:

1. members and former members, subject to any charging order, first for their contributions received by the LLC and not returned, and then in shares proportionate to their transferable interests or
2. those with transferable interests in proportion to the value of their unreturned contributions, if assets cannot pay for all unreturned contributions.

The act requires these distributions to members and former members to be made only in money unless the operating agreement provides otherwise.

§ 64 — DIRECT ACTION BY A MEMBER

The act authorizes a member's direct action against another member, a manager, or the LLC to enforce the member's rights and protect the member's interests, including rights and interests under the operating agreement or the act or arising independently of the membership relationship. The member must plead and prove an actual or threatened injury that is not solely from an injury suffered or threatened to be suffered by the LLC.

§§ 65-69 — DERIVATIVE ACTION BY A MEMBER

Prior law did not specifically address derivative actions, which are actions brought on the LLC's behalf. The act allows a member to bring a derivative action to enforce a right of the LLC if (1) the member makes a demand on the other members in a member-managed LLC or the managers of a manager-managed LLC, requesting that they cause the LLC to bring an action to enforce the right, and they do not do so within 90 days or (2) such a demand would be futile.

The complaint must state the date and content of the demand and the response the member received or why a demand should be excused as futile.

To bring the derivative action, the member must be a member at the time of bringing the action and either (1) was a member when the conduct giving rise to the action occurred or (2) became a member by law or under the operating agreement from a person who was a member at the time of the conduct.

Special Litigation Committee

The act allows an LLC involved in a derivative proceeding to appoint a special litigation committee to investigate and determine whether the action is in the LLC's best interests. If the committee makes a motion in the LLC's name, the court must stay discovery for the time reasonably necessary for the committee's investigation except for good cause. But the court may still (1) enforce a person's right to information under the act (see § 48) or (2) grant a temporary restraining order or preliminary injunction.

A special litigation committee must consist of one or more disinterested individuals who may be members or managers.

In a member-managed LLC, a committee can be appointed by a majority in interest of members not named as parties in the proceeding. If all members are parties, a majority in interest of the members named as defendants can appoint the committee. In a manager-managed LLC, a majority of the managers not named as parties can appoint the committee; but if all managers are parties, then a majority of the managers named as defendants can do so.

After appropriate investigation, a committee may determine that it is in the LLC's best interests that the proceeding (1) continue under the plaintiff's control, (2) continue under the committee's control, (3) be settled on terms approved by the committee, or (4) be dismissed.

After making its determination, the committee must file with the court a statement and report supporting its determination and serve each party with a copy. The court must determine whether the (1) committee members were disinterested individuals and (2) committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care. The committee has the burden of proof. If the court makes these findings, it must enforce the committee's decision. Otherwise, the court dissolves the stay of discovery, and the action continues under the plaintiff's control.

Result of Derivative Action

Under the act, any benefits from the derivative action, including settlements, belong to the LLC, not the plaintiff, and a plaintiff must give the LLC any proceeds.

When the proceeding ends, the court may order:

1. the LLC to pay a plaintiff's expenses incurred in the proceeding if the proceeding's results substantially benefit the LLC;
2. the plaintiff to pay the defendant's expenses in defending the proceeding if the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

3. a party to pay an opposing party's expenses incurred because of filing a document in the case that was (a) not well grounded in fact after a reasonable inquiry or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and (b) used for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase litigation costs.

The act defines "expenses" as reasonable expenses incurred in connection with a matter, including reasonable attorney's fees.

The act prohibits voluntarily dismissing or settling a derivative action on behalf of an LLC without court approval.

§§ 70-79 — REGISTERED FOREIGN LLC

The act contains many of the same provisions as prior law requiring foreign LLCs to register with the secretary to do business in Connecticut.

It makes many minor changes and specifies that registration to transact business in Connecticut does not allow a foreign LLC to engage in activities or exercise powers in the state that a domestic LLC may not do (§ 70).

Names (§ 75)

Prior law required a foreign LLC registering in Connecticut to have a name that was distinguishable on the secretary's records or (1) add a distinguishing element to its name, (2) obtain permission from those who use or have reserved a similar name in Connecticut and agree to use a distinguishing element, or (3) use a name in Connecticut that is different from the one under which it is organized.

The act provides different rules if the foreign LLC's name is not distinguishable. It requires the foreign LLC to (1) adopt an alternate name, (2) use the LLC's name with the addition of its governing jurisdiction, or (3) use an assumed or fictitious name that complies with the law governing trade names.

Registration after Merger (§ 76)

When a registered foreign LLC merges into a foreign entity that is not registered to transact business in Connecticut or converts to a foreign entity required to register with the secretary, the act requires the foreign entity to apply to the secretary for a registration transfer. The application must state:

1. the registered foreign LLC's name before the merger or conversion and that it was previously registered;
2. for the foreign entity the LLC is merging with or being converted into: its name and, if not distinguishable on the secretary's records, an alternate name that complies with the act's provisions; its entity type and governing jurisdiction; its principal office address and office address in its governing jurisdiction if that jurisdiction requires one; and its registered agent's name and address in Connecticut;
3. the name and business and residence addresses of a manager or a member of the foreign LLC (for good cause, the secretary may accept only a business address); and
4. the email address, if any, of the foreign LLC.

When an application for registration transfer takes effect, the registration of the foreign LLC to transact business in this state is transferred without interruption to the foreign entity into which the foreign LLC has merged or to which it is converted.

Service after Withdrawing Registration (§ 78)

By law, a registered foreign LLC may withdraw its registration by filing with the secretary. Prior law required the foreign LLC to consent to the secretary accepting any service of process on the foreign LLC's behalf for causes of action arising in Connecticut during the time the foreign LLC was authorized to transact business in the state. The act instead requires it to designate an address to receive service by mail or commercial delivery service.

§§ 80-97 — LLC MERGERS AND INTEREST EXCHANGES

The act makes changes to the provisions governing mergers between LLCs, including mergers with foreign LLCs. It adds provisions about interest exchanges, which are transactions involving exchanging interests to merge businesses without merging the entities.

These changes generally make the merger and interest exchange provisions similar to those in the Entity Transaction Act, which governs mergers, interest exchanges, and other transactions between different types of business entities (e.g., a merger between an LLC and a corporation) (CGS §§ 34-600 to -646).

The act eliminates provisions on LLC consolidations, which prior law treated similarly to mergers.

General Provisions (§§ 81-86)

The act does the following:

1. requires a domestic or foreign LLC that must give notice to, or obtain the approval of, a Connecticut agency or officer for a merger to also do so for an interest exchange;
2. prohibits a domestic or foreign LLC that holds property for a charitable purpose under Connecticut law immediately before a merger's or interest exchange's effective date, from diverting the property from the objects for which it was donated, granted, or transferred (unless other law allows the LLC to notify the attorney general and obtain a court order specifying the disposition);
3. provides that a surviving LLC receives any bequest, devise, gift, grant, or promise in a will or other instrument of donation, subscription, or conveyance that (a) is made to the other LLC involved in the merger and (b) takes effect or remains payable after the merger (§ 82);
4. makes a merger or interest exchange filing signed by an LLC part of the LLC's organizational documents (§ 83);
5. provides that a merger or interest exchange transaction under the act's provisions that produces certain results does not prohibit accomplishing the same result in any other legally permitted manner (§ 84);
6. does not prohibit an LLC's merger, conversion, or domestication under other laws (§ 84);
7. allows a merger or interest exchange plan to refer to facts ascertainable outside the plan if the plan specifies how the facts will impact it (§ 85); and
8. does not provide appraisal rights to members of LLCs involved in a merger or interest exchange except to the extent provided in the LLC's organizational documents or plan (§ 86).

Professional Service LLCs (§ 87)

Existing law allows a domestic LLC that provides professional services to merge with another domestic LLC that provides the same services. The act additionally (1) allows such a domestic LLC to merge with an LLC that renders two or more professional services, (2) allows mergers with foreign LLCs that render professional services under the same circumstances, and (3) applies these rules to interest exchanges.

Mergers (§§ 88-91)

Existing law allows LLCs to merge, whether they are domestic or foreign LLCs. For a merger to be effective, the act requires (1) each merging LLC's organic law (the law of the jurisdiction governing an LLC's internal affairs) to authorize the merger, (2) that the law governing each of the merging LLCs and federal law do not prohibit the merger, and (3) each of the merging LLCs to comply with its organic law in effecting the merger (§ 88).

The act's requirements for the plan of merger are similar to those in prior law. It requires approval of a plan by a vote of two-thirds in interest of the members unless the certificate of organization or operating agreement requires otherwise. Previously, a plan could be abandoned after its approval by unanimous consent unless it provided another procedure or the operating agreement provided otherwise. The act allows a plan's amendment or abandonment (1) as provided in the plan or (2) except as prohibited in the plan, by a vote of two-thirds in interest of the members or as provided in the certificate of organization or operating agreement for plan approval (§ 89).

The act renames the document that the LLCs must file with the secretary after approving a merger the "certificate of merger," instead of "articles of merger." It requires this document to contain many of the same items as in prior law but (1) adds that it can include any information required under one of the merging LLC's organic law and that a surviving LLC that is a foreign LLC must list its office address and (2) eliminates a required statement that the merger plan be available at the surviving LLC's place of business and be available without cost to any person holding an interest in one of the merging LLCs (§ 90).

The act makes numerous other minor changes to merger provisions.

Authorized Interest Exchanges (§ 92)

The act allows an LLC to acquire all of one or more classes or series of transferable interests of a domestic or foreign LLC in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of them. Similarly, it allows an LLC's interests to be acquired by a domestic or foreign LLC. A foreign LLC can be involved in an interest exchange if the law of its governing jurisdiction allows it.

If a protected agreement has a provision that applies to a merger of a domestic LLC, but does not refer to an interest exchange, the act deems the provision to also apply to an interest exchange if the domestic LLC is the acquired entity until the protected agreement provision is amended. Under the act, a "protected agreement" is:

1. a record evidencing a debt and any related agreement in effect on or after July 1, 2017;
2. an agreement that is binding on a domestic or foreign LLC on or after July 1, 2017;
3. the organizational documents of an LLC in effect on or after July 1, 2017; or
4. an agreement that is binding on any of the domestic or foreign LLC's members or managers on or after July 1, 2017 (§ 80).

Interest Exchange Plan (§ 93)

The act allows an LLC to be acquired in an interest exchange if it approves an interest exchange plan in a record that contains:

1. the name of the acquired LLC;
2. the name and governing jurisdiction of the acquiring domestic or foreign LLC;
3. the manner of converting the transferable interests in the acquired LLC into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of them;
4. any proposed amendments to the certificate of organization or operating agreement that are, or are proposed to be, in a record of the acquired LLC;
5. the interest exchange's other terms and conditions; and
6. any other provision required by Connecticut law or the acquired LLC's organizational documents.

The plan may contain any other provisions not prohibited by law.

Interest Exchange Approval (§ 94)

Unless the LLC's certificate of organization or operating agreement provides otherwise, the act requires approval of an interest exchange plan by two-thirds in interest of the members of an acquired LLC entitled to vote on any matter. An interest exchange involving a foreign LLC requires approval according to the law governing the foreign LLC. The members of the domestic or foreign acquiring LLC are not required to approve an interest exchange unless the LLC's governing law or organizational documents require it.

Interest Exchange Plan Amendment or Abandonment (§ 95)

The act requires each party to an interest exchange plan to consent to its amendment unless the plan provides otherwise.

An acquired LLC can approve an amendment in the same way it approved the plan if the plan does not specify how it can be amended. The LLC's managers or members can also approve an amendment as provided in the plan but a member who was entitled to vote on or consent to approval of the interest exchange is entitled to vote on or consent to any amendment of the plan that will change:

1. the amount or type of property to be received by any members of the acquired LLC;
2. the certificate of organization or operating agreement of the acquired LLC that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the members of the acquired LLC under the act's provisions or the operating agreement; or
3. any other plan term or condition if the change would adversely affect the member in a material way.

The act allows parties to abandon the plan, in a manner specified in the plan, any time after approval and before a certificate of interest exchange takes effect. Unless prohibited by the plan, an acquired LLC can abandon a plan in the same manner as it was approved.

An acquired LLC must deliver a signed certificate of abandonment to the secretary if a plan is abandoned after a certificate of interest exchange is delivered but before it is effective. A certificate of abandonment is effective on filing. It must state (1) the acquired LLC's name, (2) the date the certificate of interest exchange was delivered to the secretary, and (3) that the interest exchange is abandoned.

Certificate of Interest Exchange (§ 96)

The act requires an acquired LLC to sign and deliver a certificate of interest exchange to the secretary for filing. The certificate must state:

1. the acquired LLC's name;
2. the name and governing jurisdiction of the acquiring domestic or foreign LLC;

3. that the acquired LLC approved the interest exchange plan;
4. when it takes effect, if the certificate of interest exchange is not effective upon filing; and
5. any amendments to the acquired LLC's certificate of organization approved as part of the plan.

The certificate may contain any other provision not prohibited by law.

An interest exchange plan signed by an acquired LLC that has the same information can be delivered to the secretary instead of a certificate.

An interest exchange is effective when the certificate is effective (either upon filing or on a specified date within 90 days of filing (see § 31)).

Effect of Interest Exchange (§ 97)

Under the act, when an interest exchange in which the acquired entity is an LLC becomes effective:

1. transferable interests in the LLC that are the subject of the interest exchange cease to exist, or are converted or exchanged, and the members holding those interests are entitled only to the rights provided to them under the interest exchange plan and the act's appraisal rights;
2. the acquiring domestic or foreign LLC becomes the holder of the transferable interests in the acquired LLC as set forth in the plan;
3. the acquired LLC's certificate of organization is amended as provided in the certificate of interest exchange; and
4. provisions of the acquired LLC's operating agreement must be in a record, if any are amended as provided for in the interest exchange plan.

Except as otherwise provided in the acquired LLC's operating agreement, the interest exchange does not give rise to any rights that a member, manager, or third party would otherwise have in a dissolution, liquidation, or winding up of the acquired LLC.

The act provides that the transferable interests in an LLC that are to be exchanged under the plan's terms are exchanged, and the former holders of them have the rights provided in the plan and any appraisal rights they have under the act and the acquired LLC's governing law.

OTHER PROVISIONS

The act does not impair existing contracts or affect any proceedings begun or rights accrued before it takes effect. This also applies to future amendments to the LLC laws (§ 102).

The act makes a number of changes to provisions on notice and knowledge of facts (§ 3).

It also eliminates a number of specific provisions, including those:

1. authorizing the secretary to submit interrogatories to and require answers from an LLC to ascertain compliance with the LLC law and for a fine of up to $500 for an LLC, member, or manager who fails to answer fully and truthfully;
2. on voting to allow a lawsuit on behalf of the LLC to be brought by (a) a manager of a manager-managed LLC or (b) a member or members, regardless of how the LLC is managed; and
3. authorizing an LLC to conduct any type of business during a time of war or national emergency at a government authority's direction.

Professional Services-Registered Limited Liability Partnership (LLP) (§§ 2 & 104)

By law, a registered LLP can consist of partners who render professional services, and it must maintain at least $250,000 of professional liability insurance. The act adds physician assistants to the list of services such an LLP can provide.

Names of LLPs and Statutory Trusts (§§ 105 & 106)

The act's changes on reserving entity names also apply to domestic and foreign registered LLPs and statutory trusts.

PA 16-105—sHB 5366
Judiciary Committee

AN ACT CONCERNING COURT OPERATIONS

SUMMARY: This act changes several court procedures for restraining and civil protection orders, including:

1. prohibiting a parent, guardian, or responsible adult who brings a restraining or civil protection order application on behalf of someone under age 18 (as "next friend") from speaking for the applicant at a hearing except for good cause;
2. allowing the court to consider additional information in a report from the Judicial Branch's family services unit at a hearing on a restraining order;
3. providing that an ex parte civil protection order does not continue if a party requests a postponement of the hearing on the order unless the parties agree to the continuation or the court orders it for good cause; and
4. changing the information on domestic violence counseling that courts must provide to people who apply for restraining orders.

The act also eliminates a $2 court fee for filing an appraiser's assessment of land taken for public use (§ 7) and updates various references to federal law (§§ 1-3).

EFFECTIVE DATE: October 1, 2016, except the provisions updating references to federal law are effective upon passage.

§§ 4 & 6 — RESTRAINING AND CIVIL PROTECTION ORDERS

Applications for Minors

The law allows a person to apply for a:

1. restraining order, if he or she is a family or household member subjected to continuous threat of physical pain or injury, stalking, or pattern of threatening by another family or household member or
2. civil protection order, if he or she is a victim of sexual abuse, sexual assault, or stalking and is not eligible for a restraining order.

The act prohibits a parent, guardian, or responsible adult who applies for one of these orders as next friend of someone under age 18 from speaking for the applicant at a hearing except for good cause showing why the applicant cannot speak on his or her own behalf. But the act allows such a person to testify as a witness at a hearing on the application.

Restraining Order Hearings

When issuing an ex parte order (an order issued before a hearing, when one of the parties is not present), existing law allows the court to consider relevant publicly available court records. At a hearing on the application, the act allows the court to consider a report from the Judicial Branch's family services unit. The report may include the following:

1. existing or prior protection orders from the protection order registry,
2. outstanding arrest warrants for the respondent (person against whom the order is sought),
3. the respondent's risk level as determined by a risk assessment tool used by the branch's Court Support Services Division, and
4. information about a pending or disposed family matters case involving the applicant and respondent.

The report may also include information on pending or past criminal cases in which the respondent was convicted of a violent crime, which includes (1) an incident resulting in physical harm, bodily injury, or assault; (2) threatened violence constituting fear of imminent physical harm, bodily injury, or assault, including stalking or a pattern of threatening; (3) verbal abuse or argument with a present danger and likelihood that physical violence will occur; or (4) cruelty to animals.

The act requires that both the applicant and respondent receive this report.

Civil Protection Order Hearings

The law requires scheduling a hearing on an application for a civil protection order within 14 days. Under the act, if either party requests a postponement, any ex parte order issued by the court does not continue unless the parties agree to it or the court orders it for good cause.

§§ 4 & 5 — COURT NOTICE ON DOMESTIC VIOLENCE COUNSELING

Existing law requires the court to provide people who apply for a restraining order in a domestic violence situation with contact information for domestic violence counselors and counseling organizations. The act specifies that the counselors must meet the following criteria:

1. be engaged in a domestic violence agency;
2. have undergone at least 20 hours of related training and be certified as a counselor by the training agency;
3. be under the control of a direct supervisor of a domestic violence agency; and
4. primarily engage in giving advice, counsel, and assistance to, and advocacy for, domestic violence victims.

The act requires the court to provide information about domestic violence agencies, instead of counseling organizations. The agencies must be offices, shelters, host homes, or agencies that (1) assist domestic violence victims through crisis intervention, emergency shelter referral, and medical and legal advocacy and (2) meet the Department of Social Services' criteria for providing these services.

The act specifies that courts must give this information, and information on how to continue an order beyond its initial period, to every restraining order applicant.

PA 16-112—HB 5364
Judiciary Committee

AN ACT CONCERNING THE FILING OF WORKERS' COMPENSATION CLAIMS WHEN A MUNICIPALITY IS THE EMPLOYER

SUMMARY: This act requires a municipal employee who files a claim with the Workers' Compensation Commission to send a copy of the claim notice to the town clerk of the municipality where the employee works.

By law, an employee may notify his or her employer or a workers' compensation commissioner of the claim, but a state employee must send a copy of the notice to the administrative services commissioner. The notice must state the name and address of the employee and person in whose interest compensation is claimed and the (1) date and place of the accident and nature of the injury or (2) nature of the occupational disease and date symptoms first became clear.
EFFECTIVE DATE: July 1, 2016

PA 16-126—sSB 365
Judiciary Committee

AN ACT CONCERNING CHILD ENDANGERMENT WHILE DRIVING WHILE UNDER THE INFLUENCE

SUMMARY: This act increases the criminal penalties for driving under the influence (DUI) (1) with a child passenger (under age 18) or (2) when driving a school bus, student transportation vehicle (STV, see BACKGROUND), or other motor vehicle specially designated for carrying children, with or without a child passenger. It does so by creating specific crimes for these offenses, separate from the DUI statute (CGS § 14-227a).

Among other changes compared to existing DUI law, the penalties for the act's new crimes include longer mandatory minimum and maximum prison terms and required probation for first offenses. For DUI with a child passenger, the act adds to the required components of probation (1) submitting to an interview and risk evaluation by the Department of Children and Families (DCF) and (2) cooperating with DCF-ordered programming. Otherwise, the act applies most provisions of the existing DUI law to the new crimes.

The act subjects individuals arrested for the new crimes to the existing "administrative per se" license suspension procedures (§ 17, see BACKGROUND). It also generally applies the same restrictions and requirements that now apply to people convicted of DUI to people convicted of the new crimes.
EFFECTIVE DATE: October 1, 2016

DUI WITH A CHILD PASSENGER OR WHEN DRIVING A SCHOOL BUS OR SIMILAR VEHICLE

The act establishes specific crimes for (1) DUI with a child passenger in any motor vehicle (including a snowmobile or all-terrain vehicle) and (2) DUI when driving a school bus, STV, or other motor vehicle specially designated for carrying children, with or without a child passenger. Under the act, as under existing DUI law:

1. these crimes apply if someone is driving while under the influence of alcohol or drugs or with an elevated blood alcohol content (BAC) and
2. the threshold for an elevated BAC is .08% for most drivers age 21 or older, .04% for drivers age 21 or older operating a commercial motor vehicle (large truck or bus), and .02% for drivers younger than age 21 (see CGS §§ 14-227a(a) and 14-227g).

By law, a commercial driver's license (CDL) is required to drive a school bus. Thus, the BAC threshold for such drivers over age 21 is .04%. Because an STV is not necessarily classified as a commercial vehicle, the BAC threshold for STV drivers over age 21 is generally .08%.

DUI with a Child Passenger: Criminal Penalties (§ 1)

Similar to existing DUI law, the act establishes graduated penalties for the new crime of DUI with a child passenger, including prison sentences and probation terms; fines; and license suspension and ignition interlock requirements.

For a first conviction of DUI under existing law, individuals may either be sentenced to a (1) mandatory minimum prison term or (2) suspended sentence with probation. Mandatory minimum prison terms and probation are required for subsequent offenses.

The act increases the penalties for the new crime relative to those in existing DUI law by:

1. requiring a mandatory minimum prison term for first convictions and increasing the mandatory minimum prison terms for second and subsequent convictions,
2. increasing maximum prison terms for all convictions,
3. requiring probation for first convictions and adding to the required components of probation for all convictions, and
4. increasing maximum fines for first convictions.

Table 1 compares the criminal penalties under existing DUI law and the crime of DUI with a child passenger.

Table 1: Existing DUI Law Compared to DUI with a Child Passenger: Criminal Penalties

Penalty Type	***Existing DUI Law (CGS § 14-227a(g), see Act § 3)***	***DUI with a Child Passenger Under the Act (§ 1)***
First Conviction		
Prison Sentence and Probation	Either (1) up to six months with a mandatory minimum of two consecutive days or (2) up to six months suspended with probation requiring 100 hours of community service	Up to one year with a mandatory minimum of 30 days Probation required, including (1) 100 hours of community service; (2) submitting to an assessment of the degree of the person's alcohol or drug abuse, conducted by the Court Support Services Division (CSSD); (3) undergoing a treatment program, including chemical screening, if court ordered; (4) submitting to a DCF interview and evaluation to assess any ongoing risk the person poses to the child passenger; and (5) cooperating with any DCF-required programming, treatment, directives, or plan
Fine	$500- $1,000	$500- $2,000
License Suspension	45 days, followed by one year of driving only a vehicle equipped with an ignition interlock device	Same as existing DUI law
Second Conviction within 10 Years of Prior Conviction		
Prison Sentence and	Up to two years, with a mandatory minimum of 120 consecutive days	Up to three years, with a mandatory minimum of 180 consecutive days

Penalty Type	*Existing DUI Law (CGS § 14-227a(g), see Act § 3)*	*DUI with a Child Passenger Under the Act (§ 1)*
Probation	Probation required, including (1) 100 hours of community service; (2) submitting to an assessment of the degree of the person's alcohol or drug abuse, conducted by CSSD; and (3) undergoing a treatment program if court ordered	Probation required, with the same conditions as for a first conviction (see above)
Fine	$1,000- $4,000	Same as existing DUI law
License Suspension	45 days, followed by three years of driving only a vehicle equipped with an ignition interlock device, with operation for the first year limited to travel to or from work, school, an alcohol or drug abuse treatment program, ignition interlock service center, or appointment with a probation officer	Same as existing DUI law, except during first year of travel with ignition interlock device, the act also allows travel to DCF-ordered treatment programs and appointments with DCF caseworkers
Third or Subsequent Conviction Within 10 Years of Prior Conviction		
Prison Sentence and Probation	Up to three years, with mandatory minimum of one year Probation required, with same conditions as for second DUI convictions (see above)	Up to five years, with mandatory minimum of two years Probation required, with same conditions as for a first or second DUI with a child passenger conviction (see above)
Fine	$2,000- $8,000	Same as existing DUI law
License Suspension	License revoked, but the offender is eligible for reinstatement after two years If the license is reinstated, the offender must drive only interlock-equipped vehicles for as long as he or she drives, except that the motor vehicles (DMV) commissioner may lift this requirement after 15 years	Same as existing DUI law

Subsequent Convictions. Under existing DUI law, a subsequent conviction is one that occurs within 10 years of a prior conviction in Connecticut for:

1. DUI,
2. 2nd degree manslaughter with a motor vehicle, or
3. 2nd degree assault with a motor vehicle.

A conviction in another state within the past 10 years of a crime with substantially similar essential elements is also considered a prior conviction under existing law.

Under the act, convictions for any such crimes, or the act's new crimes, are counted as prior convictions for purposes of DUI or DUI with a child passenger (§§ 1 & 3).

The act also specifies that a conviction for the separate crime of DUI by a driver under age 21 is a prior conviction for purposes of the new crime of DUI with a child passenger (§ 1).

DUI While Driving a School Bus, STV, or Similar Vehicle: Criminal Penalties (§ 2)

The act creates a separate crime for DUI while driving a school bus, STV, or other "motor vehicle specially designated for carrying children." It defines the last term as any motor vehicle, other than a registered school bus or STV, that is designated or used to transport children to or from any program or activity organized primarily for minors,

regardless of whether the passengers are charged a fee, but not including a passenger vehicle normally used for personal, family, or household purposes operated by someone without a public passenger endorsement.

Unlike existing DUI law, this crime does not have graduated penalties for subsequent convictions. As compared to existing DUI law, the act:

1. requires a mandatory minimum prison term and probation for first convictions,
2. increases the maximum prison terms for all convictions, and
3. eliminates minimum fines while increasing maximum fines.

The act requires the same period of license suspension and ignition interlock usage for convictions of this crime as for second convictions under existing DUI law.

Under the act, the mandatory minimum prison term is longer (120 days) if the offense occurs when there is a child passenger on the bus or similar vehicle than if there is no such passenger (30 days).

Table 2 describes the criminal penalties for this new crime.

Table 2: DUI While Driving a School Bus, STV, or Similar Vehicle: Criminal Penalties

Penalty Type	*Penalty*
Prison Sentence and Probation	One to 10 years, with a mandatory minimum of (1) 30 consecutive days or (2) 120 consecutive days if a child was a passenger when the offense occurred Probation required, including (1) 100 hours of community service; (2) submitting to a CSSD assessment of the degree of the person's alcohol or drug abuse; and (3) participating in a treatment program, including chemical screening, if court ordered
Fine	Up to $10,000
License Suspension	45 days, followed by three years of driving only a vehicle equipped with an ignition interlock device, with operation for the first year limited to travel to or from work, school, an alcohol or drug abuse treatment program, ignition interlock service center, or appointment with a probation officer

Pretrial Alcohol Education Program (§§ 4 & 5)

Existing law provides for a pretrial alcohol education program, the successful completion of which may result in the dismissal of charges for certain eligible offenders charged with DUI.

The act extends to the new crimes the same rules as existing law regarding eligibility for this program. Thus, among other things, the program is not available to an individual who (1) participated in the program in the preceding 10 years, (2) has prior DUI-related convictions, (3) was driving a commercial motor vehicle or had a CDL or commercial driver's instruction permit at the time of the offense, or (4) caused a serious injury in committing the crime (although this may be waived for good cause).

Because a CDL is required to drive a school bus, individuals driving such vehicles when the offense occurred are ineligible for the pretrial alcohol education program, under existing law and the act.

Other DUI Provisions (§§ 6-37)

In most other respects, the act extends existing DUI law to the new crimes it creates. For example:

1. An applicant for a public passenger endorsement is ineligible if convicted of such a crime within the prior five years (this endorsement is required to drive a school bus or STV) (§ 10).
2. Someone with a CDL convicted of one of these crimes is disqualified from driving a commercial vehicle for one year, and faces a lifetime ban on driving such vehicles for two such convictions, subject to possible reinstatement after 10 years (§ 11).
3. An individual operating a motor vehicle while his or her license is suspended or revoked for such a crime is subject to additional criminal penalties (§ 16).
4. In a civil action, a judge or jury may award double or triple damages if (a) the defendant deliberately or with reckless disregard operated the vehicle in violation of the applicable DUI law and (b) the violation was a substantial factor in causing the injury, death, or property damage (§ 22).

5. A person is considered a "persistent operating under the influence felony offender" if he or she (a) is convicted of 2nd degree manslaughter with a motor vehicle or 2nd degree assault with a motor vehicle and (b) within the previous 10 years was convicted of either of these offenses, DUI, one of the act's new crimes, or substantially similar offenses in other states (§ 30).

A few provisions of existing DUI law do not apply to the act's new crimes or only apply in certain situations, as follows.

Home Confinement. Existing law allows the Department of Correction (DOC) commissioner to release, to the inmate's home, an inmate sentenced for DUI, after admission to DOC custody and a risk and needs assessment. The offender cannot leave his or her home without authorization, remains in DOC custody, and is supervised by DOC employees. Under the act, this applies to a first conviction for DUI with a child passenger but not to (1) subsequent convictions for this crime or (2) any conviction for DUI while driving a school bus, STV, or similar vehicle (§ 25).

Special Operator's Permit. Existing law generally allows individuals with a suspended driver's license to apply for a special operator's permit that allows certain work-, education-, or medical treatment-related driving. This permit is not available to operate a vehicle for which a CDL or public passenger endorsement is required.

The act provides that someone with a prior license suspension for one of the new crimes is ineligible for such a permit (§ 9). Existing law provides that a person is not ineligible for such a permit solely on the basis of two DUI convictions, unless the second conviction was for a violation committed after a prior conviction. (Thus, a person could still be eligible if convicted on the same day for two DUI offenses.) The act does not extend this provision to the new crimes.

BACKGROUND

Risk of Injury to a Minor

In practice, individuals arrested for DUI while driving children are often also charged with risk of injury to a minor, a class C felony (see Table on Penalties) which prohibits anyone from willfully or unlawfully causing or permitting a child under age 16 to be placed in a situation endangering the child's life or limb (CGS § 53-21).

Student Transportation Vehicle

By law, a student transportation vehicle is any motor vehicle, other than a registered school bus, used by a carrier for transporting students to or from school, school programs, or school-sponsored events (CGS § 14-212).

Administrative Per Se License Suspension

By law, motorists implicitly consent to be tested for drugs or alcohol when they drive. The law establishes administrative license suspension procedures for drivers who refuse to submit to a test or whose test results indicate an elevated BAC. (These provisions are called "implied consent" and "administrative per se," respectively.)

Administrative license suspension penalties are in addition to any suspension penalties imposed as a result of conviction on any criminal DUI charge (CGS § 14-227b; see act § 17).

PA 16-127—sSB 458
Judiciary Committee

AN ACT CONCERNING THE OFFICE OF THE CLAIMS COMMISSIONER

SUMMARY: This act makes a number of changes to the procedures governing claims against the state, including the following:

1. allowing the claims commissioner to designate one or more magistrates from a list maintained by the chief court administrator to hear and make recommendations for decisions on claims, while the commissioner remains solely responsible for a claim's final disposition;
2. changing the procedures and allowable awards for claims alleging wrongful incarceration, including expanding the eligibility criteria, prescribing a new method for calculating an award, and requiring the General Assembly to review any award that exceeds $20,000 or for which a claimant requests review; and
3. requiring inmates to exhaust their administrative remedies before filing a claim for an injury with the commissioner and limiting when the commissioner can waive filing fees for inmates.

The act also deals with claims not acted on in a timely fashion by the claims commissioner by (1) allowing parties to certain claims to agree to an extension of time, (2) deeming certain claims to be disposed of properly and others to be properly before a court, and (3) requiring the commissioner to report to the Judiciary Committee on certain claims.

Lastly, the act makes technical changes.

EFFECTIVE DATE: Upon passage

MAGISTRATES HEARING CLAIMS

The act allows the claims commissioner to designate one or more magistrates from a list maintained by the chief court administrator to hear and determine claims against the state. Under existing law, the chief court administrator maintains a list of attorneys licensed in Connecticut for at least five years who can hear small claims matters and cases involving infractions and violations (CGS §§ 51-193*l* et seq.).

The act gives these magistrates the same authority as the claims commissioner when conducting claim proceedings. This includes the authority to call and examine witnesses and issue and enforce subpoenas. But magistrates may only make recommendations to the commissioner for a claim's final disposition. The commissioner remains solely responsible for a claim's final disposition.

The act requires the commissioner to adopt rules, as necessary, for the appointment of magistrates. The rules can specify the types of matters a magistrate may hear and decide and provide for the issuance of a recommendation by a magistrate to the commissioner.

The act eliminates a requirement that the claims commissioner's rules governing claim proceedings be adopted as regulations. The act instead requires her to adopt rules governing the office's proceedings without going through the regulation process and requires magistrates hearing claims to follow these rules.

The act makes a number of conforming changes to reflect that magistrates, as well as the claims commissioner, may hear claims. The act retains the claims commissioner's authority to waive the fee for filing notice of a claim but does not extend this authority to magistrates. The act also does not authorize magistrates to hear wrongful incarceration claims.

§ 29 — WRONGFUL INCARCERATION COMPENSATION

Eligibility

By law, a person may be eligible for wrongful incarceration compensation if he or she (1) was convicted by the state of one or more crimes, (2) served time in prison for the crime or crimes, and (3) had a conviction vacated or reversed on grounds of innocence.

The act expands the eligibility criteria by allowing compensation when the ground for dismissal is malfeasance or serious misconduct by a state officer, agent, employee, or official that contributed to the person's arrest, prosecution, conviction, or incarceration.

Hearing before the Claims Commissioner

By law, a person who meets the eligibility criteria may file a claim against the state for compensation. The person must file the claim with the claims commissioner and prove his or her eligibility by a preponderance of the evidence.

Prior law required the claimant to present evidence of the damages he or she suffered, such as claims for physical and mental pain and suffering; attorney's fees and other expenses; and claims for loss of liberty, enjoyment of life, familial relationships, reputation, earnings, or earning capacity. The act instead requires the claimant to present evidence of the following:

1. his or her age, income, vocational training, and level of education at the time of conviction;
2. loss of familial relationships;
3. damage to reputation;
4. the severity of the crime for which he or she was convicted and whether he or she was under a death sentence; and
5. whether he or she was required to register as a sex offender and the length of time registered.

As under prior law, a claimant may present evidence of other damages arising from or related to the arrest, prosecution, conviction, and incarceration.

Determining Compensation

The act requires the commissioner to award a claimant, for each year of incarceration, an amount equal to or up to twice the median household income for the state, as determined by the U.S. Department of Housing and Urban Development, adjusted for inflation using the consumer price index for urban consumers. Under the act, this amount is prorated for any partial year the claimant served in incarceration.

The act gives the commissioner the discretion to decrease or increase the award amount by 25% based on an assessment of relevant factors, including any of the evidence listed above that the claimant presented at the hearing.

Previously, the commissioner had discretion in determining the award amount after considering relevant factors such as (1) any evidence of damages the claimant presented at the hearing and (2) whether any negligence or misconduct by an officer, agent, employee, or official of the state or any of its political subdivisions contributed to the person's arrest, prosecution, conviction, or incarceration.

Existing law, unchanged by the act, allows the commissioner to also award payment for reintegration services, such as employment training, counseling, and tuition and fees at state colleges and universities.

Legislative Review of Compensation

Under the act, the General Assembly must review a compensation award if the claimant requests a review or the award exceeds $20,000. The commissioner must submit these claims to the General Assembly within five business days of her order or the claimant's request. The General Assembly must review any such award and the claim from which it arose within 45 days after receiving it and may (1) deny the claim, (2) confirm the award, or (3) modify the award to any amount it deems just and reasonable. If it takes no action on the award or the claim, the commissioner's determination is deemed confirmed.

Limitation on Other Actions or Remedies

The act requires a compensated claimant to sign a release providing that he or she voluntarily relinquishes the right to pursue any other action or remedy arising from the wrongful conviction and incarceration. Prior law did not prohibit a compensated claimant from pursuing such further action or remedy against the state, a political subdivision, or their officials and employees.

§ 23 — INMATE CLAIMS

The act requires an inmate to exhaust any administrative remedies provided by the Department of Correction before he or she can file a claim for an injury with the claims commissioner's office. This rule does not apply to the legal representative of an inmate's estate.

The act requires an inmate's claim notice to describe the administrative remedies that have been exhausted and requires filing the claim within one year of exhausting the administrative remedies. By law, the claim notice must include the claimant's name and address and that of his or her attorney, if any; a concise statement of the claim and the amount requested; and a request for permission to sue the state.

The act prohibits the commissioner from waiving the required filing fee for an inmate's claim if the inmate had at least three prior claims that were dismissed by the commissioner as frivolous, duplicative, or malicious or failing to state a claim on which relief could be granted. By law, the filing fee is $50 for claims over $5,000 and $25 for lesser claims.

§§ 30 & 31 — CLAIMS NOT ACTED ON IN TIMELY FASHION

Time Extensions and Disposition of Claims

Existing law allows the parties to a claim to agree to extend the time the commissioner has to dispose of the claim, if they do so within two years of filing the claim or during any extension period already agreed to or granted by the legislature. Regardless of this law, the act allows parties to agree to an extension outside of this timeframe if the claim (1) was filed before July 1, 2014 or (2) had its extension expire before July 1, 2016. Parties must agree to an extension by January 1, 2017, and the extension puts the claim properly before the commissioner for the extension period.

For claims disposed of by the commissioner from April 4, 2012 through January 1, 2017, the act deems them disposed of during the time period as authorized by law regardless of the law requiring the commissioner to dispose of them within two years of filing or during any extension period. For claims authorizing a suit against the state where the claimant's action is pending in Superior Court on June 9, 2016, the act deems the case to be within the court's jurisdiction. For a claim that is related to an action pending in Superior Court on June 9, 2016, the act requires the commissioner to immediately authorize the claimant to sue the state, and an action filed under that authorization is deemed to be properly within the court's jurisdiction.

Report (§ 1)

By December 1, 2016, the act requires the claims commissioner to report to the Judiciary Committee on all claims filed with her office before December 2, 2014 that have not been disposed of. The report must show, by calendar year, the number of claims:

1. without a disposition,
2. that had a hearing but did not receive a timely decision as required by the statutes, and
3. that had a motion filed and heard that would dispose of the claim but did not receive a decision or received one more than 120 days after the motion's hearing.

The report must also include any reforms the office has undertaken to promote the simple, expeditious, and economical processing of claims, including any technological reforms for an electronic docket management system and revised procedural rules for claims.

BACKGROUND

Claims against the State

Sovereign immunity limits when someone can sue the state. Some statutes authorize a person to sue the state in court for certain types of cases but, in most instances, someone who wishes to sue the state must instead file a claim with the claims commissioner.

The commissioner must decide whether to (1) deny or dismiss the claim, (2) grant the claimant permission to sue the state, (3) award a claimant up to $20,000, or (4) recommend that the General Assembly approve an award of a higher amount.

A claimant who files a claim for more than $20,000 can ask the General Assembly to review the commissioner's decision to deny or dismiss the claim or award a lesser amount. The General Assembly must review claims where the commissioner recommends an award greater than $20,000. For each claim, the legislature may confirm the commissioner's decision or recommendation, order payment of a specific amount, deny payment, or authorize the claimant to sue the state.

PA 16-145—sHB 5606
Judiciary Committee

AN ACT CONCERNING THE CONNECTICUT REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

SUMMARY: This act establishes the "Connecticut Revised Uniform Fiduciary Access to Digital Assets Act," extending a fiduciary's existing authority over a represented person's tangible assets to include the person's digital assets (i.e., electronic records, such as emails, social media accounts, digital files, and virtual currency). The act specifies the conditions under which fiduciaries have the right to access digital assets.

The act applies to four types of fiduciaries, regardless of when their authority became effective:

1. executors or administrators of deceased persons' estates;
2. court-appointed conservators of protected persons' estates;
3. agents appointed by principals under powers of attorney; and
4. trustees acting on behalf of settlors (i.e., trustors).

The act establishes the processes fiduciaries must follow to gain access to a represented person's digital assets or terminate an account used to access such assets. A fiduciary must send a written request to the asset's custodian along with (1) a certified copy of the document granting the fiduciary his or her authority, such as a letter of appointment, court order, or certification of trust, and (2) certain other information the custodian requests, such as account verification.

The custodian is the person who carries, maintains, processes, receives, or stores an account holder's digital asset. A custodian must generally comply with a fiduciary's request within 60 days of receiving it and is immune from any liability for an act or omission done in good faith compliance. The act applies to a custodian if the account holder (i.e., user) resides in Connecticut or did so when he or she died.

Under the act, users may use an online tool to direct a custodian to allow or limit access to a person (designated recipient) they choose to administer their digital assets. (An "online tool" is an electronic service provided by a custodian that allows a user, in an agreement distinct from a service agreement, to direct the custodian to disclose or restrict the user's digital assets to a third person.)

A fiduciary or designated recipient has the same access rights as the represented person. A custodian's service agreement that restricts access to the user's digital assets is void unless the user consents separately.

The act does not apply to an employer's digital assets used by employees in the ordinary course of business.

It replaces the provisions under prior law that required email service providers to give estate executors and administrators access to, or copies of, the email account of a decedent domiciled in Connecticut when he or she died.

EFFECTIVE DATE: October 1, 2016

§ 4 — USER'S DIRECTION FOR DISCLOSING DIGITAL ASSETS

The act establishes a process for determining a user's intent with respect to his or her digital assets.

Under the act, if a custodian's online tool allows a user, at all times, to modify or delete a direction about disclosing digital assets to a designated recipient, the online direction overrides the user's contrary direction in a will, trust, power of attorney, or other record.

If the custodian does not provide an online tool or the user does not use the one provided, the user may allow or prohibit disclosure to a fiduciary in a will, trust, power of attorney, or other record. The user's direction can apply to some or all of his or her digital assets, including electronic communications the user sent or received.

A user's direction in an online tool or other record overrides a service agreement's contrary provision if the agreement does not require the user to act on that provision affirmatively and distinctly when assenting to the service agreement.

§§ 7-14 — FIDUCIARY'S ACCESS TO DIGITAL ASSETS

The act distinguishes the level of access a fiduciary may have to a user's digital assets and the conditions under which the custodian must grant such access.

Level of Access

Unless otherwise ordered by a court, directed by the represented person, or provided by the document granting authority, the act allows a fiduciary to access:

1. the content of electronic communications (i.e., information on their substance or meaning), to the extent allowed under federal privacy laws (i.e., content disclosure);
2. the "catalogue of electronic communications" sent or received by the represented person; and
3. other digital assets, excluding the content of electronic communications, in which the represented person has a right or interest (or had a right or interest at the time of death).

Under the act, "catalogue of electronic communications" means the (1) identifying information and email address of each person with whom the account holder communicated and (2) time and date of the communication.

The act allows fiduciaries to access a user's catalogue of electronic communications and other digital assets unless the user prohibited their disclosure or the court directs otherwise. But it generally limits a fiduciary's access to the content of electronic communications by requiring the user to have expressly authorized, or a court to order, their disclosure. It creates an exception for trustees who are the original users of an account, as described below.

Written Request and Document Granting Access

A fiduciary's request to the custodian for access to digital assets must be in writing and accompanied by the following documents, as applicable:

1. Estate executors must provide a certified copy of the (a) certificate of appointment as executor and (b) user's death certificate.

2. Agents appointed under powers of attorney must provide an original or copy of the power of attorney granting the agent authority over the principal's digital assets and a certification, under penalty of perjury, that the power of attorney is in effect.
3. Conservators must provide a certified copy of the court order giving them authority over the protected person's digital assets.
4. Trustees who are not the original users of an account must provide a certified copy of the trust instrument that consents to the disclosure and a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is currently acting as trustee of the trust.

Custodian's Request for Additional Information

Regardless of the level of access requested, fiduciaries must also provide the following information if requested by the custodian:

1. a number, username, address, or other unique subscriber or account identifier the custodian assigned to identify the user's account or
2. evidence linking the account to the user, principal, trust, or conserved person, as applicable.

Additional Requirements for Certain Fiduciaries

In addition to the requirements described above, other requirements apply to executors and conservators depending on the level of access requested.

Executors. Unless the user provided online directions, an executor requesting content disclosure must provide a copy of the user's will, trust, power of attorney, or other record showing the user's consent to such disclosure.

In addition, the custodian may ask an executor to provide a court record or order finding that:

1. the user had a specific identifiable account with the custodian,
2. the user consented to the disclosure of the content (unless he or she provided online directions),
3. disclosure would not violate federal electronic communications or consumer privacy laws or other applicable law, or
4. disclosure is reasonably necessary in administering the estate.

If the executor requests access to a catalogue of electronic communications or other digital assets, the custodian may ask for (1) an affidavit or a court order stating that such disclosure is reasonably necessary for administering the estate or (2) a court order stating that the user had a specific identifiable account with the custodian.

Conservators. A court may grant a conservator access to electronic communications and other digital assets after the opportunity for a hearing, as is required for accessing a protected person's tangible assets under existing law.

A conservator with general authority to manage the assets of a conserved person may ask a custodian to suspend or terminate the person's account for good cause. Such a request must be accompanied by a certified copy of the certificate of appointment giving the conservator authority over the person's property.

Trustee Who is an Account's Original User

A custodian must disclose to a trustee who is an account's original user any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

§§ 5, 6 & 16 — CUSTODIAN'S COMPLIANCE AND PROCEDURE FOR DISCLOSURE

Terms-of-Service Agreement (§ 5)

The act specifies that it does not change or impair a custodian's or user's rights under a service agreement to access and use the user's digital assets.

Compliance in General (§ 16)

A custodian must comply within 60 days after receiving all required documents from a fiduciary or a designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply for a court order that directs compliance. An order directing compliance must state that such compliance would not violate federal requirements regarding voluntary disclosure of customer communications or records.

Compliance When User is Alive (§ 16)

When a user is still alive, the custodian may (1) notify the user that a request was made to disclose information or terminate an account; (2) deny a request if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request; or (3) obtain, or require a requestor to obtain, a court order.

The court order must specify:

1. that the account belongs to a conserved person or principal;
2. that there is sufficient consent from the conserved person or principal to support the requested disclosure; and
3. any findings required by law other than the act's provisions.

Procedure for Disclosing Digital Assets (§ 6)

When disclosing a user's digital assets, the custodian may:

1. grant a fiduciary or designated recipient full access to the user's account;
2. grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or
3. provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

A custodian need not disclose a digital asset a user deleted.

Disclosure of Digital Assets (§ 6)

Fees. A custodian may charge a reasonable administrative fee for the cost of disclosing digital assets.

Undue Burden. A custodian directed or asked to disclose some of a user's digital assets does not have to do so if separating them would unduly burden the custodian. In such a case, the custodian or fiduciary may seek a court order to disclose:

1. a subset, limited by date, of the digital assets;
2. all of the digital assets to the fiduciary or designated recipient;
3. none of the digital assets; or
4. all of the digital assets to the court for in camera review (in private) in order to issue an order.

§ 15 — FIDUCIARY'S DUTIES AND AUTHORITY

Under the act, the legal duties that apply to fiduciaries charged with managing tangible property also apply to fiduciaries managing digital assets. These include the duty of care, loyalty, and confidentiality.

A fiduciary's or designated recipient's authority with respect to a user's digital asset (1) is subject to copyright and other applicable law, (2) is limited by the scope of the fiduciary's duties, (3) may not be used to impersonate the user, and (4) is subject to any applicable terms-of-service agreement that was not overridden by the user's direction.

Fiduciaries with authority over the property of a decedent, conserved person, principal, or settlor (i.e., trustor) have the right to access any digital asset in which the decedent, conserved person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

Fiduciaries acting within the scope of their duties are authorized users of the property of the decedent, conserved person, principal, or settlor for the purpose of the laws that apply to computer fraud and unauthorized computer access.

Fiduciaries with authority over the tangible, personal property of a decedent, conserved person, principal, or settlor (1) have the right to access the property and any digital asset stored in it and (2) are authorized users for the purpose of the laws that apply to computer fraud and unauthorized computer access.

§ 15 — TERMINATING AN ACCOUNT

A custodian may disclose information in a user's account to a fiduciary when the information is required to terminate an account used to access digital assets licensed to the user.

A fiduciary request to a custodian to terminate a user's account must be in writing and include:

1. a certified copy of the user's death certificate, if the user is deceased;
2. a certified copy of the applicable document granting the fiduciary authority over the account; and

3. if requested by the custodian, (a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account; (b) evidence linking the account to the user; or (c) a court finding that the user had a specific account with the custodian that is identifiable by the information specified above.

§§ 17 & 18 — EFFECT ON OTHER LAWS

The act specifies that anyone applying and construing its provisions must consider the need to promote uniformity among other states that also adopt these provisions.

It also specifies that its provisions modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act (E-SIGN), except for the consumer disclosure requirements (15 U.S.C. § 7001, et seq., see BACKGROUND). The act does not authorize electronic delivery of the notices described under E-SIGN, such as court orders, notices, or official documents (15 U.S.C. § 7003(b)).

BACKGROUND

E-SIGN Act

The E-SIGN Act provides that a contract or signature may not be denied legal effect, validity, or enforceability solely because it is in electronic form. A state statute, regulation, or other rule of law may modify, limit, or supersede the E-SIGN provisions. It generally does not apply to a contract or other record that governs the creation and execution of wills, codicils, or testamentary trusts (P. L. 106–229).

PA 16-147—sHB 5642
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING THE RECOMMENDATIONS OF THE JUVENILE JUSTICE POLICY AND OVERSIGHT COMMITTEE

SUMMARY: This act makes numerous changes affecting juvenile justice and schools.

With regard to juvenile detention, it:

1. requires the judicial branch's Court Support Services Division (CSSD) to develop and implement a detention risk assessment instrument and adopt release policies and procedures,
2. limits the conditions under which a child may be detained and allows graduated sanctions as an alternative to detention, and
3. requires CSSD and the Department of Children and Families (DCF) to develop and implement a plan to provide community-based services for children leaving juvenile detention.

The act prohibits state-operated juvenile justice residential facilities from imposing out-of-school suspensions.

Regarding the Juvenile Justice Policy and Oversight Committee (JJPOC), the act:

1. adds the victim advocate, or her designee, as a member;
2. eliminates some of its reporting responsibilities and requires a report on planning for a community-based diversion system; and
3. requires it to establish a data integration working group.

The act makes various changes affecting schools, such as:

1. requiring schools to offer an alternative educational opportunity to a larger category of expelled students;
2. eliminating a child's truancy as permissible grounds for a family with service needs complaint;
3. requiring schools with a disproportionately high truancy rate to implement an approved intervention model; and
4. requiring the State Department of Education (SDE), in collaboration with other agencies, to develop plans on certain matters, such as school-based diversion initiatives and educational deficiencies among children in the juvenile justice system.

The act also includes provisions on, among other matters, police training, a recidivism reduction framework, and training on and monitoring of de-escalation efforts.

A section-by-section summary appears below.

EFFECTIVE DATE: Various, see below.

§ 1 — JUVENILE DETENTION

Juvenile Court Jurisdiction Based on Child's Residence

The act specifies that the juvenile court in the judicial district where the child resides has jurisdiction over juvenile matters if the child's residence can be determined. By law, when a child is brought before a Superior Court judge, the judge must immediately proceed with the case as a juvenile matter and determine whether to release or detain the child.

Determining Release or Detention

The law requires an officer who brings a child into detention to first notify, or make a reasonable effort to notify, the child's parents or guardian of the intended action and file, at the detention center, a copy of a signed statement of the child's alleged delinquent conduct. The act requires the officer to also file the order to detain the child.

Under existing law, the child may be released to the custody of his or her parents, guardian, or other suitable person or agency. Before the child may be released, the act requires the child to be assessed using CSSD's detention risk assessment instrument and he or she may be released in accordance with CSSD's release policies and procedures (see below). As is the case under existing law, this does not apply if the child was arrested for a serious juvenile offense or an order not to release is noted on the records.

Conditions Under Which a Child May be Placed in Detention

Under existing law, unchanged by the act, a child may not be placed in detention unless a Superior Court judge determines, based on available facts, that there is (1) probable cause to believe that the child has committed the acts alleged and (2) no less restrictive alternative available.

The law requires the court to make an additional finding to support the detention order from a list of other factors, including that detention is needed to hold the child (1) for another jurisdiction or (2) to ensure his or her appearance before the court, as demonstrated by the child's previous failure to respond to the court process. The act also allows the court to authorize a detention order if there is probable cause to believe that the child will pose a risk to public safety if released to the community before the court hearing or disposition. But it no longer allows the court to authorize a detention order that is based on a finding that:

1. there is a strong probability the child would run away before the court hearing or disposition or commit or attempt to commit other offenses injurious to himself or herself or the community before the court disposition,
2. there is probable cause to believe that the child's continued residence in his or her home pending disposition posed a risk to the child or community because of the serious and dangerous nature of the act or acts the child was alleged to have committed, or
3. the child violated any condition of a suspended detention order.

Detention Period

The act establishes the maximum amount of time a child may be held in detention. An order to detain a child can be up to seven days or until the dispositional hearing, whichever period is shorter. After a detention review hearing, a renewal period must not exceed the same time limit.

Suspended Detention With Graduated Sanctions

Under the act, the court, as an alternative to detention, may issue a suspended detention order with graduated sanctions imposed based on the CSSD detention risk assessment instrument described below.

EFFECTIVE DATE: January 1, 2017

§ 2 — CSSD DETENTION RISK ASSESSMENT INSTRUMENT

Development, Implementation, and Use

The act requires CSSD, by January 1, 2017, to develop and implement a detention risk assessment instrument. CSSD must use the instrument to determine, based on the risk level, whether there is:

1. probable cause to believe that a child will pose a risk to public safety if released to the community before a court hearing or disposition or
2. a need to hold the child in order to ensure the child's appearance before the court, given the child's previous failure to respond to the court process.

Under the act, a detention screening is subject to the confidentiality protections noted below (see § 4).

Assessing Whether a Child Should be Detained

Under the act, the court must use the detention risk assessment instrument when assessing whether a child should be detained.

If it appears from the available facts that there is probable cause to believe a child has violated a valid court order, the court, after administering the detention risk assessment instrument, may order the child to participate in:

1. nonresidential programs for intensive wraparound services,
2. community-based residential services for short-term respite, or
3. other services and interventions the court deems appropriate.

EFFECTIVE DATE: Upon passage

§ 3 — CSSD RELEASE POLICIES AND PROCEDURES

The act requires CSSD, by January 1, 2017, to adopt policies and procedures setting out the parameters under which the division's staff may release a child from detention. The division may update the parameters as it deems necessary.
EFFECTIVE DATE: Upon passage

§ 4 — PROTECTION OF INFORMATION OBTAINED THROUGH DETENTION SCREENING

Under the act, any information obtained about a child during a detention screening must be used only for planning and treatment purposes. Otherwise, it must generally remain confidential and be kept in the files of the entity providing the screening. It may be further disclosed for limited purposes, including a court-ordered evaluation or treatment or mandated reporter laws.

The act also provides that any such information obtained during the administration of the detention screening instrument described above must be used only to make a recommendation to the court about the child's detention. The information is not subject to subpoena or other court process for use in any other proceeding, or for any other purpose.
EFFECTIVE DATE: January 1, 2017

§ 5 — CSSD AND DCF - COMMUNITY-BASED SERVICES PLAN

The act requires the CSSD executive director and the DCF commissioner, by October 1, 2016, to jointly develop a plan to provide community-based services to children diverted or released from juvenile detention.

The plan must be based on DCF's existing comprehensive behavioral health implementation plan and address children's needs regarding:

1. behavioral health,
2. intervention in family violence cases, and
3. the identification and resolution of behavioral factors exhibited by a child who may run away.

The community-based services may include assessment centers, intensive care coordination, and respite beds.

The act requires the executive director and the commissioner to implement the plan by July 1, 2017 and report to the JJPOC on the plan's implementation by January 1, 2017.
EFFECTIVE DATE: Upon passage

§ 6 — JUVENILE COURT'S AUTHORITY

In delinquency proceedings, the court can make and enforce an order for certain purposes. The act eliminates punishment as a purpose for an order. Under the act, the court's orders can (1) provide individualized supervision, care, accountability, and treatment to the child in a manner consistent with public safety and (2) ensure that the child is responsive to the court process.

Under the law, unchanged by the act, the court has authority to make and enforce orders that, among other things, deter the child from committing more delinquent acts, ensure the safety of others, and provide restitution to victims.

By law, the court has authority to grant and enforce temporary and permanent injunctive relief in all juvenile proceedings.
EFFECTIVE DATE: October 1, 2016

§§ 7-9 — TRUANCY

Family with Service Needs

The act eliminates, from the permissible grounds for a family with service needs (FWSN) complaint, a child being a truant, habitual truant, or continuously and overtly defying school rules and regulations. It makes corresponding changes by eliminating requirements that:

1. certain school notices on unexcused absences for K-8 students contain a warning that a specified number of absences may lead to a FWSN complaint and
2. superintendents file a FWSN complaint within 15 days after a parent or other person with control of a child (a) fails to attend a meeting with school officials to discuss the child's truancy or (b) otherwise fails to cooperate in addressing the truancy.

Under existing law, a student is a truant if he or she has four unexcused absences in a month or 10 unexcused absences in a school year.

EFFECTIVE DATE: August 15, 2017

Effective Truancy Intervention Models

The act requires SDE to identify effective truancy intervention models for school boards to implement as set forth below. By August 15, 2017, SDE must make available a list of the models it approves.

Existing law requires school boards to adopt and implement policies and procedures on truancy. The act requires the policies and procedures to include, by August 15, 2018, implementing an approved truancy intervention model at any schools that the SDE commissioner determines have a disproportionately high truancy rate.

EFFECTIVE DATE: Upon passage, except August 15, 2017 for the provision on school boards adding truancy intervention models to their truancy policies.

§ 10 — POLICE TRAINING ON HANDLING JUVENILE MATTERS

Under existing law, police basic training programs must include training on handling juvenile matters, consisting of at least:

1. 27 hours of such training, if the program is conducted or administered by the State Police, and
2. 14 hours of such training, if the program is conducted or administered by the Police Officer Standards and Training Council or local police departments.

The act extends these requirements to police field training programs. It also adds the following to the required training components:

1. using graduated sanctions,
2. techniques for handling trauma,
3. restorative justice practices,
4. adolescent development,
5. risk-assessment and screening tools, and
6. emergency mobile psychiatric services.

Under the act, these training components also apply to the review training programs conducted by any of these entities. By law, police review training programs must include one hour of training on handling juvenile matters.

EFFECTIVE DATE: January 1, 2017

§ 11 — SCHOOL-BASED DIVERSION INITIATIVES

The act requires SDE, DCF, the Department of Mental Health and Addiction Services (DMHAS), and CSSD, by August 15, 2017, to develop a plan with cost options for school-based diversion initiatives to reduce juvenile justice involvement among children with mental health needs. The initiatives are for schools and districts with high rates of school-based arrests, disproportionate minority contact with the juvenile justice system, and a high number of juvenile justice referrals, as the SDE commissioner determines.

EFFECTIVE DATE: Upon passage

§ 12 — SCHOOL EXPULSION

The act makes various changes concerning school expulsion. By law, an "expulsion" is the exclusion from school privileges for more than 10 days and up to one year.

Notice of Hearing and Right to an Attorney or Advocate

By law, except in emergencies, a school board must hold a formal hearing before expelling a student. If the student is a minor, the school board must give the parent or guardian notice of the hearing.

The act requires school boards to provide the notice to the student's parent or guardian at least five business days before the hearing. It requires the notice to include information on the parent's or guardian's and student's legal rights. The law already requires the notice to include information on free or low-cost legal services and how to obtain them.

The act conforms to practice by specifying that an attorney or advocate may represent any student subject to expulsion proceedings. It allows the parent or guardian to postpone the hearing for up to one week to provide time to find representation, except in emergencies.

Under existing law and the act, in an emergency, the hearing must be held as soon after expulsion as possible. An emergency exists when a student's continued presence poses such a danger or disruption as to require a pre-hearing exclusion from school, with the hearing held as soon as possible after the exclusion.

Alternative Education for Expelled Students

Existing law requires school boards to offer an alternative educational opportunity to all expelled students under age 16 and certain expelled students between ages 16 and 18.

The act applies an existing definition of "alternative education" to these provisions. Under this definition, an alternative education is a school or program maintained and operated by a school board that is offered to students in a nontraditional setting and addresses their social, emotional, behavioral, and academic needs. The act specifies that school boards must offer an individualized learning plan as part of the alternative education for expelled students under age 16.

The act also expands the category of students between ages 16 and 18 expelled for the first time who must be offered this alternative educational opportunity. It does so by repealing a provision that allowed school boards to deny this opportunity to such a student who was expelled for conduct that endangered others and involved the following, on school grounds or at a school-sponsored event:

1. possession of a firearm, deadly weapon, dangerous instrument, or martial arts weapon or
2. offering a controlled substance for sale or distribution.

As under prior law, (1) expelled students between ages 16 and 18 who are offered an alternative educational opportunity must comply with conditions established by the school board and (2) school boards are not required to offer an alternative education to expelled students between ages 16 and 18 with prior expulsions.

Reports to Police

Under existing law, if a student is expelled for possessing a firearm or deadly weapon, the school board must report the violation to the local police, or the State Police if the student was enrolled in a technical high school. The act specifies that this reporting requirement also applies to expulsions for possessing dangerous instruments or martial arts weapons. (Generally, "dangerous instruments" are those that can be used to cause death or serious physical injury.)

Returning to School After Participating in Diversionary Program

Under the act, if a student who committed an expellable offense was not expelled and is seeking to return to a school district after participating in a diversionary program, the school board must (1) allow the student to re-enroll and (2) not expel the student for additional time for the offense. This already applies to such students seeking to re-enroll after placement in a juvenile detention center or the Connecticut Juvenile Training School, or any other residential placement.
EFFECTIVE DATE: August 15, 2017

§ 13 — OUT-OF-SCHOOL SUSPENSIONS IN JUVENILE JUSTICE RESIDENTIAL FACILITIES

The act prohibits facilities operated by DCF, the Department of Correction (DOC), or CSSD from imposing an out-of-school suspension on a child residing in the facility. This provision does not prevent these facilities from removing a child from a classroom for therapeutic purposes.
EFFECTIVE DATE: July 1, 2017

§ 14 — PLAN FOR EDUCATIONAL NEEDS OF CHILDREN IN THE JUSTICE SYSTEM AND REENTERING THE COMMUNITY

The act requires SDE, DCF, DOC, and the judicial branch, by August 15, 2017, to collaborate to develop and submit a plan to the JJPOC for assessing and addressing the individualized educational needs and deficiencies of children in the justice system and those reentering the community from public and private juvenile justice and correctional facilities. The plan must have an implementation date of August 15, 2018 or earlier and be implemented within available resources.

In developing the plan, the departments and the branch must research nationally recognized models for effective educational programming continuity for children in the justice system and incorporate these models, as appropriate, into the implementation plan. They also must consult with local and regional school boards to identify (1) appropriate assessment tools to be used consistently to measure the educational performance of such children and those transitioning into and from juvenile justice and correctional facilities and (2) professional development specifically designed for educators who work with children in the justice system.

In January 2017, they must make an oral report to the JJPOC on their progress.

The implementation plan must include:

1. increased collaboration, monitoring, and accountability among state agencies and between state agencies and school boards to improve educational service delivery and outcomes for children in the justice system and those transitioning from out-of-state and private juvenile justice and correctional facilities, including prompt sharing of education records;
2. providing for children involved in the justice system and those transitioning out of juvenile justice and correctional facilities, and their parents or guardians, to have input into education plans the state and school boards develop for these children;
3. establishing transition teams to reintegrate children leaving residential facilities by helping them have a timely and effective reconnection with educational and alternative education services provided by the applicable school board, and coordinating the identification and adequate provision of any special education needs of the child;
4. designating a reentry liaison for each school board to expedite the enrollment of children returning to the district and provide that they receive appropriate academic credit for work performed while in the juvenile justice system; and
5. the costs for implementing an array of research-supported academic and vocational transitional supports, including tutors, educational surrogates, coaches, and advocates.

EFFECTIVE DATE: Upon passage

§ 15 — RECIDIVISM REDUCTION FRAMEWORK

The act requires DCF and the judicial branch, by January 1, 2017, to work with private service providers to adopt and comply with an empirically supported recidivism reduction framework for the juvenile justice system. The framework must:

1. include risk and needs assessment tools,
2. use treatment matching protocols that assess a child's needs and the risks a child faces,
3. use cross-agency measurements of program outcomes and training and quality assurance processes,
4. use program and practice monitoring and accountability,
5. draw from best and evidence-based practices from an inventory DCF and the judicial branch annually update, and
6. ensure sufficient contract and quality assurance capacity and shared training between agencies and private providers.

EFFECTIVE DATE: Upon passage

§ 16 — DCF AND JUDICIAL BRANCH STAFF TRAINING AND DATA MONITORING

The act requires DCF and the judicial branch, by January 1, 2017, to:

1. develop, provide, and monitor training for their employees on policies and practices in secure and congregate care settings that promote de-escalation;
2. monitor and track successful and unsuccessful de-escalation efforts used in these settings;
3. collect baseline data on the number and rate of arrests in these settings, tracked by race, gender, and the child's risk for recidivism; and

4. track and analyze recidivism rates of all children involved with the juvenile justice system.

EFFECTIVE DATE: Upon passage

§ 17 — OFFICE OF POLICY AND MANAGEMENT (OPM) TRACKING OF RECIDIVISM

Under the act, the OPM secretary must track and analyze recidivism rates for children in the state.

EFFECTIVE DATE: January 1, 2017

§ 18 — JJPOC

By law, the JJPOC is charged with evaluating and reporting on juvenile justice system policies. The act adds the victim advocate, or her designee, to the committee.

Changes to Reporting Requirements

The act eliminates a requirement that the JJPOC report by July 1 of 2016, 2017, and 2018 on its assessment of the juvenile justice system and recommendations to improve it. Prior law required the committee to submit these reports, addressing several specified matters, to the Appropriations, Children's, Human Services, and Judiciary committees and the OPM secretary.

The act also eliminates a requirement that the JJPOC submit to these same recipients quarterly reports until January 1, 2017, and annual reports after that, on the committee's progress in achieving its goals and measures. The act instead requires the JJPOC to submit a report, to these same recipients, on a plan with cost options for developing a community-based diversion system. The committee must report by January 1, 2017.

The plan must include recommendations to address mental health and juvenile justice issues. Specifically, it must include recommendations on:

1. diverting children who commit crimes from the juvenile justice system, other than those committing serious juvenile offenses;
2. identifying evidence-based and trauma-informed services that are culturally and linguistically appropriate;
3. expanding the capacity of juvenile review boards to accept referrals from local police departments and schools and implement restorative practices;
4. expanding prevention, intervention, and treatment services by youth service bureaus;
5. expanding access to in-home and community services;
6. identifying and expanding services to support children who are truant or defying school rules, and increasing collaboration between school districts and community providers to best serve these children;
7. expanding the use of memoranda of understanding (MOUs) between local police and school boards regarding school resource officers;
8. expanding the use of MOUs between school boards and community providers for community-based services;
9. ensuring that children in the juvenile justice system have access to a full range of community-based behavioral health services;
10. reinvesting cost savings associated with reduced childhood incarceration rates and increased accessibility to community-based behavioral health services;
11. reimbursement policies that give providers incentives to deliver evidence-based practices to children in the juvenile justice system;
12. promoting common behavioral health screening tools in schools and communities;
13. ensuring that secure facilities operated by DCF or CSSD and private providers contracting with them screen children in these facilities for behavioral health issues; and
14. expanding service capacities, informed by examining grant funds and federal Medicaid reimbursement rates.

Data Working Group

The act requires the JJPOC to establish a working group to develop a plan for a data integration process linking data on children across executive branch agencies (through OPM's integrated data system) and the judicial branch (through CSSD). The purpose of this data integration is to evaluate and assess juvenile justice system programs, services, and outcomes.

The working group must include the following, or their designees: the DCF, DOC, SDE, and DMHAS commissioners; the chief state's attorney; the chief public defender; the OPM secretary; and the chief court administrator.

The group must include individuals with expertise in data development and research design.

Under the act, this data integration plan must include cost options and provisions to:

1. access relevant data on juvenile justice populations;
2. coordinate handling of data and research requests;
3. link executive and judicial branch data to facilitate data sharing and analysis;
4. establish provisions to protect confidential information and enforce and ensure compliance with state and federal confidentiality laws;
5. develop specific recommendations for the JJPOC on using limited releases of client specific data sharing across systems, including with OPM, the Division of Criminal Justice, DCF, SDE, DMHAS, the judicial branch, and other agencies; and
6. develop a standard MOU template for sharing data between executive branch agencies, the judicial branch, and when necessary, outside researchers.

EFFECTIVE DATE: Upon passage

PA 16-148—sHB 5640
Judiciary Committee

AN ACT CONCERNING COMPELLED DISCLOSURE OF CELLULAR TELEPHONE AND INTERNET RECORDS AND FRAUD COMMITTED THROUGH TELEPHONE SOLICITATION

SUMMARY: Under existing law, telecommunications carriers must disclose call-identifying information, and electronic communication or remote computing service providers must disclose basic subscriber information, to law enforcement officials based on ex parte court orders (i.e., orders issued without a hearing or prior notice to the customer), under specified conditions.

This act allows law enforcement officials to also seek ex parte orders to compel these carriers or service providers to disclose a communication's contents or geo-location data (see below) associated with call-identifying information. It sets a higher standard for the issuance of these orders (probable cause) than the existing standard for orders to compel disclosure of call-identifying or basic subscriber information (reasonable and articulable suspicion).

The act allows a carrier or service provider, upon the request of law enforcement officials, to disclose up to 48 hours of geo-location data without a court order, if there are exigent circumstances (i.e., an emergency involving danger of serious physical injury or death to someone).

Among other things, the act also (1) limits any such court order from authorizing disclosure of more than 14 days' worth of information and (2) requires law enforcement officials to disclose the information to defense counsel.

In addition, the act creates a specific crime of telephone fraud. The act classifies six degrees of this crime, generally based on the amount of money or value of the property the violator obtained illegally.

EFFECTIVE DATE: October 1, 2016

§ 1 — DISCLOSURE OF CUSTOMER OR SUBSCRIBER INFORMATION

Geo-Location Data Defined (§ 1(a))

The act defines "geo-location data" as information on an electronic device's location (both real-time and historical) that, in whole or part, is generated by, derived from, or obtained by operating such a device, including a cell phone surveillance device. The act excludes geo-location data from the existing definition of call-identifying information.

Standard to Grant Ex Parte Court Order (§ 1(b))

Under prior law, a judge had to grant an ex parte court order if a law enforcement official (e.g., a prosecutor or police officer) requested it to compel disclosure of an individual's call-identifying information or basic subscriber information, and the official stated (1) a reasonable and articulable suspicion that a crime had been, or was being, committed or that exigent circumstances existed and (2) that the customer information was relevant and material to an ongoing criminal investigation.

The act requires the law enforcement official to swear under oath that the standard is met. The act continues to allow disclosure of this information based on a reasonable and articulable suspicion of a crime and the information's relevance and materiality to an investigation, but it does not allow such disclosure on the basis of exigent circumstances absent a crime. It specifies that an order issued under this standard cannot authorize disclosure of a communication's contents or geo-location data.

For an order to compel disclosure of a communication's contents or geo-location data associated with call-identifying information, the act requires the official to swear under oath that (1) there is probable cause to believe that a crime has been or is being committed and (2) the content of the communications or the geo-location data is relevant and material to an ongoing criminal investigation.

In either case, the act prohibits the order from authorizing the disclosure of more than 14 days of data.

Direct Application to Company for 48 Hours of Geo-Location Data (§ 1(c))

As an alternative to a court order, the act allows law enforcement officials to request up to 48 hours of geo-location data for a subscriber or customer from a telecommunications carrier or electronic communication or remote computing service provider. The carrier or provider may comply if the applicant states under oath:

1. that facts exist to support the belief that the requested data is relevant and material to an ongoing criminal investigation,
2. a belief that exigent circumstances exist, and
3. the facts supporting the belief that these circumstances exist.

The act allows a law enforcement official to apply to a given carrier or provider only once in the same investigation. An official who seeks disclosure of additional geo-location data must apply for a court order as described above.

As is the case under existing law for data provided by court order, carriers and service providers must be paid the reasonable expenses they incur to comply with the request (§ 1(f)).

Immunity (§ 1(g))

Under existing law, carriers and service providers who provide information pursuant to such a court order are subject to the same immunity available under specified federal law. The act extends this protection to carriers or service providers who provide geo-location data pursuant to a direct request from law enforcement without a court order.

Under prior law, this immunity applied if the company provided the information in good faith. The act removes the specific reference to good faith. Federal law (1) prohibits a cause of action against service providers for cooperating with specified court orders or law enforcement requests in an emergency for certain electronic surveillance devices and (2) provides that a good faith reliance on such a court order or request or a legislative or statutory authorization is a complete defense against any civil or criminal action (18 U.S.C. § 3124).

Data Retention and Disclosure to Defense Counsel (§ 1(h))

Under the act, law enforcement officials who receive this information, whether through a court order or direct application to the company, (1) may retain it for more than 14 days only if it relates to an ongoing criminal investigation and (2) must disclose it to defense counsel.

Notice after Court Order (§ 1(e))

By law, after the court issues an order described above, the law enforcement official who requested it must mail a notice within 48 hours to the person whose records were sought, unless the official requests a 90-day delay for certain reasons (e.g., notification would endanger someone's safety or otherwise seriously jeopardize the investigation). The court may approve delays beyond 90 days.

The act requires the official to file a copy of the order notice with the court clerk. If the official who requested the order receives information in response to it, he or she must file with the clerk a return within 10 days, including an inventory of the information received. The official also must provide any such information to defense counsel.

The act specifies that if the judge finds that there is a significant likelihood that notification would seriously jeopardize the investigation and issues an order authorizing delayed notification, the carrier or service provider must not notify anyone of the order's existence, other than the applicant and the company's legal counsel.

Reporting (§ 1(i))

Existing law requires each law enforcement official to report to the chief state's attorney by January 15 annually on disclosure orders issued the previous year, such as the number of orders, type of information sought, and status of any resulting criminal prosecution. The chief state's attorney must compile the data in the individual reports and provide it in a report to the Judiciary Committee by January 31 of each year.

Under the act, this report must also include information on applications the law enforcement officials made directly to carriers or service providers for geo-location data as described above.

§§ 2-7 — TELEPHONE FRAUD

The act creates a specific crime of telephone fraud. The crime applies to someone who:

1. knowingly or intentionally devises or participates in a scheme to defraud someone of money or property;
2. obtains such money or property by false pretenses, false promises, or extortion; and
3. uses a telephone call to obtain the money or property from the victim, including a standard call, automated call, or recorded message.

The table below shows the different degrees of this crime and the penalty classification.

Under existing law, obtaining property by false pretenses, false promise, or extortion also constitutes larceny (CGS § 53a-119). The act's monetary thresholds for the classification of telephone fraud, and corresponding penalties, are the same as those that generally apply under existing larceny law (CGS §§ 53a-122 to -125b).

Table 1: Classification of Telephone Fraud Under the Act

Degree of Crime	*Value of Money or Property Obtained Illegally*	*Classification of Crime (see Table on Penalties)*
1st degree	greater than $20,000, or any amount if the crime involved extortion	Class B felony
2nd degree	greater than $10,000	Class C felony
3rd degree	greater than $2,000	Class D felony
4th degree	greater than $1,000	Class A misdemeanor
5th degree	greater than $500	Class B misdemeanor
6th degree	$500 or less	Class C misdemeanor

BACKGROUND

Related Federal Law

The federal Stored Communications Act sets conditions governing when electronic communication or remote computing services may or must disclose wire and electronic communications and transactional records (18 U.S.C. § 2701 et seq.). For example, these providers may voluntarily disclose a communication's contents in limited situations, such as disclosures to government entities if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury requires such disclosure (18 U.S.C. § 2702(b)).

PA 16-168—sSB 213
Judiciary Committee

AN ACT CONCERNING THE INHERITANCE RIGHTS OF A BENEFICIARY OR SURVIVOR WHO IS FOUND NOT GUILTY OF MURDER OR MANSLAUGHTER BY REASON OF MENTAL DISEASE OR DEFECT

SUMMARY: This act broadens the scope of the existing ban on defendants found guilty of certain crimes from inheriting or receiving part of the victim's estate or receiving life insurance or annuity benefits from the victim. It:

1. extends the ban to defendants found not guilty of the crimes by reason of mental disease or defect and
2. adds two crimes to those covered by the ban: 2nd degree manslaughter and 2nd degree manslaughter with a firearm (see BACKGROUND).

The law's prohibition already applies to the following crimes: murder; murder with special circumstances; felony murder; arson murder; 1st degree manslaughter; 1st degree manslaughter with a firearm; 1st or 2nd degree larceny; and 1st degree abuse of an elderly, blind, or disabled person or person with intellectual disability.

Existing law allows someone convicted of 1st or 2nd degree larceny or 1st degree abuse to petition the court to override the prohibitions. The act extends this provision to defendants found not guilty by reason of mental disease or defect. As under existing law, the court may grant the request if it would (1) fulfill the deceased victim's intent or (2) avoid a grossly inequitable outcome under the circumstances.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016

PROHIBITIONS ON RECOVERING FROM VICTIM

The provisions described below apply to the crimes already covered by existing law as well as those added by the act (2nd degree manslaughter and 2nd degree manslaughter with a firearm).

Inheritance or Other Recovery from Estate

As under existing law for those found guilty of a covered crime, the act's prohibition on inheriting or receiving part of the victim's estate applies to defendants found not guilty by reason of mental disease or defect in (1) Connecticut or (2) another jurisdiction of a crime with substantially similar elements to those listed.

Also, if the individual alleged to have committed the crime has died, the prohibition also applies, upon an action brought by an interested third party, if the court determines the individual would have been found guilty, or not guilty by reason of mental disease or defect, had he or she survived criminal prosecution.

Under existing law and the act, these provisions apply whether the person was charged as the principal or accessory to the crime.

The act also applies to the newly covered crimes and defendants the provisions under existing law for property held in joint tenancy with rights of survivorship. For example, for real property, the finding of guilty or not guilty by mental disease or defect severs the joint tenancy and converts it into a tenancy in common as between the deceased victim and the defendant, thus preventing full property ownership from passing to the defendant.

Life Insurance or Annuity Benefits

Existing law's prohibition on recovering from a life insurance policy or annuity applies to someone who (1) intentionally caused the death of the person who is the subject of the policy or annuity or (2) was found guilty of 1st or 2nd degree larceny or 1st degree abuse. People convicted of any covered crime are conclusively included within this prohibition, as are people who a court determines, upon an action brought by an interested third party, would have been found guilty had they survived criminal prosecution.

Under the act, an individual is also conclusively included within this prohibition if (1) found not guilty of a covered crime by reason of mental disease or defect or (2) the individual has died and a court determines he or she would have been found not guilty by reason of mental disease or defect had he or she survived.

BACKGROUND

2nd Degree Manslaughter and 2nd Degree Manslaughter with a Firearm

By law, a person commits 2nd degree manslaughter when he or she (1) recklessly causes someone else's death or (2) intentionally causes or helps someone, other than by force, duress, or deception, to commit suicide (CGS § 53a-56).

A person commits 2nd degree manslaughter with a firearm when he or she commits 2nd degree manslaughter and uses, is armed with and threatens to use, or displays or represents that he or she possesses a firearm when committing the offense (CGS § 53a-56a).

PA 16-178—sSB 455
Judiciary Committee

AN ACT CONCERNING WEAPONS IN VEHICLES

SUMMARY: This act codifies case law by exempting, from the ban on carrying certain weapons in a vehicle, a person who has a dirk knife (a double-edged, dagger-like knife) or police baton in a vehicle while lawfully moving his or her household goods or effects from one place or residence to another.

By law, subject to various exemptions, it is a class D felony (see Table on Penalties) for someone to knowingly have certain weapons in a vehicle the person owns, operates, or occupies.

EFFECTIVE DATE: October 1, 2016

BACKGROUND

Related Case

In *State v. Deciccio* (315 Conn. 79 (2014)), the state Supreme Court overturned the conviction of a man found guilty by a jury of violating CGS § 29-38 for transporting a dirk knife and police baton in his vehicle while moving his belongings from one residence to a new one. In its unanimous ruling, the court held that possession of the weapons is protected by the Second Amendment and that the statutory scheme at the time, "which categorically bars the transportation of those weapons by motor vehicle from a former residence to a new residence, impermissibly infringes on that constitutional right."

PA 16-182—sHB 5629
Judiciary Committee

AN ACT CONCERNING A DIVERSIONARY PROGRAM FOR PERSONS UNDER AGE TWENTY-ONE FOR MOTOR VEHICLE VIOLATIONS AND CRIMES RELATED TO UNDERAGE DRINKING

SUMMARY: This act allows a defendant or prosecutor to ask the court to allow eligible defendants under age 21 charged with certain motor vehicle violations and alcohol-related crimes to participate in a program that can result in charges against them being dismissed.

The act requires the court to refer someone to the Judicial Branch's Court Support Services Division (CSSD) to confirm his or her eligibility and gives the court discretion whether to allow the person to participate.

EFFECTIVE DATE: October 1, 2016

DIVERSIONARY PROGRAM FOR PERSONS UNDER AGE 21

Eligible Defendants

Under the act, a defendant is eligible to participate in the program if he or she is under age 21, has not used the program before, and is charged with:

1. a motor vehicle violation, with some exceptions;
2. misrepresenting his or her age or using another person's driver's license to procure alcohol (punishable by a $200 to $500 fine) (CGS § 30-88a);
3. permitting a minor to illegally possess alcohol on private property or failing to halt illegal possession (a class A misdemeanor, see Table on Penalties) (CGS § 30-89a);
4. purchasing or attempting to purchase alcohol or making a false statement to procure alcohol (punishable by a fine of $200 to $500) (CGS § 30-89(a)); or
5. possessing alcohol (punishable as an infraction for a first offense and a $200 to $500 fine for a subsequent offense) (CGS § 30-89(b)).

A person cannot participate in the program if he or she is charged with driving under the influence (CGS §§ 14-227a and -227g) or a motor vehicle violation that (1) caused serious injury or death or (2) is a felony and the court does not find good cause.

Victim Forums

The act requires the program to provide a nonconfrontational forum for participants to hear from victims affected by underage drinking, drunk driving, distracted driving, or other motor vehicle violations. CSSD must approve the program, which must be conducted by a nonprofit organization that advocates for victims of accidents caused by drunk drivers. The organization may charge a participation fee of up to $50.

If the organization reports to CSSD that the defendant satisfactorily completed the program within nine months of invoking the program, the act requires dismissing the charges. If the defendant does not satisfactorily complete the program during that period, the charges are reinstated.

PA 16-193—SB 243
Judiciary Committee

AN ACT CONCERNING THE REVISOR'S TECHNICAL CORRECTIONS TO THE GENERAL STATUTES

SUMMARY: This act makes numerous technical changes.
EFFECTIVE DATE: October 1, 2016

PA 16-194—sSB 248
Judiciary Committee

AN ACT CONCERNING REVISIONS TO STATUTES AFFECTING TITLE TO REAL PROPERTY

SUMMARY: This act makes various changes concerning title to real property and related land records. Specifically, it:

1. adds to the list of people against whom an unrecorded disclaimer of certain real property is effective and eliminates a requirement to file the disclaimer within nine months for it to be valid against others (§ 1);
2. validates land interest conveyances made to a trust itself rather than to a trustee (§ 6); and
3. makes minor or clarifying changes concerning affidavits related to real estate, certain mortgage releases, mechanic's liens, and real property judgment liens arising from small claims cases (§§ 2-5).

EFFECTIVE DATE: October 1, 2016

§ 1 — RECORDING OF DISCLAIMER OF REAL PROPERTY

By law, if someone disclaims (i.e., refuses to accept) an interest in real property that passed under a nontestamentary instrument (i.e., not a will), a copy of the disclaimer must be recorded in the town clerk's office in the town where the property is located.

Under prior law, if the disclaimer was not recorded within a specified nine-month period, it was ineffective against anyone other than the disclaimant and the person on whose behalf the disclaimer was made. The act eliminates the requirement that the disclaimer be recorded within the nine-month period to be effective, thus making it effective upon recording. It also expands the list of individuals against whom an unrecorded disclaimer is effective to include anyone having actual knowledge of the disclaimer.

§ 2 — REAL ESTATE AFFIDAVITS

Existing law allows individuals with knowledge of facts potentially affecting an interest in, or title to, real property to record an affidavit stating these facts. If the individual who recorded the affidavit is unavailable to testify at a court proceeding relating to the property interest or title, the affidavit is admissible as prima facie evidence of the facts stated.

Existing law lists several matters that may be included in the affidavit, such as certain identifying information about the parties and the occurrence of an event that may terminate a property interest. The act specifies that the affidavits may contain any other facts affecting title to real property.

§ 3 — VALIDATION OF MORTGAGE RELEASES BY ENTITIES

Under specified circumstances, existing law validates residential mortgage releases that would otherwise be invalid because the releases were executed by an entity and (1) the releases were not issued or executed by the record holder of the mortgage or (2) the entity failed to appear in the name of the record holder.

For the release to be valid, the person executing the release must record in the land records an affidavit with certain information, including a statement that the person has been the record owner of the property described in the mortgage for at least two years before the affidavit date. The act specifies that the person must be the record owner, or the owner's personal representative, on the affidavit date.

§ 4 — MECHANIC'S LIENS

Existing law prohibits a mechanic's lien from continuing in force beyond a year after the lien was perfected, unless the party claiming the lien begins an action to foreclose it and records a notice of lis pendens on the town's land records by the later of (1) one year from when the lien was recorded or (2) 60 days from the final disposition of an appeal from a proceeding brought by the land owner to discharge or reduce the lien.

The act specifies that if there is no such appeal, the 60-day period begins to run after the final disposition of any proceeding brought by the land owner challenging the lien.

§ 5 — JUDGMENT LIENS WITH RESPECT TO SMALL CLAIMS ACTIONS

The act resolves a statutory ambiguity by specifying that real property judgment liens for small claims actions expire 10 years after the judgment was rendered unless the party claiming the lien begins an action to foreclose it within that period and records a notice of lis pendens on the town's land records.

§ 6 — CONVEYANCE OF LAND TO TRUSTS

The act provides that any conveyance of an interest in land to a trust, rather than to the trustee or trustees, is a valid and enforceable transfer of that interest. Under the act, if a conveyance by the trust is signed by a duly authorized trustee, it must be treated as if made by the trustee.

PA 16-210—sSB 347
Judiciary Committee

AN ACT ESTABLISHING A PROGRAM FOR COURT APPOINTED SPECIAL ADVOCATES IN CERTAIN JUVENILE COURT MATTERS

SUMMARY: This act requires the Judicial Department, within available resources, to establish a court appointed special advocate (CASA) program to provide free assistance in neglect, abuse, custody, guardianship, or family with service needs proceedings in juvenile court. The act requires the chief court administrator within the Superior Court for juvenile matters to administer the program.

A party may ask the court to appoint a CASA, or the court may do so on its own motion. CASAs have qualified immunity when acting in good faith and within the scope of their appointment.
EFFECTIVE DATE: October 1, 2016

CASA PROGRAM

Definition

Under the act, a CASA is a volunteer recruited, screened, trained, and supervised by a local CASA program affiliated with the National Court Appointed Special Advocates Association (NCASAA).

Access to Records

Upon appointment by the court and after obtaining any required releases to access records, a CASA must have access to (1) any party to the proceeding and (2) all relevant information or records, such as school, child care, medical, mental health, and court records and records maintained by the Department of Children and Families.

Scope of Services

Under the program, a CASA may serve as a resource to the court in determining and furthering the best interests of a child (under age 18). A CASA (1) may conduct an independent investigation of the facts associated with the filing of a petition; (2) must undertake and facilitate activities to further the child's best interests, including making recommendations to the court; and (3) may, in appropriate cases as determined by the court, undertake activities in the child's best interests until the child reaches age 21. CASAs are not allowed to replace or interfere with a child's counsel or guardian ad litem (GAL, see BACKGROUND).

Criminal History Records and Child Abuse and Neglect Registry Checks

Under the act, NCASAA or any affiliated Connecticut program, before accepting anyone to serve as a CASA, must require such person to submit to a check of the (1) state and national criminal history records and (2) state child abuse and neglect registry.

The act prohibits the Judicial Department from accepting, into its CASA program, anyone who refuses to consent to or cooperate in the processing of the required records and registry checks.

Immunity from Civil and Criminal Liability

CASAs who act in good faith and within the scope of the court's appointment have qualified, rather than total, immunity for their actions. They may only be civilly or criminally liable if their acts or omissions constitute intentional, willful, or wanton misconduct. The same is true for program staff affiliated with NCASAA who act within the scope of their employment

BACKGROUND

GALs

By law, a GAL is someone, not necessarily an attorney, the court appoints during certain proceedings to gather information and report on what he or she believes is in a person's best interest. GALs must undergo training before being appointed. The training runs for more than three full days in juvenile court and focuses on child protection. GALs are required to complete six hours of continuing education each year.

PA 16-211—SB 350
Judiciary Committee

AN ACT CONCERNING THE APPOINTMENT OF FAMILY SUPPORT MAGISTRATES

SUMMARY: Starting January 1, 2017, this act changes the way family support magistrates are selected by requiring the (1) governor to nominate, rather than appoint, them and (2) legislature to approve the governor's nominees in the same way it currently approves judges. It increases the term of a family support magistrate from three to five years and allows those currently serving to complete their terms unless removed from office. Family support magistrates establish and enforce child and spousal support orders.

The act requires the Judicial Review Council to submit to the governor and the Judiciary Committee recommendations on nominations for reappointment of family support magistrates and provide the committee with information on complaints about magistrates in the same way the council already does for judges.

The act also makes conforming changes.

EFFECTIVE DATE: January 1, 2017

APPOINTMENT PROCEDURE AND TERMS

Starting January 1, 2017, the act requires the governor to nominate and the legislature to appoint nine family support magistrates to serve five-year terms. Under prior law, the governor appointed the nine magistrates to serve three-year terms without legislative approval.

Under the act, family support magistrates serving on December 31, 2016 continue to serve until their three-year terms expire, unless they are removed from office as the act provides. They must continue to serve after their terms expire until (1) a successor is appointed or (2) the legislature does not approve their reappointment.

The act allows the governor to nominate family support magistrates for reappointment. Under prior law, he could reappoint them.

By law, unchanged by the act, the governor may remove family support magistrates for cause, and the magistrates are subject to the same admonishment, censure, suspension, and removal procedures as judges (CGS §§ 51-51h et seq., see BACKGROUND).

Nomination and Approval Process

Under the act, the legislature must refer each of the governor's nominees for family support magistrate to the Judiciary Committee, without debate. The committee must report on a nomination to the House and Senate (1) within 30 legislative days after referral and (2) at least seven legislative days before the legislature adjourns. (A legislative day is any day that either chamber meets, whether in regular or technical session.) This is the same procedure the law provides for the nomination of judges (CGS § 2-40).

Under the act, each nomination must be made by a separate resolution, and the House and Senate must vote on each nominee by a roll call vote. The governor must submit another nomination to the legislature within five days after he has been notified that a nominee failed to win the approval of both chambers.

Filling Interim Vacancies

As under existing law for the appointment of judges, if the governor seeks to fill a vacancy for a family support magistrate when the legislature is not in session, the act requires him to first submit the name of the proposed nominee to the Judiciary Committee. The committee, on the call of either chairperson, may hold a special meeting within 45 days to approve or disapprove the nominee by a majority vote.

If the committee finds it cannot complete its investigation (see below) and act on the proposed appointment within the 45-day period, it may extend the period by 15 days and must notify the governor, in writing, that it is doing so.

As under existing law for judges, if the committee fails to act on the nomination within either the 45-day period or any 15-day extension, the act deems a nominee approved.

Investigation of Nominees

As with existing law for judges, the act allows the Judiciary Committee, before a public hearing on a family support magistrate and at the chairpersons' request, to hire someone to investigate the nominee's suitability for the position. The investigator must report his or her findings to the committee. The report is confidential and not subject to public disclosure. The investigator must be paid an amount determined by the Legislative Management Committee for each day of the investigation.

CHIEF FAMILY SUPPORT MAGISTRATE

By law, the chief family support magistrate is appointed by the chief court administrator to supervise the Family Support Magistrate Division. The act requires that the chief family support magistrate serving in that capacity on December 31, 2016 continue to serve until his or her term expires, unless the (1) chief court administrator designates a successor or (2) chief magistrate is removed from office or fails to win legislative approval under the act.

JUDICIAL REVIEW COUNCIL

Under prior law, the Judicial Review Council submitted to the governor its recommendations on the reappointment of a family support magistrate whose term was about to expire. Under the act, the council must instead submit, to both the governor and the Judiciary Committee, its recommendations on the governor's nomination for reappointment of such a family support magistrate.

The council must also provide information to the committee on any complaint filed against a family support magistrate and the investigation and disposition of the complaint, including any confidential information, in the same way it already provides this information for the reappointment of judges to the governor, the committee, and the Judicial Selection Commission.

BACKGROUND

Family Support Magistrates

By law, a family support magistrate must be experienced in family law and have practiced law for five years before appointment. A family support magistrate must devote full time to his or her duties as a magistrate and cannot engage in the private practice of law (CGS § 46b-231(f)).

PA 16-10—HB 5262
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee

AN ACT ESTABLISHING A FIREFIGHTERS CANCER RELIEF PROGRAM

SUMMARY: This act creates the firefighters cancer relief program to provide wage replacement benefits to eligible paid and volunteer firefighters diagnosed with cancer. It establishes a new cancer relief subcommittee of the Connecticut State Firefighters Association to award the program benefits. Firefighters will not receive benefits until they are determined eligible by the subcommittee, and eligibility starts in 2022, five years after the act's effective date.

The new program will be supported by diverting funds from the enhanced emergency 9-1-1 program (E-911), which is funded through a monthly phone service subscriber fee imposed by the Public Utilities Regulatory Authority (PURA). The act establishes an account into which one cent per month per phone line must be remitted from the fee and deposited.

Under the act, "firefighter" includes any (1) uniformed member of a paid municipal, state, or volunteer fire department and (2) local fire marshal, deputy fire marshal, fire investigator, fire inspector, and other classes of inspectors and investigators for whom the State Fire Marshal and the Codes and Standards Committee have jointly adopted minimum qualification standards.

An eligible firefighter's wage replacement benefits under the act must be approved by the association subcommittee, which is authorized to determine the weekly benefit amount and duration, provided the (1) weekly benefit does not exceed 100% of the average weekly earnings of all workers in the state for the year in which the cancer was diagnosed and (2) benefits are not provided for more than two years.

The act specifically excludes a firefighter who receives benefits from the account from concurrently receiving unemployment or workers' compensation benefits or any other municipal, state, or federal wage replacement benefits. It also specifies that receiving benefits under the act cannot be used as evidence for or an acknowledgement of liability under the workers' compensation law.

It also makes technical and conforming changes.
EFFECTIVE DATE: February 1, 2017

§§ 1 & 3 — PHONE SERVICE FEE DIVERSION AND RELIEF ACCOUNT

To the extent permitted by federal law, beginning February 1, 2017 and not later than the 15th of each subsequent month, the act requires an amount equal to one cent per month per phone line to be remitted from the PURA-imposed fees to the state treasurer for deposit into the firefighters cancer relief account. By law and unchanged by the act, PURA cannot impose a charge greater than 75 cents per month per line.

The act creates the firefighters cancer relief account as a separate, nonlapsing account within the General Fund. It must contain any money required by law to be deposited in the account, including any money deposited pursuant to the act. The Connecticut State Firefighters Association cancer relief subcommittee (see below) must expend the money in the account to provide wage replacement benefits to eligible firefighters.

The state treasurer must invest the money deposited in the account in a manner reasonable and appropriate to achieve the account's objectives, and she must exercise the discretion and care of a prudent person in similar circumstances with similar objectives. The treasurer must give due consideration to rate of return, risk, term or maturity, portfolio diversification, liquidity, the projected disbursements and expenditures, and the expected payments, deposits, contributions, and gifts to be received. The money must be invested and reinvested until it is disbursed.

The money in the firefighters cancer relief account must be used solely for (1) providing wage replacement benefits to eligible firefighters and (2) administering the relief program.

§ 4 — CANCER RELIEF SUBCOMMITTEE AND BENEFIT TERMS

The act establishes a firefighters cancer relief subcommittee of the Connecticut State Firefighters Association, a private membership organization, that must consist of one member from each of the following organizations:

1. the Connecticut State Firefighters Association,
2. the Connecticut Fire Chiefs Association,
3. the Uniformed Professional Firefighters of the International Association of Firefighters,
4. the Connecticut Fire Marshals Association, and
5. the Connecticut Conference of Municipalities.

The subcommittee must review claims for wage replacement benefits submitted to the relief program and provide wage replacement benefits to any firefighter who the subcommittee determines is eligible under the act. The subcommittee may use existing workers' compensation law to determine the weekly wage replacement benefits.

Benefit Amount and Duration

Under the act, a firefighter approved for wage replacement benefits by the subcommittee may be eligible for benefits on and after July 1, 2019. But the part of the act that provides eligibility qualifications (see § 5 below) requires a firefighter to work five years as a firefighter after the act's effective date (2017) to be eligible, which is 2022 at the earliest.

The subcommittee must determine the weekly benefit amount and duration which cannot exceed (1) 100%, raised to the next even dollar, of the average weekly earnings of all workers in the state for the year in which the cancer was diagnosed and (2) 24 months.

The act requires the labor commissioner to determine the average weekly earnings of all workers in the state on or before August 15 each year, to be effective the following October 1. This figure is the average of all workers' weekly earnings for the year ending the previous June 30 and is determined in accordance with the standards established by the U. S. Bureau of Labor Statistics.

Other Excluded and Included Benefits

The act specifically prohibits a firefighter who receives benefits from the relief program from concurrently receiving (1) unemployment or workers' compensation benefits or (2) any other municipal, state, or federal wage-replacement benefits. However, a volunteer firefighter who is employed in the private sector may receive wage-replacement benefits concurrently with any employer-provided benefits, as long as the total compensation does not exceed the firefighter's pay rate at the time of the cancer diagnosis. It also specifies that receiving benefits under the act cannot be used as evidence for or an acknowledgement of liability under the workers' compensation law.

Notwithstanding any state law, any employer who provides accident and health insurance or life insurance coverage for a firefighter or makes payments or contributions at the regular hourly or weekly rate for the firefighter to an employee welfare plan must provide the firefighter equivalent insurance coverage or welfare plan payments or contributions while the firefighter is eligible to receive or is receiving the act's wage-replacement benefits. To the extent that this provision applies to volunteer firefighters who work for private employers, it could be found to be preempted by the federal Employee Retirement Income Security Act (ERISA), which generally governs private sector benefit plans. (The U.S. Supreme Court ruled in 1992 that ERISA controls any private-sector employee benefit plan whether it is a retirement or health insurance plan (*District of Columbia v. Greater Washington Board of Trade*, 506 U.S. 125).)

As used in this act, "employee welfare plan" means any plan established or maintained for a firefighter or the firefighter's family or dependents for medical, surgical, or hospital care benefits.

The treasurer must remit wage benefits approved by the subcommittee within 30 days after they have been approved.

§ 5 — CANCER RELIEF PROGRAM QUALIFICATIONS

Under the act, the program provides wage replacement benefits for an eligible firefighter suffering from any condition of cancer affecting the brain, skin, or the skeletal, digestive, endocrine, respiratory, lymphatic, reproductive, urinary, or hematological systems that results in death or temporary or permanent total or partial disability if the firefighter meets the following conditions:

1. passed a physical examination upon entry into such service, or subsequent to entry, that failed to reveal any evidence of such disease, and passed annual physicals that failed to reveal any evidence of cancer or propensity for such cancer;
2. worked or volunteered at a fire department for at least five years since February 1, 2017;
3. has not used any cigarettes or any other tobacco products within 15 years of applying for benefits;
4. has a disease that is known to result from exposure to heat, radiation, or a known carcinogen as determined by the International Agency for Research on Cancer or the National Toxicology Program of the U.S. Department of Health and Human Services;
5. meets the act's definition of firefighter and is either a fire marshal or investigator or an interior structural firefighter, which is an individual who performs fire suppression, rescue, or both, inside of buildings or enclosed structures that are involved in a fire situation beyond the incipient stage as defined in federal regulations; and
6. complied with certain federal Occupational Safety and Health Act (OSHA) standards for at least five consecutive years.

The OSHA requirement specifically cites to federal regulations regarding (1) an employer's duty to provide proper ventilation and, when that is not possible, respirators in industrial and construction settings and (2) an employer's duty to properly train and equip fire brigades (i.e., industrial or private fire departments). It is not clear how these employer requirements would apply to employees who are trained firefighters under the standards of their profession.

Those no longer actively serving as firefighters, including retired firefighters, who are otherwise eligible may apply for benefits up to five years from the date they last served as firefighters.

Ongoing Requirement

A firefighter will be required to submit to annual physical examinations, including blood testing, during his or her active service and for a period of up to five years after the date he or she last served as a firefighter as a condition of receiving the benefits. An individual who no longer serves as a firefighter must bear the cost of any required physical examination.

§ 6 — REPORT TO THE PUBLIC SAFETY AND SECURITY COMMITTEE

By January 1, 2018 and annually thereafter, the treasurer, in consultation with the firefighters association, must report to the Public Safety and Security Committee on the status of the firefighters cancer relief account and relief program. The report must include the (1) account balance; (2) projected and actual participation in the program; and (3) demographic information of each firefighter who receives benefits under the program, including gender, age, town of residence, and income level.

§ 7 — ADDITIONAL REPORTING ON FIRES

The act also requires local fire chiefs and fire marshals to submit additional information to the state fire marshal regarding each fire, explosion, or other emergency. This report must include the name of each firefighter who was (1) present and (2) exposed to heat, radiation, or a known or suspected carcinogen as a result of the fire, explosion, or other fire emergency and the duration of the exposure.

§ 8 — BENEFIT PROOF AND PAYMENT PROCESS

Under the act, the treasurer must process benefit payments approved by the subcommittee for a firefighter or the firefighter's legal representative upon receiving proof from the association. It specifies this is done for a firefighter under the provisions of the association's constitution and bylaws. The association is a private, non-profit membership organization for paid and volunteer firefighters.

The act specifies the benefits are limited to the available funds in the relief account the act establishes.

BACKGROUND

Funding for the E 9-1-1 Program

The emergency services and public protection commissioner must annually determine and report to PURA the associated expenses and funding amount needed to develop and administer E-911 system. Funding can be provided for the following:

1. buying, installing, and maintaining new public safety answering point (PSAP) terminal equipment;
2. transition grants to encourage PSAPs to regionalize;
3. subsidies for regional centers, with enhanced subsidies for municipalities with more than 40,000 residents;
4. coordinated medical emergency direction services that provide medical instructions to an E-911 caller before medical assistance arrives;
5. personnel training and related costs;
6. capital costs and recurring expenses associated with the telecommunications system that supports the E-911 system;
7. collecting, maintaining, and reporting emergency medical services data as required by state law, up to $250,000 per year; and
8. the Office of Statewide Emergency Telecommunication's administrative costs (CGS § 28-24(7)(c)).

PA 16-29—sHB 5591
Labor and Public Employees Committee

AN ACT CREATING THE CONNECTICUT RETIREMENT SECURITY PROGRAM

SUMMARY: This act creates the Connecticut Retirement Security Authority ("authority") to establish a retirement program with Roth individual retirement accounts (IRAs) for eligible private-sector employees, who will be automatically enrolled in the program unless they opt out. The act establishes the authority as a quasi-public agency administered by a nine-member board of directors. (PA 16-3, May Special Session (MSS), makes numerous changes to this act including increasing the board's size from nine to 15 members and re-naming the "program" as an "exchange." Changes made by PA 16-3, MSS, are added throughout this summary.)

The act establishes requirements for "qualified employers," i.e., private-sector employers that employ at least five people, each of whom was paid at least $5,000 in wages during the preceding calendar year. "Covered employees" are those who have worked for a qualified employer for at least 120 days and are at least age 19.

Qualified employers must automatically enroll each covered employee in the program no later than 60 days after the employer provides the employee with certain information the act requires. In general, if the employee does not affirmatively choose a contribution level, the employer must enroll the employee with a contribution of at least 3% but not more than 6% of the employee's taxable wages (up to normal IRS limits). (PA 16-3, MSS, sets the default contribution at 3%.) Employers cannot contribute to the program.

A covered employee may opt out of the program by electing a contribution level of zero. Qualified employers do not have to provide employees with the information or automatically enroll them if they maintain a retirement plan recognized under the federal tax code or approved by the authority. Employers that are not required to participate and individuals who are not automatically enrolled may participate under procedures established by the authority.

The act allows the authority to charge administrative fees to help defray program costs. It also sets penalties for employers that fail to remit contributions or enroll covered employees.

Under the act, the individual Roth IRAs (i.e., after tax contributions only) must be established and maintained by the program or a third-party entity in the business of establishing and maintaining IRAs. Program assets must be held in trust or custodial accounts meeting IRS requirements.

The act requires the authority to offer Roth IRAs with a number of features, including options for age-appropriate target-date funds and procedures for distributions in accordance with applicable IRS rules. Interest, investment earnings, and investment losses must be allocated to each participant's IRA. A participant's benefit under the program must be equal to the balance in the participant's IRA as of any applicable measurement date set for the program.

The act vests the authority's powers in a board of directors. The governor selects the board chairperson with the advice and consent of the General Assembly. (PA 16-3, MSS, eliminates legislative approval of this selection.) The board or its executive director, if one is appointed, must supervise the program's administrative affairs and activities. The act requires the board to adopt written procedures on, among other issues, annual budgets and hiring.

The act requires the authority's board members to act with care and solely in the interests of program participants. It also authorizes the attorney general to investigate violations of this requirement and to seek injunctive relief.

The act requires the authority to establish and maintain a secure internet website to help qualified employers identify vendors for retirement arrangements that the employers may implement instead of participating in the program. It requires the vendors registered and included in the website to bear the cost of establishing and maintaining the registration system and website.

The act bans the authority's board members, employees, and contractors from contributing to or soliciting contributions for campaigns for state elective office.

EFFECTIVE DATE: Upon passage for the provisions creating the authority and its board, requiring the authority to establish procedures, defining the IRA program, and banning political contributions; and July 1, 2016 for the provisions that conform the authority to existing laws on quasi-public agencies and payroll deductions.

§ 1 — DEFINITIONS

Under the act:

1. "contribution level" means (a) the contribution rate the participant selects that may be (i) a percentage of the participant's taxable wages reported to the IRS or (ii) a dollar amount up to the maximum annual IRS deductible amount; (b) in the absence of the participant's affirmative election, 3% of the participant's taxable wages as required to be reported for federal tax purposes, or such other amount as the authority determines, but not more than 6%; or (c) for tipped employees, a percentage of the employee's pay and not a fixed dollar amount (PA 16-3, MSS, changes the automatic enrollment maximum contribution to 3%);
2. "covered employee" means an individual who (a) has been employed by a qualified employer for at least 120 days, (b) is at least age 19, and (c) performs work that is covered by state unemployment compensation law; and
3. "vendor" means (a) a regulated investment or insurance company conducting business in the state or (b) a company conducting business in the state to (i) provide payroll or recordkeeping services and (ii) offer retirement plans or payroll deposit IRA arrangements using products of regulated investment companies, but does not include individual registered representatives, brokers, financial planners, or agents. (PA 16-3, MSS, modifies the two definitions of vendor. One change requires that the retirement plan sponsors, investment companies, or insurance companies be federally regulated. The second expands the definition of payroll or recordkeeping businesses that also provide retirement plans or payroll deposit IRAs to include businesses that provide ancillary services, including technological services, and offer retirement plans or payroll deposit IRA products.)

§ 2 — AUTHORITY AND BOARD OF DIRECTORS

The act creates the authority and deems it a public instrumentality and political subdivision of the state. The act specifies the authority is not a state department, institution, or agency.

It vests the authority's powers in a board of directors with nine voting members, each a state resident. The state treasurer and comptroller each serve as ex officio voting members. The appointing authorities and required qualifications for the other seven members are shown in Table 1 below.

Table 1: Board Member Appointing Authorities and Qualifications

Appointing Authority	*Appointee must have a favorable reputation for skill, knowledge, and experience in:*
House speaker	Interests of the aging population
House majority leader	Interests of employers in retirement savings
House minority leader	Retirement investment products
Senate president pro tempore	Interests of employees in retirement savings
Senate majority leader	Retirement plan design
Senate minority leader	Interests of plan brokers
Governor	Federal Employee Retirement Income Security Act (ERISA) or the IRS code

(PA 16-3, MSS, expands the board from nine to 15 members by adding the Office of Policy and Management (OPM) secretary, the Banking and Labor commissioners, and three additional members the governor appoints. One each of the governor's additional appointees must have a favorable reputation for skill, knowledge, and experience in the areas of: (1) annuity products, (2) retirement investment products, and (3) actuarial science. It also specifies that the House majority leader's appointee must have skill, knowledge, and experience in the interests of small employers regarding retirement products.)

Each ex-officio member may designate his or her deputy or a staff member to represent the member at board meetings with the power to vote on the member's behalf.

All appointments must be made by July 31, 2016 and any vacancy must be filled by the appointing authority no later than 30 calendar days after the office becomes vacant. (PA 16-3, MSS, extends the deadline for the appointments to January 1, 2017.)

Board members serve without pay but are reimbursed for all necessary expenses, within available appropriations, according to standard travel regulations. After an initial four-year term, all subsequent appointments are for six-year terms. Members may be reappointed.

Board Officers and Employees

The governor, with the advice and consent of both houses of the General Assembly, selects a chairperson from among the board members. The board annually elects a vice-chairperson and any other officers it deems necessary from among its members. (PA 16-3, MSS, removes the requirement that the legislature approve the chairperson.)

The board may appoint an executive director and assistant executive director, who serve at its pleasure. The executive director and assistant executive director are the authority's employees and are paid as the board determines.

The act prescribes other administrative aspects of the authority's operations, including designating an authorized officer or the executive director, if one is appointed, to supervise administrative affairs and keep program records.

Oath, Expenses, and Surety Bond

The act requires each board member to take the state oath of affirmation to uphold the state and U.S. constitutions not later than 10 calendar days after his or her appointment. The secretary of the state administers the oath, which must be filed in her office.

Each board member authorized by a board resolution to handle funds or sign checks for the program, and any other authorized officer, must, no later than 10 calendar days after authorization, (1) execute a $50,000 surety bond or (2) procure an equivalent insurance product for the same purpose. Alternatively, the chairperson may obtain a blanket $50,000 surety bond covering the executive director, board members, and other employees or authorized officers. The authority must pay the cost of each bond.

Quorum

Under the act, four board members constitute a quorum for the transaction of any business. (PA 16-3, MSS, requires eight members, rather than four, for a quorum.)

Conflict of Interest

The act bans board members, officers, or employees from having any financial interest in any corporation, partnership, or other legal or commercial entity that contracts with the authority.

But the act explicitly states it is not a conflict of interest under the act or any other statute for a trustee, director, officer or employee of a bank, investment advisor, investment company or investment banking firm, or a person having the required favorable reputation for skill, knowledge, and experience in retirement savings, to be a board member, provided the trustee, director, or employee abstains from discussion, deliberation, action, and vote by the board in respect to a matter related to the authority and its actions in which the firm has a direct interest.

Board Procedures

To implement the act's retirement security program (see § 3), the board must adopt written procedures for the following:

1. adopting an annual budget and plan of operations, including a requirement for board approval before the budget or plan can take effect;
2. hiring, dismissing, promoting, and paying authority employees, instituting an affirmative action policy, and requiring board approval to create a position or hire someone;
3. acquiring real and personal property and personal services, including requiring board approval for any non-budgeted expenditure greater than $500;
4. contracting for financial, legal, and other professional services, with solicitations for proposals for each service required at least (a) every three years or (b) every 10 years for contracts to provide custodial, recordkeeping, or other services for providing IRAs;
5. making modifications to keep the program consistent with federal tax law and regulations and preventing the plan from being subject to ERISA's authority;
6. establishing an administrative process for the board to hear and address grievances, complaints, and appeals by participants and employees; and
7. using surplus funds to the extent authorized under the act or by law.

Upon the authority's termination all its rights and properties pass to and become vested in the state.

Protection from Individual Liability

The act provides protection from individual liability for any authority board member, director, or employee. This includes protection from civil liability for the authority's debts, obligations, or liabilities.

§ 3 — RETIREMENT SECURITY PROGRAM

The act establishes the Connecticut Retirement Security Program to promote and enhance retirement savings for private sector employees in the state. It authorizes the authority's board to:

1. adopt bylaws to regulate the board's affairs and business;
2. establish criteria and guidelines for the retirement programs offered under the act (PA 16-3, MSS, requires the criteria and guidelines to (a) include that the program offer retirement choices provided by multiple vendors the authority selects, (b) establish a cap on the total annual fees, and (c) provide participants with information on each retirement choice's investment performance history);
3. receive and invest moneys in the program in any instruments, obligations, securities, or property in accord with the act;
4. contract with financial institutions or other organizations offering or servicing retirement programs;
5. employ attorneys, accountants, consultants, financial experts, loan processors, banks, managers, and other employees and agents as may be necessary in the board's judgment, and to fix the compensation of these individuals or agents;
6. borrow working capital funds and other funds as may be needed to start up and operate the program, provided such borrowing is only in the name of the authority (the money borrowed must be repaid solely from authority revenues);
7. make and enter into contracts or agreements with professional service providers, including financial consultants and lawyers, as necessary for the board to perform its duties and execute its powers;
8. establish policies and procedures for the protection of program participants' personal and confidential information; and
9. adopt an official seal, maintain an office as the board may designate, sue and be sued in its own name, and do all things necessary to carry out the act's provisions.

Administrative Charges & Fees

The act authorizes the authority to equitably apportion and charge the board's administrative costs and expenses to participants. It also allows the authority to require each participant to pay a fee to defray the program's costs. The authority determines the amount and method of collecting the fee. Presumably, the fee will be taken out of the participant's contribution, as is usual with IRAs. (PA 16-3, MSS, § 99, (1) requires the authority to minimize total annual fees charged to participants and (2) beginning in year five of operation, limits annual fees to 0.75% of the total program assets' value.)

Under the act, no employer will be required to fund or be responsible for collecting the fees from participants.

Memorandums of Understanding (MOU) Regarding Employee Information and Administrative Cost Sharing

The act requires the board to enter into MOUs with the Labor Department and other state agencies on:

1. gathering or disseminating information needed to operate the program, subject to confidentiality rules as may be agreed to or required by law;
2. sharing the costs incurred by gathering and dissemination of this information; and
3. reimbursing the costs of any enforcement activities conducted by the attorney general.

§ 5 — ROTH IRAS

The act requires the program to establish and maintain a Roth IRA for each program participant either by the program itself or by a third-party entity in the business of establishing and maintaining IRAs. The assets must be held in trust or custodial accounts meeting the federal requirements for IRAs (Internal Revenue Code of 1986, § 408 (a) or (c), as amended from time to time).

The act requires the program to allocate interest, investment earnings, and investment losses to each participant's IRA. A participant's benefit under the program is equal to the balance in the participant's IRA as of any applicable measurement date prescribed by the program.

The act requires the authority to establish procedures to prevent a participant's contributions to the IRA program from exceeding the annual maximum deduction amount set in federal tax law (26 USC 219(b)(1)).

Unclaimed Funds

Under the act, any unclaimed funds in a participant's IRA after three years of inactivity must be treated as unclaimed funds under existing state law (CGS § 3-57a).

State Exempt from Liability

The act explicitly exempts the state from any liability (1) related to payments to a participant or beneficiary or (2) of the authority. The authority is only liable for benefits with respect to the IRAs it maintains.

§ 4 — INFORMATIONAL MATERIAL

The act requires the authority's board of directors to prepare informational material for qualified employers to distribute to participants and prospective participants. At a minimum, these must include:

1. the benefits and risks associated with making contributions to, or withdrawals from, the program;
2. the program contribution process, including a contribution election form;
3. clear and conspicuous notice regarding the default contribution level;
4. how a participant may opt out of the program by electing a contribution level of zero;
5. the retirement savings withdrawal process, including an explanation of the tax treatment of withdrawals;
6. how to obtain additional information about the program, including investment option information;
7. a description of relevant state and federal regulations, including those addressing contribution limits; and
8. other information the board sees fit to provide to participants, potential participants, and qualified employers.

Quarterly Statements

At least quarterly, the board must provide a statement to each participant that includes, at a minimum:

1. the participant's IRA account balance, including the value of the participant's investment in each selected investment option;
2. the investment options available to each participant and the process for selecting investment options for his or her contributions, as allowed in state law or by the authority;
3. the fees charged to each participant's IRA and a description of the services provided for the fees; and
4. if the board chooses, an estimate of the income the account is projected to generate for a participant's retirement based on reasonable assumptions.

Annual Fees Notice

At least annually, the board must provide each participant with information on program fees and the various available investment options. This may be provided in the form of a prospectus or similar document.

Electronic Dissemination of Notices

The act allows the board, provided it meets public notice requirements, to adopt policies and procedures for the electronic dissemination of any required notices or information to participants, potential participants, and qualified employers.

§ 6 — BOARD DUTY TO ACT WITH PRUDENCE AND IN PARTICIPANTS' INTEREST

The act requires the authority to act:

1. with the care, skill, prudence and diligence that a prudent person familiar with such matters would use in a similar situation;
2. solely in the interests of program participants and beneficiaries;
3. for the exclusive purposes of providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the program; and
4. in accordance with the act's provisions and any applicable statutes.

To the extent reasonable, the board must require any agents the authority engages or appoints to abide by the same standards (PA 16-3, MSS, § 100, applies the standards to the board's vendors, rather than its agents).

§ 7 — EMPLOYER RESPONSIBILITIES AND AUTOMATIC ENROLLMENT

By January 1, 2018, and in each subsequent year, the act requires qualified employers to provide each of their covered employees with the informational material the authority must prepare. For any employee (1) hired on or after that date or (2) who is not a covered employee, a qualified employer must provide the material within 30 days, or another time period the authority prescribes, after the employee's hiring or the employee becomes a covered employee.

Within 60 days after providing the material, or another time period the authority prescribes, qualified employers must automatically enroll each of their covered employees in the program at a contribution rate the employee selects or the default contribution level the act allows when an employee does not actively select a rate. The contributions must be made under the provisions of the automatic enrollment law that allows an employer to make enrollment contributions to retirement accounts on an employee's behalf without the employee's affirmative decision to make the contribution.

The act prohibits employers from making contributions to the program. (Employer contributions would subject the program to ERISA's regulatory authority. In general, retirement programs that include private sector employer contributions are regulated under ERISA.)

Employee Opt-Out

The act allows employees to opt out of the program by electing a contribution level of zero.

Delaying Program Start Date

The act permits the authority to delay the program's effective date, in whole or in part, and for particular categories of employers, as it deems necessary to implement the act's provisions and minimize potential disruptions and burdens for any qualified employer. The board must notify the Labor Committee of any planned delay in the program no later than seven days after the decision to delay. The notice must include the purpose of the delay and the new effective date.

Exempt Employers

Under the act, a qualified employer that maintains a retirement plan recognized under the federal tax code or approved by the authority is exempt from the requirements to provide the informational material and automatically enroll qualified employees. An employer can lose this exemption if the authority determines that:

1. as of the first day of the previous calendar year, no new participant was eligible to be enrolled in the employer's retirement plan and
2. on and after the first day of the previous calendar year, no contributions were made to the retirement plan by or on behalf of a participant.

Optional Program Participation

An employer not otherwise required to participate under the act may make the program available to its employees subject to rules and procedures the authority establishes. But the act prevents such an employer from requiring an employee to enroll.

Individuals who are not automatically enrolled in the program may also participate according to procedures the authority establishes. The authority must provide them with the required information before they enroll.

Account Rollovers

To the extent allowed under the IRS code, the act requires the authority to allow anyone to roll over funds from their other retirement accounts into their IRA under the program.

Transmitting Withheld Funds

The act requires qualified employers to transmit withheld employee contributions on the earliest day that the amount held can be segregated from the employer's assets, but no later than the 15th business day of the month following the month in which the covered employee's contribution was withheld from his or her paycheck. (PA 16-3, MSS, instead requires (1) transmitting the contribution on the earliest date it can be transmitted and (2) that the transmittal take place no more than 10 business days after the date the employee's contributions were withheld.)

Tax Credit Information

The act requires the authority to provide small employers with information regarding tax credits available for businesses that start employee retirement programs.

§§ 8 & 9 — DESIGN FEATURES

The act requires the authority to provide that each participant's IRA be invested in (1) an age-appropriate target date fund, (2) a designated lifetime income investment that provides participants with a source of retirement income for life or (3) other authority-prescribed investment vehicles. (PA 16-3, MSS, specifies that the fund must be with an investor the employee selects or, when an employee does not select a specific vendor or investment option within the program, invested in an age-appropriate target date fund that most closely matches the participant's normal retirement age.) The act does not define "target date fund," although target funds, also known as lifecycle funds or age-based funds, typically involve a plan where the investment approach becomes less aggressive as the participant gets older.

The act requires that the lifetime income investment option have certain features which must be available only if the authority determines them to be feasible and cost effective. If this is determined to be the case, the program must include the following features:

1. designate a lifetime income investment option with spousal rights to provide participants with a lifetime source of retirement income;
2. disclose to each participant, one year before the participant's normal retirement age, (a) the rights and features of the lifetime income investment; (b) that at normal retirement age, 50% of the participant's account will be invested in the lifetime income investment; and (c) that the participant may choose to invest a higher percentage of his or her account balance in the lifetime income option;
3. invest 50% of the account balance, or a higher amount if the participant so chooses, in the lifetime income investment when a participant reaches normal retirement age;
4. permit each participant to elect a date no earlier than his or her normal retirement age to begin receiving distributions, provided, in the absence of an election, the distributions start within 90 days after he or she reaches normal retirement age; and
5. establish procedures so participants may invest a higher percentage of their account balances in the lifetime income investment.

Fund Distribution

The authority must establish rules and procedures for Roth IRA fund distribution that allow for the same distribution as the IRS code. Normal retirement age under federal tax law is 59 ½ for Roth IRAs (26 USC 408A).

Right to Withdraw Funds

The board must inform participants about their rights to withdraw funds from the program in accordance with the federal tax code. For participants who elect to withdraw their assets before their normal retirement age, the authority must notify them of any tax penalties associated with the withdrawal and the effect of the withdrawal on the person's retirement income.

§ 10 — ATTORNEY GENERAL OVERSIGHT

The act authorizes the attorney general to investigate any alleged violation of the act's requirement that the authority act with prudence and solely in the participants' interests. If the attorney general finds that any board member or authority agent violated or is violating that duty, he may bring a civil action in Hartford Superior Court against the board member or agent. The remedies available to a court in any such action are limited to injunctive relief. The act specifies that nothing in this section can be construed to create a private right of action. However, an employee or the labor commissioner may bring a civil action against a qualified employer who fails to enroll a covered employee as required by the act (see below).

§ 10 — EMPLOYER PENALTIES

The act makes it a violation of the law regarding an employer's ability to withhold employee wages if a qualified employer fails to timely remit an employee's contributions to the program. By law, violations are punishable by imprisonment and fines on a sliding scale depending on the amount of wages involved (e.g., if unpaid wages are more than $2,000, it is punishable by imprisonment of up to five years, a fine of at least $2,000 but not more than $5,000, or both).

If a qualified employer fails to enroll a covered employee as the act requires, the covered employee or the labor commissioner may bring a civil action to require the employer to enroll the employee and may recover the costs and reasonable attorney's fees.

§ 11 — BOOKKEEPING AND AUDITS

Under the act, the authority must keep a detailed account of its activities, receipts, and expenditures and report these items to the authority board, the governor, the Auditors of Public Accounts ("auditors"), and the Labor and Finance, Revenue and Bonding committees by December 31 each year. The report must be in a form the board prescribes and include authority activities for the next fiscal year. The report is subject to the auditors' approval.

The act authorizes the auditors to conduct a full audit of the authority's books and accounts pertaining to its activities, receipts, expenditures, personnel, services, or facilities. For the purposes of the audit, the auditors have access to the authority's properties and records and may prescribe methods of accounting and periodic reporting for authority projects.

Furthermore, the act requires the authority to enter into MOUs with the state comptroller in which the authority must at a minimum provide, in a form the comptroller prescribes, information on the authority's current revenues and expenses, including the sources or recipients, relevant dates, and the amount and category of each revenue or expense.

§ 12 — STUDIES

The act requires the Connecticut Retirement Security Board to study whether program participants and potential participants have interest in a traditional IRA option, including the (1) number of those whose incomes exceed federal limits for contributing to Roth IRAs and (2) percentage of current participants who would prefer a tax-deferred plan. The board must submit the report by January 1, 2019 to the Labor and Public Employees Committee. (Presumably, the authority must conduct the study instead of the Connecticut Retirement Security Board, which the act eliminates as of July 1, 2016 (see below).)

It also authorizes the authority to study the feasibility of the state or the authority making a multiple-employer 401(k) plan or other tax-favored retirement savings vehicle available to employers.

§ 13 — WEBSITE FOR EMPLOYERS AND VENDORS

The act requires the authority to establish and maintain a secure website to (1) provide qualified employers with information on employer-sponsored retirement plans and payroll deduction IRAs and (2) help qualified employers identify vendors for retirement arrangements that employers may implement instead of participating in the program. The website address must be included in any posting on the website and in any program material offered to the public.

Before establishing the website, and at least annually each following year, the authority must notify vendors that the website is active, that the vendors may register for inclusion on it, and how they can do so. The act requires each vendor seeking to register for the website to provide a:

1. statement of the vendor's experience providing employer-sponsored retirement plans and payroll deduction IRAs in this and in other states, if applicable;
2. description of the vendor's types of retirement investment products; and
3. disclosure of all expenses paid directly or indirectly by retirement plan participants, including, but not limited to, penalties for early withdrawals, declining or fixed withdrawal charges, surrender or deposit charges, management fees and annual fees.

The act requires registered vendors to bear solely and equally the cost of establishing and maintaining the registration system and website, based upon their total number.

The board may remove a vendor from the website if the vendor (1) submits materially inaccurate information to the board, (2) does not remit assessed fees within 60 days after the assessment, or (3) fails to notify the board of any material change to the vendor's registered investment products.

The board must give any vendor found to have submitted inaccurate information to the board 60 calendar days to correct the information. The board must also establish an appeals process for vendors denied registration or removed from the website.

§§ 14-19 — CONFORMING CHANGES

The act makes conforming changes by adding the new authority to existing law addressing quasi-public agencies and (1) the state code of ethics, (2) authority borrowing and bonding power, and (3) liability protection for board members and employees when performing authority duties. It also makes conforming changes to state law regarding employers' authority to withhold funds from employees' paychecks for automatic deductions for retirement plans.

§ 20 – BAN ON POLITICAL CONTRIBUTIONS

The act bans authority board members (except the comptroller or state treasurer), or any executive director, assistant executive director or authorized officer the board appoints, or an authority contractor or principal of a contractor, from making political contributions to, or knowingly soliciting contributions from the board's or the executive director's or assistant executive director's employees.

The ban applies to contributions or solicitations for the following:

1. an exploratory committee or candidate committee established by a candidate for nomination or election to the office of governor or any other state constitutional officers, or state senator or state representative;
2. a political committee authorized to make contributions or expenditures to or for the benefit of such candidates; or
3. a party committee.

The act specifies that its provisions are severable in the event any provision is held invalid or unconstitutional.

§ 21 — REPEALERS

The act repeals the law creating the Connecticut Retirement Security Board and its duty to create a public retirement plan.

PA 16-73—sSB 101
Labor and Public Employees Committee
Insurance and Real Estate Committee

AN ACT CONCERNING WORKERS' COMPENSATION INSURANCE AND SOLE PROPRIETORS

SUMMARY: Before the state or municipalities enter into a contract to build or renovate a public works project, the law requires the parties to the contract to prove that they have complied with workers' compensation insurance and self-insurance requirements and do not owe payments to the Second Injury Fund (a fund that provides workers' compensation coverage to workers whose employers failed to do so). This act exempts sole proprietors from this requirement if the sole proprietor is a party to the contract and:

1. does not use a subcontractor to perform the contract;
2. is not acting as a principal employer (i.e., does not have any employees);
3. has not opted in to the workers' compensation system; and
4. has liability insurance instead of workers' compensation insurance.

EFFECTIVE DATE: October 1, 2016

PA 16-83—sHB 5237
Labor and Public Employees Committee
Appropriations Committee

AN ACT CONCERNING FAIR CHANCE EMPLOYMENT

SUMMARY: This act prohibits employers from asking prospective employees about their prior arrests, criminal charges, or convictions on an initial employment application unless the (1) employer must do so under a state or federal law or (2) prospective employee is applying for a position for which the employer must obtain a security or fidelity bond, or an equivalent bond.

The act allows a prospective employee to file a complaint with the labor commissioner alleging a violation of its employment application prohibition. It also allows a prospective employee or employee to file a complaint with the commissioner alleging an employer's violation of certain other prohibitions on employment-related criminal record checks. In both cases, violators are subject to a $300 per violation civil penalty imposed by the Labor Department (CGS § 31-69a).

The act establishes a seven-member task force to study issues including the employment opportunities available to people with criminal histories. The task force must provide two reports to the Labor and Judiciary committees on its findings and recommendations for administrative or legislative action. The first report is due by January 1, 2017, and the second is due by January 1, 2018.

The act also makes technical and conforming changes.

EFFECTIVE DATE: January 1, 2017, except the provisions creating the task force and making a conforming change are effective upon passage.

COMPLAINTS FOR EMPLOYMENT-RELATED CRIMINAL RECORD CHECKS

The act allows an employee or a prospective employee to file a complaint with the labor commissioner alleging an employer's violation of (1) its employment application prohibition or (2) certain other statutory provisions on employment-related criminal record checks. By law, these other provisions:

1. prohibit employers from requiring an employee or job applicant to disclose an arrest, criminal charge, or conviction when the records have been erased under certain conditions;
2. require employers to include a notice on job applications stating, among other things, that an applicant is not required to disclose these matters;
3. prohibit employers from denying employment to an applicant, or discharging or discriminating against an employee, based solely on such matters or a prior conviction for which the employee or applicant received a provisional pardon or certificate of rehabilitation; and
4. require employers to comply with certain requirements related to the confidentiality of a job application's criminal history section.

FAIR CHANCE EMPLOYMENT TASK FORCE

The act establishes the Fair Chance Employment Task Force to study issues including the employment opportunities available to people with criminal histories. The task force consists of the African-American Affairs Commission's (AAAC) executive director, or her designee, and one member appointed by each of the six legislative leaders. (PA 16-3, May Special Session, replaces the AAAC with the Commission on Equity and Opportunity.) Appointments to the task force must be made by July 1, 2016, and the appointees may include legislators. The appointing authorities must fill any vacancies.

The House speaker and Senate president pro tempore must select two task force members to chair the task force, and the chairpersons must schedule and hold the first task force meeting by July 31, 2016. The commission's administrative staff must serve as the task force's administrative staff. The task force terminates when it submits its final report or on January 1, 2018, whichever is later.

PA 16-98—sHB 5261 **(VETOED)**
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING OPERATORS OF ATHLETIC ACTIVITIES, COACHES AND REFEREES AND THE EMPLOYER-EMPLOYEE RELATIONSHIP

SUMMARY: This act exempts coaches and referees who work for certain private or public athletic programs from employer-employee rules for purposes of unemployment taxes and compensation. The act does not apply to college athletic activity or public school intramural or interscholastic athletics.

Under the act, as of October 1, 2016 no employer-employee relationship is deemed to exist between operators of certain organized athletic activities and individuals who coach or referee those activities, unless the operators and individuals mutually agree, in writing, to enter into an employer-employee relationship. Without such an agreement, the activity operators do not have to pay unemployment taxes on the coaches and referees, and the coaches and referees are not eligible for unemployment compensation based on their work for the operators.

In general, private sector employers pay unemployment taxes on the first $15,000 in annual wages paid to each of their employees. In most situations the employer-employee relationship is determined by a multi-step test that includes such factors as whether the employee is under the direct supervision and control of the employer.

EFFECTIVE DATE: Upon passage

DEFINITIONS

The act defines an "operator" as any municipality, business, or nonprofit organization that conducts, coordinates, organizes, or otherwise oversees an organized athletic activity.

An "organized athletic activity" is an activity involving participants who (1) (a) either pay a participation fee or whose cost is sponsored by the operator and (b) engage in an organized athletic game or competition against another team, club, or entity or in a practice for such game or competition or (2) attend an organized athletic camp or clinic to train or prepare for a game or competition. It does not include any (1) college or university athletic activity, (2) public school intramural or interscholastic athletics, or (3) athletic activity incidental to a nonathletic program or an academic lesson.

The definitions for "coach" and "referee" include people who volunteer or are paid. "Coach" also includes a head coach, assistant coach, clinician, manager, instructor, or anyone in a similar supervisory position. "Referee" includes a referee, official, umpire, or judge, or anyone in a similar supervisory position.

PA 16-125—sSB 211
Labor and Public Employees Committee
Banking Committee

AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS

SUMMARY: This act allows employers to pay their employees through payroll cards under certain conditions. An employee must voluntarily and expressly authorize, in writing or electronically, that he or she wishes to be paid with a card. The authorization must be free of any intimidation, coercion, or fear of discharge or reprisal by the employer. No employer can require payment through a card as a condition of employment or for receiving any benefits or other type of remuneration. In addition:

1. employers must allow employees the option to be paid by check or through direct deposit,
2. the card must be associated with an ATM network that ensures the availability of a substantial number of in-network ATMs in the state,
3. employees must be able to make at least three free withdrawals per pay period, and
4. none of the employer's costs for using payroll cards may be passed on to employees.

Under the act, a "payroll card" is a stored value card (similar to a bank account debit card) or other device, but not a gift certificate, that allows an employee to access wages from a payroll card account. The employee may redeem it at multiple unaffiliated merchants or service providers, bank branches, or ATMs. A "payroll card account" is a bank or credit union account (1) established through an employer to transfer an employee's wages, salary, or other compensation; (2) accessed through a payroll card; and (3) subject to federal consumer protection regulations on electronic fund transfers.

The act allows the labor commissioner to adopt regulations to ensure compliance with the act's payroll card provisions and, within available appropriations, study payroll card use and the actual incidence of associated fees. By October 1, 2018, he must determine whether to conduct the study and report his decision, or the study's status or results if it has been started or conducted, to the Labor and Public Employees Committee.

The act also allows employers, regardless of how they pay their employees, to provide them with an electronic record of their hours worked, gross earnings, deductions, and net earnings (i.e., pay stub). To do so, the (1) employee must explicitly consent and (2) employer must (a) provide a way for the employee to access and print the record securely, privately, and conveniently; and (b) incorporate reasonable safeguards to protect the confidentiality of the employee's personal information.

Lastly, the act allows employers to pay employees through direct deposit at an employee's electronic request. Prior law only allowed them to do so at an employee's written request.

EFFECTIVE DATE: October 1, 2016

PAYROLL CARD CONDITIONS

The act sets numerous conditions and requirements for employers using payroll cards. It specifies that none of them preempt or override a collective bargaining agreement's terms on how an employer must pay its employees.

Notice Requirements

Before employees choose to be paid through a payroll card, their employers must provide them with a clear and conspicuous written notice, in the language the employer normally uses to communicate employment-related policies to employees, stating:

1. that being paid through a payroll card is voluntary and the employee can instead choose to be paid by direct deposit or check;
2. the terms and conditions related to using the card, including an itemized list of fees that the card issuer may assess and their amounts;
3. how employees can (a) access their pay in U.S. currency without a transaction fee; (b) avoid or minimize fees for using the cards, including a clear and conspicuous notice describing how to access their pay for free at ATMs, banks, savings and loan associations, credit unions, or other convenient locations; and (c) check their card account balances for free; and
4. that third parties may assess additional fees.

Consumer protections under the federal consumer protection regulations for electronic fund transfers, including transaction histories and advanced notice of changes in terms and conditions, must be provided to all employees who have a payroll card. In addition, employees must be given the option to receive free monthly automatic written transaction histories for at least 12 months, or until the employee cancels the option. An employer can require the employee to renew the option at the end of each 12-month term.

All notices provided about payroll cards and their accounts must be clear and conspicuous.

Employer Requirements

Employers paying with payroll cards must give employees a (1) free way to check their payroll card account balances at any time through an automated phone system, ATM, or electronically and (2) statement of payroll deductions for each pay period, as required by law.

They must also allow employees who provide timely notice to switch from a payroll card to direct deposit or check at no cost, without fear of reprisal or discrimination, or any penalty. The switch must occur as soon as practicable, but no later than the first payday that occurs 14 days after the employer receives the employee's request and, if applicable, the necessary account information.

An employer's obligations to an employee under the act's payroll card provisions end 60 days after the employer no longer employs the employee.

Card & Account Conditions

Payroll cards and their accounts cannot be linked to any form of credit and, if technologically feasible, must not allow for overdrafts. Employees cannot be charged fees or interest for an overdraft or for the first two declined transactions of each calendar month.

A payroll card account must be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration on a pass-through basis to the employee (i.e., the employee is reimbursed for any losses).

A card may have an expiration date if the (1) funds in the card's account do not expire and (2) employee is given a free replacement card before the card expires. The requirement to provide a free replacement card applies while the employee is being paid through the card and for 60 days after the employer last transfers pay to the card's account.

Under the act, payroll card accounts that receive only employee pay are exempt from (1) executions or attachments by the employer's creditors (legal procedures to collect the employer's debts) and (2) executions against debts due from a financial institution (legal procedures to collect the employee's debts directly from his or her bank account). The law, unchanged by the act, also allows wage executions against an employee's wages (legal procedures to collect an employee's debts by requiring the employer to deduct payments from the employee's wages and remit them to the creditor).

Access and Usage

Each pay period, but no more than weekly, employees must be able to make at least three free withdrawals from their payroll card account at a bank, savings and loan, credit union or other convenient location. One of the free withdrawals must allow for the withdrawal of the full amount of the employee's net pay for the pay period.

A payroll card account may escheat (revert) to the state under the law for determining when property held by banking or financial organizations is presumed abandoned.

Fees and Charges

The act generally prohibits employers from passing on their costs for using payroll cards to employees. Specifically, none of the employer's costs from paying employees with payroll cards or establishing payroll accounts can be deducted from or charged against an employee's pay. In addition, the act prohibits employers and payroll card issuers from charging an employee a fee, regardless of how it is labeled, for:

1. issuing an initial card,
2. transferring pay from the employer to a card account,
3. maintaining a card account,
4. providing one replacement card per calendar year at the employee's request,
5. closing a payroll card account,
6. maintaining a low balance,
7. not using an account for up to 12 months, or
8. point-of-sale transactions.

The act specifies that it does not restrict the fees that a payroll card issuer may charge the employer under their payroll card agreement, as long as they are not passed on to an employee.

PA 16-169—sSB 220
Labor and Public Employees Committee

AN ACT CONCERNING UNEMPLOYMENT COMPENSATION APPEALS AND HEARINGS, EMPLOYEE PAY PERIODS AND MINOR AND TECHNICAL REVISIONS TO THE GENERAL STATUTES RELATING TO THE LABOR DEPARTMENT

SUMMARY: This act makes numerous changes to the unemployment compensation statutes that generally give the Department of Labor (DOL) greater flexibility in processing unemployment claims and appeals. Among other things, it:

1. allows DOL to deliver certain unemployment notices and decisions by means other than by mail (e.g., email);
2. starts the appeal period when the decision is "provided" to the party, rather than when it is mailed; and
3. allows the labor commissioner to prescribe ways, other than a hearing, for employers and claimants to present evidence and testimony in certain unemployment proceedings.

The act also:

1. allows employers to pay their employees biweekly without first obtaining a waiver from DOL, as prior law required (§§ 33 & 34);
2. allows unemployment claimants to change their tax withholding status for tax deductions from their benefits more than once each year (§ 2);
3. allows (a) DOL to share unemployment records, under certain conditions, with nonpublic entities that contract with other state agencies and (b) the Office of Policy and Management (OPM) secretary to request and obtain a wider range of unemployment records from DOL; and
4. eliminates a requirement that the labor commissioner adopt regulations specifying the circumstances under which an employer can require an employee to submit to a urinalysis drug test because of a reasonable suspicion that the employee is under the influence of drugs or alcohol (§ 18).

Lastly, the act changes statutory references to the federal Workforce Investment Act to reflect the act's current name, the Workforce Innovation and Opportunity Act of 2014 (§§ 15 & 24); repeals various obsolete or duplicative statutes; and makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2016, except the provisions that (1) allow employers to pay their employees biweekly, (2) repeal obsolete or duplicative statutes, and (3) make conforming changes related to the repealed statutes, are effective upon passage.

UNEMPLOYMENT NOTICES, DECISIONS, AND APPEAL DEADLINES

Providing Notice and Decisions (§§ 1 & 14)

The act allows DOL to notify employers about charges against their experience rates through means other than by mail. This applies to both the notice that DOL must provide when a former employee successfully files for benefits and the quarterly experience rate statements that DOL sends to employers. In general, an employer's experience rate is the portion of its unemployment tax rate based on whether the employer's former employees recently received unemployment benefits.

The act also (1) requires DOL's Employment Security Appeals Division to prescribe how decisions by its referees and the Employment Security Board of Review are issued and (2) allows the decisions to be delivered electronically. In general, the appeals division administers the process by which claimants and employers can appeal benefit eligibility decisions. Appeals are first heard by the division's referees and their decisions can be appealed to the review board.

Appeal Deadlines (§§ 6, 10, 12 & 16)

The law requires the labor commissioner or an unemployment examiner (an official who initially determines a claimant's eligibility) to notify the claimant and his or her former employers about whether the claimant will receive benefits, but does not specify how this notification must be provided. Prior law, however, required the filing of any subsequent appeals or related motions within certain periods that started when notices or decisions were "mailed" to the claimant or employer.

The act instead requires these filing periods to start when the notice or decision is "provided" to the claimant or employer. It applies to (1) appeals of an examiner's, referee's, or review board's decision; (2) motions to reopen, set aside, vacate, or modify decisions by referees or the board; and (3) appeals of determinations that claimants were overpaid benefits in error or due to fraud. For these appeals, the act also specifies that electronically filed appeals are timely if they are "received" before their filing period deadlines.

Hearings (§§ 6 & 16)

The act allows the labor commissioner or examiner to prescribe ways, other than at a hearing, for employers and claimants to present evidence and testimony in proceedings to determine a claimant's eligibility for benefits or whether a claimant received benefits in error or through fraud. In these instances, the commissioner or examiner may prescribe a telephone or in-person hearing, but he or she cannot unreasonably deny an in-person hearing if the claimant or employer requests one.

Under the act, if an examiner holds a hearing to determine whether a claimant received benefits in error, the examiner must provide at least five days notice of the hearing's time and place. The law, unchanged by the act, requires the same notice for hearings to determine whether a claimant received benefits through fraud.

Other Flexibility Provisions (§§ 3-5, 8, 9, 11 & 13)

The act makes several other changes that give DOL greater flexibility in processing unemployment claims and appeals. These allow:

1. the appeals division to prescribe how it can access the Employment Security Division's records, files, and data;
2. the commissioner, examiners, referees, and review board to consider electronic records when considering disputed claims;
3. the appeals division to prescribe how to file appeals of referees' and review board decisions; and
4. DOL to prescribe how benefit claims must be made. (Prior law required them to be made at the public employment bureau or branch most easily accessible to the claimant's home or most recent employment, but in practice DOL accepts claims filed online and by telephone.)

SHARING UNEMPLOYMENT RECORDS (§§ 15 & 17)

The law requires the labor commissioner to share certain unemployment information with nonpublic entities that contract with DOL to help administer unemployment law. The act requires the commissioner to also share this information with nonpublic entities that contract with other state agencies for this purpose. As under existing law, the nonpublic agency must agree in writing to provide certain safeguards that protect the confidentiality of the disclosed information.

The act also eliminates a provision that authorized the OPM secretary to receive, on request and on behalf of the labor commissioner, any information the commissioner had relating to employment records that included (1) an employee's name, Social Security number, and current residential address; (2) employer's name, address, and North American Industry Classification System code; and (3) wages.

Prior law additionally required DOL, upon request, to give the OPM secretary the wage records contained in the quarterly unemployment returns filed by employers. The act, instead, allows the secretary to request and receive any of DOL's unemployment records. The act specifies that it must not be construed as limiting the secretary's authority to request or receive information from DOL.

REPEALED STATUTES

The act repeals obsolete statutes that:

1. required the commissioner to establish a grant program for comprehensive job training and related services for economically disadvantaged, unemployed, and underemployed people;
2. allowed certain unemployment claimants to receive 13 weeks of additional benefits under certain circumstances; and
3. required the commissioner to adopt regulations that allow for adjustments to an employer's unemployment taxes without interest when an employer accidently pays an incorrect amount of unemployment taxes.

It also repeals duplicative statutes that (1) required the DOL commissioner to adopt regulations on standard contract provisions for certain regional workforce development board contracts and (2) prohibited employers from penalizing employees who tell other employees about hazardous work conditions or refuse to expose themselves to hazardous work conditions.

PA 16-170—SB 222
Labor and Public Employees Committee
Commerce Committee

AN ACT CONCERNING THE REPEAL OF OBSOLETE REPORTS AND PROGRAMS INVOLVING THE LABOR DEPARTMENT

SUMMARY: This act eliminates several Connecticut Employment and Training Commission (CETC), Labor Department, and Office of Workforce Competitiveness (OWC) reporting requirements.

It also makes conforming and technical changes, including repealing an obsolete law on a pilot program.

EFFECTIVE DATE: Upon passage for repeal of the pilot program and elimination of OWC's required report on workforce shortages; October 1, 2016 for all other provisions.

ELIMINATED CETC REPORTING REQUIREMENTS

Table 1 shows the CETC reporting requirements that the act eliminates.

Table 1: CETC Reporting Requirements

Under Prior Law	*Under the Act*
Annual report on CETC's progress to the governor, and the Appropriations, Education, Labor and Public Employees, and Human Services committees	Reporting requirement eliminated (§ 1)
Annual draft plan to coordinate the state's employment and job training efforts for submittal to the governor	Eliminates the requirement to submit the plan to the governor (§ 1)
Statewide workforce development plan that includes performance measures for various workforce development activities. Must report annually to the governor and the General Assembly on progress	Eliminates the requirement to report to the governor and General Assembly (§ 1)
Regional workforce development boards must conform to CETC's annual plan when they plan and coordinate their activities	Reporting requirement eliminated (§ 2)
CETC required to consider a list of items or documents when preparing its annual employment and job training plan	Eliminates the requirement to review each regional workforce development board's annual report as part of the process (§ 3)

LABOR DEPARTMENT AND OWC REPORTING ELIMINATED

Table 2 shows the other reporting requirements the act eliminates.

Table 2: Eliminated Labor-Related Reporting Requirements

Agency Responsible for Report	*Subject Matter and Report Frequency*
Labor Department	Annually to the Labor and Commerce committees on assistance to businesses for job training, including training for ISO 9000 quality standards (§ 4)
OWC	Biennially to the Board of Regents on workforce shortages and career pathways (§ 7)

PA 16-9—SB 330
Planning and Development Committee

AN ACT CONCERNING DEMOLITION PERMITS

SUMMARY: This act prohibits, in municipalities that impose a waiting period before granting a demolition permit for a building or structure, a permit applicant from taking any action toward demolition during that period. Prohibited actions include site remediation and asbestos abatement. The prohibition does not apply if the municipality's building official determines it would endanger public health.

By law, a municipal ordinance may impose a waiting period of up to 180 days for a demolition permit. The waiting period does not apply to permits for removing structures the Department of Transportation acquires for transportation projects.

Violations of the demolition law, including the act's provisions, are punishable by a fine of up to $500, up to a year in prison, or both (CGS § 29-414).
EFFECTIVE DATE: October 1, 2016

PA 16-45—sHB 5180
Planning and Development Committee
Appropriations Committee

AN ACT CONCERNING CONCRETE FOUNDATIONS

SUMMARY: This act makes various changes related to residential and commercial concrete foundations. It requires:

1. additional documentation to obtain a certificate of occupancy for a new structure for which a concrete foundation was installed;
2. municipalities, at an owner's request, to reassess residential properties with foundation problems;
3. the Department of Consumer Protection (DCP) to investigate the cause or causes of concrete foundation failure; and
4. executive branch agencies to maintain records related to failing residential concrete foundations as confidential for at least seven years.

EFFECTIVE DATE: Upon passage and applicable to assessment dates beginning on or after that date, except the provision requiring a report to the legislature is effective July 1, 2016 and the provision about certificates of occupancy is effective October 1, 2016.

§ 1 — CERTIFICATES OF OCCUPANCY

The act requires an individual seeking a certificate of occupancy for a new residential or commercial building for which a concrete foundation was installed on or after October 1, 2016 to provide the local building official with documentation showing the names of the concrete supplier and installer. The local building official must keep copies of the documentation in his or her records for at least 50 years. Existing law, unchanged by the act, also requires a certificate applicant to show that the new building conforms to the State Building Code (CGS § 29-265).

§ 2 — PROPERTY REASSESSMENT

The act requires municipal assessors or their staff or designees to inspect and reassess residential properties with foundations made from defective concrete at the property owner's request. Residential property owners seeking to have their property reassessed must submit to the assessor a copy of a written evaluation, prepared by a state-licensed professional engineer, indicating that the property's foundation was made with defective concrete. The property must be inspected and its assessment adjusted within 90 days after the report's submission or the next assessment year, whichever is earlier. The adjusted assessment must reflect the property's current value. Property owners can appeal these adjusted assessments under the same procedures that apply to other assessment appeals.

Under the act, the new assessment is valid for five assessment years, regardless of the year in which the municipality's next revaluation is scheduled. However, a property owner who repairs or replaces the foundation during the five-year period must notify the assessor in writing within 30 days of doing so. Within 90 days of receiving notification or before the next assessment year, whichever is earlier, the property must be inspected and reassessed accordingly.

Existing law, unchanged by the act, also requires interim reassessments for new construction and when property damage requires complete demolition or reconstruction (CGS §§ 12-53a and -64a).

§ 3 — REPORT ON CONCRETE FOUNDATION FAILURE

The act requires the DCP commissioner, after consulting with the attorney general, to report to the Planning and Development Committee on the potential cause or causes of failing concrete foundations. The commissioner must submit the report and post it on DCP's website by January 1, 2017.

§§ 4 & 5 — CONFIDENTIALITY OF RECORDS

The act requires executive branch agencies to keep documentation they receive or obtain related to owners' claims of faulty or failing residential concrete foundations confidential for at least seven years from the date of receipt. Agencies that had the documentation in their possession on May 25, 2016 (i.e., the act's effective date) must keep it confidential for seven years from that date (i.e., until May 25, 2023). Similarly, agency-prepared documents related to such documentation must be kept confidential for seven years from the date of receipt or May 25, 2016, whichever is later.

The act exempts these records from disclosure under the Freedom of Information Act.

PA 16-57—sHB 5481
Planning and Development Committee

AN ACT CONCERNING PHOSPHORUS REDUCTION REIMBURSEMENTS TO MUNICIPALITIES

SUMMARY: This act expands eligibility for increased Clean Water Fund grants to eligible municipal phosphorus removal projects meeting certain criteria.

Under prior law, municipalities that entered into contracts for eligible phosphorus removal projects by July 1, 2018 qualified for a Clean Water Fund grant of 50% of phosphorus removal costs, rather than 30% for other nutrient removal projects (i.e., nitrogen or phosphorus removal). The act extends eligibility for these increased grants to municipalities entering into eligible phosphorus removal projects (1) any time before May 26, 2016 (the act's effective date) or (2) before July 1, 2019.

Under prior law, eligible projects were those that resulted in phosphorus levels at or below 0.2 milligrams per liter of effluent discharge. The act instead requires that an eligible project result in a level (1) at or below 0.31 milligrams per liter and (2) specified as the municipality's permitted average monthly effluent total phosphorus limit. Under the act, these funding provisions do not affect any discharge permit requirements or schedules.

The act also eliminates a requirement that the Department of Energy and Environmental Protection prioritize project funding based on permitted phosphorus discharge limits and the amount of phosphorus removed each year.

EFFECTIVE DATE: Upon passage

BACKGROUND

Clean Water Fund

The Clean Water Fund provides financial aid to municipalities through grants and loans for planning, designing, and constructing water pollution control facilities. It is financed through a combination of federal funding, state general obligation bonds for the grant portion, and state revenue bonds for the loan portion.

PA 16-80—sHB 5177
Planning and Development Committee

AN ACT EXTENDING THE DEADLINE FOR THE LAND VALUE TAXATION PILOT PROGRAM

SUMMARY: By law, the land value taxation pilot program requires the Office of Policy and Management to select up to three municipalities to develop a plan for taxing land at a higher rate than buildings. This act extends, from December 31, 2015 to December 31, 2020, the deadline for the selected municipalities to submit their plans under the program to the Planning and Development; Commerce; and Finance, Revenue and Bonding committees.
EFFECTIVE DATE: July 1, 2016

PA 16-88—sSB 90
Planning and Development Committee
Environment Committee
Public Health Committee

AN ACT CONCERNING WATER MAIN GRANTS AND FILING EXTENSIONS FOR CERTAIN GRAND LIST EXEMPTIONS

SUMMARY: This act increases the grant amount certain municipalities are eligible to receive from the Department of Energy and Environmental Protection (DEEP) to provide long-term potable water supply facilities (e.g., water mains) that meet public water supply needs.

The act also allows a nonprofit organization to receive a tax exemption for real property on New Britain's 2014 grand list even though it missed the deadline for filing the required exemption statement.
EFFECTIVE DATE: Upon passage

WATER MAIN GRANTS

By law, DEEP may require municipalities to provide long-term potable water to people whose water is contaminated. Municipalities not responsible for the contamination may apply to DEEP for a grant to design and construct facilities to provide the water. For projects that provide capacity beyond what is necessary for the polluted area, DEEP generally reduces the total construction cost amount eligible for a grant. The reduction is based on a formula that takes into account a project's total cost and the additional proposed capacity (Conn. Agencies Regs. § 22a-471-1).

The act prohibits DEEP from reducing the grant amount for a project in any area of a municipality next to a state Superfund Priority List site where a water line extension has been installed by a municipal or private water company (see BACKGROUND). Under the act, if the minimum size water main needed to address pollution is upgraded to address fire flow or public water supply needs, the municipality is responsible for paying only the incremental cost (i.e., amount in excess of what is needed to fund the minimum size water main). The act specifies that the incremental cost may be funded by the water company; another person; or available local, state, or federal funds.

Also, under the act, the water main size increase for public water supply purposes must be consistent with an adopted plan of conservation and development.

FILING EXTENSION

The act allows a nonprofit organization (i.e., one organized exclusively for scientific, educational, literary, historical, or charitable purposes or to preserve land for open space) to receive a tax exemption for real property on New Britain's 2014 grand list even though it missed the deadline for filing the required property tax exemption statement (due November 1, quadrennially). The organization must file the statement by July 2, 2016 and pay the statutory late fee to be considered to have filed the statement in a timely manner. The New Britain assessor must approve the exemption after confirming the fee payment and the property's eligibility for the exemption. New Britain must refund any excess taxes, interest, and penalties the organization paid on the exempt property.

BACKGROUND

State's Superfund Priority List

There are currently 15 areas on the state's Superfund Priority List, which is a list of hazardous waste disposal sites compiled by DEEP pursuant to Conn. Agencies Regs. § 22a-133f-1. DEEP deems areas on the list eligible for state-funded remediation.

PA 16-133—sHB 5484
Planning and Development Committee

AN ACT CONCERNING THE CONNECTICUT CITY AND TOWN DEVELOPMENT ACT

SUMMARY: This act relaxes requirements for municipalities to use the economic development authority granted by the Connecticut City and Town Development Act.

By law, the legislative body of a municipality seeking to use this authority must adopt a resolution determining that specific conditions exist in the municipality. Under prior law, the resolution did not become effective unless it was subsequently submitted to the municipality's electors and approved by them in a referendum. The act makes the submission to the electors optional, rather than mandatory.

The act also broadens the conditions under which a municipality may implement the development act's authority. Prior law required the resolution to include, among other things, a finding that the municipality contains blighted and deteriorated conditions. The act instead requires it to include a finding that (1) parts of the municipality contain these conditions or (2) the municipality would substantially benefit from commercial or residential property renovation, rehabilitation, or construction. Prior law also required municipalities to include a finding that the private sector is not meeting the municipality's need for housing, employment, and blight reduction. Under the act, municipalities may include an alternative finding that the private sector is not meeting the need for commercial or residential property renovation, rehabilitation, or construction.

EFFECTIVE DATE: October 1, 2016

BACKGROUND

City and Town Development Act

The Connecticut City and Town Development Act (CGS § 7-480 et seq.) allows municipalities to (1) acquire, develop, and improve property; (2) convey property to private developers; and (3) lend money to those who cannot obtain financing from banks or other traditional lenders. Municipalities may grant a 100% property tax exemption for up to 20 years for property developed under the act. By law, a resolution to use the act's authority is valid for up to five years and may be reauthorized.

PA 16-144—sHB 5601
Planning and Development Committee
Appropriations Committee

AN ACT CONCERNING REGIONALISM

SUMMARY: This act makes several statutory changes related to municipal efficiencies and regional cooperation. Specifically, it does the following:

1. authorizes municipalities to purchase equipment, supplies, materials, or services from certain entities (§ 1);
2. expands the types of entities that are eligible for regional performance incentive program (RPIP) grants (§ 2);
3. sunsets the option to apply for RPIP grants to cover operating and capital costs associated with connecting to the statewide high-speed network (i.e., Nutmeg Network) (§ 2);
4. allows municipalities to enter into an agreement to share the services of a resident state trooper or other law enforcement personnel (§ 3);
5. requires the State Department of Education (SDE) to study methods for increasing school transportation efficiencies (§ 4);

6. requires the Office of Policy and Management (OPM) to use municipal reimbursement and revenue account funds for specified purposes, including the SDE study (§ 5); and
7. requires entities updating their plans of conservation and development to consider the need for technology infrastructure (§§ 6-8).

EFFECTIVE DATE: Upon passage, except the provisions concerning plans of conservation and development are effective October 1, 2016.

§ 1 — GOODS AND SERVICES CONTRACTS

The act authorizes municipalities (notwithstanding state statutes, municipal charters, special acts, or ordinances) to purchase equipment, supplies, materials, or services from certain entities. These entities are persons that have a contract with a regional educational service center (RESC) or regional council of governments (COG) to sell such goods or services to other state governments; political subdivisions of the state, including municipalities; nonprofits; or public purchasing consortia. Existing law, unchanged by the act, requires municipalities to use competitive bidding procedures for certain contracts funded in whole or in part by the state (e.g., school construction contracts, CGS § 10-287(b)).

§ 2 — RPIP GRANTS

Under existing law, RPIP grants provide funds to municipalities and regional entities for (1) jointly performing a service they have been performing separately, (2) a planning study on joint service provisions, or (3) shared information technology services. The act additionally makes RESCs eligible for RPIP grants for these purposes. It also makes local and regional boards of education serving a population of more than 100,000 eligible to apply for RPIP grants for a regional special education initiative.

By law, the OPM secretary must prioritize proposals submitted by (1) a COG, if all the member municipalities are participating and the proposal increases purchasing power or provides cost savings, or (2) an economic development district. The act additionally requires the secretary to prioritize proposals submitted by a (1) RESC, if all the member municipalities are participating and the proposal increases purchasing power or provides cost savings, or (2) local or regional board of education.

Additionally, the act sunsets, on December 31, 2018, the option for municipalities and COGs to apply for RPIP grants to cover operating and capital costs associated with connecting to the Nutmeg Network. By law, the OPM secretary must make such grants available in accordance with the Bureau of Enterprise Systems and Technology′s connection schedule.

§ 3 — SHARING LAW ENFORCEMENT PERSONNEL

Existing law allows the emergency services and public protection commissioner to appoint a state trooper to serve as a resident state trooper in a single municipality or adjoining municipalities and specifies municipalities' financial responsibilities with regard to such a trooper (CGS § 29-5).

The act, notwithstanding any statute, municipal charter, or special act, allows any municipality to enter into an agreement with one or more municipalities to share the services of a resident state trooper or other law enforcement personnel, even if the municipalities are non-adjoining. The act does not define "other law enforcement personnel" or specify the procedure by which a state trooper may be assigned to serve such municipalities.

§ 4 — SCHOOL TRANSPORTATION COSTS

The act requires SDE to study methods and practices local school districts can use to reduce costs and increase efficiencies in student transportation. The study must include a statistical model for evaluating efficiencies in student transportation operations using linear programming that considers distances, start times, end times, routes, population tiers, utilization, and model contract provisions for such operations. By June 30, 2017, SDE must report its study results and any recommendations to the Education and Planning and Development committees.

The act allocates $250,000 from the municipal reimbursement and revenue account to fund the study (see below).

§ 5 — MUNICIPAL REIMBURSEMENT AND REVENUE ACCOUNT EXPENDITURES

The act requires OPM to use municipal reimbursement and revenue account funds as follows: (1) $250,000 for SDE's student transportation study (see above) and (2) $366,000 for audits of private special education service providers required by existing law.

Existing law requires the state auditors to examine the records and accounts of certain private providers of special education services at least once every seven years. A private provider is a private school, agency, or institution, including a group home, that receives state or local funds to provide special education services to any student with an individualized education program or individual services plan written by the student's local or regional board of education (CGS § 10-91g).

§§ 6-8 — PLANS OF CONSERVATION AND DEVELOPMENT

The act requires municipalities, COGs, and OPM to consider, when updating their respective plans of conservation and development, the need for technology infrastructure in their respective jurisdictions.

Plans of conservation and development are statements of development, resource management, and investment policies. Municipalities and COGs must update their plans at least once every 10 years; OPM must submit an updated plan to the legislature for its approval once every five years (CGS §§ 8-23, 8-35a, and 16a-24 et seq.).

PA 16-180—HB 5479
Planning and Development Committee

AN ACT CONCERNING THE STATE REAL PROPERTY INVENTORY, MUNICIPAL PENSION OBLIGATION BONDS AND MUNICIPAL RESERVE FUNDS

SUMMARY: This act allows municipalities (including metropolitan and certain other districts), by vote of their legislative bodies, to issue pension obligation bonds or temporary notes to fulfill their lump sum payment obligations to a closed pension fund's beneficiaries. They may do so without complying with the legal procedures for issuing pension obligation bonds, but cannot issue notes in amounts exceeding the amount bonded.

The act also expands the purposes for which a municipality may create a reserve fund to include paying the costs associated with preparing, amending, or adopting a municipal plan of conservation and development and makes conforming changes. Prior law restricted the use of such reserve funds to property tax revaluation costs and certain capital and nonrecurring expenditures. By law, the municipality's budget-making authority must recommend, and its legislative body must approve, any expenditure from the reserve fund.

Lastly, the act changes, from March 15 to July 1, the annual deadline for the Office of Policy and Management secretary to submit to the Appropriations and Government Administration and Elections committees an inventory of real property owned by the state or leased by a state agency.

EFFECTIVE DATE: Upon passage, except the provisions on reserve funds are effective October 1, 2016.

PA 16-202—sSB 327
Planning and Development Committee
Commerce Committee

AN ACT CONCERNING SIGNAGE FOR SITES ON THE CONNECTICUT ANTIQUES TRAIL

SUMMARY: Existing law requires the Department of Economic and Community Development (DECD), as part of its administration of the Connecticut Antiques Trail, to develop criteria to identify (1) major antique dealers, (2) communities with a high concentration of antique dealers, and (3) auction houses with annual sales in excess of one million dollars. This act additionally requires it to develop criteria to identify antique dealers located within municipally designated antiques corridors.

The act also authorizes businesses that DECD identifies as being on the Connecticut Antiques Trail to display temporary signs or flags, for up to 16 hours a day, indicating that they are on the trail. Except with respect to a municipal ordinance or regulation concerning sign or flag size, the authorization applies even if a state statute or municipal zoning ordinance or regulation prohibits such a display.

In practice, to be designated as being on the trail, a business must meet certain criteria and submit a form to DECD for its review. Among other things, an eligible business must primarily buy and sell items collected or desired because of their age, rarity, condition, or other unique feature. Art dealers, consignment shop operators, and flea markets do not qualify for the designation.

EFFECTIVE DATE: Upon passage

PA 16-4—HB 5350
Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS ON FLUORIDATION OF THE PUBLIC WATER SUPPLY

SUMMARY: This act reduces the public water supply's mandated fluoride content. Specifically, it requires water companies serving at least 20,000 people to add enough fluoride to the water supply to maintain an average monthly fluoride content that varies no more than 0.15 milligrams per liter (mg/L) from the U.S. Department of Health and Human Services' (HHS) most recent recommendation for optimal fluoride levels in drinking water to prevent tooth decay (currently 0.7 mg/L). Prior law required water companies to maintain the public water supply's fluoride content at between 0.8 and 1.2 mg/L.

A "water company" is an individual, municipality, or other entity that owns, maintains, operates, manages, controls, or employs any pond, lake, reservoir, well, stream, or distribution plant or system that regularly supplies water to at least two consumers (i.e., service connections) or at least 25 people.
EFFECTIVE DATE: October 1, 2016

BACKGROUND

HHS Recommendation for Optimal Fluoride Levels

In 1962, the U.S. Public Health Service recommended that fluoride concentrations in drinking water be 0.7 to 1.2 mg/L, depending on the area's ambient air temperature (areas with higher average temperatures would require less fluoride). In 2011, HHS proposed new guidance recommending that community water systems adjust their fluoride levels to 0.7 mg/L. HHS finalized this recommendation in 2015.

PA 16-22—SB 127
Public Health Committee
Planning and Development Committee

AN ACT CONCERNING THE APPOINTMENT OF SUBREGISTRARS FOR THE ISSUANCE OF REMOVAL, TRANSIT, BURIAL AND CREMATION PERMITS

SUMMARY: This act requires a town's chief elected official, rather than selectmen, to approve the local registrar of vital statistics' appointment of subregistrars authorized to issue removal, transit, and burial permits and cremation permits.

By law, a local registrar must appoint at least two subregistrars, who have authority to issue these permits when the registrar's office is closed.
EFFECTIVE DATE: October 1, 2016

PA 16-23—sHB 5450
Public Health Committee
General Law Committee

AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA

SUMMARY: This act makes various changes to the state's medical marijuana program, which the Department of Consumer Protection (DCP) administers. Among other things, the act does the following:

1. allows minors to be qualifying patients but subjects them to certain additional requirements and limitations beyond those that apply to adults;
2. expands the list of qualifying debilitating conditions for adults;
3. requires patients to select a dispensary from which they will purchase marijuana and subjects patients to a possible enforcement hearing if they possess marijuana obtained from another source;

4. allows dispensaries to distribute marijuana to hospices and other inpatient care facilities that have protocols for handling and distributing marijuana;
5. specifically allows nurses to administer marijuana in licensed health care facilities;
6. allows the DCP commissioner to approve medical marijuana research programs, requires him to adopt regulations on licensing research program employees and related matters, and requires research program subjects to register with the department;
7. requires the DCP commissioner to adopt regulations on licensing marijuana laboratories and laboratory employees;
8. makes changes to qualifications of and other matters concerning the medical marijuana board, including allowing the board to recommend removal of a medical condition from the list of qualifying debilitating conditions; and
9. requires dispensaries to report annually to DCP.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016

§§ 1-3 & 5 — MINORS AS QUALIFYING PATIENTS

The act extends eligibility for the state's medical marijuana program to state residents under age 18. Under prior law, only state residents age 18 or older could be qualifying medical marijuana patients. As under existing law, inmates are ineligible. (While the law refers to "palliative" rather than "medical" marijuana use, the program is generally referred to as the medical marijuana program.)

As is the case for adult patients under existing law, before using marijuana for medical purposes, minors must have a written certification issued by a physician who determined, among other things, that the patient has a qualifying debilitating medical condition (see below). By law, qualifying patients and their primary caregivers must register with DCP, and the department may charge a reasonable registration fee.

The act creates additional requirements that must be met for unemancipated minors to qualify (see below).

Prior law prohibited the use of medical marijuana in the presence of minors. The act creates an exception if the minor is a qualifying patient or research program subject (§ 2).

Written Consent by Parent or Person with Legal Custody and Agreement to Serve as Primary Caregiver (§ 1)

Under the act, to qualify for medical marijuana use an unemancipated minor must have written consent from a custodial parent, guardian, or other person with legal custody, indicating that the person has given permission for the minor to use marijuana for a debilitating condition.

The written consent must also state that the person will (1) serve as the minor's primary caregiver and (2) control the acquisition and possession of marijuana and any related paraphernalia on the minor's behalf.

By law, a medical marijuana patient's primary caregiver is someone at least age 18, other than the patient or the patient's physician, who agrees to take responsibility for managing the patient's well-being with respect to palliative marijuana use. Someone convicted of illegally making, selling, or distributing controlled substances cannot serve as a primary caregiver (CGS § 21a-408b).

Under existing law, an adult medical marijuana patient's physician must evaluate the patient's need for a primary caregiver and document the need in the certification of palliative use. The act also requires this for patients who are emancipated minors. (As noted above, for unemancipated minors, the act requires a parent or other person with legal custody to serve as the primary caregiver.)

Letter from Primary Care Provider and Physician (§ 5)

Under the act, if the qualifying patient is an unemancipated minor, the person with legal custody must provide DCP with a letter from the minor's primary care provider and a physician board-certified in an area involved in the treatment of the minor's debilitating condition. The letter must confirm that the palliative use of marijuana is in the patient's best interest.

Qualifying Debilitating Conditions (§ 1)

The act allows a minor to use marijuana for the following conditions:

1. a terminal illness requiring end-of-life care;
2. irreversible spinal cord injury with objective neurological indication of intractable spasticity;
3. cerebral palsy;

4. cystic fibrosis;
5. severe epilepsy or uncontrolled intractable seizure disorder; or
6. any other medical condition, treatment, or disease that DCP approves through regulations.

(Changes to the list of qualifying debilitating conditions for adults are discussed below.)

Form of Marijuana (§§ 3 & 5)

The act prohibits a dispensary from dispensing any marijuana product in a smokable, inhalable, or vaporizable form to a (1) patient who is a minor or (2) primary caregiver of such a patient. It similarly prohibits a physician from issuing a written certification for a minor's marijuana use in a dosage form requiring that the marijuana be smoked, inhaled, or vaporized.

Other Requirements and Prohibitions

In addition to the new requirements above, the act applies the same existing program requirements and prohibitions for minors who are patients as for adults under existing law and the act. For example:

1. patients who comply with the law may not be arrested, prosecuted, or otherwise penalized, including being subject to civil penalties, or denied any right or privilege, including being disciplined by a professional licensing board, for the medical use of marijuana (CGS § 21a-408a(a));
2. these protections do not apply if the patient ingests marijuana in certain settings, such as at work, at school, or in public (CGS § 21a-408a(b), as amended by section 2);
3. schools, landlords, and employers are prohibited from taking certain actions against a medical marijuana patient or caregiver if solely based on the person's status as such, unless the actions are required by federal law or to obtain federal funding (CGS § 21a-408p); and
4. health insurers are not required to cover medical marijuana use (CGS § 21a-408o).

§ 1 — DEBILITATING CONDITIONS FOR ADULTS

The act adds the following to the list of qualifying debilitating conditions for adult medical marijuana patients:

1. uncontrolled intractable seizure disorder (epilepsy was already a qualifying condition),
2. irreversible spinal cord injury with objective neurological indication of intractable spasticity,
3. cerebral palsy,
4. cystic fibrosis, and
5. terminal illness requiring end-of-life care.

§§ 3 & 5 — MARIJUANA SOURCE

Under the act, when a qualifying medical marijuana patient registers with DCP, he or she must select a licensed, in-state dispensary from which to obtain marijuana. If the patient is an unemancipated minor, the requirement applies instead to the custodial parent, guardian, or other person with legal custody.

After registering, a patient or his or her legal custodian may purchase marijuana only from the selected dispensary unless they change their selection in accordance with DCP regulations.

If a registered medical marijuana patient or primary caregiver is found to possess marijuana that did not originate from the selected dispensary, he or she may be subject to a hearing before the DCP commissioner on possible enforcement action against the person's registration certificate.

§§ 4 & 7 — MARIJUANA USE AT LICENSED HEALTH CARE FACILITIES

The act allows licensed marijuana dispensaries and their employees to distribute or dispense marijuana to a hospice or other inpatient care facility licensed by the Department of Public Health (DPH). This applies only if the facility has a DCP-approved protocol for handling and distributing marijuana.

The act extends legal protections to nurses in hospitals or health care facilities licensed by DPH who administer marijuana to qualifying patients or research program subjects. The protections are similar to those under existing law for physicians who issue written certifications for marijuana use.

Thus, a nurse who administers marijuana as set forth above cannot be arrested, prosecuted, or otherwise penalized, including being subject to civil penalties, or denied any right or privilege, including being disciplined by the Board of Examiners for Nursing or any other professional licensing board, for this action.

§§ 1, 2, 7, 8 & 11-14 — RESEARCH PROGRAMS

Under specified conditions, the act allows the DCP commissioner to approve medical marijuana research programs (i.e., studies intended to increase knowledge of the growth, processing, medical attributes, dosage forms, administration, or use of marijuana to treat or alleviate symptoms of any medical condition or the symptoms' effects).

Program Approval (§ 12)

The act allows the DCP commissioner to approve a marijuana research program that meets the following criteria:

1. is administered or overseen by a DPH-licensed hospital or health care facility, a higher education institution, or a licensed producer or dispensary and
2. has institutional review board oversight.

Under the act, an institutional review board is a specifically constituted review body established or designated by an organization to protect the rights and welfare of people recruited to participate in biomedical, behavioral, or social science research.

If the research will involve animals, the program also must have an institutional animal care and use committee. This is a committee overseeing an organization's animal program, facilities, and procedures to ensure compliance with federal policies, guidelines, and principles on the care and use of research animals.

Research Programs, Employees, and Related Regulations

The act requires the DCP commissioner to adopt regulations to:

1. provide for the approval of research programs and licensure of research program employees;
2. set standards and procedures for terminating or suspending research programs;
3. set standards and procedures for employee license revocation, suspension, summary suspension, and nonrenewal, consistent with Uniform Administrative Procedure Act provisions requiring agencies to give notice and an opportunity to show compliance before revoking or suspending a license except for summary suspensions when emergency action is needed;
4. set fees for research program review and approval and employee licenses and license renewal, with the aggregate amount of fees at least covering the direct and indirect costs of program approval and the licensing and regulating of research program employees; and
5. establish other licensing, renewal, and operational standards the commissioner deems necessary.

The act generally prohibits unlicensed individuals from acting as research program employees or representing that they are licensed as such. Before the regulations take effect, the commissioner may issue temporary registration certificates to research program employees, and he must prescribe the standards, procedures, and fees for obtaining such certificates.

The act requires that any research program approval, employee licensing, or temporary certificate fees be paid to the state treasurer for deposit in the General Fund.

The act also allows the following:

1. licensed dispensaries and their employees to distribute or dispense marijuana to organizations engaged in approved research programs (§ 7);
2. licensed producers and their employees to sell, deliver, transport, or distribute marijuana to these organizations (§ 8); and
3. laboratory employees to deliver, transport, or distribute marijuana to these organizations (§ 11).

Under prior law, qualifying patients were not allowed to ingest marijuana on college or university property. The act creates an exception if the institution is participating in an approved research program and the marijuana is used under the terms of that program (§ 2).

Prohibited Acts and Legal Protections for Research Programs and Employees (§ 13)

The act prohibits research programs, or their licensed or temporarily certified employees, from doing the following:

1. acquiring marijuana from anyone other than a licensed dispensary, producer, or laboratory;
2. delivering, transporting, or distributing marijuana to anyone other than (a) licensed dispensaries or producers or (b) research program subjects;
3. distributing or administering marijuana to animals that are not research subjects; and
4. obtaining or transporting marijuana outside of the state in violation of state or federal law.

The act extends legal protections to licensed or temporarily certified research program employees who, when acting within the scope of their employment, (1) acquire, possess, deliver, transport, or distribute marijuana to a licensed dispensary or producer or research program subject or (2) distribute or administer marijuana to an animal research subject. These employees may not be arrested, prosecuted, or otherwise penalized, including being subject to civil penalties, or denied any right or privilege, including being disciplined by a professional licensing board, for such actions.

Research Program Subjects (§ 14)

The act requires anyone seeking to participate as a research program subject to first register with DCP. The commissioner must prescribe registration standards and procedures.

The act generally extends the legal protections noted above for a research program employee to a research program subject who has a valid registration certificate for the use of marijuana while acting within the scope of an approved research program.

However, these protections do not apply to marijuana use in certain settings, similar to the restrictions on other medical marijuana users under existing law and the act. Thus, the protections for research subjects do not apply if the person's marijuana use endangers the health or well-being of someone else other than a research program employee. The protections also do not apply if the person ingests marijuana under any of the following circumstances:

1. in a motor bus, school bus, or other moving vehicle;
2. at work;
3. on school grounds or any public or private school, dormitory, college, or university property, unless the college or university is participating in a research program and the marijuana use is part of that program;
4. in any public place; or
5. in the presence of a person under age 18 who is not a qualifying patient or research program subject.

Similar to existing law for qualifying patients, the act provides that information on research program subject registration is generally confidential and not subject to disclosure under the Freedom of Information Act; however, DCP must give reasonable access to registry information to certain people for specified purposes (e.g., local, state, and federal agencies for law enforcement purposes or physicians and pharmacists for treatment and monitoring purposes).

§§ 1, 7, 8, 10 & 11 — LABORATORIES AND LABORATORY EMPLOYEES

Existing law generally requires anyone operating a laboratory providing analysis of controlled substances to be licensed by DCP (CGS § 21a-246). The act requires the DCP commissioner to adopt regulations providing for the licensure of marijuana laboratories and laboratory employees.

The regulations must cover similar topics as those noted above for research programs and employees, including (1) standards and procedures for disciplinary actions against licensees; (2) licensure and renewal fees that cover the cost of licensing and regulating laboratories and employees; and (3) other licensing, renewal, and operational standards the commissioner deems necessary.

Under the act, as with research employees, unlicensed persons may not act as laboratory employees or represent that they are licensed, except the DCP commissioner may issue temporary registration certificates before regulations take effect. He must prescribe standards, procedures, and fees for the temporary certificates. Licensing fees are deposited in the General Fund.

The act allows licensed marijuana dispensaries and their employees to distribute or dispense marijuana to these laboratories (§ 7). It also allows licensed marijuana producers and their employees to sell or otherwise distribute marijuana to these laboratories (§ 8).

Prohibited Acts and Legal Protections (§ 11)

The act prohibits licensed or temporarily certified laboratory employees from acquiring marijuana from, or delivering, transporting, or distributing marijuana to, anyone other than (1) licensed producers or dispensaries or (2) organizations engaged in approved research programs. These employees also must not obtain or transport marijuana outside of the state in violation of state or federal law.

The act extends the legal protections noted above for research program employees and subjects to licensed or temporarily certified laboratory employees acting within the scope of their employment when acquiring, possessing, delivering, transporting, or distributing marijuana to licensed dispensaries or producers or organizations engaged in an approved research program. It extends similar protections to licensed laboratories as applicable.

§ 9 — BOARD OF PHYSICIANS

By law, the DCP commissioner must establish a board of eight physicians knowledgeable about palliative marijuana use. The act eliminates the requirement that physicians on the board be certified in one of several listed specialties. It instead requires that the members be board certified in the medical specialty in which they practice, including at least one board-certified pediatrician appointed in consultation with the state chapter of the American Academy of Pediatrics.

The act allows the board to review the list of qualifying debilitating medical conditions and make recommendations to the General Law and Public Health committees for removing conditions, treatments, or diseases from the list.

One of the board's existing duties is to review and recommend to DCP additions to the list of debilitating conditions that qualify for medical marijuana use for adults. The act additionally requires the board to review and recommend to DCP any illnesses defined as severely debilitating in specified federal regulations to be added to the list of qualifying debilitating conditions for minors. When doing so, the board must consider the effect of medical marijuana use on the brain development of patients who are minors. Under the federal regulation, a disease or condition is "severely debilitating" if it causes major irreversible morbidity (21 C.F.R. § 312.81(b)).

The act also increases the members needed for a quorum of the board from three to four.

§ 6 — DISPENSARY ANNUAL REPORTING

The act requires licensed dispensaries, starting January 1, 2017, to annually report to DCP on the types, mixtures, and dosages of palliative marijuana they dispense. The DCP commissioner may prescribe the form for the reporting.

BACKGROUND

Related Act

PA 16-39, §§ 47-51, extends to advanced practice registered nurses the same authority as physicians to certify patients for medical marijuana use except for the treatment of glaucoma.

PA 16-25—sSB 70
Public Health Committee

AN ACT CONCERNING TELEHEALTH PROVIDERS

SUMMARY: This act adds licensed speech and language pathologists, respiratory care practitioners, and audiologists to the list of health care providers authorized to provide health care services using telehealth. Under the act, they must provide telehealth services within their profession's scope of practice and standard of care, just as other telehealth providers must do under existing law.

The law already allows the following health care providers to provide health care services using telehealth: licensed physicians, advanced practice registered nurses, physician assistants, occupational and physical therapists, naturopaths, chiropractors, optometrists, podiatrists, psychologists, marital and family therapists, clinical or master social workers, alcohol and drug counselors, professional counselors, and certified dietician-nutritionists.

Existing telehealth laws do not prohibit various licensed and certified health care providers (e.g., physicians, chiropractors, dentists, and emergency medical services providers) from (1) providing on-call coverage for another provider, (2) consulting with another provider about a patient's care, or (3) issuing orders for hospital patients. The act expands the definition of "health care provider" to apply to all providers authorized to provide telehealth services, in addition to others specified in law.

By law, "telehealth" means delivering health care services through information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's physical and mental health.

EFFECTIVE DATE: October 1, 2016

PA 16-39—sSB 67
Public Health Committee

AN ACT CONCERNING THE AUTHORITY AND RESPONSIBILITIES OF ADVANCED PRACTICE REGISTERED NURSES

SUMMARY: This act allows advanced practice registered nurses (APRNs) to certify, sign, or otherwise document medical information in several situations that previously required a physician's signature, certification, or documentation. Examples include:

1. certifying a patient for medical marijuana use (except for glaucoma),
2. issuing "do not resuscitate" orders,
3. certifying a disability to cancel a health club contract, and
4. certifying a disability or illness for continuing education waivers or extensions for various health professions.

In a few situations not involving written documentation, the act similarly extends to APRNs authority or responsibility that previously applied only to physicians, such as requiring them to notify specified people before removal of a patient's life support.

The act extends certain reporting requirements to APRNs regarding specified types of patients or conditions, such as reporting to the Department of Rehabilitation Services (DORS) when a blind person comes under the APRN's care.

Lastly, the act allows optometrists to document vision-related information in a few situations that previously required a physician's documentation. (The act also extends this authority to APRNs.) It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016, except provisions extending authority to APRNs regarding marijuana are effective January 1, 2017.

APRN CERTIFICATION OF MEDICAL INFORMATION AND RELATED AUTHORITY

The act allows APRNs to certify, sign, or otherwise document medical information in several situations. It also extends authority to APRNs in certain other contexts not involving written documentation. Thus, APRNs or physicians may certify such documents or take such other actions. Under prior law, almost all of these certifications or actions could be performed only by physicians.

The act's provisions are grouped in the following tables by categories of authority extended to APRNs.

Table 1: Certification or Other Documentation Authority Extended to APRNs Related to Employment

Act §	*Statute §*	*Description*
4	5-248a	Certification of a serious illness or an organ or bone marrow donation to qualify a state employee for family and medical leave
5	10-183b	Statement of health for a disability benefit application in the Teachers' Retirement System
9	14-44	Certification that an applicant for certain public passenger driver's licenses controls with medication a condition that would otherwise deem the applicant medically unqualified
10	14-73	Certification of an applicant's fitness for a driving instructor's license based on a recent medical examination
16	19a-12e	Written statement of findings after examining a health care professional under investigation for possible impairment
30 - 42	Various provisions in Title 20	Certification of a disability or illness to qualify someone in the following professions for a continuing education waiver or extension: • acupuncturists • audiologists • dental hygienists • dentists • hearing instrument specialists • naturopaths

Act §	Statute §	Description
		• optometrists • physical therapists • psychologists • radiographers • respiratory care practitioners • speech and language pathologists • veterinarians

Table 2: Certification or Other Documentation Authority Extended to APRNs for Medication or Care Approval

Act §	Statute §	Description
6	10-212a	Order for a qualified school employee's administration of (1) glucagon using injectable equipment or (2) anti-epileptic medication
26	20-14m	Documentation in a medical record if prescribing, administering, or dispensing long-term antibiotic therapy for Lyme disease (Department of Public Health or the licensing board may not initiate a disciplinary action solely for such actions as documented in the record)
27	20-162n	Written protocols for respiratory care and direction over such care
29	20-206jj	Written protocols or standing orders for paramedics to administer controlled substances and written or oral authorization for paramedics to administer other drugs
45 & 46	21a-246 & 21a-253	License to possess and supply marijuana to treat side effects of chemotherapy (the act also makes clarifying and conforming changes)
47 – to 51	Various provisions in Chapter 420f	Certification for a patient's use of medical marijuana. This includes, among other things: • diagnosing a patient's qualifying debilitating condition, except the act does not authorize APRNs to certify marijuana use for glaucoma; • issuing a written certification for medical marijuana use after (1) making this diagnosis, (2) explaining the potential risks and benefits to the patient and parent or guardian of a patient lacking legal capacity, and (3) meeting other criteria; and • extending to APRNs the same protections from civil, criminal, and disciplinary liability that already apply to physicians under the medical marijuana law.
52	22a-616	Prescription for mercury fever thermometers

Table 3: Certification or Approval Authority Extended to APRNs for Insurance Purposes

Act §	*Statute §*	*Description*
57 & 62	38a-489 & 38a-515	Certification of inability for self-sustaining employment because of mental or physical disability for continuation of coverage when child reaches limiting age*
58 & 63	38a-492m & 38a-518l	Document on the original prescription the need for additional quantities of prescription eye drops for insurance coverage of prescription renewal*
59 & 64	38a-493 & 38a-520	Various provisions concerning insurance coverage for home health care, such as approval of a care plan; diagnosis of a patient's terminal illness in some circumstances; and supervision of home health agency services*
60 & 65	38a-495 & 38a-522	Certification of medical necessity of home health aide services, or recommendation of additional mammograms beyond once a year, for Medicare supplement policy coverage*
61 & 67	38a-496 & 38a-524	Approval and certification of an occupational therapy care plan for insurance coverage purposes*
66	38a-523	Approval of a care plan at a comprehensive rehabilitation facility for insurance coverage purposes (applies to group policies)

* Applies to individual and group policies

Table 4: Certification or Other Documentation Authority Extended to APRNs in Other Contexts

Act §	*Statute §*	*Description*
2	3-39j	To the extent permitted by federal law, diagnose someone's impairment or blindness in his or her disability certification for the Achieving a Better Life Experience (ABLE) program
3	3-123aa	Certification of a service need for withdrawals from the Connecticut Home Care Trust Fund
7	10-220j	Order stating a child's need for, and capability of, performing blood glucose self-testing at school
11	14-100a	Statement of an individual's inability to wear a seat belt for exemption from seat belt requirements
12	14-286	Certification of an individual's disability and capability of riding a motor-driven cycle for a special permit
13	14-314c	Certification that a child is hearing impaired to require traffic authorities to erect a sign in the child's neighborhood alerting drivers to the child's presence
14	17b-261p	Certification of a Medicaid applicant's inability to care for self or manage affairs, when a nursing home, on a patient's behalf, seeks an extension to contest a Medicaid penalty period by claiming undue hardship
18	19a-535	Documentation in the medical record of the basis for a patient's transfer or discharge from a nursing facility, and related requirement to develop a discharge plan in certain situations
22	19a-582	Certification that criteria are met for court-ordered HIV testing if a health care provider or other worker had significant exposure to HIV from a patient (an APRN or physician must first seek the patient's voluntary consent for testing) Certification that criteria are met to require HIV testing of a prison inmate if there is no reasonable alternative and testing is needed (1) for diagnostic purposes, treatment, or related reasons or (2) because the inmate's behavior poses a significant transmission risk or has led to significant exposure to another inmate
43 & 44	21a-217 & 21a-218	Certification of an individual's disability or physical examination to cancel a health club contract

Act §	*Statute §*	*Description*
53	26-29a	Certification of an individual's intellectual disability to receive a free lifetime sport fishing license
54	26-29b	Certification of an individual's disability to receive a free lifetime hunting, sport fishing, or trapping license
68	42-282	Letter indicating that continuing a diet program is adverse to an individual's health to cancel a diet company contract
69	47-88b	Statement of a tenant's blindness or disability for laws limiting eviction in conversion condominiums under the Condominium Act
70	47a-23c	Statement of a tenant's blindness or disability for laws limiting eviction
71	51-217	Letter stating an individual's disability for permanent exemption from jury duty
72	54-204	Report of treatment or examination, as part of an application for victim compensation

Table 5: Miscellaneous Provisions Extending Authority or Responsibility to APRNs

Act §	*Statute §*	*Description*
1	1-350i	Determine an agent's incapacity, under the Uniform Power of Attorney Act (must be done by two physicians, two APRNs, or one APRN and one physician, and the two providers must be independent)
15	18-94	Report to a correctional facility warden or other officer in charge that an inmate with venereal disease may be released without danger to public health
19	19a-550	Various provisions in the patients' bill of rights for nursing homes, residential care homes, and chronic disease hospitals, such as: • document in the medical record when a general right is medically contraindicated for that patient, including the right to be fully informed of his or her medical condition, communicate with persons of the patient's choice, participate in social and similar activities, use his or her own clothing and possessions, and share a room with his or her spouse; • order the administration of psychopharmacologic drugs, or the use of restraints under certain circumstances; and • participate in the consultative process for certain room transfers in nursing homes or rest homes with nursing supervision. The act also specifies that a patient in these facilities has the right to choose his or her own physician or APRN, not just physician
20	19a-571	Immunity from civil and criminal liability for withholding or causing the removal of a life support system under specified conditions, including that the APRN: • based the decision on his or her best medical judgment according to medical standards; • deemed the patient to be in a terminal condition or, in consultation with a physician qualified to make a neurological diagnosis who examined the patient, deemed the patient to be permanently unconscious; and • considered the patient's wishes, such as in a living will or similar document. If the patient is an infant, additional provisions apply pursuant to federal regulations
21	19a-580d	Issue "do not resuscitate" orders (the act refers to required regulations)
23	19a-592	Treat a minor for HIV or AIDS without notifying the parent, after determining that (1) such notification will result in denial of treatment or (2) the minor will not pursue treatment if the parents are notified and the minor requests they not be notified (the APRN or physician must document the reasons in the medical record)

Act §	Statute §	Description
24	20-7h	Responsibility to disclose to personal injury patients (1) whether the APRN will provide services on the basis of a letter of protection issued by an attorney and (2) the estimated cost of providing an opinion letter on the cause of the injury and the patient's diagnosis, treatment, and prognosis
25	19a-580	Responsibility to make reasonable efforts to notify the patient's next of kin or other specified persons within a reasonable time before withholding or causing the removal of the patient's life support
28	20-206q	Countersign a diet order for a patient being treated by a dietitian-nutritionist in an institution

APRN REPORTING REQUIREMENTS

The act extends to APRNs certain existing requirements for physicians to report on particular types of patients or conditions, as shown in Table 6.

Table 6: Reporting Requirements Extended to APRNs

Act §	Statute §	Description
8 & 73	10-305 & 10-298	Report to DORS on blind patients coming into their care (existing law also requires optometrists to report) The act makes a conforming change to the existing requirement that the DORS commissioner provide a list of these patients age 16 or older to the Department of Motor Vehicles
17 & 74	19a-262 & 19a-264	Report to the Department of Public Health and the local health director on patients with, or suspected of having, tuberculosis The act also makes conforming changes to existing provisions that (1) require local health directors to give information to the reporting physician on advisable precautions for such patients' homes and (2) provide criminal penalties for physicians who willfully make false reports
55	27-140ee	Report to the Department of Veterans' Affairs, upon the patient's request, on a veteran's possible exposure to herbicides in Vietnam
56	31-40a	Report to the Labor Department on persons with certain occupational diseases (e.g., lead poisoning)

OPTOMETRIST DOCUMENTATION

The act allows optometrists to document an individual's blindness or other vision-related information in a few situations that previously required a physician's documentation. As noted in the tables above, the act also extends this authority to APRNs.

Table 7: Documentation Authority Extended to Optometrists

Act *§*	*Statute* *§*	*Description*
2	3-39j	To the extent permitted by federal law, diagnose an individual's blindness for purposes of disability certification for the ABLE program
58 & 63	38a-492m & 38a-518l	Document on the original prescription the need for additional quantities of prescription eye drops for insurance coverage of prescription renewal (applies to individual and group policies)
69	47-88b	Statement of a tenant's blindness for laws limiting eviction in conversion condominiums under the Condominium Act

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PA 16-43—sHB 5053
Public Health Committee
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING OPIOIDS AND ACCESS TO OVERDOSE REVERSAL DRUGS

SUMMARY: This act contains various provisions on opioid abuse prevention and treatment and related issues. It:

1. prohibits, with certain exceptions, a prescribing practitioner authorized to prescribe an opioid drug from issuing a prescription for more than a seven-day supply to (a) a minor or (b) an adult for the first time for outpatient use (§ 7);
2. makes various changes to the electronic prescription drug monitoring program, such as (a) expanding who may serve as a prescriber's authorized agent, (b) modifying reporting deadlines, and (c) decreasing required prescriber reviews for prolonged treatment with schedule V nonnarcotic drugs (§§ 8 & 9);
3. allows any licensed health care professional to administer an opioid antagonist (e.g., Narcan) to treat or prevent a drug overdose without civil or criminal liability (§ 1);
4. requires municipalities, by October 1, 2016, to amend their local emergency medical services (EMS) plans to ensure that specified first responders are equipped with an opioid antagonist and trained in administering it (§ 1);
5. prohibits certain health insurance policies that provide prescription drug coverage for opioid antagonists from requiring prior authorization for these drugs (§§ 2 & 3); and
6. requires the Public Health Committee chairpersons to establish a working group on the issuance of opioid drug prescriptions by prescribing practitioners (§ 11).

The act also makes changes affecting the (1) Alcohol and Drug Policy Council (§ 4), (2) practice of auricular acupuncture (§ 5), (3) scope of practice of alcohol and drug counseling (§ 6), and (4) disciplining of controlled substance registrants (§ 10).

Lastly, the act makes technical and conforming changes.

EFFECTIVE DATE: Various, see below.

§ 7 — OPIOID DRUG PRESCRIPTIONS

Seven-Day Supply

The act prohibits a prescribing practitioner authorized to prescribe an opioid drug from issuing a prescription for more than a seven-day supply to (1) a minor at any time or (2) an adult for the first time for outpatient use.

When prescribing an opioid drug to a minor for less than seven days, the act requires the practitioner to discuss with the minor and if present when the prescription is issued, the minor's custodial parent, guardian, or legal custodian:

1. the associated risks of addiction and overdose;
2. the dangers of taking opioid drugs with alcohol, benzodiazepines, and other central nervous system depressants; and
3. why the prescription is necessary.

The act defines an "opioid drug" as any drug having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

Exceptions

The act allows the practitioners to prescribe more than a seven-day supply of an opioid drug to an adult or minor if, in their professional judgment, the drug is required (1) for palliative care or (2) to treat the person's acute medical condition, chronic pain, or cancer-associated pain. The practitioners must document the patient's condition in their medical record and indicate that an alternative to the opioid drug was not appropriate to treat the patient's condition.

The act's provisions on opioid drug prescriptions do not apply to medications that treat opioid drug dependence or abuse, including opioid antagonists and agonists (e.g., medications such as morphine that activate the same areas of the brain as other opioids).

EFFECTIVE DATE: July 1, 2016

§§ 8 & 9 — ELECTRONIC PRESCRIPTION DRUG MONITORING PROGRAM

Under the electronic prescription drug monitoring program, the Department of Consumer Protection (DCP) collects information on controlled substance prescriptions to prevent improper or illegal drug use or improper prescribing. The act makes various changes affecting the program.

EFFECTIVE DATE: July 1, 2016, except a conforming change is effective October 1, 2016.

Reporting Deadline

The act extends, from 24 hours to the end of the following business day, the deadline for pharmacists and other controlled substance dispensers to report specified prescription information to DCP under the program. (PA 15-5, June Special Session, shortened the deadline, starting July 1, 2016, from at least weekly to immediately but not later than 24 hours after dispensing the prescription.)

For veterinarians dispensing controlled substance prescriptions, the act continues the less frequent reporting schedule that applied to all dispensers until July 1, 2016. Thus, the act requires them to report at least weekly. It also allows veterinarians who do not maintain records electronically to report in other formats approved by the DCP commissioner.

The act also provides that if the program is not operational, the pharmacy or dispenser must report by the next business day after regaining access to the program (i.e., the next day during which the pharmacy is open to the public).

Prescribers and Agents

Under existing law, before prescribing more than a 72-hour supply of a controlled substance, the prescribing practitioner or his or her authorized agent must review the patient's records in the prescription drug monitoring program. The prescribing practitioner or agent must also periodically review a patient's records in the program when the practitioner prescribes controlled substances for continuous or prolonged treatment.

The act eliminates the requirement that the authorized agent be a licensed health care professional. It also reduces the required frequency of reviewing records for continuous or prolonged treatment of schedule V nonnarcotic controlled substances. It requires these reviews annually, rather than every 90 days as under prior law. The act continues to require these reviews every 90 days for other controlled substances.

Under the act, a prescribing practitioner may designate an authorized agent to review the program and patient controlled substance prescription information on the practitioner's behalf. A practitioner must ensure that his or her agent's access is limited to the program's statutory purposes and occurs in a manner that protects the confidentiality of information accessed through the program.

The act specifies that prescribers and their authorized agents are subject to the federal Health Insurance Portability and Accountability Act's (HIPAA) regulations on administrative safeguards for protecting electronic protected health information. It also provides that DCP may take disciplinary action against a prescribing practitioner for acts of his or her authorized agent.

The act makes corresponding changes by expanding when the DCP commissioner must release controlled substance prescription information, on request, to prescribing practitioners' authorized agents. It requires him to release information to agents in the same situations as for requests by prescribers themselves (instead of only certain situations as under prior law), and specifies that the agents need not be licensed health care professionals.

Specific Requirements for Prescribers in Hospitals

Under the act, prescribing practitioners who work for or provide professional services to hospitals must receive the DCP commissioner's approval before designating authorized agents to review the program and patient controlled substance prescription information on the practitioner's behalf. Along with the request to designate agents, practitioners must submit for approval a written protocol for oversight of the agents on a commissioner-approved form. The protocol must designate the hospital's medical director, a hospital department head, or another prescribing practitioner as the person responsible for ensuring that the agents' access is limited to the program's statutory purposes and occurs in a manner that protects confidentiality.

The act allows DCP to (1) take disciplinary action against such designated responsible parties for the agents' acts and (2) inspect hospital records to determine compliance with approved protocols.

§ 1 — ADMINISTRATION OF OPIOID ANTAGONISTS BY LICENSED HEALTH CARE PROFESSIONALS

The act allows any licensed health care professional to administer an opioid antagonist to treat or prevent a drug overdose without being (1) civilly or criminally liable for such action or (2) deemed as violating his or her professional standard of care. Prior law limited such immunity to health care professionals authorized to prescribe an opioid antagonist (see BACKGROUND).

By law, an "opioid antagonist" is naloxone hydrochloride (e.g., Narcan) or any other similarly acting and equally safe drug that the U.S. Food and Drug Administration has approved for treating a drug overdose.

EFFECTIVE DATE: Upon passage

§ 1 — LOCAL EMS PLANS

The act requires each municipality, by October 1, 2016, to amend its local EMS plan to ensure that the EMS responder (e.g., EMS personnel or resident state trooper) likely to be the first person to arrive on the scene of a medical emergency is equipped with an opioid antagonist and has received Department of Public Health (DPH)-approved training in administering it.

Under the act, "EMS personnel" includes an individual certified as an emergency medical responder, emergency medical technician, advanced emergency medical technician, EMS instructor, or paramedic.

EFFECTIVE DATE: Upon passage

§§ 2 & 3 — PRIOR AUTHORIZATION FOR OPIOID ANTAGONISTS

The act prohibits certain health insurance policies that provide prescription drug coverage for opioid antagonists from requiring prior authorization for these drugs. It applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) hospital or medical services, including those provided under an HMO plan; or (5) single ancillary services (e.g., prescription drugs).

Because of the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2017

§ 4 — ALCOHOL AND DRUG POLICY COUNCIL

Under existing law, the council is charged with (1) reviewing state policies and practices on substance abuse treatment and prevention programs, referrals to such programs, and criminal sanctions and programs and (2) developing and coordinating a statewide, interagency, integrated plan for these matters. The act requires the council to amend this plan by January 1, 2017 to contain measurable goals, including reducing the number of opioid-induced deaths in the state.

The act also allows the council's co-chairpersons (the departments of Mental Health and Addiction Services (DMHAS) and Children and Families commissioners) to establish subcommittees and working groups and appoint individuals who are not council members to serve on them. These include licensed alcohol and drug counselors; pharmacists; municipal police chiefs; EMS personnel; and representatives of organizations that provide education, prevention, intervention, referrals, rehabilitation, or support services to individuals with substance use disorder or chemical dependency.

EFFECTIVE DATE: October 1, 2016

§ 5 — AURICULAR ACUPUNCTURE

Under existing law, certain certified, unlicensed individuals may practice auricular acupuncture to treat alcohol and drug abuse, under a physician's supervision, in DPH-licensed freestanding substance abuse facilities or DMHAS-operated settings.

The act specifies that these individuals must be certified by the National Acupuncture Detoxification Association; prior law required that they be certified by a DPH-approved organization. The act allows them to practice the five-point auricular acupuncture protocol specified as part of the association's certification program, as an adjunct therapy to treat alcohol and drug abuse and other behavioral interventions covered by the protocol.

The act expands the settings in which these individuals may practice, by allowing them to do so in any other setting where the protocol is an appropriate adjunct therapy for such treatment. As under existing law, they must practice under a physician's supervision.

The act also makes a conforming change to the DPH commissioner's duty to adopt regulations on this practice.

EFFECTIVE DATE: October 1, 2016

§ 6 — ALCOHOL AND DRUG COUNSELING

By law, alcohol and drug counselors must be licensed or certified by DPH. Existing law defines the practice of alcohol and drug counseling as the professional application of methods that assist individuals or groups to understand alcohol and drug dependency problems, define goals, and plan actions reflecting their interests, abilities, and needs as affected by such dependency. The act specifies that this may include, as appropriate:

1. conducting a substance use disorder screening or psychosocial history evaluation to document an individual's use of pain medications, other prescribed drugs, illegal drugs, and alcohol, to determine the person's risk for substance abuse;
2. developing a preliminary diagnosis based on this screening or evaluation;
3. determining the person's risk of abusing pain medications, other prescribed drugs, illegal drugs, and alcohol;
4. developing a treatment plan and referral options to ensure that the person receives needed recovery supports; and
5. developing an opioid use consultation report and submitting it to the person's primary care provider for that provider to review and include in the patient's medical record.

EFFECTIVE DATE: October 1, 2016

§ 10 — DCP DISCIPLINARY ACTION AGAINST CONTROLLED SUBSTANCE REGISTRANTS

The act adds the following to the list of reasons the DCP commissioner may take disciplinary action against a controlled substance registrant:

1. failing to establish and implement administrative safeguards for protecting electronic protected health information required by HIPAA and
2. breaching any such safeguards by a prescribing practitioner's authorized agent.

By law, the commissioner may, for sufficient cause, suspend, revoke, or refuse to renew a registration; place a registration on probation or put conditions on it; and assess a civil penalty of up to $1,000 for each violation.

EFFECTIVE DATE: October 1, 2016

§ 11 — WORKING GROUP ON OPIOID DRUG PRESCRIPTIONS

The act requires the Public Health Committee chairpersons, by October 1, 2016, to convene a working group to address the issuance of opioid drug prescriptions by prescribing practitioners. The working group must study whether it is a best practice for prescribing practitioners to limit prescriptions to minors to no more than a three-day supply to treat an acute medical condition.

The act requires the working group to report the study results to the Public Health Committee by February 1, 2017.

EFFECTIVE DATE: Upon passage

BACKGROUND

Opioid Antagonist Good Samaritan Law

Existing law allows licensed health care practitioners authorized to prescribe an opioid antagonist to prescribe, dispense, or administer it to treat or prevent a drug overdose without being civilly or criminally liable for the action or for its subsequent use.

The law also allows anyone, if acting with reasonable care, to administer an opioid antagonist to a person he or she believes, in good faith, is experiencing an opioid-related drug overdose. It generally gives civil and criminal immunity to such a person regarding the administration of the opioid antagonist (CGS § 17a-714a).

Prescribing Practitioner

Under existing law, the following health providers may prescribe medication within the scope of their practice: physicians, dentists, podiatrists, optometrists, physician assistants, advanced practice registered nurses, nurse-midwives, and veterinarians (CGS § 20-14c).

PA 16-60—sSB 294
Public Health Committee
Human Services Committee

AN ACT CONCERNING SERVICES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITY

SUMMARY: This act allows an individual determined by the Department of Developmental Services (DDS) to be eligible for department funding or services, or the individual's legal guardian or representative, to ask DDS for a copy of (1) the individual's "priority status" for residential services, (2) his or her request for funding or services submitted to the regional "planning and resource allocation team," and (3) any decision the team makes on the request.

Additionally, individuals who receive annual funding or services from DDS, or their guardians or representatives, may request a copy of their individual plan and "level of need assessment." DDS must furnish any copies requested pursuant to the act.

The act requires DDS to report annually to the Appropriations and Public Health committees on the number of individuals it determines are eligible for DDS funding or services and who (1) have unmet residential care or employment opportunity and day service needs or (2) are eligible for DDS's behavioral services program and are waiting for a funding allocation.

Additionally, the act requires the DDS commissioner, at least annually, to provide to individuals who receive annual department funding or services, or their legal guardians or representatives, information about (1) the regional advisory and planning council's statutory responsibilities and (2) how to access information about the council's meetings. Under existing law, the commissioner must appoint at least one such council for each state developmental services region it operates. The councils are responsible for consulting with and advising the regional director on (1) the needs of individuals with intellectual disability in the region, (2) the region's annual plan and budget, and (3) other matters it deems appropriate.

EFFECTIVE DATE: Upon passage

DEFINITIONS

The act defines the following terms:

1. "Level of need assessment" means the department's method, using a standardized screening tool, of determining an individual's need for DDS funding or services.
2. "Priority status" means the department's assessment of the urgency of an individual's need for DDS funding or services.
3. "Planning and resource allocation team" means the DDS staff responsible for establishing an individual's priority status, approving or denying requests for funding or services, and allocating resources for such funding or services.

PA 16-61—sSB 300
Public Health Committee
Environment Committee

AN ACT CONCERNING AN ENVIRONMENTAL STUDY ON A CHANGE IN USE OF NEW BRITAIN WATER COMPANY LAND

SUMMARY: This act requires New Britain, within 180 days after the act's passage, to commission an independent, third-party environmental study of the potential impact of the city changing the use of its water company-owned Class I and Class II land to allow it to lease 131.4 acres (the "0 Biddle Pass" in Plainville) for stone and mineral extraction. The Water Planning Council (WPC), in consultation with the Council on Environmental Quality (CEQ), must approve the party conducting the study.

Among other things, the act:

1. specifies the required study components;
2. requires the third party to report on its study, and the WPC and CEQ to review the report and submit written comments to New Britain, which must then hold a public hearing; and
3. requires the WPC, in consultation with CEQ, to report on these matters and their recommendations to the Environment and Public Health committees.

The act repeals an obsolete provision from 2007 requiring the Department of Public Health, within available resources, to commission a similar third-party environmental evaluation of the impact of allowing New Britain to change the use of its water company-owned land for the same purpose as set forth above. (That evaluation was never completed.)

The act also repeals a law that allowed any municipality owning land purchased in January 1999 that was previously used for agricultural purposes and was watershed land or next to watershed land to use it for a municipal golf course under certain conditions.

EFFECTIVE DATE: Upon passage

NEW BRITAIN WATER COMPANY-OWNED LAND

Third-Party Environmental Study and Review of Study

The act specifies required components for the environmental study of the potential impact of New Britain changing the use of water company-owned land as described above. The study must analyze the following topics:

1. likely environmental impacts of this change on local hydrology, forest ecology, natural land resources and formations, and wetlands systems;
2. long-term water supply needs for New Britain as well as interconnected, and reasonably feasible interconnected, water companies in the region surrounding the areas supplied by New Britain's water reservoir system;
3. likely safe yield increase to New Britain's reservoir system that could be supplied by the change;
4. likely impact of the change on raw reservoir water quality;
5. ways to minimize environmental impacts from the change; and
6. required permits.

After the third party finishes the study, it must report the study's results in writing to the WPC, CEQ, and New Britain's conservation commission.

The act requires the WPC and CEQ, within 90 days after receiving this report, to review it to (1) determine the potential impact on the environment and the purity and adequacy of the existing and future public water supply and (2) provide guidance to the New Britain Water Department on the suitability of the best management practices identified in the report for protecting the environment, the public water supply, and public health.

The WPC and CEQ must submit written comments on this review to New Britain. Within 15 days after receiving these comments, the city must post them and the report on its website.

Public Hearing

Under the act, New Britain must hold a public hearing in the city within 30 days after receiving the councils' comments on the report. It must publish notice of the report and hearing in a general circulation newspaper in the city. The notice must include (1) directions on how to obtain a copy of the report and comments; (2) a statement informing the public of the opportunity to submit comments on the report to the WPC for a 30–day period; and (3) the public hearing's date, time, and location.

WPC Report

The act requires the WPC, within 60 days after the public hearing and in consultation with CEQ, to submit to the Environment and Public Health committees the following items:

1. the third party's report on its environmental study,
2. the councils' comments,
3. a summary of public comments on the report and the councils' comments, and
4. the councils' recommendations.

PA 16-66—sHB 5537
Public Health Committee

AN ACT CONCERNING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES

SUMMARY: This act makes numerous substantive, minor, and technical changes to Department of Public Health (DPH)-related statutes and programs.

For example, it does the following:

1. makes changes affecting local health departments, such as establishing a process to address alleged impropriety by local health directors or their employees;
2. creates a new dental assistant designation and requires dental professionals to take continuing education in infection control;
3. allows nursing home patients to receive methadone treatment for opioid addiction at the nursing home under certain conditions;
4. recognizes in statute a category of psychology technicians and allows them to provide certain psychological testing services if acting under a psychologist's supervision;
5. as of July 1, 2017, eliminates the Office of Protection and Advocacy for Persons with Disabilities and requires the governor to designate a nonprofit entity to serve this function;
6. creates a diabetes advisory council in DPH within available appropriations; and
7. creates a nail salon working group and a medical records task force.

Among other things, the act also makes changes affecting various licensed institutions, including hospitals, nursing homes, and residential care homes; tattoo technicians; various licensed health care professionals; the medical orders for life sustaining treatment pilot program; wells for semipublic use; marriages (including those performed on tribal reservations); newborn screening; medication administration by unlicensed personnel; music or art therapists; hospice care residences; medical assistants; Medicaid overpayment audits; and funeral directors and embalmers.

A section-by-section summary appears below.

EFFECTIVE DATE: October 1, 2016, except as otherwise noted.

§ 1 — TECHNICAL CHANGE

This section makes a technical change, correcting an inaccurate statutory reference.

EFFECTIVE DATE: Upon passage

§ 2 — TATTOOING WITHOUT A LICENSE

The act makes engaging in the practice of tattooing without a license or temporary permit a class D misdemeanor (see Table on Penalties).

§ 3 — REPORTING OF IMPAIRED HEALTH PROFESSIONALS

By law, physicians must notify DPH if they are aware that a physician or physician assistant (PA) may be unable to practice with skill and safety because he or she is impaired, and PAs must similarly notify DPH if another PA may be so impaired (CGS §§ 20-12e and 20-13d). A 2015 law created a parallel reporting requirement covering most other licensed or permitted health care professionals.

The act subjects physicians and PAs to this parallel reporting requirement as well as nursing home administrators, perfusionists, electrologists, and audiologists.

§ 4 — METHADONE FOR OPIOID ADDICTION IN NURSING HOMES

The act allows licensed substance abuse treatment facilities providing medication-assisted treatment for opioid addiction to provide methadone and related substance abuse treatment services to patients in licensed nursing home facilities. Substance abuse treatment facilities seeking to do this must request permission from the DPH commissioner in a form and manner he prescribes. He may grant the request if he determines that it would not endanger the health, safety, or welfare of any patient. If the commissioner approves the request, he may impose conditions to ensure patients' health, safety, or welfare and revoke his approval if he finds that any patient has been jeopardized.

Prior law generally required nursing home patients receiving methadone treatment for opioid addiction to receive that treatment at the substance abuse treatment facility rather than in the nursing home.

§§ 5-7 & 32 — INSTITUTIONAL LICENSING DEFINITIONS

The act amends certain definitions related to the licensing of health care institutions.

Behavioral Health Facility

The act renames a "mental health facility" as a "behavioral health facility," which it defines as any facility providing mental health services to individuals age 18 or older, or substance use disorder services to individuals of any age, in an outpatient or residential setting to ameliorate mental, emotional, behavioral, or substance use disorder issues. Prior law defined "mental health facility" as any facility providing care or treatment for individuals with mental illness or emotional disturbance, or any mental health outpatient treatment facility providing treatment to individuals age 16 or older who are receiving services from the Department of Mental Health and Addiction Services, not including family care homes for the mentally ill.

Nursing Homes, Residential Care Homes, and Rest Homes

For institutional licensing purposes, prior law defined a residential care home (RCH), nursing home, or rest home as an establishment that (1) furnishes, in single or multiple facilities, food and shelter to at least two unrelated people and to the proprietor and (2) delivers services beyond the basic needs of providing food, shelter, and laundry.

The act amends this definition by designating RCHs and rest homes, but not nursing homes, as community residences and specifies that these facilities are the ones that provide the services listed above. It also provides that an RCH or rest home may qualify as a setting that allows residents to receive home- and community-based services funded by state and federal programs.

The act eliminates "rest home" as a separate category of facilities requiring a DPH license. In practice, rest homes are not licensed as their own category but either as RCHs or a subset of nursing home facilities (i.e., rest homes with nursing supervision).

The act creates a separate definition for "nursing home facility" for institutional licensing purposes, defining it the same way as statutes related to nursing home oversight. Under this definition, a nursing home facility is a (1) chronic and convalescent nursing home (CCNH) or rest home with nursing supervision providing 24-hour nursing supervision under a medical director or (2) CCNH providing skilled nursing care under medical supervision and direction to carry out nonsurgical treatment and dietary procedures for chronic or acute diseases, convalescent stages, or injuries.

The act also makes related technical and conforming changes.

§ 8 — MEDICAL ORDERS FOR LIFE SUSTAINING TREATMENT (MOLST) PILOT PROGRAM

The act extends the end date for DPH's MOLST pilot program from October 1, 2016 to October 2, 2017.

EFFECTIVE DATE: Upon passage

§ 9 — DENTAL ANESTHESIA

The act allows the DPH commissioner to deny or revoke a dental permit for administering moderate sedation, deep sedation, or general anesthesia based on the state dental commission's disciplinary action against the dentist.

§§ 10-12 — INFECTION CONTROL IN DENTAL SETTINGS

Continuing Education for Dentists and Dental Hygienists

The act requires dentists and dental hygienists to complete at least one contact hour every two years of training or education in infection control in a dental setting, as part of existing continuing education requirements. The requirement applies to registration periods beginning on and after October 1, 2016.

The act makes a corresponding change by providing that dentists' other continuing education must include at least one contact hour in any three, rather than four, of the 10 mandatory topics prescribed by the DPH commissioner.

By law, starting with their second license renewal, (1) dentists generally must complete 25 contact hours of continuing education every two years and (2) dental hygienists generally must complete 16 contact hours every two years.

Dental Commission Disciplinary Action

The act allows the dental commission to take disciplinary action against a dentist for failure to adhere to the National Centers for Disease Control and Prevention's guidelines for infection control in dental settings.

§ 13 — SOCIAL WORK

The act repeals an obsolete provision that allowed an unlicensed person with a master's or doctoral degree to satisfy the work experience requirement for clinical social worker licensure by gaining social work experience under professional supervision. The provision became obsolete in 2014 after DPH implemented a licensure program for master social workers as a separate license from clinical social workers. Master social workers must have a master's or doctoral degree and work under professional supervision while gaining the work experience needed for the clinical social worker license.

§§ 14-18 — NURSE-MIDWIFERY CERTIFYING AND ACCREDITING ORGANIZATIONS

The act updates the names of the certification and accreditation bodies for nurse-midwives. It refers to the "Accreditation Midwifery Certification Board" and "Accreditation Commission for Midwifery Education," rather than to the "American College of Nurse-Midwives."

§ 19 — FEE FOR HAIRDRESSER LICENSE WITHOUT EXAMINATION

The act increases, from $50 to $100, the fee for a hairdresser's license without examination (which is available to certain applicants already licensed outside of Connecticut). The existing fee for licensure by examination is $100.

§ 20 — WELLS FOR SEMIPUBLIC USE

The act extends several existing provisions concerning the regulation of private residential wells to "wells for semipublic use." This includes laws that do the following:

1. require the DPH commissioner to adopt regulations for testing well water quality;
2. require the testing company to report the results to the local health authority and DPH under certain circumstances;
3. prohibit regulations from requiring well testing as a consequence or condition of a property sale, transfer, or rental;
4. allow local health directors to require wells to be tested for certain contaminants if there are reasonable grounds to suspect that contaminants are present in the groundwater; and
5. specify who may collect samples to determine water quality in the wells.

Existing law allows the DPH commissioner to adopt regulations on the protection and location of new water supply wells for public or semipublic use.

§ 21 — MARRIAGE

The act specifies that a couple already married to each other in Connecticut or another jurisdiction are not eligible to marry each other in Connecticut.

§ 22 — NEWBORN SCREENING

The act specifies that adrenoleukodystrophy (ALD) is part of the required newborn screening tests. It repeals an obsolete provision which required the DPH commissioner, by October 1, 2015, to execute an agreement with the New York State Department of Health to (1) conduct a newborn screening test for ALD using dried blood spots and (2) develop a quality assurance testing method for the screening test.

It also makes a technical change.

§ 23 — HOSPITAL RECORD STORAGE

The act gives chronic disease hospitals and children's hospitals the option to (1) keep their medical records on-site in an accessible manner or (2) maintain them off-site as long as they can retrieve them by the end of the next business day after a request for them. Prior law required the records to be kept on-site.

The act establishes the same options for children's hospitals regarding nurses' notes. Prior law exempted children's hospital nurses' notes from the requirement to keep records on-site.

§ 24 — DELIVERY OF UNCLAIMED DECEASED BODY

The act gives acute care hospitals up to seven days to notify DPH and deliver an unclaimed dead body in its possession to one of certain higher education institutions listed in statute for use in medical study, if the hospital had notice that a listed school needs bodies for this purpose. Prior law required them to complete these tasks within 24 hours.

§ 25 — DIET ORDERS FROM A DIETITIAN-NUTRITIONIST

Existing law allows certified dietitian-nutritionists (CDNs) to directly order diets for patients, including therapeutic diets for patients in health care institutions. Under prior law, a physician had to countersign the order within 72 hours unless state or federal law provided otherwise. The act eliminates this requirement.

By law, physicians may convey verbal orders to CDNs for such diets. The act also allows advance practice registered nurses (APRNs) to do so. It requires these orders from physicians or APRNs to be reduced to writing and countersigned by a physician or APRN within 72 hours unless state or federal law provides otherwise.

The act requires nurses and PAs to act upon such CDN orders as if they were received directly by a physician or APRN, not just a physician as under prior law.

§ 26 — PLACENTA REMOVAL FROM HOSPITALS

Under specified conditions, the act permits a hospital to allow a woman who has given birth in the hospital, or her spouse if she is incapacitated or deceased, to take possession of the placenta and remove it from the hospital.

The woman who gave birth must test negative for infectious diseases. Also, the woman (or her spouse) taking possession of the placenta must:

1. do so for personal use and not for sale and
2. provide a written acknowledgment that (a) she (or her spouse) received from the hospital educational information on the spread of blood-borne diseases from a placenta, the danger of ingesting formalin (a preservative), and the proper handling of a placenta and (b) the placenta is for personal use.

The hospital must keep the signed acknowledgment with the woman's medical records.

The act specifies that these provisions do not (1) prohibit a pathological examination of the delivered placenta ordered by a physician or required by hospital policy or (2) authorize a woman or her spouse to interfere with such an examination. The act does not allow a woman or her spouse to take possession of the portion of a placenta needed for such an examination.

Under the act, a hospital that allows someone to possess and remove a placenta under these provisions is not required to dispose of the placenta as biomedical waste. Also, such a hospital is immune from liability in a civil action, criminal prosecution, or administrative proceeding for allowing this removal.

§ 27 — PSYCHOLOGY TECHNICIANS

The act allows psychology technicians with specified education and training to provide certain services related to psychological testing.

Under the act, a "psychology technician" has a bachelor's or graduate degree in psychology or another mental health field and has completed at least 80 hours of training by a licensed psychologist, including at least:

1. 16 hours of studying and mastering information from psychological and neuropsychological testing manuals;
2. 20 hours of directly observing the psychologist administering and scoring objective psychological and neuropsychological tests;
3. 40 hours of administering and scoring such tests in the psychologist's presence; and
4. four hours of education in professional ethics and best practices for administering and scoring such tests, including (a) the American Psychological Association (APA) Ethical Principles of Psychologists and Code of Conduct and (b) legal obligations on patient confidentiality and reporting any suspicion of patient abuse or neglect.

Under the act, a technician's services include administering and scoring such tests with specific, predetermined, and manualized administrative procedures. A technician's responsibilities may include observing and describing the patient's behavior and test responses, but not evaluating, interpreting, or making other judgments concerning the patient or the patient's test responses.

The act allows these technicians to provide objective psychological and neuropsychological testing services under a psychologist's supervision and direction, as long as (1) the psychologist is satisfied as to the technician's ability and competency; (2) the services are consistent with the patient's health and welfare and with the practice of psychology; and (3) the psychologist oversees, controls, and directs the services.

The act prohibits such a technician from performing the following tasks:

1. selecting tests;
2. conducting intake assessments;
3. conducting clinical interviews, including interviews of the patient or collateral interviews of the patient's relatives or friends, or other professionals associated with the patient;
4. interpreting patient data;
5. communicating test results or treatment recommendations to patients; or
6. administering tests in educational institutions.

These provisions do not apply to the activities and services of a person enrolled in a psychology technician educational program acceptable to the APA if the activities and services are incidental to the course of study.

§ 28 — PHYSICIAN CONTINUING EDUCATION

The act adds the Connecticut Osteopathic Medical Society to the list of qualifying continuing education providers for physicians. It also updates the name of another such qualifying organization from "American Osteopathic Medical Association" to "American Osteopathic Association."

EFFECTIVE DATE: Upon passage

§§ 29-31 — MARRIAGES ON TRIBAL RESERVATIONS

Existing law requires recognition of marriages (or relationships that provide substantially the same rights, benefits, and responsibilities) between two people entered into in other jurisdictions and recognized as valid in that jurisdiction, unless the relationship is expressly prohibited by Connecticut law. The act:

1. specifies that this includes recognition of marriages entered into on the Mashantucket Pequot and Mohegan reservations;
2. exempts such marriages from requirements that generally apply to Connecticut marriages regarding marriage licenses and related matters; and
3. recognizes as valid any marriages celebrated before the act's passage under a tribal marriage license on the Mashantucket Pequot or Mohegan reservations, as long as the marriage is recognized under the applicable tribal law and is not otherwise expressly prohibited by state law.

EFFECTIVE DATE: Upon passage

§§ 33 & 34 — MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL

Existing law permits a registered nurse to delegate the administration of medications that are not injected into patients to homemaker-home health aides who obtain certification for medication administration. It also allows residential care homes (RCH) that admit residents requiring medication administration assistance to employ a sufficient number of certified, unlicensed personnel to perform this function in accordance with DPH regulations.

The act requires these homemaker-home health aides and RCH unlicensed personnel to obtain recertification every three years to continue to administer medication. It also makes conforming changes in requirements for DPH regulations on medication administration.

§§ 35 & 36 — MUSIC AND ART THERAPISTS

The act generally makes it a class D felony (see Table on Penalties) to represent oneself as a music therapist or an art therapist unless meeting certain certification and education requirements.

Specifically, the act prohibits someone not certified as a music therapist (as defined below) from using (1) the title "music therapist" or "certified music therapist" or (2) any title, words, letters, abbreviations, or insignia indicating or implying that he or she is a certified music therapist. It similarly prohibits someone not certified as an art therapist (as defined below) from using the title "art therapist" or "certified art therapist" or similar terms indicating or implying such certification. Each contact or consultation with an individual in violation of these provisions is a separate offense.

For both professions, the act provides exemptions from this prohibition, such as for other licensed individuals providing music or art therapy under specified conditions.

Definitions

The act defines "music therapy" as the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed a music therapy program approved by the American Music Therapy Association or any successor association. It defines a "music therapist" as someone who (1) has a bachelor's or graduate degree in music therapy or a related field from an accredited higher education institution and (2) is certified as a music therapist by the Certification Board for Music Therapists or any successor board.

The act defines "art therapy" as the clinical and evidence-based use of art, including art media, the creative process, and the resulting artwork to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an art therapy program approved by the American Art Therapy Association or any successor association. It defines an "art therapist" as someone who (1) has a bachelor's or graduate degree in art therapy or a related field from an accredited higher education institution and (2) is certified as an art therapist by the Art Therapy Credentials Board or any successor board.

Exemptions

For music therapists, the act's restrictions do not apply to the following people:

1. individuals who use music in their practice incidentally, do not represent themselves to the public as music therapists, and are either (a) licensed, certified, or regulated under state law in another profession or occupation, including occupational or physical therapy, speech and language pathology, audiology, or counseling or (b) supervised by such a licensed, certified, or regulated individual;
2. other professionals whose training and national certification demonstrate their ability to practice their certified occupation or profession, and whose use of music is incidental to this other practice, as long as they do not represent themselves to the public as music therapists; and
3. students enrolled in a music therapy or graduate music therapy educational program approved by the American Music Therapy Association or any successor association, in which music therapy is an integral part of the course of study, if performing such therapy under a music therapist's direct supervision.

For art therapists, the act's restrictions do not apply to the following people:

1. individuals providing art therapy while acting within the scope of practice of their license and training, as long as they do not represent themselves to the public as art therapists and
2. students enrolled in an art therapy or graduate art therapy educational program approved by the American Art Therapy Association or any successor association, in which art therapy is an integral part of the course of study, if performing such therapy under an art therapist's direct supervision.

§ 37 — HOSPICE FACILITIES AND ZONING

The act changes some of the criteria under which a zoning commission's regulations must treat a facility providing hospice care for up to six people the same as a single-family home. Under prior law, the regulations had to treat a facility the same as a single-family home if DPH licensed the facility as an inpatient hospice facility. The act instead requires the regulations to treat a residence as a single-family home if (1) it provides licensed hospice care for up to six people, presumably on an inpatient or outpatient basis, and (2) it was built in compliance with the building codes that apply to structures housing six or fewer people incapable of self-preservation.

Under the act, the structure must still meet existing law's other requirements to be treated as a single-family home. Specifically, the facility must be (1) managed by a tax-exempt organization, (2) served by public sewer and water, and (3) located in a city with more than 100,000 residents within a zone allowing development on one or more acres.

§ 38 — DENTAL ASSISTANTS

The act establishes a new designation of dental assistants called expanded function dental assistants ("EFDAs"). It changes some of the procedures a dentist can delegate to other dental assistants, allows a dentist to delegate more procedures if the assistant is an EFDA, and specifies the level of supervision required for both types of assistants.

The act places a number of requirements on EFDAs and the dentists that hire them. It requires dental assistants to receive training in infection control, starting in 2018. It also allows the DPH commissioner to adopt implementing regulations.

Dental Assistant Definitions

The act distinguishes between two types of dental assistants.

A "dental assistant" is someone who has met any requirements the DPH commissioner establishes through regulations and has completed one of the following: (1) on-the-job training in dental assisting under direct supervision, as defined below, or (2) a dental assistant education program (a) accredited by the American Dental Association's (ADA) Commission on Dental Accreditation or (b) accredited or recognized by the New England Association of Schools and Colleges.

An "expanded function dental assistant" is someone who has passed the Dental Assisting National Board's (DANB) certified dental assistant or certified orthodontic assistant examination and then completed:

1. an EFDA program at a higher education institution accredited by the ADA's Commission on Dental Accreditation and
2. a DANB-administered comprehensive written examination on certified preventive and restorative functions.

An EFDA's education program must include the following:

1. courses on didactic and laboratory preclinical objectives for skills used by EFDAs that require demonstration of these skills before advancing to clinical practice,
2. at least four hours of education on the ethics and professional standards for dental professionals, and
3. a comprehensive clinical examination at the program's conclusion.

Supervision Requirement

Under the act, the extent to which a dentist must supervise an assistant's work depends on whether the assistant is a dental assistant or EFDA. The dentist (1) must directly supervise any procedure he or she delegates to a dental assistant who is not an EFDA, and (2) must directly or indirectly supervise any procedure he or she delegates to an EFDA. Prior law required that any procedures delegated to dental assistants be performed under the dentist's supervision and control.

"Direct supervision" occurs when the dentist authorizes a dental assistant or EFDA to perform certain procedures with the dentist remaining on-site in the office or facility while the procedures are performed and, before the patient leaves, the dentist reviews and approves the assistant's or EFDA's treatment.

"Indirect supervision" occurs when the dentist personally diagnoses the condition, plans the treatment, authorizes the procedures to be performed, remains in the dental office or facility while the assistant or EFDA performs the procedures, and evaluates the assistant's or EFDA's performance.

As under existing law for other dental assistants, the act requires a dentist supervising an EFDA to assume responsibility for the EFDA's procedures.

Permissible and Impermissible Delegated Functions

The act makes various changes to the list of procedures that dentists may delegate to assistants. It allows them to delegate to dental assistants the taking of impressions of a patient's teeth for study models, but not the taking of final impressions of the teeth or jaws for purposes of fabricating an appliance or prosthesis. (Prior law prohibited them from taking any such impressions, not just final ones.)

The act allows dentists to delegate the taking of dental x-rays if the assistant has passed a DANB-administered dental radiation health and safety exam. Prior law instead referred to the dental radiography portion of a DANB-prescribed examination.

Prior law prohibited dentists from delegating to dental assistants the placing, finishing, or adjusting of temporary or final restorations, capping materials, and cement bases. The act allows EFDAs to perform these functions, except it refers to "long-term individual fillings" rather than "final restorations."

The act also allows dentists to delegate the following to EFDAs: (1) coronal polishing, as long as the procedure is not represented or billed as prophylaxis; (2) oral health education for patients; and (3) dental sealants.

EFDA Requirements

Under the act, an EFDA must do the following:

1. maintain dental assistant or orthodontic assistant certification from DANB;
2. conspicuously display the certificate in the place of employment or place where he or she provides EFDA services;
3. maintain professional liability insurance or other indemnity against liability for professional malpractice of at least $500,000 for one person, per occurrence, with an aggregate liability of at least $1.5 million;
4. limit his or her practice to providing services under the indirect or direct supervision of a licensed dentist; and
5. meet any requirements the DPH commissioner establishes through regulations (see below).

Dentist Requirements

Under the act, each dentist employing an EFDA or otherwise engaging an EFDA's services must do the following:

1. beforehand, verify that the EFDA meets the act's education, examination, certification, and liability insurance requirements;
2. maintain, on the premises where the EFDA works, documentation of the EFDA having met these requirements;
3. make the documentation available to DPH upon request; and
4. provide direct or indirect supervision to no more than (a) two EFDAs providing services at one time or (b) four EFDAs providing services at one time if the dentist's practice is limited to orthodontics.

Infection Control

The act requires dental assistants and EFDAs to receive training in infection control. Starting on January 1, 2018, the act:

1. generally prohibits dentists from delegating any dental procedures to a dental assistant or EFDA who has not provided the dentist a record documenting that he or she passed DANB's infection control examination (while allowing EFDAs to perform certain functions even if they do not receive this training);
2. allows a dental assistant to receive up to nine months of on-the-job training by a dentist to prepare the assistant for the examination; and
3. requires dentists who delegate procedures to a dental assistant to keep the records documenting the assistant's exam passage for DPH's inspection upon request.

Starting on January 1, 2018, the act also requires dental assistants or EFDAs, after successfully completing DANB's infection control examination, to complete at least one hour of training or education every two years in infection control in a dental setting. This may include courses (including online courses) offered or approved by a dental school or another higher education institution that is accredited or recognized by the Commission on Dental Accreditation; a regional accrediting organization; the ADA; or a state, district, or local dental association or society affiliated with the ADA or the American Dental Assistants Association.

Regulations

The act authorizes the DPH commissioner, in consultation with the State Dental Commission, to adopt implementing regulations. If the commissioner adopts regulations, they must identify the (1) types of procedures that a dental assistant and EFDA can perform, consistent with the act; (2) appropriate number of didactic, preclinical, and clinical hours or number of procedures to be evaluated for clinical competency for each skill an EFDA can employ; and (3) level of supervision required for each procedure an EFDA can perform.

§§ 39-42 — LOCAL HEALTH DEPARTMENTS

Serving in a Full-Time Capacity

The act requires district health directors to serve in a full-time capacity, instead of devoting their "entire time" to performing the duties of the position, as was required under prior law. Existing law requires this of certain municipal health directors (see BACKGROUND).

Additionally, it prohibits (1) district health directors and (2) municipal health directors in towns with a population of at least 40,000 for five consecutive years from having a financial interest or engaging in a job, transaction, or professional activity that substantially conflicts with the director's duties.

By law, a municipal or district health director generally must (1) be a licensed physician and hold a public health degree from an accredited school, college, university, or institution or (2) hold a graduate public health degree from an accredited school, college, or institution.

Local Health Department Director or Employee Impropriety

The act requires the DPH commissioner to take certain actions if he reasonably suspects impropriety on the part of a municipal or district health director or the director's employee related to the performance of their duties. Specifically, the commissioner must notify the municipal or district health department's governing authority and provide any evidence of such impropriety for the purposes of reviewing and assessing the director's or employee's compliance with his or her duties.

The governing authority must report its findings to the commissioner within 90 days after completing the review and assessment.

Under the act, a director's employee includes an employee of, a consultant employed or retained by, or an independent contractor retained by a municipal or district health department or director.

Review of Local Health Department Statutes

The act requires the DPH commissioner to review the statutes related to local health departments to determine if they need revising. He must submit his determination to the Public Health Committee by January 1, 2017.

EFFECTIVE DATE: July 1, 2016, except the provisions requiring the DPH commissioner to act on potential health district improprieties take effect October 1, 2016

§ 43 — LIST OF CERTIFIED MEDICAL ASSISTANTS

By law, the DPH commissioner must annually obtain from the American Association of Medical Assistants a list of all state residents on the organization's registry of certified medical assistants. DPH must make the list available to the public. Under the act, starting January 1, 2017, DPH must obtain a comparable list from the National Healthcareer Association and make it available to the public.

EFFECTIVE DATE: Upon passage

§ 44 — NAIL SALON WORKING GROUP

The act establishes an eight-member working group to consider matters relating to nail salons and nail technicians' services. These matters may include, among other things:

1. standards for nail salons to protect customers' health and safety;
2. licensure or certification standards for nail technicians, including educational and training requirements;
3. nail technicians' working conditions;
4. fair and equitable business practices; and

5. development of informational publications, in multiple languages as appropriate, to advise nail salon owners and managers of applicable state laws and regulations.

The working group must report its findings and recommendations to the Public Health Committee by January 1, 2017. The group terminates on the date it submits the report or January 1, 2017, whichever is later.

Membership and Procedure

Under the act, the working group's membership includes the Public Health Committee chairs or their designees and one member appointed by each of the six legislative leaders, as follows in Table 1.

Table 1: Legislative Leaders' Appointments to Nail Salon Working Group

Appointing Authority	*Member Qualifications*
House speaker	Owner of two or more nail salons in Connecticut
Senate president pro tempore	Individual with at least two years' work experience as a nail technician
House majority leader	Representative of the Nail and Spa Association of Connecticut
Senate majority leader	Qualifications unspecified
House minority leader	Owner of one nail salon employing fewer than five people
Senate minority leader	Individual with experience working as a nail technician

Appointments must be made no later than 30 days after the act's passage. Any member of the working group may be a legislator. The appropriate appointing authority fills any vacancy.

The House speaker and Senate president pro tempore must select a chairperson from among the group members. The chairperson must schedule the first working group meeting, which must be held within 60 days after May 27, 2016.

EFFECTIVE DATE: Upon passage

§ 45 — MEDICAID OVERPAYMENT AUDITS

The act allows the Department of Social Services (DSS) commissioner, in consultation with the Office of Policy and Management (OPM) secretary, to waive recoupment of an audit finding of a Medicaid overpayment made to a hospital that was under prior ownership during part of the audit period.

EFFECTIVE DATE: Upon passage

§ 46 — MEDICAL RECORDS TASK FORCE

The act establishes a 10-member task force to study the furnishing of medical records by health care providers and institutions. The study must examine the (1) time frame for health care providers or institutions to respond to a request for medical records, (2) cost of research and copies in response to such requests, and (3) federal regulation requirements concerning individuals' access to their own protected health information.

By January 1, 2017, the task force must report its findings and recommendations to the Public Health Committee. The task force terminates on the date that it submits its report or January 1, 2017, whichever is later.

The task force includes the appointees designated in Table 2. Any of the appointees may be a legislator.

Table 2: Medical Records Task Force Members

Appointing Authority	*Number of Appointees*	*Qualifications*
House speaker	2	• Representative of a business that provides health information management services • Member of the Public Health Committee
Senate president pro tempore	2	• Representative of the Connecticut Trial Lawyers Association • Member of the Public Health Committee
House majority leader	1	None specified
Senate majority leader	1	• Patient advocate
House minority leader	2	• Representative of the Connecticut State Medical Society • Member of the Public Health Committee
Senate minority leader	2	• Representative of the Connecticut Hospital Association • Member of the Public Health Committee

Under the act, the House speaker and the Senate president pro tempore select the chairperson from among the task force members. All appointments must be made, and the chairperson must schedule and hold the first meeting, within 30 and 60 days, respectively, after May 27, 2016. Appointing authorities must fill any vacancies.
EFFECTIVE DATE: Upon passage

§§ 47-50 — OFFICE OF PROTECTION AND ADVOCACY FOR PERSONS WITH DISABILITIES AND THE BOARD OF ADVOCACY AND PROTECTION FOR PERSONS WITH DISABILITIES

Effective July 1, 2017, the act eliminates the Office of Protection and Advocacy for Persons with Disabilities (OPA) and the Board of Advocacy and Protection for Persons with Disabilities ("the board"). OPA currently (1) provides protection, advocacy, and client assistance functions to people with disabilities and (2) investigates alleged abuse of individuals with intellectual disabilities or receiving services from the Department of Developmental Services' (DDS) Division of Autism Spectrum Disorder Services (PA 16-3, May Special Session transferred this division from DDS to DSS). The board currently advises the OPA executive director on matters relating to advocacy policy, client service priorities, and issues affecting persons with disabilities.

The act also establishes the Connecticut protection and advocacy system ("the system"), which is a nonprofit entity designated by the governor to serve as the state's protection and advocacy system and client assistance program. Under the act, the system must provide (1) protection and advocacy services for people with disabilities as provided by federal law and (2) a client assistance program for people with disabilities as provided by federal law. (Certain federal funding is contingent on the state having such a program in place.) Former OPA employees and board members may serve on the system's board or work as a system employee, provided they are not employed by the system while employed by the state.

The act requires (1) OPM, by October 1, 2016, to issue a request for information from nonprofit entities regarding their ability to serve as the system and (2) the governor to designate an entity to serve as the system by July 1, 2017. For the governor's designation, the act waives certain state contracting requirements, including those related to privatization contracts and personal service contracts.

The act transfers OPA's (1) investigatory responsibilities to the Department of Rehabilitation Services effective July 1, 2017 and (2) protection and advocacy and client assistance functions to the system, though it allows OPA, prior to its elimination and with OPM approval, to contract out any of its non-investigatory services to one or more non-state entities. For this purpose, the act waives requirements related to state contracting and privatization of state services.

The act requires OPA, by November 1, 2016 and in consultation with the board, to submit a plan to the OPM secretary that (1) is consistent with state and federal law; (2) provides for the effective transfer, by July 1, 2017, of OPA's protection, advocacy and client assistance program functions to a nonprofit entity; and (3) includes any proposed legislative changes. Any work in progress, other than investigations, on July 1, 2017 must be completed by the system in accordance with federal regulations and in the same manner and with the same effect as if OPA completed it prior to its elimination.

EFFECTIVE DATE: Upon passage, except for the provision that eliminates OPA and the board, which is effective July 1, 2017.

§ 51 — DIABETES ADVISORY COUNCIL

The act establishes, within available appropriations, a Diabetes Advisory Council within DPH. The council must (1) analyze the current state of diabetes prevention, control, and treatment in Connecticut and (2) advise DPH on methods to achieve the federal Centers for Disease Control and Prevention's goal in granting funds to the state for diabetes prevention. It consists of state officials and appointees.

Duties

The act requires the council to make recommendations to enhance and support diabetes prevention, control, and treatment programs. To do this, the council must review the following:

1. strategies to identify and enroll individuals at risk of diabetes in prevention programs;
2. strategies to identify and refer individuals with diabetes for enrollment in formal education classes and management programs;
3. the status of health care organizations reporting on clinical quality measures related to diabetes control;
4. existing state programs that address prevention, control, and treatment; and
5. evidence that supports the need for such programs.

Additionally, the act permits the council to study the (1) effectiveness of existing state diabetes programs; (2) financial impact of diabetes on the state, including disease prevalence and the cost of administering related programs; and (3) coordination of state agency programs and other efforts to prevent, control, and treat diabetes.

The council may also develop an action plan with steps to reduce diabetes' impact on the state, including expected outcomes for each step toward prevention, control, and treatment.

Lastly, the act requires the council, by January 1, 2017, to submit a progress report on its findings and recommendations to the Public Health Committee. It must then report final findings and recommendations to the committee by May 1, 2017. The council terminates on the date it submits the final report or January 1, 2018, whichever is later.

Membership

The state officials on the council are the social services commissioner; comptroller; the Public Health Committee co-chairs, or their designees; and the executive directors of the Latino and Puerto Rican Affairs and African-American Affairs commissions. (PA 16-3, May Special Session, § 127 creates the Commission on Equity and Opportunity and deems it a successor agency to the Latino and Puerto Rican Affairs and African-American Affairs commissions, which that act eliminates.) Under the act, one of the Public Health Committee co-chairs' designees may be a legislator.

The act requires the DPH commissioner to appoint the following council members within 90 days after the act's passage:

1. two DPH representatives;
2. one member of the Connecticut Alliance of Diabetes Educators;
3. one diabetes prevention advocate;
4. one representative each from two locations of the Young Men's Christian Association in the state that provide a diabetes prevention program;
5. one representative of an insurance carrier that covers Connecticut residents;
6. one representative each from two federally qualified health centers;
7. one representative of the Connecticut State Medical Society;
8. one representative of an accountable care organization;
9. one primary health care provider who is not employed by a hospital, federally qualified health center, or accountable care organization;

10. two representatives of a research and bioscience manufacturer with expertise in metabolic diseases; and
11. any additional member the commissioner determines would be beneficial to serve on the council.

The members must elect a chairperson from among the council's membership. A majority of council members constitutes a quorum, and any action the council takes requires a majority vote of those present.

Council members are not compensated but are reimbursed for necessary expenses incurred in performing their duties.

EFFECTIVE DATE: Upon passage

§ 52 — FUNERAL DIRECTORS AND EMBALMERS

Under existing law, DPH may take disciplinary action against a funeral director or embalmer for various reasons, including fraud or deceit in obtaining or attempting to obtain a license, registration, or inspection certificate.

Notwithstanding these provisions, the act prohibits DPH from revoking or suspending the license of a funeral director or embalmer before April 1, 2017 for the reason noted above if the individual completed an examination as part of a program in funeral directing and embalming at a higher education institution that lost its accreditation within 24 months of May 27, 2016.

EFFECTIVE DATE: Upon passage

§ 53 — REPEALER

The act repeals laws that did the following:

1. established within DPH a birth defects surveillance program, within available funds, and specified the confidentiality of information the program collected (CGS §§ 19a-56a and -56b);
2. allowed DPH to provide loans for the purchase of in-home hemodialysis machines (CGS § 19a-57); and
3. required DPH to appoint an advisory panel on the regulation of nurse-midwives (CGS § 20-86d).

BACKGROUND

Local Health Departments

Connecticut has 73 local health departments, of which 53 are full-time departments and 20 are part-time. The full-time departments include 33 individual municipal health departments and 20 health district departments (i.e., multi-town departments serving from two to 20 towns).

Municipal Health Directors

By law, a municipal health director in a town with a population of at least 40,000 for five consecutive years must serve in a full-time capacity. But the director may serve part-time if the town also designates him or her as the chief medical advisor for its public schools.

PA 16-77—sSB 289
Public Health Committee
Insurance and Real Estate Committee

AN ACT CONCERNING PATIENT NOTICES, DESIGNATION OF A HEALTH INFORMATION TECHNOLOGY OFFICER, ASSETS PURCHASED FOR THE STATE-WIDE HEALTH INFORMATION EXCHANGE AND MEMBERSHIP OF THE STATE HEALTH INFORMATION TECHNOLOGY ADVISORY COUNCIL

SUMMARY: This act makes various changes to requirements for hospitals, health systems, and health carriers enacted in PA 15-146. Specifically, it does the following:

1. narrows a prohibition on certain facility fees charged by hospitals, health systems, and hospital-based facilities by exempting from the prohibition such fees charged to Medicare and Medicaid patients and those receiving services under a workers' compensation plan;
2. modifies requirements for certain billing statements that include facility fees;

3. changes the starting date for a requirement that hospitals notify patients scheduling a nonemergency diagnosis or procedure of their right to request related cost and quality information, and alters a component of the information hospitals must report to these patients; and
4. delays the start date for a requirement that health carriers maintain a consumer website and toll-free number with specified information and exempts from the requirement carriers with fewer than 40,000 covered lives in Connecticut.

The act also makes several changes concerning health information technology, including (1) requiring the lieutenant governor, within existing resources, to designate a health information technology officer; (2) transferring various responsibilities from the Department of Social Services (DSS) commissioner to the officer, such as authority over the statewide health information exchange; and (3) adding to the members of the state health information technology advisory council.

EFFECTIVE DATE: Upon passage

§ 2 — FACILITY FEES

Fees for Medicare, Medicaid, or Workers' Compensation Patients

By law, a "facility fee" is any fee a hospital or health system charges or bills for outpatient hospital services provided in a hospital-based facility that is (1) intended to compensate the hospital or health system for its operational expenses and (2) separate and distinct from the provider's professional fee.

Starting January 1, 2017, PA 15-146 prohibits hospitals, health systems, and hospital-based facilities from:

1. collecting any facility fee for outpatient services that (a) use a current procedural terminology evaluation and management code and (b) are provided at a hospital-based facility, other than a hospital emergency department, that is off-site from a hospital campus or
2. collecting from uninsured patients a facility fee for outpatient services, other than for services provided in off-site emergency departments, that exceeds the Medicare rate.

The act exempts from this prohibition such fees for Medicare or Medicaid patients or those receiving services under a workers' compensation plan.

Billing Statements

Beginning January 1, 2016, PA 15-146 required certain billing statements that include a facility fee to contain specified information. The requirement does not apply to billing statements for Medicare or Medicaid patients or those receiving services under a workers' compensation plan.

The act narrows this requirement to apply to initial billing statements and modifies two components of the required information.

First, prior law required the statements to provide the Medicare facility fee reimbursement rate for the same service as a comparison. The act specifies that this refers to the corresponding Medicare rate. Under the act, if there is no corresponding Medicare facility fee for that service, the statement must indicate the approximate amount, or the percentage of the hospital's charges, that Medicare would have paid the hospital for the facility fee.

Second, existing law requires the statement to include, among other things, notice of the patient's right to request a reduction in the facility fee or any portion of the bill and a phone number to make that request. The act specifies that this applies regardless of whether the patient qualifies for, or likely would be granted, any such reduction.

§ 1 — HOSPITAL INFORMATION ON NONEMERGENCY CARE

Under PA 15-146, beginning in 2017, hospitals must notify patients scheduling nonemergency diagnoses or procedures of their right to request related cost and quality information. This requirement applies to diagnoses and procedures included in annual reports from the public health and insurance commissioners (see BACKGROUND). The act changes the starting date of this requirement, from January 1, 2017 to 180 days after the commissioners make publicly available their first report. It specifies that hospitals must provide the notification regardless of where they will deliver the services.

By law, if a patient requests a diagnosis or procedure listed in the report, the hospital must provide certain information to the patient within three business days after scheduling the diagnosis or procedure. Under prior law, the required information included the Medicare reimbursement amount. The act specifies that this refers to the corresponding Medicare reimbursement amount. If there is no such corresponding amount for the diagnosis or procedure, the act requires the notice to include the approximate amount, or the percentage of the hospital's charges, that Medicare would have paid the hospital for the services.

§ 3 — HEALTH CARRIER WEBSITE AND TOLL-FREE PHONE NUMBER

Starting July 1, 2016, PA 15-146 required each health carrier to maintain a website and toll-free phone number where consumers may obtain information on in- and out-of-network costs and related information. The act delays the starting date for this requirement to January 1, 2017. It also exempts from this requirement carriers with fewer than 40,000 covered lives in Connecticut. If a carrier exceeds 40,000 covered lives in a given year, the carrier becomes subject to the requirement starting the following January 1.

§§ 4-7 — HEALTH INFORMATION TECHNOLOGY OFFICER AND RELATED PROVISIONS

The act requires the lieutenant governor, within existing resources, to designate someone to serve as health information technology officer. Under the act, this officer is responsible for coordinating all state health information technology initiatives and may seek private and federal funds for staffing to support these initiatives.

The act transfers to the health information technology officer various prior responsibilities of the DSS commissioner related to health information technology, such as (1) implementing and revising the statewide health information technology plan and (2) overseeing the development and implementation of the statewide health information exchange. The DSS commissioner maintains an advisory role in certain matters.

The act also requires the DSS commissioner to consult with the officer when performing certain existing duties, such as developing uniform management and statistical information and electronic health information technology standards throughout several state agencies.

Statewide Health Information Exchange

The act gives the Health Information Technology officer, rather than DSS, administrative authority over the statewide health information exchange.

It requires the officer, instead of the DSS commissioner, to develop and issue a request for proposals for the exchange's development, management, and operation. Similar to prior law applicable to the commissioner, the officer must do this (1) when the state bond commission approves legislatively authorized bond funds to establish the exchange and (2) in consultation with the Office of Policy and Management secretary and the State Health Information Technology Advisory Council (see below).

Under the act, any enterprise health information exchange technology assets purchased after June 2, 2016 and before the exchange's implementation must be capable of interoperability with such an exchange.

Annual Report

The act requires the officer, instead of the DSS commissioner, to annually report by February 1 to the Human Services and Public Health committees on (1) the statewide health information technology plan and data standards; (2) the statewide health information exchange; and (3) recommended policy, regulatory, and legislative changes.

State Health Information Technology Advisory Council

PA 15-146 created a 28-member State Health Information Technology Advisory Council to advise the DSS commissioner on various related matters. The act adds the health information technology officer or his or her designee to the council's membership and requires the council to advise the officer, instead of the DSS commissioner, on these matters. Under the act, the officer replaces the DSS commissioner as one of the council's co-chairpersons. The commissioner or his designee continues to serve on the council.

The act adds two other members to the council. It adds a third appointment for the Senate president pro tempore and requires the appointee to be a representative of the Connecticut State Medical Society.

It also adds a third appointment for the House speaker and changes the required qualifications for one member. The act requires the speaker to appoint a technology expert who represents a hospital system and a health care consumer or consumer advocate, in addition to the existing requirement for a home health care services provider. It eliminates the requirement that he appoint a representative of an outpatient surgical facility.

Under existing law, before the DSS commissioner submits an application, proposal, planning document, or other request for federal funds or support for health information technology or exchange, he must present the request to the council for review and comment. The act also requires the health information technology officer to do so before submitting such requests.

BACKGROUND

Public Health and Insurance Commissioners' Reports

Under PA 15-146, the commissioners must annually report to the Connecticut Health Insurance Exchange on the following information for in-state health procedures, to the extent it is available:

1. the 50 most frequent inpatient primary diagnoses and procedures,
2. the 50 most frequent outpatient procedures,
3. the 25 most frequent surgical procedures, and
4. the 25 most frequent imaging procedures.

PA 16-87—sSB 218
Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS FOR REVISIONS TO THE STATUTES REGARDING HUMAN IMMUNODEFICIENCY VIRUS

SUMMARY: This act makes changes to statutes related to HIV. Specifically, the act requires the Department of Public Health (DPH) to establish needle and syringe exchange programs in any community impacted by HIV or hepatitis C, not just the three cities with the most HIV cases among injection drug users, and expands the programs' service components. But it requires the programs only within available appropriations.

The act also deletes certain obsolete statutory provisions and makes minor and technical changes.

EFFECTIVE DATE: October 1, 2016

NEEDLE AND SYRINGE EXCHANGE PROGRAMS

The act requires DPH, within available appropriations, to establish needle and syringe exchange programs to improve the health of people who inject drugs in any community impacted by HIV or hepatitis C. DPH may authorize the programs through local health departments or other organizations. Prior law (1) required DPH to establish such programs in the three cities with the highest number of HIV cases among injection drug users and (2) allowed DPH to authorize similar programs in other parts of the state, through local departments or organizations.

The act requires the programs to be incorporated into existing HIV and hepatitis C prevention programs, not just existing HIV programs as under prior law. It eliminates the requirement that first-time program applicants receive an initial packet of 30 needles and syringes, instead requiring that they receive an unspecified number.

The act requires the programs to offer education on hepatitis C and drug overdose prevention measures, in addition to the HIV education already required. It also requires the programs to provide referrals for substance abuse counseling or treatment and medical or mental health care. They are already required to help participants obtain drug treatment services.

Existing law requires monitoring of certain program data. The act specifies that this monitoring is for evaluation purposes. It also:

1. adds the requirement that programs monitor for incidence of HIV infection from injection drug use and
2. eliminates the requirement that programs monitor the treatment status of program participants entering treatment.

REPEALER

The act repeals a law that required DPH to establish an HIV education, counseling, and prevention grant program for local health departments and other qualifying individuals and organizations (CGS § 19a-121). Another law, unchanged by the act, continues to require DPH to provide funds to local health departments for similar purposes (CGS § 19a-121a).

The act repeals a law that allowed DPH to develop (1) a comprehensive training program for providers required to provide HIV testing for pregnant women or newborns or related counseling and (2) educational material for such providers to distribute to pregnant women or mothers of newborns (CGS § 19a-594). It retains and recodifies another section of this statute on HIV testing of newborns and required referrals for mothers when the newborn tests positive for HIV.

The act also repeals laws that:

1. required the administrative services commissioner to donate up to five vans to municipalities or organizations operating needle exchange programs (CGS § 19a-124a) and
2. allowed DPH to establish a registry of data on infants who have been exposed to HIV or AIDS medication (CGS § 19a-54a). (The registry was never established.)

PA 16-95—sSB 351
Public Health Committee
Judiciary Committee

AN ACT CONCERNING MATTERS AFFECTING PHYSICIANS, HEALTH CARE FACILITIES AND MEDICAL FOUNDATIONS

SUMMARY: This act:

1. sets specific limits on physician non-compete agreements, such as restricting them to no more than one year and a 15-mile radius from the physician's primary practice site (§ 1);
2. expands the list of entities that may employ physicians by allowing independent practice associations and certain other business entities to establish for-profit or nonprofit medical foundations, and makes other changes concerning medical foundations (§§ 6-8);
3. expands an existing definition of "captive professional entity," that applies to the medical foundation provisions and to existing notice requirements for material changes to physician group practices (§ 2);
4. requires hospital bills to include the hospital's cost-to-charge ratio (§ 5);
5. changes the information providers must give to patients when referring them to certain affiliated providers (§ 3);
6. allows the Health Care Cabinet to study and report on the possible licensure of urgent care and limited service health clinics (§ 4); and
7. makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016, except the provisions on (1) the Health Care Cabinet study are effective upon passage and (2) non-compete agreements and referral notices are effective July 1, 2016.

§ 1 — PHYSICIAN NON-COMPETE AGREEMENTS

The act sets statutory limitations on physician covenants not to compete. It defines such a covenant as any provision of an employment or other contract or agreement that establishes a professional relationship with a physician and restricts the physician's right to practice medicine in any area of the state for any period of time after the end of the partnership, employment, or other professional relationship.

Under existing common law, courts consider various factors when assessing whether a challenged non-compete agreement is reasonable and thus enforceable (see BACKGROUND).

Allowable Scope and Restrictions

General Provisions. Under the act, a physician covenant not to compete is valid and enforceable only if it is:

1. necessary to protect a legitimate business interest;
2. reasonably limited in time, geographic scope, and practice restrictions as needed to protect that interest; and
3. otherwise consistent with the law and public policy. (These factors are similar to those under the common law.)

Covenants Entered Into on or after July 1, 2016. The act sets more specific restrictions for such covenants entered into, amended, extended, or renewed on or after July 1, 2016. It prohibits these covenants from restricting a physician's competitive activities for longer than one year and beyond 15 miles from the "primary site where the physician practices." It defines this latter term as (1) the office, facility, or other location from where a majority of the revenue from the physician's services is generated or (2) any other office, facility, or location where the physician practices and the parties identify as the primary site by mutual agreement in the covenant.

The act further provides that such physician covenants are unenforceable against the physician if the:

1. employer terminates the employment or contractual relationship without cause or
2. employment contract or agreement was not made in anticipation of, or as part of, a partnership or ownership agreement and the contract or agreement expires and is not renewed, unless before the expiration the employer made a bona fide offer to renew the contract on the same or similar terms.

The act also requires each covenant not to compete entered into, amended, or renewed on and after July 1, 2016, to be separately and individually signed by the physician.

Other Contract Provisions and Burden of Proof

If a covenant is rendered void and unenforceable under the act, the remaining provisions of the contract remain in full force and effect. This includes provisions requiring the payment of damages for injuries suffered due to the contract's termination.

The act specifies that the party seeking to enforce a physician covenant not to compete bears the burden of proof at any proceeding.

§ 2 — CAPTIVE PROFESSIONAL ENTITIES

The act expands an existing definition of "captive professional entity" that applies to notice requirements of certain material changes to physician group practices (see BACKGROUND). This definition also applies to the act's provisions on medical foundations (see below).

Prior law defined a captive professional entity as a professional corporation, limited liability company (LLC), or other entity formed to render professional services in which a beneficial owner is a physician employed by or otherwise designated by a hospital or hospital system. The act (1) specifies that a partnership may be a captive professional entity, (2) adds to the types of relationships the physician may have to the employing or similar organization, and (3) adds to the types of such organizations.

Thus, the act defines a captive professional entity as a partnership, professional corporation, LLC, or other entity formed to render professional services in which a partner, member, shareholder, or beneficial owner is a physician directly or indirectly employed by, controlled by, subject to the direction of, or otherwise designated by:

1. a hospital, hospital system, or medical school, or medical foundation formed by a hospital, hospital system, or medical school or
2. an entity that controls, is controlled by, or is under common control with any of these entities, whether through ownership, governance, contract, or otherwise.

§ 3 — NOTICE OF REFERRAL TO AFFILIATED PROVIDERS

By law, health care providers generally must notify patients in writing when referring them to an affiliated provider who is not a member of the same partnership, professional corporation, or LLC as the referring provider.

The act eliminates a requirement that the written notice include the website and toll-free phone number of the patient's health carrier from which to obtain information on in-network providers and estimated out-of-pocket costs for the referred service. Instead, it requires the notice to advise the patient to contact his or her carrier to obtain information on other in-network providers and these estimated costs.

§ 4 — HEALTH CARE CABINET STUDY

The act allows the Health Care Cabinet to study the licensure of urgent care and limited service health clinics. If the cabinet completes such a study, it may report on the study's results to the Public Health Committee. Any such report must include recommendations for legislation to establish licensure categories for these clinics.

§ 5 — COST-TO-CHARGE RATIO ON HOSPITAL BILLS

The act requires hospitals to include their cost-to-charge ratio on bills to (1) patients and (2) third party payers unless provided to such payers already. (Cost-to-charge ratio generally refers to a hospital's total expenses divided by its revenues.)

§§ 6-8 — MEDICAL FOUNDATIONS

Authority Extended to Independent Practice Associations and Other Specified Entities (§§ 6 & 7(a)-(b))

Existing law authorizes a hospital, health system, or medical school to organize and join a medical foundation to practice medicine and provide health care services through its employees or agents who are physicians, chiropractors, optometrists, or podiatrists ("providers"). Such a medical foundation is prohibited from operating for profit, even if organized by a for-profit entity.

The act allows additional entities to organize and join a medical foundation for this same purpose, and allows these medical foundations to be for-profit or nonprofit. This authority applies to (1) independent practice associations of physicians and (2) certain other business entities. Under the act, an "independent practice association" is an organization:

1. having owners or members who are independent providers, or that is owned by a tax exempt state-wide professional medical membership association and controlled by independent providers;
2. that provides services to and on behalf of its members or owners, including practice management and administrative services such as accounting, payroll, billing, human resources, and information technology; and
3. with only physicians as the owners, members, or persons otherwise who own or control the association, directly or indirectly.

The act's authority to form or join a for-profit or nonprofit medical foundation also applies to a business entity that:

1. is legally registered to do business in Connecticut;
2. has its principal place of business in the state; and
3. has at least 60% of its ownership and control held individually or jointly by (a) an independent practice association, (b) a provider, or (c) a professional partnership, professional corporation, or LLC that is not a "captive professional entity" (as defined in § 2), and that is formed to render professional services.

Each partner, shareholder, or member of the partnership, professional corporation, or LLC must be a physician.

Under the act, an independent practice association or other business entity as described above organizing a medical foundation must not be owned or controlled by a hospital, health system, medical school, or medical foundation organized by any of them.

As under existing law, an entity may organize and join only one medical foundation.

Board of Directors (§ 7(d))

As under existing law, a medical foundation must be governed by a board of directors, with at least as many providers as non-provider employees on the board.

The act prohibits anyone who is employed by, represents, or owns or controls a hospital, health system, or medical school (whether nonprofit or for-profit) from serving on the board of a medical foundation organized by an independent practice association or other business entity described above. Existing law already prohibits anyone who is employed by, represents, or owns or controls a for-profit hospital, health system, or medical school from serving on the board of a medical foundation organized by such a nonprofit entity and vice versa.

Prior law prohibited an individual from simultaneously serving on the boards of medical foundations organized by a for-profit and nonprofit entity. The act expands this by prohibiting anyone from serving on the board of more than one medical foundation, however organized.

Annual Reporting Requirements (§ 7(g))

Existing law requires medical foundations to file specified information annually with the Department of Public Health's Office of Health Care Access (OHCA). The act (1) extends this requirement to the new medical foundations it authorizes and (2) adds to the information that all medical foundations must report.

In addition to what is already required, the act requires medical foundations to annually provide to OHCA:

1. the names and addresses of their organizing members;
2. the name and specialty of the physicians employed by or acting as agents of the medical foundation and the locations where they practice;
3. the name and employer of each board member; and
4. a copy of the medical foundation's governing documents and bylaws. (Under existing law, medical foundations must already file a copy of their certificates of incorporation with OHCA.)

By law, this annual reporting must include a description of the medical foundation's services. The act specifies that this must be a description of the services provided at each location where a physician employed by, or acting as an agent of the foundation, practices.

By law and under the act, OHCA must make this information available to the public and accessible on its website.

Relationship to Other Laws (§§ 7(j) & 8)

The act specifies that the medical foundation law does not (1) modify, impair, supersede, or create an exemption from any state antitrust law or (2) authorize conduct in violation of the state antitrust act, state unfair trade practices act, or any other state or federal law.

Under existing law, the non-stock corporation law applies to medical foundations, except that any of the medical foundation law's provisions that conflict with the non-stock corporation law are controlling. Under the act, new medical foundations are subject to other business entity laws, but the medical foundation law controls in the case of a conflict.

BACKGROUND

Common Law Regarding Non-Compete Agreements

In Connecticut, courts currently consider the following factors in evaluating whether a particular employment non-compete agreement is reasonable:

1. the length of time the restriction operates;
2. the geographical area covered;
3. the fairness of the protection accorded the employer;
4. the extent of the restraint on the employee's opportunity to pursue his or her occupation; and
5. the extent of interference with the public's interests (*Robert S. Weiss & Associates, Inc. v. Wiederlight*, 208 Conn. 525, 529 (1988)).

Notice of Material Change to Physician Group Practice

By law, parties engaging in a transaction that materially changes a physician group practice must notify the (1) attorney general at least 30 days before the transaction takes effect and (2) public health commissioner no later than 30 days after it takes effect. For this purpose, a material change includes any of the following transactions between a physician group and various entities, including a captive professional entity:

1. a merger, consolidation, or affiliation;
2. the acquisition of all or substantially all of the physician group's property and assets, capital stock, membership interests, or other equity interests;
3. the employment of all or substantially all of the group's physicians; or
4. the acquisition of an insolvent group practice (CGS § 19a-486i).

PA 16-130—sHB 5456
Public Health Committee

AN ACT CONCERNING THE RECOMMENDATIONS OF THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES FOR REVISIONS TO THE MENTAL HEALTH AND ADDICTION SERVICES STATUTES

SUMMARY: This act makes technical changes in Department of Mental Health and Addiction Services-related statutes, substituting the term "substance use disorders" for "substance abuse problems." The changes reflect current practice and comply with the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-V).
EFFECTIVE DATE: October 1, 2016

PA 16-137—sHB 5540
Public Health Committee

AN ACT CONCERNING THE STATE WATER PLAN

SUMMARY: This act modifies the legislative review and approval process for the state water plan. By law, the Water Planning Council (WPC) must prepare the plan by July 1, 2017 and submit it to the Energy and Technology, Environment, Planning and Development, and Public Health committees by January 1, 2018.

The act eliminates a requirement that the committees hold a joint public hearing on the plan within 45 days after the start of the 2018 regular legislative session and submit it to the legislature with their joint recommendations for approval, modification, or disapproval. It instead allows the committees to hold a public hearing and submit the plan to the legislature with their recommendation for approval or if they disapprove it, return it with any recommended revisions to the WPC for revision and resubmittal to the committees.

Under the act, the state water plan takes effect when the legislature adopts it by an affirmative vote. As under prior law, if the legislature disapproves the plan, it must be returned to the WPC for revision and resubmission to the committees of cognizance as described above. The act removes prior law's requirement that the committees act on the revised plan within 60 days after its resubmission. It also allows the WPC to resubmit the plan for approval in a subsequent legislative session instead of within 90 days after the disapproval as under prior law.

Under the act, if the legislature fails to adopt the state water plan within two years after the date it was originally submitted, the plan must be forwarded to the governor for adoption or rejection. Prior law deemed the plan approved if the legislature failed to act on it by July 1, 2018.

The act also makes minor, technical, and conforming changes.
EFFECTIVE DATE: October 1, 2016, except that a conforming change to an annual reporting requirement takes effect upon passage.

PA 16-158—SB 131
Public Health Committee
Insurance and Real Estate Committee

AN ACT CONCERNING THE WORKING GROUP ON BEHAVIORAL HEALTH UTILIZATION

SUMMARY: PA 15-5, June Special Session (§ 353) required the insurance commissioner to convene a working group to develop recommendations on the uniform collection of behavioral health utilization and quality measures data.

This act extends by one year, from January 1, 2016 to January 1, 2017, the date by which the commissioner must submit the group's recommendations to the governor and the Children's, Human Services, Insurance and Real Estate, and Public Health committees. (The group submitted a report with recommendations in February 2016.)

The act also allows the working group to include the following data in its recommendations:

1. the number of (a) prior authorization requests for behavioral health services and (b) denials of such requests, compared with prior authorization requests and denials for other health care services, and
2. the percentage of paid claims for out-of-network behavioral health services compared with the percentage of paid claims for other types of out-of-network health care and surgical services.

EFFECTIVE DATE: Upon passage

PA 16-159—SB 132
Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATION ON INVOLUNTARY FACILITY ADMISSIONS

SUMMARY: This act makes a technical change by updating terminology in a statute on placement in a facility for persons with intellectual disability. It replaces the outdated term "adult incompetent" with "an adult for whom a guardian or an involuntary conservator has been appointed."
EFFECTIVE DATE: October 1, 2016

PA 16-197—SB 288
Public Health Committee
Energy and Technology Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS ON THE EXPANSION AND CONSTRUCTION OF WATER SYSTEMS

SUMMARY: This act revises the process for issuing certificates of public convenience and necessity for water companies seeking to construct or expand their systems. Among other things, it:

1. requires certain water companies to obtain the certificate from the Department of Public Health (DPH), instead of from both DPH and the Public Utilities Regulatory Authority (PURA), for residential water systems;
2. exempts state agencies from the $100 certification fee for residential water systems;
3. under certain conditions, requires PURA to determine whether a residential water system owner has sufficient financial resources to provide adequate service and operate reliably and efficiently; and
4. correspondingly eliminates the requirement that PURA adopt regulations on the certificate process and allows, rather than requires, DPH to adopt them.

The act also makes minor, technical, and conforming changes.
EFFECTIVE DATE: October 1, 2016

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Certificate Process

By law, certain water companies must obtain a certificate of public convenience and necessity before constructing or expanding their water systems. The act requires them to obtain the certificate from DPH, instead of both DPH and PURA, thereby generally removing PURA from the certification process.

Under existing law, the certification requirement applies to water companies constructing or expanding a system that supplies water to 15 or more service connections or 25 or more people for at least 60 days per year. The act extends the requirement to any individual or entity constructing or expanding these systems.

Existing law allows water companies supplying more than 250 service connections or 1,000 people to expand their systems without obtaining a permit.

Conditions for Issuing a Certificate for Residential Systems

The act modifies the conditions under which DPH must issue certificates for residential water systems. By law, this includes systems serving 25 or more residents that are not subject to (1) PURA and DPH proceedings on water company economic viability or failure to comply with agency orders regarding water availability or potability or (2) a PURA order for a water company to acquire another water company.

As part of its review, DPH must find that the system owner meets financial, managerial, and technical requirements. Specifically, the owner must be able to (1) operate the proposed water system in a reliable and efficient manner and (2) provide continuous, adequate service to people the system serves. The act requires PURA to make this determination when the owner is (1) a PURA-regulated water company or (2) not the exclusive service area provider because such a provider has not been determined.

The act requires a certificate applicant to build or expand its water system according to DPH engineering standards, instead of PURA's.

Existing law also establishes a separate, DPH-administered certificate process for non-residential (e.g., schools, businesses) water systems serving 25 or more people for at least 60 days in one year that parallels the process for residential systems.

PA 16-198—SB 298
Public Health Committee
Human Services Committee

AN ACT CONCERNING TELEHEALTH SERVICES FOR MEDICAID RECIPIENTS

SUMMARY: This act requires the Department of Social Services (DSS), within available state and federal resources, to provide Medicaid coverage for telehealth services that the commissioner determines are:

1. clinically appropriate to provide via telehealth,
2. cost-effective for the state, and
3. likely to expand access to medically necessary services for Medicaid recipients who experience undue hardship accessing appropriate health care services.

The act requires the DSS commissioner to seek a federal waiver or amend the state Medicaid plan to obtain federal reimbursement for the cost of covering these services. By law, the department must submit a Medicaid waiver application or state plan amendment to the Appropriations and Human Services committees for approval, denial, or modification.

Lastly, the act requires the commissioner to report by January 1, 2018 to the Human Services and Public Health committees on providing telehealth services to Medicaid recipients.

Under the act, "telehealth" means the delivery of health care services through information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's physical and mental health. It includes:

1. interaction between a patient at an originating site and the telehealth provider at a distant site and
2. synchronous (real-time) interactions, asynchronous store and forward transfers (transmitting medical information from the patient to the telehealth provider for review at a later time), or remote patient monitoring.

Telehealth does not include using fax, audio-only telephone, texting, or e-mail.

EFFECTIVE DATE: July 1, 2016

PA 16-2—sSB 121
Public Safety and Security Committee

AN ACT REPEALING CERTAIN STATUTES RELATED TO MOVING PICTURES

SUMMARY: This act repeals obsolete statutes on moving pictures. It eliminates, among other things, the standards for moving picture operations, licensing and certificate of approval requirements, the mandatory display of film ratings at moving picture theaters, and the penalties for violations.

The act also makes a technical and conforming change.

EFFECTIVE DATE: July 1, 2016

BACKGROUND

Moving Pictures and Moving Picture Projectors

Moving pictures are not defined by statute or regulation. By regulation, moving picture projectors are film or video projectors or spotlights that use hazardous radiation-producing light sources without protective shielding to transmit light onto a screen. They do not include enclosed projectors equipped with incandescent lamps for projection illumination (Conn. Agencies Reg., § 29-109-3b(4)).

PA 16-75—sSB 240
Public Safety and Security Committee
Planning and Development Committee
Public Health Committee

AN ACT ELIMINATING THE REQUIREMENT FOR A FENCE AROUND A SPLASH PAD OR SPRAY PARK

SUMMARY: This act prohibits regulations governing the safety of public pools from requiring fences around splash pads or spray parks. The same prohibition applies, under existing law, to naturally formed ponds converted to public pools, provided they retain sloping sides common to natural ponds and are on fenced-in property.

By law, splash pads and spray parks are classified as special purpose public pools (CGS § 19a-36(c)(2)(E)). State regulations require such pools to meet the same design requirements as public pools, which include having a fence or other barrier (Conn. Agencies Reg., § 19-13-B33b(b) & (f)).

EFFECTIVE DATE: October 1, 2016

BACKGROUND

Splash Pads and Spray Parks

Generally, a splash pad or spray park is a recreational play area fitted with a nonslip or rubber matting surface and various nozzles and features that can shower, spray, mist, and shoot water. Water that splashes onto the surface is collected, filtered, and recirculated to keep it flowing.

PA 16-99—HB 5277
Public Safety and Security Committee
Planning and Development Committee

AN ACT EXTENDING THE MUNICIPAL PROPERTY TAX RELIEF TO RETIRED VOLUNTEER FIREFIGHTERS, FIRE POLICE OFFICERS AND EMERGENCY MEDICAL TECHNICIANS

SUMMARY: This act extends the optional municipal property tax relief program for certain non-retired volunteer personnel to retired volunteer firefighters, fire police officers, and emergency medical technicians (EMTs) who volunteered at least 25 years in the municipality. It also allows a municipality, by ordinance, to authorize interlocal agreements to provide the tax relief to such retirees who volunteered in a different municipality than the one where they now live, just as they may now do for active volunteers who live in one municipality and volunteer in another.
EFFECTIVE DATE: July 1, 2016

BACKGROUND

Municipal Property Tax Relief Program

By law, a municipality's legislative body may provide, by ordinance, property tax relief to volunteer fire police officers, active members of a volunteer underwater search and rescue team, nonsalaried local emergency management directors and volunteer firefighters, EMTs, paramedics, ambulance drivers, civil preparedness staff members, and active members of a canine search and rescue team.

By law, the relief may take the form of a tax (1) abatement of up to $1,000 in property taxes due in any fiscal year or (2) exemption applicable to the assessed value of real or personal property up to $1 million divided by the mill rate (expressed as a whole number per $1,000 of assessed value) at the time of the assessment.

PA 16-138—sHB 5546
Public Safety and Security Committee
General Law Committee

AN ACT CONCERNING CHARITABLE GAMES

SUMMARY: This act allows, rather than requires, the consumer protection commissioner to compare the post-event verified statement an organization submits after holding a bazaar or raffle with the original application. By law, a post-event verified statement includes certain information on the event's results, such as gross receipts and expenses incurred.
EFFECTIVE DATE: October 1, 2016

PA 16-150—HB 5407
Public Safety and Security Committee
Energy and Technology Committee

AN ACT CONCERNING THE DIVISION OF STATE-WIDE EMERGENCY TELECOMMUNICATIONS

SUMMARY: This act requires the Division of State-Wide Emergency Telecommunications (DSET) within the Department of Emergency Services and Public Protection (DESPP) to implement a "next generation 9-1-1 telecommunication system" ("Next Gen. 9-1-1") as part of the statewide enhanced emergency 9-1-1 program. DSET must also coordinate and assist in statewide planning for the new system, which must have enhanced 9-1-1 ("E 9-1-1," see BACKGROUND) service capabilities and allow users to reach public safety answering points (PSAP) by transmitting text messages, images, or videos. (PSAPs are 24-hour facilities that receive 9-1-1 calls and dispatch emergency response services (e.g., fire and police) or transfer the calls to other public safety agencies.)

The act requires (1) municipalities to submit proposals for new PSAPs, and PSAPs to submit proposals for changes to an existing PSAP, to DSET for approval prior to implementation and (2) each PSAP to begin annually certifying to DSET, by January 1, 2017, that the information in the 9-1-1 service utilization plan is accurate. It requires the DESPP commissioner to adopt regulations concerning the content of the plan.

Under the act, telephone companies and certain voice over Internet protocol (VOIP) service providers must provide specified features to implement the Next Gen. 9-1-1 system.

The act allows DSET to amend the technical and operational standards for private safety answering points that use the E 9-1-1 network. By law, DSET adopts these standards after consulting with private companies, corporations, or institutions. The standards are subject to the E 9-1-1 Commission's review and approval.

The act extends to people who are not physically disabled, the option to connect a DSET-approved automatic alarm or other automatic alerting device to a telephone company's network. Under prior law, only people who were physically disabled were allowed to do so. The alarm or alerting device automatically dials 9-1-1 and provides a prerecorded message to directly access emergency services.

The act extends immunity for releasing certain subscriber information or equipment failure to more people in the service providers' companies.

Lastly, the act (1) replaces obsolete references to the Office of State-Wide Emergency Telecommunications with the Division of State-Wide Emergency Telecommunications and (2) makes other technical and conforming changes.

EFFECTIVE DATE: October 1, 2016

NEXT GEN. 9-1-1 TELECOMMUNICATION SYSTEM

Under the act, a "next generation 9-1-1 telecommunication system" means a system comprised of managed Internet protocol networks that uses E 9-1-1 network features and enables users to reach a PSAP by making a 9-1-1 call.

The act also specifies that a "9-1-1 call" means a voice, text message, video, or image communication routed to a PSAP or private safety answering point when someone dials or otherwise accesses 9-1-1.

PSAP SERVICE UTILIZATION PLAN APPROVAL

The act requires any (1) municipality proposing to create a PSAP and (2) PSAP proposing a change in its operation, location, jurisdiction, or utilized public safety agencies to submit a proposed 9-1-1 utilization plan to DSET for review and approval prior to implementation. By law, DSET reviews proposed plans to determine if they meet statutory requirements and technical and operational standards.

The act also eliminates a requirement that a copy of the proposed plan be filed with each telephone company that provides service in the affected municipality.

TELEPHONE COMPANY AND VOIP PROVIDER REQUIREMENTS

Under prior law, as part of the E 9-1-1 service, telephone companies provided selective routing (i.e., directed the call to the appropriate PSAP based on the call's location), automatic number identification, and automatic location identification as a tariffed service. The act requires them to provide these features for free.

Additionally, in order to implement the new system, the act requires every telephone company providing service in Connecticut to provide these E 9-1-1 system features and allows the company to provide the latitude and longitude of any telephone or device used to place a 9-1-1 call, in compliance with a DSET-approved time schedule.

The act allows a telephone company or VOIP provider to forward to any PSAP or other answering point equipped for E 9-1-1 service the latitude and longitude of any telephone or device used to place a 9-1-1 call. By law, they must already forward the telephone number and street address.

IMMUNITY

By law, telephone companies and VOIP service providers must forward certain information about the location from which a 9-1-1 call is made to a safety answering point.

Prior law immunized only the telephone companies and telecommunications, wireless telecommunications, prepaid wireless telecommunications, and VOIP service providers and their agents from liability for (1) releasing E 9-1-1 subscriber information in accordance with the law or (2) the failure of any equipment or procedure in connection with E 9-1-1 or an emergency notification system. The act specifically extends this immunity to the officers, directors, employees, or vendors of any such company or provider.

BACKGROUND

E 9-1-1

DSET administers the state's E 9-1-1 program (CGS § 28-29a). By law, E 9-1-1 is a service consisting of telephone network features and PSAPs provided for users of the public telephone system, enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service directs 9-1-1 calls to appropriate PSAPs by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. The E 9-1-1 system is funded by fees assessed against subscribers of local telephone and commercial mobile radio services.

PA 16-152—SB 20
Public Safety and Security Committee
Judiciary Committee

AN ACT CONCERNING CARRYING A FIREARM WHILE INTOXICATED OR UNDER THE INFLUENCE OF ALCOHOL

SUMMARY: This act lowers, from .10% to .08%, the blood alcohol content (BAC) level that triggers a presumptive violation of the law's prohibition on carrying a loaded firearm while under the influence of drugs or alcohol. The .08% level is the same threshold as for state and federal driving under the influence (DUI) laws.

The act also makes three changes pertaining to hunting while impaired by alcohol or under the influence of drugs or alcohol. First, it eliminates the offense of hunting while impaired by alcohol, which, under prior law, was hunting with a BAC of more than .07% but under .10%.

Second, it lowers, from .10% to .08%, the BAC level that triggers a presumptive violation of the law's prohibition on hunting while under the influence. In doing so, it increases from .07% to .08% the BAC level that triggers a presumptive violation by someone previously convicted of hunting under the influence or while impaired.

Third, the act sets a new and lower BAC threshold of .02% for anyone under age 21, conforming this provision to the BAC level that triggers a presumptive violation of the state's DUI law for drivers under age 21 (CGS § 14-227g).
EFFECTIVE DATE: October 1, 2016

BACKGROUND

Carrying a Firearm While Under the Influence

By law, carrying a loaded firearm while under the influence of alcohol or drugs is a class B misdemeanor, and hunting while under the influence is a class A misdemeanor (see Table on Penalties). The energy and environmental protection commissioner may indefinitely suspend the hunting license of a person convicted of hunting while under the influence (CGS § 53a-217e (h)).

PA 16-157—sSB 120
Public Safety and Security Committee

AN ACT CONCERNING THE AUTHORITY OF DEPUTY FIRE MARSHALS AND FIRE INSPECTORS

SUMMARY: This act allows local fire marshals to delegate to deputy fire marshals or fire inspectors their authority to write citations for code violations, just as they may already delegate their authority to issue orders or permits. The act also makes technical and conforming changes, mostly clarifying that the inspectors and investigators referred to in the laws concerning the appointment and qualifications of local fire officials are fire code inspectors and fire investigators.

By law, the state fire marshal and local fire marshals may issue citations, instead of remediation orders, for certain fire prevention code violations. A citation must be signed by the fire official and must include, among other things, the specific offense charged. A citation for a fire prevention code violation subjects the violator to a fine of up to $250 (CGS § 29-291c).
EFFECTIVE DATE: July 1, 2016

PA 16-171—SB 236
Public Safety and Security Committee

AN ACT EXTENDING THE SCHOOL SECURITY INFRASTRUCTURE COMPETITIVE GRANT PROGRAM

SUMMARY: This act extends the school security infrastructure grant program for one year, from June 30, 2016 to June 30, 2017. The program provides grants to develop or improve security infrastructure in schools, based on the results of school building security assessments conducted under the supervision of local law enforcement agencies.
EFFECTIVE DATE: Upon passage

BACKGROUND

School Security Infrastructure Grant Program

PA 13-3 established this competitive state grant program to improve security infrastructure in schools. The program reimburses towns, state charter schools, technical high schools, incorporated or endowed high schools or academies, private schools, and regional education service centers for certain expenses incurred on or after January 1, 2013 to (1) develop or improve security infrastructure; (2) train personnel to operate and maintain the security infrastructure; and (3) buy portable entrance security devices, such as metal detectors.

Eligible infrastructure includes surveillance cameras, penetration-resistant vestibules, ballistic glass, solid-core doors, double-door access, computer-controlled electronic locks, entry door buzzer systems, scan card systems, panic alarms, or other systems.

The program is jointly administered by the departments of Administrative Services, Education, and Emergency Services and Public Protection.

PA 16-215—sSB 388
Public Safety and Security Committee

AN ACT CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES' RECOMMENDATIONS REGARDING THE ADOPTION OF THE STATE BUILDING AND FIRE CODES

SUMMARY: This act changes the process for adopting the state building, fire safety, and fire prevention codes which, under prior law, were adopted pursuant to the Uniform Administrative Procedure Act (UAPA) (i.e., the act that agencies must follow when performing certain administrative functions such as adopting regulations). The act maintains many of the UAPA's essential elements, including (1) a notice requirement for proposed codes, (2) a public comment period, and (3) the requirement for the Regulation Review Committee to review and approve the proposed codes. But unlike the UAPA process, the new code adoption process does not require the attorney general to review the proposed codes for legal sufficiency. Also, the act allows the committee to waive its review, and if the committee fails to meet or act on a proposed code within prescribed deadlines, the code is deemed approved.

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

UAPA

By law, the regulation-adoption process is governed by the UAPA and generally includes the following major provisions:

1. 30 days' notice of intent to adopt regulations (except for emergency regulations), a public comment period of at least 30 days, and a public hearing if one is requested by at least 15 people (CGS § 4-168);
2. review of the proposed regulation by the attorney general for legal sufficiency (absence of conflict with state and federal laws and the Constitution and compliance with the UAPA's notice and hearing requirements) (CGS § 4-169);
3. submission of the proposed regulation to the Regulation Review Committee for review and approval (CGS § 4-170); and
4. submission of the approved regulation to the secretary of the state for posting on the eRegulations System (CGS § 4-172).

BUILDING AND FIRE CODE ADOPTION

Prior law required all State Building Code amendments to be adopted under the UAPA (CGS § 29-254(a)), while specifying select fire safety and fire prevention code amendments to be so adopted. Fire code provisions that the law specifically required to be adopted under the UAPA included the following:

1. installation or use of fire extinguishers and fire extinguishing agents (CGS § 29-313(d));
2. installation of oil burners and related equipment and accessories (CGS § 29-317(a));
3. safe storage, use, transportation, and transmission by any mode and transmission by pipeline of flammable and combustible liquids (CGS § 29-320);
4. installation of gas equipment and gas piping (which the act does not amend) (CGS § 29-329(a));
5. safe storage, use, transportation, and transmission of liquid petroleum gas (which the act does not amend) (CGS § 29-331);
6. safe storage, transportation, and transmission by pipeline of hazardous chemicals (CGS § 29-337);
7. appeals of fire safety code decisions (which the act does not amend) (CGS § 29-309); and
8. amendments pertaining to bed and breakfast establishments (CGS § 29-256c).

In practice, all three codes were adopted in accordance with the UAPA. The act removes the adoption of the codes from the UAPA. It establishes a new process for adopting the codes (including amendments) that maintains many of the UAPA elements, with specific involvement of the Codes and Standards Committee and the State Fire Prevention Code Advisory Committee. The former committee works with the state building inspector and state fire marshal to adopt and enforce the state building and fire codes (CGS §§ 29-251 & 292); the latter works with the state fire marshal to adopt and administer the fire prevention code (CGS § 29-291a).

BUILDING CODE ADOPTION PROCESS UNDER THE ACT

Action Steps Preceding Code Adoption

Under the act, before a proposed building code or amendment is adopted, the state building inspector must do the following:

1. post the proposed code, a statement of its purpose, a fiscal note associated with compliance, and a regulatory flexibility analysis on the Department of Administrative Services (DAS) website;
2. give notice electronically to the Public Safety and Security Committee;
3. notify anyone who asked for advance notice of proposed code adoption proceedings;
4. provide for a 45-day public comment period following the posting of the fiscal note, flexibility analysis, and statement of purpose; and
5. hold a public hearing on the proposed code between 20 and 35 days after posting the required information.

Public Comments and Code-Making Record

Under the act, after the public comment period closes, the state building inspector and the Codes and Standards Committee must respond to all written and oral comments received during the comment period and the public hearing. The response must include any change made to the proposed code, if applicable, and the rationale for the change. The state building inspector must post the responses on the DAS website not later than 30 days after the comment period closes.

The state building inspector and the Codes and Standards Committee must create and maintain a code-making record for each proposed code, submit the record electronically to the Public Safety and Security and Regulation Review committees, and post it on the DAS website. The record must include the following:

1. the final wording of the proposed code in a format consistent with a nationally recognized model building code,
2. the required fiscal note and regulatory flexibility analysis; and
3. all written and oral comments received during the public comment period, and the responses to them.

Regulation Review Committee Deadlines for Action on Proposed Codes

The act gives the Regulation Review Committee up to 45 days from the date the record is submitted to the committee to convene a meeting to approve, disapprove, or reject without prejudice the proposed code, in whole or in part. If the proposed code is withdrawn, the state building inspector must resubmit it and the committee has up to 45 days from the resubmittal date to convene a meeting to approve, disapprove, or reject it without prejudice. If the committee notifies the state building inspector in writing that it is waiving its right to convene a meeting or fails to act on a proposed or a resubmitted proposed code within the deadlines, it is deemed approved by the committee.

Committee Disapproval of Code

Under the act, if the committee disapproves a proposed code, in whole or in part, it must notify the state building inspector of its disapproval and the reasons for it. The state building inspector cannot take any action to implement a disapproved code. But he may submit a substantively new proposed code, provided the legislature may reverse the disapproval.

Committee Rejection of Code without Prejudice

If the committee rejects all or part of a proposed code without prejudice, the act requires it to notify the state building inspector of the reasons for the rejection. The state building inspector must resubmit the proposed code in a revised form to the committee not later than 30 days after the rejection. Each resubmission must include a summary of any revisions. The committee must review and take action on the resubmittal no later than 45 days after receiving it.

Enforceability of Code

The act provides that the State Building Code or any approved amendment takes effect and is enforceable once posted on the DAS website, except that (1) if a later date is required by statute or the code, the later date is the effective date, and (2) a code cannot take effect before the effective date of the public act requiring or permitting it.

The state building inspector must include a statement certifying that the electronic copy of the code is a true and accurate copy of the code approved or deemed approved in accordance with the act. The electronic copy of the code posted on the DAS website is the official version for all purposes, including legal and administrative proceedings.

Code Validity

The act specifies that no provision of the state building code or any amendment adopted after the act's effective date is valid unless it substantially complies with the act. A proceeding to contest any provision on grounds of noncompliance must be commenced within two years from the code's effective date.

Public Access to the Code

The act requires the state building inspector to advise the public on how to obtain a copy of the code and any amendments to it.

ADOPTION OF THE FIRE SAFETY AND FIRE PREVENTION CODES

Under the act, the same procedures described above for the building code apply to the fire safety and fire prevention codes, except (1) the provisions that apply in the building code to the state building inspector apply in this case to the state fire marshal and (2) for the fire prevention code, the provisions that apply in the building code to the Codes and Standards Committee apply in this case to the Fire Prevention Code Advisory Committee.

MISCELLANEOUS CHANGES

eRegulations System (§ 4)

By law, the secretary of the state may omit certain regulations from the regulations of state agencies posted on the eRegulations System. The act allows the secretary to exempt the fire and building codes and post a link to an electronic copy of these codes. It requires that copies of these codes be readily available for inspection in the principal office of DAS.

PA 16-217—sHB 5279
Public Safety and Security Committee

AN ACT CONCERNING OATHS TAKEN BY PERSONS EMPLOYED OR ASSOCIATED WITH CIVIL PREPAREDNESS ORGANIZATIONS

SUMMARY: This act reduces, from annually to once every two years, the frequency with which anyone appointed to serve in a town's civil preparedness organization must take the following loyalty oath:

> I . . . do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the state of Connecticut, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

By law, each town must establish or join with other towns to establish a local civil preparedness organization in accordance with the state civil preparedness plan and program. The organization performs civil preparedness functions within its territorial limits (CGS § 28-7).

EFFECTIVE DATE: October 1, 2016

PA 16-55—sHB 5412
Transportation Committee
Judiciary Committee

AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF MOTOR VEHICLES REGARDING HAZARDOUS MATERIALS, CAR DEALERS, ELECTRONIC REGISTRATION, STUDENT TRANSPORTATION VEHICLE OPERATORS, DIVERSION PROGRAMS, MOTOR VEHICLE INSPECTORS AND MINOR REVISIONS TO THE MOTOR VEHICLE STATUTES

SUMMARY: This act allows the Department of Motor Vehicles (DMV) to contract with unspecified entities to (1) renew driver's licenses and identity (ID) cards, (2) issue duplicate licenses and ID cards, and (3) conduct registration transactions. Existing law already allows DMV to contract with automobile clubs and associations (e.g., AAA) to conduct these transactions. The act increases, from $3 to $5, the fee AAA may charge for each transaction, and permits the new contractors to also charge the $5 fee. It allows DMV to also authorize municipal departments or offices to conduct these transactions (§ 24).

It requires motor vehicle dealers and repairers to undergo state criminal history record checks (§ 3); generally requires motor vehicle dealers, car rental firms, and other entities that submit at least seven motor vehicle registration or similar documents monthly to DMV to do so electronically (§§ 5, 11 & 12); and makes other changes in motor vehicle laws. These include the following:

1. barring a court from suspending the prosecution of, and ordering treatment for, people found to be drug or alcohol dependent if they operated a commercial motor vehicle (large truck or bus) or held a commercial driver's license (CDL) or commercial driver's instruction permit when they were charged with certain crimes (§ 9);
2. allowing motor vehicle inspectors to carry firearms and deadly weapons on school grounds while performing their official duties (§ 10);
3. requiring DMV to report periodically to the Transportation Committee on DMV office wait times (§ 23);
4. requiring commercial drivers transporting hazardous material to comply with federal hazardous material regulations and making a violation an infraction (see BACKGROUND) or misdemeanor, depending on the severity of the violation and the number of offenses (§ 1);
5. merging two different procedures for local approval of motor vehicle dealership and repair locations and requiring applicants to obtain the approval of a local building official and fire marshal (§ 4);
6. allowing DMV to request continuances of an administrative per se hearing on a showing of good cause (§ 6);
7. changing medical requirements for student transportation vehicle (STV) drivers age 70 or older (§ 8); and
8. requiring DMV to issue title certificates, at a vehicle owner's request, for vehicles more than 20 model years old (§ 15).

The act also corrects an incorrect statutory reference (§ 2) and makes other technical and conforming changes (§§ 7, 13, 14 & 16-22).

EFFECTIVE DATE: July 1, 2016, except for the provisions (1) on transporting hazardous material, barring a court from suspending certain prosecutions, allowing motor vehicle inspectors to carry firearms and deadly weapons on school grounds, and requiring certificates of title for vehicles more than 20 model years old, which are effective October 1, 2016, and (2) requiring DMV to report on office wait times, authorizing DMV to contract with entities and municipalities to conduct certain licensing and registration transactions and increasing the transaction fees, which are effective upon passage. Most technical changes are also effective upon passage.

§ 1 — TRANSPORTING HAZARDOUS MATERIAL

The act requires commercial drivers who transport hazardous material on state highways to comply with federal hazardous material regulations.

The act makes a violation of certain federal regulations an infraction or a class D or class A misdemeanor (see Table on Penalties), depending on the type of offense and the number of offenses committed. Under the act, an infraction includes failing to meet recordkeeping, shipping, packaging, labeling, placarding, or security requirements.

New misdemeanors under the act include not properly displaying placards identifying cargoes of poisonous or radioactive materials (49 C.F.R §§ 172.505(a) & 172.507(a)); improper packaging that allows the release of hazardous material (49 C.F.R § 173.24(b)); and failing to exercise care in loading or unloading explosives (49 C.F.R § 177.835). A first offense is a class D misdemeanor and each subsequent commission of the same offense is a class A misdemeanor.

By law, motor vehicle inspectors and state and municipal police may inspect vehicles for violations of federal hazardous material regulations (CGS § 14-163c (d)). The act requires inspectors and police to enforce its hazardous material provisions, provided they are authorized by regulation to conduct such inspections (see BACKGROUND) and have satisfactorily completed a Federal Motor Carrier Safety Administration (FMCSA) course in specialized hazardous material.

§ 3 — MOTOR VEHICLE DEALER CRIMINAL HISTORY RECORD CHECKS

By law, the DMV commissioner may refuse to grant or renew a motor vehicle dealer's or repairer's license if the applicant has been convicted of violating laws relating to the business or certain other crimes, such as fraud. Prior law required applicants for a license or license renewal to disclose any such conviction that occurred within five years before their application.

The act instead requires new license applicants to submit to state criminal history record checks, conducted according to state law, no more than 30 days before applying for a license. They must do so based on their names and birthdates and provide the results to DMV.

It requires dealers and repairers seeking license renewals to disclose if they have been convicted of a crime related to their business or certain other crimes, not just those that occurred in the previous five years. It requires such applicants to make this disclosure under penalty of false statement, a violation of which is a class A misdemeanor.

§ 4 — APPROVAL OF MOTOR VEHICLE DEALERSHIPS AND REPAIR SHOPS

By law, a person seeking a motor vehicle dealer's or repairer's license must show DMV a certificate showing that a zoning authority (e.g., a board of appeals) of the town where the business is proposed has approved the business location. In addition, prior law provided two different procedures for approving the location of a dealership or repair shop, depending on the town's population.

The act merges the two procedures and eliminates a requirement that motor vehicle dealers or repairers obtain approval from local or state police when seeking to locate a dealership or repair shop in a municipality with fewer than 20,000 people. The act instead requires that dealers and repairers proposing business locations in municipalities of any size obtain the approval of the local building official and fire marshal. By law, failure to comply is punishable by a fine of up to $1,000 (CGS § 14-51a). As under prior law, these provisions do not apply to certain ownership transfers (e.g., to a spouse or child, or to the withdrawal of a partner from a partnership).

§ 5 — DEALERS FILING MOTOR VEHICLE REGISTRATIONS

The act generally eliminates a motor vehicle dealer's ability to apply in person to DMV for a registration by requiring that dealers who apply to DMV for an average of seven or more permanent registrations per month do so electronically. (Previously, the commissioner could require this of dealers who averaged 10 or more such applications.) But it allows a dealer to apply in writing for a hardship exemption from electronic filing, such as when it is unable to communicate with DMV electronically. The act allows DMV to enter into an agreement with one or more nonprofit motor vehicle dealer associations to file registration applications on behalf of individual dealers for whom electronic filing is a hardship. DMV may authorize the association to charge participating dealers a convenience fee, as determined by the commissioner, for this service.

§§ 6 & 7 — ADMINISTRATIVE PER SE STATUTES

By law, motorists implicitly consent to be tested for drugs or alcohol when they drive a vehicle. The law establishes administrative license suspension procedures, including a hearing, for drivers who refuse to submit to a test or whose test results indicate an elevated blood alcohol content (BAC).

By law, a DMV hearing officer or the person who is the subject of such a hearing may, on a showing of good cause, ask the DMV commissioner for a continuance. The act allows DMV to also request a continuance for good cause.

It also makes a minor technical change regarding police reporting requirements when making certain drunk driving arrests.

§ 8 —STV DRIVERS AGE 70 AND OLDER

Prior law allowed people age 70 or older to transport special education students if the driver met minimum physical requirements set by the DMV commissioner and had a physical exam twice a year or when asked to do so by a school superintendent.

The act reduces the frequency of the physical exam to once annually and complies with federal law by requiring that a federally certified medical examiner conduct it (see BACKGROUND). But it requires the driver to have more frequent physical exams if directed to by the medical examiner or a school superintendent.

§ 9 — SUSPENSION OF PROSECUTION FOR ALCOHOL OR DRUG DEPENDENCY

The law allows a court to suspend prosecution of, and instead order treatment for, certain people charged with a crime and found to be alcohol or drug dependent. Successful completion of the treatment may result in dismissal of the charges (CGS § 17a-697).

By law, a person is generally ineligible for this treatment option if he or she is charged with, among other crimes, DUI or 2nd degree assault with a motor vehicle, although the court may suspend prosecution and order treatment in certain cases. The act makes people younger than age 21 who are charged with DUI ineligible for the treatment option, although, as under existing law, the court may suspend prosecution and order treatment in some cases. But the act prohibits the court from suspending prosecution and ordering treatment for anyone who was driving a commercial motor vehicle (large truck or bus) or held a CDL or commercial driver's instruction permit when he or she was charged with any of the following crimes: (1) DUI, (2) DUI under age 21, (3) 2nd degree assault with a motor vehicle, or (4) 2nd degree manslaughter with a motor vehicle.

§ 10 — ALLOWING MOTOR VEHICLE INSPECTORS TO CARRY WEAPONS ON SCHOOL GROUNDS

The act allows properly designated and certified motor vehicle inspectors to carry weapons (i.e., firearms or other deadly weapons, as defined in law) on school grounds while performing their official duties. By law, motor vehicle inspectors may make arrests or issue citations for violations of motor vehicle statutes (CGS §§ 7-294d & 14-8).

§ 11 — VEHICLE REGISTRATION BY CAR RENTAL COMPANIES

The act changes registration and renewal requirements for car rental companies licensed in Connecticut and also applies these new requirements to car rental companies licensed in other states. Under prior law, the commissioner could allow qualified car rental companies licensed in Connecticut to renew motor vehicle registrations electronically, and such companies could also issue 60-day temporary registration transfers. The act instead allows qualified car rental companies to electronically register, transfer, and renew registrations of motor vehicles used in connection with their business and eliminates the obsolete provision on temporary registrations. It requires electronic filing by car rental companies for (1) registrations and transfers if they file an average of at least seven of these each month and (2) renewals if they file an average of at least seven of these each month. A car rental company, within five days of the electronic issuance of a registration or transfer, must submit to DMV an application and documents necessary to register or transfer the registration, as the law already requires when the registration is issued by other means. By law, the commissioner must adopt regulations to implement these provisions.

§ 12 — REGISTERING OR TITLING MOTOR VEHICLES

The act allows the DMV commissioner to require any qualified person, firm, or corporation whose business is filing applications for motor vehicle registrations or title certificates to file these applications electronically if the commissioner finds that they file an average of at least seven such applications per month. It requires such a person, firm, or corporation, within five days of the registration's electronic issuance, to submit to the commissioner an application and all documents required to register the vehicle. The commissioner must adopt implementing regulations.

§ 15 — TITLE CERTIFICATES FOR OLDER VEHICLES

The act requires DMV to issue certificates of title, at an owner's request, for vehicles older than 20 model years. Under prior law, the DMV commissioner was not required to issue certificates of title for these vehicles but could do so at his discretion. Under existing law and the act, owners of these vehicles are not required to obtain a title. DMV may charge the vehicle owner the legally required fees.

§ 23 — DMV REPORTING REQUIREMENTS

The act requires DMV to submit to the Transportation Committee periodic reports on wait times at DMV offices.

It requires, starting August 15, 2016, DMV to report to the committee each month on the length of these wait times. Each report must include the following, for the previous month and for each office that uses a numbered ticketing system: (1) the average wait time from the time a customer receives a numbered ticket to the time when the customer is served, (2) whether the average wait time decreased or increased from the previous month, and (3) the number of transactions at each office that could have been conducted online. Each monthly report must also include the number of transactions conducted on DMV's website in the previous month.

Starting January 15, 2017, the department must report annually to the committee, (1) identifying specific goals for acceptable wait times at DMV offices, (2) summarizing steps DMV took in the previous year to achieve those goals, and (3) including a strategy to achieve or exceed those goals in the coming year. The committee may hold a public hearing within 30 days of receiving this report, and the commissioner, or his designee, must testify at any such hearing.

BACKGROUND

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between $35 and $90, plus a $20 or $35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending on the type of infraction. For example, certain motor vehicle infractions trigger a Special Transportation Fund surcharge of 50% of the fine.

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

Motor Carrier Safety Inspection Authority

A person with inspection authority is a motor vehicle inspector or state or municipal police officer who has satisfactorily completed 80 hours of on-the-job training and an FMCSA course in federal motor carrier safety regulations, among other things. To maintain inspection authority, motor vehicle inspectors must annually receive in-service training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria. The DMV commissioner determines the type and extent of training (Conn. Agencies Regs., § 14-163c-9).

STV

By law, an STV is a motor vehicle other than a registered school bus used by a carrier to transport students to or from school, school programs, or school-sponsored events (CGS § 14-212).

Federal Medical Requirements for Commercial Motor Vehicle Drivers

Drivers transporting public passengers must meet medical qualifications established in federal law (CGS § 14-44(b)). Federal law and regulations require commercial motor vehicle drivers to obtain a medical examiner's certificate from a licensed medical examiner listed on the FMCSA National Registry (49 C.F.R. § 391.43).

PA 16-151—sHB 5411
Transportation Committee

AN ACT CONCERNING DEPARTMENT OF TRANSPORTATION RECOMMENDATIONS REGARDING THE LOCAL BRIDGE PROGRAM, THE TRANSIT-ORIENTED DEVELOPMENT PROJECT, OUTDATED REPORTING MANDATES, SCRAP METAL PROCESSORS, OPERATION OF A LABOR DAY WEEKEND COFFEE STOP AND REVISIONS TO OTHER STATUTES RELATED TO TRANSPORTATION

SUMMARY: This act increases, in some cases, the grant amounts municipalities receive under the Local Bridge Program (see below) and makes more bridges eligible for program assistance (§ 1). It also makes several changes to Department of Transportation (DOT) policies and procedures. Among other things, it:

1. expands the circumstances in which the DOT commissioner may waive the competitive developer selection process for transit-oriented development (TOD) projects (§ 4),
2. eliminates the requirement that a state referee approve land purchases by the DOT commissioner that exceed $100,000 (§ 5),
3. expands the types of allowable expenditures from DOT's work zone safety account (§ 2),
4. eliminates a number of reporting requirements (§§ 7-15 & 19), and
5. exempts a bridge in Middletown from statutory overhead clearance requirements (§ 6).

The act additionally makes the following unrelated changes:

1. requires drivers to slow down and move over when approaching emergency vehicles traveling significantly below the speed limit (§ 3),
2. requires scrap metal processors to record additional information on receiving a load of scrap metal containing railroad right-of-way materials (§ 17),
3. authorizes additional Boy Scout troops to operate coffee stops at the Waterford weigh station on Labor Day weekend (§ 16), and
4. requires DOT to paint the center line on Rt. 68 in Wallingford.

It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§ 1 — LOCAL BRIDGE PROGRAM

The Local Bridge Program provides grants to municipalities for the removal, replacement, reconstruction, rehabilitation, or improvement of local bridges. By law, the DOT commissioner establishes a priority list of bridges, based on their physical condition, and awards grants to municipalities in the order of priority. The grant amount is equal to the project's total cost multiplied by the "grant percentage" (CGS § 13a-175s).

The act increases the grant amount available to many municipalities by modifying the definition of "grant percentage." Under prior law, DOT determined each municipality's grant percentage by (1) ranking municipalities based on their adjusted equalized net grand list per capita and (2) assigning a percentage, on a scale of 15%-50%, for each municipality based on its ranking. The act sets the grant percentage of each municipality at 50%.

The act also makes more bridges eligible for grants under the program by modifying the definition of "physical condition." Under prior law, a bridge's physical condition was based on its structural deficiencies and sufficiency rating. A bridge's sufficiency rating is determined primarily by the structural condition of its major components (i.e., substructure, superstructure, and deck). However, federal bridge inspection law now incorporates inspection standards based on smaller bridge elements (e.g., stringers and floor beams), and requires states to collect and report element level data on bridges (23 U.S.C. § 144). The act incorporates these new federal standards by changing the definition of physical condition to "the condition of its components and elements, functional adequacy, scour susceptibility, and load capacity." Among other things, this change allows municipalities to receive funding for a bridge with smaller elements in poor condition, even if its major components are not yet structurally deficient, as well as for bridge maintenance and preservation.

EFFECTIVE DATE: July 1, 2016

§ 2 — WORK ZONE SAFETY ACCOUNT

Existing law authorizes DOT to use Work Zone Safety Account funds for highway traffic enforcement. The act further authorizes DOT to use account funds to purchase and implement technology and equipment. As under existing law, any of these account expenditures must be used to protect highway workers' safety. The act also requires the

Highway Work Zone Safety Advisory Council to approve any use of account funds for purposes other than the "Operation Big Orange" program or direct work zone traffic enforcement.

"Operation Big Orange" is a highway enforcement program that uses primarily State Police to make traffic stops in and around active work zones to help protect roadway workers and deter irresponsible motorist behavior.

§ 3 — MOVING OVER FOR EMERGENCY VEHICLES

The act expands the circumstances when drivers approaching emergency vehicles on a highway must slow down and move over.

By law, when approaching a stationary emergency vehicle located on the shoulder, lane, or breakdown lane of a highway, drivers must slow down to a reasonable speed below the speed limit and, if they are traveling in the adjacent lane, move over one lane unless doing so is unreasonable or unsafe. Under the act, drivers must do the same when approaching emergency vehicles traveling significantly below the posted speed limit. By law, these provisions only apply on highways with two or more lanes proceeding in the same direction.

Under the law, unchanged by the act, an "emergency vehicle" is any vehicle with activated flashing lights that is (1) operated by an emergency medical services organization responding to an emergency call, (2) operated by a fire department or officer responding to an emergency, (3) operated by a police officer, (4) a maintenance vehicle, or (5) a wrecker.

By law, any person who violates these provisions commits an infraction. Fines increase if the violation results in the injury or death of an emergency vehicle operator.

EFFECTIVE DATE: July 1, 2016

§ 4 — SELECTION OF DEVELOPERS FOR TOD PROJECTS

By law, the DOT commissioner, with the approval of the Office of Policy and Management secretary, may waive the competitive selection process for TOD projects when the developer is an abutting landowner and his or her property is essential to the project. The act allows the commissioner to also waive the process if a developer holds a recordable, exercisable option to purchase an abutting property.

Under existing law and the act, the DOT commissioner may waive the selection process for TOD projects only if he finds that the cost to the state of any property transaction or service does not exceed fair market value and the waiver is in the state's best interest.

§ 5 — APPROVAL OF DOT PURCHASES BY STATE REFEREE

The act eliminates a requirement that a state referee approve any purchase by the DOT commissioner of land or buildings for state highways and bridges that exceeds $100,000. By law, the State Properties Review Board must review all purchases of property in connection with the state highway system in excess of $5,000 (CGS § 13a-73(h)).

§ 6 — EXEMPTION FROM OVERHEAD CLEARANCE REQUIREMENTS FOR BRIDGE IN MIDDLETOWN

The act allows DOT to replace the bridge that carries West Street over the Providence and Worcester Railroad in Middletown with a new bridge that has an overhead clearance of 18 feet 1 inch. In doing so, it exempts the bridge from the law requiring all structures built after October 1, 1986 that cross over railroad tracks to have an overhead clearance of at least 20 feet six inches.

§§ 7-15 & 19 — ELIMINATION OF REPORTING REQUIREMENTS

The act eliminates the following studies and reports required by DOT under prior law, which the department says are now obsolete or duplicative:

1. a study of a Route 2A bypass alternative;
2. a report that lists all the at-grade crossings in the state, identifying those that are hazardous and funding sources with which to fix them;
3. an annual report to the legislature with recommendations for maintaining a modern, efficient, and well-balanced transportation system;
4. an annual and five-year financing plan for Transportation Strategy Board projects (PA 11-61 abolished the board);

5. an annual report on certain tax obligation bonds;
6. an annual report on the New Haven Line revitalization program;
7. a 10-year bridge and road resurfacing plan;
8. an annual report on Special Transportation Fund funds, earnings, and expenditures;
9. an annual project implementation report; and
10. a biennial notification to the legislature of the availability of a state highway alteration plan.

The act also makes numerous technical and conforming changes.

EFFECTIVE DATE: July 1, 2016

§ 16 — EAST LYME AND WATERFORD BOY SCOUT LABOR DAY COFFEE STOPS

Prior law allowed Boy Scout Troop 24 of East Lyme to operate Labor Day weekend "coffee stops" at the Waterford weigh station on I-95. The act expands who may operate these coffee stops, allowing any Boy Scout troop of East Lyme and Waterford to do so. The act also specifies that the troops may operate the shops at the weigh stations on both I-95 northbound and southbound in Waterford. It also makes a technical change to define Labor Day weekend.

§ 17 — DOCUMENTATION OF RAILROAD RIGHT-OF-WAY MATERIAL BY SCRAP METAL PROCESSORS

By law, scrap metal processors must record, for all loads of scrap metal they receive, (1) the delivery person's identity; (2) the weight, description of, and price paid for the metal; and (3) a photo of the delivery vehicle and its license plate.

The law imposes additional record-keeping requirements for loads containing wire, cable, or scrap equipment used for telecommunications or data transmission or electricity distribution. Specifically, upon receiving such a load, scrap metal processors must (1) take a photo of the load of scrap metal, (2) copy the vehicle's registration certificate, and (3) record a statement as to the location from which the material came. The act requires scrap metal processors to also record this additional information for loads of scrap metal containing materials, equipment, or parts used in the construction, operation, protection, or maintenance of a railroad right-of-way.

EFFECTIVE DATE: July 1, 2016

§ 18 — CENTER LINE PAINT IN WALLINGFORD

The act requires DOT, by July 1, 2017, to paint the center line of Connecticut Rt. 68 in Wallingford from the Cheshire-Wallingford town line to the Wallingford-Durham town line.

PA 16-52—HB 5358
Veterans' Affairs Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE LEASING OF MILITARY FACILITIES

SUMMARY: This act makes several changes to the law on leasing and using state military facilities. It does the following:

1. expands the adjutant general's responsibility to include the security of all military facilities in addition to his existing responsibility for the use, maintenance, and leasing of such facilities;
2. expands the insurance requirement for leasing or using a facility to any applicant, instead of just nongovernmental entities;
3. prohibits any lease from being sublet, rather than just prohibiting veterans' organizations from being allowed to use a military facility for the purpose of subleasing as under prior law;
4. allows the leasing of the Governor's Horse Guard's Avon and Newtown facilities to anyone if it does not conflict with military use;
5. allows the adjutant general to charge certain fees for leasing or using military facilities;
6. eliminates certain terms and conditions for joint military and veterans' groups using military facilities; and
7. makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

INSURANCE REQUIREMENT

Prior law required nongovernmental entities leasing or using a military facility to obtain a certificate of insurance indemnifying the state against personal injuries and property damage. The act (1) extends the insurance requirement to anyone leasing or using a military facility, (2) allows them to alternatively provide a certificate of self-insurance, and (3) requires the certificate to also indemnify the federal government. As under prior law, the cost of the certificate is in addition to the cost for the facility's lease or use.

HORSE GUARDS

Under the act, the adjutant general may lease the horse guard's Avon and Newtown facilities to anyone, provided the lease does not interfere with the facilities' military use. Lease proceeds must be paid to the adjutant general, who must send them to the state treasurer for deposit in the Governor's Guards horse account. Prior law required the adjutant general to allow certain nonprofits to use these facilities for fundraising purposes without charge.

FEE FOR USING MILITARY FACILITIES

The act authorizes the adjutant general to allow certain schools, nonprofits, and government agencies to lease or use military facilities at no more than it costs to operate the facility during the rental period, rather than without charge as under prior law. It applies to the following organizations and entities:

1. public or private nonprofit elementary or secondary schools or public higher education institutions for free athletic events;
2. the American Red Cross for blood supply programs; and
3. local, state, or federal government agencies.

The act authorizes him to allow military organizations and agricultural or other associations receiving state aid to lease or rent under the same conditions. Under prior law, these entities were charged no more than the cost of maintaining the facilities during the rental period.

The act also prohibits the adjutant general from leasing or allowing a military facility to be used at a reduced rate. Under prior law, the prohibition applied only to certain athletic contests and other entertainment.

JOINT MILITARY AND VETERANS' GROUP FACILITY USAGE

Prior law allowed units of the state's armed forces (e.g., National Guard) and veterans' organizations that are jointly using a military facility to use other portions of the facility that are usually included when a facility is leased, subject to certain conditions and terms (e.g., fees). The act instead allows them to use the facilities' common areas. As under existing law, it also allows them to access the drill shed when they are using a military facility.

The act eliminates requirements that these joint groups be (1) allowed to lease a facility for free until midnight on their regular meeting night, provided they do not charge admission, and (2) charged the military rate (not statutorily defined) after midnight, for entertainment events, or whenever they charge admissions

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PA 16-68—sHB 5416
Veterans' Affairs Committee
Labor and Public Employees Committee

AN ACT CONCERNING THE LABOR DEPARTMENT AND CERTAIN PROFESSIONAL OPPORTUNITIES FOR VETERANS, IMPROVING CUSTOMER SERVICE TO VETERANS BY THE ADVOCACY AND ASSISTANCE UNIT OF THE DEPARTMENT OF VETERANS' AFFAIRS AND STRENGTHENING COORDINATION BETWEEN THE DEPARTMENT OF VETERANS' AFFAIRS AND MUNICIPALITIES

SUMMARY: This act requires the labor commissioner to establish a special operations resource network as a clearinghouse for veterans and armed forces members who, as part of their military training, acquired knowledge, experience, or skills most compatible with certain professional opportunities.

The act expands the responsibilities of the Department of Veterans' Affairs advocacy and assistance unit, generally to conform to current practice. It charges the veterans' affairs commissioner with requiring nursing home and assisted living facility administrators to notify the unit every six months about new residents who are veterans and consent to the release of this information, and it requires the unit to use the information to develop an annual visiting schedule for veteran service officers (VSOs).

The act also requires the veterans' affairs commissioner, annually, to electronically notify chief executive officers of municipalities that do not have a local veterans' advisory committee about their responsibility to designate a municipal employee to serve as a service contact person for veterans. It requires, rather than allows, the designee to complete training within a specified time period.

EFFECTIVE DATE: October 1, 2016

DATABASE ESTABLISHMENT

The act requires the labor commissioner, in consultation with the adjutant general and veterans' affairs commissioner, to develop a database that categorizes veterans and armed forces members, including National Guard members, based on their military training and cross-reference the database information against certain professional opportunities to match participants with any such opportunity.

Armed forces members and veterans discharged or released from active service in the armed forces under conditions other than dishonorable may apply to be included in the database by submitting evidence of their military training that describes the particular knowledge, experience, or skill set acquired. Veterans must also submit their military discharge document or a certified copy of it. The labor commissioner must evaluate applications and categorize applicants in the database. He also must update the database weekly and publish it on the Labor Department's website.

Anyone interested in hiring someone from the database must contact the Labor Department through a dedicated telephone number, and the department must facilitate contact between the parties.

ADVOCACY AND ASSISTANCE UNIT DUTIES

Development of Outreach Plan

The act requires the advocacy and assistance unit to develop a written outreach plan that identifies (1) strategies for reaching out to veterans and their spouses, relatives, and eligible dependents to help them claim veterans' services or benefits and (2) to the extent possible, specific events and other opportunities to provide such help in cases where the unit sponsors or participates in providing the assistance.

The unit head and each VSO must electronically track information on outreach conducted or attended by the unit, including the title or type of outreach and the number of veterans or their spouses, relatives, or eligible dependents who received substantive services or referrals.

The unit must update the plan as necessary to improve the efficacy of its outreach efforts.

Tracking Veterans in Nursing Homes and Assisted Living Facilities

Prior law required the veterans' affairs commissioner to conduct interviews in nursing homes and hospitals to determine the number of veterans admitted and the benefits these veterans were receiving and were entitled to receive. Under the act, the commissioner must, instead, require nursing home and assisted living facility administrators to notify the unit every six months, beginning by April 1, 2017, of any new resident (i.e., one not previously reported to the unit) who is a veteran or veteran's spouse, relative, or eligible dependent, provided the resident consents to the release of this information.

The act requires the unit to use the information to develop an annual visiting schedule for each VSO. The unit must compile any information collected from the visits and provide quarterly reports to the department's board of trustees. The reports must include (1) concerns raised by veterans or their spouses, relatives, or eligible dependents (summarized by type, frequency, and resolution); (2) petitions filed by such individuals and received by the commissioner for the four preceding months; and (3) copies of any such petitions.

Municipal Veterans' Service Contact Person

By law, municipalities may, jointly or separately, establish a local veterans' advisory committee to perform specified duties on behalf of veterans. Any municipality that has not established its own independent committee and does not otherwise provide funding for a VSO must designate a municipal employee to serve as a veterans' service contact person. The act requires the veterans' affairs commissioner, annually, to electronically notify the chief executive officer of any such municipality of his or her duty to make the designation. The chief executive officer, within 30 days after receiving the notification, must submit the name and email address of the designated employee to the advocacy and assistance unit.

The act also requires, rather than allows, the designee to complete an advocacy and assistance unit training program. It requires the unit to conduct training at least twice per year instead of annually, and it specifies that the training must include (1) a summary of state and federal services and benefits, (2) the duties the service contact persons must perform, and (3) any assistance with the duties unit staff may provide to the contact person. Any contact person designated (1) before July 1, 2016 must complete the training before January 1, 2017 and (2) on or after July 1, 2016 must complete the training within one year of designation. Once the training is completed, the contact person may electronically receive any new or updated training information from the unit and cannot be required to complete any other such training course.

PA 16-109—HB 5356
Veterans' Affairs Committee
Public Health Committee

AN ACT CONCERNING VETERANS' HEALTH RECORDS

SUMMARY: This act prohibits certain health care providers and institutions from charging their patients, or the patients' attorneys or authorized representatives, for copies of all or parts of any medical records necessary for supporting a claim or appeal relating to any of the provisions authorized under federal or state veterans statutes. A request for records must include documentation of the claim or appeal and the providers and institutions must furnish such records within 30 days of the written request.

The act applies to licensed health care institutions (e.g., hospitals, nursing homes, and home health care agencies) and various licensed and certified providers (e.g., emergency medical services personnel, physicians, chiropractors, naturopaths, podiatrists, and dentists).

EFFECTIVE DATE: Upon passage

PA 16-110—sHB 5359
Veterans' Affairs Committee
Government Administration and Elections Committee

AN ACT CONCERNING STATE MILITARY CONSTRUCTION PROJECTS

SUMMARY: This act allows the Military Department to take control of and supervise more expensive building construction projects than authorized under prior law. By law, the Department of Administrative Services (DAS) commissioner has control and supervision over most building construction projects undertaken on behalf of most other state agencies, including those remodeling, altering, repairing, or enlarging facilities that cost over $500,000, while most other state agencies have control and supervision of those under this threshold. The act increases this threshold for the Military Department from $500,000 to $2 million.

The act also eliminates a requirement that the Military Department receive DAS approval before beginning capital improvements. It requires the Military Department to comply with the state's competitive bidding requirements if a project will cost more than $500,000.

By law, the DAS commissioner may compile a list and enter into "on-call contracts" (see BACKGROUND) with architects, professional engineers, and construction administrators for certain building projects the Military Department operates and controls. The act allows the adjutant general to perform these functions under the same conditions as the DAS commissioner. The projects must be part of a program that includes multiple projects involving the planning, design, construction, repair, improvement, or expansion of specified buildings, facilities, or site improvements. The work must (1) be of a repetitive nature, (2) share a common funding source that imposes particular requirements, or (3) be significantly facilitated and completed using the same design professional or construction manager.

The act also makes minor, technical, and conforming changes.
EFFECTIVE DATE: Upon passage

BACKGROUND

On-Call Contract

An on-call contract defines a broad range of consultant services and is generally valid for two to three years. An on-call contract is not connected to a specific project; rather, DAS issues task letters to firms with on-call contracts that identify a specific scope of services to be performed and the fee for those services.

PA 16-111—HB 5360
Veterans' Affairs Committee

AN ACT CONCERNING THE ADJUTANT GENERAL

SUMMARY: This act modifies one of the qualifications for appointment as adjutant general of the Connecticut National Guard, requiring that at least 10 of the 15 required years of commissioned service in the U.S. Armed Forces be in the National Guard. It also makes technical changes, including specifying the minimum officer grade (O-5), rather than the minimum rank, that qualifies a person to serve as adjutant general.
EFFECTIVE DATE: Upon passage

PA 16-153—SB 21
Veterans' Affairs Committee
Judiciary Committee

AN ACT CONCERNING THE MILITARY DEPARTMENT'S NONDISCRIMINATION LAWS

SUMMARY: This act broadens the scope of the law that bars discrimination in the state's armed forces to more closely align with the Commission on Human Rights and Opportunities' anti-discrimination laws and federal policies relating to the armed forces.

Prior law prohibited denying membership or promotion in the state's armed forces based on race, creed, or color, and it also prohibited the state's armed forces from forming units or assigning duties or accommodations that resulted in segregation based on these criteria. The act, in both cases, eliminates creed and additionally prohibits discrimination based on religion, national origin, sex, sexual orientation, and gender identity or expression. It subjects the provision on membership and promotion to federal laws or regulations governing National Guard membership, and it allows assignment of separate types of duties and accommodations consistent with any federal military regulation and service policy.

The state's armed forces consist of the organized militia, the Connecticut National Guard, naval militia, and Marine Corps branch of the naval militia, whenever organized (CGS § 27-2).

EFFECTIVE DATE: Upon passage

PA 16-164—SB 201
Veterans' Affairs Committee

AN ACT CONCERNING THE POSTHUMOUS AWARDING OF THE CONNECTICUT WARTIME SERVICE MEDAL

SUMMARY: This act expands the state's posthumous award program for veterans who served in time of war, as defined in law, and died on or after January 1, 2000. It extends the program to war veterans who died on or after November 12, 1918 (the day after World War I ended) and before January 1, 2000.

By law, the award, which is a ribbon and medal, is made by the veterans' affairs commissioner in conjunction with the adjutant general, within available Military Department budgetary resources. To qualify for the award, the veteran must have been a state resident when called to active duty.

EFFECTIVE DATE: Upon passage

PA 16-165—SB 204
Veterans' Affairs Committee

AN ACT ELIMINATING SIMULTANEOUS MEMBERSHIP IN MULTIPLE UNITS OF THE STATE MILITARY

SUMMARY: This act repeals the (1) requirement that the Governor's Guards be filled by voluntary enlistments and (2) specific authorization that enlistments in the Governor's Guard may be made from the National Guard. Federal law prohibits simultaneous membership in a reserve component of the U.S. Armed Forces, including the National Guard, and in a unit of a state defense force, such as the Governor's Guards (32 U.S.C. § 109(e)).

EFFECTIVE DATE: Upon passage

PA 16-166—SB 207
Veterans' Affairs Committee

AN ACT CONCERNING AWARD OF THE MEDAL OF ACHIEVEMENT

SUMMARY: This act expands the Connecticut National Guard's medal of achievement award program, which gives awards to guard members who distinguish themselves through outstanding achievement or meritorious service while performing any state military service. A board consisting of the adjutant general and two officers he appoints makes the awards. The act allows the award to be made to any member of (1) the state's armed forces, instead of just Connecticut National Guard members; (2) the U.S. Armed Forces; or (3) another state's armed forces. The act also makes a technical change.

The state's armed forces consist of the National Guard, organized militia, naval militia, and Marine Corps branch of the naval militia, whenever organized (CGS § 27-2).

EFFECTIVE DATE: Upon passage

PA 16-167—sSB 208
Veterans' Affairs Committee

AN ACT CONCERNING TECHNICAL AND CONFORMING CHANGES AND UPDATES TO THE DEPARTMENT OF VETERANS AFFAIRS STATUTES

SUMMARY: This act makes minor, technical, and conforming changes to the veterans statutes, including changes affecting the names of the Department of Veterans' Affairs and its advocacy and assistance unit, which the act designates as an office.

The act conforms the law to practice by splitting the statutory definition of Veterans Home into the "Veterans Residential Services facility" and the "Healthcare Center." Under the act, both the Veterans Residential Services facility and Healthcare Center are identified as department-maintained Rocky Hill facilities. The residential facility provides temporary and other supported residential services for qualifying veterans, and the Healthcare Center is the hospital.

The act also conforms the law to practice by extending certain benefits, such as funeral expenses for indigent veterans, to veterans who have not served in time of war.

By law, the commissioner must provide the department's board of trustees with certain information to monitor the department's performance (e.g., budget and other financial documents and program data). The act requires him to additionally provide, on a quarterly basis, the (1) Veterans Residential Services facility's bylaws, meeting minutes, and a list of veterans council officers for the previous quarter and (2) Healthcare Center's admission and discharge data.

The act also expands the commissioner's powers and duties to include preparing studies and collecting information on facilities and services available to family members of armed forces members and veterans. The commissioner already may do this for the service members' and veterans' spouses and eligible dependents.
EFFECTIVE DATE: July 1, 2016

PA 16-184—sSB 2
Veterans' Affairs Committee
Government Administration and Elections Committee

AN ACT SUPPORTING VETERAN-OWNED SMALL BUSINESSES

SUMMARY: This act increases, from 10% to 15%, the maximum price preference the Department of Administrative Services can give micro businesses owned by veterans for open market orders or contracts. A price preference is the percentage by which a bid may be reduced for purposes of awarding a contract to the lowest qualified bidder.

By law, a "micro business" is a business with gross revenue of up to $3 million in the most recently completed fiscal year. Under the act, a "veteran-owned micro business" is any micro business in which at least 51% of the ownership is held by one or more veterans.

As under existing law, a "veteran" is anyone honorably discharged or released from active service in the U.S. Armed Forces or their reserve components, including the Connecticut National Guard performing duty under Title 32 of (e.g., certain Homeland Security missions).
EFFECTIVE DATE: October 1, 2016

PA 16-191—SB 202
Veterans' Affairs Committee
Planning and Development Committee

AN ACT CONCERNING VETERANS' PROPERTY TAXES

SUMMARY: By law, certain wartime veterans or their surviving unmarried spouses are eligible for state-mandated property tax exemptions (see BACKGROUND). A municipality, with its legislative body's approval, may provide them with an additional property tax exemption if their income does not exceed a specified amount set by the Office of Policy and Management (OPM) each year (see BACKGROUND). This act increases, from $10,000 to $20,000, the amount a municipality can provide as an additional exemption. By law, a municipality may choose to exempt up to 10% of the property's assessed value instead of a dollar amount.

By law, veterans rated by the U.S. Veterans Administration (VA) as having a disability are eligible for a larger state-mandated property tax exemption than available to wartime veterans (see BACKGROUND). The act allows a municipality to provide an additional property tax exemption to these disabled veterans with the same qualifying income levels as the wartime veteran exemption. If the municipality chooses to provide the exemption for disabled veterans, the exemption must be at least $3,000 and applied to the assessed value of the veteran's property.

Lastly, the act requires municipalities to waive the interest on delinquent property taxes owed by certain active military members serving out-of-state, rather than only by those serving in Iraq or Afghanistan.

EFFECTIVE DATE: October 1, 2016, and applicable to assessment years beginning on and after that date.

DELINQUENT PROPERTY TAX WAIVER

The act requires municipalities to waive the interest on delinquent property taxes owed by certain active military members serving out-of-state, rather than only by those serving in Iraq or Afghanistan. By law, a municipality must charge 18% annual interest (1.5% per month) on delinquent property taxes. Prior law allowed municipalities, with their legislative body's approval, to waive this interest for any out-of-state military members.

The act does not limit the waiver to one year as under prior law for the Iraq and Afghanistan mandatory waiver and the optional out-of-state municipal waiver. But it requires any waived interest to be reinstated if the military member fails to pay the delinquent property tax after he or she returns from service and lives in the state for at least one year.

Under the act, the interest waiver applies to any state resident who is a member of the U.S. Armed Forces or their reserve components, has been called to active service, and who either (1) is serving outside of Connecticut on the final day the property tax is due or (2) has been residing in Connecticut for less than one year since returning to the state.

The act also repeals an obsolete provision allowing a property tax interest waiver for certain service members' spouses.

BACKGROUND

OPM Income Limits

OPM annually updates the qualifying income levels for the property tax exemption to reflect the amount of the Social Security Administration's cost-of-living adjustment. For the 2015 tax year, OPM set the income limits at $35,200 for unmarried veterans and $42,900 combined for married veterans.

Property Tax Exemption Eligibility

Veterans. The state-mandated veterans property tax exemption is available to state residents who are veterans of the U.S. Armed Forces (Army, Navy, Marine Corps, Coast Guard, and Air Force and any reserve component of these branches, including the Connecticut National Guard performing duty under Title 32 of federal law) and have served at least 90 days in a time of war, as shown in Table 1.

Table 1: Service in a Time of War

Operation	*Date*	*Service Condition*
World War II	12/07/1941-12/31/1947*	Active service during the war
Korean War	06/27/1950-01/31/1955	Active service during the war
Lebanon Conflict	07/01/1958-11/01/1958 or 09/29/1982-03/30/1984	Combat or combat-support role in Lebanon
Vietnam Era	02/28/1961-07/01/1975	Active service during the war
Grenada invasion	10/25/1983-12/15/1983	Combat or combat-support role in Grenada required
Operation Earnest Will (escort of Kuwaiti tankers flying U.S. flag in Persian Gulf)	07/24/1987-08/01/1990	Combat or combat-support role required in the operation
Panama invasion	12/20/1989-01/31/1990	Combat or combat-support role required in the invasion
Persian Gulf War	08/02/1990 until a date prescribed by the President or law	Active-service anywhere during the war (not necessarily in the Persian Gulf or in a combat role)

*Ending dates specified in CGS § 12-86 for property tax exemptions.

Additionally, World War II veterans of certain allied armed forces are also eligible if they (1) were a U.S. citizen at enlistment and received an honorable discharge or (2) have been a U.S. citizen for at least 10 years and participated in armed conflict with an enemy of the United States (CGS §§ 12-81(19) and 27-103).

Surviving Spouses. A property tax exemption is available to an unmarried surviving spouse of a deceased veteran who qualified for the state-mandated exemption described above. The deceased veteran must have died either during his or her term of service or after receiving an honorable discharge (CGS § 12-81(22)).

Veterans with Disabilities. The law provides property tax exemptions to veterans with a VA-rated disability of at least 10% (CGS § 12-81(20)). (The disability does not have to be service-related, and unlike the exemptions for non-disabled veterans, wartime service is not required to qualify.)

PA 16-192—sSB 205
Veterans' Affairs Committee

AN ACT CONCERNING WOMEN VETERANS

SUMMARY: This act establishes certain measures to help women veterans, including requiring the Department of Veterans' Affairs to develop training on ways to help and serve them with regard to certain benefits and programs. It requires the veterans' affairs commissioner to publish on the Internet (1) extensive data on women veterans and (2) content dedicated to matters of concern for women veterans.

The act also allows the department to create and release noncommercial radio and television broadcast announcements to encourage veterans in the state to participate in surveys, provide data, or enroll in the department's health registry for veterans. By law, the department may (1) establish and maintain a data registry on armed forces members who have completed a period of active service and (2) develop surveys for the members or their health care providers to voluntarily provide data during or after completing such service.

Noncommercial announcements are those that air during unsold commercial time that a broadcaster donates to a broadcasters' association and that is then made available to a state or federal government agency or nonprofit organization at a reduced rate to promote specific public service programs or campaigns.

The act also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2016

WOMEN VETERANS

Training

Under the act, the Department of Veterans' Affairs veterans' advocacy and assistance unit head must develop a training module on (1) assisting and serving women veterans regarding state or federal services or benefits and (2) identifying and advising them of community or nonprofit programs that assist and serve them.

The unit head must hold, and provide instruction for, an annual training session for each veterans' services officer and any veterans' service contact person or representative from an Operation Academic Support for Incoming Service (OASIS) center at an in-state public institution of higher education. (OASIS centers provide programming and services focused on outreach and assistance to veterans enrolled at such institutions.)

The act requires veterans' service officers, and authorizes veterans' service contacts, to complete this training.

Publish Data and Content on the Internet

The act requires the veterans' affairs commissioner to publish on the Internet extensive and reliable data on women veterans, including federal and state services and benefits, current challenges, and notable women veterans and their contributions.

It also requires the Department of Veterans' Affairs to publish on the Internet content dedicated to matters of concern for women veterans. This includes any relevant information, links to services and benefits for which women veterans may be eligible, and contact information for the veterans' advocacy and assistance unit for the purpose of providing front-line support of and assistance with women veterans issues.

PA 16-195—sSB 262
Veterans' Affairs Committee
Labor and Public Employees Committee

AN ACT CONCERNING THE CONNECTICUT FAMILY AND MEDICAL LEAVE ACT AND ACTIVE DUTY MILITARY SERVICE

SUMMARY: This act expands the circumstances under which certain employees may take time off from work and, after a specified time period, return to work without losing benefits.

The act requires the state and private employers with 75 or more employees to allow employees to take unpaid time off for a qualifying emergency, as determined in regulations adopted by the U.S. labor secretary, because the employee's spouse, child, or parent is on, or has been notified of an impending call or order to, active duty in the armed forces (see BACKGROUND).

Under the act, in such circumstances, (1) private employees may take up to 16 workweeks of time off, which may be unpaid, during any two-year period (see BACKGROUND) and (2) state employees may take up to 24 workweeks of unpaid time off within a two-year period. These employees are already allowed under existing law to take such time off for other reasons (e.g., certain family-related matters, such as births and other health issues).

The act maintains existing law's employee eligibility criteria for any such time off. A private employee must have been employed by the employer for at least 12 months and worked at least 1,000 hours during that time period (CGS § 31-51kk). State employees must be permanent, which means they must hold a position in the (1) classified service under a permanent appointment or (2) unclassified service and serve in the position for more than six months, except for employees in federally funded positions as part of any public service employment, on-the-job training, or work experience program (CGS § 5-196).

EFFECTIVE DATE: Upon passage

BACKGROUND

Armed Forces

State law defines the "armed forces" as the U.S. Army, Navy, Marine Corps, Coast Guard, and Air Force and any reserve component of these branches, including the Connecticut National Guard performing duty under Title 32 of federal law (e.g., performing certain Homeland Security missions).

Private Employee Time-Off Calculations

By law, eligible private employees may take up to 16 workweeks of time off during a two-year period, which may be unpaid. The employer may choose to calculate the time off in any of four ways:

1. consecutive calendar years,
2. any fixed 24-month period,
3. a 24-month period measured forward from an employee's first day of leave, or
4. a rolling 24-month period measured backward from an employee's first day of leave (CGS § 31-51ll).

PA 16-1, May 2016 Special Session—SB 504
Emergency Certification

AN ACT CONVEYING CERTAIN PARCELS OF STATE LAND

SUMMARY: This act does the following:

1. authorizes (a) conveyances of state property in Beacon Falls, Manchester, and Middletown; (b) a lease of state property in Greenwich; and (c) property exchanges in Glastonbury and Waterbury;
2. amends (a) prior conveyances in New Britain, New Haven, and Southbury and (b) an existing lease of state property in Ridgefield; and
3. allows the Department of Housing (DOH) commissioner to dispose of a property owned by a nonprofit organization that received financial assistance from the Community Housing Land Bank and Land Trust Fund.

EFFECTIVE DATE: Upon passage

§§ 1, 4, 5 & 7 — NEW CONVEYANCES AND LEASE

The act authorizes the following conveyances and lease of state property from the agencies to the towns named for the purposes specified:

1. a conveyance from the Board of Regents for Higher Education to Manchester (.314 acre at no cost, for highway and traffic purposes);
2. a conveyance by the Department of Mental Health and Addiction Services to Middletown (the Shepard Home and the parcel containing it for administrative costs, to be used for permanent supportive housing with a focus on veterans (see below));
3. a conveyance from the Department of Transportation (DOT) to Beacon Falls (approximately .22 acre for administrative costs, to be used for open space; DOT must determine the precise area to be conveyed); and
4. a lease by DOT to Greenwich for the Bruce Museum (.35 acre under terms to be negotiated by DOT and the town, for open space and public parking for the museum).

The conveyances and lease are subject to the State Properties Review Board's (SPRB) approval within 30 days after the board receives the agency's proposed agreement. The Greenwich lease is also subject to Federal Highway Administration approval. Each property remains under the care and control of the state agency until the conveyance or lease is completed. Except as noted below for Middletown, the conveyances and lease revert to the state if the recipient (1) does not use the property for the specified purpose, (2) does not retain ownership of the entire property (in the case of conveyed property), or (3) leases all or part of the property.

Under the act, the Middletown conveyance is contingent upon the city entering into an agreement with an organization to convey to it the Shepard Home and the parcel containing it. The agreement must require the recipient organization to assume all costs and liabilities relating to separating the parcel and buildings from any connected mechanical systems, including water, heating, and cooling systems but excluding sewerage systems. The parcel and any building on it revert to the state if at any point they are used for a purpose other than permanent supportive housing with a focus on veterans.

§§ 3, 8 & 13 — EXCHANGES

Glastonbury (§§ 3 & 13)

The act allows the Department of Developmental Services (DDS) commissioner to enter into an agreement with Carpionato Group, LLC under which Carpionato constructs or obtains a fully accessible, code-compliant community living arrangement for six or fewer individuals with intellectual disability. Carpionato must convey the living arrangement to DDS upon the commissioner's written affirmation that the arrangement complies with the agreement and the act.

Under the act, DDS may, in return, convey to Carpionato a .75-acre parcel in Glastonbury, and the structures on it, by July 1, 2019. The exchange is subject to SPRB's approval within 30 days after the board receives the agency's proposed agreement. The act prohibits DDS from conveying the parcel after July 1, 2019.

The act also repeals an obsolete provision that allowed DDS to enter into a similar agreement with a different private entity concerning the same parcel of land.

Waterbury (§ 8)

The act requires DOT to convey to Waterbury a 2.87-acre parcel in exchange for (1) a .87-acre parcel and two drain easements and (2) administrative costs. It also requires DOT to retain a .52-acre easement for transportation purposes on the parcel it conveys to Waterbury. The exchange of the parcels (1) must be made simultaneously and each in consideration of the other and (2) is subject to SPRB's approval within 30 days of receiving an agreement from DOT.

§§ 2, 6 & 9-11 — AMENDED CONVEYANCES AND LEASE

Southbury (§ 2)

The act amends a conveyance, passed in 2013, of a 45-acre parcel from the Department of Administrative Services (on behalf of DDS) to Southbury. Under existing law, the town must use the parcel for housing purposes but may lease it to a nonprofit organization for senior housing. The act allows the nonprofit lessee to sublease the parcel to another entity formed to develop, construct, and manage low-income senior housing. The sublease must be for the purpose of enabling state financing or allocating certain federal tax credits (e.g., Low Income Housing Tax Credits) and subsequent investment.

New Britain (§ 6)

The act amends a conveyance, first passed in 2012, of a .32-acre parcel from the Department of Economic and Community Development to New Britain for economic development purposes. Under prior law, New Britain had to transfer, to the state treasurer for deposit in the Special Transportation Fund, any funds it received from selling or leasing the parcel. The act instead requires that these funds go to the General Fund.

New Haven (§§ 9-10)

The act amends a conveyance, passed in 1992, of a .33-acre parcel from the state to the Fair Haven Community Health Center in New Haven. It eliminates a provision requiring that the parcel revert to the state if it is not used for health care services. It requires the (1) state, notwithstanding a deed restriction, to release the reverter right and (2) state treasurer to execute and deliver a quit claim deed releasing the right.

Ridgefield (§ 11)

The act amends a lease agreement, first passed in 2009, between the Department of Energy and Environmental Protection and Ridgefield for a 2.146-acre parcel to be used for recreational purposes. It allows the town to install and maintain lighting on the athletic field located on the parcel.

§ 12 — COMMUNITY HOUSING LAND BANK AND LAND TRUST FUND

The act allows the DOH commissioner to have the state assume control of a property owned by a nonprofit organization that received financial assistance from the Community Housing Land Bank and Land Trust Fund (see *Background*). To do so, DOH must first determine, by January 1, 2017 and based on a full examination of the circumstances, that the nonprofit organization that owns the property is not capable of developing or managing it. Upon making such a determination, the commissioner may have the state assume control of the property through foreclosure, voluntary transfer, or other similar voluntary or compulsory action.

With the approval of the Office of Policy and Management secretary, the commissioner may take whatever steps are necessary to convey the property, including (1) modifying or removing deed restrictions before conveyance, (2) transferring the property to the low- or moderate-income families that occupy the housing units, or (3) establishing terms or conditions for the conveyance. Under the act, DOH may authorize the conveyance of only one property.

Background

Community Housing Land Bank and Land Trust Fund. DOH uses this fund to provide grants and loans to nonprofit organizations that develop and maintain affordable housing. The nonprofits may transfer the title of structures on the property to other individuals. However, the new owners must use the structures for affordable housing. If a nonprofit receiving financial support from the fund does not maintain affordable housing, DOH may transfer the property to the municipality where the property is located. The municipality must then use the property for a DOH program.

PA 16-2, May 2016 Special Session—SB 501
Emergency Certification
AN ACT ADJUSTING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017 (ONE PROVISION VETOED)

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§§ 41 & 46 — TRANSFER OF GRANT PAYMENTS FROM MRSA TO NEW MUNICIPAL REVENUE SHARING FUND (MRSF)
Transfers the funding source for specified municipal grant programs for FY 17 from MRSA to MRSF

§ 42 — MOTOR VEHICLE PROPERTY TAX GRANTS AND MUNICIPAL REVENUE SHARING GRANTS
Eliminates motor vehicle property tax grants for FY 17 and generally reduces municipal revenue sharing grant amounts for that year; modifies motor vehicle property tax grant formula beginning FY 18

§ 43 — SUPPLEMENTAL PILOT GRANTS
Reduces supplemental PILOT grant amounts for specified municipalities and districts

§ 45 — SALES TAX DIVERSION TO SPECIAL TRANSPORTATION FUND (STF)
Reduces the amount of sales tax revenue diverted to the STF for FY 17

§§ 47-53 — REVENUE ESTIMATES
Modifies previously adopted revenue estimates for FY 17; adopts revenue estimate for MRSF

§§ 1-8 — FY 17 APPROPRIATIONS CHANGES

Modifies FY 17 appropriations in seven appropriated funds and appropriates funds to a new Municipal Revenue Sharing Fund

The act modifies FY 17 appropriations for state agency operations and programs in seven of the state's appropriated funds as shown in Table 1. It also appropriates funds to the newly established Municipal Revenue Sharing Fund (see § 41 below).

Table 1: Changes in FY 17 Net Appropriations by Fund

§	Fund	FY 17 Net Appropriation		
		Prior Law	Act	Increase or (Reduction)
1	General Fund	$ 18,711,158,675	$ 17,886,469,644	($ 824,689,031)
2	Special Transportation Fund	1,496,138,933	1,463,408,052	(32,730,881)
3	Mashantucket Pequot and Mohegan Fund	61,779,907	58,076,612	(3,703,295)
4	Banking Fund	29,889,297	30,066,200	176,903
5	Insurance Fund	81,351,940	80,448,042	(903,898)
6	Consumer Counsel and Public Utility Control Fund	26,953,593	27,308,485	354,892
7	Workers' Compensation Fund	26,982,874	26,917,168	(65,706)
8	Municipal Revenue Sharing Fund	N/A	185,000,000	185,000,000

EFFECTIVE DATE: July 1, 2016

§ 9 — BIOMEDICAL TRUST FUND ALLOCATIONS

Allocates fund resources to the Department of Public Health, UConn, and other institutions for health research and programs

The act requires approximately $7.6 million of the unobligated Biomedical Research Trust Fund resources that remain after the General Fund transfer (see § 9 below) to be spent for the purposes shown in Table 2.

Table 2: FY 16 Unobligated Biomedical Research Trust Fund Resources Allocated in FY 17 by Purpose

Entity	*Amount*	*FY 17 Purpose*
University of Connecticut Health Center	$650,000	Melanoma research
	650,000	Bladder Cancer Institute
Yale School of Medicine	1,300,000	Children's Diabetes Research Program
Griffin Hospital	1,300,000	Multiple Sclerosis Treatment Center
Department of Public Health (DPH)	2,339,428	Children's health initiatives
	64,675	Childhood lead poisoning programs
	1,037,429	Programs for children with special health care needs
	237,895	Genetic diseases programs

EFFECTIVE DATE: July 1, 2016

§§ 9, 12-14, 19, 27-30 & 44 — TRANSFERS TO THE GENERAL FUND

Transfers funds from various sources to the General Fund for FY 17

As Table 3 shows, the act transfers $33 million from various sources to the General Fund in FY 17.

Table 3: Transfers to the General Fund for FY 17

§	*Source*	*Amount*
9	Biomedical Research Trust Fund	$2,000,000
12	Community Investment Account	1,000,000
13	Emissions Enterprise Fund	1,600,000
14	Betting Taxes Account	500,000
19 (a)	Tobacco and Health Trust Fund	700,000
27	Municipal Video Competition Trust Account	2,000,000
28	School Bus Seat Belt Account	2,000,000
29	Individual Development Account Reserve Fund	200,000
30	Wage and Workplace Standards—Penalty Fund	200,000
44	Municipal Revenue Sharing Account (MRSA) (by June 30, 2016)	22,800,000

EFFECTIVE DATE: July 1, 2016, except the MRSA transfer is effective upon passage.

§§ 10 & 11 — TOBACCO SETTLEMENT FUND TRANSFERS

Redirects funds in FYs 16-18 from scheduled Tobacco Settlement Fund transfers to the General Fund

The act redirects $4 million of annual, scheduled Tobacco Settlement Fund (TSF) transfers to the General Fund in FYs 16-18 for a total of $12 million, as Table 4 shows.

Table 4: Changes in TSF Transfers in FYs 16-18

FY	*Transfers from TSF under Prior Law*	*Redirected Transfers from TSF under the Act*
16	After the required General Fund transfers, the remainder to the Tobacco Health and Trust Fund	After the required General Fund transfer, $4 million of the remainder to the General Fund to be carried forward to FY 17 and then, if any funds remain, to the Tobacco and Health Trust Fund
17	$4 million to the Biomedical Research Trust Fund	$4 million to the General Fund
18	$4 million to the Biomedical Research Trust Fund	$4 million to the General Fund

EFFECTIVE DATE: Upon passage, except FYs 17 and 18 transfers take effect July 1, 2016.

§§ 15, 24 & 25 —FUNDS CARRIED FORWARD

Carries forward certain agencies' unspent funds and requires them to be used for different purposes in FY 17

The act carries forward various unspent balances from prior year's appropriations and requires them to be used for different purposes in FY 17, rather than lapsing at the end of the fiscal year (see Table 5).

Table 5: Funds Carried Forward to FY 17

§	Agency	Prior Purpose	New FY 17 Purpose	Amount
15	Department of Rehabilitative Services	Part-time interpreters	Personal services	Up to $200,000
24	Secretary of the State	Commercial Recording Division	(1) Reprogramming the CONCORD business database to comply with changes to the LLC statutes (2) Supporting the E-Regulations system	300,000
25 (a)	Legislative Management	Other expenses	National Center for Higher Education Management Systems Contract	Up to 7,500
25 (b)	Legislative Management	Other expenses	Various engineering and architectural studies	Up to 264,034

EFFECTIVE DATE: July 1, 2016

§ 16 — REDUCTIONS FOR MUNICIPAL HEALTH DEPARTMENTS AND HEALTH DISTRICTS

Requires pro rata payment reductions to municipal and district health departments

The act requires the public health commissioner to reduce, on a pro rata basis, payments to municipal and district health departments by $517,114. To receive state funding, existing law requires (1) municipalities to have a full-time health department and a population of at least 50,000 and (2) health districts to have a total population of at least 50,000 or serve three or more municipalities, regardless of their combined total population.
EFFECTIVE DATE: July 1, 2016

§ 17 — SAFE DRINKING WATER REPORT

Requires DPH report on costs of administering safe drinking water standards

The act requires the public health commissioner to prepare a report on how much it will cost DPH to continue administering its safe drinking water standards for public drinking water. He must prepare this report in consultation with the Water Planning Council and submit it to OPM and the Appropriations; Public Health; and Finance, Revenue and Bonding committees by January 15, 2017.

At a minimum, the report must (1) project the costs of administering the standards for FYs 18-22, (2) project the state and federal funds available to support DPH's efforts to keep drinking water safe, and (3) recommend fees or other methods to sustain those efforts.
EFFECTIVE DATE: July 1, 2016

§§ 18 & 19 — TOBACCO AND HEALTH TRUST FUND

Eliminates funding from the fund for asthma-related programs and changes the funding recipient for improving services for people with autism

The act eliminates a FY 17 $500,000 transfer from the Tobacco and Health Trust Fund to DPH for various asthma-related programs. It also makes DSS, rather than DDS, the recipient of a FY 17 $750,000 transfer for implementing study recommendations about services for people with autism.
EFFECTIVE DATE: July 1, 2016

§ 20 — EDUCATION COST SHARING FUNDING

Reduces FY 17 education cost sharing grants

The act reduces, from $2,069.7 million to $2,037.6 million, the total amount of education cost sharing (ECS) grants for FY 17.
EFFECTIVE DATE: July 1, 2016

§§ 21 & 22 — PAYMENTS IN LIEU OF TAXES

Reduces FY 17 state PILOTS for state-owned property and hospitals and private colleges

The law exempts state-owned property from local property taxes, but it requires the state to reimburse cities, towns, and boroughs for a specified portion of the revenue loss (i.e., payments in lieu of taxes or "PILOTs"). The act reduces, from $83.6 million to $66.7 million, the total amount of FY 17 PILOTs for state-owned property. In doing so, the act supersedes the law requiring proportionate reductions when there are insufficient funds for each grant at the required amount. Under that law, each reduction must equal or exceed the municipality's FY 2015 reimbursement rate.

The law also exempts hospitals and private colleges from local property taxes, but it similarly requires the state to reimburse municipalities and special taxing districts for a specified portion of the revenue loss. The act reduces, from $125.5 million to $115.0 million, the total amount of FY 17 PILOTs for hospital- and college-owned property, thereby superseding the requirement for proportionate reductions described above.
EFFECTIVE DATE: July 1, 2016

§§ 23 — MASHANTUCKET PEQUOT AND MOHEGAN FUND GRANTS

Reduces the total amount of FY 17 Mashantucket Pequot and Mohegan Fund grants to municipalities

The act reduces, from $61.8 million to $58.1 million, the total amount of FY 17 Mashantucket Pequot and Mohegan Fund grants to municipalities and specifies each municipality's grant amount. It produces this $3.7 million reduction by superseding the statutory formulae for calculating each municipality's grant amount.
EFFECTIVE DATE: July 1, 2016

§ 26 — ARTS AND TOURISM GRANTS

Requires OPM to implement the arts and tourism grants lapse proportionately

The act requires the OPM secretary, in implementing the arts and tourism lapse, to reduce proportionally the grants made by the Department of Economic and Community Development for tourism, arts, and youth development.
EFFECTIVE DATE: July 1, 2016

§§ 31 & 32 — FY 16 DEFICIENCY APPROPRIATIONS AND REDUCTIONS

Appropriates funds to cover deficiencies in certain agencies and programs in FY 16 and reduces other FY 16 appropriations by the same amount

The act (1) appropriates a total of $66,365,000 from the General Fund to cover deficiencies in various state agencies and programs for FY 16, as shown in Table 6, and (2) reduces appropriations to various state agencies and programs for FY 16 by the same amount, as shown in Table 7.

Table 6: General Fund Appropriations for FY 16 Agency Deficiencies

Agency	*Purpose*	*Amount*
Office of the Chief Medical Examiner	Personal Services	$ 225,000
	Other Expenses	240,000
Office of Early Childhood	Early Intervention	6,300,000

Agency	*Purpose*	*Amount*
Public Defender Services Commission	Personal Services	2,500,000
	Assigned Counsel--Criminal	2,000,000
	Expert Witness	100,000
State Treasurer	Debt Service	35,000,000
State Comptroller	Adjudicated Claims	20,000,000
TOTAL		66,365,000

Table 7: FY 16 Agency Reductions

Agency	*Purpose*	*Amount*
Office of Legislative Management	Personal Services	(2,000,000)
Department of Developmental Services	Personal Services	(11,800,000)
Department of Mental Health and Addiction Services	Personal Services	(5,565,000)
State Comptroller	Unemployment Compensation	(1,900,000)
	Higher Education Alternative Retirement System	(6,500,000)
	Employers Social Security Tax	(8,600,000)
	Retired State Employees Health Service Cost	(30,000,000)
TOTAL		(66,365,000)

EFFECTIVE DATE: Upon passage

§ 33 — FINANCE ADVISORY COMMITTEE APPROVAL OF INTRA-AGENCY FUND TRANSFERS

Changes the threshold triggering the Finance Advisory Committee's required approval for intra-agency fund transfers

The act changes the threshold triggering the Finance Advisory Committee's (FAC) required approval before an agency can transfer funds from one appropriation to another. The law allows the governor to make such transfers on an agency's behalf if the original appropriation is insufficient to cover the necessary costs, but it requires the FAC's approval for transfers exceeding specified limits. The act requires the FAC's approval for transfers exceeding $175,000 or 10% of the appropriated amount, whichever is less. Under prior law, the limits were the lesser of $50,000 or 10% of the appropriated amount.

EFFECTIVE DATE: Upon passage

§§ 34-36 & 54—CHANGES TO BUDGETED LAPSES

Modifies FY 17 budgeted savings and lapses and limits the amount by which OPM may reduce certain allotments to achieve the savings

Targeted Savings

The act allows the OPM secretary to reduce FY 17 executive branch allotments in order to achieve the required General Fund savings of $68,848,968 (see § 1 above). It specifies that this authorization does not permit him to reduce any allotments to the (1) Department of Education for education equalization grants or (2) Department of Social Services for hospital supplemental payments.

The act also limits the amount by which the OPM secretary may reduce higher education allotments. Specifically, the reductions are capped at (1) two percent of any allotments for Connecticut State University System, UConn, or UConn Health Center and (2) one percent of any allotment for the regional community-technical colleges.

Unallocated Lapse

The act imposes limitations on the OPM secretary's authority to reduce FY 17 allotments to achieve the executive branch unallocated lapse. Specifically, it prohibits him from (1) reducing municipal aid allotments and (2) causing, when reducing any allotment, the reduction of any appropriation by more than one percent. It also changes the amounts by which the OPM secretary may reduce executive, legislative, and judicial branch allotments in FY 17 to reflect the lapse amounts listed in section one.

Eliminated Lapses

The act repeals the authorizing language for the FY 17 lapses that were eliminated in section one of this act. Table 8 shows the name of the lapse, the affected branch, and the amount by which the OPM secretary was previously authorized to reduce allotments in order to achieve these lapses.

Table 8: Eliminated FY 17 Lapses

Eliminated Lapse	*Affected Branch*	*Previously Authorized Lapse Amount*
General Lapse	Executive	$ 9,678,316
	Legislative	39,492
	Judicial	282,192
Statewide Hiring Reduction	Executive	30,920,000
	Legislative	770,000
	Judicial	3,310,000
General Employee Lapse	N/A	12,816,745

Section one of this act also repeals the budgeted lapses for Overtime Savings ($10,500,000) and the Municipal Opportunities and Regional Efficiencies (MORE) program ($20,000,000). But the act does not repeal provisions requiring the OPM secretary to recommend reductions in (1) overtime expenditures for FY 17 in order to save $10,500,000 (PA 15-244, § 41) and (2) municipal aid to save $20,000,000 (PA 15-244, § 12). (The governor vetoed the portion of this act eliminating the MORE program lapse.)

EFFECTIVE DATE: Upon passage

§§ 37-39 — PRIORITY SCHOOL DISTRICT FUNDING AND SUPPLEMENTAL GRANTS

Reduces FY 17 priority school district (PSD) funding and makes permanent several one-time FY 15 supplemental PSD grant allocations

The act reduces, from $38.3 million to $35.8 million, the priority school district (PSD) program's FY 17 general funding. It does not change the FY 17 PSD grant amounts for extended school building hours or accountability programs. PSD grants, by law, go to school districts with high levels of student poverty and low standardized test scores.

The act makes permanent several one-time FY 15 PSD supplemental grant allocations. Prior law allocated $2.6 million annually for these grants until FY 15. The act makes this annual allocation permanent.

It also makes permanent a one-time FY 15 $2.9 million annual supplemental allocation that, by law, the State Department of Education allocates to each PSD in proportion to its regular PSD grant amount. The act also allows PSDs to carry forward into FY 17 unexpended FY 16 grant funds they received after May 2016.

By law, Norwalk receives a PSD grant each year. PA 15-5, June Special Session, (§ 335) increased the grant to $2,200,070 for FY 15 alone. The act increases the FY 15 grant to $2,270,000 and makes it permanent for each subsequent fiscal year.

The act also deletes an obsolete provision.

EFFECTIVE DATE: Upon passage, except the provision reducing PSD funding for FY 17 takes effect July 1, 2016.

§ 40 — SALES TAX DIVERSION TO MUNICIPAL REVENUE SHARING ACCOUNT (MRSA)

Eliminates the sales tax revenue diversion to MRSA for FY 17

Prior law required the Department of Revenue Services (DRS) commissioner to direct to MRSA (1) 4.7% of sales tax revenue from May 2016 through April 2017, (2) 6.3% for May and June 2017, and (3) 7.9% for July 2017 and thereafter. The act terminates the 4.7% diversion by June 30, 2016, eliminates the 6.3% diversion, and retains the 7.9% diversion.

The act also requires the DRS commissioner to transfer to MRSA any sales tax revenue that accrues on or after July 1, 2016 that is attributed to May through June 2016.

EFFECTIVE DATE: Upon passage

§§ 41 & 46 — TRANSFER OF GRANT PAYMENTS FROM MRSA TO NEW MUNICIPAL REVENUE SHARING FUND (MRSF)

Transfers the funding source for specified municipal grant programs for FY 17 from MRSA to MRSF

The act establishes MRSF as a separate, nonlapsing fund and appropriates $185 million in FY 17 to the fund (see § 8 above). Under the act, the OPM secretary must use MRSF, rather than MRSA, to fund the following grant programs for FY 17:

1. municipal revenue sharing grants, as described below;
2. regional services grants to councils of governments;
3. supplemental PILOTs to specified municipalities and districts; and
4. supplemental ECS grants.

For FY 17 and each fiscal year thereafter, the act transfers from the General Fund to the MRSF the amount appropriated to OPM from the MRSF. OPM must distribute the funds as specified above. (PA 16-3, May Special Session, (§ 188) limits this transfer to FY 17.)

EFFECTIVE DATE: Upon passage, except the provision transferring funds to MRSF takes effect July 1, 2016.

§ 42 — MOTOR VEHICLE PROPERTY TAX GRANTS AND MUNICIPAL REVENUE SHARING GRANTS

Eliminates motor vehicle property tax grants for FY 17 and generally reduces municipal revenue sharing grant amounts for that year; modifies motor vehicle property tax grant formula beginning FY 18

Prior law required OPM, beginning in FY 17, to use MRSA funds to distribute motor vehicle property tax grants and municipal revenue sharing grants to municipalities. For FY 17, the act eliminates the motor vehicle property tax grants and modifies the municipal revenue sharing grant amounts. It specifies the revenue sharing grant amounts for municipalities and special taxing districts, reduces the grant amounts for most towns, and requires OPM to pay the grants by August 1, 2016. Under the act, the revenue sharing grant amounts and payment schedule revert in FY 18 to those specified under existing law.

By law, the motor vehicle grants are limited to municipalities with mill rates, or combined municipal and district mill rates, greater than the capped motor vehicle mill rate. The act specifies that such mill rates are those the municipalities and districts impose on real and personal property other than motor vehicles.

The act also modifies the motor vehicle property tax grant formula for FY 18 and subsequent years. Under prior law, a municipality's grant was equal to the difference between the (1) amount of property taxes a municipality and any district located there levied on motor vehicles for the 2013 assessment year and (2) amount of the 2013 levy at 32 mills in FY 17 or 29.36 mills in FY 18 and subsequent years. The act ties the grant amount to 32 mills, rather than 29.36 mills, for FY 18 and thereafter.
EFFECTIVE DATE: July 1, 2016

§ 43 — SUPPLEMENTAL PILOT GRANTS

Reduces supplemental PILOT grant amounts for specified municipalities and districts

By law, specified municipalities and districts receive an additional PILOT grant for FY 17. Under prior law, these grants were funded by MRSA funds transferred to the select PILOT account. The act reduces the grant amounts and requires that they be funded through MRSF.
EFFECTIVE DATE: July 1, 2016

§ 45 — SALES TAX DIVERSION TO SPECIAL TRANSPORTATION FUND (STF)

Reduces the amount of sales tax revenue diverted to the STF for FY 17

By law, the DRS commissioner must deposit a specified percentage of sales tax revenue each month into the STF. For FY 17, the act requires him to reduce each monthly STF deposit by $4,166,667 (i.e., $50 million in the aggregate).
EFFECTIVE DATE: July 1, 2016

§§ 47-53 — REVENUE ESTIMATES

Modifies previously adopted revenue estimates for FY 17; adopts revenue estimate for MRSF

The act modifies revenue estimates for FY 17 that were previously adopted in 2015 as part of the 2016-2017 biennial state budget. It also adopts a revenue estimate for the newly established MRSF, as shown in Table 9.

Table 9: Modified FY 17 Revenue Estimates

Fund	*Prior Law*	*Act*
General Fund	$18,713,626,722	$17,886,700,000
Special Transportation Fund	1,596,900,000	1,464,400,000
Mashantucket Pequot & Mohegan Fund	61,800,000	58,100,000
Insurance Fund	81,400,000	84,130,000
Consumer Counsel & Public Utility Control Fund	27,300,000	27,500,000
Workers' Compensation Fund	40,638,000	39,360,000
Municipal Revenue Sharing Fund	N/A	185,000,000

EFFECTIVE DATE: Upon passage

PA 16-3, May 2016 Special Session—SB 502
Emergency Certification

AN ACT CONCERNING REVENUE AND OTHER ITEMS TO IMPLEMENT THE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017

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Revises the alliance district ECS grant holdback for FY 17

§§ 127-175 & 209 — CONSOLIDATION OF LEGISLATIVE COMMISSIONS
Eliminates the six legislative commissions and replaces them with a 63-member Commission on Equity and Opportunity and a 63-member Commission on Women, Children, and Seniors

§ 176 — STUDY OF EMERGENCY POWER NEEDS IN ELDERLY PUBLIC HOUSING
Requires the Commission on Women, Children and Seniors to study and report on the need for emergency power generators at public housing sites for the elderly

§ 177 — BRIDGEPORT PAYMENTS TO MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM (MERS)
Allows Bridgeport to make reduced payments to MERS in FYs 17 & 18

§ 178 — PERMIT FEES FOR OVERSIZE AND OVERWEIGHT VEHICLES
Increases DOT permit fees for oversize and overweight vehicles

§ 179 — STATE BOARD OF MEDIATION AND ARBITRATION FEE
Increases labor and mediation arbitration fee from $25 to $200

§ 180 — SALES TAX ON PARKING FEES AT CERTAIN STATE AND MUNICIPAL LOTS
Exempts certain motor vehicle parking fees from sales and use tax

§ 181 — REGIONAL GREENHOUSE GAS INITIATIVE (RGGI) FUND SWEEPS
Diverts the first $3.3 million from the proceeds of RGGI auctions occurring on or after January 1, 2017 for deposit in the General Fund

§ 182 — TAX WARRANTS ON PAYMENT SETTLEMENT ENTITIES
Requires DRS to make reasonable efforts to issue tax warrants on payment settlement entities for payments they made to Connecticut retailers

§ 183 — ANGEL INVESTOR TAX CREDIT
Extends the sunset date for angel investor tax credits through 2019 and allows them to be sold, assigned, or transferred

§ 184 — AMORTIZED FY 14 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) DEFICIT
Delays the start of scheduled payments to pay off the FY 14 GAAP deficit and shortens the schedule for the payments

§ 185 — ADMISSIONS TAX EXEMPTION
Establishes admissions tax exemptions for the Dunkin' Donuts Park and New Britain Stadium

§ 186 — LOCAL OPTION ADMISSIONS SURCHARGE
Authorizes municipalities to impose a new local option admissions surcharge

§ 187 — MOTOR VEHICLE PROPERTY TAX MILL RATES
Increases the cap on motor vehicle mill rates and establishes the motor vehicle mill rate for certain municipalities, districts, and boroughs that previously set a mill rate for the 2015 assessment year

§ 189 — MUNICIPAL GRANT PROGRAMS
Makes various changes to the regional services and municipal revenue sharing grant programs, including expanding the types of expenditures excluded from the municipal spending cap that is tied to municipal revenue sharing grants beginning in FY 18

§§ 190 & 191 — PAYMENT IN LIEU OF TAXES (PILOT) GRANTS FOR FY 18 AND FY 19
Extends, to FYs 18 and 19, requirements for proportionately reducing PILOT grants if the amount appropriated is not enough to fully fund them; Delays the implementation of a mechanism for increasing PILOT grants for eligible municipalities

§ 192 — DRS TAX INCIDENCE STUDY
Delays the next DRS tax incidence report deadline, from February 15, 2017 to February 15, 2018

§§ 193 & 194 — PROBATE ESTATE SETTLEMENT FEES
Establishes a $40,000 maximum probate fee for estate settlement

§§ 195 & 196 — AMBULATORY SURGICAL CENTERS (ASC)
Allows state-licensed outpatient surgical facilities that also operate as ASCs to provide surgical services to patients who require no more than 24 hours of postoperative observation

§ 197 — IMPACT OF GROSS RECEIPTS TAX ON ASC
Requires a study on how the gross receipts tax affects ASCs

§ 198 — FILING OUTSTANDING RETURNS AS A CONDITION OF LICENSE OR PERMIT ISSUANCE OR RENEWAL
Prohibits the DRS commissioner issuing or renewing certain permits or licenses for anyone who he determines has failed to file any required tax returns

§§ 199 & 200 — SOURCING RULES FOR CORPORATION AND PERSONAL INCOME TAX PURPOSES
Requires businesses to use market-based sourcing to determine which service sales are attributable to Connecticut for corporation and personal income tax purposes; Establishes new sourcing rules for other categories of receipts

§§ 200 & 201 — SINGLE SALES APPORTIONMENT FOR PERSONAL INCOME TAX PURPOSES
Requires multistate businesses to calculate the proportion of their gains and losses attributable to Connecticut for personal income tax purposes based on Connecticut sales alone, rather than the average of their percentage of property, payroll, and gross sales in Connecticut

§ 202 — SALES AND USE TAX EXEMPTIONS
Exempts diapers and feminine hygiene products from sales tax starting July 1, 2018

§ 203 — PROPERTY TAX EXEMPTION FOR REAL ESTATE SIGNS
Exempts real estate signs from the property tax

§ 204 — AUTHORITY TO AMEND ADOPTED MUNICIPAL BUDGETS
Authorizes municipalities to amend adopted budgets following a reduction in state aid

§§ 205 & 206 — ELECTRONIC NICOTINE DELIVERY SYSTEM OR VAPOR PRODUCT DEALERS AND MANUFACTURERS
Makes various changes to the laws requiring electronic nicotine delivery system or vapor product dealers and manufacturers to register with DCP and annually renew their registrations in order to sell or manufacture these products

§ 208 — COMMISSION ON HEALTH EQUITY
Eliminates the Commission on Health Equity

§ 209 — HEALTHY START
Eliminates certain requirements related to Healthy Start, a program for low-income pregnant women

§§ 1-4, 11 & 12 — CTNEXT

Establishes CTNext as a subsidiary of the quasi-public Connecticut Innovations, Inc. (CI) to foster innovation and entrepreneurship and help newly formed businesses grow

CI Subsidiary (§ 1)

The act requires Connecticut Innovations (CI), the state's quasi-public venture capital agency, to establish a subsidiary called CTNext according to the act's specifications. In doing so, it requires CI to take no other actions to create the subsidiary except adopting a resolution. As discussed below, the act transfers some of CI's statutory purposes to CTNext, specifying that it is CI's successor with respect to those purposes.

Purpose (§ 1)

CTNext's major purpose is to assist entrepreneurs and startup and growth-stage businesses (i.e., those that have been incorporated for no more than 10 years, raised private capital, and saw a 20% increase in their annual gross revenues in each of their previous three income years). CTNext must do this by:

1. fostering innovation, start-up, and growth-stage businesses, and building entrepreneur communities;
2. serving as a catalyst to protect and enhance the innovation ecosystem;
3. connecting start-up entrepreneurs and growth-stage businesses with each other and state, federal, and private resources;
4. facilitating (a) the establishment of innovation places and (b) mentoring for entrepreneurs and start-up and growth-stage businesses;
5. providing technical training and resources to start-up and growth-stage businesses and entrepreneurs; and
6. facilitating innovation and entrepreneurship at higher education institutions.

CTNext continues as long as it has outstanding obligations and until it is legally terminated. Termination does not affect any of its outstanding contractual obligations. Upon termination, (1) the state succeeds to CTNext's obligations under any contract and (2) CTNext's rights and properties pass to and vest in CI.

CTNext is not subject to state collective bargaining laws.

CTNext Board (§ 1)

CTNext is governed by an 11-member board of directors, most of whom must be serial entrepreneurs representing a diverse range of Connecticut's growth sectors. For the act's purposes, a serial entrepreneur is a person who has brought one or more start-up businesses to a point where institutional investors invested venture capital in the business. The act does not impose the requirement applicable to other CI subsidiary boards that at least half of the members be CI employees, officers, or directors or their designees.

Board members must have education or experience in at least one of the following areas:

1. start-up and growth-stage business development,
2. investment,
3. innovation place development,
4. urban planning, and
5. technology commercialization in higher education.

Appointment and Length of Terms. Five members of the board serve initial two-year terms, and four members serve initial one-year terms. The chairpersons of the Finance, Revenue and Bonding Committee jointly appoint two of the members serving initial two-year terms; the governor, the House speaker, and Senate president pro tempore each appoint one member to serve an initial two-year term; and the House and Senate majority and minority leaders each appoint one member to serve an initial one-year term. Successor members, appointed by the original appointing authorities, serve two-year terms.

The act designates as ex officio board members CI's executive director and the economic and community development commissioner.

Board members are eligible for reappointment, and the original appointing authority fills any vacancy for the balance of an unexpired term. The appointing authority may remove, for misfeasance, malfeasance, willful neglect of duty, or failure to attend three consecutive board meetings, any member it appoints.

Reimbursement and Conflicts of Interest. Board members are entitled to reimbursement for the actual and necessary expenses they incur performing their official duties. They may engage in private employment or in a profession or business, subject to applicable state laws, rules, and regulations on ethics and conflict of interest. The act deems them public officials and subjects them to the State Code of Ethics, but exempts them from filing statements of financial interests (CGS § 1-83).

Under the act, it does not constitute a conflict of interest for a trustee, director, partner, or officer of any person, firm, or corporation or any individual with a financial interest in a person, firm, or corporation to serve on the board, but they must comply with the State Code of Ethics. Among other things, this means that members must abstain from taking official action on a matter if they have a substantial conflict of interest.

By law, directors, officers, and employees of quasi-public agencies, including CI and their subsidiaries, are generally not personally liable for the debts, obligations, or liabilities of the agency, and such agencies must generally protect, save harmless, and indemnify them from financial loss and expense arising from claims against the agency (CGS §§ 1-125 and 32-11e(e)).

Officers, Meetings, and Quorum. The board's chairperson is CI's chief executive officer. Initial appointments to the board must be made by September 1, 2016, and the chairperson must schedule the board's first meeting, which must be held by October 15, 2016. The board must meet at least quarterly and at other times the chairperson deems necessary.

A majority of members constitute a quorum to transact business and exercise any power. Except as the act provides otherwise, the board may act by a majority of the members present at any meeting at which there is a quorum. A board member may not, in his or her absence, designate a representative to perform his or her official duties under the act.

Executive Director. The chairperson, with board approval, must appoint an executive director to supervise CTNext's administrative affairs and technical activities as the board directs. The executive director is a CTNext employee and receives a salary set by the board.

CTNext Powers and Duties (§§ 2, 11 & 12)

General Administrative Powers. The act gives CTNext many of the following general administrative powers and duties the law also grants to other state quasi-public agencies:

1. employing assistants, agents, and other employees, who are not state employees;
2. establishing necessary and appropriate personnel practices and policies, including hiring, promotion, compensation, retirement, and collective bargaining policies, which may align with CI's but do not have to align with the state's;
3. engaging consultants, attorneys, and appraisers to fulfill its purposes;
4. receiving and accepting grants or contributions from any source to fulfill its purposes, subject to the source's terms and conditions;
5. making and entering into contracts and agreements to execute its powers and fulfill its purposes, including contracts for financial consultants, technical specialists, and professional services;
6. insuring its property, assets, and employees;
7. auditing its funds and those of the parties it funds;
8. measuring and evaluating how CTNext administers its programs to ensure that they are administered appropriately and efficiently, comply with the law, are cost effective, and achieve the act's purposes; and
9. establishing advisory committees to help fulfill CTNext's duties.

Powers and Duties Specific to Innovation and Entrepreneurship. The act also authorizes CTNext to fulfill the following broad purposes:

1. encouraging younger generation start-up entrepreneurs to stay in Connecticut,
2. promoting entrepreneurship at Connecticut public and independent institutions of higher education, and
3. doing all things necessary to carry out its purposes and execute its powers.

The act authorizes CTNext to pursue these goals by taking the following programmatic actions:

1. counseling and assisting start-up and growth-stage entrepreneurs with preparing business plans and managing, financing, and marketing their businesses;
2. holding workshops, seminars, and conferences on business topics with other organizations, including municipalities, chambers of commerce, higher education institutions, and small business development organizations;
3. facilitating partnerships between innovative start-up and growth-stage businesses and research institutions and venture capitalists or financial institutions;
4. increasing the capital supply for entrepreneurs and start-up and growth-stage businesses, including capital supplied by angel investors and venture capitalists;
5. awarding higher education entrepreneurship grants the Higher Education Entrepreneurship Advisory Committee recommends (§ 28);

6. awarding planning grants to entities seeking designation as an innovation place, as long as the entities demonstrate that the proposed place meets the innovation place program's purposes (see §§ 5-9); and
7. encouraging and promoting the establishment of business accelerators, including the satellite of a major national business accelerator.

The act also requires CTNext to implement several specific practices and programs. In addition to designating innovation places as described below, CTNext must connect entrepreneurs operating in these places to municipal and state resources that will help them comply with government regulations.

CTNext must also help relatively new businesses survive past the early, startup stage by awarding them maximum $25,000 grants, one-third of which must be matched with funds from other sources. To administer the grants, CTNext must establish an application process that gives priority to businesses that will use the funds in a way that is most likely to help them grow, including sales assistance, marketing, strategy, organizational development, technology assistance, bid assistance, beta testing of products from new purchasers, and prototype development. (Beta testing is the last stage in the process of developing new products and usually involves testing the product outside the company in a real-world setting.)

Lastly, the act requires CTNext to advise several state officials on science, engineering, and technology matters that may affect (1) state policies, programs, employers, and residents and (2) the state's efforts to create and retain jobs. Those officials are the governor, legislators, the economic and community development commissioner, UConn's president, and the Board of Regents for Higher Education president. (UConn's president is not included among the officials CI must advise about science, engineering, and technology matters.)

This requirement is one of several duties and powers CTNext shares with CI. Those other shared duties and powers are:

1. promoting technology-based development in Connecticut;
2. encouraging and promoting the establishment of advanced technology centers and, within available resources, providing financial assistance to them;
3. promoting and encouraging the coordination of public and private resources and activities in Connecticut aimed at helping technology-based entrepreneurs and business enterprises;
4. promoting science, engineering, mathematics, and other disciplines necessary for developing and applying technology;
5. coordinating efforts with existing business outreach centers; and
6. providing financial aid to people developing smart buildings, incubator facilities, or other offices and laboratories that rely heavily on information technology.

The act also transfers the following CI powers to CTNext:

1. maintaining an inventory of information on state and federal programs and serving as a clearinghouse and referral service for such information;
2. promoting and encouraging the establishment, maintenance, and operation of incubator facilities and, within available resources, providing financial assistance to them; and
3. coordinating the development and implementation of strategies regarding technology-based talent and innovation among state and quasi-public agencies, which include creating and administering the Connecticut Small Business Innovation Research Office to provide information and technical assistance to businesses seeking to participate in the federal small business research and development programs.

Although the act transfers power to create and administer the office, it requires CI to fund it.

CTNext and CI may jointly exercise these powers until September 1, 2016, after which only CTNext may exercise them.

Specific Powers and Duties Given to CTNext. The act requires CTNext to designate innovation places (see §§ 5-8) and develop a plan to support entrepreneurial research and develop entrepreneurial talent by strengthening the relationships between the state's businesses and institutions of higher education.

Informational Website. CTNext must also (1) create an informational website that offers information and services of value to entrepreneurs and (2) publicize the website and other workshops, seminars, and conferences CTNext offers. (In practice, CI maintains a website called CTNext that provides similar information.) The website must:

1. list services, programs, and events aimed at entrepreneurs;
2. function as an online community for entrepreneurs;
3. list entrepreneurial and innovation-related research projects that professors at higher education institutions are undertaking;
4. provide information about college and university innovation and entrepreneurial programs, including those related to engineering, computer science, and bioscience; and
5. connect businesses seeking to buy Connecticut-made products for their business inputs.

Marketing. CTNext must also annually develop, update, and implement a strategic statewide plan for promoting Connecticut as a hub for innovation and entrepreneurship. CTNext's executive director must report on the plan to the Commerce and Finance, Revenue and Bonding committees by February 1, 2017 and annually thereafter.

CTNext Written Policies and Procedures (§ 3)

The CTNext board must adopt written procedures, according to the laws that quasi-public agencies follow, for the following:

1. adopting an annual budget and operations plan, including requiring the board to approve these items before they take effect;
2. hiring, dismissing, promoting, and compensating CTNext employees, which may be consistent with CI's procedures, as long as they (a) include an affirmative action policy and (b) require the board to approve new positions or filling vacant ones;
3. acquiring personal property and personal services, including a requirement that the board approve any non-budgeted expenditure above a board-determined amount;
4. contracting for financial, legal, and professional services, including a requirement that CTNext solicit proposals at least once every three years for the services it uses;
5. awarding grants and other financial assistance, including specifying eligibility criteria, the application process, and the roles of CTNext's staff and board;
6. using surplus funds, to the extent allowed under the act and the law; and
7. disclosing conflicts of interests at board meetings.

CTNext Fund (§ 4)

The act establishes the CTNext Fund as a nonlapsing fund outside the General Fund and requires CI to administer it. The fund must contain any money the law requires and any contributions, gifts, grants, donations, bequests, or devises from any public or private source. As described below, the act earmarks in FYs 17-21 $67.25 million in previously authorized bonds for CTNext (§§ 10 & 16).

CI may invest the fund's money in any institution it chooses, and these institutions must invest or pay that money as CI directs. CI must deposit and hold any returns on these investments for the fund's benefit.

CI may tap the fund, with approval by the CTNext board, to fund the following:

1. grants to entities planning and developing designated innovation places (§§ 5 & 7),
2. projects that connect such places (§ 8),
3. CTNext's statutory powers and duties (§ 1 & 2),
4. higher education entrepreneurship programs recommended by the Higher Education Entrepreneurship Advisory Committee the act creates (§§ 2 & 28),
5. required assessments, audits, and analyses of CTNext's programs and initiatives (§25),
6. grants to startup businesses located in or relocating to designated innovation places (§ 29), and
7. any other statutorily authorized purpose or activity.

Under the act, CTNext's board must approve individual and budgeted expenditures under the conditions it established when it approved the budget.

CI must administer the fund and provide any staff, office space, office systems, and administrative support needed to operate it. CI can do so by using all of its statutory powers but must obtain the board's approval before it can spend funds.

Starting January 1, 2017, CI must annually prepare an operations plan and operating and capital budget for the fund and submit it to the board for review and approval at least 90 days before the fiscal year begins.

Starting April 15, 2017, CI must also submit an annual report on the fund's activities to the board for review and approval. The report must provide available information on the fund's status and operations, including information on the grants it awarded. After the board approves the report, it must submit the report to the Commerce and Finance, Revenue and Bonding committees.

EFFECTIVE DATE: Upon passage, except the provisions transferring CI powers to CTNext take effect September 1, 2016.

§§ 5-9, 17, 26 & 29 — INNOVATION PLACE PROGRAM

Establishes a grant program to foster innovation and entrepreneurship in compact, mixed use geographic areas

The act establishes, within CTNext, a program to foster innovation and entrepreneurship in compact, mixed use geographic areas with start-ups, "growth stage businesses," "anchor institutions," and access to public transit (i.e., innovation places). Under the act, an innovation place must include certain types of institutions, businesses, and public transportation. Specifically:

1. an entity having a significant and stable presence in the community, including an institution of higher education, hospital, major corporation, research institution, or business incubator or accelerator (i.e., anchor institution);
2. businesses (a) that have been incorporated for no more than 10 years, (b) that have raised private capital, and (c) whose annual gross revenue has increased by 20 percent for each of the three preceding income years (i.e., growth stage businesses); and
3. access to public transit, specifically, the New Haven rail line (including the Danbury, Waterbury, and New Canaan branch lines), the Shore Line East rail line, the New Haven-Hartford-Springfield rail line, and the New Britain to Hartford busway and any planned expansion of the busway.

CTNext must foster the development of innovation places by providing grants to specific types of entities to identify potential innovation places and develop their capacity to foster and promote innovation and entrepreneurship. Under the act, such entities include corporations, associations, nonprofit organizations, municipalities, and institutions of higher education, and these entities may submit applications for the designation of an innovation place. The act (1) establishes eligibility and selection criteria and (2) specifies the information an application must include. Among other things, an application must outline a plan for developing the place and leveraging private investment. Grants are available to (1) entities preparing such applications (planning grants) and (2) successful applicants.

The act also authorizes the CTNext board to initiate, or provide grants to entities for, projects that network innovation places with one another.

The act requires the CTNext board to report by September 30, 2017 and annually for three years thereafter to the Commerce and Finance, Revenue and Bonding committees on the operation and effectiveness of the innovation place program and grants distributed under it.

EFFECTIVE DATE: July 1, 2016, except the provision requiring the Department of Economic and Community Development (DECD) and CI to publicize and post on their websites certain information is effective upon passage and the provisions concerning priority for financial assistance for entities located in innovation places are effective October 1, 2016.

Program's Purposes

Under the act, the innovation place program must:

1. foster innovation and entrepreneurship by facilitating the designation and establishment of innovation places consisting of at least one compact geographic area within the same municipality having entrepreneurial and innovation potential where: (a) existing anchor institutions, companies, institutions, and recreational spaces are in close proximity to start-up and growth stage businesses; (b) public transit is accessible; (c) a significant portion of the underlying zoning allows for mixed-use development; and (d) foot traffic is facilitated;
2. identify, designate, and fund the initial costs associated with developing an innovation place;
3. encourage collaboration among higher education institutions, medical institutions, hospitals, existing companies, start-up and growth stage businesses, researchers, and investors;
4. encourage the leveraging of private investment in innovation places; and
5. connect entrepreneurs who are facing similar opportunities and challenges with other entrepreneurs and with private and public resources.

Applying for Planning Grants

The act authorizes the CTNext board to award planning grants to entities preparing an application for innovation place designation. By July 1, 2016, CI must post on its website a planning grant application form it prescribes. Applicants must submit the application to the CTNext board.

Planning grant applicants must apply by October 1, 2016. The board may extend this deadline by up to 60 days. The CTNext board must award grants by November 15, 2016.

Individual planning grants cannot exceed $50,000, and the total for all grants cannot exceed $500,000. Each grant must be proportionate to the anticipated grant for designated innovation places.

Applying for Innovation Place Designation

The act establishes an application process for designating proposed innovation places. It specifies the required application contents, deadlines for submitting applications, and the criteria by which the CTNext board must select several finalists.

Notice and Deadlines. Applications for innovation place designation are due by April 1, 2017.

The act requires the CTNext board to publicize and post on its website the deadline by which entities must submit an application for innovation place designation. It also requires DECD and CI to publicize and post on their websites, by July 1, 2016, the (1) application deadline for innovation place designation and (2) portion of the act setting forth definitions related to the innovation place program, the program's purposes, and the application and review process.

Application Contents. Applicants must submit an application on a board-prescribed form and include with it information on the proposed innovation place, including (1) a plan for its development ("Master plan," see below), (2) a list of municipal and state legislative action that may be required to execute the plan, and (3) information concerning the capability of the applicant and its partners to implement and administer the plan and how such partners will be involved in the plan's implementation.

The application must also include information on:

1. the proposed place's conformity with the program's purposes;
2. the place's geographical boundaries (including a map) and walkability;
3. at least two anchor institutions in the place and how they will participate in its development and activities;
4. existing and proposed transportation-related infrastructure in and around the place;
5. existing and proposed businesses, recreational facilities, public parks, and other public or private gathering spaces in the place; and
6. the proposal's consistency with the State Plan of Conservation and Development.

The application must also include letters of support from (1) private investors and (2) the chief elected official of the affected municipality. The latter letter must include a statement that the municipality's legislative body has, by majority vote, indicated its support for the proposed place and for any municipal legislative action recommended in the place plan. A chief elected official may submit a letter of support for only one proposed place in his or her municipality.

Master Plan. As noted above, the application must include a master plan outlining the applicant's plans for developing the place. The plan must include a proposal for connecting the place to public transit via rail or bus and leveraging private investment. It must also establish a proposed budget and timeline for spending grant money awarded by the CTNext board. The budget must indicate spending priorities should grants be insufficient to cover the entire proposed budget.

Applicants may include in their submitted plan letters of support from community members and plans for the following initiatives:

1. attracting and directing support to start-up and growth stage businesses and attracting anchor institutions;
2. developing, in collaboration with private partners, a business incubator, co-working space, business accelerator, or public meeting space;
3. events, community building, marketing, and outreach; and
4. open space improvement, housing development, bicycle paths, and improved technology infrastructure, including broadband.

Application Approval

The CTNext board must approve applications and designate such applications as innovation places. The board may condition its approval on modifications agreed to by the applicant. The board may not approve an application that does not meet the program's purposes.

Minimum Requirements. The act prohibits the board from approving an application for innovation place designation unless:

1. it is consistent with the program's purposes;
2. a significant portion of the place is in an area zoned for mixed uses or mixed use zoning is proposed;
3. it was prepared in collaboration with the local chamber of commerce or other industry association and the affected municipality's economic development department, or similar authority; and
4. it is supported by the affected municipality's legislative body, as demonstrated by a majority vote of the body.

Other Criteria. In determining whether to approve an application for innovation place designation, the CTNext board must consider whether the entities partnering together to implement and administer the proposed master plan are of the quality, and have demonstrated the commitment, to implement and administer the master plan in a manner sufficient to achieve the program's purposes. The board must give preference to applicants with: (1) diverse partners (including anchor institutions); (2) partnerships with entities located within the proposed place; and (3) substantial private funding for expenses associated with the proposed place's development, in relation to the amount of grants requested.

The board must generally consider whether the plan is sufficient to achieve the program's purposes and specifically consider whether the plan leverages private investment and includes the following:

1. proposed boundaries that are sufficiently compact to achieve the program's purposes;
2. sufficient measures to (a) ensure walkability within the place and (b) enhance regular interpersonal interactions among the place's residents, workers, and visitors;
3. adequate and accessible public transportation; and
4. existing or proposed restaurants, affordable housing options, and indoor or outdoor retail and public spaces providing an adequate opportunity for interpersonal interaction.

The board must also consider whether the (1) place will be self-sustaining after it spends any CTNext grants and (2) place's underlying zoning provides for, or will be amended to provide for, dwellings with reduced square footage.

The act authorizes the board to consider any other criteria it determines are relevant for evaluating whether the proposed place will achieve the program's purposes.

Finalists. The CTNext board must conduct a site walk of each finalist's proposed innovation place and hold a public hearing on each finalist's application in the affected municipality. The board's chairperson must give at least 10 days' notice of the hearing. The notice must include the hearing's time and place and be posted (1) in a conspicuous place in or near the town clerk's office and (2) on the municipality's website, if available.

At the public hearing, the applicant must present its proposal, and the public must be given an opportunity to comment. Applicants may revise their applications based on public hearing comments.

Grants to Successful Innovation Place Applicants

The board may award grants to successful applicants, within available funding. Before awarding a grant, the board must enter into an agreement with the grantee (1) concerning allowable grant expenses and (2) requiring an annual financial audit of grant expenditures prepared by an independent auditor. The board must also confirm that (1) a significant portion of the underlying zoning of the proposed place allows for mixed-use development and (2) no portion of the grant goes to an entity that is not part of the place's master plan.

If a grantee uses grants for expenses other than those specified in the agreement, the board may require the grantee to repay the misused amounts.

Financial Assistance for Entities Located near or in Designated Innovation Places (§§ 17, 26 & 29)

The act requires CI to establish a program to award, on a competitive basis, grants of $50,000 to start-ups located in or relocating to a CI-selected municipality with one or more designated innovation places. CI must consider investing in the start-ups that receive these grants and provide them with access to (1) mentoring opportunities, (2) coworking space or business accelerators located in the municipality for one year, (3) talent acquisition services, (4) angel or venture capital networks, and (5) a community of entrepreneurs (§ 29).

DECD's Small Business Express program provides grants, loans, and other forms of financial assistance to eligible businesses with fewer than 100 employees. The act expands the range of businesses to which the DECD commissioner may give priority for this assistance to include those located in innovation places CTNext designates under the act (§ 17). The commissioner may already give priority to businesses that are (1) economic base industries or (2) attempting to export their products and services to foreign markets. By law, she must give priority to businesses that create jobs.

The act also authorizes the DECD, housing, energy and environmental protection, and transportation commissioners; OPM secretary; and CHFA executive director to give priority for available financial assistance to entities located in designated innovation places if they determine that doing so furthers the innovation place program's purposes (§ 26).

§§ 10 & 16 — BONDS FOR CTNEXT AND OTHER PURPOSES

Earmarks $90 million in previously authorized bond funds for CTNext and other innovation and entrepreneurship programs

The act earmarks a total of $90 million in previously authorized Manufacturing Assistance Act (MAA) and CI bond funds for CTNext and other purposes, as shown below in Tables 1 and 2.

Table 1: Bonds Earmarked for CTNext

§	Authorization	Amount (in Millions)					Total	Purpose
		FY 17	FY 18	FY 19	FY 20	FY 21		
10 (b)(4)	MAA	$4.9	$4.9	$4.9	$9.9	$4.9	$29.5	Innovation Places Program: grants for planning, designated innovation places, and projects that network innovation places (limits networking grants to $3 million of the earmarked bonds) (see §§ 5-9)
16 (b)(5)	CI	2.0	2.0	--	--	--	10	Higher Education entrepreneurship grants (see § 28)
10 (b)(5)	MAA	--	--	2.0	2.0	2.0		
10 (b)(8)	MAA	0.45	0.45	0.45	0.45	0.45	2.25	Grants to growth-stage companies (see § 2)
16 (b)(2)	CI	5.0	5.0	5.0	5.0	5.0	25	CTNext's statutory purposes (see §§ 1,2 & 29)
16 (b)(3)	CI	--	--	--	--	--	0.5*	Grant to a policy institute or other research institution for program evaluation (see § 25)

*Earmark is effective on passage

Table 2: Bonds Earmarked for Other Purposes

§	Authorization	Amount (in Millions)					Total	To	Purpose
		FY 17	FY 18	FY 19	FY 20	FY 21			
10 (b)(6)	MAA	$2	$2	$2	$2	$2	$10	DECD	Technology Talent Advisory Committee (see § 23)
10 (b)(7)	MAA	0.25	0.25	0.25	0.25	0.25	1.25	DECD	Grant to the Connecticut Supplier Connection
10 (b)(7)	MAA	0.30	0.30	0.30	0.30	0.30	1.5	DECD	Grant to the Connecticut Procurement Technical Assistance Program
16 (b)(4)	CI	--	--	--	--	--	10*	CI	Investments in later stage companies (see § 11)

*Earmark is effective upon passage

EFFECTIVE DATE: Upon passage

§ 11 — LOCATION OF CI OFFICES

Requires CI to consider relocating its main office to, and establishing satellite offices in, an innovation place

The act requires CI, upon the termination of any lease it entered into on or before May 1, 2016, to consider (1) relocating its main office (currently located in Rocky Hill) to an innovation place designated under the act (see §§ 5-8) and (2) establishing satellite offices in one or more such places.
EFFECTIVE DATE: September 1, 2016

§§ 11, 13 & 22 — CI INVESTMENTS

Allows CI to invest in certain private equity investment funds, solicit investments from state residents, and provide capital to later-stage businesses; Requires CI to involve private partners in certain investment agreements

Investing in Private Equity Funds (§§ 11 & 22)

General Authorization. The act authorizes CI to (1) invest in private equity investment funds or "funds of funds" (which are funds that invest in other investment funds, rather than in businesses or ventures) and (2) enter into related limited partnership agreements or other contractual arrangements with these funds. (Presumably, CI must use its unrestricted funds to make these investments.) The funds may be organized and managed, and invest in, businesses in- or out-of-state, as long as their investment objectives and criteria are consistent with policies adopted by CI's board of directors. Under the act, the policies must require funds receiving CI investments to invest an amount at least equal to CI's investment, less reasonable management fees and closing costs, to (1) grow technology, bioscience, or precision manufacturing businesses in the state or (2) relocate these businesses to Connecticut.

Connecticut Bioscience Innovation Fund (CBIF) Funds. Under existing law, the CBIF advisory committee provides financial assistance directly to eligible recipients. Under the act, the committee may additionally provide indirect financial assistance to eligible recipients by investing in private equity investment funds, including those organized, managed, and investing in businesses in- or out-of-state.

The act requires the committee to adopt guidelines for providing this assistance, including requirements that funds receiving a CBIF investment invest an amount at least equal to the CBIF investment, less reasonable management fees and closing costs, in Connecticut entities that qualify for CBIF assistance (i.e., accredited colleges or universities, nonprofit organizations, or start-up or early stage businesses).

Investments by State Residents. The act authorizes CI to create a program to solicit investments from state residents and invest the funding they receive into a private investment fund as the act allows. CI must invest these funds in venture capital firms with offices in Connecticut. Individuals making these investments qualify for an estate tax credit under certain circumstances (see § 35).

EFFECTIVE DATE: September 1, 2016, except that CBIF provisions are effective July 1, 2016

Financial Incentives for Relocating Later-Stage Businesses (§ 11)

The act authorizes CI to invest in certain out-of-state, later-stage businesses, as long as they relocate to Connecticut. Specifically, CI may invest in businesses (1) incorporated for 10 years or less, (2) that have raised private capital, and (3) whose gross revenue has increased by 20% in each of the previous three years (i.e., growth-stage companies). CI may invest up to (1) $5 million in a business's single venture capital funding round; (2) 50% of the total amount the business raises in the funding round; and (3) $10 million in these companies, total.

Under the act, CI may also create financial incentives to encourage growth-stage companies, as described above, and out-of-state venture capital firms to relocate to Connecticut. It may do so only if it has made an investment in the growth stage company or is investing in the firm's funds as a limited partner.

EFFECTIVE DATE: September 1, 2016

Private Partners (§13)

The act requires CI to involve one or more private partners in any venture agreement, investment agreement, or similar agreement in which it enters, except CBIF or Venture Clash (CI's annual business competition) investment agreements. The act does not specify the type of involvement (e.g., financial or technical).

By law, CI invests its funds in people and businesses in Connecticut that research, develop, or apply specific technologies, procedures, services, and techniques. In exchange, CI receives rights to products or inventions, a share of the proceeds from their sale, or equity in the business that makes the product or provides the service. The equity can be in the form of common and preferred stocks (CGS § 32-39 (2)).

EFFECTIVE DATE: Upon passage

§ 14 — CI PERFORMANCE AUDIT

Requires CI to undergo a performance audit and submit it, along with a response, to the Commerce and Finance, Revenue and Bonding committees

The act requires CI to undergo a performance audit and submit it to the Commerce and Finance, Revenue and Bonding committees by December 1, 2016. An independent accounting or management consulting firm must conduct the audit, which must include recommendations as to:

1. whether CI's staffing levels are appropriate;
2. CI's performance, based on performance measures the firm chooses; and
3. CI's compensation levels.

The firm must base its recommendations about CI employee compensation on an analysis of compensation policies at private investment firms and recommend compensation amounts that would maximize employee performance in a way that allows CI to achieve its statutory purpose.

By January 15, 2017, CI must submit a report to the Commerce and Finance, Revenue and Bonding committees summarizing its response to the audit.

EFFECTIVE DATE: Upon passage

§ 15 — DECD LOAN FORGIVENESS FOR BUSINESS MENTORS

Authorizes state loan forgiveness for technology-based businesses that mentor other businesses

The act creates an incentive for technology-based businesses receiving state economic development loans or other financial assistance to mentor other businesses through CTNext's mentorship network. It allows the DECD commissioner to forgive a portion of that assistance based on the amount of hours such business spends mentoring another business.
EFFECTIVE DATE: Upon passage

§ 18 — FIRST FIVE PLUS PROGRAM

Extends the First Five Plus Program's authorization until June 30, 2019, increases the number of projects that may qualify for the program from 15 to 20, and expands the types of projects eligible for priority assistance

Extensions

The act extends the First Five Plus program's sunset date by three years, from June 30, 2016 to June 30, 2019, and increases the maximum number of business development projects DECD can fund under the program from 15 to 20. The program combines financial assistance and tax incentives under existing programs for projects that create jobs and make capital investments within the law's timeframes. Under those timeframes, projects qualify for First Five Plus assistance if they can (1) create at least 200 new jobs within 24 months after the commissioner approved assistance or (2) invest at least $25 million and create at least 200 new jobs within five years after the commissioner approves the assistance.

First Five Plus Preferences

The act expands the types of projects to which the DECD commissioner may give preference for First Five Plus assistance to those:

1. located in the state's 25 distressed municipalities, which the commissioner annually determines based on social and economic criteria or
2. that are part of an industry that the state's strategic economic development plan targets for assistance.

(The state's 2015 plan targets health care, bioscience, insurance and financial services, advanced manufacturing, digital media, tourism, and green technologies industries for priority investment.)

The act also changes the criteria under which the commissioner may give preference to projects involving the relocation of jobs to Connecticut. Under prior law, she could give preference to projects involving the relocation of jobs from outside the United States, regardless of the types of jobs being relocated. The act instead allows her to give preference to projects involving the relocation of jobs from anywhere as long as they involve research, invention, or innovation.

By law, the commissioner may also give preference to projects involving:

1. the relocation of an out-of-state or international manufacturer or corporate headquarters or
2. redevelopment projects she believes will create jobs sooner than expected under the program's timeframes.

Deadline Extensions

The act makes conforming changes aligning certain expiration dates to the act's extension of First Five Plus's sunset date. It extends, from FY 17 through FY 20, the time during which the commissioner can use Manufacturing Assistance Act Program funds to fund First Five Plus projects without adhering to its funding limits (i.e., up to 90% funding for projects in municipalities with enterprise zones and generally up to 50% in the other municipalities).

The act extends, from FY 17 through FY 20, the time during which First Five Plus projects are exempt from the thresholds requiring legislative approval for financial assistance or urban and industrial reinvestment tax credits for large-scale economic development projects.

The act also extends, for the same period, the time during which the commissioner may exempt insurance premium tax credits awarded as First Five program assistance from the statutory limits on the amount of credits taxpayers may claim against the insurance premium tax.

Lastly, the act extends the program's biannual reporting requirements into 2019. Under the act, the commissioner must submit reports to the Commerce and Finance, Revenue and Bonding committees twice a year, by January 1 and September 1 in 2017, 2018, and 2019.
EFFECTIVE DATE: July 1, 2016

§ 19 — UCONN CENTER FOR ENTREPRENEURSHIP

Eliminates a requirement that certain UConn Center for Entrepreneurship programs be located at the Connecticut Center for Advanced Technology

The act eliminates a requirement that the UConn Center for Entrepreneurship's accelerator program and intellectual property (IP) law clinic be located with the Connecticut Center for Advanced Technology in the Hartford area.

By law, the Center for Entrepreneurship's purpose is to train the next generation of entrepreneurs by (1) training faculty and students in commercialization and business issues, (2) expanding UConn's business accelerator program to provide specified services to technology-based companies, and (3) establishing an IP law clinic with the UConn law school.

EFFECTIVE DATE: July 1, 2016

§ 20 — CONNECTICUT 500 PROJECT

Establishes a public-private partnership to create 500,000 net new private sector jobs over the next 25 years and achieve other economic development goals

Purpose

The act establishes the Connecticut 500 Project to (1) create a net increase of 500,000 new private sector jobs over the next 25 years, (2) set and achieve the state's cornerstone economic development goals for the next generation, and (3) establish a permanent governing board authorized to take specific steps to accomplish these tasks. The project must be administered by the Commission on Economic Competitiveness.

Permanent Governing Board

Composition. The commission, in collaboration with the project's governing board, must convene and work closely with large corporations and small businesses; business, government, and community leaders; and organizations and institutions to achieve the act's goals.

By January 1, 2017, the commission must solicit bids from outside consultants with economic development expertise to develop the project. The project must include creating the governing board that includes senior business leaders; the chief executive officers of public companies operating in Connecticut; state and local elected officials; and other business, government, and community leaders.

Powers. To achieve the CT 500 Project's goals within 25 years, the governing board must propose legislation; leverage public and private investment in Connecticut and the project; solicit funds, or if public funds are available, solicit matching funds from the private sector; evaluate the state's economic development policies; and take other actions the board deems necessary to achieve the act's goals.

Project Goals

Besides creating a net increase of 500,000 new private sector jobs over the next 25 years, the project must, at a minimum:

1. increase the state's population by 500,000 new residents;
2. create 500 new startup businesses based on intellectual property developed in Connecticut;
3. increase, by 500, the annual number of students graduating from each state college and university;
4. place Connecticut among the top five nationally ranked states with respect to economic growth, public education, quality of life, and private sector employee salary; and
5. maintain Connecticut's top five ranking with respect to productivity, higher education, and per capita income.

The commission may rename the project and reset the goals.

EFFECTIVE DATE: July 1, 2016

§ 21 — COMMISSION ON ECONOMIC COMPETITIVENESS MEMBERSHIP

Expands the Economic Competitiveness Commission's membership by adding a gubernatorial appointee; CTNext's chairperson or designee; and the Finance, Revenue and Bonding Committee's chairpersons and ranking members or their designees

PA 15-5, June Special Session, established the 13-member Commission on Economic Competitiveness to assess how the state's tax policies affect business and industry and develop policies to promote economic growth. The act increases the commission's membership to 23 by adding the following 10 members: the chairperson of CTNext or the chairperson's designee; the chairpersons and ranking members of the Commerce and Finance, Revenue and Bonding committees or their designees; and a member appointed by the governor.

These new members join the commission's designated and appointed members. The designated members are the revenue services and economic and community development commissioners, or their designees, and a Connecticut Business and Industry Association (CBIA) representative appointed by the CBIA president. As Table 3 shows, the other members are appointed by legislative leaders.

Table 3: Commission's Appointed Members under Existing Law

Appointing Authority	*Number of Appointments*	*Member Qualifications*
House speaker	3	One appointee must be an executive of a publicly traded company
Senate president pro tempore	3	One appointee must be an attorney
House majority leader	1	Member of an employee advocacy group
Senate majority leader	1	Economist
House minority leader	1	Representative of a major corporation headquartered in Connecticut
Senate minority leader	1	Small business owner

EFFECTIVE DATE: Upon passage

§ 23 — TECHNOLOGY TALENT ADVISORY COMMITTEE

Establishes a Technology Talent Advisory Committee within DECD to identify and address technology sector job shortages

The act establishes a Technology Talent Advisory Committee within DECD to identify shortages of qualified employees in specific technology sectors and develop pilot programs to address those shortages.

Composition

Under the act, the DECD commissioner determines the committee's size and appoints the members, which, at a minimum, must include representatives of UConn, the Board of Regents for Higher Education, independent institutions of higher education, and private industry. The committee designates its chairperson from among the members.

Appointments and Terms

The commissioner sets the members' terms and must appoint the first members by September 30, 2016. A member continues to serve until the commissioner appoints his or her successor.

Members' Duties and Obligations

Members serve without compensation, but are reimbursed for actual and necessary expenses incurred while performing their official duties.

The act provides that it is not a conflict of interest for a committee member to be a trustee, director, or partner of any person, firm, or corporation, or to have a financial interest in these entities, as long as he or she complies with the state's code of ethics. The act deems the members public officials and requires them to adhere to the code of ethics for such officials, but it exempts them from filing statements of financial interest.

Meetings

The commissioner must call the committee's first meeting by October 15, 2016. The committee must meet at least quarterly and at such other times the chairperson deems necessary.

Decision-Making

A majority of the members is needed for a quorum to transact business or exercise any of the committee's powers. If a quorum is present, the committee may act only by a majority of the members.

Identifying and Addressing Technology-Based Job Shortages

The act specifies the tasks the committee must perform and the order in which it must perform them.

The committee must first calculate the number of software developers and other people who are (1) employed in technology-based fields (e.g., data mining, data analysis, or cybersecurity) where there is a shortage of qualified workers in Connecticut for businesses to hire and (2) employed by Connecticut businesses as of December 31, 2016.

After calculating these numbers, the committee must develop pilot programs to recruit software developers to Connecticut and train state residents in software development and other technology fields. The programs must aim to increase the number of workers employed in these fields by at least twice the number of software developers and other technology-based workers currently employed in the fields where there are shortages of software developers and workers. The programs must aim to accomplish this goal by January 1, 2026.

Lastly, the committee must identify other technology industries where there are shortages of qualified employees for growth stage businesses to hire.

The act also allows the committee to develop pilot programs that:

1. market and publicize technology talent recruitment programs;
2. defer or forgive student loans for students who start businesses in Connecticut; and
3. offer training, apprenticeship, and gap year initiatives (i.e., programs in which a graduating student takes a career-oriented position with a company or travels abroad before going to graduate school or seeking a permanent, full-time job).

Reporting

The committee must submit a report on its activities to the Commerce, Education, Higher Education, and Finance, Revenue and Bonding committees by January 1, 2017. The report must provide information about the (1) committee's pilot programs, (2) number of technology-based workers targeted for recruitment, and (3) timeline and measures for reaching the recruitment target.

EFFECTIVE DATE: Upon passage

§ 24 — KNOWLEDGE CENTER ENTERPRISE ZONES

Authorizes DECD to designate knowledge center enterprise zones in the state's distressed municipalities

The act authorizes the DECD commissioner to establish up to 10 knowledge center enterprise zones in the state's distressed municipalities based on proposals submitted by higher education institutions.

Proposing and Approving Zones

Under the act, a higher education institution may submit to DECD a proposal to establish a knowledge center enterprise zone. The proposal must include the following components:

1. the proposed zone's geographic scope, including all of the census blocks incorporated in the zone, which may extend for up to a two-mile radius beyond the institution's boundaries;
2. the nature of business and industry that will be developed in the zone;
3. how the business and industry (a) align with the institution's mission and (b) will collaborate with the institution to create jobs;

4. the (a) number of jobs, (b) state and local revenue loss, and (c) economic and community development anticipated from the zone's establishment; and
5. the institution's experience collaborating with businesses or planning for such collaboration.

The act authorizes the DECD commissioner to approve a zone if she determines that (1) its economic development benefits outweigh the anticipated costs to the state and affected municipalities, (2) the proposal complies with the State Plan of Conservation and Development, and (3) it is located in one of the 25 state-designated distressed municipalities.

The DECD commissioner may modify the proposed zone's geographic scope to improve the balance between its anticipated economic benefit and cost to the state and affected municipalities.

Zone Benefits

Under the act, businesses located in knowledge center enterprise zones receive the same benefits, subject to the same conditions, as those located in general enterprise zones.

By law, benefits given to businesses in enterprise zones include the following:

1. property and real estate conveyance tax exemptions and corporation business tax credits, mainly for developing facilities, with the state reimbursing municipalities for a portion of the revenue loss from the property tax exemption (CGS §§ 12-81, 12-498, & 12-217e) and
2. a 10-year corporation business tax credit for any newly formed corporations locating in the zones (CGS § 12-271v).

Performance Assessment

The act requires the DECD commissioner to assess each zone's performance at least 10 years after its establishment. It authorizes her to remove a zone's designation if it fails to meet the established goals and standards outlined in regulations.

Regulations

The act requires the DECD commissioner to adopt regulations to implement the knowledge center enterprise zone program, including regulations on (1) reviewing and approving proposals, (2) establishing zone goals and performance standards, and (3) assessing their performance.

EFFECTIVE DATE: October 1, 2016

§ 25 — ANALYSIS OF INNOVATION AND ENTREPRENEURSHIP IN THE STATE

Requires CTNext to award a grant to an eligible organization to analyze innovation and entrepreneurship in the state

The act requires CTNext's board of directors to award a grant of up to $500,000 to a policy institute, higher education institution, or research organization to conduct certain analyses of innovation and entrepreneurship in the state, as described below. The grantee must have significant experience in evaluating these initiatives and assessing statewide innovation and entrepreneurship performance generally.

CTNext must prescribe the manner in which such institutions or organizations may apply for the grant and include a request for proposals (RFP) to conduct the assessments, audits, and reports described below. Applicants must submit their RFPs to CTNext by January 1, 2017. The grantee must submit the assessments, audits, and reports to the CTNext board of directors and the Commerce and Finance, Revenue and Bonding committees.

Baseline Assessment of Innovation and Entrepreneurship

By June 1, 2017, and updated biennially for the subsequent four years, the grantee must conduct and submit a baseline assessment of the state's innovation and entrepreneurship based on certain measures, including:

1. the increase or decrease in the state's (a) start-up businesses, including growth-stage start-ups; (b) software developers; and (c) serial entrepreneurs (i.e., those having brought at least one start-up business to venture capital funding by an institutional investor);
2. job growth within growth-stage businesses;
3. the amount of private venture capital invested in start-up and growth-stage businesses;
4. employee turnover at start-up and growth-stage businesses;
5. the amount of entrepreneurship and innovation research funded by higher education institutions in the state;
6. the rate at which businesses enter and leave the state; and
7. the degree to which the state's (a) hiring rate exceeds its job creation rate and (b) employment separation rate exceeds its job loss rate.

Annual Audits and Analyses

The grantee must annually audit and analyze:

1. CTNext's programs and initiatives and include (a) an analysis of whether they are enhancing the program measures described above and (b) recommendations for legislative or programmatic changes to improve the measures and increase business creation;
2. activity at UConn that encourages or discourages entrepreneurship, including (a) patenting and intellectual property licensing policies and (b) hiring of faculty with entrepreneurial experience; and
3. activity that would increase the likelihood of new business formation.

Other Analyses

The act authorizes the grantee to conduct a one-time policy audit of, and recommend improvements to, state legislation and regulations affecting innovation and entrepreneurship in the state. It also allows the grantee to prepare a report: (1) evaluating intrapreneurship models used by business organizations to stimulate creativity and innovation at such businesses; (2) detailing the models applied by the state's businesses, if any; and (3) recommending ways to promote the application of such models.

EFFECTIVE DATE: July 1, 2016

§ 27 — HIGHER EDUCATION INNOVATION AND ENTREPRENEURSHIP WORKING GROUP

Establishes a group to foster innovation and entrepreneurship at Connecticut colleges and universities

The act establishes a working group to examine and develop a master plan for fostering innovation and entrepreneurship at Connecticut's public and private colleges and universities. It sets requirements for the group's membership and organization and the plan's contents and submission.

EFFECTIVE DATE: July 1, 2016

Membership and Organization

The act requires the CTNext executive director to (1) invite, by January 1, 2017, the president of every in-state public and private college and university to serve on the working group and (2) schedule the group's first meeting, which must be held by February 1, 2017. At this meeting, the group must select two chairpersons from among its members, one from a public and one from a private higher education institution. Each president may send a designee to serve in his or her place.

CTNext must provide the necessary staff, office space and systems, and administrative support for the working group.

Plan Requirements

The act requires that the master plan accomplish the following:

1. assess the scope and scale of existing entrepreneurial programs and initiatives at higher education institutions in the context of best practices at state and national institutions that are leaders in innovation and entrepreneurship,
2. recommend initiatives that facilitate collaboration and cooperation among higher education institutions on projects that address and strengthen innovation and entrepreneurship at these institutions,
3. provide for the establishment of a statewide intercollegiate business plan competition,
4. identify funding priorities for higher education entrepreneurship grants for projects that (a) expand and enhance entrepreneurial programs and initiatives or (b) involve partnerships among higher education institutions,
5. recommend programs that advance the state's innovation and entrepreneurship efforts, and
6. address opportunities and risks to innovation and entrepreneurship resulting from existing and emergent conditions affecting entrepreneurial programs and initiatives at higher education institutions.

The act defines "existing and emergent conditions" to include the following:

1. trends in (a) national funding for research and entrepreneurship endeavors at higher education institutions and (b) student and faculty preferences in entrepreneurship-related collegiate programming and initiatives;
2. willingness of alumni, entrepreneurs, and local business organizations to mentor faculty and students and provide student internships;
3. undergraduate and post-graduate student visa opportunities for recruiting international students interested in entrepreneurship; and
4. the state's need to expand and strengthen statewide innovation and entrepreneurship and new business formation.

Under the act, "entrepreneurial programs and initiatives" include the following:

1. mentoring student entrepreneurs,
2. encouraging faculty entrepreneurship through (a) commercialization and licensing of intellectual property and (b) tenure policies,
3. entrepreneur-in-residence programs and entrepreneurship-related courses,
4. research faculty having entrepreneurial experience,
5. on-campus (a) business incubators or accelerators and (b) events encouraging entrepreneurship and entrepreneurial community building, and
6. proof of concept support.

Plan Submission

The working group must submit the plan to the CTNext board of directors by May 1, 2017. Within one month after receiving the plan, the board must review and approve or reject it.

If the board approves the plan, it must submit the plan to the Higher Education Entrepreneurship Advisory Committee (described in § 28 below). If the board rejects the plan, it must submit a rejection letter and modification recommendations for the plan to the working group. Within one month after receiving the letter and recommendations, the working group must revise the plan based on the recommendations and resubmit it to the board. The working group must continue to resubmit the plan to the board until it gains approval. The one-month timeframes for board review and plan resubmission apply to subsequent revisions.

§ 28 — HIGHER EDUCATION ENTREPRENEURSHIP ADVISORY COMMITTEE

Establishes a committee to review applications for entrepreneurship grants to higher education institutions

The act establishes the Higher Education Advisory Committee within CTNext to review applications for higher education entrepreneurship grants that higher education institutions, or a partnership of one or more institutions, may submit. The committee prescribes the form for this application.

The committee may recommend approval of any application to the CTNext board of directors if it determines that the application is consistent with and in furtherance of the master plan developed by the higher education innovation and entrepreneurship working group for entrepreneurship at public and private higher education institutions (described above in § 27). The act requires the committee to prioritize applications that include collaborative initiatives between higher education institutions.

EFFECTIVE DATE: October 1, 2016

Membership

The act requires the CTNext board of directors to make initial appointments to the Higher Education Entrepreneurship Advisory Committee by June 1, 2017. The committee must include the following members:

1. an equal number of representatives from public and private higher education institutions,
2. one undergraduate and one graduate student,
3. one non-voting high school student, and
4. three serial entrepreneurs with experience as entrepreneurs-in-residence at a higher education institution.

The act defines "serial entrepreneur" as an entrepreneur who brought one or more start-up businesses to venture capital funding by an institutional investor.

Under the act, CTNext prescribes term limits for members, and each member must hold office until his or her successor is appointed. Members are not compensated for their service but are entitled to reimbursement for actual and necessary expenses they incur while performing their official duties.

The act deems advisory committee members to be public officials and requires them to adhere to the state Code of Ethics for Public Officials but exempts them from filing statements of financial interests with the Office of State Ethics. Under the act, any of the following individuals may serve as a committee member and it is not considered a conflict of interest, as long as they comply with the code of ethics: a trustee, director, partner, or officer of any person, firm, or corporation, or any individual having a financial interest in a person, firm, or corporation. Among other things, this means that members must abstain from taking official action on a matter if they have a substantial conflict of interest.

Organization

The act requires the CTNext executive director to call the advisory committee's first meeting by June 15, 2017, at which the committee must select chairpersons. The committee must meet at least quarterly thereafter and may meet additional times as the chairperson deems necessary. (It is unclear whether one chairperson or each chairperson must deem the additional meetings necessary.)

Under the act, a majority of members constitute a quorum for the committee to transact any business or exercise any power. The act allows the committee to act by a majority of members present at any meeting at which there is a quorum.

§ 30 — CROWDFUNDING WEBSITE

Requires CTNext to create a website to advertise Connecticut start-ups that are crowdfunding or seeking angel investments

The act requires CTNext, beginning July 1, 2017, to establish and maintain a website advertising Connecticut-based start-up businesses that (1) are approved by CI to receive investments from angel investors or (2) are seeking funding on reward-based and equity-based crowdfunding websites. ("Crowdfunding" means funding a product, project, or venture by seeking small individual cash donations from a large number of people.)

CTNext must include, for each business it advertises on the website, (1) a description of the business and the product, project, or venture it is proposing and (2) links to the applicable websites and crowdfunding website associated with the business.

Under the act, CTNext, DECD, and CI must post, on their websites' homepages, a link to the website CTNext establishes. CTNext must advertise and promote the website with paid advertisements on other websites and by any other means it determines.

EFFECTIVE DATE: July 1, 2016

§ 31 — ASSESSING COMMERCIAL PROPERTY BASED ON NET PROFITS

Removes the cap on the number of commercial properties that may be assessed based on net profits in those municipalities participating in a pilot property tax assessment program

Municipalities assess most real and personal property for property taxes based on a property's fair market value, but a pilot program allowed up to five municipalities to each assess up to three commercial properties based on the net profits of their business occupants if the property's owners and tenants agreed. The act allows the participating municipalities to assess all commercial property based on net profits, if the owners and their tenants agree.

By law, municipalities that wish to assess commercial property on this basis must apply to the Office of Policy and Management (OPM). Those selected for the program must adopt ordinances specifying the conditions and requirements for instituting these assessments (see *Background*). Currently, no municipalities have applied to participate in the program since it was launched in 2014.

EFFECTIVE DATE: October 1, 2016

Background

Ordinance for Assessing Commercial Property Based on Net Profits. PA 14-174 established this OPM-administered pilot program under which a municipality may, by ordinance, assess commercial property based on the net profits of the businesses that occupy it. The implementing ordinance must:

1. describe the properties eligible for this type of assessment,
2. describe how the tax rate for the net profits or anticipated net profits will be determined,
3. require agreement between the municipality and the property's owners and tenants on the assessment method before the municipality institutes it,
4. specify how property owners or tenants may apply for the program,

5. require property owners seeking this assessment method to show how it would benefit the property and the municipality, and
6. provide for a phase-out of the method and a return to an assessment based on fair market value (CGS § 12-63i).

§ 32 — LOCAL ECONOMIC DEVELOPMENT PROPERTY TAX INCENTIVE

Generally gives municipalities more latitude to set the terms and conditions for an economic development property tax incentive

Fixing the Assessment on Newly Developed or Improved Property

The act generally gives municipalities more latitude to set the terms and conditions for an existing property tax incentive intended to encourage property owners to develop or improve property for specified purposes. The incentive reduces the portion of an improved property's value subject to the property tax (i.e., fixing the assessment). By law, municipalities must assess real property for taxes based on 70% of its fair market value, which often increases after it is developed or improved. Higher assessments could lead to higher taxes if the tax rate goes up or stays the same. Consequently, reducing the assessment potentially reduces the amount of taxes the property owner would otherwise pay.

Eligible Uses

The act limits municipalities' ability to fix the assessment for residential and transient residential property improvements to those with at least four units. Under prior law, they could fix the assessment for any property developed or improved for these uses regardless of the number of units in the property.

Existing law, unchanged by the act, additionally allows municipalities to fix the assessments on property developed or improved for the following uses: offices; retail; manufacturing; warehouse, storage, or distribution; structured multilevel parking supporting a mass transit system; information technology; recreation facilities; transportation facilities; and health systems. The law also allows municipalities to fix the assessment for mixed-use developments including at least one dwelling unit.

Criteria for Fixing Property Assessments

The act allows municipalities to determine the exemption amount and the terms and conditions, but limits its duration to a maximum of 10 years. It does this by eliminating prior law's schedule for fixing the assessment, which Table 4 shows.

Table 4: Fixed Assessment Schedule that the Act Eliminates

Minimum Value of the Improvement	*Period for Fixing the Assessment*	*Percent of the Increase in Assessed Value Exempt from Taxation*
$3 million	Up to seven years	100%
$500,000	Up to two years	100%
$10,000	Up to three years	Up to 50%

The act also gives municipalities more latitude to fix the assessment on improved retail property in a designated area. Under prior law, they could set the terms and conditions for fixing the assessment on such property, but first had to adopt an ordinance designating an area where this benefit is available. The act allows them to fix the assessment on any retail property in any area without first having to adopt an ordinance designating the area.

EFFECTIVE DATE: October 1, 2016 and applicable to assessment years beginning on or after that date.

§§ 33 & 34 — CONNECTICUT ARTS ENDOWMENT FUND

Changes the method for determining the annual amount of endowment funds available for grants and reduces th minimum matching grant amount

Endowment Funds Available for Grants

The act changes the method for determining the amount of Connecticut Arts Endowment Fund money annually available for making matching grants to arts organizations. The fund is capitalized by bond proceeds, which the state treasurer invests to generate the money for making the matching grants, which the DECD commissioner awards. Under prior law, the amount that was annually available for the grants equaled the fund's investment earnings for the prior fiscal year. Under the act, the amount available equals the greater of the (1) prior fiscal year's investment earnings or (2) increase in the fund's market value, up to 5% of the fund's total market value.

Matching Grant Amounts

The act reduces, from $25,000 to $15,000, the minimum amount (threshold) arts organizations must raise from private donors in each of the two most recent fiscal years to qualify for the state matching grant.

By law, the matching grant amount a qualifying organization receives for its donations above the threshold amount is calculated according to a formula that provides a more generous match for donations that exceed the amount raised in the previous year. The state matches 25% of the donations that equal the previous year's, up to $250,000, and 100% of the donations that exceed the previous year's, up to $1,000,000.

The law requires DECD to prorate the grants if the total for all organizations exceeds the endowment's earnings. In these cases, the act prohibits DECD from awarding grants for less than $500.

EFFECTIVE DATE: July 1, 2016

§ 35 — ESTATE TAX REDUCTION FOR INVESTMENTS IN CI INVESTMENT FUNDS

Establishes an estate tax reduction for qualifying investments in CI investment funds

The act establishes an estate tax reduction for decedents that made qualifying investments through CI's investment program for state residents (see § 11).

Under the act, decedents qualify for the deduction for amounts they invested for at least 10 years in a private investment fund or "fund of funds" through the CI program. As described above, the act authorizes CI to create such a program to solicit investments from state residents and invest the funds in venture capital firms with offices in Connecticut.

The reduction is equal to 50% of the eligible investment, up to $5 million per decedent and $30 million total.

EFFECTIVE DATE: October 1, 2016 and applicable to estates of decedents who die on or after January 1, 2021.

§ 36 — FAILURE TO FILE FOR MANUFACTURING MACHINERY AND EQUIPMENT PROPERTY TAX EXEMPTION

Gives Milford taxpayers more time to file for the statutory manufacturing and equipment property tax exemption

By law, certain machinery and equipment acquired on or after October 1, 2011 and used for manufacturing, including biotechnology, qualifies for a property tax exemption (CGS § 12-81(76)). Taxpayers must file for the exemption annually by November 1.

The act allows taxpayers in Milford to claim the machinery and equipment exemption on the 2015 grand list if they missed the November 1 mandatory filing deadline. (Property on the October 2015 grand list is taxed in FY 17.) It does so by waiving the deadline if a taxpayer files for the exemption by July 31, 2016. If the taxpayer meets the act's filing deadline, Milford's property tax assessor must waive any late filing fees. After verifying the property's eligibility for the exemption, the assessor must approve the exemption and the town must refund any taxes paid on the machinery and equipment.

EFFECTIVE DATE: July 1, 2016

§§ 37-40 & 75 — OLD STATE HOUSE

Transfers responsibility for the Old State House from OLM to DEEP

The act requires the Legislative Management Committee to lease or sublease the Old State House to the Department of Energy and Environmental Protection (DEEP) for $1. The lease or sublease must be coterminous with the committee's existing lease with Hartford for the Old State House. DEEP must then care for, maintain, and operate the property.

The act requires the Office of Legislative Management (OLM), on June 30, 2016, to transfer the funds in its Old State House (Private Funds) account in the General Fund to DEEP. DEEP must deposit the funds in an account of the same name and use the funds to operate and manage the property.

The act also eliminates the requirement that the Legislative Management Committee require contractors and their subcontractors to pay employees providing services at the Old State House at least $15 an hour or the standard wage rate, whichever is greater. Existing law applies this wage requirement to services performed at the Legislative Office Building and the State Capitol. By law, DEEP contractors must pay employees at least the standard wage rate, as applicable. (The standard wage rate is the minimum rate private contractors providing certain services in state buildings must pay their workers, as determined by the labor commissioner.)

EFFECTIVE DATE: July 1, 2016, except the provision transferring funds is effective on passage.

§ 41 — ARBITRATOR COMPENSATION

Increases compensation for State Board of Mediation and Arbitration arbitrators in certain proceedings

The act increases, from $225 to $325, the first day's compensation paid to State Board of Mediation and Arbitration arbitrators who preside over a proceeding in a three-member panel. By law, unchanged by the act, (1) arbitrators on a panel receive $150 for each additional day of the proceeding, (2) the arbitrator who prepares the panel's written decision receives an additional $175, and (3) arbitrators who preside over proceedings individually receive $325 for the proceeding's first day and $150 for each additional day.

EFFECTIVE DATE: July 1, 2016

§ 42 — WAIVER OF PAYMENTS DUE FROM STATE-FINANCED HOUSING AUTHORITIES

Requires municipalities to waive certain payments from state-financed housing authorities

The act extends by two years the requirement that municipalities waive certain payments due from certain state-financed housing authorities.

Existing law requires state-financed housing authorities for moderate rental housing projects to make payments to municipalities in lieu of paying property taxes, special benefit assessments, and sewer system use charges. Existing law authorizes the Department of Housing (DOH) to make payments on the authorities' behalf as part of its Payment in Lieu of Taxes Subsidy Program.

PA 15-5, June Special Session (§ 495), prohibits municipalities from requiring an authority to make these payments to municipalities in FY 16 if DOH made a payment on the authority's behalf in FY 15. The act expands this prohibition for two more years, through FY 18. Under both prior law and the act, no waiver is required if federal funds are made available for the payments.

EFFECTIVE DATE: Upon passage

§ 43 — MEDICARE PART D PRESCRIPTION DRUG COVERAGE

Requires DSS to pay for Medicare Part D prescription drug copayments that exceed $17 per month for "dually eligible" Medicaid recipients

For those who are eligible for full Medicaid assistance and also have Medicare Part D coverage (i.e., dually eligible), the act requires the Department of Social Services (DSS) to pay for the portion of Medicare Part D prescription drug copayments that exceeds, in the aggregate, $17 in any month. Prior law required such beneficiaries to pay the full cost of their Medicare Part D prescription drug copayments.

EFFECTIVE DATE: October 1, 2016

§§ 44 & 45 — BURIAL EXPENSES FOR PUBLIC ASSISTANCE RECIPIENTS AND INDIGENT INDIVIDUALS

Reduces the maximum burial benefit from $1,400 to $1,200 and broadens the types of deductions DSS makes from the maximum to calculate burial payments

The act decreases, from $1,400 to $1,200, the maximum amount DSS must pay toward funeral and burial expenses for State Administered General Assistance (SAGA), Temporary Family Assistance (TFA), or State Supplement Program (SSP) recipients and certain other indigent individuals. It also limits the indigent individuals for whom DSS will pay such expenses. Under prior law, DSS covered funeral and burial costs up to the allotted maximum for individuals who died and either did not (1) leave a sufficient estate or (2) have a legally liable relative able to cover such costs. Under the act, DSS must pay such costs only if the decedent did not leave a sufficient estate and has no legally liable relative able to cover the costs.

Under prior law, the amount DSS contributed for funeral and burial costs for a deceased TFA or SSP recipient was reduced by the (1) amount in any revocable or irrevocable funeral fund or prepaid funeral contract or (2) face value of the recipient's life insurance policy. The act instead requires DSS to reduce its contribution by the aggregate amount of (1) such funds; (2) the face value of such a policy; (3) the net value of liquid assets in the decedent's estate; and (4) contributions over $3,400 towards the funeral and burial costs from all other sources, including friends, relatives, other persons, organizations, agencies, veterans' programs, and other benefit programs. Prior law permitted any person to contribute to the funeral and burial costs for such decedents without diminishing the state's obligation to pay.

The act also aligns the restrictions on the amount DSS must pay for SAGA recipients and indigent individuals to those discussed above for deceased TFA and SSP recipients. It does so by (1) increasing, from $3,200 to $3,400, the outside contribution threshold above which DSS must reduce its payment towards funeral and burial costs and (2) requiring DSS to reduce its payment by the net value of all liquid assets in the decedent's estate.

The act permits DSS to adopt regulations to implement these provisions.

EFFECTIVE DATE: July 1, 2016

§ 46 — RESIDENTIAL CARE HOMES, COMMUNITY LIVING ARRANGEMENTS, AND COMMUNITY COMPANION HOMES

Freezes rates for certain facilities in FY 17

Under the act, regardless of rate-setting laws or regulations to the contrary, the rates the state pays to residential care homes, community living arrangements, and community companion homes that received the flat rate for residential services in FY 16 remain in effect in FY 17. State regulations permit these facilities to have their rates determined on a flat rate basis rather than on the basis of submitted cost reports (Conn. Agencies Reg. § 17-311-54).

EFFECTIVE DATE: July 1, 2016

§§ 47-60 & 63 — AUTISM SPECTRUM DISORDER (ASD) SERVICES

Transfers responsibility for many ASD services from DDS to DSS

The act makes DSS, rather than the Department of Developmental Services (DDS), the lead agency for (1) coordinating state agency functions that have responsibility for ASD services and (2) purposes of the federal Combating Autism Act and applying for federal funding associated with ASD responsibilities. It also makes several conforming changes. Under the act, DDS retains the authority to license community living arrangements and companion homes for individuals with ASD.

Under the act, DSS, instead of DDS, may report to the governor on any funding and legislation needed to provide necessary ASD services. The act also makes the Human Services Committee, instead of the Public Health Committee, a recipient of this report and an annual report DSS issues on the status of a Medicaid-financed home and community-based program for certain individuals diagnosed with ASD.

Division of ASD Services

The act moves the Division of ASD Services from DDS to DSS, but the DDS commissioner retains the authority to investigate reports alleging abuse or neglect of an individual receiving division services. It also makes several conforming changes.

The act also allows DSS to (1) adopt regulations defining ASD and establishing eligibility standards and criteria for ASD services and (2) implement necessary policies and procedures before adopting regulations. Prior law required DDS to adopt such regulations, though it had not done so.

Starting February 1, 2017, the act also (1) shifts from DDS to DSS a requirement to report annually on the division's activities and (2) makes the Human Services Committee, instead of the Public Health Committee, a required report recipient.

ASD Advisory Council

The act adds the Office of Early Childhood commissioner, or her designee, as a 25th member to the ASD Advisory Council and designates the DSS commissioner, instead of the DDS commissioner, as a council co-chairperson. It also requires the council to advise the DSS commissioner, instead of the DDS commissioner, on autism-related matters.

Additionally, the act requires the DSS commissioner, instead of the DDS commissioner, in collaboration with the council, to designate services and interventions that demonstrate empirical effectiveness for treating ASD.

ASD Definition

The act specifies that ASD has the same meaning as set forth in the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders" (DSM-5). The act applies this definition regardless of an existing law requiring applied behavioral analysis services for students with ASD.

Department of Rehabilitation Services (DORS) Employment Program

By law, and within available appropriations, DORS may administer an employment opportunities program for individuals with the most significant disabilities who are not eligible for DDS or the Department of Mental Health and Addiction Services' supported employment programs. The act makes a conforming change to specify that this program is also available to such individuals who are ineligible for DSS supportive employment programs (e.g., programs serving individuals with autism).

EFFECTIVE DATE: July 1, 2016, except for the provision that defines ASD, which is effective upon passage.

§ 61 — NONUNION STATE EMPLOYEE PENSION CAP

Caps annual pensions for nonunion state employees hired after July 1, 2016

The act caps annual pensions at $125,000 for any nonunion members of the State Employees Retirement System (SERS) who are initially hired by the state on or after July 1, 2016, regardless of their years of vesting service or any other SERS requirements they have completed when they retire. It requires such a member's annual pension to be reduced to $125,000 if it exceeds that amount when it is calculated at the member's retirement or after a cost of living adjustment (COLA). It also prohibits those with $125,000 annual pensions from receiving COLAs.

SERS is a defined benefit retirement plan that provides its members a pension benefit determined by their tier membership (i.e., when they were hired), the number of years they worked for the state, and their final average salary over a certain number of years. By law, the state must collectively bargain with the State Employees Bargaining Agent Coalition (SEBAC) over changes to SERS for unionized state employees.

EFFECTIVE DATE: July 1, 2016

§ 62 — MEMBERSHIP OF SCHOOL BUILDING PROJECT REVIEW COMMITTEE

Increases and specifies the membership of the committee

The act increases, from eight to 12, the membership of the School Building Project Review Committee. The members must include the co-chairs and ranking members of the Appropriations; Finance, Revenue and Bonding; and Education committees. Under prior law, committee members included eight legislators who were appointed by the legislative leaders and not selected from specific committees.

The act also eliminates the requirement that the appointments be made annually by July 1.

By law, the committee must review and approve the list of eligible school building projects that the Department of Administrative Services (DAS) must submit to the legislature annually by December 15. The list becomes the basis of the annual school building project authorization bill.

EFFECTIVE DATE: July 1, 2016

§§ 64 & 210 — EAST HARTFORD MAGNET SCHOOL TUITION

Repeals funds to help East Hartford defray magnet school tuition costs

The act repeals a provision in PA 15-5, June Special Session, designating up to $220,818 of the State Department of Education's (SDE) FY 17 magnet school appropriation to defray magnet school tuition costs charged to East Hartford.

The act also makes permanent the statutory cap on the amount of tuition the East Hartford school district must pay to magnet schools if more than 7% of the district's student population attends them. By law, the district is not responsible for the first $4,400 of tuition for any students over the 7% threshold. Previously the cap applied only to FYs 16 and 17; the act extends it to each subsequent fiscal year. It also makes permanent the requirement that SDE be financially responsible for any loss of tuition to a magnet school, within available appropriations and subject to possible proportionate reductions if the total of the tuition recovery payments exceeds the amount appropriated for that purpose.
EFFECTIVE DATE: Upon passage

§ 65 — ACUTE CARE AND EMERGENCY BEHAVIORAL HEALTH SERVICES GRANT PROGRAM

Requires DMHAS to establish the grant program within available appropriations and modifies how grant funds may be used

PA 15-5, June Special Session, established a grant program in DMHAS to provide funds to organizations providing acute care and emergency behavioral health services. The act requires DMHAS to establish the program within available appropriations.

Additionally, the act allows, rather than requires, the grants to be used for providing community-based behavioral health services, including (1) care coordination and (2) access to information on and referrals to available health care and social services programs. By law, the DMHAS commissioner must establish eligibility criteria and an application process.
EFFECTIVE DATE: July 1, 2016

§ 66 — PRIORITIZATION FOR ADDITIONAL MAGNET SCHOOL SEATS

Modifies the existing method to prioritize funding for additional magnet school seats

Prior law (1) permitted SDE to limit a magnet school's per-student grant payment to an amount the school was eligible to receive based on its enrollment on October 1, 2013 and (2) required funding for any additional students above the 2013 enrollment to be based on specified criteria.

The act modifies this method for FY 17 by:

1. allowing SDE to limit payments to the amount the magnet school was eligible to receive based on its enrollment on October 1, 2013 or October 1, 2015, whichever is lower, and
2. changing the criteria that SDE must use for funding seats above the enrollment baseline.

Funding Above Enrollment Baseline

The act eliminates the provision that permits additional funding for magnet school enrollment above the baseline for (1) a school moving into a permanent facility for the school years starting July 1, 2014 to July 1, 2016, inclusive, and (2) new enrollments for a new magnet school starting operation on or after July 1, 2014, to help meet the 2013 *Sheff* stipulation on school desegregation. The act (1) keeps the remaining criteria for SDE to prioritize additional magnet school funding and (2) adds a provision for planned new grade levels for the school year starting July 1, 2015 (number 3 below).

The act provides the following magnet school funding priority order increases in enrollment for a school:

1. adding planned new grade levels for school years beginning July 1, 2015 and July 1, 2016;
2. that added planned new grade levels for the school year beginning July 1, 2014 and that was funded during FY 15;
3. that added planned new grade levels for the school year beginning July 1, 2015 and that was funded during FY 16; and
4. to ensure compliance with the statutory requirements for racial and economic diversity, special curriculum, and operating at least a half-time educational program.

The act also allows magnet school grants to be paid to each magnet school operator as an aggregate total of the amount each operator is eligible to receive under state law. It provides that each operator may distribute the aggregate grant among its magnet schools according to a distribution plan that the education commissioner approves.
EFFECTIVE DATE: July 1, 2016

§§ 67-74 & 209 — OFFICE OF GOVERNMENTAL ACCOUNTABILITY (OGA)

Removes the Office of State Ethics (OSE), State Elections Enforcement Commission (SEEC), and Freedom of Information Commission (FOIC) from OGA

By law, OGA consists of independent divisions for which it provides consolidated personnel, payroll, affirmative action, and administrative and business office functions, including information technology associated with these functions. The divisions have independent decision-making authority, including decisions on budgetary issues and employing necessary staff.

The act removes the Office of State Ethics (OSE), State Elections Enforcement Commission (SEEC), and Freedom of Information Commission (FOIC) from OGA, thus making them each responsible for the functions listed above. The act also removes the chairpersons of the Citizen's Ethics Advisory Board (which is within OSE), SEEC, and FOIC from the Governmental Accountability Commission (GAC), thus reducing GAC's membership to six. By law, GAC is within OGA and is responsible for (1) recommending OGA executive administrator candidates to the governor and (2) terminating the executive administrator's employment, if necessary.

Under the act, the following six divisions remain in OGA:

1. Judicial Review Council,
2. Judicial Selection Commission,
3. Board of Firearms Permit Examiners,
4. Office of the Child Advocate,
5. Office of the Victim Advocate, and
6. State Contracting Standards Board.

The act makes several technical and conforming changes, including requiring OSE's, SEEC's, and FOIC's executive directors, rather than the OGA executive administrator, to transmit their respective agencies' budget requests to OPM. It also repeals an obsolete provision regarding a plan for the OGA merger (§ 209).
EFFECTIVE DATE: July 1, 2016

§§ 76 & 77 — STATE BOARD OF ACCOUNTANCY

Transfers the State Board of Accountancy to the Department of Consumer Protection

The act transfers the State Board of Accountancy from the Secretary of the State's Office to the Department of Consumer Protection (DCP) and requires DCP to provide office space for the board. This nine-member board, appointed by the governor, regulates the practice of public accountancy in the state.

Under the act, board members are neither compensated for their services nor reimbursed for necessary expenses. Prior law required board members to be reimbursed for necessary expenses.

The act also eliminates the board's authority to (1) recommend personnel for the Secretary of the State to hire to carry out its duties, (2) contract with such individuals, and (3) appoint committees or people to advise or assist in administering or enforcing public accountancy law.

The act makes other minor and technical changes.
EFFECTIVE DATE: July 1, 2016

§ 78 — OFFICE OF FISCAL ANALYSIS (OFA) AND OPM ANNUAL EXPENDITURE REPORTS

Modifies the information OPM and OFA must include in the annual spending estimates the law requires them to prepare for the Appropriations and Finance, Revenue and Bonding committees

Existing law requires OFA and OPM to annually submit by November 15 certain information, including their consensus estimate of state revenue and each office's spending estimates for the current biennium and the three following fiscal years, to the Appropriations and Finance, Revenue and Bonding committees. Prior law required OFA's and OPM's spending estimates to include each fund's estimated expenditures and ending balance and the assumptions they used to make their estimates. Under the act, they must instead each report, for the same time period, (1) the level of spending changes from current year spending allowed by consensus revenue estimates in each fund, (2) any changes to current year spending that are necessary because of "fixed cost drivers," and (3) the total change to current year spending required to accommodate fixed cost drivers without exceeding current revenue estimates.

Under the act, "fixed cost drivers" may include debt service, pension contributions, retiree health care, entitlement programs, and federal mandate costs.

EFFECTIVE DATE: July 1, 2016

§ 79 — DEAF AND HARD OF HEARING INTERPRETING

Removes requirement that DORS provide interpreting services upon request

The act allows, rather than requires, DORS to provide deaf or hard of hearing interpreting services to any person or entity upon request to the extent interpreters are available. By law, unchanged by the act, anyone receiving such services through DORS must reimburse the agency at rates it sets.

EFFECTIVE DATE: July 1, 2016

§ 80 — DORS EDUCATIONAL AID ACCOUNT

Removes certain purchasing and prioritization requirements related to DORS educational funding for blind children

Under existing law, all state residents who require specialized vision-related educational programs, goods, and services are entitled to receive them. The law requires DORS to spend funds from the Educational Aid for the Blind and Visually Handicapped Children account (i.e., the educational aid account) for this purpose.

The act removes a requirement that DORS spend account funds on certain goods and services first, before spending these funds in other ways allowed by law (e.g., to pay for teaching services). Instead, it allows DORS to spend account funds for such goods and services, which include: (1) specialized books and supplies, (2) adaptive technology, (3) specialist examinations and aids, and (4) preschool programs and vision-related independent living services.

The act also removes an obsolete reference to a per-child statutory maximum.

EFFECTIVE DATE: July 1, 2016

§ 81 — TAX FREEZE PROGRAM REIMBURSEMENTS

Authorizes OPM to proportionately reduce Tax Freeze Program reimbursements to municipalities

The act requires OPM to proportionately reduce reimbursements it issues to municipalities under the Tax Freeze Program if the amount appropriated for the program is less than the amount required for the reimbursements.

Under the Tax Freeze Program, municipalities freeze property taxes on homes owned by qualifying seniors or their surviving spouses at the amount they paid in their first year enrolled in their program. OPM reimburses municipalities for the resulting lost tax revenue. The program has been closed to new applicants since 1979.

EFFECTIVE DATE: July 1, 2016

§ 82 — RENTERS' REBATE PROGRAM GRANTS

Requires OPM to reduce grants to keep within available appropriations

The act requires the OPM secretary to reduce Renters' Rebate Program grants as necessary to keep the grant total within available appropriations. Any necessary reductions must be implemented through a percentage reduction to all grants.

The secretary must make this determination annually and send notice of the percentage reduction to the comptroller along with the list of certificates approved for payment.

Under the Renters' Rebate Program, the state provides grants to qualified low-income renters who are elderly or totally disabled. Grants are based on income, rent, and utility expenses.

EFFECTIVE DATE: July 1, 2016

§ 83 — PAYMENT IN LIEU OF TAXES (PILOT) PAYMENTS FOR TOWNS WITH CERTAIN AIRPORTS

Conforms to current practice by allowing municipalities with airports owned by the Connecticut Airport Authority, other than Bradley International, to receive PILOTs for such property

By law, the state makes annual PILOT payments to municipalities to reimburse them for a part of the revenue loss due to the tax-exempt status of certain properties. The PILOTs are based on (1) a specified percentage of taxes that each municipality would otherwise collect on the property and (2) the amount the state appropriates for the payments.

The act conforms law to current practice by allowing municipalities with airports owned by the Connecticut Airport Authority (other than Bradley International Airport) to receive PILOTs for such properties. Existing law already allows municipalities to receive PILOT payments for municipally-owned airports.

Under the act, from January 1, 2015 through FY 16, the PILOT reimbursement rate to municipalities for such airports is 45%. By law, PILOTs are proportionately reduced if the amount appropriated is insufficient to fund the full payment to all recipients.

The act does not make corresponding changes to the statute on PILOT reimbursement for FY 17 and beyond (CGS § 12-18b).

EFFECTIVE DATE: January 1, 2015

§§ 84 & 85 — TOURISM WELCOME CENTERS

Requires DECD to maintain, operate, and manage the state's visitor welcome centers within available appropriations

The act requires DECD to maintain, operate, and manage the state's visitor welcome centers within available appropriations. Prior law required DECD to perform these duties, which included the following tasks:

1. provide space for listing events and promoting attractions at these centers;
2. develop, in consultation with the Department of Transportation (DOT), plans for (a) consistent signage for the centers and (b) regulating highway signage for privately operated centers;
3. establish, with DOT, a program under which local civic organizations help maintain and operate a center (i.e., Adopt a Visitor Welcome Center program); and
4. place a full-time year-round supervisor and a part-time assistant supervisor at the Danbury, Darien, North Stonington, and West Willington centers.

The law already requires DECD to staff certain centers when funds are available for this purpose. When funds are available, DECD must (1) place a seasonal full-time supervisor and a seasonal part-time assistant at the Greenwich and Westbrook centers and (2) provide training for center supervisors.

EFFECTIVE DATE: July 1, 2016

§ 86 — SUPPLEMENTAL MAGNET SCHOOL TRANSPORTATION GRANTS

Extends the education commissioner's authority to provide supplemental grants

The act extends through FY 16, the education commissioner's authority to make supplemental magnet school transportation grants, within available appropriations, to assist (1) *Sheff* stipulation school integration goals (i.e., the Capitol Region Education Council) and (2) EASTCONN, a regional education service center. For FY 16 up to 50% of the grant is paid on or before June 30, 2016 and the remainder is paid on or before September 1, 2016 after completion of a comprehensive financial review. The review must be funded by part of the grant amount.

It also deletes an obsolete provision.

EFFECTIVE DATE: Upon passage

§§ 87 & 88 — HOSPITAL RATES

Eliminates or modifies requirements for calculating Medicaid rates paid to hospitals

By law, Medicaid rates paid to acute care hospitals must be based on diagnostic-related groups (DRGs) the DSS commissioner establishes and periodically rebases after completing a fiscal analysis of the payment system's impact on each hospital. The act specifies that the commissioner must establish and rebase the DRGs in accordance with federal law, which generally requires that payments:

1. be consistent with efficiency, economy, and quality of care;
2. be sufficient to enlist enough providers so that care and services are available under the state's Medicaid plan to the same extent they are available to the general public; and
3. safeguard against using unnecessary care and services (42 U.S.C. 1396(a)(30)(A)).

The act requires DSS, for inpatient services that are not appropriate for DRG-based reimbursement, to reimburse the hospitals using any other methodology that complies with those federal requirements.

The act also eliminates a provision that became obsolete when DSS established hospital rates based on DRGs.

Payments for Special Services

The act also eliminates a requirement that the commissioner annually establish rates for hospital special services based on each hospital's reasonable cost to provide those services to Medicaid patients. It instead requires the commissioner to annually establish those rates pursuant to federal law and, as under prior law, within available appropriations.

Outpatient and Emergency Department (ED) Visit Payment Rates

Prior law required DSS to adopt a payment rate system for hospital outpatient and ED episodes of care (except those that took place at publically operated psychiatric hospitals) based on the Medicare Ambulatory Payment Classification (MAPC) system with a state conversion factor. Until it did so, DSS had to pay hospitals a rate established annually for each outpatient and ED visit based on the reasonable cost of the services and within available appropriations. The act instead requires DSS to pay these hospitals for such services at rates that comply with the federal requirements described above and within available appropriations until it adopts a payment rate system based on an unspecified ambulatory payment classification system. It also eliminates requirements that (1) the commissioner determine outpatient and ED rates on an annual basis and (2) the commissioner augment the MAPC system to provide payment for services it does not generally cover (e.g., mammograms, physical therapy).

Under the act, the new ambulatory payment classification system may include one or more peer groups (i.e., hospital categories such as privately operated acute care hospitals) DSS establishes.

Once DSS implements the payment classification system required under the act, a covered outpatient hospital service that is not reimbursed using the system must be paid in accordance with a fee schedule or alternative payment methodology the commissioner determines. Under prior law, a similar requirement was in place for outpatient hospital services that do not have an established MAPC code.

The act allows the commissioner, within available funding for implementing the new ambulatory payment classification methodology, to establish a supplemental pool to provide payments to DPH-licensed publicly operated acute care hospitals and children's hospitals (i.e., UConn John Dempsey Hospital in Farmington and Connecticut Children's Medical Center in Hartford) to offset losses the facilities incur because of the new classification system's implementation.

The act allows ED physicians, concurrent with the implementation of the ambulatory payment classification methodology, to enroll separately as Medicaid providers and qualify for direct reimbursement for the professional services they provide to a Medicaid recipient in the ED. Prior law allowed ED physicians to enroll beginning January 1, 2016 and concurrent with the implementation of the DRG payment methodology.

Nonemergency ED Visits

The act eliminates a requirement that DSS pay hospitals for nonemergency visits to EDs at the same rate it pays for outpatient clinical services. It instead requires the commissioner to determine the rate for such visits in compliance with federal law as described above and within available appropriations until the act's new ambulatory payment classification system is implemented.

The act also allows, rather than requires, the DSS commissioner to (1) impose Medicaid cost-sharing requirements for nonemergency use of hospital ED services and (2) adopt regulations establishing criteria for defining emergency and nonemergency visits to hospital EDs.

Permitted Hospital Rate Increases

By law, DSS is not required to increase rates paid, or set rates to be paid, to hospitals based on inflation, including any current payments or adjustments based on service dates in previous years. The act specifies that DSS is also not required to (1) increase or set such rates based on an inflationary factor or (2) adjust upward any hospital payment method based on inflation or an inflationary factor. Additionally, the act prohibits DSS from increasing or adjusting upward any rates or payment methods to hospitals based on inflation or an inflationary factor unless the approved state budget includes appropriations for such increases or upward adjustments.

The act also makes technical and conforming changes and removes obsolete provisions.

EFFECTIVE DATE: Upon passage

§§ 89-92 — JUDICIAL COMPENSATION

Delays by one year a previously scheduled 3% salary increase for judges and certain other judicial officials

The act delays by one year a previously scheduled 3% increase in salaries for judges and family support magistrates and per diem rates for family support referees and judge trial referees. Under the act, the increases take effect July 1, 2017 instead of July 1, 2016.

It similarly delays an increase in the additional compensation that certain judges receive for performing administrative duties. It also delays an increase in the salary or per diem rate of certain officials whose compensation, by law, is determined in relation to a Superior Court judge's salary or state referee's per-diem rate.

EFFECTIVE DATE: Upon passage

Judicial Salaries

Table 5 shows the salaries and per diem rates affected by the act.

Table 5: Judicial Salaries

Position	***Current Salary***	***Salary Starting July 1, 2016 Under Prior Law; Delayed to July 1, 2017 by the Act***
Supreme Court chief justice	$200,599	$206,617
Chief court administrator (if a judge)	192,763	198,545
Supreme Court associate judge	185,610	191,178
Appellate Court chief judge	183,556	189,063
Appellate Court judge	174,323	179,552
Deputy chief court administrator (if a Superior Court judge)	171,143	176,277
Superior Court judge	167,634	172,663
Chief family support magistrate	145,936	150,314
Family support magistrate	138,893	143,060
Family support referee	217/ day*	223/ day*
Judge trial referee	251/ day*	259/ day*

*Plus expenses, mileage, and retirement pay

Administrative Judges

In addition to their annual salaries, the law provides extra compensation to judges who take on certain administrative duties. These amounts were previously scheduled to increase from $1,142 to $1,177 starting July 1, 2016. The act delays the increase by one year, to July 1, 2017.

The judges who receive this additional amount are (1) the appellate system's administrative judge; (2) each judicial district's administrative judge; and (3) each chief administrative judge for (a) facilities, administrative appeals, the judicial marshal service, or judge trial referees and (b) the Superior Court's Family, Juvenile, Criminal, or Civil divisions.

Related Delayed Increases

The act's provisions also result in one-year delays for salary or rate increases for other officials or judges whose compensation is tied to those of Superior Court judges or judge trial referees. Specifically:

1. the salaries of workers' compensation commissioners vary depending on experience and are tied to those of Superior Court judges (CGS § 31-277);
2. the salaries of probate court judges vary depending on probate district classification, and range from 45% to 75% of a Superior Court judge's salary (CGS § 45a-95a);
3. senior judges receive the same per-diem rates as judge trial referees (CGS §§ 51-47b & 52-434b); and
4. the probate court administrator's salary is the same as that of a Superior Court judge (CGS § 45a-75).

§ 93 — STATE AID FOR CHILD CARE CENTERS FOR DISADVANTAGED CHILDREN

Establishes a new state grant amount for child care centers for disadvantaged children

Existing law authorizes the Office of Early Childhood (OEC) commissioner, within available appropriations, to contract with municipalities, human resource development agencies, or nonprofit corporations for grants to develop and operate licensed child care centers serving disadvantaged children. It requires the commissioner to determine the grant amounts pursuant to statutory criteria.

Prior law based the grant amount on whether the program received federal assistance. If the program received federal assistance, the grant was equal to half of the amount by which the program's net cost exceeded the assistance. If the program did not receive federal assistance, the commissioner determined the grant amount based upon a portion of the program's cost.

The act authorizes the commissioner to use an alternative option for determining the grant amounts, regardless of whether the child care program receives federal assistance. It allows her to award a grant of up to $8,927 for each child enrolled in the program age three or four, or age five and ineligible to enroll in kindergarten. Child care centers that receive funding under this alternative option must maintain services to children under three years old.

EFFECTIVE DATE: July 1, 2016

§ 94 — SCHOOL READINESS AND CHILD CARE FACILITY STUDY

Requires a new report from the Office of Early Childhood commissioner

The act requires the OEC commissioner to submit a report to the Appropriations Committee beginning October 1, 2016 and quarterly thereafter, through the quarter ending December 31, 2018, about school readiness and state-funded child care facilities program capacity and utilization. Each report must include, for each program, information about the (1) number of spaces, by type, that are available and were filled and (2) rates being paid for each space type for each age group. The information must be specific to the quarter for which each report is submitted.

EFFECTIVE DATE: July 1, 2016

§§ 95-108 & 207 — RETIREMENT SECURITY PROGRAM CHANGES

Makes numerous changes to the Connecticut Retirement Security Program, including renaming the program an exchange, lowering the maximum employee default contribution, and requiring the exchange to offer investment choices from multiple vendors

The act makes numerous changes to PA 16-29, which (1) created the Connecticut Retirement Security Authority ("authority") to establish a program with Roth individual retirement accounts (IRAs) for eligible private-sector employees and (2) established the authority as a quasi-public agency administered by a nine-member board of directors.

Among other things, this act (1) sets the default contribution rate at 3% of an employee's taxable wages for employees who do not select their own contribution rate (§ 95); (2) expands the authority's board from nine to 15 members by adding the OPM secretary, the Banking and Labor commissioners, and three additional members the governor appoints (bringing the total number of gubernatorial appointees to four) (§ 96); (3) changes the name from "program" to "exchange"(§ 95); and (4) requires the authority to establish criteria and guidelines for the exchange to offer qualified retirement investment choices from multiple authority-selected vendors (§ 97).

It also makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2017 unless otherwise noted below.

Definitions (§ 95)

Contribution Levels. PA 16-29 requires "qualified employers" to automatically enroll their "covered employees" in the retirement security program. ("Qualified employers" are private sector employers that employed at least five people each of whom was paid at least $5,000 in wages in the preceding calendar year and "covered employees" are those who have worked for a qualified employer for a minimum of 120 days and are at least 19 years old.)

This act sets a covered employee's default contribution level at 3% of the employee's taxable wages unless the employee affirmatively chooses a different contribution level. PA 16-29 allowed the authority to set a default level up to 6%. A covered employee may opt out of the program by electing a contribution level of zero.

Vendors. The act modifies the two vendor definitions under PA 16-29. One requires them to be federally regulated retirement plan sponsors that include federally regulated investment companies or insurance companies. PA 16-29 did not specify that they be federally regulated.

The second applies to payroll or recordkeeping businesses that also provide retirement plans or payroll deposit IRAs. The act expands the definition to include businesses that provide ancillary services, including technological services, and offer retirement plans or payroll deposit IRA products of retirement plan sponsors.

Fees. The act defines participant fees as investment management charges, administrative charges, investment advice charges, trading fees, marketing and sales fees, revenue sharing, broker fees and other costs necessary to administer the program.

EFFECTIVE DATE: Upon passage

Board of Directors (§ 96)

In addition to adding the OPM secretary and the banking and labor commissioners, the act adds three governor's appointees to the board. The three additional members must have a favorable reputation for skill, knowledge, and experience in the following: (1) one in annuity products, (2) one in retirement investment products, and (3) one in actuarial science. It also specifies that the House majority leader's appointee's skill, knowledge, and experience in the interests of employers regarding retirement products be specific to small employers. Under PA 16-29, other appointees must possess other particular skills or knowledge.

The act extends the deadline for making appointments from July 31, 2016 to January 1, 2017. Under PA 16-29, the governor selects the board chairman. This act removes the requirement for the selection to be made with the consent of both chambers of the legislature. It also removes the (1) requirement for the secretary of the state to administer the oath to each member and (2) board's authority to appoint and employ an assistant executive director.

The act requires eight, rather than four, members for a quorum to conduct authority business.

EFFECTIVE DATE: Upon passage.

Retirement Security Exchange Guidelines and Fees (§§ 97 & 99)

The act establishes the Connecticut Retirement Security Exchange (rather than program) to promote and enhance retirement savings for private sector employees in the state. While PA 16-29 authorized the authority board to establish criteria and guidelines for the retirement programs offered, this act specifies that the criteria and guidelines (1) be for the program to offer retirement choices provided by multiple vendors the authority selects, (2) establish a cap on the total annual fees, and (3) provide participants with information regarding each retirement choice's investment performance history.

The act also:

1. requires the authority to minimize total annual fees that can be charged to participants;
2. beginning in year five of operation, limits annual fees to 0.75% of the value of total program assets;
3. eliminates an option for the IRAs to be established and maintained by a third-party; and
4. allows the authority's board to contract with the state and its instrumentalities.

Vendors' Standard of Care (§ 100)

The act requires the authority's board, to the extent reasonable and practicable, to require the vendors (rather than agents) it engages or appoints to abide by the same standard of care that the board must follow.

Transmitting Retirement Security Contributions (§101)

PA 16-29 required qualified employers to transmit an employee's contributions on the earliest day that they could be segregated from the employer's assets, but no later than the 15th business day of the month following the month in which the contributions were withheld from the employee's paycheck. This act instead requires (1) employers to transmit the contribution on the earliest date it can be transmitted and (2) the transmittal to be no later than 10 business days after the date the employee's contributions were withheld.

Retirement Security Exchange Design Features (§ 102)

PA 16-29 required the authority to invest each participant's IRA in (1) an age-appropriate target date fund, (2) a vehicle designed for lifetime income investment to provide participants with a source of retirement income for life, or (3) such other investment vehicles as the authority may prescribe. This act specifies that the investment fund must be with an investor selected by the participant, or when an employee does not affirmatively select a specific vendor or investment option within the program, the participant's contribution will be invested in an age-appropriate target date fund that most closely matches the participant's normal retirement age. In these cases, the vendor will be assigned on a rotating basis by the exchange.

Retirement Security Program Website (§ 106)

The act requires the authority to establish and maintain a secure website to provide participants with information about approved vendors that offer IRAs through the program and the various investment options, including the investment performance history, that may be available for the IRAs.

EFFECTIVE DATE: January 1, 2018

§ 109 — TWEED-NEW HAVEN AIRPORT OPERATIONS

Earmarks part of DOT's FY 17 airport operations appropriation for Tweed-New Haven Airport

The act requires $1.48 million of the amount appropriated in PA 16-2, May Special Session to DOT for airport operations to be used for operating Tweed-New Haven airport in FY 17.

EFFECTIVE DATE: July 1, 2016

§§ 110-114, 134 & 209 — ELIMINATING THE CONNECTICUT PUBLIC TRANSPORTATION COMMISSION

Eliminates the Connecticut Public Transportation Commission

The act eliminates the Connecticut Public Transportation Commission and makes conforming changes. The 19-member commission helped the transportation commissioner, governor, and Transportation Committee plan, develop, and maintain public transportation facilities and services.

EFFECTIVE DATE: July 1, 2016

Background

Previous Elimination and Reinstatement of the Commission. PA 13-299 eliminated the commission, which was reinstated by PA 13-277.

§ 115 — NONUNION HEALTH INSURANCE PREMIUMS

Allows DAS and OPM to set health insurance premiums for nonunion state employees

The act allows the DAS commissioner and OPM secretary, regardless of any other state laws, to establish health insurance benefit premium cost sharing requirements that require all non-represented (i.e., nonunion) classified and unclassified state officers and employees to pay up to 18% of the total premium equivalent, as determined by the comptroller.

The law otherwise (1) allows the DAS commissioner to provide nonunion executive and judicial branch employees with benefits that are at least equal to those provided under unionized employees' collective bargaining agreements and (2) requires legislative employees and elected state officials (who by law are nonunion) to receive the same benefits provided under unionized employees' collective bargaining agreements (CGS § 5-200). By law, the state must collectively negotiate with the State Employees Bargaining Agent Coalition (SEBAC) over health insurance for unionized state employees (CGS § 5-278).

EFFECTIVE DATE: July 1, 2016

§ 116 — OPM STUDY ON COG REPRESENTATION

Requires OPM to conduct, within available appropriations, a study on increasing representation on regional councils of governments for municipalities with at least 50,000 people

The act requires the OPM secretary to conduct, within available appropriations, a study on increasing representation on regional councils of governments (COGs) for municipalities with a population of at least 50,000. By law, each COG member municipality is entitled to one representative on the COG (CGS § 4-124k).

Specifically, the study must determine if:

1. these municipalities, as shown by the most recent federal census, should have an additional representative for each 10,000 in additional population;
2. an added representative should be appointed by the municipal chief executive officer or in a manner set out in a local ordinance; and
3. an added representative should be able to vote on COG matters.

The secretary must report the study's findings to the Planning and Development Committee by December 31, 2016.

EFFECTIVE DATE: Upon passage

§§ 117 & 118 — YOUTH SERVICES PREVENTION GRANTS

Modifies FY 17 youth services prevention grant distributions

The act modifies FY 17 grant distributions for the Judicial Department's Youth Services Prevention grants, as shown in Table 6. Specifically, it (1) eliminates grants for 18 recipients, (2) adds 23 new grant recipients, and (3) with a few exceptions, reduces grant amounts for the remaining recipients.

Table 6: FY 17 Youth Services Prevention Grants

Grantee	*Prior Grant Amount*	*New Grant Amount*
'r Kids Family Center	$50,000	$0
ACESS Educational Service	0	70,018
Archipelago Inc. – Project Music	35,000	27,048
Arte, Inc.	174,004	134,691
Artists Collective	35,000	30,000
Beat the Street Community Center	16,712	12,926
Blessed Sacrament Church	0	70,018
Blue Hill Civic Association	20,000	0

Grantee	*Prior Grant Amount*	*New Grant Amount*
Boys and Girls Club of Bridgeport, Inc.	61,975	51,975
Boys and Girls Club of Meriden	16,712	12,922
Boys and Girls Club of Southeastern Connecticut	0	32,612
Boys and Girls Club of Stamford	113,110	87,561
Bridgeport Caribe Youth League, Inc.	130,000	99,420
BSL Educational Foundation of Alpha Phi Alpha, Inc.	30,662	30,000
Buddy Jordan Foundation	0	25,000
Catholic Charities Archdiocese of Hartford	0	30,000
C.U.R.E.T	20,000	20,000
Charter Oak Amateur Boxing Academy and Youth Development Program (COBA)	30,000	0
City of Hartford Southend Boys Scouts	15,000	0
City of Meriden/Police Cadets	16,712	12,922
City of Meriden/Youth Services Division	16,712	12,922
Community Action Agency of Western Connecticut	0	40,000
Cross Street Training and Academic Center, Inc.	0	5,000
Department of Families, Children, Youth and Recreation/City of Hartford	45,000	0
Dixwell Children's Creative Arts Center	124,004	0
East Hartford Youth Services	85,150	65,853
Ebony Horsewomen	35,000	30,000
EIR Urban Youth Boxing, Inc.	50,000	0
Faith Tabernacle Baptist Church	148,110	0
Family Enrichment Center of the Hospital of Central Connecticut	16,788	7,854
Foster Buddies Network/Hartford Boxing Center	45,986	31,617
Friends of Pope Park (Computer Classes)	0	25,234
Friends of Pope Park (Troop 105)	0	20,000
Garde Arts Center, Inc.	0	10,000
Girls, Inc.	16,712	12,922
Goodworks, Inc.	27,662	12,000
Guns Down, Books Up	74,004	0
Hartford Knights	50,000	25,000
Hispanic Coalition of Greater Waterbury	60,394	46,742
Historically Black College Alumni, Inc.	0	10,000
Human Resources Agency of New Britain, Inc.	100,000	85,000
Integrated Wellness Group - Vetts Program	0	134,691
Kenneth R. Jacksons Mentoring Services, Inc.	111,975	0
Little League Baseball, Inc.	40,538	0
M.G.L.L, Inc.	62,000	54,000
Manchester Youth Service Bureau	85,150	65,853
McGivney Community Center, Inc.	31,975	21,975
Meriden YMCA	16,712	12,922
Mi Casa, Hispanic Health Council	35,000	54,000
Middlesex United Way	0	10,000
Mount Aery Development Corporation	111,975	0
Mount Olive Church Ministries	0	15,000
New Haven Symphony	0	35,000
New London NAACP Youth Council	0	10,000
New London Youth Football League	40,539	0
New Opportunities of Greater Meriden/Boys to Men Program	16,712	12,922
North End Action Team	156,700	4,854

Grantee	*Prior Grant Amount*	*New Grant Amount*
Oddfellows Playhouse	0	30,000
OIC of New Britain Inc.- Project G.R.E.A.T.	50,000	40,000
OPMAD, Inc.	20,000	25,000
Our Piece of the Pie	0	20,000
Passage, Inc.	0	12,000
Pathways/Senderos	50,000	40,000
Phillips Metropolitan Christian Methodist Episcopal Church	25,000	15,000
Police Athletic League of Hartford	30,000	40,000
Police Athletic League of New Haven	50,000	30,000
Prudence Crandall Center, Inc.	16,788	7,854
Rivera Memorial Foundation, Inc.	60,394	46,740
Rushford Hospital Youth Program	16,712	12,922
Samuel V. Arroyo Center, Hartford	20,000	0
Serving All Vessels Equally	211,151	163,341
Solar Youth	0	54,692
Southwest Boys and Girls Club/1 Chandler Street, Hartford	30,000	25,000
St. Margaret Willow Plaza NRZ, Assoc., Inc.	60,394	46,740
Stratford PAL	0	25,000
Supreme Being, Inc.	31,000	20,000
The Boys and Girls Club of Greater Waterbury	60,394	46,740
The Village Initiative Project, Inc. - VIP College Prep and Life Skills	111,975	86,685
Town of Windsor - Collaborative	31,000	10,735
Upper Albany Collaborative	32,662	25,000
Wakeman Boys and Girls Club, Southport	20,000	0
Walnut Orange Walsh Neighborhood	60,394	46,740
Walter E. Luckett, Jr. Foundation	111,975	70,018
Waterbury Police Activity League, Inc.	60,394	46,740
Windsor Troop 49	5,000	0
With These Hands, Inc.	0	74,610
Women and Families Center	16,712	12,922
Youth Challenge	34,000	0
Youth Challenge	25,000	0
Youth Development Mentoring Through Fitness Sheridan Middle School After School Program	0	15,000

EFFECTIVE DATE: Upon passage for the elimination of prior grant amounts and July 1, 2016 for the new grant amounts.

§§ 119-121 — HOSPITAL TAX

States the intention of public acts from 2011 that established the hospital tax

Since July 1, 2011, the law imposes a quarterly tax on hospital net patient revenue at a rate up to the maximum allowed by federal law and using a base year as determined by the DSS commissioner.

The act states that it was the intention of the 2011 public acts establishing this tax that:

1. beginning July 1, 2011, the legislature would set the hospital tax rate by establishing the amount of revenue the tax would generate in the codified revenue estimates it adopts for each state budget, as documented in the final version of each state budget prepared by the Office of Fiscal Analysis; and
2. the statutory definition of "net patient revenue" complies with federal laws and regulations that, among other things, limit certain provider-specific taxes and define inpatient and outpatient hospital services.

The act states that the 2011 public acts required the DSS commissioner, in consultation with OPM, to calculate the amount of the tax due from each hospital within certain limitations and parameters under federal law, including determining the tax's base year, to generate the budgeted amount. The act states that, the commissioner, in administering

the tax, was required to notify hospitals of the taxes due and neither the calculations above nor the notice requirements constitute regulations under the Uniform Administrative Procedures Act. It also provides that the hospital tax's primary purpose was to raise revenues from uniquely situated health care providers that receive certain benefits under the state's Medicaid program.

Under the act, effective June 2, 2016 (the act's effective date) and for quarters beginning on or after July 1, 2011, (1) the hospital tax rate must conform with the state budget adopted by the legislature and (2) when determining the tax assessment base year, the DSS commissioner must ensure it conforms with the adopted budget. The act requires the DSS commissioner to promptly notify hospitals of the amount of tax due.

EFFECTIVE DATE: Upon passage, and, as stated above, certain provisions are applicable to calendar quarters beginning on or after July 1, 2011.

§ 122 — LOBBYIST REPORTING

Extends a lobbyist expense reporting deadline

The state Code of Ethics allows public officials, including the governor's spouse, and state employees to accept payments or reimbursements for necessary expenses (i.e., lodging, travel, meals, and registration fees) if, in their official capacities, they write an article, make an appearance or speech, or participate at an event. The act extends, from 30 days to 45 days after a payment or reimbursement, the deadline by which lobbyists who provide more than $10 in payments or reimbursements for necessary expenses must report them to the Office of State Ethics. It retains the 30-day reporting deadline for the recipient of the payment or reimbursement.

EFFECTIVE DATE: Upon passage

§ 123 — TWO-GENERATION POVERTY REDUCTION ACCOUNT

Establishes a separate account within the General Fund for DSS to support two-generation poverty reduction programs

The act establishes a separate, nonlapsing two-generation poverty reduction account in the General Fund. The account may receive (1) transfers of lapsing funds from General Fund operations or DSS poverty reduction accounts and (2) funds from public and philanthropic sources or the federal government for the account's purposes. All money deposited in the account must be used by DSS or those contracting with DSS to fund services to support two-generation poverty reduction programs.

EFFECTIVE DATE: July 1, 2016

§ 124 — CALCULATIONS FOR EDUCATION COST SHARING (ECS) GRANT INCREASES AND DECREASES

Revises and creates a method to determine ECS increases and decreases for towns and creates a monetary penalty for failure to meet minimum budget requirements for education expenditures

Prior law provided a method for calculating whether a town received an increase in ECS aid during FY 14 and subsequent fiscal years: a town received an ECS increase if the amount paid to the town in the current FY exceeded the amount paid in the prior FY.

The act instead establishes an ECS aid increase calculation for only one year, FY 17. It specifies that if the amount received in FY 17 is greater than the FY 16 amount, the FY 17 amount minus the FY 16 amount yields the ECS increase amount.

The act establishes a similar calculation for determining whether a town has received an ECS decrease in FY 17. Under the act, a town has received an ECS decrease if the amount paid to the town in FY 16 exceeds the amount paid in FY 17. The FY 16 amount minus the FY 17 amount yields the ECS decrease amount.

The act also extends a monetary penalty in existing law for certain ECS expenditure violations to include minimum budget requirement violations. Existing law requires towns and regional school districts serving grades kindergarten to 12 to (1) spend ECS grants for educational purposes only and (2) refrain from using an ECS increase to supplant local education funding. The State Department of Education (SDE) must withhold from a town a portion of its ECS grant in the subsequent FY that equals two times the amount of the ECS expenditure violation or, in the case of a regional school district, from the ECS grants payable to the district's member towns. The act extends this penalty to towns and regional school districts that failed to meet their minimum budget requirement for educational expenditures (i.e., budgeted less for education than they did in the previous FY) as amended by the act (see below).

EFFECTIVE DATE: July 1, 2016

§ 125 — MINIMUM BUDGET REQUIREMENT (MBR) REDUCTIONS AND EXEMPTIONS

Creates a new MBR reduction for FY 17 and replaces an obsolete metric that allows towns to claim an MBR exemption

MBR Reductions

By law, a town is prohibited from budgeting less for education than it did in the previous FY unless it can demonstrate specific achievements or changes within its school district. This prohibition is commonly referred to as the minimum budget requirement (MBR).

The act allows a town to reduce its MBR in FY 17 if it experiences an ECS decrease in FY 17. The MBR reduction must be equal to the ECS decrease as calculated under the act and described above. By law and unchanged by the act, alliance districts are prohibited from reducing their MBR in FYs 16 and 17.

MBR Exemptions

Prior law allowed towns to claim an MBR exemption for earning district performance index (DPI) scores among the top 10% of all districts; however, DPI has been eliminated from statute and replaced with other measures that SDE uses to rank school districts. The act instead requires SDE to use accountability index scores to rank districts when determining MBR relief.

By law, SDE may calculate accountability index scores for each public school district and school using multiple student, school, or district-level measures as weighted by SDE. Such measures must include the performance index score (based on standardized mastery test scores) and high school graduation rates and may include (1) academic growth over time, (2) attendance and chronic absenteeism, (3) postsecondary education and career readiness, (4) enrollment in and graduation from higher education institutions and postsecondary education programs, (5) civic and arts education, and (6) physical fitness. SDE has announced all the factors it now uses in the accountability index, and they include additional factors such as standardized testing participation rates.

EFFECTIVE DATE: July 1, 2016

§ 126 — ALLIANCE DISTRICT FUNDING

Revises the alliance district ECS grant holdback for FY 17

Prior law required the comptroller to hold back any ECS grant increase in FYs 14-17 over FY 12's amount that is payable to an alliance district (one of the 30 lowest performing districts in the state). The comptroller must transfer the money to the education commissioner, who can withhold it until the alliance district supplies her with a plan that addresses objectives and targets to improve student achievement.

The act revises the alliance district holdback requirement for FY 17. It requires the comptroller to withhold from an alliance district any ECS grant increase received in FY 17 over FY 12's amount, minus any ECS decrease received in FY 17 compared with FY 16.

EFFECTIVE DATE: July 1, 2016

§§ 127-175 & 209 — CONSOLIDATION OF LEGISLATIVE COMMISSIONS

Eliminates the six legislative commissions and replaces them with a 63-member Commission on Equity and Opportunity and a 63-member Commission on Women, Children, and Seniors

The act eliminates the six legislative commissions and replaces them with a 63-member Commission on Equity and Opportunity and a 63-member Commission on Women, Children and Seniors. With the exception of continuity of authority and transfer of officers and employees, the former constitutes a successor to the African-American Affairs, Latino and Puerto Rican Affairs, and Asian Pacific American Affairs commissions and the latter constitutes a successor to the Permanent Commission on the Status of Women, Commission on Children, and Commission on Aging. Both are part of the legislative department.

The act establishes the same duties for the Commission on Equity and Opportunity as it establishes for the Commission on Women, Children and Seniors, but it targets them to their respective constituencies. Generally, these duties parallel the six legislative commissions' previous duties.

Under the act, the Commission on Equity and Opportunity must be organized into three policy divisions focusing on issues affecting the following underrepresented and underserved populations: African Americans, Asian Pacific Americans, and Latinos and Puerto Ricans. Similarly, the Commission on Women, Children and Seniors must be organized into three policy divisions focusing on issues affecting the following underrepresented and underserved populations: women, children and families, and elderly individuals. Both commissions may adopt regulations to carry out their duties.

The act makes several minor, technical, and conforming changes to implement its provisions.

EFFECTIVE DATE: July 1, 2016, except that a technical provision substituting the names of the successor commissions for the eliminated commissions in 2016 regular and special acts is effective upon passage (§ 131).

Transition (§§ 127 & 129)

Under the act, the two new legislative commissions become successor agencies to the six previous commissions for purposes of existing orders and regulations, pending civil or criminal actions or proceedings, existing contracts and rights of action, and federal aid. They do not constitute successor agencies for purposes of continuity of authority or transfer of officers and employees.

The heads of the six previous commissions must deliver to the applicable successor commission all records and property pertaining to their functions.

Membership and Organization (§§ 127 & 129)

Under the act, both the Commission on Equity and Opportunity and the Commission on Women, Children and Seniors consist of 63 members. The act specifies that any person appointed to one of the six previous commissions before July 1, 2016 whose term has not expired by that date is deemed appointed to serve on the successor commission until his or her term expires or a vacancy occurs, whichever is first. Upon such a vacancy or expiration, the appointing authority that made the original appointment must make a new appointment, as described below.

For members appointed on or after July 1, 2016, the act requires (1) each of the six legislative leaders to make nine appointments and (2) the House speaker and Senate president pro tempore to also make nine joint appointments. The appointing authorities must allocate their appointments evenly across each commission's three constituencies. Specifically, for the Commission on Equity and Opportunity, each appointing authority must appoint three members with experience in African-American affairs, three with experience in Asian Pacific-American affairs, and three with experience in Latino and Puerto Rican affairs. For the Commission on Women, Children and Seniors, each appointing authority must appoint three members with expertise in issues concerning women, three with expertise in issues concerning children or the family, and three with expertise in issues concerning elderly persons.

Additionally, for certain appointing authorities, the act applies geographical requirements to some of their appointments, as shown in Table 8.

Table 8: Geographical Requirements for Commission Appointees

Appointing Authority	Geographical Requirement (applies to both commissions)
Joint appointments by House speaker and Senate president pro tempore	At least three of the nine must be from the state's central region
Senate president pro tempore	At least three of the nine must be from the state's northeastern region
House speaker	At least three of the nine must be from the state's southeastern region
Senate majority leader	N/A
House majority leader	N/A
Senate minority leader	At least three of the nine must be from the state's northwestern region
House minority leader	At least three of the nine must be from the state's southwestern region

Term Lengths. The act requires that (1) appointing authorities make their initial appointments by July 31, 2016 and (2) commission members' terms end June 30, 2018, regardless of the appointment date. Members who are appointed on or after July 1, 2018 must serve a two-year term beginning on the date they are appointed. The appointing authority must fill any vacancies for the balance of the unexpired term, and members must continue to serve until their successors are appointed.

Chairperson and Meetings. The act requires the House speaker and Senate president pro tempore to jointly select a chairperson for each commission from among the commissions' members. It requires the chairperson to schedule the first meeting and commissions to meet as often as the chairperson or a majority of the commission deems necessary. For both commissions, the act specifies that a majority of the membership constitutes a quorum to do business. A member is deemed to have resigned if he or she misses three consecutive meetings or 50% of all meetings held during any calendar year.

Organization. The act organizes both commissions into three policy divisions, with one division for each constituency, and requires that they both have an executive director. It grants the Legislative Management Committee authority over the hiring, termination, and performance reviews of the executive directors and staff and specifies that the commissions have no authority over staffing and personnel matters. Commission members must serve without compensation but, within the limits of available funds, are reimbursed for necessary expenses.

Duties and Responsibilities (§§ 128 & 130)

The act establishes duties and responsibilities for the two successor commissions, targeted to their respective constituencies, that parallel the duties and responsibilities of the six previous commissions. Specifically both commissions must do the following:

1. focus their efforts on specified "quality of life desired results" for members of their constituencies (i.e., that they achieve educational success and are healthy, safe, and free from poverty and discrimination);
2. recommend, to the General Assembly and governor, strategies for achieving the quality of life desired results (see below);
3. review and comment, as necessary, on proposed state legislation or recommendations affecting their constituencies and provide copies of the comments to General Assembly members;
4. advise the General Assembly on coordinating and administering state programs affecting their constituencies;
5. gather and maintain, as necessary, current information about their constituencies to better understand their status, condition, and contributions;
6. include the current information in their annual status reports (see below), as appropriate and pertinent to the quality of life desired results, and make it available upon request to legislators and other interested parties;
7. maintain liaisons between their constituencies and government agencies, including the General Assembly; and
8. conduct educational and outreach activities to raise awareness of and address critical issues for their constituencies.

Recommendations on Quality of Life Desired Results. The commissions must make recommendations to the General Assembly and governor on new or enhanced policies, programs, and services that foster progress in achieving the quality of life desired results. The recommendations must, where applicable, include the following:

1. systems innovations, model policies, and practices that embed two-generational practice in program, policy, and systems change on the state and local levels;
2. strategies for reducing family poverty and promoting parent leadership and family civics;
3. the promotion of youth leadership opportunities that keep youth engaged in the community; and
4. strategies and programs that address equitable access, impede bias, and narrow the opportunity gap for the commissions' constituencies.

The recommendations may include other state and national best practices, and recommendations for maximizing federal funding.

Other Powers (§§ 128 & 130)

The act establishes powers for the successor commissions that parallel the six previous commissions' powers. Specifically, it authorizes the successor commissions to do the following:

1. request and receive from any state agency information and assistance as they may require;
2. use any funds available to them from the federal or state government, or other sources;
3. enter into contracts to carry out their purposes;
4. utilize voluntary and uncompensated services, as necessary, from private individuals, state or federal agencies, or organizations;
5. recommend policies to federal agencies and political subdivisions of the state relative to their constituencies;

6. accept gifts, donations, or bequests to perform their duties;
7. hold public hearings;
8. establish task forces or advisory committees, as necessary, to perform their duties; and
9. inform business, education, and state and local government leaders and the media of the nature and scope of the problems faced by their constituencies.

In addition, the commissions may enter into agreements with state agencies to maximize federal funds received by the agencies. Under such an agreement, (1) a state agency must use any funds it receives to perform its statutory duties that relate to the commission's duties and (2) the commissions may accept the portion of federal funds the agency receives through the agreement, as permitted by federal law.

Annual Status Reports (§§ 128 & 130)

Annually, by January 1, the commissions must submit to the Appropriations Committee a status report, organized by policy division, concerning their efforts and any progress made in achieving the quality of life desired results.

Conforming Changes (§§ 131-175)

Prior law established various reporting and training requirements for the six previous commissions and granted them representation on numerous state boards and committees. The act generally transfers these provisions to the two successor commissions. For example, prior law required the Permanent Commission on the Status of Women, together with the Commission on Human Rights and Opportunities (CHRO), to provide training on state and federal discrimination laws to certain state employees. The act instead requires the Commission on Women, Children and Seniors to provide this training with CHRO (§ 162).

In cases where two or more of the previous commissions were represented on a board or committee, the act grants the same level of representation to the successor commission. For example, under prior law the chairpersons of the African-American Affairs, Latino and Puerto Rican Affairs, and Asian Pacific American Affairs commissions, or their designees, were members of the Commission on Racial and Ethnic Disparity in the Criminal Justice System. The act instead requires the chairperson of the Commission on Equity and Opportunity (or a designee), plus two other commission members designated by the chairperson, to serve on this commission (§ 169).

§ 176 — STUDY OF EMERGENCY POWER NEEDS IN ELDERLY PUBLIC HOUSING

Requires the Commission on Women, Children and Seniors to study and report on the need for emergency power generators at public housing sites for the elderly

The act requires the Commission on Women, Children and Seniors to study the need for emergency power generators at Connecticut's public housing sites for the elderly. Under the act, these sites include any building where at least 50% of the units are rented to individuals ages 62 and older under specified state elderly housing programs.

The study must include:

1. an inventory of public housing for the elderly in each municipality, including (a) the total number of housing units, (b) a description of the type and location of each housing unit, and (c) whether emergency power generators are provided for these units;
2. recommendations for providing emergency power generators;
3. the estimated cost of providing the generators; and
4. the availability of grants for generators through the Department of Emergency Services and Public Protection's Division of Emergency Management and Homeland Security or any other state or federal grant.

Under the act, the commission's executive director must report on the study's results to the Aging, Housing, and Public Safety committees by January 1, 2017.

EFFECTIVE DATE: July 1, 2016

§ 177 — BRIDGEPORT PAYMENTS TO MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM (MERS)

Allows Bridgeport to make reduced payments to MERS in FYs 17 & 18

SA 16-16 allows Bridgeport to defer paying a certain portion of its amortization payments for the unfunded accrued liability of its police and fire members in the Municipal Employees' Retirement System (MERS) in certain fiscal years through 2022, with increased payments to make up the difference from FY 25 through FY 43.

This act amends SA 16-16 to limit the reduced payments to FY 17 and FY 18 and require the increased payments to make up the difference in FY 21 through FY 23. Specifically, in FY 17 and FY 18, it allows the city to pay 35% of the amortization amount required by the State Retirement Commission and in FY 21 through FY 23, it requires the city to pay the full amount required by the commission plus one-third of the amount deferred in FY 17 and FY 18.

The act also requires the retirement commission, by January 1, 2018 and upon Bridgeport's request, to modify the amortization schedule and to conduct an actuarial analysis of the request. The analysis must take into account the overall impact on MERS, including the funding ratio, the projected rate of return, and whether the amortization method increases the unfunded accrued liability's costs. It may provide for alternative methods of amortizing the unfunded liability.

EFFECTIVE DATE: Upon passage

§ 178 — PERMIT FEES FOR OVERSIZE AND OVERWEIGHT VEHICLES

Increases DOT permit fees for oversize and overweight vehicles

Starting July 1, 2016, this act increases DOT permit fees for motor vehicles, including trucks and trailers, that exceed certain height, width, length, or weight limits. It makes minor changes to the permit requirements, and specifies that these requirements and fees also apply to "self-propelled vehicles."

It requires the DOT commissioner to waive, between July 1, 2016 and June 30, 2017, the amount of the fee increase for anyone who shows, to the commissioner's satisfaction, that (1) the increased fee affects a material term in a contract for services in effect on July 1, 2016 or subject to competitive bidding on that date and (2) the person seeking the waiver is a party to the contract or a participant in the competitive bidding process.

Prior law limited the permits issued for overweight vehicles to the gross weight shown on the vehicle's registration certificate. The act specifies that these registration certificates are for commercial vehicles and that the permit must be limited to the gross weight shown on their commercial registration certificates or any commercial registration certificate issued on an apportionment basis. (Apportionment refers to the system in which commercial vehicles pay registration fees based on the distance they travel in each state.) The act also makes conforming changes.

The act increases fees as shown in Table 9.

Table 9: Oversize or Overweight Vehicle Fees

	Previous Fee	Fee Under the Act
Single Trip Permit	$23	$30
Transmittal Fee*	3	5
Annual Permit (per 1,000 pounds)	7	9
Incremental Fee for Annual Permit**	One-tenth of the annual fee per month	100 per month
Minimum Annual Fee for Oversize Indivisible Loads (a load that cannot be broken down into smaller loads to meet weight or size limits)	500	650

* Under prior law, this fee applied to permits transmitted by transceiver or fax; under the act this fee applies to any permit transmitted electronically.

** The act specifically applies this fee to (1) vehicles and (2) vehicles and trailers; under prior law it applied to vehicles only.

EFFECTIVE DATE: July 1, 2016

§ 179 — STATE BOARD OF MEDIATION AND ARBITRATION FEE

Increases labor and mediation arbitration fee from $25 to $200

The act increases, from $25 to $200, the fee an employer and its employee must each pay when submitting a grievance or dispute to the State Board of Mediation and Arbitration. By law, the board (1) assigns these cases to one of its two three-member panels, each consisting of one labor, business, and public representative and (2) must refund the fee if the parties agree to have the public member arbitrate the matter.

EFFECTIVE DATE: July 1, 2016

§ 180 — SALES TAX ON PARKING FEES AT CERTAIN STATE AND MUNICIPAL LOTS

Exempts certain motor vehicle parking fees from sales and use tax

The act exempts from sales and use tax non-metered motor vehicle parking in (1) seasonal lots with 30 or more spaces operated by the state or its political subdivisions and (2) municipally owned lots with 30 or more spaces. As under existing law, parking in metered lots or lots with fewer than 30 spaces is exempt from the tax. (PA 16-72 contains identical provisions.)
EFFECTIVE DATE: Upon passage and applicable to sales made on or after that date.

§ 181 — REGIONAL GREENHOUSE GAS INITIATIVE (RGGI) FUND SWEEPS

Diverts the first $3.3 million from the proceeds of RGGI auctions occurring on or after January 1, 2017 for deposit in the General Fund

The act diverts the first $3.3 million from the proceeds of RGGI auctions occurring on or after January 1, 2017 for deposit in the General Fund in FY 17. Once the $3.3 million is diverted, any subsequent auction proceeds must be calculated and allocated as required by existing law and regulations.

RGGI is a regional interstate "cap and trade" program to reduce greenhouse gas emissions. The program subjects the region's power plants to a declining cap on the amount of carbon dioxide (CO_2) they can emit and requires them to purchase emission allowances at quarterly auctions. Those that exceed the cap may buy credits from those that do not. Auction sales proceeds fund energy efficiency and renewal programs.
EFFECTIVE DATE: Upon passage

§ 182 — TAX WARRANTS ON PAYMENT SETTLEMENT ENTITIES

Requires DRS to make reasonable efforts to issue tax warrants on payment settlement entities for payments they made to Connecticut retailers

The act requires the DRS commissioner to make reasonable efforts to facilitate the issuance of tax warrants on "payment settlement entities" (i.e., banks or third-party settlement organizations, such as MasterCard, Paypal, and Visa) for payments they made to Connecticut retailers.
EFFECTIVE DATE: Upon passage

§ 183 — ANGEL INVESTOR TAX CREDIT

Extends the sunset date for angel investor tax credits through 2019 and allows them to be sold, assigned, or transferred

The act extends the sunset date for the angel investor tax credit by three years, from July 1, 2016 to July 1, 2019, and allows taxpayers to sell, assign, or transfer all or part of the credit to other taxpayers.

The credits, which are available through CI, apply against the personal income tax and equal 25% of the amount taxpayers invest in technology-based businesses, up to $250,000.
EFFECTIVE DATE: July 1, 2016 and applicable to tax years beginning on or after January 1, 2016.

§ 184 — AMORTIZED FY 14 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) DEFICIT

Delays the start of scheduled payments to pay off the FY 14 GAAP deficit and shortens the schedule for the payments

Prior law required the state to pay off the General Fund's unreserved negative unassigned balance for FY 14, identified based on GAAP, and to do so over 12 years in equal increments, starting in FY 17 and ending in FY 28. The act delays the start of these payments by one year and requires them to be amortized over 11 years in equal increments, from FY 18 to FY 28.
EFFECTIVE DATE: Upon passage

§ 185 — ADMISSIONS TAX EXEMPTION

Establishes admissions tax exemptions for the Dunkin' Donuts Park and New Britain Stadium

The act exempts from the 10% admissions tax any (1) event at the Dunkin' Donuts Park in Hartford, beginning June 2, 2016, and (2) athletic event at the New Britain Stadium presented by an Atlantic League of Professional Baseball member team, beginning July 1, 2017.
EFFECTIVE DATE: Upon passage

§ 186 — LOCAL OPTION ADMISSIONS SURCHARGE

Authorizes municipalities to impose a new local option admissions surcharge

The act allows municipalities to impose a surcharge on admission charges to events held at facilities located within the municipalities. The surcharge must be imposed by ordinance and may be up to 5% of the admissions charge, except for the surcharge on events held at the Dunkin' Donuts Park in Hartford, which may be up to 10%.

The act prohibits municipalities from imposing a surcharge on (1) events from which all proceeds go exclusively to a federally tax-exempt organization, provided that organization actively engages in and assumes the financial risk of presenting the event, and (2) pari-mutuel or off-track betting facilities already subject to a local admissions tax. It allows the ordinances to exclude additional events or facilities from the surcharge.

Under the act, the surcharge applies to amounts paid for tickets; licenses; skybox, luxury suite, or club seat rentals or purchases; and any other admission charges, including any charges for the right to buy seats. It covers theaters; lecture and concert halls; amusement parks and fairgrounds; dance halls; sporting facilities, such as ball parks, race tracks, tennis courts, golf and miniature golf courses, skating rinks, beaches, swimming pools, and gyms; stadiums and amphitheaters; convention centers; auto, boat, camping, home, dog, and antique shows; and other similar venues and events. The surcharge applies in addition to any applicable tax (i.e., admissions tax).

The surcharge (1) applies to the facilities at which the events take place, which must collect the surcharge from purchasers upon payment, and (2) is a recoverable debt from the purchaser to the facility.

The same administrative, enforcement, liability, and appeal process requirements established in statute for the local option pari-mutuel or off-track betting facility admissions tax apply to the surcharge.
EFFECTIVE DATE: Upon passage

§ 187 — MOTOR VEHICLE PROPERTY TAX MILL RATES

Increases the cap on motor vehicle mill rates and establishes the motor vehicle mill rate for certain municipalities, districts, and boroughs that previously set a mill rate for the 2015 assessment year

The act increases the cap on motor vehicle property tax mill rates from (1) 32 to 37 mills for the 2015 assessment year and (2) 29.36 mills to 32 mills for the 2016 assessment year and thereafter.

It also establishes the motor vehicle mill rate for certain municipalities, special taxing districts, and boroughs that set a mill rate for the 2015 assessment year prior to June 2, 2016 (the act's effective date). For municipalities that set the rate at 32 mills, their motor vehicle mill rate is the lesser of:

1. the mill rate they previously set for real and personal property other than motor vehicles for the 2015 assessment year;
2. a rate they set after June 2, 2016 that is less than 37 mills; or
3. 37 mills.

For any borough or district that, prior to June 2, 2016, set a motor vehicle mill rate for the 2015 assessment year that if combined with the municipality's motor vehicle mill rate would result in 32 mills, the motor vehicle mill rate is the lesser of:

1. a rate that if combined with the municipality's motor vehicle mill rate would result in 37 mills;
2. the rate it previously set for real and personal property other than motor vehicles for the 2015 assessment year; or
3. a rate it sets after June 2, 2016 that if combined with the municipality's motor vehicle mill rate is less than 37 mills.

Existing law bars districts and boroughs from setting a mill rate for the 2015 and 2016 assessment years that, if combined with the municipality's motor vehicle mill rate, would exceed the capped rate. The act extends this provision to the 2017 assessment year and thereafter, thus aligning it with the cap on municipalities for those assessment years.
EFFECTIVE DATE: Upon passage and applicable to assessment years beginning on or after October 1, 2015.

§ 189 — MUNICIPAL GRANT PROGRAMS

Makes various changes to the regional services and municipal revenue sharing grant programs, including expanding the types of expenditures excluded from the municipal spending cap that is tied to municipal revenue sharing grants beginning in FY 18

Regional Services Grants

Beginning in FY 17, the law requires OPM to distribute regional services grants to councils of governments (COGs), based on a formula determined by the OPM secretary. Beginning in FY 18, the act requires COGs to use 35% of the grants to help regional education service centers merge their human resources, finance, or technology services with such services provided by municipalities in the region.

Municipal Revenue Sharing Grants

Beginning in FY 20, the law requires OPM to distribute municipal revenue sharing grants to municipalities according to a statutory formula. (The grant amounts are specified in statute for FYs 17 to 19.) Under prior law, the formula for calculating each municipality's grant amount was based on its motor vehicle mill rate. The act instead bases the formula on the mill rate for real and personal property other than motor vehicles.

Municipal Spending Cap

By law, beginning in FY 18, OPM must reduce municipal revenue sharing grant amounts for those municipalities whose spending, with certain exceptions, exceeds a spending cap. By law, the cap is the greater of the inflation rate or 2.5% or more of the municipality's expenditures in the prior fiscal year. The act specifies that the cap is based on a municipality's adopted budget expenditures, rather than general budget expenditures. Under the act, "adopted budget expenditures" include expenditures from a municipality's general fund and any nonbudgeted funds.

The act expands the types of expenditures excluded from the cap to include (1) budgeting for an audited deficit; (2) nonrecurring grants; (3) nonrecurring capital expenditures of at least $100,000; and (4) payments on unfunded pension liabilities.

The act also prohibits OPM from reducing a municipality's grant in any year in which its adopted budget expenditures exceeds the cap by an amount proportionate to its population increase over the previous fiscal year (based on the most recent Department of Public Health population estimate).
EFFECTIVE DATE: July 1, 2016

§§ 190 & 191 — PAYMENT IN LIEU OF TAXES (PILOT) GRANTS FOR FY 18 AND FY 19

Extends, to FYs 18 and 19, requirements for proportionately reducing PILOT grants if the amount appropriated is not enough to fully fund them; Delays the implementation of a mechanism for increasing PILOT grants for eligible municipalities

The act extends, to FYs 18 and 19, requirements that previously applied to FY 17 for proportionately reducing PILOT grants if the amount appropriated is not enough to fund the full amount to every municipality and district. Under those requirements, (1) municipalities and districts must receive PILOTs that equal or exceed the reimbursement rates they received in FY 15 and (2) certain municipalities and districts receive a specified supplemental PILOT grant. The budget act supersedes these requirements for FY 17, reducing the supplemental grant amounts and changing their funding source.

In extending these requirements, the act delays, from FY 18 to FY 20, the implementation of a mechanism for increasing PILOT grants for the 35 municipalities with the highest percentage of tax-exempt property on their grand lists, provided their mill rates are at least 25.

The act also corrects a statutory reference in the PILOT program statutes and makes conforming changes.

EFFECTIVE DATE: July 1, 2016

§ 192 — DRS TAX INCIDENCE STUDY

Delays the next DRS tax incidence report deadline, from February 15, 2017 to February 15, 2018

The act delays by one year, from February 15, 2017 to February 15, 2018, the deadline by which DRS must submit its next tax incidence report to the legislature. By law, DRS must biennially submit to the Finance, Revenue and Bonding Committee, and post on DRS's website, a report on the overall incidence of the income tax, sales and excise taxes, corporation business tax, and property tax.

EFFECTIVE DATE: Upon passage

§§ 193 & 194 — PROBATE ESTATE SETTLEMENT FEES

Establishes a $40,000 maximum probate fee for estate settlement

The act caps at $40,000 the probate fees for settling estates valued at $8.877 million and greater, as shown in Table 10. The fee changes apply to estate proceedings for people who die on or after July 1, 2016. The act also makes conforming changes.

Table 10: Probate Fees for Settling Estates (Ranges Changed by the Act)

Prior Law		*Act*	
Estate Value	***Fee***	***Estate Value***	***Fee***
At least $2 million	$5,615, plus 0.5% of the excess over $2 million	$2 million to $8.877 million	$5,615, plus 0.5% of the excess over $2 million
		At least $8.877 million	$40,000

EFFECTIVE DATE: Upon passage, except a conforming change is effective July 1, 2016.

§§ 195 & 196 — AMBULATORY SURGICAL CENTERS (ASC)

Allows state-licensed outpatient surgical facilities that also operate as ASCs to provide surgical services to patients who require no more than 24 hours of postoperative observation

Under federal law, ASCs qualify for Medicare payments if, among other things, they provide surgical services to patients who require no more than 24 hours of postoperative care at the center without subsequent hospitalization (42 C.F.R. § 416). The act explicitly authorizes DPH-licensed outpatient surgical facilities that operate as ASCs to provide surgical services to patients who meet this criterion.

The act requires the DPH commissioner, by July 1, 2016, to study the implications of this change and determine if regulations are needed to implement it. It allows him to adopt regulations if he decides that they are needed. The act also requires DPH to (1) adopt and implement any policies and procedures needed to administer the law's provisions concerning outpatient surgical facilities' licensure and operation and (2) operate under the policies and procedures while he is in the process of adopting them as regulations. The department must post the policies and procedures on the eRegulations System within 20 days after implementing them.

EFFECTIVE DATE: July 1, 2016, except the requirement for the commissioner's study takes effect upon passage.

§ 197 — IMPACT OF GROSS RECEIPTS TAX ON ASC

Requires a study on how the gross receipts tax affects ASCs

The act requires the OPM secretary, in consultation with the revenue services and social services commissioners, to study how the gross receipts tax affects ASCs and report the results to the Public Health and Finance, Revenue and Bonding committees by February 1, 2017. At a minimum, the study must review and make recommendations regarding the:

1. tax rate and the amount of any tax exemptions,
2. fairness of the tax for ASCs of different sizes and capacities,
3. relationship between the tax and ASCs operating costs,
4. tax's effect on ASCs' ability to pay debts and make capital improvements, and
5. tax's effects on ASCs' hours of operation.

The study must also review other possible tax structures.

EFFECTIVE DATE: Upon passage

§ 198 — FILING OUTSTANDING RETURNS AS A CONDITION OF LICENSE OR PERMIT ISSUANCE OR RENEWAL

Prohibits the DRS commissioner issuing or renewing certain permits or licenses for anyone who he determines has failed to file any required tax returns

The act bars the DRS commissioner from issuing or renewing a (1) cigarette dealer, distributor, or manufacturer license; (2) tobacco product distributor or unclassified importer license; or (3) sales tax seller's permit, for anyone who he determines has failed to file any required tax returns. Under the act, the applicant must file or arrange to file all outstanding returns to the commissioner's satisfaction before the commissioner may issue or renew the license or permit.

Existing law bars the commissioner from issuing or renewing such licenses or permits for anyone who he determines owes any state taxes for which all administrative or judicial remedies have expired or been exhausted.

EFFECTIVE DATE: January 1, 2017

§§ 199 & 200 — SOURCING RULES FOR CORPORATION AND PERSONAL INCOME TAX PURPOSES

Requires businesses to use market-based sourcing to determine which service sales are attributable to Connecticut for corporation and personal income tax purposes; Establishes new sourcing rules for other categories of receipts

By law, multistate businesses must determine where their sales are made in order to calculate the portion of their income that is attributed to Connecticut and thus subject to tax. Existing law establishes "sourcing rules" that companies must use to determine which sales are sourced (i.e., assigned) to Connecticut. The act requires businesses to use market-based sourcing to determine which service sales are attributable to Connecticut for corporation and personal income tax purposes. Under market-based sourcing rules, businesses source service sales based on where their customers are located or receive the benefit of the services. Prior law required them to source service sales based on where the services were performed (i.e., origination-based sourcing).

The act establishes additional sourcing rules for other categories of receipts. It generally applies the same rules to the corporation and personal income tax, with the exception of sourcing receipts derived from real property sales, rentals, leases, and licenses.

By law, unchanged by the act, businesses must use destination-based sourcing to determine how sales of tangible personal property are sourced to Connecticut for both corporation and personal income tax purposes. Under these rules, sales are sourced to the state if the property is delivered or shipped to a customer here.

Corporation Income Tax Sourcing Rules

The act requires corporation income taxpayers to use market-based sourcing to assign gross receipts from service sales to the state (i.e., source such receipts to Connecticut if the market for the services is here). Under the act, the market for a service is in Connecticut if and to the extent the service is used here. Prior law required businesses to source service sales to Connecticut if the services were performed here.

The act also assigns gross receipts from the following sources to Connecticut:

1. Real or tangible personal property rentals, leases, or licenses to the extent the property is located here. (Under prior law, rentals and royalties from properties located in Connecticut were assignable to the state.)
2. Intangible property rentals, leases, or licenses to the extent the property is used here. Under the act, intangible property used to market a good or service to a consumer is used in Connecticut if the good or service is purchased by a consumer in the state. Under prior law, royalties from the use of patents or copyrights within the state were assignable to Connecticut.
3. Interest managed or controlled in Connecticut, as under existing law.
4. Other sources not specified under the act or existing law to the extent the market for the sales is here. (Prior law specified that all other receipts earned in Connecticut were sourced here.)

The act excludes gross receipts from the sale or disposition of real property, tangible personal property, or intangible property from a corporation's apportionment fraction (i.e., the ratio corporations use to determine the portion of their income attributable to Connecticut and thus subject to taxation) if the property is not held by the taxpayer primarily for sale to customers in the ordinary course of business. Under prior law, net gains from the sale or disposition of intangible assets managed or controlled in Connecticut and tangible assets situated in Connecticut were sourced here and thus included in a corporation's apportionment fraction.

Personal Income Tax Sourcing Rules

The act similarly requires personal income taxpayers to use market-based sourcing to determine which gross receipts from service sales are earned in Connecticut (i.e., source such receipts to the state if the market for the services is here). Under the act, the market for a service is in Connecticut if and to the extent the service is used here. Prior law required taxpayers to source service sales to the state if they were performed by an employee, agent, agency, or independent contractor chiefly situated at, contracted with, or sent from the taxpayer's Connecticut offices or branches.

The act also assigns gross receipts from the following sources to Connecticut for personal income tax purposes:

1. Tangible personal property rentals, leases, or licenses to the extent the property is located here.
2. Intangible property rentals, leases, or licenses if and to the extent the property is used here. Intangible property used to market a good or service to a consumer is used in Connecticut if the good or service is purchased by a consumer in the state.
3. Other sources not specified under the act or existing law to the extent the market for the sales is here.

The act excludes from a business's gross income percentage (see §§ 200 & 201 below) receipts from real property sales, rentals, leases, or licenses. Previously, regulations excluded from apportionment income from, and deductions connected with, real property rentals and sales. Rather, such income or deductions were considered to be derived from or connected with Connecticut if the property was located here (Conn. Agencies Reg. § 12-711(b)8).

The act also excludes, from the gross income percentage, receipts from the sale or disposition of tangible personal property or intangible property if the property is not held by the taxpayer primarily for sale to customers in the ordinary course of business.

Alternative Sourcing Methodology

Under the act, if a corporate or personal income taxpayer concludes that it cannot reasonably assign its receipts using the sourcing rules established under existing law and the act, it may petition the DRS commissioner to use an alternate methodology that reasonably approximates these sourcing rules. The taxpayer must submit such a petition no earlier than 60 days before its tax return is due for the first income year to which the petition applies, including any filing deadline extensions. The DRS commissioner must grant or deny the petition before the return is due.

EFFECTIVE DATE: Corporation income tax provisions are effective upon passage and applicable to income years beginning on or after January 1, 2016 and personal income tax provisions are effective January 1, 2017 and applicable to income years beginning on or after that date.

§§ 200 & 201 — SINGLE SALES APPORTIONMENT FOR PERSONAL INCOME TAX PURPOSES

Requires multistate businesses to calculate the proportion of their gains and losses attributable to Connecticut for personal income tax purposes based on Connecticut sales alone, rather than the average of their percentage of property, payroll, and gross sales in Connecticut

By law, multistate businesses operating in Connecticut must determine the proportion of their gains and losses that is attributable to Connecticut for personal income tax purposes. Prior law required businesses to calculate this proportion by multiplying their net income by the average of their percentage of property, payroll, and gross income (i.e., sales) in Connecticut. The act removes the property and payroll percentage from this calculation, thus basing it solely on the gross

income percentage. As under existing law, businesses must calculate the gross income percentage by dividing their gross receipts in Connecticut by all of their gross receipts.

The act requires that the portion of a nonresident partner's, shareholder's, or beneficiary's share of income derived from, or connected with, sources in the state be determined according to these statutory apportionment provisions, rather than DRS regulations consistent with them.

EFFECTIVE DATE: January 1, 2017 and applicable to income years beginning on or after that date.

§ 202 — SALES AND USE TAX EXEMPTIONS

Exempts diapers and feminine hygiene products from sales tax starting July 1, 2018

The act exempts from the sales and use tax sales of feminine hygiene products and disposable and reusable diapers.

EFFECTIVE DATE: July 1, 2018 and applicable to sales occurring on or after that date.

§ 203 — PROPERTY TAX EXEMPTION FOR REAL ESTATE SIGNS

Exempts real estate signs from the property tax

The act exempts from the property tax signs placed on properties indicating that the properties are for sale or lease. It does so by excluding the signs from the list of tangible personal property taxpayers must include in their annual property declarations.

EFFECTIVE DATE: July 1, 2016

§ 204 — AUTHORITY TO AMEND ADOPTED MUNICIPAL BUDGETS

Authorizes municipalities to amend adopted budgets following a reduction in state aid

The act authorizes municipalities, from June 3, 2016 through June 30, 2017, to amended an adopted budget if (1) state aid to the municipality is reduced below the amount projected for the adopted budget, (2) the budget amendment does not exceed the amount of the reduced state aid, and (3) the budget amendment is approved in the same manner as the original budget.

This authorization applies to towns, cities, boroughs, consolidated towns and cities, and consolidated towns and boroughs. It applies regardless of conflicting (1) statutes affecting boards of education, municipalities, and property tax levy and collection; (2) special acts; or (3) municipal charters or home rule ordinances.

EFFECTIVE DATE: Upon passage

§§ 205 & 206 — ELECTRONIC NICOTINE DELIVERY SYSTEM OR VAPOR PRODUCT DEALERS AND MANUFACTURERS

Makes various changes to the laws requiring electronic nicotine delivery system or vapor product dealers and manufacturers to register with DCP and annually renew their registrations in order to sell or manufacture these products

Dealer and Manufacturer Registration

By law, electronic nicotine delivery system or vapor product dealers and manufacturers must register with DCP and annually renew their registrations in order to sell or manufacture these products. The act limits the (1) manufacturers' registration requirement to business owners and (2) dealers' registration requirement to business owners or their authorized designees. Under prior law, the requirement applied to any "person" selling or manufacturing these products. Under the act, each affiliate under the business's common control or ownership must obtain its own permit. The act also specifies that the dealer registration requirement applies to retailers, wholesalers, and dealers.

The act eliminates provisions (1) requiring partnerships to submit new applications and pay new fees if they add one or more new partners and (2) specifying that the remaining partners need not file a new application or pay an additional fee if one or more of the partners dies or retires.

Application

The act requires the application for a dealer or manufacturer registration to include the applicant's email address. It eliminates requirements that the applications include (1) a financial statement detailing any business transactions connected to the application and (2) the applicant's criminal convictions. It also authorizes DCP to require applicants to provide proof that the business location will meet state and local building, fire, and zoning requirements. Prior law required applicants to provide such proof.

The act also eliminates the requirement that the commissioner deny an application if he finds that the applicant was convicted of violating any state or federal cigarette or tobacco product tax law or is unsuitable because of his or her criminal record, except as permitted by law.

Notice of Violations

The law makes it illegal to manufacture, sell, offer for sale, or possess with intent to sell an electronic nicotine delivery system or vapor product without a manufacturer or dealer registration and establishes fines and penalties for violations.

Prior law required the DCP commissioner to notify a dealer or manufacturer of a violation before imposing a penalty. The act eliminates a requirement that he do so within available appropriations and allows him to send the notice by email to the email address designated on the dealer's or manufacturer's application or renewal form. As under existing law, he may also send the notice with a certificate of mailing or a similar U.S. Postal Service form that verifies the date on which it was sent.

EFFECTIVE DATE: Upon passage

Background

Electronic Nicotine Delivery Systems and Vapor Products. By law, an electronic nicotine delivery system is an electronic device used to simulate smoking while delivering nicotine or other substance to a person who inhales from it. This includes (1) electronic cigarettes, cigars, cigarillos, pipes, and hookahs and (2) related devices, cartridges, or other components. A vapor product uses a heating element; power source; electronic circuit; or other electronic, chemical, or mechanical means, regardless of shape or size, to produce a vapor the user inhales. The vapor may or may not include nicotine (CGS § 53-344b).

§ 208 — COMMISSION ON HEALTH EQUITY

Eliminates the Commission on Health Equity

The act eliminates the 32-member Commission on Health Equity. Under prior law, the commission was in the Office of the Healthcare Advocate for administrative purposes only. Its mission was to eliminate disparities in health status based on race, ethnicity, gender, and linguistic ability and improve the quality of health for all state residents.

EFFECTIVE DATE: July 1, 2016

§ 209 — HEALTHY START

Eliminates certain requirements related to Healthy Start, a program for low-income pregnant women

The act eliminates a requirement that the DSS commissioner, in consultation with the DPH commissioner, develop a plan to maximize federal Medicaid reimbursements for Healthy Start in Connecticut and expand services within available state appropriations. Healthy Start is a service delivery program for low-income pregnant women that promotes and supports positive maternal and neonatal health outcomes. The act also repeals obsolete provisions that required the commissioners to evaluate the program in 2013 and 2014.

EFFECTIVE DATE: July 1, 2016

PA 16-4, May 2016 Special Session—SB 503
Emergency Certification

AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS, TRANSPORTATION AND OTHER PURPOSES AND AUTHORIZING STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS

TABLE OF CONTENTS:

§§ 1-17 & 195 — NEW BOND AUTHORIZATIONS FOR FY 17

Authorizes up to $307.7 million in new GO bonds and $375,000 in new STO bonds for FY 17 for specified projects and grant programs

New General Obligation (GO) Bond Authorizations

The act authorizes up to $302.7 million in new GO bonds for FY 17 for the state projects and grant programs listed in Table 1. The bonds are subject to standard issuance procedures and have a maximum term of 20 years.

The act includes a standard provision requiring that, as a condition of bond authorizations for grants to private entities, the granting agency include repayment provisions in its grant contract in case the facility for which the grant is made ceases to be used for the grant purposes within 10 years of the grantee receiving it. The requirement applies to grants issued by the Department of Economic and Community Development (DECD) and Department of Housing (DOH).

Table 1: New GO Bond Authorizations for FY 17

§	*AGENCY*	*FOR*	*FY 17*
State Projects and Programs			
2(a)	Office of Policy and Management (OPM)	Transit-oriented development and predevelopment activities	$8,000,000
		Improvements to the Trout Brook Canal area in West Hartford	1,200,000
2(b)	Department of Administrative Services (DAS)	State Office Building and associated parking facilities in Hartford: alteration, renovation, and improvements, including development, demolition, and air conditioning installation	181,000,000
2(c)	Department of Correction (DOC)	York Correctional Institution, Niantic: design and construction for replacement of the central heating and cooling plant and underground distribution system	60,000,000
16	Department of Public Health (DPH)	Biomedical Research Trust Fund (see § 250)	5,000,000
Grants			
9(a)	OPM	Grants to Waterbury for property acquisition, construction, reconstruction, renovation, or improvements for a Waterbury urban development project	7,000,000
		Grants to West Hartford for a wireless fidelity and broadband network initiative for West Hartford Center	500,000
9(b)	Department of Energy and Environmental Protection (DEEP)	Grants to Glastonbury to acquire open space for conservation or municipal purposes	10,000,000
9(c)	DECD	Program to offer payments to holders of tax credit eligibility certificates under the urban and industrial sites reinvestment program to replace allowable credits under the certificates	10,000,000
9(d)	DOH	Grants to private nonprofit organizations for supportive housing for individuals with intellectual disability, autism spectrum disorder, or both (§ 227 cancels a similar $20 million bond authorization for the Department of Developmental Services)	20,000,000

New Special Tax Obligation (STO) Bond Authorization (§ 17)

The act authorizes up to $375,000 in new STO bonds for FY 17 for the Department of Transportation (DOT) to design roadway improvements for Lakeside Boulevard in Waterbury.

Increased Authorization for Technical High School System (§ 195)

The act increases, by $5 million, an existing $3.5 million authorization for the technical high school system. It earmarks the bonds for the State Department of Education (SDE) to provide grants to technical high schools to provide evening training programs in skilled trades, including manufacturing, masonry, electrical, plumbing, and carpentry, that prepare participants to earn a credential or degree recognized by employers or trade associations.

EFFECTIVE DATE: July 1, 2016

§§ 18-194, 196-208, 210-213, 215-219, 221-230, 234-237, 239-242, 247-249, 251-256, 258, 259, 324 & 325 — BOND CANCELLATIONS AND LANGUAGE CHANGES

Cancels approximately $894.9 million in GO bond authorizations and $1.73 million in STO bond authorizations

The act cancels or reduces all or part of bond authorizations for the projects and grants shown in Table 2. It also changes the purposes of several existing authorizations as indicated below. Except where noted in the table, it also makes conforming changes to the bond supertotals that correspond to these authorizations.

Table 2: Bond Cancellations and Language Changes

§	FOR	PRIOR AUTHORIZATION	AMOUNT CANCELLED
	Board of Regents for Higher Education (BOR)		
23	Middlesex Community College: property acquisition	$190,000	$190,000
58	Southern Connecticut State University: alteration, renovation, and improvements to facilities, including energy conservation and code compliance improvements	3,208,000	778,000
58	Southern Connecticut State University: development of a new academic laboratory building and parking garage, including renovation to the former student center and demolition of Seabury Hall	5,684,000	250,000
114	Manchester Community College: Lowe building code improvements	2,229,911	672,152
119	Manchester Community College: campus improvements	3,413,468	214,207
120	Three Rivers Community College: renovation to existing buildings and additional facilities for a consolidated campus in accordance with the master plan; changed to design and construction of a new tutoring and academic success center, library modifications, and Student Service renovations	11,606,676	5,906,676
142	Tunxis Community College: implementation of master plan phase III	4,993,817	4,993,817
165	Tunxis Community College: feasibility study for acquiring property for creating a premanufacturing work space and relocating continuing education operations	250,000	250,000
176	Middlesex Community College: new academic building planning, design, and construction	39,200,000	4,000,000
200	Tunxis Community College: implementation of master plan phase III	3,000,000	3,000,000
215	All colleges and universities: new and replacement instruction, research, or laboratory equipment	12,000,000	5,000,000
215	All colleges and universities: consolidating and upgrading student and financial information technology systems	40,000,000	10,000,000
	Capital Region Development Authority (CRDA)		
206	CRDA's statutory purposes and uses; earmarks $500,000 for the Neighborhood Security Fellows program and $2 million for Neighborhood Security projects (see § 260)	50,000,000	0
226	Tennis Foundation of Connecticut: capital improvements	1,500,000	500,000
	Connecticut Innovations Inc. (CI)		
91	Recapitalize CI programs; eliminates $1.5 million earmark for BioBus capital expenses	8,500,000	5,000,000
127	Recapitalize CI programs; earmarks $750,000 for the Commission on Economic Competitiveness to implement the "Connecticut 500 Project"	125,000,000	20,000,000
184	Regenerative Medicine Research Fund	10,000,000	10,000,000
	Connecticut Port Authority		
230	Grants for port, harbor, and marina improvements, including dredging and navigational improvements	17,500,000	4,000,000
	Connecticut State Library		
90	Grants to public libraries in distressed municipalities for construction, renovation, expansion, energy conservation, and handicapped accessibility	5,000,000	15,771

§	FOR	PRIOR AUTHORIZATION	AMOUNT CANCELLED
110	Grants to public libraries not located in distressed municipalities for construction, renovation, expansion, energy conservation, and handicapped accessibility	3,500,000	322,868
111	Grants to public libraries in distressed municipalities for construction, renovation, expansion, energy conservation, and handicapped accessibility	5,000,000	3,000,000
172	Grants to public libraries not located in distressed municipalities for construction, renovation, expansion, energy conservation and handicapped accessibility	5,000,000	5,000,000
229	Grants to public libraries for construction, renovation, expansion, energy conservation, and handicapped accessibility	7,000,000	2,000,000
	CT Green Bank		
249	Energy Conservation Loan Fund and Green Connecticut Loan Guaranty Fund	5,000,000	2,500,000
324	Renewable energy and efficient energy finance program	8,000,000	8,000,000
	Department of Administrative Services		
130	Infrastructure repairs and improvements, including (1) fire, safety, and Americans with Disabilities Act (ADA) compliance improvements; (2) improvements to state-owned buildings and grounds; and (3) preservation of unoccupied buildings and grounds	12,500,000	226,410
140	Infrastructure repairs and improvements, including (1) fire, safety, and ADA compliance improvements; (2) improvements to state-owned buildings and grounds; and (3) preservation of unoccupied buildings and grounds	192,500,000	105,849
174	Infrastructure repairs and improvements, including (1) fire, safety, and ADA compliance improvements; (2) improvements to state-owned buildings and grounds; and (3) preservation of unoccupied buildings and grounds	25,000,000	10,000,000
187	Probate court offices: electronic filing system development and implementation, rather than building acquisition and renovation	3,000,000	0
188	Infrastructure improvements, including engineering and construction of an offsite storm water improvement related to the construction of a new courthouse in Torrington	800,000	800,000
198	Removal or encapsulation of asbestos and hazardous material in state-owned buildings	10,000,000	5,000,000
199	Probate court offices: electronic filing system development and implementation, rather than building acquisition and renovation	4,100,000	3,100,000
221	Grants to alliance districts for general school building improvements	50,000,000	20,000,000
	Department of Agriculture		
65	State matching grants to farmers for environmental compliance, including waste management facilities; compost; soil and erosion control; and pesticide reduction, storage, and disposal	1,000,000	1,000,000
103	State matching grants to farmers for environmental compliance, including waste management facilities; compost; soil and erosion control; and pesticide reduction, storage, and disposal	2,000,000	2,000,000
251	Farmland preservation program	170,250,000	5,000,000
	Department of Children and Families		
25	Grants for construction, alteration, repair, and improvements to residential facilities, group homes, shelters, and permanent family residences	1,500,000	69,396
28	Connecticut Children's Place: dining hall and kitchen expansion	750,000	587,000
34	Grants for construction, alteration, repair, and improvements to residential facilities, group homes, shelters, and permanent family residences; eliminates earmarks for residential facilities in Middlesex or Windham counties and the Klingberg Family Center in New Britain	4,500,000	1,442,738
51	Construction, alteration, repair, and improvements to residential facilities, group homes, shelters, and permanent family residences	1,500,000	109,105

§	FOR	PRIOR AUTHORIZATION	AMOUNT CANCELLED
52	Grants to private nonprofit children's mental health clinics for fire, safety, and environmental improvements	500,000	59,813
96	Alteration, renovation, and improvements to buildings and grounds	2,415,000	130,570
97	Reimbursement for environmental remediation at the former Long Lane School in Middletown	14,000,000	754,850
117	Grants to private, nonprofit organizations for construction or renovation for recreation or education purposes	20,000,000	8,000,000
135	Alteration, renovation, and improvements to buildings and grounds	1,751,000	81,000
	Department of Consumer Protection		
191	Grants or reimbursement to municipalities of up to $1,000 for the initial installation of a secure locked box for pharmaceuticals	100,000	100,000
	Department of Correction		
216	(1) Alteration, renovation, and improvements to existing state-owned buildings for inmate housing, programming, staff training space, and additional inmate capacity; (2) support facilities; and (3) off-site improvements	15,000,000	2,000,000
	Department of Developmental Services		
133	Fire, safety, and environmental improvements to regional facilities for client and staff needs	5,000,000	411,500
138	Grants to private, nonprofit organizations for alteration and improvements to nonresidential facilities	2,000,000	2,000,000
146	Grants to private, nonprofit organizations for alteration and improvements to nonresidential facilities	2,000,000	2,000,000
211	Fire, safety, and environmental improvements to regional facilities for client and staff needs	7,500,000	7,500,000
227	Grants to private nonprofit organizations for supportive housing (see § 9(d))	20,000,000	20,000,000
	Department of Economic and Community Development		
20	East Hartford: road and infrastructure and improvements associated with Rentschler Field project (The act does not reduce the corresponding supertotal for this authorization.)	6,500,000	6,500,000
35	Grants to municipalities and nonprofit organizations for cultural and entertainment-related economic development projects	4,000,000	1,250,000
36	Goodspeed Opera House Foundation, Inc.: construction of a new facility in East Haddam	5,000,000	5,000,000
37	West Haven: Front Avenue industrial development and Allingtown Business District improvements	1,000,000	500,000
38	Stratford: Barnum Avenue streetscape project	350,000	350,000
42	Killingworth: Killingworth Old Town Hall restoration and renovation	250,000	250,000
53	Grants to municipalities and nonprofit organizations for cultural and entertainment-related economic development projects	4,000,000	625,000
54	Goodspeed Opera House Foundation, Inc.: construction of a new facility in East Haddam	5,000,000	5,000,000
73	Kidcity Children's Museum in Middletown: new building construction	1,000,000	1,000,000
74	Westport: new construction at the Levitt Pavilion for the Performing Arts	1,000,000	500,000
75	Gallery 53, Meriden: structural improvements	50,000	50,000
76	Barnum Museum Foundation, Inc., Bridgeport: Barnum Museum renovation	1,000,000	1,000,000
77	Willimantic: restore historic properties along Main Street	650,000	650,000
78	New England Air Museum, Windsor Locks: swing space storage building and education building construction	2,000,000	515,000
79	Middlesex County Revitalization Commission: revitalization projects	878,050	878,050
80	Stafford: downtown redevelopment	439,025	439,025

§	FOR	PRIOR AUTHORIZATION	AMOUNT CANCELLED
81	New Britain: property acquisition, design development, and construction of a downtown redevelopment plan	1,000,000	500,000
82	Bethel: downtown redevelopment and municipal parking improvements	500,000	500,000
83	Wethersfield: economic development and infrastructure improvements related to the Silas Deane Highway	1,000,000	1,000,000
106	East Haven: Phase III downtown development	1,000,000	1,000,000
107	Manchester: Broad Street streetscape project	2,000,000	1,000,000
125	Identifying, marketing, and remediating five state-owned brownfields	20,000,000	3,000,000
193	Grant to the Northeast Connecticut Economic Development Alliance	2,000,000	2,000,000
205	Brownfield Remediation and Revitalization program	20,000,000	4,000,000
223	Connecticut Manufacturing Innovation Fund	20,000,000	10,000,000
224	Small Business Express program	50,000,000	20,000,000
258	Manufacturing Assistance Act	100,000,000	10,000,000
	Department of Emergency Services and Public Protection (DESPP)		
56	Upgrades to the statewide telecommunications system, including site development and related equipment	2,250,000	848,127
57	Department shooting range improvements	1,750,000	1,425,000
64	Litchfield: firehouse construction in Northfield	878,050	878,050
102	Allingtown Fire District, West Haven: acquire land and construct a new fire and police substation	2,000,000	2,000,000
153	Design and construct (1) an emergency services facility, including canine training and vehicle impound areas, and (2) a fleet maintenance and administration facility, including property acquisition and related costs	5,256,985	5,256,985
162	Alteration, renovation, and improvements to the Forensic Science Laboratory in Meriden	1,500,000	1,500,000
175	Alteration, renovation, and improvements to buildings and grounds, including utilities, mechanical systems, and energy conservation	8,000,000	2,000,000
255	Buy-out program for storm-damaged properties	3,000,000	200,000
	Department of Energy and Environmental Protection		
19	Municipal grants for incinerator and landfill improvements, including bulky waste landfills. (The act decreases, by $7,040,000, the corresponding supertotal for this authorization, thus reducing the aggregate amount of bonds that may be issued for the state capital projects enumerated under the original act by more than the amount canceled.)	6,900,000	540,000
27	Flood control improvements and flood, erosion damage, and municipal dam repairs	3,500,000	675,000
30	Windham: feasibility study of a whitewater park in Willimantic	450,000	450,000
31	Ledyard: water main extension	1,000,000	1,000,000
32	Middletown: Crystal Lake watershed management	50,000	50,000
33	Cromwell: improvements to parks and fields at Watrous Park, Cromwell middle and high schools, and Pierson Park	350,000	100,000
46	Flood control improvements and flood, erosion damage, and municipal dam repairs; eliminates earmark for Meriden flood control project	3,000,000	900,000
48	Lyme: improvements to Lyme-Old Lyme recreational fields	150,000	150,000
49	Branford: Branford High School football field improvements	150,000	150,000
50	Bristol: Rockwell Park rehabilitation and renovation	500,000	500,000
66	Grants to towns to acquire open space for conservation or recreation purposes	1,750,000	500,000
67	Grants for improvements at the facilities and property located at latitude 41.5720414 and longitude -73.0401073 (i.e., Fulton Park in Waterbury)	487,805	487,805

§	FOR	PRIOR AUTHORIZATION	AMOUNT CANCELLED
68	Environmental Learning Center, Inc.: infrastructure projects at Indian Rock Nature Preserve in Bristol	200,000	200,000
69	Manchester: develop and construct the Manchester to Bolton segment of the East Coast Greenway	500,000	500,000
70	Norwalk: flood control system improvements	3,005,000	2,505,000
71	Fairfield: Rooster River flood control project	14,500,000	12,470,000
72	Portland: water main replacement	1,000,000	1,000,000
94	Recreation and Natural Heritage Trust Program: recreation, open space, resource protection, and resource management	7,500,000	750,000
104	Grants to municipalities for the Lakes Restoration Program	200,000	200,000
105	Grants to municipalities to provide potable water	2,500,000	2,258,707
116	Grants to (1) contain, remove, or mitigate identified hazardous waste disposal sites and to municipalities for new water mains to replace supply from contaminated wells; (2) identify, investigate, contain, remove, or mitigate industrial sites in urban areas; (3) municipalities to acquire land for public parks; recreational and water quality improvements; and water mains and water pollution control projects, including sewers; (4) municipalities for providing potable water; and (5) state agencies, regional planning agencies, and municipalities for water pollution control projects	16,000,000	11,350,820
126	Energy efficiency fuel oil furnace and boiler replacement, upgrade, and repair program	5,000,000	5,000,000
137	Grant for containing, removing, or mitigating identified hazardous waste disposal sites	10,000,000	10,000,000
145	Grants to municipalities for open space land acquisition and development for conservation or recreational purposes	5,000,000	2,500,000
155	Study and assess feasible alternatives to plan, design, acquire, and construct structural and nonstructural improvements to mitigate flooding conditions that caused property damage due to weather events in 2011, including cost benefit and environmental impact analyses of the alternatives	2,000,000	1,700,000
156	Program to establish energy microgrids to support critical municipal infrastructure	25,000,000	4,900,000
163	Dam repairs, including state-owned dams	6,000,000	62,252
164	Recreation and Natural Heritage Trust Program: recreation, open space, and resource protection and management	5,000,000	5,000,000
168	Municipal grants for incinerator and landfill improvements, including bulky waste landfills	1,400,000	250,000
180	Municipal grants for incinerator and landfill improvements, including bulky waste landfills	1,000,000	400,000
181	Grants for identifying, investigating, containing, removing, or mitigating contaminated industrial sites in urban areas	5,000,000	5,000,000
182	Grants to municipalities for potable water	1,000,000	1,000,000
183	Program to establish energy microgrids to support critical municipal infrastructure	5,000,000	5,000,000
192	Grants or loans to municipalities to acquire land or public parks or make recreational and water quality improvements	20,000,000	2,000,000
203	Long Island Sound stewardship and resiliency program (1) to protect coastal marshes and other natural buffer areas and (2) for grants to increase the resiliency of wastewater treatment facilities	20,000,000	5,000,000
204	Grants to municipalities, in consultation with OPM, to encourage low-impact design of green municipal infrastructure to reduce nonpoint source pollution	20,000,000	10,000,000
210	Alteration, renovation, and new construction, including ADA improvements, at state parks and recreation facilities	25,000,000	2,000,000
222	Grants to municipalities for open space acquisition and development for conservation or recreational purposes	8,000,000	4,000,000
248	Energy services projects in state buildings	20,000,000	4,101,200

§	FOR	PRIOR AUTHORIZATION	AMOUNT CANCELLED
252	Clean Water Fund grants	1,652,625,976	22,500,000
254	Connecticut bikeway, pedestrian walkway, and greenway grant program	5,000,000	5,000,000
325	Buy-out program for storm-damaged properties	1,000,000	1,000,000
	Department of Housing		
157	Grant to Connecticut Housing Finance Authority for the Emergency Mortgage Assistance Program	40,000,000	2,000,000
169	Grants to nursing homes for alteration, renovation, and improvements to convert to other uses in support of right-sizing	10,000,000	10,000,000
194	Shoreline Resiliency Fund	25,000,000	17,000,000
218	Housing development and rehabilitation, including improvements to various kinds of state-assisted affordable housing and housing-related financial assistance programs (The act does not reduce the corresponding supertotal for this authorization.)	135,000,000	15,000,000
225	Main Street Investment Fund	5,000,000	2,000,000
234	Homelessness prevention and response fund	15,000,000	4,000,000
	Department of Labor		
256	Unemployed Armed Forces Member Subsidized Training and Employment program	10,000,000	2,000,000
	Department of Mental Health and Addiction Services		
95	Fire, safety, and environmental improvements to regional facilities for client and staff needs	6,000,000	200,835
212	Fire, safety, and environmental improvements to regional facilities for client and staff needs	5,000,000	5,000,000
	Department of Public Health		
84	Grants for hospital-based emergency service facilities	5,878,050	5,878,050
158	Grants to community health centers and primary care organizations to purchase equipment and renovate, improve, and expand facilities, including acquiring land or buildings (The act does not adjust the corresponding earmarks for this authorization, which total $30 million.) (§ 259 subjects these entities to standard grant repayment requirements.)	30,000,000	4,000,000
170	Stem Cell Research Fund	10,000,000	4,000,000
253	Public water system improvement program	50,000,000	30,000,000
	Department of Social Services		
39	Martin House: facility expansion	500,000	500,000
40	4-H Center at Auer Farm, Bloomfield: building improvements, including classrooms and facilities for animals and handicapped accessibility	1,000,000	428,350
41	Greater Danbury AIDS Project: building purchases	1,000,000	525,000
85	Saugatuck Senior Cooperative, Westport: roof replacement	250,000	250,000
86	New London: asbestos remediation and siding replacement on a building for Alliance for Living, Inc.	100,000	100,000
87	Easton: senior center renovations	219,510	219,510
88	Hospice Southeastern Connecticut: new building in Norwich	600,000	600,000
89	Rivera Hughes Memorial Foundation: property acquisition in Waterbury	1,000,000	1,000,000
108	Martin House, Norwich: construct efficiency apartment units	750,000	750,000
147	Grants for neighborhood facilities, elderly centers, multipurpose human resource centers, and related facilities	10,000,000	4,526,254
	Department of Transportation		
43	Middlefield: bridges, roads, and infrastructure	250,000	250,000
112	Pavement noise reduction pilot program (joint authorization with UConn Transportation	1,500,000	1,500,000

§	FOR	PRIOR AUTHORIZATION	AMOUNT CANCELLED
	Institute) (STO bonds)		
151	Bureau of Public Transportation: construction of a catwalk over the railroad tracks separating the Columbus Circle area and McAuliffe Park in East Hartford (STO bonds)	230,000	230,000
236	Pothole repair assistance program	5,000,000	5,000,000
247	Commercial rail freight line competitive grant program	17,500,000	7,500,000
	Department of Veterans' Affairs (DVA)		
45	Alteration and improvements to buildings and grounds according to current codes	900,000	18,565
93	Alteration and improvements to buildings and grounds, including security improvements	1,000,000	100,000
129	Boiler repairs and improvements in Rocky Hill	250,000	38,400
	Judicial Department		
59	Development of a courthouse facility in Torrington, including land acquisition and parking	25,275,000	46,300
60	Development of a new courthouse facility in Bridgeport, including land acquisition and parking	5,000,000	5,000,000
61	Renovations and improvements to Lafayette Street parking garage in Hartford	4,000,000	1,220,880
98	Security improvements at various state-owned and maintained facilities	1,000,000	500,000
99	Alteration, renovation, and restoration of the courthouse at 121 Elm Street, New Haven	13,000,000	7,000,000
100	Development and land acquisition for a courthouse annex and parking near the Milford judicial district and geographical area courthouse	1,000,000	1,000,000
143	Alteration, renovation, and improvements to buildings and grounds at state-owned and maintained facilities	4,000,000	1,000,000
177	Alteration, renovation, and improvements to buildings and grounds at state-owned and maintained facilities; earmarks $4.5 million for repairs, improvements, and acquisitions for a juvenile court in Waterford (effective upon passage)	7,500,000	0
178	Development of a juvenile court building in Meriden or Middletown	13,000,000	4,000,000
217	Alteration, renovation, and improvements to buildings and grounds at state- owned and -maintained facilities	7,500,000	7,500,000
	Military Department		
131	Construct a readiness center for the Connecticut Army National Guard Civil Support Team in Windsor Locks	1,250,000	750,000
132	Construct a combined support maintenance shop for Connecticut National Guard equipment in Windsor Locks	4,000,000	200
	Multiple Agencies		
122	Bridgeport economic development projects (for DECD or DEEP, as designated by the Bond Commission)	7,200,000	5,000,000
124	Bridgeport infrastructure projects and programs (for DECD, DEEP, DESPP, or DSS, as designated by the Bond Commission)	27,700,000	15,000,000
	Office of Early Childhood		
109	Grants for minor capital improvements and wiring for technology for school readiness programs	1,500,000	1,500,000
160	Grants to sponsors of school readiness programs and state-funded day care centers for facility improvements and minor capital repairs to the portion of facilities that have such programs and centers	10,000,000	69,618
185	Grants to sponsors of school readiness programs and state-funded day care centers: facility improvements and minor capital repairs to the portion of facilities that house such programs and centers	15,000,000	10,000,000
242	Smart Start competitive grant program	15,000,000	5,000,000
	Office of Legislative Management		
149	Capital equipment, information technology upgrades, and infrastructure repair and improvement projects	9,000,000	925,000

§	FOR	PRIOR AUTHORIZATION	AMOUNT CANCELLED
	Office of Policy and Management (OPM)		
63	Responsible Growth Incentive Fund	5,000,000	5,000,000
167	Grants to municipalities for infrastructure projects and programs, including planning, property acquisition, site preparation, construction, and off-site improvements	50,000,000	2,300,000
202	Grants for purchasing body-worn recording equipment and digital data storage devices or services for law enforcement officers; reduces, from $13 million to $10 million, the amount earmarked for municipalities for local law enforcement officers	15,000,000	3,000,000
208	Information and technology capital investment program	76,000,000	25,000,000
235	Regional dog pound program	20,000,000	10,000,000
239	Small Town Economic Assistance Program (STEAP)	20,000,000	20,000,000
240	Intertown Capital Equipment Purchase Incentive program	10,000,000	5,000,000
241	Capital Equipment Purchase Fund	584,000,000	40,000,000
	State Comptroller		
190	Grant to the Connecticut Public Broadcasting Network for transmission, broadcast, production, and information technology equipment	3,300,000	2,000,000
197	CORE financial system enhancements and upgrades	20,000,000	2,000,000
	State Department of Education		
22	American School for the Deaf: alteration, renovation, and improvements to buildings and grounds, including new construction	9,405,709	5,000,000
134	Regional vocational-technical school system: alterations and improvements to buildings and grounds, including new and replacement equipment, tools and supplies necessary to update curricula, vehicles, and technology upgrades at all regional vocational-technical schools	28,000,000	160,958
141	Regional vocational-technical school system: alterations and improvements to buildings and grounds, including new and replacement equipment, tools and supplies necessary to update curricula, vehicles, and technology upgrades at all regional vocational-technical schools	28,000,000	567,131
159	Grants for expanding the availability of high-quality school models and assisting in implementing common CORE state standards and assessments: alteration, repair, improvements, technology, equipment, acquisition, and capital start-up costs	25,000,000	111,054
171	Grants to local or regional boards of education for capital costs related to enrollment expansion in the *Sheff* statewide interdistrict public school attendance program (i.e., Open Choice): building renovation, classroom expansion, and equipment, including computers, laboratory equipment, and classroom furniture	750,000	48,572
213	Regional vocational-technical school system: alterations and improvements to buildings and grounds, including new and replacement equipment, tools, and supplies necessary to update curricula, vehicles, and technology upgrades	12,000,000	12,000,000
228	Grants to targeted local and regional school districts for alterations, repairs, improvements, technology, and equipment in low-performing schools	10,000,000	10,000,000
	State Treasurer		
237	Generally Accepted Accounting Prininciples deficit funding bonds	750,000,000	151,500,000

EFFECTIVE DATE: July 1, 2016, except for the earmark for a juvenile court in Waterford (§ 177), which is effective upon passage.

§§ 209, 214, 220, 231-233 & 238 — INCREASED FY 17 AUTHORIZATIONS

Increases various FY 17 GO and STO bond authorizations enacted in 2015

The act increases FY 17 GO and STO bond authorizations enacted in 2015 (PA 15-1, June Special Session), as shown in Table 3.

Table 3: Increased Bond Authorizations for FY 17

§	AGENCY	FOR	PRIOR AUTH.	INCREASE	TOTAL AUTH.
GO BONDS					
209	DVA	Alteration, renovation, and improvements to buildings and grounds	$550,000	$5,000,000	$5,550,000
214	BOR	All community colleges: deferred maintenance, code compliance, and infrastructure improvements	10,000,000	5,906,676	15,906,676
220	OPM	Grants to private, nonprofit, tax-exempt health and human service organizations for alteration, renovation, improvements, additions, and new construction, including (1) health, safety, ADA compliance, and energy conservation improvements; (2) information technology systems; (3) technology for independence; (4) vehicle purchases; and (5) property acquisition	10,000,000	15,000,000	25,000,000
238	OPM	Urban Act	50,000,000	25,000,000	75,000,000
STO BONDS					
232	DOT	Bureau of Engineering and Highway Operations: state bridge improvement, rehabilitation, and replacement projects	33,000,000	10,000,000	43,000,000
233	DOT	Bureau of Public Transportation: bus and rail facilities and equipment, including rights-of-way, other property acquisition, and related projects	208,100,000	60,000,000	268,100,100

EFFECTIVE DATE: July 1, 2016

§§ 243-246 — CHANGES TO CONNECTICUT STATE COLLEGES AND UNIVERSITIES (CSCU) 2020 AND UCONN 2000

Defers, from FY 17 to FY 18, $55 million in bonds under CSCU 2020 and $26 million under UConn 2000; reallocates existing bond authorizations under CSCU 2020; renames an existing UConn 2000 project

Bond Caps

The act adjusts the annual bond caps under the CSCU 2020 and UConn 2000 infrastructure programs by canceling bonds for FY 17 and transferring them to FY 18, as shown in Table 4.

Table 4: Annual Bond Limits for CSCU 2020 and UConn 2000

BOND PROGRAM	FY	PRIOR LIMIT	CHANGE	NEW LIMIT
CSCU 2020	17	$95,000,000	($55,000,000)	$40,000,000
	18	95,000,000	55,000,000	150,000,000
UConn 2000	17	266,400,000	(26,000,000)	240,400,000
	18	269,500,000	26,000,000	295,500,000

CSCU 2020 Projects

The act reallocates $88,731,000 in existing bond authorizations under Phase III of the CSCU 2020 program. It adds one new project; expands an existing project; and increases and decreases existing authorizations, as shown in Table 5.

Table 5: CSCU 2020 Phase III Project Authorizations

Project	*Prior Authorization*	*Act's Authorization*	*Change*
Eastern			
Goddard Hall Renovation (design/construction) (expanded to include Communications Building)	$0	$11,048,000	$11,048,000
Sports Center Addition and Renovation (design)	11,048,000	0	(11,048,000)
Southern			
Code Compliance/ Infrastructure Improvements	0	2,356,723	2,356,723
New School of Business Building (design/construction) (NEW)	0	52,476,933	52,476,933
Fine Arts Instructional Center	70,929,000	0	(70,929,000)
Health and Human Services Building	60,412,000	76,507,344	16,095,344
Western			
Code Compliance/ Infrastructure Improvements	0	5,054,000	5,054,000
Berkshire Hall Renovations (design)	4,797,000	0	(4,797,000)
University Police Department Building (construction)	0	1,700,000	1,700,000
Midtown Campus Mini-Chiller Plant	1,957,000	0	(1,957,000)

UConn 2000 Projects. The act renames an existing UConn 2000 project for "Deferred Maintenance/Code/ADA Renovation Lump Sum" as "Deferred Maintenance/Code Compliance/ADA Compliance/Infrastructure Improvements & Renovation Lump Sum."
EFFECTIVE DATE: July 1, 2016

§ 250 — BIOMEDICAL RESEARCH TRUST FUND

Allows the fund to contain any money required or permitted by law to be deposited in the fund

The act allows the Biomedical Research Trust Fund to hold any money required or permitted by law to be deposited in the fund. Under existing law, the fund may accept transfers from the Tobacco Settlement Fund and apply for and accept public or private gifts, grants, and donations.
EFFECTIVE DATE: July 1, 2016

§ 257 — CONNECTICUT BIOSCIENCE INNOVATION FUND

Cancels a $25 million authorization for FY 17 under the Connecticut Bioscience Innovation Fund program and defers it to FY 23

The act cancels a $25 million bond authorization for the Connecticut Bioscience Innovation Fund for FY 17 and adds a new $25 million authorization for FY 23, thus extending the program by one year.
EFFECTIVE DATE: July 1, 2016

§ 260 — NEIGHBORHOOD SECURITY FELLOWSHIP PROGRAM AND PROJECTS

Establishes (1) a fellowship program that recruits certain at-risk individuals and (2) requirements for certain public construction projects that employ such fellows

The act establishes the Neighborhood Security Fellowship Program, which is a pilot program designed to foster neighborhood safety in urban environments and serve as a blueprint to reduce neighborhood gun violence statewide. The program must, among other things, (1) identify and recruit certain at-risk individuals to participate as fellows, (2) coordinate training, and (3) assist in work placement.

The act also establishes requirements for Neighborhood Security projects, which are certain public construction projects awarded only to bidders that agree to hire nonprofit subcontractors that employ fellows.

Section 206 of the act earmarks, from the CRDA bond authorization, $500,000 for the Neighborhood Security Fellows Program and $2 million for the Neighborhood Security projects.

Selecting Municipality and Administering Nonprofit

The act requires the OPM secretary to select a municipality with between 124,000 and 125,000 people to participate in the pilot program (i.e., Hartford).

The municipality's chief elected official must select a nonprofit entity to administer the program, which must be funded by local, state, federal, and private money. The money must be used for administration and program costs, including (1) salaries, benefits, and other compensation for anyone the nonprofit hires to administer the program and (2) stipends to pay the fellows.

Identification and Recruitment of Fellowship Program Participants

Under the act, the program must identify and recruit into the program individuals between ages 18 and 24 who are most likely to be perpetrators or victims of gun violence. This must be accomplished with the assistance of any state agencies and departments (e.g., Judicial Branch's Court Support Services Division) and organizations capable of providing such assistance and the relevant local or state police department, local board of education, and state's attorney. The identification and recruitment can be done only after executing all appropriate or necessary waivers, authorizations, and releases.

Fellowship Program Activities and Initiatives

The act requires the fellowship program to coordinate activities, services, and training in which the fellows will participate, including (1) anger management; (2) life skills training; (3) dispute and conflict resolution; (4) remedial education; (5) leadership development; (6) character building; (7) mentoring programs; and (8) pre-employment skills workshops, including career counseling, work-readiness, team building, customer service, and entrepreneurial training.

The program may coordinate and place fellows in worksite assignments, including (1) local, state, and federal government agencies and departments; (2) state-funded public construction projects within the selected municipality; (3) private businesses, particularly those receiving assistance from the Small Business Express program or the Subsidized Training and Employment program; and (4) nonprofit community-based organizations receiving state grants. The program may also coordinate training placements, including adult education courses, vocational training programs, higher education courses, and apprenticeship programs.

Neighborhood Security Projects

Under the act, the chief elected official of the selected municipality must, in conjunction with the CRDA, select public construction projects located in the federally designated Promise Zones as Neighborhood Security projects. A state or municipal contract for such a project must be awarded only to a bidder that agrees to hire a nonprofit subcontractor that employs fellows who will be assigned to work at the project worksite. The chief elected official must (1) determine, in conjunction with CRDA, any minimum number of fellows the nonprofit subcontractor must employ to be eligible to be hired for the project and (2) encourage the hiring of any such nonprofit subcontractor for any other municipal- or state-funded public construction project.

The act specifies that the state or the municipality, before awarding a contract for a Neighborhood Security project, must include in its notice of solicitation for competitive bids or request for proposals or qualifications that the bidder must comply with (1) relevant state nondiscrimination and affirmative action laws for contracts, (2) existing law's set-aside program for small contractors and minority business enterprises, and (3) the act's requirement to hire a nonprofit subcontractor that employs fellows to work on the project (see above). The state or municipality may inquire whether a bidder is a business enterprise that participates in the Neighborhood Security Fellowship Program and may award preference points to such a bidder.

Report

If the selected municipality received state funding for the program in the previous year, the act requires the OPM secretary and the municipality to jointly submit a report by January 1 to the Judiciary and Appropriations committees, with the first report due by 2018.

The report must include:

1. the number of program participants in the previous calendar year;
2. any change in the level of gun-related violent incidents in the municipality;
3. an evaluation of the program's activities, initiatives, and programs;
4. the program's cost, separated by state and private dollars; and
5. recommendations to expand the program to other municipalities.

EFFECTIVE DATE: July 1, 2016

§ 261 — NEW SCHOOL CONSTRUCTION AUTHORIZATIONS AND CHANGES TO PREVIOUSLY AUTHORIZED PROJECTS

Authorizes 17 new state school construction grants totaling $270.8 million and reauthorizes commitments for seven previously authorized projects with a total increased grant commitment of $16.2 million

The act authorizes the DAS commissioner to enter into grant commitments on behalf of the state for 17 state school construction grants totaling $270.8 million. (The total project costs are $479.7 million.) It also reauthorizes and changes grant commitments, due to cost and scope changes, for seven previously authorized local projects, with a total increased grant commitment of $16.2 million.

Under the state school construction grant program, the state reimburses towns and local districts for a percentage of eligible school construction costs (with less wealthy towns receiving a higher reimbursement percentage).

Table 6 shows the new school construction projects the act authorizes.

Table 6: New School Construction Projects Authorized

District	*School*	*Project*	*Estimated Project Costs*	*Estimated Grant*	*State Reimbursement %*
Newington	Newington High School	Extension and alteration	$2,119,500	$1,203,664	56.8%
Norwalk	Norwalk Early Childhood Center	Alteration, code violations	2,720,234	893,869	32.9
Stratford	Stratford High School	Extension, alteration, and roof replacement	125,966,646	76,033,468	60.4
Area CooperativeEducational Services	Whitney School	Regional special education, facility purchase, extension, and alteration	82,124,595	65,699,676	80.0
Goodwin College	Goodwin College CT River Academy	Magnet school, extension, site purchase	10,500,000	8,400,000	80.0
Colchester	William J. Johnston Middle School	Extension, alteration, and roof replacement	47,029,213	28,890,046	61.4
Colchester	Central Administration - William J. Johnston Middle School	Central administration facility, extension, alteration, and roof replacement	1,627,500	499,887	30.7
Danbury	Danbury High School	Extension, alteration, and roof replacement	50,250,000	31,763,025	63.2
Manchester	Waddell School	Extension and alteration	33,654,000	22,595,296	67.1
Stonington	Deans Mill School	Extension and alteration	35,918,548	11,289,200	31.4

District	*School*	*Project*	*Estimated Project Costs*	*Estimated Grant*	*State Reimbursement %*
Stonington	West Vine Street School	Extension, alteration, and roof replacement	31,587,675	9,928,006	31.4
Wilton	Miller/Driscoll Elementary School	Extension, alteration, and roof replacement	50,022,000	11,074,871	22.1
Regional District 6	Wamogo Regional High School (Vo-Ag)	Vocational agricultural equipment	47,471	37,977	80.0
Canton	Canton Jr. Sr. High School	Energy conservation	595,000	231,634	38.9
Glastonbury	Gideon Welles School	Alteration, energy conservation, and code violation	1,578,500	529,902	33.6
New Hartford	Ann Antolini School	Energy conservation and code violation	3,832,000	1,669,602	43.6
Sharon	Sharon Center School	Energy conservation and code violation	170,205	44,372	26.1
Total			**479,743,087**	**270,784,495**	

Table 7 lists changes in previously authorized school projects. In cases where the requested amount is the same, the new authorization is sought because of a change in the project scope that did not result in a higher cost.

Table 7: Previously Authorized School Construction Projects with Substantial Changes in Scope or Cost

District	School	Project	Previous Grant Authorization	Requested Grant Authorization	Change
Bridgeport	Aquaculture Center	Regional vocational agriculture, extension, and alteration	$29,925,000	$29,925,000	$0
Greenwich	Greenwich High School	Extension and alteration	6,023,000	9,210,200	3,187,200
New Britain	Diloreto Magnet School	Extension and alteration	7,929,000	7,929,000	0
Stamford	Rogers Magnet Interdistrict Extension	Magnet school facility, purchase, extension, and alteration	61,849,908	61,849,908	0
West Haven*	Central Administration	Central administration facility, alteration	1,318,800	1,806,157	487,357
Capitol Region Education Council (CREC)	CREC Museum Academy	Magnet school, new construction, and site purchase	31,597,950	52,561,565	20,963,615
Goodwin College	Early Childhood Magnet School	Magnet school, new construction, and site purchase	15,948,049	7,548,049	(8,400,000)
Total			**$154,591,707**	**170,829,879**	**16,238,172**

*Section 307 increases the reimbursement rate for this project to 77.14%.

EFFECTIVE DATE: Upon passage

§ 262 — DELAYED ELIGIBILITY LIST PROJECTS

Requires that 10 projects that were on the project eligibility list, but are not authorized under this act, be placed on next year's list with the option to keep this year's reimbursement rate

The act requires that proposed school construction projects that were included on the DAS project eligibility list in December 2015, but not authorized by the General Assembly during the May Special Session, be added to the December list if they are otherwise eligible for inclusion. There are 10 projects included on the DAS eligibility list submitted to the General Assembly in December 2015 that are not included in the act.

The act also makes these delayed projects eligible for the greater of the reimbursement rate calculated for the project on this year's eligibility list or the reimbursement rate calculated for the project on next year's list. Reimbursement rates are determined each year and may increase or decrease depending on a town's property wealth per capita in relation to all other towns in the state.

EFFECTIVE DATE: Upon passage

§§ 263-309 & 311-321 — SCHOOL CONSTRUCTION PROJECT EXEMPTIONS AND MODIFICATIONS

Exempts specified school construction projects from various requirements to allow them to become eligible for state grants or qualify for a larger grant

The act exempts specified school construction projects from various statutory and regulatory requirements to allow them to, among other things, (1) qualify for state reimbursement grants, (2) qualify for additional grants through a higher level of reimbursement, (3) increase maximum project costs of previously approved projects, or (4) change the scope of previously approved projects.

These exemptions, referred to as "notwithstanding" provisions, are shown in Table 8 below.

Table 8: School Construction Project Exemptions and Modifications

§	*Municipality/ Grantee*	*School & Project*	*Exemption, Waiver, or Other Change*
263	Bridgeport	Multi-Magnet High School, new construction and site purchase	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
264	Bridgeport	Cross School, alteration and energy conservation	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
265	Bridgeport	Roosevelt School, new construction	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
266	Bridgeport	Longfellow School, new construction	• Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS • Makes eligible for state reimbursement the otherwise ineligible costs necessary to ensure the school's opening for the 2016-2017 school year, provided the costs do not exceed $1.5 million and the project meets the other standard requirements
267	Bridgeport	Black Rock School, extension, alteration, and site purchase	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
268	Bridgeport	Central High School, extension, alteration, and roof replacement	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
269	Bridgeport	JFK Campus Administration, roof replacement	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
270	Bridgeport	Six to Six Magnet School, roof replacement	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
271	Bridgeport	Dunbar School, alteration and energy conservation	Waives the square-feet-per-pupil space standard
272	Brookfield	Brookfield High School, extension, alteration, and roof replacement	Waives repayment of funds from the town back to the state
273	Colchester	William J. Johnston Middle School, extension, alteration, and roof replacement	Changes project designation to renovation, triggering a higher state reimbursement level
274	Danbury	Danbury High School, extension, alteration, and roof replacement	Allows the project to use an 80% reimbursement rate, provided the school includes a freshman academy that offers a unique and exceptional program

§	*Municipality/ Grantee*	*School & Project*	*Exemption, Waiver, or Other Change*
275	East Hartford	East Hartford-Glastonbury Magnet School, new construction	Waives repayment of funds from the town back to the state
276	East Hartford	East Hartford Middle School, alteration and energy conservation	Increases the project cost to $8,256,000
277	Glastonbury	East Hartford-Glastonbury Elementary Magnet School, new construction and site purchase	• Waives repayment of grant up to $1.5 million for site acquisition awarded to the town before June 3, 2016, that would otherwise be repayable based on a change order reported to DAS • DAS is not responsible for any further grant payments related to this project
278	Glastonbury	East Hartford-Glastonbury Elementary Magnet School, new construction and site purchase (this has a different project number than the one described in the section above)	• Waives repayment of grant for site acquisition awarded to the town before the June 3, 2016, that would otherwise be repayable based on a change order reported to DAS • DAS is not responsible for any further grant payments related to this project
279	Hamden	Project anticipated but yet to be specified	Extends, from June 30, 2016, to September 30, 2016, the deadline for an application to be submitted to DAS in order for a project to be considered for the 2017 legislative session construction project eligibility list, provided all other standard requirements are met
280	Hartford	Quirk Middle School, renovation and alteration	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
281	Hartford	Barbour School, extension, alteration, and roof replacement	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
282	Hartford	Bellizzi Middle School, extension, alteration, and roof replacement	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
283	Hartford	M.D. Fox Elementary School, renovation and alteration	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
284	Hartford	West Middle School, extension, alteration, and roof replacement	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
285	Hartford	Hartford Magnet Middle School, extension and alteration	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017. and reviewed and approved by DAS

§	*Municipality/ Grantee*	*School & Project*	*Exemption, Waiver, or Other Change*
286	Hartford	Weaver High School, renovation, extension, and alteration	• Permits cost reimbursement rate of 95%, provided a previously planned or approved magnet school is co-located with Weaver High School • Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
287	Meriden	Francis T. Maloney High School, renovation and extension	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
288	Meriden	Orville H. Platt High School, renovation and extension	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
289	Middletown	Woodrow Wilson Middle School, code violations	Waives the requirement that construction bid not be let out until DAS has approved the plans and specifications
290	Middletown	Middletown High School, new construction	Authorizes the following: • change in cost to $100,271,905 • increase in reimbursement rate to 65.07% • exemptions from square-feet-per pupil space standard
291	Milford	Various projects	Permits the town to use its 2016 reimbursement rate for school projects in which the application was submitted on or after July 1, 2015, and before June 3, 2016
292	New Haven	Augusta Lewis Troup Middle School, renovation and extension	Waives repayment of funds back to the state from the town
293	New London	Bennie Dover Jackson Middle School, alteration	Waives the square-feet-per-pupil space standard
294	New London	Relocatable classrooms project	Waives repayment of funds back to the state from the town
295	North Branford	North Branford High School, roof replacement	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017 and reviewed and approved by DAS
296	Norwalk	Side by Side Charter School, project yet to be specified	• Makes project eligible for reimbursement provided an application is submitted by September 30, 2016 • Cost not to exceed $2.5 million • Establishes reimbursement rate of 100% of eligible costs • If the building ceases to be used as Side by Side Charter School within 20 years after the school's governing authority accepts the project as complete, the governing authority must refund the grant's unamortized balance to

§	*Municipality/ Grantee*	*School & Project*	*Exemption, Waiver, or Other Change*
			the state
297	Norwich	Kelly Middle School, renovation	• Increases maximum project size to 137,444 square feet from 133,034 square feet • Increases cost of project to $43,194,516
298	Stonington	Deans Mill School, extension and alteration	Changes project designation renovation, triggering a higher state reimbursement level
299	Stonington	West Vine Street School, extension, alteration, and roof replacement	Changes project designation to renovation, triggering a higher state reimbursement level
300	Trumbull	Frenchtown Elementary School, new construction and site purchase	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
301	Trumbull	Trumbull High School, renovation and extension	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
302	Trumbull	Middlebrook School, energy conservation	Waives deadline for submitting change orders that would otherwise be late and not reimbursable, provided orders are submitted by January 1, 2017, and reviewed and approved by DAS
303	Waterbury	Various schools, renovation, code violations	Increases the costs for the code violation project by $762,729
304	West Hartford	Bugbee Elementary School, project yet to be specified	• Extends, from June 30, 2017 to September 30, 2017, the deadline for an application to be submitted to DAS in order for a project to be considered for the 2018 legislative session construction project eligibility list, provided all other standard requirements are met • For projects submitted under the above mentioned conditions, the town can use the reimbursement rate that is available for the town as of June 3, 2016 (the 2016 rate) • Waives the square-feet-per-pupil space standard for the project submitted under the condition above
305	West Hartford	Sedgwick Middle School, project yet to be specified	• Extends, from June 30, 2017, to September 30, 2017, the deadline for an application to be submitted to DAS in order for a project to be considered for the 2018 legislative session construction project eligibility list, provided all other standard requirements are met • For projects submitted under the above mentioned conditions, the town can use the reimbursement rate that is available for the town as of June 3, 2016 (the 2016 rate) • Waives the square-feet-per-pupil space standard for the project submitted under the

§	*Municipality/ Grantee*	*School & Project*	*Exemption, Waiver, or Other Change*
			condition above
306	West Hartford	William H. Hall High School, unspecified project for science, technology, engineering, and mathematics laboratory classrooms	• Extends the deadline from June 30, 2016 to September 30, 2016 for an application to be submitted to DAS in order for a project to be considered for the 2017 legislative session construction project eligibility list, provided all other standard requirements are met • Waives reimbursement rate standards and instead authorizes a school building grant of $8,120,000 for the laboratory classrooms • Waives the square-feet-per-pupil space standard for the project submitted under the condition above
307	West Haven	All projects on 2016 school construction eligibility list	Authorizes all projects on the 2016 school construction eligibility list to be reimbursed at 77.14%
308	West Haven	West Haven High School, renovation	Authorizes change of project description and scope
309	Wilton	Miller/Driscoll Elementary School, extension, alteration, and roof replacement	Waives the square-feet-per-pupil space standard
311	Durham	Francis E. Korn Elementary School, extension and alteration	Waives repayment of funds back to the state from the town if Durham redirects the school to other uses during the 20-year amortization period
312	Region 16	Region 16 pre-K through 5th grade Elementary School, new construction	Adds site acquisition to project description
313	Region 16	Laurel Ledge School, extension, alteration, and roof replacement	Authorizes change in cost to $10,583,313 due to the duration of the project and several changes in school district administrative personnel
314	CREC	Aerospace Elementary Magnet School, new construction and site purchase Greater Hartford Academy of the Arts, extension, alteration, magnet construction, and roof replacement	Allows cost reimbursement rate of 95%
315	CREC	Aerospace Elementary Magnet School, new construction and site purchase Greater Hartford Academy of the Arts, extension, alteration, magnet construction, and	Makes the following costs eligible for state reimbursement: • short-term or temporary construction financing • (1) prorated salary and benefits of staff providing project management services and (2) reasonable direct staff costs, only for the time preceding receipt of the certificate of occupancy, and subject to an audit

§	*Municipality/ Grantee*	*School & Project*	*Exemption, Waiver, or Other Change*
		roof replacement	
316	CREC	Aerospace Elementary Magnet School, new construction and site purchase Greater Hartford Academy of the Arts, extension, alteration, magnet construction, and roof replacement	● State must pay the initial cost of CREC's local shares for these projects. ● After audit of completed projects, DAS must calculate the local share of each and determine a 20-year repayment schedule, including a fixed interest rate as determined by the state treasurer over the repayment period. ● SDE must withhold annual repayments from the interdistrict magnet school grants payable to CREC for operating the schools. ● SDE must transfer withheld amounts annually to the School Building Construction Fund.
317	Goodwin College	Connecticut River Academy, magnet school new construction and site purchase	Authorizes Goodwin College to use unexpended site acquisition funds for any other authorized project costs
318	Goodwin College	Early Childhood Magnet, magnet school new construction and site purchase	Authorizes Goodwin College to use unexpended site acquisition funds for any other authorized project costs
319	Goodwin College	Goodwin College Early Childhood Magnet School, magnet school new construction and site purchase	Authorizes Goodwin College to use a 95% reimbursement rate for the project
320	Goodwin College	Connecticut River Academy, magnet school new construction and site purchase	Authorizes Goodwin College to use a 95% reimbursement rate for the project
321	Goodwin College	Pathways Academy of Design & Technology, magnet school new construction and site purchase	Authorizes Goodwin College to use unexpended site acquisition funds for any other authorized project costs

EFFECTIVE DATE: Upon passage

§ 310 — AUTHORITY TO DELAY IMPLEMENTATION OF NEW HIGH SCHOOL GRADUATION REQUIREMENTS

Allows any town that received a school construction grant during the last 25 years to delay the implementation of the new high school graduation requirements by one year

Existing law establishes new high school graduation requirements beginning with the graduating class of 2021 (i.e., freshmen in the 2017-18 school year). The scheduled changes require students to, among other things, (1) earn 25 credits, rather than 20; (2) pass state exams for five specific courses; and (3) complete a senior project.

The act allows any town that has received a school construction grant from the state during the last 25 years (i.e., all towns) to delay implementing the new requirements until the 2018-19 school year.
EFFECTIVE DATE: Upon passage

§ 322 — INDEPENDENT COLLEGES AND PRIVATE USE OF A PUBLIC SCHOOL BUILDING

Requires any private college that operates a public magnet school to document whether private use of the publicly funded school outweighs the private college's benefits to the school

The act requires any independent college that operates an interdistrict magnet school that was built using public school construction grants and makes private use of any portion of the school to submit an annual report to the education commissioner. The report must show that the college provides an equal to or greater than in-kind or supplemental benefit of its facilities to the magnet school students that outweighs the private use of the school building. The act does not establish a reporting date.

Under the act, if the commissioner finds that the private use of the school building exceeds the in-kind or supplemental benefit to the magnet school students, the commissioner may require the college to refund to the state the unamortized balance of the state grant. School construction grants are amortized over a 20-year period.
EFFECTIVE DATE: July 1, 2016

§ 323 — INCREASED SCHOOL CONSTRUCTION REIMBURSEMENT RATE FOR REGIONAL SCHOOL DISTRICT PROJECTS

Increases the state reimbursement rate for certain regional school district projects

Under existing law, the school construction reimbursement rate for regional school districts is determined by calculating a weighted average of the member towns' rates. The act permits any regional school board created or expanded on or after July 1, 2016, to receive the highest reimbursement rate from among the towns participating in the regional district and an additional 10%, provided the project application is submitted within 10 years of the district's expansion or establishment and relates to the expansion or establishment.
EFFECTIVE DATE: July 1, 2016

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